Anti-money laundering and counter-terrosist financing measures
Equatorial Guinea

Mutual Evaluation Report

November 2024

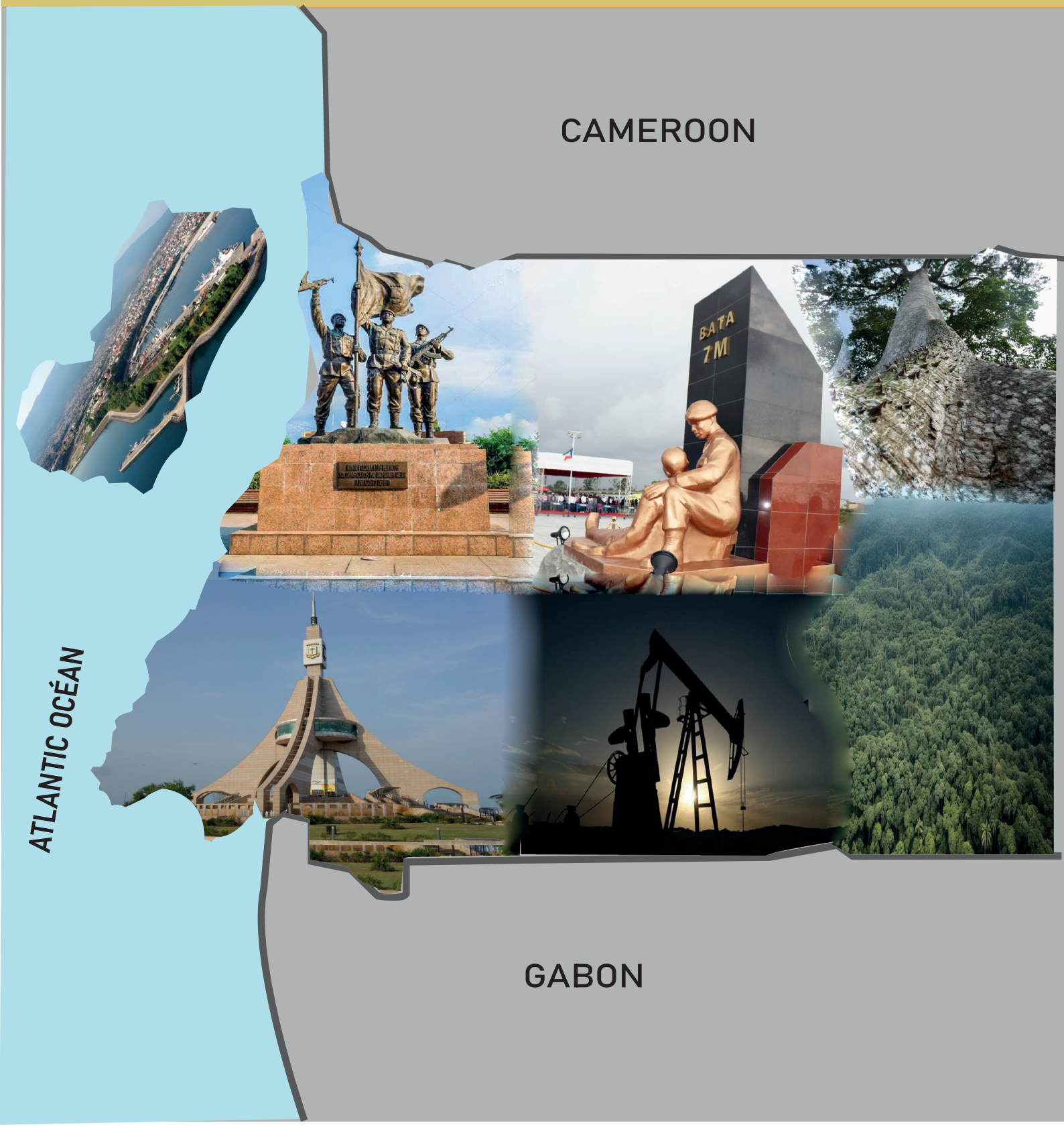

TABLE OF CONTENTS

LIST OF ACRONYMS

AfDB	**African Development Bank**
AML	Anti-Money Laundering
AML	Anti-Money Laundering
ANIF	National Agency for Financial Investigation
ASTROLAB	Questionnaire on Assistance to Surveillance, Treatment and Organization of Anti-Money Laundering
ATM	Automated Teller Machine
AU	African Union
AUDCG	Uniform Act Relating to General Commercial Law
AUSCGIE	Uniform Act Relating to Commercial Companies and Common Interest Groups
B	Billion CFA Francs
BEAC	Bank of Central African States
BNIs	Bearer Negotiable Instruments
BPI	Bearer Payment Instrument
BVMAC	Central African Stock Exchange
C	Compliant
CAC	African Conference of Financial Intelligence Units
CAPCCO	Central African Police Chiefs Committee
CAR	Central African Republic
CDD	Customer Due Diligence
CEMAC	Central African Economic and Monetary Community
CIMA	Inter-African Conference of Insurance Markets
CIPA	Criminal Investigation and Prosecution Authorities
CLAB	Franc Zone Anti-Money Laundering Liaison Committee
COBAC	Central African Banking Commission
COSUMAF	Central African Financial Market Supervisory Commission
DASP	Digital Asset Service Providers
DGBAR	General Directorate for Banking, Insurance and Reinsurance
DGD	Directorate General of Customs
DGDDI	General Directorate of Customs and Excise
DGI	Directorate General of Taxation
DGPN	Directorate General of National Police
DGST	General Directorate for Territorial Surveillance
DN	National Directorate

DNA	National Directorate of Insurance
DNFBPs	Designated Non-Financial Businesses and Professions
DRC	Democratic Republic of Congo
DSC	Civil Protection Department
ECCAS	Economic Community of Central African States
EITI	Extractive Industries Transparency Initiative
ENPIGE	Empresa Nacional de Gestion Inmobiliaria / National Real Estate Management Company
FATF	Financial Action Task Force
FATF-SRB	FATF-style Regional Body
FI	Financial Institution
FIS	Financial Investigation Service
FIU	Financial Intelligence Unit
FPWMD	Financing the proliferation of weapons of mass destruction
GABAC	Task Force on Anti-Money Laundering in Central Africa
GDP	Gross Domestic Product
IARD	Property and Casualty Insurance
ICCWC	International Consortium on Combating Wildlife Crime
ICT	Information and Communication Technology
IEG	Economic Interest Group
IMF	International Monetary Fund
INDEFOR-AP	National Institute for Forest Development and Management of the Protected Areas System
INEGE	Instituto Nacional de Estadística (National Institute of Statistics)
INTERPOL-NCB	Interpol National Central Bureau
IO	Immediate Outcome
IOSCO	International Organisation of Securities and Commissions
JPO	Judicial Police Officer
KM	Kilometre
KYC	Know Your Customer
LC	Largely Compliant
LC	Limited Company
LLC	Limited Liability Company
MEND	Movement for the Emancipation of the Niger Delta
MER	Mutual Evaluation Report
MFI	Microfinance Institution
MFSP	Mobile Financial Service Provider

NA	Not Applicable
NC	Non-Compliant
NGO	Non-Governmental Organization
NPO	Non-Profit Organization
NRA	National Risk Assessment
OECD	Organization for Economic Co-operation and Development
OHADA	Organization for the Harmonization of Business Law in Africa
OPEC	Organization of the Petroleum Exporting Countries
ORTEL	Telecommunications Regulatory Authority
PC	Partially Compliant
PEP	Politically Exposed Person
PF	Proliferation Financing
PREF CEMAC	Economic and Financial Reform Programme
PSP	Payment Service Provider
R	Recommendation
RE	Reporting Entity
Registro de Propriedad y Mercantil	Trade and Personal Property Credit Register
SAS	Simplified joint stock company
SCS	Limited partnership
SNC	General partnership
SPECTRA	Data processing mechanism
SRB	Self-Regulatory Body
STFV	Securities transfer companies
STR	Suspicious Transaction Report(ing)
SVT	Primary dealer
TD	Term deposit
TF	Terrorist Financing
TFS	Targeted Financial Sanction
TGI	High Court
TPPCR	Trade and Personal Property Credit Register
UMAC	Central African Monetary Union
UMOA	West African Monetary Union
UNDP	United Nations Development Programme
UNO	United Nations Organization
UNODC	United Nations Office on Drugs and Crime

UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USD	United States Dollars
VA	Virtual Assets
VASP	Virtual Asset Service Providers
VUE	Venyanilla Unica Empresarial (One-stop shop for businesses)
WCO	World Customs Organization
WMD	Weapons of mass destruction

PREAMBLE

The Task Force on Anti-Money Laundering in Central Africa (GABAC) is a specialized institution of the Central African Economic and Monetary Community (CEMAC) and a Financial Action Task Force (FATF)-style Regional Body (FATF-SRB) that promotes norms, instruments and standards for combating money laundering, terrorist financing and the proliferation of weapons of mass destruction, as well as other threats, including related methods and trends, to ensure the integrity of the financial systems of member and associated States.

In the early 2000, the States under GABAC's jurisdiction have formally recognized the FATF standards as the benchmark for combating money laundering and the financing of terrorism and the proliferation of weapons of mass destruction.

GABAC was admitted as an FSRB in 2015. Its mission, among others, is to evaluate the anti-money laundering and combating the financing of terrorism (AML/CFT) systems of the States under its jurisdiction in order to assess, on the one hand, their compliance with international standards and, on the other hand, the effectiveness of the measures taken.

After successfully completing the first round of mutual evaluations of its Member States which ended with a mutual evaluation of Equatorial Guinea and starting the second round with the evaluation of the AML/CFT systems in the Democratic Republic of Congo, Cameroon, Congo, Gabon, Chad and the Central African Republic, GABAC is continuing the round with the evaluation of the Equatorial Guinea AML/CFT system, which is expected to mark the end of the second round.

This Report, and any data and maps it may contain, are without prejudice to the status of any territory, the sovereignty over it, the delimitation of international boundaries and limits, and the name of any territory, city or area. It has been prepared on the basis of the 2013 FATF Methodology, updated in June 2023, and the GABAC Round 2 Mutual Evaluation Procedures Manual. It incorporates the new requirements introduced in the 2012 revision of the FATF Recommendations and contains provisions on technical compliance and effectiveness.

This report has been reviewed by the FATF Secretariat; **Mr Franck OEHLERT** of the Prudential Regulatory Authority (ACPR) of the Banque de France; **Ms Chloé Alexandra QUINN** of the AML/CFT Directorate of the Luxembourg Ministry of Justice and **Ms HART Ailsa Katherine**, Senior Financial Sector Specialist at the World Bank.

The Mutual Evaluation Report was adopted during an extraordinary plenary session of the GABAC Technical Committee **in Libreville, Gabon, on 22 November 2024**.

EXECUTIVE SUMMARY

1. This document summarizes the measures to combat money laundering, terrorist financing and the proliferation of weapons of mass destruction (AML/CTF/PF) in place in the Republic of Equatorial Guinea at the time of the on-site visit (15 to 26 April 2024). It analyses the level of compliance with the FATF 40 Recommendations and the effectiveness of the country's AML/CFT system, and sets out priority recommendations for strengthening the system.

2. This summary contains the general conclusions of the evaluation team based on the evidence produced by the country before and during the on-site visit. In addition, the document sets out the priority actions that Equatorial Guinea should implement as soon as this report is adopted. It also presents a table showing the level of technical compliance and the extent to which Equatorial Guinea's system is effective in terms of the eleven immediate outcomes.

A- KEY FINDINGS

(a) The ML and TF risks to which Equatorial Guinea is exposed were identified as part of a national risk assessment. However, the overall level of understanding of the risks is low, as several players were not involved and the analyses were not properly carried out, and the results of the national risk assessment have not been sufficiently publicized. In addition, the country does not have an ML/TF/PF policy or strategy, despite the high level of risk.

(b) There is a coordination committee for national AML/CFT policies, but no instruments or bodies for collaboration between these operational players due to its highly political composition. There is also no organ to coordinate forward-looking intelligence on counter-terrorism and its financing, which considerably dilutes the efforts of the other players.

(c) Suspicious transaction reports received by banking sector reporting entities are the main source of financial intelligence produced by ANIF. The financial intelligence it produces after processing these reports is disseminated only to the judicial authorities. They are not shared with the investigative authorities to enable them to carry out effective investigations into ML/TF and the predicate offences.

(d) To some extent, through ANIF’s dissemination and the requisitions to financial institutions, Equatorial Guinea's judicial and investigative authorities have access to financial intelligence to enable them identify the perpetrators of the ML offence and predicate offences. However, due to a lack of expertise in AML/CFT issues, they do not make proper use of the information made available to them.

(e) The rate of prosecutions and convictions for ML is very low in view of the high number of predicate offences recorded nationally. The number of procedures and reports forwarded to the Public Prosecutor by the investigation units and ANIF are also low.

(f) The very few ML convictions were based on judgements for some predicate offences. They are not accompanied by confiscation measures as additional penalties. Penalties are not effective, proportionate or dissuasive.

(g) A few seizures and confiscations are carried out by the investigation units in the context of money laundering offences. However, the country has not made the confiscation of funds and other assets that are the proceeds of predicate offences a priority in AML/CFT. The country's authorities have not set up a mechanism to manage and/or share seized and confiscated frozen assets.

(h) Equatorial Guinea has an instrument for implementing targeted financial sanctions in respect of TF/PF. A competent authority has been designated to implement the TFS linked to the TF/PF. However, there are no clearly established mechanisms for disseminating lists. The procedures for releasing funds or other assets are not sufficiently developed;

(i) No TF-related investigation or prosecution has been reported by the authorities of Equatorial Guinea. This lack of TF investigations and prosecutions is not consistent with the country's risk profile;

(j) Banks satisfactorily identify, assess, process and therefore understand the ML/TF risks inherent in their transactions. They are also working to categorize their customers according to their profiles and the transactions, services/products they offer or the relevant risk areas. They draw up internal AML/CFT procedures, but do not do the same for specific, documented, regularly reviewed and validated risk mapping;

(k) Microfinance institutions demonstrate only a limited knowledge of their ML/TF risks and do not satisfactorily identify customers when they enter into a business relationship, do not assess risks internally, do not implement the necessary vigilance and mitigation measures and do not make the launch of new products conditional on a prior study of the related risks. The same applies to insurance companies, their intermediaries and insurance brokers, in a context of the ongoing implementation of life insurance activities;

(l) With the exception of accountants working for international audit firms, DNFBPs do not understand the ML/TF risks they face. DNFBPs are not implementing their AML/CFT obligations;

(m) Access to the financial profession, including virtual assets, is subject to the issue of a licence or authorization, given at the end of a process in which aspects relating to the good repute and identity of promoters are verified. The administrative supervisors of some relatively large DNFBPs exposed to ML/TF risks, such as casinos and gaming establishments, are also taking these steps.

(n) Measures to detect and crack down on activities not approved by the authorities remain inadequate in important sectors such as manual foreign exchange and money transfers, which are still faced with large-scale informal activity (HAWALA);

(o) Weak controls and the absence of sanctions mean that most reporting entities in the large and medium-sized financial sectors operate outside the Community provisions;

(p) DNFBPs do not have an AML/CFT regulation authority, even though several of them play an important role in economic transactions;

(q) The country has the necessary legislation to regulate legal entities. Information on legal entities is contained in the *Registro de Propriedad y Mercantil* (Proprietorship and Mercantile Register) and the One-stop shop for businesses. The information provided at the time of creation and changes to companies are managed manually by the *Registro de Propriedad y Mercantil*. The competent authorities have easy access to the

information held in the register. The country does not have a system for collecting information on beneficial owners;

(r) The Republic of Equatorial Guinea has the necessary international legal instruments to implement international cooperation on AML/CFT. However, the tools offered by international cooperation are not sufficiently used for AML/CFT. The country has not responded to requests for mutual legal assistance. Similarly, the country has not provided proof that it has followed up on its requests to its counterparts, which have remained unanswered;

(s) Through INTERPOL NCB and WCO, the national police and customs have a channel for exchanging information and providing support to their foreign counterparts as part of their investigations. The country can use the police-to-police surrender procedure for extradition purposes, but no case was submitted to the evaluation team;

(t) ANIF Equatorial Guinea is not yet a member of the EGMONT Group. It therefore has no access to the financial intelligence available on the network. However, ANIF has signed various international cooperation agreements with other FIUs, enabling it to exchange financial intelligence to some extent.

B- RISKS AND GENERAL SITUATION

3. Equatorial Guinea (EG) is a Central African country with a population of around 1.5 million in 2021 and a GDP of over 12 billion US dollars in 2022. This country is the third largest oil producer in sub-Saharan Africa after Nigeria and Angola.

4. The country's economy is based mainly on the exploitation of hydrocarbons (oil, gas, methanol, etc.). This activity accounts for around 95% of the country's exports. The country is also a major producer and exporter of natural gas.

5. Equatorial Guinea is a developing country that uses the CFAF as its official currency, which is managed by the Bank of Central African States (BEAC), shared by the six CEMAC countries. According to recent UNDP data, Equatorial Guinea is ranked 154th out of 191 countries in terms of its human development index. This puts the country in the category of countries with a medium human development level.

6. Because of its geographical location and the specific features of its criminogenic environment, Equatorial Guinea is exposed to a wide range of ML/TF risks. According to the information gathered, the predicate offences that dominate the country's criminal environment are corruption, misappropriation of public funds, tax fraud, tax evasion, misuse of corporate assets and trust, fraud and swindling. The proceeds of these predicate offences are often laundered within or outside the country.

7. The risk factor linked to the country's geography is also a determining factor, as Equatorial Guinea is one of the gateways for the marketing of illicit products and the transit of drugs, wildlife products and other illicit substances due to its proximity to the Gulf of Guinea. In this respect, it was noted that some of the country's borders have a considerable lack of technical (scanners, permanent buildings, etc.), human and financial resources to carry out control. Similarly, the level of financial inclusion is very low. In addition, people prefer cash

transactions and make less use of the formal financial system. In such an environment, remittances are sent abroad via the informal system.

8. On the basis of the foregoing, the country's authorities consider that ML vulnerabilities are fairly high. From the information gathered, DNFBPs appear to be more vulnerable to ML, followed by microfinance institutions. There are also the environment and natural resources sectors. In Equatorial Guinea, the use of cash is a point of vulnerability in the ML system.

9. It was noted that TF threats and vulnerabilities are low. However, factors such as its proximity to Cameroon, where Boko Haram terrorists and armed secessionist groups are active, and the porous nature of its borders, among others, mean that the country is under a non-negligible TF risk.

C- OVERALL LEVEL OF EFFECTIVENESS AND TECHNICAL COMPLIANCE

10. Since the previous evaluation, Equatorial Guinea has strengthened its AML/CFT institutional framework by extending the remit of some entities like the Police, to manage terrorist financing issues. The establishment of a court of auditors to deal with issues of misappropriation of public funds, and specialized public prosecutors' offices to deal with misappropriation of public funds, corruption and environmental issues. As a result, ANIF has experienced a considerable increase in its financial and human resources to enable it to fulfil its traditional missions.

11. The low effectiveness of the AML/CFT system in Equatorial Guinea requires measures to be taken to improve it. The country does not yet have a national AML/CFT policy or strategy, a criminal law policy to combat money laundering and terrorist financing, an AML/CFT supervisory authority for DNFBPs or a mechanism for collecting information on the beneficial owners of legal entities. The investigative and prosecution authorities have limited knowledge of AML/CFT. The controls carried out by the supervisory authorities over financial institutions focus less and less on AML/CFT issues.

12. Since 2016, the country has to a lesser extent improved its AML/CFT legal arsenal. Several domestic (laws and regulations) and Community (CEMAC Regulation, COBAC AML/CFT Regulation, COSUMAF Regulation and CIMA AML/CFT Regulation) instruments have been adopted to fill some gaps in Equatorial Guinea's AML/CFT system. However, the system still has limitations, notably the lack of control over DNFBPs, the absence of a mechanism or body to manage frozen, seized or confiscated assets, the production of AML/CFT statistics, and the absence of guidelines.

Risk assessment, national coordination and policy sitting (Chapter 2 – IO.1; R.1, R.2, R.33

13. Equatorial Guinea has completed its national ML/TF risk assessment process. This exercise helped to identify some of the ML/TF risks facing the country. The report containing the outcomes of this national risk assessment was not distributed to all AML/CFT stakeholders. The overall level of understanding of ML/TF risks is low. The evaluation team does not consider the conclusions of the NRA to be entirely reasonable.

14. The Equatorial Guinea authorities have not implemented an AML/CFT policy or strategy. The country has therefore not adopted an approach based on identified risks. However, some serious criminal threats have been studied, leading to the adoption of measures to combat

them as part of public policy. Such is the case with corruption, the illegal exploitation of mineral resources, drug trafficking and environmental crime.

15. There has been a national AML/CFT/PF policy coordination committee since 2017. It has been made operational but is not producing the expected outcomes due to infrequency meetings and the limited availability of its members, who are highly political.

16. The country has not sufficiently demonstrated a good level of national cooperation between the public sector players involved in AML/CFT. The informal collaboration between ANIF and its network of correspondents and focal points set up during the national risk assessment has not yet produced any assessable outcomes.

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

17. Generally, the prosecuting and investigating authorities have some access to the financial intelligence produced by Equatorial Guinea's ANIF, that may enable them carry out ML/TF-related investigations. However, there is a problem in using them due to the lack of expertise by the above-mentioned authorities in handling ML/TF cases.

18. Information on declarations relating to the physical cross-border transport of cash is collected by the General Directorate of Customs using cash or currency declaration forms. Border declaration documents are sent to ANIF. It has not been possible to ascertain whether this information is shared with the competent authorities as part of investigations into underlying or ML/TF offences.

19. Although there are bodies responsible for identifying ML cases, prosecutions focus mainly on underlying offences such as fraud, illicit enrichment, misappropriation of public funds, drugs, tax fraud and drug trafficking.

20. The investigative and prosecution authorities have limited knowledge of ML. This shortcoming means that investigations cannot be conducted to secure convictions on the basis of the financial intelligence produced by ANIF.

21. Parallel financial investigations are not carried out systematically to detect cases of ML in economic crime investigations and the underlying offences.

22. The lack of statistical data makes it impossible to determine the consistency between ML investigations and prosecutions and the country's threat profile.

23. When trying cases of ML associated with underlying offences, the Public Prosecutor proposed a prison sentence of less than five years. This makes the penalty ineffective, disproportionate and non-dissuasive.

24. Confiscation of funds and other assets is not a priority for the country's authorities. Nevertheless, a number of seizures and confiscations were made in relation to the underlying offences. Furthermore, the country has not set up any mechanism or body to manage frozen, seized or confiscated assets.

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

25. To provide a framework for terrorist activities, the authorities of Equatorial Guinea incorporated the criminalization of terrorist financing into their legal system.

26. Police units have also been restructured to combat terrorism and its financing. However, those involved in the criminal justice system do not have the requisite expertise to manage proceedings relating to terrorism and its financing. This is one of the factors that would justify the absence of investigations, prosecutions and convictions for terrorist financing.

27. Equatorial Guinea has a legal framework for implementing the targeted financial sanctions of Resolutions 1267 and 1373. The National Policy Coordination Committee was designated as the authority to implement them without delay. Similarly, Equatorial Guinea has not yet drawn up a national list based on Resolution 1373.

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

28. With the exception of banks and chartered accountants of large groups, reporting entities generally do not understand their ML/TF risks. They are not fully aware of their AML/CFT obligations. The lack of MLTF risk assessment and the potential growth of the informal foreign exchange and money transfer sector have a negative impact on the effectiveness of preventive measures. Suspicious transaction reports come mainly from banks.

29. Some banks that are subsidiaries of major international financial groups are able to implement targeted financial sanctions using software belonging to the said groups.

30. Despite the sector and institutional risks inherent in their activities, other FIs and DNFBPs show a generally mixed understanding of the risks. They are not aware of their AML/CFT obligations.

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

31. In recent years, COBAC's work with commercial banks has focused more on monitoring the restructuring of banks in difficulty. On the whole, the controls remain mixed in terms of intensity and have a very low AML/CFT footprint.

32. The reforms undertaken by COBAC to strengthen its human and technical resources for proper control of AML/CFT risks in the banking sector are slow to take effect and do not factor the new activities under its supervision.

33. In addition, AML/CFT controls are virtually non-existent in the other major financial sectors (manual foreign exchange and money transfers) or in medium-sized sectors. The application of the risk-based approach remains limited at COBAC level. It does not yet exist with other financial regulators.

34. Several entities operate informally and on the fringes of the regulations without being really worried. Nevertheless, there have been successful cases of joint control operations.

35. No sanctions on AML/CFT breaches have been imposed by the supervisory authorities.

36. Regarding the DNFBP sector, there is no authority responsible for AML/CFT supervision of DNFBPs. The few self-regulatory bodies that exist and the Ministries responsible

for supervision do not incorporate AML/CFT requirements into either the conditions for admission to the profession or the monitoring of the activities of reporting entities.

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

37. The country has a legal framework for the creation of legal entities. Businesses and commercial companies are set up at a one-stop shop set up within the Ministry of Commerce. Legal arrangements are not recognized in the country's legal and institutional system. Basic information on legal entities is available from the *Registro de Propriedad y Mercantil*. They are accessible to the competent authorities on simple request.

38. No mechanism has been set up to collect information on the beneficial owners of legal entities.

39. The country has not conducted a study to identify the risks of abuse of legal entities for ML/TF purposes.

40. No statistics have been provided on the penalties imposed for breaches of the provisions relating to the obligation of legal entities to provide information. As a result, the team was unable to assess the effectiveness, proportionality and dissuasiveness of the sanctions.

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

41. The country does not have an acceptable legal framework for the implementation of AML/CFT-related international cooperation. The quality of mutual legal assistance provided by Equatorial Guinea is limited in practice, despite the existence of numerous legal instruments.

42. In terms of other forms of cooperation, the country has a number of tools at its disposal to effectively fight criminals. ANIF has signed information exchange agreements with several countries. The supervisory bodies also have the capacity to exchange information with their counterparts. However, despite these tools, there are few statistics on international cooperation. Indeed, during the period under review, only three (3) extradition requests were made by the country. Conversely, the country received only three (3) extradition requests. The country did not provide any cases to support these requests.

43. ANIF Equatorial Guinea is still not a member of the Egmont Group, the information exchange framework par excellence. The Customs Department is a member of WCO but does not make enough use of the information-sharing tools.

D- PRIORITY MEASURES

Based on these general conclusions, the following priority actions are recommended to the authorities of Equatorial Guinea:

(a) Update the NRA by including all AML/CFT stakeholders in order to identify ML/TF risks exhaustively. Accelerate the dissemination of the NRA report and, using a sector-based approach, raise awareness among stakeholders of the risks identified in their respective sectors in order to strengthen understanding of the country's risks. Set a frequency for updating the NRA;

(b) Define mechanisms for sharing information among the competent authorities and encourage concerted action or joint countermeasures between them. Take measures to strengthen the operational nature of the National Policy Coordination Committee;

(c) Build the capacity of judicial and investigative authorities on AML/CFT issues to facilitate the use and exploitation of financial intelligence in AML/CFT investigations, with a focus on parallel financial investigations;

(d) Conduct a study of the NPO sector identify the categories of NPOs most vulnerable to misuse for TF purposes, either because of their activity or because of their nature, and then adopt an approach to combating them based on the risks identified;

(e) Promote cooperation and information exchange between ANIF and the competent authorities to improve the use of financial intelligence;

(f) Define a clear AML/CFT criminal policy that takes into account the prioritization of confiscation of funds and other assets in the investigation and prosecution of ML and underlying offences. Ensure that the proportionate and dissuasive penalties provided for in the CEMAC Regulations are applied;

(g) Establish a mechanism for managing and sharing seized, frozen or confiscated AML/CFT assets;

(h) Set up a mechanism to collect and update statistical data on freezes, seizures, confiscations, investigations, prosecutions, convictions and international cooperation in AML/CFT matters;

(i) Designate an authority responsible for implementing the TFSs relating to the TF/PF and define the mechanisms for disseminating the sanction lists and ensuring that they are distributed to reporting entities;

(j) Encourage DNFBPs to regularly assess the ML/TF risks inherent in their activities and to adopt measures to mitigate such risks;

(k) Issue guidelines for MFIs, insurance companies and DNFBPs on knowing the origin of funds, identifying the beneficial owner and implementing a risk-based approach;

(l) Ensure that reporting entities comply with the obligation to carry out prior studies before launching new products and to assess the risks inherent in the use of new technologies;

(m) Intensify efforts to identify and neutralize clandestine foreign exchange and remittance networks across the country and strengthen the implementation of policies and measures aimed at financial inclusion beyond the activities of MFIs and mobile money services;

(n) Intensify controls in the banking, foreign exchange and remittance sectors, while ensuring the application of effective, proportionate and dissuasive sanctions against entities that fail to comply with their AML/CFT obligations;

(o) Ensure that MFIs, foreign exchange bureaux and FVTSs are included in the scope of the risk-based approach being developed by COBAC;

(p) Designate an authority responsible for supervising DNFBPs with regard to AML/CFT;

(q) Assess the ML/TF risks associated with the misuse of legal entities for ML/TF purposes and disseminate the outcomes to the relevant stakeholders;

(r) Set up a mechanism or body to collect data on beneficial owners in order to make BO information available;

(s) Intensify the use of bilateral and multilateral cooperation to effectively combat ML/TF crime;

(t) Initiate the admission of Equatorial Guinea's ANIF to the Egmont Group.

E- EFFECTIVENESS AND TECHNICAL COMPLIANCE RATINGS

Table 1 Level of effectiveness[1]

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
Low	**Low**	**Low**	**Low**	**Low**	**Low**	**Low**	**Low**	**Low**	**Low**	**Low**

Table 2 Technical compliance level[2]

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

[1] The ratings for the level of effectiveness are "high, significant, moderate or low".
[2] Technical compliance ratings are C - compliant, LC - largely compliant, PC - partially compliant, NC - non-compliant or NA - not applicable.

MUTUAL EVALUATION REPORT OF THE REPUBLIC OF EQUATORIAL GUINEA

Preface

This report summarizes the AML/CFT measures in force in Equatorial Guinea at the time of the on-site visit (15 to 26 April 2024). It analyses the level of compliance with the FATF 40 Recommendations and the effectiveness of Equatorial Guinea's AML/CFT system, and makes recommendations to strengthen the country's AML/CFT system.

The evaluation, based on the 2012 Recommendations of the Financial Action Task Force, was prepared using the 2013 Methodology (updated in June 2023). It was carried based on the information provided by Equatorial Guinea and information obtained by the evaluation team during its on-site visit from 15 to 26 April 2024.

The evaluation was carried out by a team made up of:

Legal expert:

- Mr AGAYA Ulfrid (Gabon).

Financial experts:

- Mr MAMBUKU Léon (DRC);
- Mr ESSEBE Martin Serge (Cameroon).

Investigative and prosecution experts:

- Col. NZIE Pierrot Narcisse (Cameroon);
- Mr FOUKPIO Benoit Narcisse (CAR).

Operational expert:

- Mr Paulin MAWA WA NZAMBI KANDA (DRC)

The team was supported by the GABAC Permanent Secretariat represented by Mr ETIENNE TABI MBANG, Director of Studies and Forecasting, Mr Anges-Maier LOCKO, Head of Regulations Division, Mr Guy-Thierry NYEMECK FILS, Assistant at the Cooperation Division, Mr Houno Teiro BOKHIT, Assistant to the Director of Legal Affairs and Litigation and Carmène Charlaine KASSA, Assistant at the Regulations Division.

Equatorial Guinea was evaluated by GABAC in 2016. The evaluation, which was part of the first round of mutual evaluations, was carried out in accordance with the 2004 FATF Methodology. Equatorial Guinea's MER adopted in 2016 was published by GABAC and is available at www.spgabac.org

At the end of this evaluation, the GABAC expert evaluators concluded that out of the 40+9 Recommendations, Equatorial Guinea was:

Largely Compliant (LC) for six (6) Recommendations relating solely to Money Laundering; Partially Compliant (PC) for twenty-two (22) Recommendations, eighteen (18) of which relate to ML and four (4) to TF; Non-Compliant (NC) for twenty (20) Recommendations, fifteen (15) of which relate to ML and five (5) to TF and one (1) Recommendation Not Applicable (NA) relating to ML.

Following the approval of its three-year action plan (2017-2020), the country submitted its first monitoring and evaluation report in September 2017. Following the Technical Committee deliberations, Equatorial Guinea was placed under the Accelerated Monitoring regime, requiring the country to submit a report every six months. However, at the 10th Technical Committee plenary session, where Equatorial Guinea's second monitoring report was considered, the members decided to place the country under the Regular Monitoring regime, as participants had concluded that, since the adoption of its MER in September 2016, the country has made constant and continuous progress in implementing the recommendations prescribed by the evaluators to improve its AML/CFT system. In this respect, adoption of the CEMAC Regulation on 11 April 2016 was a significant contribution. Similarly, the country has improved the structural and functional capacity of ANIF to make it more effective. The AML/CFT National Policy Coordination Committee, the basis for national cooperation between AML/CFT stakeholders, has been set up. The country then corrected most of its technical compliance shortcomings and some relating to effectiveness. The plenary appreciated the progress made by the country and encouraged it to ensure its effective implementation by considering the specific measures recommended following the analysis of each Recommendation in the monitoring reports, as well as those resulting from the Technical Committee. Nevertheless, a number of shortcomings remained to be corrected to meet the deadlines set out in the country's action plan.

However, at the October 2020 Plenary, where Equatorial Guinea's fourth monitoring report was considered, members noted that the country had slowed its progress in correcting the shortcomings identified in its AML/CFT system. Worse still, the country was unable to meet its action plan deadlines. Although the action plan was due to expire in 2020, the country had not been able to implement all the key actions contained therein. As a result, the Plenary noted that during the period under review, and even since September 2019, the country's AML/CFT system has seen no improvement in terms of compliance with international standards. Indeed, this country has not taken any significant action to fill the gaps identified in the MER and to implement the recommendations made by the 12th and 13th Technical Committee plenary sessions. Consequently, the Plenary placed the country under the accelerated monitoring regime until October 2021, the date of submission of its sixth and final monitoring report.

Equatorial Guinea was removed from the monitoring process in October 2021 to prepare for the evaluation of the second round in accordance with the established schedule.

In March 2022, after listening to the presentation of Equatorial Guinea's progress report, Technical Commission plenary session took note of the report and encouraged the country to continue implementing the ongoing and future progress, and to make the same efforts in the second round of mutual evaluations. The progress report showed that most of the shortcomings identified by the evaluators had been corrected by the adoption at community level of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and repression of money laundering and terrorist financing in Central Africa and the creation or operationalization of some essential AML/CFT entities.

1. ML/TF RISKS AND CONTEXT

1. Equatorial Guinea (EG) is a Central African country straddling the equator, covering an area of 28,052.46 km², with an estimated population of around 1.5 million in 2021 and an estimated GDP of over 12 billion US dollars in 2022.[3] The territory of the Republic of Equatorial Guinea is composed of the continental zone called Río Muni and the islands of Bioko, Annobón, Corisco, Elobey Grande, Elobey Chico, Mbañe, Conga, Leva, Cocotero and adjacent islets, the waters of the river, the maritime zone, the continental shelf determined by law and the airspace covering them. Equatorial Guinea is administratively divided into eight (8) Provinces, subdivided into Districts and Municipalities and adjacent islands.

2. The country borders Cameroon to the north, Gabon and Sao Tome and Principe to the south-east and the Atlantic Ocean to the west. Most of the population is urban, concentrated in the country's two main cities: Malabo, the political capital, and Bata, the economic capital. The official languages are Spanish, French and Portuguese. There are also national vehicular languages such as Fang, Bubi combe, fadambo, bisio, benga balengue, pichin English. The country is the third largest oil producer in sub-Saharan Africa, after Nigeria and Angola.

3. Equatorial Guinea is a developing country using the CFAF as its official currency, managed by the joint issuing institution of the Member States of the Central African Economic and Monetary Community (CEMAC), known as the Bank of Central African States (BEAC). The country's economy is based mainly on the exploitation of hydrocarbons (oil, gas, methanol, etc.). This activity accounts for around 95% of the country's exports.[4]. While this African country is undeniably a producer and net exporter of crude oil, it is also a major producer and exporter of natural gas. In the past, Equatorial Guinea exported a great deal of coffee, timber and cocoa.

4. Since the 1990s, Equatorial Guinea has become a major oil producer in Africa. However, its production has only been declining since 2016. Recently, according to the Organization of the Petroleum Exporting Countries (OPEC), it fell to barely 93,000 barrels a day in 2022.[5] When production peaked in 2017, the country was producing up to 128,600 barrels a day.[6] In addition to oil and gas, the country's subsoil is teeming with natural resources such as gold, uranium, diamonds, columbite-tantalite and more.

5. According to recent figures from the United Nations Development Programme (UNDP)[7] Equatorial Guinea ranks 154th out of 191 countries on the Human Development Index. This puts the country in the category of countries with a medium human development level. These data also show that life expectancy at birth is estimated at 60.2 years. Similarly, gross national income per capita was estimated at 12,074 US dollars in 2021.

6. Politically, the Constitution of 16 February 2012 establishes Equatorial Guinea as a unitary republican State, founded on the values of unity, peace, justice, freedom and equality. It has a

[3] According to data in the Statistical Yearbook published by the National Institute of Statistics of Equatorial Guinea (INGE) in 2023.
[4] According to information from the MER, hydrocarbon exports account for around 99% of total exports.
[5] https://www.opec.org/opec_web/en/about_us/4319.htm
[6] https://www.opec.org/opec_web/static_files_project/media/downloads/publications/ASB_2022.pdf
[7] Available at https://www.undp.org/sites/g/files/zskgke326/files/2023-02/hdr2021-22frpdf.pdf

presidential system of government. It enshrines the separation of legislative, executive and judicial powers, as well as the presumption of innocence and the principle of non-retroactivity of the law.

7. The President of the Republic is elected by direct universal suffrage for a renewable seven-year term. He appoints the Vice-President, the Prime Minister and members of government, who are jointly and severally liable before the law, the President, the Chamber of Deputies and the Senate, without prejudice to individual liability before the law. The last general elections (presidential, legislative and municipal) were held in November 2022, when the current president won with almost 95% of the votes cast.

8. Legislative power is exercised by a bicameral parliament with a Chamber of Deputies and a Senate whose members are elected for a 5-year term by direct universal suffrage.

9. The judiciary exercises the jurisdictional functions of the State. Justice emanates from the people but is rendered in the name of the Head of State. The Higher Judicial Council is the governing body of the judiciary. It is composed of a chairperson (who is the President of the Republic) and six members appointed by the Head of State from among personalities recognized for their competence and moral probity, for a five-year term.

10. Law No. 5 of 18 May 2009 to amend Organic Law No. 10/1984 of 20 June 1984 on the Judiciary, organizes and lays down the functioning of the judiciary, in particular the organization of courts and tribunals. Equatorial Guinea's judicial system has remained unchanged since the first-round evaluation (see paragraphs 81 to 90 of the 2016 MER)[8] with the Supreme Court of Justice at the top, considered to be the highest judicial body in the country, with the exception of constitutional matters (which are handled by another court).

11. In terms of legislation, the country has a Penal Code which defines behaviour that is contrary to the law, i.e. offences, and determines the criminal penalties applicable thereto. For the procedural aspects of its implementation, the country uses a 1963 Code of Criminal Procedure known as the "*ley de enjuiciamiento criminal*".[9]. However, the Penal Code does not fully incorporate all the requirements of the FATF standards, which is why it is currently being amended. The classification of offences in this country's legal system does not follow a tripartite division into misdemeanour, felony and crime, but rather distinguishes between *crimes* and *offences*, depending on the severity of the penalty incurred.

12. Moreover, the country uses a Community instrument to fully govern AML/CFT matters. Thus, in implementation of the fundamental principles proclaimed by the Constitution, the country has adopted a series of international instruments and agreements to establish an AML/CFT system that complies with current international standards.

13. To combat money laundering and terrorist financing in a harmonized and concerted manner, the political authorities of Equatorial Guinea just like their peers of CEMAC decided

[8] For further details, see: https://gabac.org/wp-content/uploads/2022/03/8-REM_GUINEE_VERSION_FINALE_30012017.pdf specifically pages 25 and 26.

[9] The latest version consulted on 20 December 2023 is available at: https://www.boe.es/biblioteca_juridica/abrir_pdf.php?id=PUB-DP-2023-145

to promote the AML/CFT mechanism at Community level so that it would be directly applicable or transposable into the domestic/internal AML/CFT legal framework of each Member State, depending on whether it is a Regulation or a Directive. The Regulation on the prevention and repression of money laundering, terrorist financing and proliferation in CEMAC was therefore adopted. The specific Community Regulations and domestic AML/CFT laws therefore derive from and supplement the general framework established by the CEMAC Regulation. This legal framework systematically incorporates international AML/CFT norms and standards, in particular the FATF Recommendations and the United Nations Security Council Resolutions, as well as international agreements to which Equatorial Guinea is a party, including its regional commitments under CEMAC, ECCAS and the African Union.

14. Like its neighbours, Equatorial Guinea is a member of the African Union (AU), the Economic Community of Central African States (ECCAS) and the Central African Economic and Monetary Community (CEMAC), which includes Cameroon, Congo, Gabon and Chad. All these countries share a common currency, the Franc of the Financial Community in Central Africa (XAF), which has a fixed parity with the Euro. The country is also a member of the African Intellectual Property Organization (OAPI) and the Inter-African Conference on Insurance Markets (CIMA).

15. In addition, on 28 January 2022, the country became the 184th member of the World Customs Organization (WCO) to strengthen its customs system. Equatorial Guinea also became a member of the Organization of the Petroleum Exporting Countries (OPEC) in May 2017. For the government, OPEC membership could be a springboard for increased foreign investment and technology transfers from other member countries, particularly those in the Gulf.

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

1.1.1. *Overview of ML/TF risks*

16. This section of the report sets out the evaluation team's understanding of the ML/TF risks to which Equatorial Guinea is exposed. It is based on documents provided by the country under evaluation (NRA and risk maps of some entities, for example), publicly available documents (typology studies conducted by GABAC) and discussions with the relevant authorities and private sector players during the on-site visit.

17. Because of its geographical location and the specific features of its criminogenic environment, Equatorial Guinea is exposed to a wide range of ML/TF risks. From the information gathered during the interviews, the underlying offences that dominate the country's criminogenic environment are corruption (in particular that of public officials in the provision of services and in the public procurement process), tax fraud, tax evasion, misuse of corporate assets and trust, fraud and swindling and other related financial malpractice. However, the proceeds of these predicate offences are often laundered abroad.[10]

18. The risk factor linked to the country's geography is also a determining factor, as Equatorial Guinea is one of the gateways for the marketing of illicit products and the transit of drugs,

[10] The example of the so-called "ill-gotten gains" affair is a perfect illustration: https://transparency-france.org/combattre/bien-mal-acquis/

wildlife products and other illicit substances due to its proximity to the Gulf of Guinea. In this respect, the NRA specifies that some of the country's borders have a considerable lack of technical (scanners, permanent buildings, etc.), human and financial resources. Similarly, the level of financial inclusion is very low. In addition, people prefer cash transactions and make less use of the formal financial system. In such an environment, remittances are sent abroad via the so-called hawala informal system.

19. On the basis of the foregoing, the country's authorities consider that ML vulnerabilities are fairly high for the country. Equatorial Guinea, like the other CEMAC countries, has a fairly low bank penetration rate, meaning that the use of cash is a point of vulnerability in the country's ML system.

20. In terms of TF, factors such as limited control over key economic sectors and the existence of vulnerable not-for-profit organizations remain sources of concern. Border controls remain insufficient to detect and prevent the movement of criminals, including suspected terrorists, and cross-border arms trafficking. Illicit arms flows throughout the Central African region and the widespread availability of small arms and light weapons and their ammunition are conducive to the activities of terrorists and organized armed groups operating in the sub-region. Equatorial Guinea cannot be spared from this threat[11]. This context, marked by the absence of a concerted response with the countries bordering the Gulf of Guinea, has encouraged the emergence of armed groups like the Movement for the Emancipation of the Niger Delta (MEND)[12] in neighbouring Nigeria.

21. These same factors have also made the region vulnerable to other forms of organized crime, such as maritime crime. The Gulf of Guinea, which primarily involves Equatorial Guinea, has become one of the hotspots for this type of crime, with pirate groups operating in the area using increasingly sophisticated methods to attack international vessels on the high seas. Against this backdrop, organized crime groups operating in neighbouring countries like Cameroon and Nigeria are increasingly gaining independence to bring illicit goods, including drugs, into the region, as well as to produce these goods and thereby finance their terrorist activities.

22. In view these factors, the risk of maritime piracy in Equatorial Guinea's territorial waters is real. Piracy in the Gulf of Guinea has become a large-scale and lucrative economic system, targeting tuna vessels, container ships, oil tankers and pleasure boats, and extracting ransoms of several million dollars by taking crews hostage and hijacking cargo. The sums thus extorted could well enable the pirates to acquire high-performance communication equipment, an arsenal and, above all, boats giving them access to the high seas and considerably extending their area of operation. In such an environment, Equatorial Guinea's oil platforms are under imminent threat.

[11] See the United Nations Secretary-General's Report on Small Arms and Light Weapons, code S/2019/1011, available at: https://documents.un.org/doc/undoc/gen/n19/382/23/pdf/n1938223.pdf?token=S0wLSaZvC3y4tIPUV6&fe=true

[12] Movement for the Emancipation of the Niger Delta.

1.1.2. *Country's risk assessment and Scoping of Higher Risk Issues*

23. Equatorial Guinea conducted a national risk assessment in 2021 with the support of the World Bank, using its assessment tool. A team made up of delegates from several AML/CFT stakeholders was set up, coordinated by ANIF. Although the evaluation team received the NRA report, the process used to disseminate the report's conclusions seems inappropriate. Interviews conducted during the on-site visit revealed that several entities concerned by AML/CFT had not received the NRA report.

24. In terms of content, the evaluators feel that the NRA report was evasive in a number of areas, notably the country's real threats and vulnerabilities. After analysing the NRA report, the evaluation team notes that the report is clearly void of quantitative and qualitative data. The report does not bring out any statistical data on AML/CFT in the country. The analyses in the report focus much more on the country's AML/CFT legal framework, but do not address the practical aspects of the country's system.

25. Nevertheless, in this ENR conducted from 15 June to 1 July 2021, the DNFBP sector appears to be the most vulnerable to money laundering, followed by the other financial institutions sector, the environment and natural resources sector, and lastly the insurance, banking and securities sectors. At this stage, it should be noted that the report does not provide enough detail about the various DNFBPs to gauge their individual levels of ML of TF risk.

26. Regarding TF, it should be noted that most of the country's competent authorities, with the exception of ANIF, have a biased perception of the concept of terrorist financing. The stakeholders interviewed stated that since there had been no cases of terrorism on Equatorial Guinean territory, there would be no risk of TF from the country.

27. Au In view of the shortcomings of the NRA, which led to the lack of an overall analysis of the country's ML/TF risks, the evaluators used the conclusions of the various typology studies carried out by GABAC at regional level and the sector studies carried out by some reporting entities in Equatorial Guinea[13] to determine the overall level of understanding of the risks. These include, for example, the typology study on "*the risks of money laundering and terrorist financing inherent in manual foreign exchange and the transfer of funds in Central Africa*" conducted in August 2018 and on "*the risks of money laundering and terrorist financing linked to the real estate sector*" conducted in October 2020. In short, these various sector studies conclude that the ML/TF risks relating to the issues addressed are high in the country.

28. The offences that generate illicit revenues are corruption, embezzlement of public funds,[14] drug and currency trafficking. All these offences generate resources that are recycled, including through investments in the real estate sector, the transfer of embezzled funds to tax havens outside the CEMAC zone, and the irregular and concealed acquisition of foreign currency.

29. The evaluation team identified the most significant areas and issues of concern that deserve greater attention, given their impact on Equatorial Guinea's AML/CFT system. Similarly, the

[13] In particular, internal ML/TF risk mapping carried out by banks and insurance companies, which generally belong to large international financial groups.
[14] In particular, funds derived from the country's oil revenues, which play a significant role in the country's economy.

team identified areas requiring less attention in order to concentrate efforts on those that are important.

30. This identification is based on the aforementioned typology studies, the 2016 MER, monitoring reports, analysis of information provided by the evaluated country's authorities on technical compliance and effectiveness, as well as statistics provided by the country. The evaluation team also drew on official information available on the country's legal and institutional environment and ML/TF context, including points of potential vulnerability raised by open and reliable sources. The issues and areas listed below were discussed more or less in depth during the on-site visit:

Areas of increased focus

31. Identification and understanding of ML risks by the country and application of mitigation measures: Equatorial Guinea recently adopted its National Risk Assessment (NRA). To this end, the team tried to assess the stakeholders' level of understanding of the main ML risks, and their ability to implement effective mitigation measures. In the same vein, it attempted to assess the main vulnerabilities and threats identified in the National Risk Assessment (NRA).

32. It also verified the ability of financial institutions to identify their ML risks and implement the relevant mitigation measures. The evaluation team looked at the level of formalization, internal organization, ethical procedures, policies and implementation of AML processes and procedures by FIs and designated non-financial businesses and professions (DNFBPs), as well as the frequency and extent of on-site and documentary AML controls, proportionate to the risk. The same applies to the effectiveness, in FIs providing money or value transfer services or foreign exchange services, of supervisory systems ensuring compliance with their AML obligations.

33. Suppression of ML and underlying offences and confiscation of the proceeds of crime: the evaluation team looked at the way in which ML underlying offences are suppressed in Equatorial Guinea, as well as cases of ML on the basis of criminal policy. Particular attention was paid to the implementation of confiscation of the proceeds of crime. The aim was to determine whether the country has a mechanism to manage and share property and assets seized, frozen or confiscated by the competent authorities as part of investigations and prosecutions for money laundering and related offences.

34. Risk-based supervision of financial institutions: The evaluators verified the extent to which supervisors implement the risk-based approach during their inspections and the extent to which they carry out specific AML/CFT controls.

35. For financial institutions such as money or securities transfer services and foreign exchange bureaux and manual money changers, the evaluators focused on the conditions under which these entities enter the market and the measures taken by the authorities to combat the informal manual money exchange sector. The 2016 MER clearly stated that there were no regularly licensed foreign exchange bureaux. Manual foreign exchange transactions were carried out simultaneously by banks and by a very active informal sector made up of traders and other unidentified individuals. These banks obtained their foreign currency from the Bank of Central

African States (BEAC), which had no control over the use of the foreign currency made available to the banks. Thus, the mission verified the effectiveness of the control exercised by BEAC.

36. In the case of money and securities transfer services, the evaluation mission had to assess the extent to which the legal vacuum in terms of supervision had been filled. This is because, according to the 2016 MER, this service operated freely without any real supervision, and the banking institutions to which they were linked did not effectively monitor their activities.

37. The informal economy: The 2016 MER concluded that there was an informal foreign exchange market. The same report highlighted that Equatorial Guinea has a fairly low bank penetration rate, meaning that the use of cash was a point of vulnerability in the country's system. The evaluation mission focused on the measures taken by the authorities to mitigate the risks posed by the informal economy.

38. Designated Non-Financial Businesses and Professions sector: The previous MER showed that lawyers and notaries are not sufficiently familiar with KYC measures. In addition, no suspicious transaction reports had been received from DNFBPs since ANIF became operational. Collaboration with ANIF appeared to be non-existent and no guidelines seemed to have been issued in consultation with professionals in the sector.

39. The NRA adopted by the country classifies the sector as having a high level of vulnerability and mentions that several DNFBPs operate without authorization and are not subject to supervision. In this respect, the evaluators will check the conditions for the establishment of the various categories of DNFBPs. They will ensure that DNFBPs understand the ML/TF risks to which they are exposed. Particular attention will therefore be paid to the supervisory arrangements and the application of AML/CFT preventive measures by DNFBPs.

40. Porous borders: The country's NRA stresses that vulnerability at border crossings is high. According to the report, some borders are often used to market illegal products, transit drugs and move illegal money. In this respect, the evaluation team looked at the system set up by the authorities to control cross-border movements of cash, bearer negotiable instruments and protected species.

41. Operational capacity of the National Agency for Financial Investigation (ANIF): The 2016 MER states that ANIF is not yet playing its central role of protecting the financial system. The report called on the country to make ANIF truly operational. With this in mind, the evaluators checked that the country had taken the appropriate measures to make ANIF operational, in particular by providing it with the financial, material and human resources it needs to function.

42. International cooperation: Although Equatorial Guinea has signed a number of conventions and agreements, the level of implementation of international cooperation on AML/CFT seemed limited. ANIF is not yet a member of the Egmont Group, although this had already been pointed out in the previous MER. In addition, ANIF had not signed enough bilateral cooperation agreements with other FIUs, which limited its ability to cooperate and exchange information. Furthermore, the team examined the extent to which the country responds and uses international cooperation to deal with ML/TF cases and underlying offences

with foreign ramifications. The evaluators also focused their attention on judicial, police and tax cooperation.

II- Areas of reduced focus

43. National coordination and cooperation: The country has set up a committee to coordinate national AML/CFT policies. The evaluation mission verified that the committee was operational. It looked at the coordination activities carried out. It also examined how coordination activities are carried out by the various AML/CFT stakeholders. In addition, it was necessary to verify the effectiveness of the system for coordinating the judicial and police authorities.

44. Identification and understanding of ML risks by the country and application of mitigation measures: The country has conducted its NRA. The report shows that TF threat is low because it is external to the country. In this regard, the country acknowledges that it borders a number of countries where terrorist groups operate. Equatorial Guinea has established a mechanism for dealing with lists drawn up under UN Resolutions 1267 and 1373, as well as a mechanism for designation to the sanctions committee, as appropriate. Notwithstanding the NRA's finding that the country's financial system was not used by entities and persons under financial sanctions and the absence of TF-related reports, the evaluators were interested in the implementation of sanctions in relation to UN Security Council designations or other designations made at national, regional or sub-regional level and the effectiveness of the mechanisms used. In this respect, the experts checked whether the national system for disseminating the UN Sanctions Committee's lists, particularly to financial sector players, was effectively known and used by the entities concerned.

45. Use of virtual assets and VASP operations: As the country has not legislated on this issue and the assessment team is not aware of the existence of virtual asset service providers in Equatorial Guinea, less attention should be paid to this area. Nevertheless, the evaluators examined the measures taken in practice by the country's authorities to prevent foreign VASPs from operating or offering services in Equatorial Guinea.

1.2. Items of specific importance (*materiality*)

46. Equatorial Guinea is an upper-middle-income country with a per capita income of around US$7,500 in 2021, compared with US$16,800 in 2014, and an estimated nominal GDP of US$11.8 billion in 2023.[15] The sectors that contribute most to GDP are agriculture (2.3%), industry (55.9%) and services (41.8%). Like other economies in the sub-region, Equatorial Guinea's economy is characterized by a prevalence of cash transactions, due in part to the lack of financial inclusion and in part to the socio-cultural behaviour of the population living there, including the large foreign communities.

[15] See the CEMAC barometer drawn up by the World Bank Group in December 2023, available at: https://documents1.worldbank.org/curated/en/099027412192389886/pdf/IDU06888b4230277004bed0b80a00024de076bdb.pdf

47. According to data from the African Development Bank (AfDB) for 2023[16] on the production structure, mining, which accounts for 95% of the industrial sector and over 40% of GDP, continues to shape the country's economic landscape, despite the decline in its relative weight in the economy in recent years. It fell from 57% in 2012 to 47% in 2018 and around 40% of GDP in 2021. Agriculture in the broadest sense accounts for less than 3% of GDP, but provides 42% of the jobs of the working-age population. Crude oil production, driven by three major offshore fields (Zafiro, Alba and Ceiba), makes the country the 3rd largest oil producer in sub-Saharan Africa. The country also derives a significant proportion of its export revenue from the timber industry. Unfortunately, only 3% of Equatorial Guinea's timber is processed locally. Industrial activity is underdeveloped and based on the production of goods mainly for domestic consumption. Most agricultural production is also destined for domestic consumption.

48. As far as the country's financial sector is concerned, the information gathered during the visit shows that there are only five banking establishments, two of which are majority State-owned, two subsidiaries of Pan-African groups and one a subsidiary of an international financial group. The banking network has 62 branches across the country. The cumulative volume of these institutions' assets is estimated at FCFA 1,806,713 million and customer deposits are estimated at FCFA 1,530,969 million for the 2023 financial year. In addition, the sector has two category 2 microfinance institutions with assets estimated at FCFA 1,164 million, 6 branches and nearly 6,000 open accounts. Customer deposits at end-2023 are estimated at FCFA 426 million.

49. With regard to money transfer companies, the team noted that there were eight officially approved by order of the Minister of Finance. However, the team noted that the activities of these companies are limited to the national level. No transfers are permitted outside Equatorial Guinea. There are also two international money transfer companies backed by local primary banks. The services offered by these companies are limited solely to receiving funds. In this respect, users are required to obtain formal authorization from the Ministry of Finance for any transfer or dispatch of funds outside the country, regardless of the amount involved.

50. Despite the significant policies and measures adopted to promote financial inclusion, notably via mobile money, which is still at an embryonic stage, cash is still widely used for basic economic transactions. IMF figures show that the informal economy accounts for 40% of GDP.[17] The authorities are aware that the lack of access to financial services for part of the population is not conducive to the creation and expansion of economic activities in the country. The main obstacles identified include the high bank loan transaction costs and the requirement for guarantees, which many economic operators, particularly those in the informal sector living in rural areas, consider to be beyond their reach.

51. The team noted that the DNFBP sector there are about one thousand (1000) lawyers and four (4) chartered accounting firms. For the others, no figures are available for real estate agents,

[16] See the 2023-2028 country strategy paper available at https://www.afdb.org/fr/documents/guinee-equatoriale-document-de-strategie-pays-2023-2028

[17] FMI Working Paper No. WP/17/156: The informal economy in sub-Saharan Africa: size and determinants.

dealers in precious stones and metals, and trust and company service providers. Notaries, casinos and other games of chance.

1.3. Structural elements

52. The Government of Equatorial Guinea is firmly committed to promoting good governance and transparency in public resource management, and recently set up a National Administrative Investigation Tribunal to combat corruption, a Special Prosecutor to combat corruption, and a Judicial Police Unit to combat terrorism. In addition, there are prosecutors specializing in environmental crime and trafficking in narcotics and other psychotropic substances. This political will is being driven by an awareness of the extent of corruption in the country, which is undermining the effectiveness of the AML/CFT system. According to available information, more than $200 million in assets identified as the proceeds of corruption or the laundering of this underlying offence originating from Equatorial Guinea have been confiscated in Brazil, France, Switzerland and the United States.

53. Overall, Equatorial Guinea has the necessary structural elements to ensure effective and efficient implementation of an AML/CFT system. Most of the entities responsible for laying down and implementing AML/CFT policies are stable and bound to be accountable. The country has an operational financial intelligence unit, several well-equipped financial sector supervisors, FIU correspondents working with all AML/CFT stakeholders, specialized investigation authorities, etc. However, the country has not designated an AML/CFT supervisory authority for the DNFBP sector.

54. Since the previous evaluation, more AML/CFT entities have been set up to strengthen the existing system in Equatorial Guinea. These include, for example, the AML/CFT national policy coordination committee set up in April 2018, the Court of Auditors, the Prosecutor's Office specializing in corruption, drugs and environmental and wildlife crimes, etc. New strategies have also been adopted, like the anti-corruption action plan, the implementation of which has been entrusted to the National Administrative Investigation Tribunal for the fight against corruption, the adoption of the anti-corruption law, etc.

55. In addition, the country stated that it had issued Ministerial Order No. 01/2017 of 21 May to regulate and implement the Terrorist List in Equatorial Guinea in accordance with United Nations Security Council Resolutions 1267 and 1373 for the establishment of the TFS framework in the country. Examination of this instrument shows that the National AML/CFT/PF Policy Coordination Committee is designated as the competent authority for the implementation of TFSs in Equatorial Guinea.

1.4. Other contextual factors

56. Equatorial Guinea ranks fourth in terms of contribution to CEMAC GDP[18] with an estimated contribution of 12.5% of total GDP, which should be more than CFAF 68,893 billion in 2022. The country ranks 133rd out of 191 in the United Nations Development Programme's

[18] The first is Cameroon with 40.8% and the last is CAR with 2.1% (See the BEAC annual report for the 2022 financial year).

2022 Human Development Index. According to IMF figures, the country's public debt reached more than 33.7% of GDP in the first quarter of 2024.

57. The country is also a key player in international trade. As a result, Equatorial Guinea exports mainly primary products, which means that its exports are not very complex,[19] including crude oil (66% of total exports), natural gas (20%), phenol alcohols and related products (6%), wood (3%) and liquefied propane and butane (3%). Imports are dominated by manufactured goods, including boats and floating structures (13%), alcoholic beverages (5%), meat and edible offal (4%), non-electric motors (3%) and motor vehicles (3%).

58. Information from the African Development Bank shows that the main African export partners over the 2018-2021 period are Nigeria (23%), South Africa (22%), Cameroon (14%), Egypt (11%) and Côte d'Ivoire (7%). To these should be added partners such as China, Spain, India, Italy, Germany, the Republic of Korea and Portugal. African import partners are Nigeria (72%), Congo (7%), Morocco (4%), Cameroon (3%) and Tunisia (3%). Other non-African partners include Spain, China, the United States and Brazil.

59. With regard to the business environment, Equatorial Guinea is neither a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes, nor of the Tax Transparency in Africa initiative led by the African Tax Administration Forum and the African Union Commission. The country ranked 172nd out of 180 countries on the Transparency International Corruption Perceptions Index[20] in 2023 with a score of 17/100. This score has been deteriorating over the last ten years, from 20/100 in 2012 to 17/100 in 2023. Despite its enormous oil and mining resources, Equatorial Guinea is on the list of countries that have been withdrawn or delisted from the Extractive Industries Transparency Initiative (EITI). To date, there is nothing to indicate whether the country complies with EITI standards. Nevertheless, the authorities have stated that they have asked to be reinstated in the EITI to further clean up their extractive sector.

60. The country's financial sector is characterized by a high proportion of non-performing bank loans, under-capitalization and a lack of liquidity in some banks. The sector's performance remains weak, due to the high number of non-performing loans (57% in December 2022), under-capitalization and low liquidity of local banks, which require substantial collateral and often charge high interest rates (close to 20% for enterprises). The sector is mainly focused on short-term financing of the economy. Thus, in 2022, short-term loans accounted for 78% of total loans granted, medium-term loans 20% and long-term loans barely 2%. Government's inability to repay loans taken out to build public infrastructure has also crowded out the private sector, limiting its access to bank credit.

61. One of the most influential factors of vulnerability is the existence of informal foreign exchange bureaux, which supply the informal market with foreign currency. Despite controls and closures of informal foreign exchange activities by the country's competent authorities, these players are slow to move to the formal market, as many of them feel they are unable to comply with the new, stricter requirements of the 2018 foreign exchange regulations. In

[19] According to data from the International Trade Centre, their cumulative value is in excess of US$10 billion.
[20] https://www.transparency.org/en/cpi/2023/index/gnq

addition to these foreign exchange bureaux, there are also itinerant money-changers on the outskirts of airports and major hotels. There are no measures in place for these two categories of manual foreign exchange operator to make them comply with their AML/CFT obligations.

1.4.1. *AML/CFT strategy*

62. Following the NRA, no formal document was adopted by the country's authorities to define a national AML/CFT strategy. However, the evaluation team was able to observe that the NRA mentioned a strategy in one of its chapters, but was unable to determine exactly what actions the country was planning to take. The chapter merely lists the main CTF stakeholders, namely: the Ministry of National Security, the Ministry of National Defence, the Ministry of the Interior and Local Authorities and the Department of External Security. This part of the NRA also sets out the composition and tasks of the AML/CFT national policy coordination committee. It states that the committee is chaired by the Minister of Finance, Economy and Planning. ANIF, which provides secretariat services for the Committee, assists the Chairman in his duties.

63. Since the first-round evaluation, the country has not adopted a formal AML/CFT strategy. The system's shortcomings were corrected thanks to implementation of the action plan for implementation of the MER recommendations adopted following adoption of the MER. Other documents have been added to improve Equatorial Guinea's AML/CFT system. These include the document on implementation of recommendations from the typology studies carried out by GABAC, those arising from the action plan of the Anti-Money Laundering Liaison Committee of the Franc Zone (CLAB) and those arising from PREF CEMAC.

64. As for CLAB, it should be noted that in October 2020 it adopted an action plan comprising forty-four (44) recommendations to be implemented by the CEMAC countries. The latest report available on this subject shows that the country has succeeded in implementing 18 recommendations, representing 40.9% implementation. The implementation is ongoing in the country.

65. Apart from these elements, AML/CFT policies and objectives are coordinated on an ad hoc and informal basis by ANIF, under the supervision of the Ministry of Finance.

1.4.2. *Legal and institutional framework*

66. The AML/CFT legal framework in Equatorial Guinea is set out in Community Regulation No. 01/16/UMAC/CEMAC of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing, which contains requirements for preventive measures. The criminal offences for money laundering and terrorist financing contained therein apply directly and obligatorily in the country. However, some items of the aforementioned Community instrument are supplemented by the Criminal Code and the Code of Criminal Procedure. The main government services, agencies and State authorities responsible for the development, supervision and implementation of AML/CFT policies and strategies in Equatorial Guinea are the following:

67. **Authorities responsible for developing AML/CFT policies**: The Ministry of Finance, Economy and Planning is responsible for the overall AML/CFT file at national level as ANIF's supervisory authority. In this respect, the Minister acts ex-officio as Chairperson of the

AML/CFT National Policy Coordination Committee set up in 2018. The Coordination Committee, which comprises representatives from several ministries including the Ministry of Justice and the Ministry of Security, determines the national AML/CFT policy and submits it to the country's highest authorities for approval. The committee is responsible for carrying out the NRA and ensures that the country applies the decisions taken by regional and international bodies in matters relating to AML/CFT.

68. The Ministry is also responsible for controlling and supervising some reporting entities through its General Directorate of Banking, Insurance and Reinsurance. Similarly, some competent authorities like Customs and Taxation are under its supervision. However, for criminal law, only the Ministry of Justice has the power to determine policy, including ML offences. The Ministry of Defence and the Ministry of Security play a key role in determining TF/PF policies.

69. **International cooperation**: Mutual legal assistance and extradition are primarily the responsibility of the Ministry of Justice, but are often channelled through the Ministry of External Relations, which is the official channel for incoming and outgoing cooperation requests. Concretely, the Department of Consular Affairs, Diaspora and Legal Affairs is responsible for judicial cooperation. Mutual legal assistance is often received or granted initially through embassies, then the Ministry of External Relations and the Ministry of Justice. With regard to other forms of international cooperation, FI supervisors, investigation and prosecution authorities, ANIF, Customs, tax authorities, etc. may request and grant cooperation with their counterparts without hindrance.

70. **FIU: The National Agency for Financial Investigation (ANIF)** is the Financial Intelligence Unit of Equatorial Guinea set up by the Community AML/CFT Regulation. Decree No. 11/2007 of 5 February 2007 implements community provisions by designating ANIF as an autonomous administrative service of the Ministry of Finance, Economy and Planning, acting as the country's FIU. In this regard, ANIF is the country's sole recipient of STRs. To this end, it collects and centralizes all other financial information and documents sent to it. It is also responsible for receiving, processing and, where appropriate, transmitting to the judicial authorities any information that may help to establish the origin of the sums or the nature of the transactions that are the subject of an AML/CFT suspicious transaction report. This information is transmitted spontaneously or at the request of the relevant authorities.

71. **Supervision of FIs and DNFBPs**: Most FIs, in particular banks, MFIs, PSPs, foreign exchange bureaux, insurance companies and financial markets, are supervised by sub-regional community bodies, as indicated in section 1.4.6 and IO 3 of this report. DNFBPs are supervised for the most part by internal self-regulatory bodies. Some players are under the control of Ministries (casinos, real estate agents, dealers in precious stones and metals, etc.). However, SRBs and ministries do not extend their controls to the AML/CFT/FF aspect.

72. **Investigation and prosecution of ML/TF and confiscation of criminal assets**: Money laundering investigations and prosecutions are mainly the responsibility of the General Directorate of Judicial Police and Counter-Terrorism, the General Directorate of the National Gendarmerie, the General Directorate of Customs (DGD), the General Directorate of Taxation (DGI) and the General Directorate of Forestry Guard, the National Institute for Forest

Development and Management of the Protected Areas System) (INDEFOR-AP) and the specialized bureaux of the Public Prosecutor's Office, namely the Prosecutor in charge of the fight against corruption, the Prosecutor in charge of the fight against environmental crime and the Prosecutor in charge of the fight against drugs and drug trafficking. These authorities coordinate their actions, generally on an informal basis, to identify cases of ML or TF linked to environmental crime, corruption, drug trafficking, cross-border physical cash transportation, theft, forgery and use of forged documents, tax evasion, tax fraud, misappropriation of public funds, etc.

73. Confiscation of criminal assets is mandatory (provisions of the CEMAC Regulation) in all criminal cases involving proceeds-generating offences. However, the country has not set up any authority, body or institution to support asset recovery efforts.

74. **Implementation of targeted financial sanctions**: On this issue, the evaluation team noted that the National AML/CFT Policy Coordination Committee is the authority responsible for proposing sanction lists to the United Nations Sanctions Committee. The main shortcoming identified during the precedent MER was the absence of an authority responsible for ensuring implementation of TFSs in relation to Security Council Resolutions 1267 and 1373. To date, the legal framework for TFSs has improved, in particular with the designation of the competent authority and the determination of the listing and delisting mechanisms, though these mechanisms are not clear. Nevertheless, as indicated in IO 4 and IO 10 analyses, a number of reporting entities manage to implement the sanction lists of some bodies in order to apply the required measures.

75. **Supervision of NPOs**: The General Directorate for Civil Society at the Ministry of the Interior and Local Authorities. It is responsible for registering domestic and foreign law civil societies wishing to operate in Equatorial Guinea. It is also responsible for regulating associations, NPOs and other NGOs. Authorization to operate is granted to NPOs by means of a receipt issued by the aforementioned Directorate.

1.4.3. *Financial institutions, DNFBPs and virtual asset service providers (VASPs)*

76. This section provides general information on the size and composition of Equatorial Guinea's financial and DNFBP sectors. The importance of these sectors in the country's economy and the risks facing them vary from sector to sector. The evaluation team examined their respective relevance and the risks involved in the various sectors.

77. The evaluators classified the sectors according to their relative importance, taking into account their respective materiality and their exposure to ML/TF risks. They used these classifications to back their findings throughout this report, weighting the positives and negatives of implementation more heavily for very important sectors than for less important ones. This approach applies to the entire report, but more specifically to Chapter 5 on IO 4 and Chapter 6 on IO 3.

High weighting

78. **Banks** top the list, as they are the main players in the country's financial sector. In its analysis of national vulnerability, the NRA states that banks are among the most vulnerable

players. This sector is important because of its size in the Equato-Guinean landscape, its transnational nature and its exposure to a number of services identified as high or moderate risk. The aggregate balance sheet total of the banks stands at more than FCFA 1,800 billion. Deposits collected totalled more than FCFA 1,000 billion. Given the limited development of other players in the financial sector, ML/TF risks weigh heavily on banks despite their internal AML/CFT arrangements. In addition, interbank transactions are valued at over 41 billion per month.

79. Manual exchange: There is only one foreign exchange bureau formally approved by the country's authorities. However, according to the information gathered, there are several foreign exchange bureaux operating informally. The team was unable to obtain any figures on their numbers, balance sheet totals or other financial flows. Despite the efforts of the country's authorities to promote their formalization, the new rigorous provisions of the 2018 Foreign Exchange Regulations appear to be the main repellent to these financial sector players. This is compounded by the fact that members of foreign communities living in Equatorial Guinea prefer clandestine foreign exchange transactions. According to United Nations data on migratory flows,[21] there are some 230,618 foreigners living in Equatorial Guinea. The first round MER rightly pointed out that there is a huge underground network that feeds the country's formal and informal economy with foreign currency. The risks of ML via these players remain considerable.

80. Money or value transfer companies: While it is true that money transfer activity is limited to the domestic level, nothing has been done to prevent the proceeds of underlying offences from being laundered locally using the transactions of these companies. Although these services are limited to certain amounts, there is no AML/CFT system in place to detect any split transactions. Domestic remittances over the past year totalled FCFA 107 billion. The risks of ML/TF via these companies remain high. The supervisory system is inadequate, with checks being carried out at very short intervals and without factoring a risk-based approach.

81. Lawyers are civil servants who are highly exposed to ML/TF risks because they traditionally deal with clients who seek anonymity and generally pay in cash. What's more, this profession is not sufficiently regulated. The instrument governing the profession is very old and does not factor AML/CFT. Data collected shows that there are nearly 900 independent lawyers, some of whom are appointed by courts. In Equatorial Guinea, as lawyers are civil servants, they may perform their duties before the courts and also work in an administrative body. This temporarily exempts them from AML/CFT obligations. They have never submitted STRs. There is a bar association that acts as the profession's self-regulatory body. In fact, several members of the Bar seat in courts as judges, magistrates and members of the public prosecutor's office. Very few of them work in a self-employed capacity. The NRA also notes that lawyers, like other DNFBPs, are classified as highly vulnerable.

[21] https://www.un.org/development/desa/pd/content/international-migrant-stock

Moderate weighting

82. Microfinance institutions (MFIs) are also important, despite their limited number and the fact that they are new in the country's financial sector. In fact, this activity is expanding more and more with the policy of financial inclusion advocated by the country's authorities. It aims to improve financial inclusion, in particular by acting as a link between the informal and formal sector players. The two category 2 MFIs operating to date do not yet have an MFI association, let alone robust internal AML/CFT arrangements. These MFIs have a record of more than 5,300 accounts on their books. The sub-sector's balance sheet total exceeds FCFA 3 billion. They have opened accounts in most of the local banks. MFIs also demonstrated very limited knowledge of their STR obligations. At the time of the on-site visit, no STR had been filed by the FMIs. However, the main vulnerability of these players is the use of financial intermediaries (independent agents) by MFIs on the basis of a partnership agreement to subcontract financial services without any awareness-raising/training of these intermediaries on AML/CFT-related issues. The supervisor has very little control over the sector. Each MFI was last inspected at least four years ago.

83. Casinos and other games of chance are exposed to high ML risks. However, they are of moderate importance due to their small number and relative materiality. The NRA reached this conclusion because they are not sufficiently regulated, supervised and controlled, which makes it difficult for the competent authorities to access information on their customers and transactions. In practice, these reporting entities are simply subject to administrative controls by the supervisory authority. The sub-sector includes 2 casinos, 5 gaming halls, 3 betting shops and 3 slot machines. Some of these players have been on the market for almost 25 years. ANIF has never received any STR from this sub-sector. The interviews revealed that they are unaware of their obligations and do not understand the ML risks to which they are exposed.

84. Chartered accountants fall into the category of at-risk DNFBPs. The NRA find them to be vulnerable. There are around 10 chartered accountants, 4 of them operating as firms and the others individually. These players implement AML/CFT obligations in a very fragmented and partial manner. Indeed, these reporting entities mainly deal with legal entities for auditing and other accounting services. The only due diligence carried out on customers is to verify the customer's shareholding and formal activity. What's more, the sub-sector has no self-regulatory body to sanction any breaches. Some of these firms provide legal and tax advice and technical assistance for specific transactions.

Low weighting

85. The other sectors are considered to be of lesser weighting either on the basis of their low materiality, number, role played in the financial system or their low level of risk. These include the following players:

86. Real estate agents: There is a single real estate agency for the entire country, managed by the State and whose income is paid into the Treasury. This agency is very active in low-cost housing, with some remarkable projects. There are no other real estate agents operating individually. The framework for exercise of this profession is not sufficiently developed to open up the market to other players. Nevertheless, a few cases of informal real estate agents working

as intermediaries in property sale or rental have been reported. Given that the entire process of acquiring real estate is bank-financed, and in view of the guarantees surrounding the agreements entered into and exclusivity granted to public officials, the risk of ML/TF appears to be low.

87. Dealers in precious stones and metals: The team was unable to count the exact number of dealers in precious stones and metals. Nevertheless, given the rudimentary nature of the industry in the country, the ML risk seems very low. What's more, these resources are not yet being exploited. In addition, the Ministry of Mines ensures that mining activities are lawful by requiring companies operating in the sector to provide a detailed product sheet prior to export.

88. Notaries are at the heart of the formation of the country's legal entities, with pride of place to the One-stop shop for business incorporation. Notaries are also present at the Ministry of Justice, which houses the Mercantile Register, which is the Trade and Personal Property Credit Register required by the OHADA uniform acts. There are two notarial regions, one for the mainland and one for the islands. The team was unable to obtain their exact number. They are under the supervision of the Ministry of Justice, Worship and Prisons.

89. Financial market players: Equatorial Guinea's participation in the CEMAC financial market is very limited, as there is only one bank specializing in treasury securities. In addition, the balance sheet total for the 2023 financial year as a stock exchange company was CFAF 1.2 billion, out of a total of CFAF 117.7 billion in the CEMAC sub-region. In other words, the company's position on the financial market is marginal.

90. Insurance: The sector comprises 5 insurance companies, only one of which has a life insurance arm. It has just recently obtained its accreditation, and is not yet fully operational. In addition, there are 7 insurance intermediaries regularly approved by the authorities. To date, only three are operating. As most companies do not offer life insurance products, the risk of ML is reduced ipso facto. Turnover for the 2023 financial year is expected to be less than CFAF 50 billion.

91. Virtual asset service providers (VASPs): The team noted that there are no formal virtual asset service providers. Several of the players interviewed stated that they adhere to the prohibitions on the use, holding and conversion of virtual assets in the CEMAC zone as formulated by the Community authorities. There is no evidence to suggest that citizens of Equatorial Guinea use virtual assets. There have been reports of scams and thefts from the country's citizens via the virtual assets of a company called Binance based outside Equatorial Guinea. This VASP presented itself as a global cryptocurrency exchange and digital currency portfolio management platform, which enables several types of virtual assets to be bought, sold and stored. These facts go back a long way. To date, there seems to be some mistrust of these online VASPs.

92. Mobile Money: With regard to electronic payment instruments, in particular mobile money, in Equatorial Guinea, apart from a few banks that have their own wallets for their customers, there is only one COBAC-approved payment service provider. However, it is worth noting that this service is not set up as a separate entity from the mobile phone company, as required by regulation. At Community level, the country has a negligible share of payments made in the CEMAC zone via mobile money. However, the team believes that the ML risks

associated with this product are low due to their low use by individuals. The company officially launched its activities less than a year ago, on 30 June 2023 to be precise.

93. Lastly, the team noted that there are no trust and company service providers operating in the country. Moreover, such legal arrangements are not used in the country's system. Many of the people interviewed did not seem to understand the concept of a trust.

1.4.4. *Preventive measures*

94. Equatorial Guinea's AML/CFT legal framework has always been a Community Regulation known as the "CEMAC Regulation on the prevention and repression of ML/TPF in Central Africa". The first version of this instrument dates back to 2003. It was amended in October 2010 and April 2016. At the time of the site visit, the Regulation of 11 April 2016 on the prevention and repression of ML/TPF in CEMAC was in force. Nevertheless, the team noted that a new amendment was underway, at a very advanced stage. In fact, this general instrument prescribes the AML/CFT preventive measures applicable to all reporting entities in the country. The instrument sets out the preventive measures required by international standards, which FIs, DNFBPs and, as appropriate, VASPs should implement. The said Regulation also contains measures for detecting and punishing ML/TF cases, as well as the relevant cooperation framework.

95. Furthermore, the Community Regulation also contains provisions that refer to the domestic instruments of each Member State with a view to being supplemented by specific provisions. Unfortunately, the country has not yet sufficiently enacted the relevant implementing instruments to cover al the required aspects. However, for some sectors, the competent regulatory, supervisory and control authorities have taken more specific measures to provide a precise framework for AML/CFT activities that fall within their remit. For example, preventive measures are stronger at the level of financial institutions than at the level of designated non-financial businesses and professions. COBAC, COSUMAF, BEAC and CIMA have thus prepared specific regulations for their respective reporting entities.

96. With regard to FIs supervised by COBAC (banks, MFIs, PSPs, etc.), it has been noted that the preventive measures provided for in the above-mentioned CEMAC Regulation have been supplemented by COBAC Regulation R-2005/01 of 1 April 2005 on the AML/CFT due diligence of reporting institutions in Central Africa (the updated version of which will come into force in July 2024) and COBAC Instruction I-2006/01 on information on the AML/CFT prevention mechanism.

97. With regard to manual foreign exchange, the general provisions have been supplemented by Regulation No. 02-18-CEMAC-UMAC-CM of 21 December 2018 on foreign exchange regulations in the CEMAC zone. The instrument is itself supplemented by almost 20 Instructions of the Governor of BEAC, the last two of which were issued in 2022 and concern in particular the conditions and procedures for opening and operating foreign currency accounts of companies in the extractive sector resident in the CEMAC zone and the opening and operation of foreign currency accounts of credit institutions in the books of BEAC.

98. Regarding the insurance and reinsurance sector, CIMA Regulation No. 001/CIMA/PCMA/PCE/SG/21 of 2 March 2021 to lay down procedures applicable by

insurance undertakings in CIMA Member States under AML/CFT supplements and clarifies insurance-related activities.

99. Similarly, the COSUMAF General Regulations of 23 May 2023 are in the same line as they contain provisions relating to prudential rules, ethical principles and rules of good conduct applicable to all those subject to the Regulations. However, the evaluation team noted that the AML/CFT aspects of these Regulations still need to be improved.

100. As far as the DNFBPs are concerned, the country has not yet designated a central authority to control and supervise reporting entities of the sector. However, it was noted that many of these players do not have a self-regulatory authority to implement specific AML/CFT provisions in their own corporate instruments. Otherwise, the general provisions of the CEMAC Regulation of 11 April 2016 directly apply.

101. Concerning virtual asset service providers (VASPs), successive releases from COSUMAF, BEAC and COBAC formally prohibit the use of these products in the sub-region's financial sector and consequently in Equatorial Guinea. As such, these supervisory authorities ensure that their reporting entities strictly comply with the prohibitions.

1.4.5. *Legal persons and arrangements*

(a) *Legal persons*

102. As a member of the Treaty on the Organization for the Harmonization of Business Law in Africa (OHADA), Equatorial Guinea directly applies the OHADA Uniform Acts relating to commercial companies. Commercial legal entities are hence generally governed by the Uniform Act on Commercial Companies and Economic Interest Groups (AUSCGIE) and the Uniform Act on General Commercial Law. OHADA Uniform Acts also govern cooperative societies operating in the business environment.

103. Alongside these commercial companies, there are other forms of legal entities: associations, foundations, NGOs and NPOs, which may be created in accordance with the country's domestic laws. NPOs, NGOs and associations are thus governed by Law No. 01/1999 of 24 February 1999 to lay down the legal regime of associations and NGOs. In addition, there are cooperative companies and professional partnerships governed by specific instruments.

104. Under the provisions of the aforementioned Uniform Acts, several types of company may be set up in Equatorial Guinea. These include limited companies (LC), simplified joint stock companies (SAS), limited partnerships (SCS), limited liability companies (LLC), cooperative societies, general partnerships (SNC) and economic interest groups (GIE).

105. Over the last five (5) years, more than 6,000 companies have been registered with the one-stop-shop. For NPOs and other associations, the country has identified almost 194 players. However, only 74 players, including 35 NGOs, 26 NPOs and 13 foundations, are operational. The authorities stated that they had identified 120 associations and other similar players that have been inactive for some time. In any case, for want of statistics, the evaluation team was unable to determine the assets of these various types of legal entity.

106. As analysed in IO 5, legal entities governed by the aforementioned Uniform Acts are registered with the *Venyanilla Unica Empresarial - VUE* (One-stop shop for businesses) and the Trade and Personal Property Credit Register (RCCM).

107. For other types of legal entity, registration and authorization to operate are managed by the General Directorate for Civil Society at the Ministry of the Interior. Basic information on legal entities other than those covered by the one-stop-shop for businesses is available at the General Directorate for Civil Society upon request by any interested party. However, they can only be consulted on the spot. In addition, the information is archived and kept manually, making it difficult for the registration authority to update.

108. No study has been conducted on the risk of misuse of some types of legal entity for ML/TF purposes. Equatorial Guinea is not an international centre for the creation or administration of legal entities.

(b) *Legal arrangements*

109. Although the CEMAC Regulation envisages hypotheses of legal arrangements to subject service providers to trusts and other similar legal arrangements, the country's domestic legal system does not provide for any measures to this effect. The various players we met during the on-site visit seem to have a very limited understanding of the concept of legal arrangement. Some argued that this type of legal arrangement could not exist in Equatorial Guinea. In addition, the country is not a signatory to The Hague Convention of 1 July 1985 on the law applicable to trusts and the recognition thereof. The lawyers and other members of the legal and independent professions interviewed stated that they did not provide or manage legal arrangements in the country.

110. Furthermore, it should be noted that reporting entities are required (under Community provisions) to adopt AML/CFT preventive measures for trusts set up in foreign countries but which may be managed in Equatorial Guinea.

1.4.6. *Supervisory arrangements*

Financial Institutions (FIs)

111. **The Central African Banking Commission (COBAC)** is the supervisory and control authority for credit institutions, microfinance institutions, payment institutions and financial holding companies in CEMAC. **To this end, it has administrative, regulatory, supervisory and sanctioning powers over its reporting entities.** COBAC has various powers and responsibilities in terms of the regulation and organization of banking activities. It verifies the compliance of the AML/CFT systems of its reporting entities during its documentary and on-site inspections. It often adopts a risk-based approach.

112. **The Bank of Central African States (BEAC)** is responsible for conducting the UMAC's exchange rate policy. To this end, it works with the ministry in charge of finance to ensure that economic agents, particularly foreign exchange bureaux, comply with the foreign exchange regulations applicable in Equatorial Guinea. As part of its supervisory mission, BEAC ensures that foreign transactions and operations comply with foreign exchange regulations. To this end, with the assistance of COBAC and the country's monetary authority, it performs

documentary and on-site checks to ensure that authorized intermediaries and other economic agents comply with all the provisions relating to foreign exchange regulations, including those on AML/CFT. It records breaches of this law and imposes administrative penalties on offending economic agents.

113. The Central African Financial Market Supervisory Commission (COSUMAF) is the Community body responsible for supervising and regulating the regional financial market. As the market's supervisory, regulatory and control authority, it has three main missions: protecting savings invested in transferable securities and other financial instruments issued through public offerings, informing investors and ensuring the smooth operation of the market. It has exclusive jurisdiction in this area and carries out documentary audits of entities under its jurisdiction. It is also responsible for controlling and monitoring any VASPs. Equatorial Guinea has entrusted COSUMAF with responsibility for virtual assets.

114. The Inter-African Conference on Insurance Markets (CIMA) is the Community body responsible for supervising, controlling and regulating the insurance and reinsurance sector in all Member States, including Equatorial Guinea. To be closer to its reporting entities, some of its tasks have been delegated to the Ministry of Finance, Economy and Planning. This delegation of authority is limited to insurance intermediaries. Thus, the General Directorate of Banks, Insurance and Reinsurance, which has a CIMA commissioner, carries out documentary and on-site inspections of insurance intermediaries on an annual basis. In any case, CIMA together with this Directorate, ensures compliance with insurance regulations, as well as the implementation of AML/CFT preventive measures.

Designated Non-Financial Businesses and Professions (DNFBPs)

115. Despite the various recommendations made by the MER inviting the country to set up an entity or mechanism to supervise/monitor DNFBPs, there are still no authorities designated to supervise and monitor the implementation of AML/CFT requirements by DNFBPs. This same recommendation has been reiterated several times by the GABAC technical committee in vain.

116. However, the country has self-regulatory bodies that monitor compliance with the standards by members of their professions. One example is the Bar Association. In the same vein, it was noted that several DNFBPs have competent supervisory authorities which control them. These include casinos, which are controlled by the Ministry of Culture, and dealers in precious stones and metals, which are controlled by the Ministry of Mines and Hydrocarbons.

117. However, it was noted that in the case of notaries, chartered accountants and real estate agents, there is no designated authority to ensure that they comply with the standards laid down in the profession, let alone a self-regulatory body.

118. In any case, it was observed that the various supervisory authorities and self-regulatory bodies only provide traditional supervision of some requirements, including the verification of approvals, checks on the compliance of installations, tax returns, etc. Interviews conducted revealed that these authorities do not always monitor and control the implementation of AML/CFT measures by their respective reporting entities.

VASP

119. There is no VASP in Equatorial Guinea. That is why there are no specific legal or institutional measures in place to ensure their supervision. Nevertheless, COSUMAF has been given the necessary powers of control/supervision in the event of VASP activities on Equatorial Guinean market.

1.4.7. International cooperation

120. Equatorial Guinea has signed most of the bilateral and multilateral international agreements required for AML/CFT to prevent, suppress and punish ML and TF. Most of the recommendations relating to international cooperation made in the first round have been effectively implemented. These include accession to the Vienna Convention of 20 December 1998 on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and implementation of the Convention on Counter-Terrorism in Central Africa (Regulation No. 08/05-UEAC). This enables Equatorial Guinea to cooperate fully in AML/CFT issues without undue hindrance.

121. However, the team noted that the country has not yet finalized the ratification for the two (2) annex treaties to the 1999 International Convention on the Suppression of the Financing of Terrorism. Similarly, the country has not completed the process of ratifying the legal instruments relating to international cooperation adopted under the CEMAC and ECCAS Communities (see the 6th monitoring report).

122. The Ministry of Foreign Affairs and Cooperation is the central authority for receiving and sending requests for international cooperation. Upon receipt, this authority in forwards the requests for mutual legal assistance and extradition to the ministry in charge of justice, which processes and executes them. To implement this action, the Consular, Diaspora and Legal Affairs Department of the Ministry of Foreign Affairs may refer the matter to any ministry concerned by the said request. Similarly, when a country wishes to make a request for mutual legal assistance or extradition, the Ministry of Justice forwards the request to the aforementioned Directorate, which makes the request on behalf of the country to its counterparts. In practice, requesting countries submit requests to the Equatorial Guinea embassy in their country. The latter sends the request to Equatorial Guinea in a sealed envelope.

123. As mentioned earlier, the proceeds of major underlying offences (corruption, embezzlement of public funds, tax and customs fraud and the proceeds of environmental crime) are laundered for the most part abroad, the ill-gotten gains affair being a perfect illustration. To date, no preferred destination for these funds has been identified, but the movement of the funds abroad is reason for the country's authorities to increase their use of international cooperation to identify, cooperate and repatriate the funds through the fastest and most efficient means possible.

124. Investigative authorities may use direct cooperation mechanisms with their counterparts. However, they do not do so enough to identify and detect ML/TF cases abroad whose underlying offences may have been committed in Equatorial Guinea. Customs, which recently joined the WCO, is not yet benefiting from the advantages of using CEN. The Police are members of Interpol, which enables them to exchange intelligence via secure information exchange platforms. The tax authorities are not yet a member of the Global Forum on

Transparency and Exchange of Information for Tax Purposes. The tax authorities cannot easily cooperate with their counterparts outside this Forum.

125. ANIF is not yet a member of the Egmont Group, even though steps are currently being taken to obtain membership. It should however be noted that despite the lack of access to the information exchange networks set up by the Egmont Group, ANIF manages in many respects to cooperate with its counterparts on the basis of the bilateral cooperation agreements that it signs. Statistics show that ANIF has received 37 requests for cooperation over the last five years.

126. Supervisory authorities, particularly community authorities, may resort to international cooperation to supervise their respective reporting entities. In this way, COBAC, COSUMAF and CIMA can easily make use of international cooperation through the college of supervisors to supervise financial sector players.

127. The data analysed show that, in addition to the CEMAC Member States, the main countries and international partners from which Equatorial Guinea requests AML/CFT information are Morocco, Peru, and the countries of Central and South America.

128. Regarding informal cooperation, the investigative authorities, supervisors, ANIF and trial courts stated that they had used this type of cooperation in several cases. These cases concerned in particular those involving nationals of neighbouring countries.

2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key findings and recommendations

Key findings

(a) Under the aegis of the World Bank, Equatorial Guinea initiated its national ML/TF risk assessment process since 15 June 2021. The ML and TF risks to which Equatorial Guinea is exposed have been partially identified. This partial identification stems from the fact that not all AML/CFT stakeholders are taken into account. The NRA report was published on the ANIF website. However, only a few stakeholders stated that they had access to the report, but the country did not prove that the findings of the national risk assessment were shared with all AML/TF/PF stakeholders.

(b) Overall, the level of understanding of ML risks is low, although it varies depending on the authorities and business sectors. Banks demonstrated a good understanding of the risks, as did COBAC in the sectors under its supervision. ANIF and the other supervisory authorities, namely COSUMAF in the financial markets sector and CIMA in the insurance sector, have an average understanding of ML/TF risks in Equatorial Guinea. Investigative and prosecution authorities have a poor understanding of ML/TF risks;

(c) Generally, the authorities have a very limited understanding of the TF risks to which Equatorial Guinea is exposed, despite its proximity to Cameroon (on whose territory the terrorist group Boko Haram carries out attacks, and which is in the throes of an armed separatist crisis), the presence on its soil of a number of foreign communities involved in the illicit trafficking of children and people, the existence of clandestine HAWALA-type money transfers and the porous nature of its borders are all non-negligible risk factors.

(d) Some players in the financial sector, in this case the banks, periodically draw up risk maps that take account of the reality of the risks in the Equatorial Guinean context. Although the level of knowledge of risks is low, and the level of understanding of risks by the majority of players is also low, some risks linked to specific criminal activities have been identified and have been the subject of strategic studies integrated into sector policies. However, no high or low risk scenarios have been identified in Equatorial Guinea that would justify exemptions, in particular enhanced or simplified vigilance, as appropriate.

(e) The NRA has not been accompanied by a national AML/CFT strategy which should serve as a compass for the national players involved in AML/CFT. Thus, the objectives and activities of the competent authorities and self-regulatory bodies are not based on national AML/CFT policies;

(f) Since 18 April 2018, Equatorial Guinea has had a Coordination Committee for National Policies to Combat Money Laundering, Terrorist Financing and Proliferation responsible for coordinating AML/CFT actions at national level. However, the absence of operational players who are familiar with the reality of AML/TF/PF issues makes it difficult to implement coordination effectively;

Recommendations

The authorities of Equatorial Guinea should:

(a) Update the NRA by including all AML/CFT stakeholders in order to identify all ML/TF risks comprehensively as required by the relevant standards. Speed up dissemination of the NRA report and, using a sector-based approach, raise awareness among stakeholders of the risks identified in their respective sectors in order to strengthen understanding of the country's risks. Set a frequency for updating the NRA;

(b) Propose, as part of the risk assessment update, enhanced vigilance measures for high-risk scenarios and simplified measures for low-risk scenarios, to strengthen financial inclusion;

(c) Draw up an overall AML/TF/PF strategy taking account of the risks identified in the NRA report and adopt a corresponding priority action plan, and encourage the competent authorities to update their own objectives in line with this strategy;

(d) Urge the National Coordination Committee to fully play its role in ensuring the consistent implementation of measures incumbent on the various AML/CFT stakeholders, by ensuring effective coordination of AML/CFT actions in collaboration with operational players;

(e) Encourage the authorities to focus their activities on areas where the risk of money laundering and terrorist financing is highest;

(f) Define mechanisms for collecting and updating statistical data on investigations, prosecutions and convictions, as well as freezing, seizure and confiscation measures relating to ML, TF and predicate offences, in order to strengthen understanding of the country's risks;

(g) Implement appropriate measures to reduce the informality of the economy by promoting financial inclusion.

129. The Immediate Outcome relevant to this chapter is IO.1. Relevant Recommendations for the assessment of effectiveness under this section are R.1, 2, 33 and 34 and some elements of R.15.

2.2. Immediate Outcome 1 (Risk, policy and coordination)

2.2.1 Country understanding of ML/TF risks

130. Overall, the level of understanding of ML and TF risks in Equatorial Guinea is low. However, it emerged from the various interviews that the level of understanding is not the same for all authorities or all sectors of activity.

131. Among the players, ANIF has a moderate understanding of ML and TF risks in Equatorial Guinea. This level of understanding results from the periodic activity reports containing AML/CFT recommendations. Investigative and prosecution authorities demonstrated a poor understanding of ML/TF risks.

132. The control and supervisory authorities (BEAC, COBAC and CIMA) each have a good understanding of ML/TF risks in the business sector they supervise.

133. Equatorial Guinea has completed its national risk assessment with the support of the World Bank, which provided a methodological tool. The work was coordinated by ANIF and involved the participation and contributions of several players and sectors in the country's AML/CFT system through responses to the questionnaire and participation in group work. However, the ML and TF risks are still not clearly identified because some sector players were not involved in the exercise and therefore did not make any contributions concerning their respective sectors. Such was the case for NPOs, gaming establishments and casinos and some government services. As a result, the identification of ML/TFT risks was not exhaustive. Consequently, the team has serious reservations about the relevance of the analyses contained in the NRA report. They do not necessarily reflect the real situation in the country.

134. However, the evaluation team noted that that despite the publication of the report on the ANIF website, many stakeholders were unaware of its existence. What's more, there is still a lack of dissemination, which is essential if stakeholders are to fully understand the real and overall ML/TF risks. This is due to the fact that the risks identified were not brought to the attention of stakeholders, and hence not understood by them.

2.2.2 National policies to address identified ML/TF risks

135. As Equatorial Guinea's action plan had not yet been finalized or adopted at the time of the on-site visit, it was not possible for the evaluation team to assess whether national policies have adopted the risk-based approach to AML/CFT.

136. Equatorial Guinea has adopted sector policies relating to some specific criminal risks, including corruption, environmental crime and the illegal exploitation of mining resources. For example, Equatorial Guinea has implemented programmes and actions containing some targeted treatment measures, dedicated to specific risks and incorporating a few AML/CFT aspects. Such is the case with the creation, in 2022, of a special prosecutor for the fight against corruption, a special prosecutor for environmental crimes and a special prosecutor for drug offences. Equatorial Guinea has also adopted a policy included in the Mining Law of 29 November 2019 and the creation of an Interministerial Committee on Mining Governance to manage issues relating to the exploitation of the country's mineral resources. These measures can be put to the country's credit as significant progress.

137. However, they place much more emphasis on prevention aspects and are less interested in the repressive dimension of AML/CFTP.

138. As part of its participation in community AML/CFT activities, Equatorial Guinea took some legislative and regulatory measures to implement the recommendations contained in the report of the study on AML/CFT risks inherent in manual foreign exchange and money transfers in Central Africa, conducted by GABAC in 2018, including the centralization of foreign currency acquisition by foreign exchange bureaux from banks. This is because foreign exchange bureaux can no longer buy foreign currency directly from the Central Bank. They acquire them from commercial banks, which are the Central Bank's sole intermediary in this area. Similarly, the conditions governing access to the profession of money changer have been tightened, with COBAC's opinion now mandatory. Lastly, the country is waging a bitter battle against illegal money changers, even though this activity continues to flourish.

139. To encourage financial inclusion and limit the use of cash in transactions, the authorities of Equatorial Guinea have introduced financial products and new payment methods. One example is the introduction of mobile money or e-money by financial institutions, whether or not in partnership with mobile phone operators. Since the introduction of this product, the volume of transactions has grown significantly. This promotes financial inclusion by reducing the circulation of cash over the years.

140. Following its mutual evaluation conducted by GABAC in 2016, Equatorial Guinea has taken a number of legislative and regulatory measures to improve the compliance of its AML/CFT system. These include the adoption of a new criminal code in 2022 to factor the criminalization of ML and the category of predicate offences. The country has also set up judicial bodies, including prosecutors with special powers, to deal with specific predicate offences such as corruption, drugs and environmental crimes, taking into account the ML and TF risks identified. This led to the first ML investigations and prosecutions.

141. Regard terrorist financing risk, Equatorial Guinea does not have a body specifically devoted to coordinating forward intelligence. However, the anti-terrorist police unit could periodically summarize relevant intelligence on security threats inside and outside the country, including terrorism and its financing. Unfortunately, the AML/CFTP National Policy Coordination Committee, which could fill this gap, is not fully playing its role and the country has not taken any other measures to mitigate this risk.

2.2.3 Exemptions, Enhanced and Simplified Measures

142. The authorities of Equatorial Guinea have not planned any derogation from the vigilance measures in the high-risk and low-risk scenarios.

2.2.4 Objectives and activities of competent authorities

143. The policies, strategies and operational activities of the competent authorities have not been reviewed to adapt them to the risks identified.

144. However, Equatorial Guinea demonstrated that it had implemented measures to deal with the underlying risks of corruption, environmental crime, drug trafficking and the illegal exploitation of mineral resources.

2.2.5 National cooperation and coordination

145. Equatorial Guinea set up an AML/CFTP policies coordination committee on 18 April 2018. It does not operate in such a way as to ensure effective coordination of AML/CFTP actions, as operational players are not involved in the tasks.

146. Thanks to its network of correspondents in some government services, ANIF could have informally coordinated activities to combat ML/TF in the country, but such is not the case. These correspondents (focal points) were only set up during the mutual evaluation process.

147. ANIF has not yet signed a partnership agreement with some players to pool efforts in combating underlying offences that receive particular attention and against the laundering of the proceeds of these offences.

148. With regard to terrorism and its financing, the evaluation team noted that the Coordination Committee is the body that coordinates brainstorming and actions on serious security issues/threats. Coordinating actions to combat proliferation financing is also part of its remit, as set out in Article 2 of Decree No. 75/18 of 18 April 2018 to establish the AML/CFT National Policy Coordination Committee. However, there is no cooperation on TF between the various entities.

149. Most AML/CFT players are in contact with ANIF, which has no special relationship with COBAC, CIMA or COSUMAF. In addition, the competent authorities and reporting professions do not have a consultation framework to coordinate action and lay down cooperation mechanisms.

2.2.6 Private sector's awareness of risks

150. Conducting the NRA brought together most of the private players involved in AML/CFT in Equatorial Guinea and helped to collect their respective contributions. Many of them said they had been involved in the NRA. Involvement in the NRA is a starting point for understanding the country's ML/TF risks with the private sector players involved in AML/CFT. However, despite its publication on the ANIF website, as the NRA report has not been circulated and the risks identified have not been made known to all stakeholders, the awareness-raising of all the participating stakeholders has not been effective.

151. Equatorial Guinea's ANIF has carried out a number of awareness-raising and training activities on AML/CFT issues to enable stakeholders to understand the ML and/or TF risks to which their sectors are exposed. Some players also take part in awareness-raising activities organized by GABAC. This concerns very few players, but they are informed of the risks identified, the relevant recommendations and all the measures to be taken (or taken) by the authorities to mitigate such risks.

152. However, apart from some categories of financial institutions with sector risk maps, other reporting entities, particularly some DNFBPs, are not sufficiently informed about ML/TF risks.

Overall Conclusion on IO 1

153. Equatorial Guinea has completed its NRA, but the findings are not yet available to stakeholders. Indeed, without appropriate dissemination of the NRA findings, Equatorial Guinea demonstrated an overall low level of understanding of ML/TF risks. However, this understanding varies by authority and reporting sector, with a very low level for DNFBPs and their supervisory authorities.

154. Equatorial Guinea does not have a national strategy to address the risks identified. The authorities have therefore not yet adopted the ML/TF overall risk-based approach in their decision-making procedures, apart from dealing with a few risks linked to specific crimes, the results of which cannot yet be assessed.

155. National coordination is not yet effective, despite the creation of the Coordination Committee, and collaboration between public and private sector players is not yet a reality.

The actions to be developed to this end are expected as part of the action plan. In-depth improvements need to be made and implemented to raise the level of understanding of risks, ensure that they are uniformly understood and dealt with appropriately.

156. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 1.***

3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key findings and recommendations

Key findings

Immediate Outcome 6

(a) For analysis and processing of STRs, ANIF-EG uses its right of communication with reporting entities, especially in the banking sector, and with public services to obtain additional information to enrich its investigations. However, apart from judicial authorities, the financial information produced by ANIF is not disseminated to the competent authorities, in particular the General Directorate of Customs and the General Directorate of Taxation, for them to conduct effective investigations into ML/TF and predicate offences. No TF-related STR has been submitted to ANIF;

(b) During the period under review, there was a low rate of dissemination of files to the Public Prosecutor's Office, due either to the quality of the STRs submitted by reporting entities or to the fairly long waiting time for requests for information from reporting entities or other government services.

(c) To some extent, through ANIF's dissemination and the requisitions to financial institutions, Equatorial Guinea's judicial and investigative authorities have access to financial intelligence to enable them identify the perpetrators of the ML offence and predicate offences for their conviction and confiscation of their assets. However, due to a lack of expertise acceptable in ML/TF issues, they do not make proper use of the information made available to them. Financial intelligence produced by other competent authorities is not disseminated or used by these judicial and investigative authorities to conduct ML/TF investigations;

(d) Suspicious transaction reports received by banking sector reporting entities are the main source of financial intelligence produced by Equatorial Guinea's ANIF. However, the insurance, microfinance and DNFBP sectors do not report suspicious transactions. This is at the root of the low STR rate and the lack of diversification in the financial intelligence that can be made available to the competent authorities. There was a low rate of dissemination of reports based on the processing of STRs to the judicial authorities;

(e) ANIF has not provided any feedback on the suspicious transaction reports sent to it by the banking sector. Similarly, ANIF-EG has not received any feedback from the Public Prosecutor on the reports of its analyses disseminated to it;

(f) ANIF-EG has not yet carried out a strategic analysis and does not have a strategic analysis manual;

(g) There is cooperation and information exchange between ANIF and the other judicial authorities, but this is very limited with the competent authorities and limited with the supervisory and regulatory authorities;

(h) The procedure for submitting STRs, disseminating reports and exchanging information at Equatorial Guinea level is manual. This can sometimes lead to information leaks.

Immediate Outcome 7

(a) Equatorial Guinea's criminal investigative and prosecution authorities do not carry out specific investigations to detect and punish money laundering. This is due to the lack of a criminal law AML/CFT policy and the lack of expertise among those involved in the criminal justice system;

(b) However, in the course of their investigations into underlying offences like corruption, fraud, falsification of public documents and illicit enrichment, the law enforcement authorities manage to detect some cases of money laundering. Prosecuting authorities do not make systematic use of parallel financial investigations in the case of predicate offences;

(c) It was also noted that once the facts relating to the predicate offences have been examined, the prosecution authorities do not carry out any investigations to detect ML cases;

(d) During the period under review, Equatorial Guinea experienced cases of money laundering, based on reports sent by ANIF and the national police to the Financial Prosecutor's Office. These reports resulted in a single conviction for ML, whose sentence was neither dissuasive, effective nor proportionate;

(e) It is not clear from the information provided by the authorities that there is any consistency between the types of ML activities being investigated and prosecuted and Equatorial Guinea's threats and risk profile;

(f) In the absence of a conviction for ML, it has also not been expressly established that Equatorial Guinea resorts to alternative measures such as confiscation.

Immediate Outcome 8

(a) Equatorial Guinea does not make the confiscation of funds and other property that are proceeds of predicate offences, including property of equivalent value, a priority in ML/TF. Nevertheless, a few seizures and confiscations are carried out by the investigation units in the context of money laundering predicate offences;

(b) ANIF and the customs administration manage a border declaration system based on a cash declaration form. Only one case of cash seizure was reported. However, no NPI-related seizures or confiscations have been carried out;

(c) The country has no statistical data on the seizure and confiscation of the proceeds of the predicate offences committed abroad and the proceeds transferred to other countries;

(d) The country's authorities have not set up a mechanism to manage and/or share seized and confiscated assets.

Recommendations

Immediate Outcome 6

The authorities of the Republic of Equatorial Guinea should:

(a) Organize awareness-raising activities for reporting entities, to trigger reporting by those who do not yet report, especially DNFBPs, the insurance sector and the microfinance sector, in order to increase the number of STRs, improve their quality and diversify the sources of financial intelligence from all FIs and DNFBPs, and to improve the reporting capacity of reporting entities that already fulfil this obligation;

(b) Develop the operational analysis procedures manual to enable ANIF to provide more rapid assistance to the judicial and investigative authorities and the strategic analysis manual to help it can share typological studies and ML/TF indicators with reporting entities to facilitate the detection of suspicious transactions;

(c) Build the capacity of ANIF-EG analysts in strategic analysis so that ANIF-EG can produce timely reports that identify ML/TF trends and patterns in Equatorial Guinea;

(d) Build the capacity of judicial and investigative authorities on AML/CFT issues to facilitate the use and exploitation of financial intelligence in AML/CFT investigations;

(e) To speed up and finalize the implementation of an ANIF-EG technological solution to secure and confidentialize the receipt and processing of STRs and information exchange with the competent authorities;

(f) Make the information management and storage system of the tax and customs administrations operational in order to reconstitute their databases and facilitate information exchange with ANIF;

(g) Optimize access to ANIF-EG information by providing direct access to the databases of government services that already have it, for rapid processing of STRs;

(h) Strengthen cooperation and information exchange between ANIF and the competent authorities to improve the use of financial intelligence.

Immediate Outcome 7

The authorities of the Republic of Equatorial Guinea should:

(a) Define a clear AML criminal policy;

(b) Consider building the capacity of criminal investigation and prosecution authorities to specialize in parallel financial investigations, identification and detection of ML activities and investigation of the predicate offences;

(c) Build the AML capacity of specialized government services (tax, customs, water and forestry);

(d) Develop high-performance databases and keep quality statistics on the number of ML investigations, the predicate offences involved, prosecutions and convictions, seizures, freezes and confiscations;

(e) Explore the use of mutual legal assistance in investigations to detect and locate criminal assets;

(f) Envisage alternative criminal justice measures when it is not possible to obtain a conviction for ML.

Immediate Outcome 8

The authorities of the Republic of Equatorial Guinea should:

(a) Make the confiscation of funds and other property that are proceeds of the predicate offences, including property of equivalent value, a priority of the competent authorities in the investigation and prosecution of Ml and related predicate offences;

(b) Encourage investigative authorities to use the automated tools and mechanisms of international cooperation with regard to procedures for the seizure or confiscation of the proceeds of predicate offences committed abroad;

(c) Keep statistical data on seizures and confiscations of proceeds generated by ML predicate offences;

(d) Establish a mechanism to manage and share assets seized, frozen or confiscated by the competent authorities as part of investigations and prosecutions for ML and related predicate offences.

157. The relevant Immediate Outcomes analysed in this chapter are IO.6, IO.7 and IO.8. Relevant Recommendations for the assessment of effectiveness under this chapter are R3, R4, R29, R30, R31 and R32.

3.2. Immediate Outcome 6 (Financial Intelligence)

3.2.1 Access and use of financial intelligence and other information

158. The CEMAC Regulation confers on ANIF the right of communication to access financial intelligence. It exercises this right of communication to financial institutions, tax and customs authorities, the National Institute of Statistics, the General Directorate for Civil Society, the One-Stop Shop for Business Creation, the General Directorate of the Counter-Terrorism Judicial Police and the Gendarmerie. It also has access to financial intelligence through informal cooperation with its foreign counterparts.

159. To also produce financial intelligence, ANIF's main source of financial information is the suspicious transaction reports (STRs) it receives from the banking sector. To supplement this information and deepen its analyses, the aforementioned CEMAC Regulation allows it to obtain and use additional information from reporting entities and other public or private sources. In terms of information exchange, ANIF's collaboration with the Telecommunications Regulatory Authority (ORTEL) is embryonic and virtually non-existent with INTERPOL and

the Designated Non-Financial Businesses and Professions sector, abbreviated to DNFBPs, which is still a young sector in Equatorial Guinea.

160. Although Equatorial Guinea's ANIF accesses and receives information from both the public and private sectors through the information requests that it makes, it does not have direct access to the databases, at least those that are operational [22] in the various public sector administrations, notwithstanding its network of correspondents in these institutions. Databases exist for other government services, but access thereto is subject to a number of requirements. This makes it difficult for ANIF to process handle its cases quickly. ANIF does not currently have the appropriate software to carry out its analyses. It is currently being deployed.

161. Equatorial Guinea's ANIF does not have access to financial intelligence through the cooperation mechanism with its foreign counterparts as it is not a member of the Egmont Group and cooperation agreements with other FIUs are limited, which restricts ANIF's ability to cooperate and exchange information. The evaluation team was informed of the membership application, which is currently ongoing.

162. ANIF produces financial intelligence on the basis of STR processing and shares it only with judicial authorities. It is limited to making information requests to the competent authorities. However, the various authorities did not demonstrate any use of the financial intelligence produced by ANIF.

163. Information on declarations relating to the physical cross-border transport of cash is collected by the General Directorate of Customs using cash or currency declaration forms. These forms are then sent to ANIF, which manages them. It has not been possible to ascertain whether this information is shared with the Police, the Gendarmerie and Public Prosecutor as part of investigations into underlying or ML/TF offences. Declarations relating to bearer negotiable instruments (BNIs) were not reported to the devaluation team.

164. The Public Prosecutor's Office in Equatorial Guinea is made up of the Prosecutor General, the Anti-Corruption Prosecutor, the Environmental Prosecutor and the Anti-Drug Prosecutor. The Public Prosecutor forwards files on economic crimes and ML/TF to ANIF for investigation. Once there is tangible evidence, ANIF communicates the findings of its investigations in the form of a report to the Public Prosecutor, who refers the matter directly to the Examining Magistrate. The quality of reports sent by ANIF is deemed to be good by the Public Prosecutor, as they are sent on the basis of a pre-established model containing all the information that could facilitate his assessment. However, no report was sent to the evaluation team to assess its quality. Para. 162 in fine.

Table 3.1: Statistics on ANIF investigation reports sent to the Public Prosecutor

Years	2021	2022	2023	Total
Number	5	2	8	15

Source: Office of the Public Prosecutor

[22] At the time of the on-site visit, the automation system at the General Directorate of Customs was not operational due to energy-related challenges, resulting in a server failure, while the information management system at the Tax administration was virtually non-existent. The database is managed manually, which makes quality control difficult.

165. The table shows that 15 reports on investigations carried out by ANIF were forwarded to the Public Prosecutor. According to the Public Prosecutor, these investigation reports concerned economic crimes, including money laundering. These files are currently being processed by investigating offices. No information was provided to the evaluation team on the content of the reports. It was not possible to check whether the economic crimes are consistent with the country's main risks.

166. The Public Prosecutor stated that he has access to information from banks and telephone companies as part of investigations into economic crimes. However, the information is not used for AML/CFT investigations.

167. The General Directorate of Judicial Police and the Counter-Terrorism has launched investigations into 10 (ten) cases of money laundering. It uses the financial information produced by ANIF to conduct its investigations. The quality of the collaboration cannot be assessed for lack of notification letters. There is permanent cooperation from their focal points. The Judicial Police can easily obtain financial information from banks and economic agents on request. It also collaborates regularly with the General Directorate of Customs on the exchange of information relating to illicit drug trafficking. However, in practical terms, this authority lacked ML/TF expertise and training. As a result, the financial intelligence or other financial information it obtains is not used effectively to conduct ML/TF investigations.

168. The National Gendarmerie does not have access to information produced by ANIF. Nevertheless, it receives information requests from ANIF on some individuals implicated in its investigations. The Gendarmerie sometimes conducts investigations into predicate offences and manages to identify money laundering cases.

169. At the level of the tax authorities, information relating to the tax situation of legal entities and individuals is shared with ANIF, the judicial authorities and any other authorities on request. Equatorial Guinea's General Directorate of Taxation is not yet a member of a Global Forum to facilitate information exchange in tax matters. At the time of the visit, no tax fraud had been identified. The tax authorities, on the other hand, proceed on the principle of the right to compromise or to an out-of-court settlement or adjustment. This information is not shared with the authorities responsible for investigating money laundering and terrorist financing. In this respect, it has been difficult for these authorities to prove the optimal use of this financial information in combating ML/TF. The tax authorities have not yet received any financial intelligence produced by ANIF-EG.

170. The General Customs Code in Equatorial Guinea gives the General Directorate of Customs the power to access financial information from financial institutions or any public administration. However, at the time of the on-site visit, the customs authority had not accessed the financial intelligence produced by ANIF, nor had it made any requests for information to ANIF. It also does not have any data on seizures of drugs and rare and protected species. Under such conditions, it was difficult to prove the effective use of financial intelligence in ML/TF investigations. Customs does not have a database for collecting, storing and sharing information on the fight against fraud and on seizures of currency, narcotics and psychotropic substances.

171. The Ministry of Mines and Hydrocarbons regularly requests financial information from public administrations on the origin of funds for companies operating in its sector of activity. However, it has not been demonstrated that this information is used to combat money laundering and terrorist financing.

172. The Ministry of the Interior's General Directorate for Civil Society has a public register containing all information on associations and non-governmental organizations (NGOs). Access to the register is subject to a request being made to the supervisory Ministry. ANIF, the Ministry of Finance, the Police, the Ministry of National Security and judicial authorities have access thereto. However, the information is not used for AML/CFTP purposes.

173. The Ministry of Trade's One-stop shop for business start-ups has a range of information on businesses being set up in Equatorial Guinea, as well as the types of company involved. On every indication, ANIF requests for information in its investigations into the processing of suspicious transaction reports. However, notification letters were not made available to the evaluation team to demonstrate ANIF's access to such information. The information available at the One-Stop Shop is also requested by the Police and National Security Service, which use or exploit it in investigations relating to the performance of their duties. However, it has not been demonstrated whether this information is used for AML/CFTP purposes.

3.2.3 Reports received and requested by the competent authorities

174. Suspicious transaction reports (STRs) are physically transmitted to ANIF in sealed envelopes and come largely from financial sector entities, especially banks. There is a template for reporting suspicious transactions, which was not made available to the evaluation team. However, ANIF did not provide any feedback on the follow-up to these statements. Some financial institutions in the banking sector said they had received acknowledgements of receipt of their STRs. The other reporting professions have not yet sent an STR to ANIF, as most of them are unaware of their reporting obligations and of all the due diligence required in this respect. This is particularly true of Designated Non-Financial Businesses and Professions (DNFBPs), the insurance sector and the microfinance sector. No suspicious transaction reports relating to terrorist financing have been filed with ANIF.

175. Access to ANIF is well regulated and its premises offer maximum security. ANIF's appropriate technological solution for receiving and analysing STRs securely is currently being rolled out, which means that it does not have direct access to the databases of various public administrations for the rapid processing of files. Nevertheless, it has the technological infrastructure to facilitate its work [23].

176. ANIF-EG also has an information system procedures manual which describes the procedures for monitoring data processing centre equipment, monitoring software, registering users in Active Directory, deleting users in Active Directory, connecting to the access control

[23] This is a server infrastructure based on the EsXi 6.5 version of the VMWare virtualization technology, with a main physical server and a secondary server that is a replica of the first to ensure constant availability. Its IT pool comprises desktops for each analyst, multifunction printers, VoIP extensions to facilitate communication between the various offices within the Agency, a high-security firewall (Fortinet) to control Internet access, and three Wi-Fi access points enabling staff to connect to the Internet using a wireless signal, which are protected by passwords that are renewed from time to time.

system, monitoring the S.I.F database, restoring the S.I.F database and downloading official documents. The manual will be used once the technological solution has been implemented. It also has an internal procedures manual. However, ANIF has not been able to demonstrate whether the latter provides prompt support to the investigative and prosecuting authorities. It also does not have a strategic analysis manual.

Table 3.2: Number of STRs sent to ANIF by reporting entities (2019 to 2023)

Sector origin/Years	2019	2020	2021	2022	2023	Total
Banking sector	54	58	9	24	6	151
Public sector	5	2	-	2	-	9
Private sector	-	-	-	-	-	-
International cooperation	2	-	-	2	-	4
Total	61	60	9	28	6	164

Source: ANIF-EG

177. The table above shows that ANIF receives suspicious transaction reports from the banking sector, the public sector and international cooperation. The evaluation team was not informed of the content of the information sent to ANIF by the public sector, the private sector and international cooperation. ANIF did not specify whether the institutions in each sector listed in the table meet the criteria for reporting suspicious transactions.

178. For the period 2019 to 2023, ANIF received a total of 164 STRs, including 151 STRs from the banking sector, representing a rate of 92% of STRs, 9 STTs from the public sector representing a rate of 5% and 4 from international cooperation with a rate of 3%.

179. The table above shows a low rate of suspicious transaction reporting during the period under review. In 2021, 2022 and 2023, it was observed that reporting entities filed fewer suspicious transaction reports. This is due in part to the lack of a relationship of trust between these reporting entities and ANIF-EG, for a number of reasons mentioned by the latter, including the frequent changes in ANIF management, the malfunctioning of correspondents' e-mail addresses on ANIF's internal messaging server and the issue of ensuring the reliability of ANIF statistics.

180. The reports received by ANIF are processed and analysed, enabling analysts to produce operational ML analysis reports. Analysts are provided with a standard report template containing detailed information on the identification data on suspected persons, agents, shareholders, analysis of activities and bank accounts, justification of funds, STR analysis, analysis of ML risks, analysis of the strengths and weaknesses of the case and the conclusion. By way of illustration, the evaluation team was provided with two (2) detailed operational analysis reports produced by analysts on financial information[24].

[24] In one case, there was a discrepancy between the information given when the account was opened and the monthly deposits made by the suspect. In the other case, the suspect committed the crime of tax evasion, which corresponds to the alleged ML acts.

181. Following a favourable opinion on the analyst's draft report and the deliberations during presentation of the final report, the committee set up by ANIF-EG decides whether to forward the report or file to the Public Prosecutor's Office for prosecution. During the on-site visit, no details were provided on the composition of this committee.

182. The time it takes analysts to process STRs depends on the volume or complexity of the file. The waiting period for additional information provided to reporting entities corresponds to the time taken by the ANIF correspondent to collect the information. This could have a negative impact on the authorities' ability to obtain information. For ANIF, the average time taken to process information is 30 days. This may take longer depending on the complexity of the case under analysis.

183. As shown in Table 2 above, the total number of STRs received by ANIF between 2019 and 2023 is 164 (one hundred and sixty-four). Statistics provided by ANIF show that in 2019, out of a total number of 61 (sixty-one) STRs received, 54 (fifty-four) files were archived or closed, 2 (two) were in the analysis phase or under investigation and no file was forwarded to the Public Prosecutor's Office. There is therefore a significant discrepancy of 5 (five) files, which ANIF cannot explain. In 2019, the Public Prosecutor's Office did not receive any report from ANIF based on the processing of STRs and a large number of closed files were noted, despite the fact that ANIF has a large number of analysts with varied profiles necessary to perform its duties.[25]. During the site visit, ANIF stated that it was regularly upgrading the skills of its staff. This low rate of dissemination of files to the Public Prosecutor's Office may be due either to the quality of the STRs submitted by reporting entities or to the fairly long waiting time for requests for information from reporting entities or other government services.

184. During the period under analysis, ANIF-EG received automatic declarations relating to cash transactions of an amount equal to or greater than CFAF five (5) million, as shown in the table below:

Table 3.3: Automatic declaration statistics by sector from 2019 to 2023

Year/Sector	2019	2020	2021	2022	2023	Total
Banking sector	6519	7332	2850	3982	34815	55498
Private sector	-	-	-	-	400	400
Total	6519	7332	2850	3982	35215	55898

Source: ANIF-EG

185. The above table shows that ANIF-EG received 55,498 cash transactions for an amount equal to or greater than CFAF five (5) million from banking sector customers. ANIF plans to organize awareness-raising activities on this obligation for other categories of financial institutions. No further details were given on the 400 private sector cash transactions in 2023. The use of the information contained in these automatic declarations was not disclosed.

186. As regards information on currency declarations made at borders in connection with the physical cross-border transport of cash and bearer negotiable instruments (BNIs), there is a border declaration system managed by the customs authorities on the basis of a cash declaration

[25] *ANIF-EG has a staff strength of 68, with various profiles. These include economists, accountants, auditors, IT specialists and lawyers. However, ANIF-EG was unable to state the number of analysts and administrative staff.*

form. The information contained in the cash declaration form is received by ANIF, which processes it and, where necessary, the Customs Department is contacted to carry out a second analysis of the information.

Table 3.4: Statistics on cross-border declarations (2019-2023)

Declaration	2019	2020	2021	2022	2023	Total
Cash declaration	-	-	-	-	74	74

Source: ANIF-EG

187. This table shows that in 2023, 74 (seventy-four) declarations in connection with the physical cross-border transport of cash were made to the competent authorities. No BNI-related declaration was made. There were no declarations from 2019 to 2022.

3.2.4 Matching ANIF analyses with the operational needs of the competent authorities

188. During the period from 2019 to 2023, ANIF-EG processed and analysed the information received from reporting entities and the public sector, as well as that emanating from international cooperation (see Table 2 above).

Table 3.5: Number of files archived, transmitted and under analysis from 2019 to 2023

File status/Year	STRs received	Archived files	Pending files	Files forwarded to the Public Prosecutor	Files under analysis	Variance on files
2019	61	54	-	-	2	5
2020	60	45	-	8	5	2
2021	9	2	-	2	9	-4
2022	28	2	-	3	13	10
2023	6	4	-	9	7	-14
Total	164	107	-	22	36	-1
In %	100%	65%	-	13%	22%	-

Source: ANIF-EG

189. The table above shows that, throughout the period under analysis, the statistics for STRs received, archived cases, cases sent to the Public Prosecutor's Office and cases under analysis were inconsistent. For 2019, 2020 and 2022, ANIF received 61 (sixty-one), 60 (sixty) and 28 (twenty-eight) STRs respectively. The number of STRs received exceeds the number of files archived, forwarded to the Public Prosecutor and under analysis. The situation regarding the discrepancy of 5 (five), 2 (two) and 10 (ten) files as shown in the table was not specified. For 2021 and 2023, the number of files archived, sent to the Public Prosecutor and those in the analysis phase exceeds the number of STRs received.

190. Out of a total number of STRs received, ANIF disseminated 22 (twenty-two) files relating to ML/TF facts to the Public Prosecutor's Office for the opening of preliminary investigations. There was a low rate of transmission of cases to the Public Prosecutor's Office during the period under analysis (13%), 36 (thirty-six) cases were under analysis or investigation (22%) and 107 (one hundred and seven) cases were archived or closed (65%). The team noted a large stock of archived files. This situation may be justified either by the quality

of the STRs submitted by reporting entities, which do not contain sufficient information, or by the fact that ANIF's conclusions regarding suspicions of ML/TF are not confirmed.

191. The ANIF-EG does not receive any feedback after sending the reports of its analyses based on STRs to the Prosecutor. It was not possible to assess the quality of the reports sent to the Public Prosecutor based on the findings of the STRs. However, during the on-site visit, the mission found that no reports on terrorist financing had been sent out.

192. The evaluation team noted that ANIF does not share the findings of its analyses with the competent authorities, in particular the tax and customs authorities, to enable them to detect cases of tax and customs fraud. Conversely, ANIF limits itself to regularly requesting information from the General Directorate of Taxation on the tax situation of persons implicated in its investigations.

193. ANIF-EG has produced a report on money laundering typologies in Equatorial Guinea. It was prepared by analysts from the Financial Investigations Service (SIF), under the authority of the National Directorate. The report presents a summary of typologies relating to money laundering, the aim of which is to provide reporting entities (REs) and the competent authorities with tools to provide information to improve control mechanisms, to identify the modus operandi of suspects or criminals, and to develop and publish the illustrated typologies to help carry out, adjust and improve controls of the national AML/CFT system. The analysts limit themselves to presenting the reporting sector, a brief explanation of the case and warning signs. In the light of this information, it can be noted that ANIF has not yet carried out the strategic analysis in accordance with the procedures for conducting a strategic analysis project, which entails planning and assigning tasks (defining and approving the terms of reference), data collection, classifying, evaluation and analysis, producing a report and disseminating the report to present a strategic analysis product according to the needs of ANIF and other AML/CFT stakeholders.

194. The mission noted that the analyses produced by ANIF-EG do not match the operational needs of the competent authorities. They face a number of difficulties, including a lack of capacity or in-depth knowledge of ML/TF issues and a lack of appropriate resources to use the analyses effectively in the criminal justice system.

195. It would therefore be important to assess the level of financial resources made available to ANIF-EG and ensure that they help it to carry through its missions.

Table 3.6: Financial resources allocated to ANIF in CFA francs (from 2019 to 2023)

Years	Budgeted	Effectively provided	Implementation rate	Amounts disbursed
2022	960,000,000	-	-	-
2023	1,200,000,000	-	-	-
2024	1,800,000,000	-	-	-

Source: ANIF-EG

196. The table above shows that the amounts budgeted have increased significantly between 2022 and 2024. However, information on the actual provision of funds and the amounts

disbursed was not provided. It was not possible to determine the implementation rate in order to assess whether or not the resources allocated to ANIF-EG are sufficient to enable it to carry out its tasks effectively.

3.2.4 Cooperation and exchange of financial information/intelligence; confidentiality

197. The level of information exchange between ANIF and other public services is deemed to be low. Such is the case with the National Institute of Statistics (INEGE), the Telecommunications Regulatory Authority (ORTEL) and the Ministry of Mines and Hydrocarbons. However, there is frequent of information exchange between ANIF and the Ministry of the Interior and the One-stop shop for business start-ups. It was not possible to determine whether the information exchange was for AML/CFT purposes.

198. The General Directorate of Taxation stated that it regularly exchanges information with ANIF, the Judiciary and any other government service, as this is authorized by law and is an obligation. Information exchange is limited to ANIF's request for the tax situation of suspected persons to further its investigations. However, it was not possible to demonstrate this information exchange in the absence of transmission notes.

199. It should be noted that the CEMAC Regulation on the Prevention and Suppression of ML/FTP provides for a cooperation mechanism that should be implemented through ANIF correspondents in government services. These correspondents are appointed within the Police, Customs, Gendarmerie and Justice or any other public service whose assistance is deemed necessary in the context of AML/CFT. In practice, however, this mechanism has not been demonstrated.

200. The General Directorate of Banking, Insurance and Reinsurance maintains good relations with ANIF in information exchange on threshold-based cash transactions. The information is sent to ANIF on a weekly basis, with attachments. No document was made available to the evaluation team to attest to the effectiveness of this collaboration.

201. Regarding customs authorities, information exchange is a one-way process. Only ANIF requests information from these authorities. At the time of the mission, it was mentioned that a draft memorandum of understanding for the exchange of information between the two institutions was being prepared. The General Directorate of Customs was not able to demonstrate cooperation in information exchange with the customs administrations of other countries.

202. Cooperation between ANIF-EG and the investigative and prosecuting authorities is deemed to be good. However, it is considered to be limited with financial institutions control and regulatory authorities as regards control and supervision information.

203. Cooperation between ANIF and the self-regulatory bodies is unsatisfactory. They must be made aware of the ML/TF risks to which their respective sectors are exposed and of their AML/CFT obligations.

204. During the on-site visit, it was proven that ANIF-EG does not receive enough information requests from other competent authorities. There were no concrete cases of collaboration between ANIF and other government services. However, as part of information

exchange among competent authorities, ANIF makes requests to investigative authorities and other competent authorities.

205. ANIF provided the mission with statistics on the requests for information it sent to the various sectors during the period under review.

Table 3.7: Statistics on requests for information by ANIF (2019-2023)

Sector/Year	2019	2020	2021	2022	2023	Total
Banking sector	46	97	28	115	234	520
Public sector	15	18	10	51	98	192
Private sector	10	1	6	1	5	23
International cooperation	6	8	3	5	15	37
Total	77	124	47	172	352	772

Source: ANIF-EG

206. From this table, ANIF-EG sent 772 requests for information during the period under review, 520 to the banking sector, 192 to the public sector, 23 to the private sector and 37 under international cooperation. The evaluation mission was not informed of the content of all these requests.

207. Under international cooperation, ANIF-EG has signed memorandums of understanding with Cape Verde, Senegal, Mali, Niger, Cuba, Benin, Peru and Panama. However, information exchange with its counterparts is very limited.

208. Regarding the confidentiality of information, ANIF does not yet have a secure system for exchanging and sharing information. However, in accordance with the CEMAC Regulations on the Prevention and Suppression of AML/CFP, members of ANIF and their correspondents take the following oath before assuming their duties: "*I swear to conduct myself as a worthy and loyal member (or correspondent) of ANIF, to keep secret any information that may come to my knowledge in the course of my duties, even after such duties have ceased*". Whether or not a formal agreement has been concluded, the information exchange takes place under this confidentiality clause.

Overall Conclusion on IO 6

209. ANIF-EG fulfils all the traditional missions assigned to an FIU. It produces financial intelligence for the judicial authorities based on STRs, mainly from the banking sector. However, the information is not used effectively for AML/CFT purposes. The number of STRs is low. The obligation to report suspicious transactions is not observed by some reporting entities, including DNFBPs, the insurance sector and the microfinance sector. Declarations on cross-border cash movements are managed by ANIF and shared with the customs authorities, who simply analyse them. No BNI-related declaration was made.

210. The analyses produced by Equatorial Guinea's ANIF do not match the operational needs of the judicial and investigative authorities. They do not use them effectively because they have not been trained in ML/TF issues and lack the expertise to conduct AML/CFT investigations. However, a number of money laundering cases have been investigated.

211. Information exchange between ANIF and the judicial authorities is good. They are weak with the competent authorities but limited with the supervisory and regulatory authorities and the DNFBP sector.

212. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 6.***

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

213. The authorities of Equatorial Guinea are aware of the urgent need to make a real commitment to combat financial crime. This is reflected in the creation of a financial intelligence entity and extension of the scope of activity of criminal prosecution units (Gendarmerie, Police, Public Prosecutor's Office), investigating and punishing acts relating to economic crimes. The same applies to ML offence.

214. To achieve the assigned objective, the Republic of Equatorial Guinea set up a General Directorate of Judicial Police responsible for combating ML, and predicate offences in the Ministry of National Security by Decree No. 79/2018 of 3 May 2018.

215. By Decree No. 166 /2018 of 23 September 2018, the Government of Equatorial Guinea also established a Public Prosecutor responsible combating drug trafficking and another responsible for administrative investigations and anti-corruption. In the same vein, Law No. 1/2021 of 10 May 2021 on preventing and combating corruption was enacted.

216. The scope of this commitment is drastically reduced by the absence of specialized investigation units or renowned experts within the country's prosecuting and investigative authorities.

217. Discussions with Gendarmerie and police criminal investigation staff revealed that particular emphasis is placed on prosecuting ML predicate offences to the detriment of the importance that should be attached to ML cases in the proceedings initiated. In the absence of disaggregated statistics, we have to rely on statements highlighting the closure of investigations (Police and Gendarmerie) into cases of corruption, embezzlement of public funds, illicit trafficking in currency, drugs and cannabis, theft and fraud. All the findings of these investigations are sent to the Public Prosecutor's Office by the Police and Gendarmerie. This suggests that if the prosecuting and investigative authorities had a sound knowledge of AML/CFT matters, they should have investigated the predicate offences in greater depth to detect ML cases.

218. The authorities of Equatorial Guinea stated that cases of money laundering are detected on the basis of reports transmitted by ANIF and denunciations made directly to the prosecuting authorities. The reports transmitted and the denunciations made give the opportunity to the Public Prosecutor responsible for combating economic crimes to refer the case to an investigating firm.

219. Between 2021 and 2023, the Public Prosecutor's Office opened an investigation on the basis of 13 reports submitted by ANIF and two direct denunciations.

Table 3.8: Statistics on ANIF-EG reports sent to the Public Prosecutor

Nature of report	2021	2022	2023
Number of ML-related reports sent by ANIF	03	02	08
Direct ML-related denunciations	00	02	02

Source: Malabo Prosecutors' Office

220. The files are still being processed by investigating firms.

221. During investigations into predicate offences, investigative units sometimes manage to identify money laundering cases. The General Directorate of Judicial Police and the Counter-Terrorism (2021 to 2023) launched investigations into 10 cases of money laundering.

Table 3.9: ML investigation statistics

Nature of investigation	2021	2022	2023
ML investigations conducted	02	03	05

Source: General Directorate of the Judicial Police and Counter-Terrorism

222. In so doing, the investigation into a case involving corruption, forged public documents, fraud and illicit enrichment led to the joint sentencing of six people to three years' imprisonment for money laundering by the Malabo Court in 2023.

223. Equatorial Guinea has not yet conducted investigations into ML cases on the basis of requests for mutual legal assistance received from third countries or sent as a requesting State.

Parallel investigations

224. The prosecuting bodies (Gendarmerie, National Police, Customs, Taxation) do not carry out systematic financial investigations to detect money laundering offences. In other words, there are no parallel financial investigations. This is justified by the lack of the relevant expertise and specialization.

225. Parallel financial investigations into cases of corruption, misappropriation of public funds and fraud should lead to the detection of the ML offence if they were systematic. This is not common practice, despite the institutionalization of two Public Prosecutors responsible for combating corruption, terrorism and economic crime.

226. The interviews conducted reveal that the General Directorate of Police responsible for counter-terrorism and that of the Gendarmerie, without attendant statistics, stated that they had carried out various ML investigations that had not led to any judgments.

227. In cases of ML investigations that did not result in a decision, the prosecuting authorities did not mention the opening of a possible parallel financial investigation that could lead to the seizure of assets acquired with the proceeds of the offence. Domestic law provides for the seizure and confiscation of the proceeds of offences.

228. The permanent presence of public prosecutors seconded to judicial police units to facilitate the legal classification of offences was highlighted as a positive point.

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

229. From the information gathered on the spot, the main predicate offences recorded are corruption, misappropriation of public funds, tax fraud, tax evasion, misuse of corporate assets and trust, fraud and swindling.

230. ML prosecutions should focus on the predicate offences, which are recurrent. However, such is not the case, despite the fact that this practice should make it possible to regulate the ML threats that Equatorial Guinea faces as a result of its geographical location.

231. The lack of statistics on ML investigations carried out by the prosecuting authorities makes it impossible to determine the consistency between ML investigations and prosecutions and the country's threat profile.

3.3.3. Types of ML cases pursued (prosecution)

232. Between 2021 and 2023, the judicial authorities received 13 reports from ANIF and opened investigations into two cases of money laundering. The figures for reports sent by ANIF do not tally with the number of reports actually received by the Public Prosecutor's Office.

233. According to the official who did not providing any details, the General Directorate of the Judicial Police and Counter-Terrorism conducted ten money laundering investigations between 2021 and 2023. No details were provided as to the final destination of the findings of the investigations.

234. There is considerable discrepancy between the number of reports sent by ANIF, the rate of investigations conducted and the number of convictions. The mutual evaluation team noted a low conviction rate despite the fact that investigations are underway and reports are sent by the financial intelligence unit.

235. The only prosecution that led to a conviction by the Malabo Court, on 15 November 2023, was for underlying offences associated with money laundering committed in connection with the award of public contracts on the basis of falsification of administrative documents, corruption and abuse of power followed by payment of commissions.

236. Discussions with the judicial authorities revealed that the specialized investigating firms in Malabo are run by newly appointed judges who have not yet been involved in ML cases.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions applied for ML

237. The alleged perpetrator of the ML offence is liable to a maximum sentence of three (3) years' imprisonment under Equatorial Guinea’s Criminal Code.

238. However, Article 114 of the CEMAC Regulations provides for a penalty of between five (5) and ten (10) years for natural persons guilty of money laundering.

239. In the sole case of conviction for related offences, including money laundering in connection with the conclusion of public procurement contracts, the Public Prosecutor's Office proposed three years' imprisonment. This penalty not effective, proportionate or dissuasive.

3.3.5. Use of alternative measures

240. The authorities of Equatorial Guinea did not provide the evaluation team with statistics on investigations and convictions for ML predicate offences, including corruption, fraud, embezzlement of public funds and tax evasion.

241. However, the prosecuting and investigative authorities claimed, without supporting evidence, to have tried various predicate offences. The only decision available is that handed down by the Malabo Court, which convicted six accused persons of forgery, abuse of authority, corruption and money laundering.

242. It should also be noted that conviction for related offences is not an alternative measure.

Overall Conclusion on IO 7

The authorities of Equatorial Guinea have set up a mechanism to deal with offences within the criminal justice system. However, the investigative and prosecution authorities do not have proven expertise in handling ML cases.

243. Most investigations focus on predicate offences. Financial investigations are not systematically conducted.

244. Alternative criminal justice measures are not applied by the country when a conviction for ML cannot prosper.

245. The lack of specific convictions for ML and of statistics makes it impossible to determine the actual typology of the ML investigated.

246. Equatorial Guinea is rated as having a low level of effectiveness for IO 7.

3.4. Immediate Outcome 8 (Confiscation)

3.4.1 Priority to confiscation of proceeds and instrumentalities of the crime and property of equivalent value

247. Equatorial Guinea has a legal framework for the confiscation of the proceeds of crime. To this end, the CEMAC Regulation on the Prevention and Suppression of Money Laundering and the Financing of terrorism and Proliferation provides that the judicial authority may, in accordance with domestic law, take precautionary measures, ordering in particular the seizure of funds and property relating to the money laundering and terrorist financing offence under investigation and of all elements likely to help identify them, as well as the freezing of sums of money and financial transactions relating to the said property. They also provide that in all cases of conviction for money laundering or attempted money laundering, the courts shall order the confiscation, for the benefit of the Treasury, of the proceeds of the offence, movable or immovable property, funds and other financial resources linked to the offence. The provisions also give the judicial authorities the power, when ordering confiscation, to identify and locate the criminals' funds, assets and other financial resources. However, when the funds, assets and other financial resources to be confiscated cannot be represented, their confiscation may be ordered in value.

248. The mission noted that entities like the General Directorate of Customs, the National Gendarmerie, the General Directorate of Judicial Police, the General Directorate of the Forestry Guard and the National Institute for Forestry Development and Management of the Protected Areas System (INDEFOR-AP) carry out seizures. However, they do not prioritize confiscation in relation to money laundering and terrorist financing. As a result, no seizures or confiscations have been made.

3.4.2 Confiscation of the proceeds and instrumentalities of crime, and property of equivalent value, in connection with predicate offences committed in the country and abroad and of proceeds transferred to other countries

249. To some extent, investigative authorities, in particular the General Directorate of Customs, the General Directorate of the Judicial Police and the Gendarmerie, seize funds and other assets resulting from the predicate offences committed on the territory of Equatorial Guinea. However, it was difficult for the evaluation team to estimate or assess the outcome of this work, given that the country had not made available any statistics on confiscations.

250. The mission was informed of the joint investigations carried out by the customs authorities and the Judicial Police into illegal drug trafficking, which resulted in seizures. Another joint investigation enabled the investigative authorities to seize the funds of a Chinese national who wanted to cross the border with a huge sum of money without any plausible justification. These authorities also reported cases of seizures resulting from the illegal trafficking of protected species. However, no statistical data on all these seizures was made available to the evaluation team.

251. The competent special services, in particular the Forestry Guard and INDEFOR-AP, as well as the Gendarmerie, Security and Police in a mixed team, cooperated at national level to carry out joint investigations into the illegal exploitation of protected species. The investigations often lead to the seizure of firearms, chainsaws and vehicles. Each entity seizes the assets under its jurisdiction. As such, firearms are seized by the Ministry of Security and chainsaws by the Ministry of Agriculture.

252. The country has not developed a cooperation mechanism at regional or international level to identify, track and confiscate funds, property or other financial resources or proceeds derived from a predicate offence committed abroad. The evaluation team was not provided with any statistical data relating to confiscations on the predicate offences committed abroad.

253. The customs administration of Equatorial Guinea is not connected to the CEMAC anti-fraud network (BRLR-AC), nor to the nCEN network of the World Customs Organization (WCO) in order to collect, asses and disseminate information on customs offences, including seizures and confiscations, via the nCEN network. The mission was unable to assess the extent to which the confiscation of assets and other financial resources constituting the proceeds of the predicate offences or ML/TF committed abroad and those channelled to other countries had been carried out.

254. The Republic of Equatorial Guinea does not have clear mechanisms for managing, securing, sharing and disposing of frozen, seized or confiscated assets.

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

255. The country's authorities should bear in mind that the movement of currency by individuals and the permeability of borders can be at the root of ML/TF risks at national level. At border crossings, while the other competent services are concerned with identifying people and their goods, Customs focuses on declaring cash or foreign currency using a cash declaration form. The information thus gathered is sent to ANIF. In the event of false declarations, the persons concerned pay a fine. The last time Equatorial Guinea Customs seized cash or foreign currency was three years ago. No statistical data is available on cross-border movements of species and BNIs that are misreported or not reported. The last seizures of cash or foreign currency by Equatorial Guinea Customs were made three years ago. Only one case of cash seizure has been reported (see Para 247 above). No recent statistical data has been received.

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

256. At the time of the on-site visit, the authorities of the Republic of Equatorial Guinea had finalized and adopted their national ML/TF risk assessment report. A number of threats and vulnerabilities were identified as posing a high ML/TF risk in the country, including corruption, drug trafficking, human trafficking, environmental crime, tax evasion, piracy and maritime crime, the informal economy, porous borders, the lack of AML/CFT statistics and the low level of international cooperation.

257. The evaluation team was informed of a few cases of seizure and confiscation carried out in connection with the predicate offences by the investigation units. These are seizures and confiscations related mainly to drug trafficking and the illegal trade in protected species. To some extent, the seizures and confiscations are consistent with the country's risk profile. However, in the absence of statistics on seizures and confiscations, the evaluation team was unable to properly assess the consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

Overall Conclusion on IO 8

258. Equatorial Guinea has a legal framework enabling it to confiscate funds, assets and other financial resources derived from commission of predicate offences. The evaluation team noted a few cases of seizure and confiscation carried out in connection with the predicate offences by the investigation authorities. However, the latter do not give priority to AML/CFT confiscation.

259. With regard to the physical cross-border transport of species and NPIs, ANIF and the customs administration manage a border declaration system based on a cash declaration form. However, no cash or NPI-related seizures or confiscations have been carried out.

260. No statistical data is available on the seizure and confiscation of the proceeds of the predicate offences committed abroad and the proceeds transferred to other countries.

261. The seizures and confiscations carried out are, to some extent, consistent with the country's risk profile and national AML/CFT policies and priorities.

262. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 8.***

4. TERRORIST FINANCING AND PROLIFERATION FINANCING

4.1. Key findings and recommendations

Key findings

Immediate Outcome 9

(**a**) Equatorial Guinea is not directly affected by the activities of terrorist groups, but has significant vulnerabilities which expose it to a high level of TF risks. The country has adopted internal measures to implement the TFSs relating to terrorism and its financing;

(**b**) Equatorial Guinea has not made CFT a priority of its AML/CFT policy. The competent authorities have not yet made CFT one of the priorities of their operational activities. No investigations or prosecutions relating to TF were reported to the evaluation team. This is not in line with the country's risk profile;

(**c**) The legal system has been restructured to take into account the risks of ML and TF. Special prosecution bodies have been set up to deal with some forms of crime underlying TF, namely corruption, environmental crime and drug trafficking. However, the new prosecuting authorities are not yet opening parallel investigations for TF in these cases;

(**d**) Investigative authorities and prosecuting bodies are not qualified to carry out effective investigations into TF. Some of those met by the evaluation team blamed this on the lack of appropriate and specialized material, logistical and training resources for CFT;

(**e**) The authorities of Equatorial Guinea did not provide any statistical data on investigations, prosecutions and/or convictions for TF. Furthermore, Equatorial Guinea has not demonstrated the implementation of alternative criminal justice measures such as the freezing of terrorist assets to combat TF. This makes it impossible to assess whether the penalties are effective, proportionate and dissuasive;

(**f**) Equatorial Guinea does not have a specific security intelligence coordination framework capable of handling intelligence on terrorism and its financing. The police unit dedicated to counter-terrorism could play this role. Similarly, ANIF has not shown any interest in coordinating forward intelligence, even informally;

Immediate Outcome 10

(**a**)The authorities of Equatorial Guinea have adopted a legal framework for the implementation of the targeted financial sanctions of United Nations Security Council Resolutions 1267, 1373 et seq. Indeed, Ministerial Order No. 01/2.017 was issued on 21 May 2017 to apply the lists in Equatorial Guinea and implement the targeted financial sanctions relating to terrorist financing on the basis of United Nations Security Council Resolutions 1267, 1988, 1989 and 1373. However, the mechanisms for disseminating the lists of sanctions to reporting entities as well as the release mechanisms put in place are not sufficiently developed; (**b**) Banks affiliated to major international groups have a satisfactory knowledge and understanding of their obligations in terms of TFSs linked to PF, whereas these are limited for other FIs and non-existent for DNFBPs;

(**c)** By the end of the on-site visit, Equatorial Guinea had not issued a national list on the basis of UN Security Council Resolution 1373, nor had it received a request from a third country in implementation of this Resolution. Nor were any freeze measures taken on the basis of the Resolution;

(**d)** The competent authorities in Equatorial Guinea have not yet identified the sub-group of NPOs most vulnerable to TF abuse, and no risk-based approach has been applied. Nor has the country adopted a policy to train and raise awareness among at-risk NPOs about the fight against terrorist financing. As a result, NPOs are unaware of the risks to which they may be exposed by virtue of their nature or activities and of their resulting obligations to exercise due diligence. NPO supervisory bodies do not carry out regular and effective controls and the other obligations of particular vigilance with regard to NPOs prescribed by the CEMAC Regulation are not respected;

(**e)** There is no mechanism for coordination or collaboration between the bodies involved in the creation, life, control and investigation of the NPO sector.

Immediate Outcome 11:

(**a)**Equatorial Guinea had not clearly defined the mechanisms for implementing the Security Council's targeted financial sanctions to combat proliferation financing;

(**b)** The authorities of Equatorial Guinea have not yet taken any action to identify the funds or other assets of the persons and entities designated under the proliferation-related TFSs and to freeze their assets. Nor has the country designated an authority to freeze PF-related assets;

(**c)** Equatorial Guinea has not taken steps to popularize its anti-PF obligations or to disseminate lists of persons and entities whose assets must be frozen under proliferation-related TFSs;

(**d)** There has been no activity to raise awareness among FIs and DNFBPs of the prohibition on doing business with countries, companies and individuals targeted by United Nations Resolutions against the proliferation of weapons of mass destruction;

(**e)** There is no designated authority to ensure compliance by FIs and DNFBPs with their proliferation-related TFS obligations.

Recommendations

Immediate Outcome 9

The authorities of Equatorial Guinea should:

(a) Organize training sessions for members of the criminal justice system to enable them to deal effectively with TF cases, in particular through: (i) the specialization of investigative bodies exclusively in the prosecution of terrorism and its financing; (ii) the training of ANIF staff, investigative and prosecuting authorities in intelligence, investigation and prosecution of TF;

(b) Allocate sufficient human and material resources to the investigative bodies to enable them to identify TFs activities;

(c) Automatically trigger parallel investigations for TF in all cases of investigation or prosecution for any offence likely to be a source of TF;

(d) Encourage the authorities to consider, whenever conviction for TF is not possible, alternative measures such as confiscation of travel documents, expulsion and entry bans, administrative seizures, freezing of assets, confiscation without prior conviction, transfer of proceedings and transmission of evidence or information to foreign authorities;

(e) Define mechanisms for collaboration between the national players involved in CFT (reporting entities, intelligence, police, prosecution) and increase cooperation and exchanges of TF information with foreign countries;

Immediate Outcome 10

Equatorial Guinea should:

(**a)** Define mechanisms for identifying natural or legal persons eligible for designation and for proposing persons to be designated to the Security Council Sanctions Committee;

(**b)** Conduct a study of the NPO sector to identify the categories of NPOs most vulnerable to misuse for TF purposes, either because of their activity or because of their nature, and then adopt an approach to combating them based on the risks identified;

(**c)** Train NPO supervisory bodies on AML/CFT issues to enable them to carry out appropriate controls and supervision of NPOs to mitigate the risks of their misuse for terrorist financing purposes;

(**d)** Adopt a policy to make NPOs aware of their obligations and the TF risks to which they are exposed, and impose dissuasive and proportionate penalties on recalcitrant NPOs;

(**e**) Institute a co-ordination and information exchange framework to promote better collaboration between all the players involved in the creation, operation and supervision of the NPO sector, including investigative bodies.

(**f**) Implement seizure, freezing and confiscation mechanisms to deprive terrorists, terrorist organizations and those financing terrorism of TF-related assets and instruments.

Immediate Outcome 11

The authorities of Equatorial Guinea should:

(**a)** Define the mechanism for distributing penalty lists to reporting entities;

(**b)** Designate the competent authorities responsible for monitoring and implementing targeted financial sanctions (TFSs) linked to the WMD PF;

(**c)** Organize training and awareness-raising programmes on PF-related TFSs for reporting entities and apply dissuasive and proportionate penalties for non-compliance with the application of PF-related TFSs;

(**d)** Communicate to all persons and entities, including FIs, DNFBPs and VASPs, the obligations associated with the implementation of the TFSs relating to PF.

263. The relevant Immediate Outcomes examined and evaluated in this chapter are: IO.9, IO.10 and IO.11. Relevant Recommendations for the assessment of technical compliance under this chapter are R.29 R.30, R.31, and R.32.

4.2. Effectiveness: Immediate Outcome 9 (TF investigation and prosecution)

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

264. No terrorist group has been identified as operating in Equatorial Guinea. The country is therefore not directly affected by terrorism. However, as Equatorial Guinea borders Cameroon, which is suffering from terrorist attacks by the Boko Haram group, and a security crisis resulting from the activism of armed gangs, it is exposed to terrorism and its financing. Similarly, the volume of offences that are a potential source of TF, the presence on its soil of large foreign communities whose countries of origin are subject to acts of terrorism, and which are involved in various illicit trafficking activities, are other factors that expose Equatorial Guinea to a high level of TF threat, and which require that preventive measures be taken as a matter of urgency.

265. Equatorial Guinea's exposure to TF risks is accentuated by other vulnerability factors such as the predominance of cash in transactions, the existence of informal payment and HAWALA-type remittance channels, the existence of NPOs vulnerable to TF and the absence of an effective mechanism to control the physical cross-border transport of cash, combined with porous borders. In addition, there are no mechanisms to implement without delay the TFSs relating to terrorism and its financing.

266. Despite the reality of TF threat, Equatorial Guinea has not made CFT one of the priorities of its AML/CFT policy. The competent authorities do not understand the TF risks to which Equatorial Guinea is exposed and do not systematically include them as a priority in their operational activities.

267. The report of the typology study[26] conducted by GABAC identified and listed several sources of terrorist financing in Central Africa, and its conclusions would assist the investigative work of the competent authorities to some extent. These include crowdfunding from abroad, donations and fundraising through NPOs, and criminal activities such as the illicit exploitation of natural resources, drug trafficking, corruption and others. HAWALA-type informal transfers, foreign exchange bureaux, some financial institutions and NPOs were identified as likely to be used for channelling funds and goods used for TF. However, the authorities of Equatorial Guinea have not reported any investigations or prosecutions relating to TF. The absence of cases of investigation and prosecution for TF is inconsistent with the country's risk profile.

268. Furthermore, Equatorial Guinea's legal system does not specifically criminalize the financing of travel by foreign terrorist fighters. This is a weakness in combating TF, given the level of the threat, notably linked to the presence and mobility of terrorist groups and armed gangs active in neighbouring countries, who can make incursions across the borders. This threat is accentuated by the vulnerability of porous borders.

4.2.2. TF case identification and investigation

269. Investigations are conducted as directed by the Public Prosecutor, who has jurisdiction to prosecute cases involving serious crime, including terrorism and its financing. Investigative authorities have an appropriate legal framework to successfully conduct TF procedures. In this respect, they can draw on financial intelligence from the Financial Intelligence Unit (ANIF) and information from other government services and security intelligence agencies. The investigators may also open parallel financial investigations and use the special investigative techniques provided for in the CEMAC Regulations, such as surveillance and interception of communications.

270. In Equatorial Guinea, no cases of TF have been identified and no investigations have been conducted or prosecutions brought against TF, despite the fact that a conviction for an act of terrorism has been handed down. Law enforcement authorities are not interested in the financing aspect of this whole terrorist operation. This shortcoming is the outcome of several endogenous factors, including the failure to systematically open parallel investigations into TF even though the investigation services deal with a large number of offences which generate funds likely to be used for TF, the inadequate qualification of staff as regards TF identification and investigation techniques, the absence of a specialized investigation unit, i.e. one dedicated solely to investigations into TF cases, even though they can be a real source of identification of TF facts; the non-existence of TF-related financial intelligence.

271. The Republic of Equatorial Guinea does not have a national intelligence coordination framework for terrorism. ANIF, which centralizes and analyses financial information, does not play this role either, even though it collaborates with some intelligence services with which it shares information.

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

272. The Republic of Equatorial Guinea has not adopted a national CTF strategy and does not have a national intelligence coordination framework for terrorism. ANIF, which centralizes and analyses financial information, does not play this role either, even though it collaborates with some intelligence services with which it exchanges and shares information.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions applied for TF

273. The authorities of Equatorial Guinea stated that courts had not yet handed down any convictions for TF-related offences, although one conviction for a terrorism-related offence had been handed down, and that the law of Equatorial Guinea provides for penalties for individuals guilty of TF-related offences (*10 to 20 years' imprisonment and a fine equal to at least five times the value of the assets or funds involved in the TF transactions*). Legal entities are liable

to a fine at a rate equal to five times that incurred by natural persons (Articles 121 and 127 of the CEMAC Regulation).

274. In the absence of any convictions for terrorism or TF in Equatorial Guinea, the effective, proportionate and dissuasive nature of these sentences cannot be assessed.

4.2.5. Alternative measures used where TF conviction is not possible

275. Alternative measures when a conviction cannot be obtained, such as administrative seizures, confiscation of travel documents, expulsions and entry bans, have not been implemented. Similarly, no administrative freeze has been carried out.

Overall Conclusion on IO 9

276. Equatorial Guinea's judicial authorities have not handed down any conviction for TF, let alone launched an investigation into the matter. This makes it difficult for the authorities to investigate and prosecute TF cases.

277. Detection of TF cases remains a major challenge due to the predominance of cash in the Equatorial Guinea's economy, the insufficient resources of investigative and prosecution authorities, the lack of systematic opening of parallel TF investigations in the handling of offences that could be sources of TF, the non-existence of a specialized investigation service, equipped and dedicated to TF investigations.

278. Failure to use alternative measures to interrupt TF when a conviction cannot be obtained is a weakness in combating this fact.

279. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 9.***

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

4.3.1. Implementation of targeted financial sanctions for TF without delay

280. Equatorial Guinea relies on a ministerial order dated 21 May 2017 added to the CEMAC Regulation, which is also directly applicable. The two instruments constitute a legal framework for the implementation of the targeted financial sanctions of United Nations Security Council Resolutions 1267, 1373 et seq. However, until the end of the on-site visit, no measures had been taken to effectively apply these sanctions. In addition, the mechanism for disseminating lists of sanctions to reporting entities without delay is not clearly defined. Nevertheless, financial institutions affiliated to major international financial groups have commercial filtering software that can give immediate effect to the targeted financial sanctions decided by the UNSC in combating proliferation financing.

281. Moreover, the lists of new designations or modifications are forwarded to the Ministry of Foreign Affairs by Equatorial Guinea's Representation to the United Nations. However, these mechanisms, which are provided for by law, have not yet been implemented.

282. By the end of the on-site visit, Equatorial Guinea had not yet presented a national list on the basis of UN Security Council Resolution 1373, nor had it received a request from a third country in implementation of this Resolution.

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

283. The GABAC typology study report identified the risks of NPOs being used for TF purposes (*2016 Typology exercise on ML/TF risks inherent in NPO activities*). However, Equatorial Guinea has not carried out a comprehensive study of the NPO sector to identify possible links between NPOs and terrorist groups, their actual sources of funding and the most vulnerable sub-group of NPOs. The country does not apply a risk-based approach.

284. NPOs in Equatorial Guinea are made up of associations and NGOs. Under Law No. 11/1992 on associations, and No. 1999 on NGOs, foreign and religious associations are subject to authorization by the Minister of the Interior. Other associations are subject to a declaration and also come under the authority of the Minister of the Interior.

285. The Ministry of the Interior is responsible for controlling and supervising NPOs. It has the power to inspect and supervise NPOs' compliance with their TF obligations and to impose sanctions in the event of non-compliance with their obligations. However, these controls do not take AML/CFT into account. This is because the staff of this government service are not sufficiently qualified in AML/CFT issues to carry out appropriate controls. Inspections, insofar as they are carried out, are limited to general checks on all NPOs. The special due diligence obligations imposed on NPOs by the CEMAC Regulation (Art. 46), in particular the requirement to keep a fundraising register, are not being complied with. One NGO was sanctioned by the Ministry of the Interior in 2023, even though the facts were not related to TF.

286. NPOs are not complying with the legal obligation to file annual activity reports to monitor the transparency of their activities. They are unaware of their obligations of vigilance in combating TF and are unable to identify the real source of the funds made available to them by donors to finance their activities. The country has adopted a comprehensive and sustained training and awareness-raising strategy for at-risk NPOs. The non-involvement of NPOs in the NRA activities has maintained a very low level of understanding of the risks associated with the sector.

287. Equatorial Guinea lacks a formal coordination framework bringing together all the authorities involved in the creation, operation and supervision of the NPO sector, including investigative bodies. Establishing such coordination could facilitate cooperation and information gathering in the event of a TF investigation involving NPOs.

4.3.3. Deprivation of TF assets and instrumentalities

288. Equatorial Guinea has a freezing mechanism which has designated the AML/CFT National Policy Coordination Committee as the competent authority in this area, in collaboration with ANIF. However, no measures to freeze funds or assets under UN Security Council Resolutions have yet been implemented.

4.3.4. Consistency of measures with overall TF risk profile

289. Equatorial Guinea has finalized its NRA report, but has not yet adopted an action plan. Yet, it is the action plan that will show whether the measures taken are in line with the country's risk profile. Up to the date of the on-site visit, the country had not taken any action to deprive terrorists, terrorist organizations or persons financing terrorism of their resources or means of financing, either within the framework of the TFSs or in the measures applied to NPOs, which are not determined by the level of risks identified. No identification of at-risk NPOs has been carried out and no action has been taken to raise awareness of the TF risks in the sector. The measures taken by the country are not consistent with its TF risk profile.

Overall Conclusion on IO 10

290. Equatorial Guinea has adopted domestic legislation to implement the TFSs, including Ministerial Order No. 01/2.017 of 21 May 2017. However, the country has not carried out a comprehensive study of the NPO sector to identify the sub-groups most vulnerable to exploitation for TF purposes.

291. There is no control or risk-based approach for these NPOs despite the real risk of their misuse for TF. No sufficient measures have been taken to prevent terrorists from enjoying their assets, while terrorist groups are present and active in a border country and criminal activities identified as potential sources of TF are taking place on the territory of Equatorial Guinea. The measures taken by the country are not consistent with its TF risk profile.

292. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 10.***

4.4. Effectiveness: Immediate Outcome 11 (PF financial sanctions)

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

293. Equatorial Guinea lacks a mechanism for receiving, processing and disseminating lists of persons and entities whose assets must be frozen in connection with the suppression of the financing of the proliferation of weapons of mass destruction in accordance with Security Council resolutions. The country has also not designated competent authorities to enable the control and implementation of the targeted financial sanctions (TFSs) relating to the financing of the proliferation of weapons of mass destruction.

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

294. Equatorial Guinea has not implemented a mechanism for identifying the funds or other assets of individuals and entities designated by UNSC targeted sanctions. Up to the end of the on-site visit, no measures had been taken to that effect. However, to date, no action has been taken by these financial institutions against individuals or entities targeted by the PF-related TFSs. The country's authorities explained this by the fact that no assets linked to the said individuals and entities have been identified in Equatorial Guinea.

4.4.3. FIs and DNFBPs understanding of and compliance with obligations

295. On the whole, financial institutions are aware of and understand the TFS obligations associated with PF. This is more noticeable for FIs that are subsidiaries of major international financial groups, which comply with these obligations by using the filtering tools at their disposal. Conversely, other FIs have a limited understanding of their PF-TFS obligations and there was no evidence of the implementation thereof. As for DNFBPs, they are unaware of these obligations and the measures to comply therewith are not included in their systems. Generally, DNFBPs have a very limited understanding of the issue, with several of them stating that they have no information on such lists. The VASP sector is not regulated in Equatorial Guinea and there are as yet no VASPs approved or operating in the country.

4.4.4. Competent authorities ensuring and monitoring compliance

296. Up to the end of the on-site visit, the authorities responsible for supervising and controlling financial institutions, i.e. COBAC, the Ministry of Finance, BEAC, CIMA and COSUMAF, had not paid particular attention to the implementation of obligations relating to targeted financial sanctions linked to PF. SRO controls focus on compliance with the general rules of the profession and, to a lesser extent, with AML/CFT requirements. They are not interested in compliance with the PF-TFS obligations, about which they have no knowledge. Overall, the evaluation team noted a lack of awareness of AML/CFT requirements in general and CFP requirements in particular among DNFBPs. The lack of control and supervision of this category of reporting entities represents a real vulnerability.

297. The country has not designated any entity to monitor the implementation of PF-TFS. Hence the shortcomings observed in combating PF.

Overall Conclusion on IO 11

298. Equatorial Guinea does not have a legal and institutional framework for the implementation, without delay, of the TFSs related to suppression of the financing of proliferation of weapons of mass destruction concerning the persons and entities whose assets must be frozen under the UN Resolutions. The country also has not implemented a clear mechanism for identifying the funds or other assets belonging to individuals and entities designated by UNSC targeted sanctions. In addition, the competent authorities responsible for monitoring reporting entities' compliance with the PF-TFS obligations have not been designated. Supervisory authorities do not include CFP in their monitoring operations.

299. Apart from FIs belonging to large international financial groups, other reporting entities do not understand their CFP obligations. Similarly, no reporting entity implements CFP obligations.

300. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 11.***

5. PREVENTIVE MEASURES

5.1. Key findings and recommendations

Key findings

a) Banking institutions demonstrate a satisfactory understanding of the ML/TF risks to which they are exposed by virtue of their activities; they disseminate internal procedures, identify, assess and treat their risks, and calibrate the categorization of customers according to their profiles and transactions, the services/products they offer them or the relevant risk areas. However, after all this due diligence, not all of them proved that they had specific, documented, regularly reviewed and validated risk maps. In addition, they fulfil their duties of knowing the customer at the start and during the business relationship and of ongoing vigilance fairly well, except that they did not show proof of correctly identifying PEPs (and the persons attached to them), or applying enhanced vigilance measures with regard to new innovative products or services using new technologies;

b) Notwithstanding the existence of local money transfer companies and an approved foreign exchange bureau, as well as the fact that banks and MFIs also carry out money exchange and remittance activities, Equatorial Guinea is not free from the harmful effects of clandestine manual money exchange and remittance networks, whose sources of foreign currency raise questions and increase the risk of laundering the proceeds of currency trafficking in the informal sector;

c) Microfinance institutions demonstrate only a limited knowledge of the ML/TF risks inherent in their activities, do not satisfactorily identify customers when they enter into a business relationship, do not assess risks internally, do not implement the necessary vigilance and mitigation measures and do not make the launch of new products subject to any prior study of the associated risks;

d) With the notable exception of accountancy professionals working for internationally renowned audit firms, DNFBPs, particularly lawyers and casinos, show no understanding of the risks, are even unaware of the provisions of the CEMAC Regulation and, therefore, of their AML/CFT obligations, the implementation of which, moreover, in a context devoid of instruments implementing AML/CFT regulatory measures for DNFBPs, is still a myth. Their compliance systems are non-existent and their staff are not trained or sufficiently aware of the issue. This, together with the lack of regulatory pressure and the failure to apply administrative and criminal sanctions in the event of a breach of AML/CFT obligations, explains the absence of STRs from DNFBPs;

e) In a context where the risks in their sector, albeit still low to date, may quickly increase with the imminent roll-out of life insurance activities, insurance companies, their intermediaries and insurance brokers have shown a poor understanding and superficial mastery of the risks and measures laid down by the CEMAC and CIMA AML/CFT Regulations. However, the only insurance company dealing with life insurance, which

is in the process of becoming operational, has not carried out any prior risk studies before launching its products;

f) Despite sufficient regulatory protection for reporting entities that report suspicions in good faith, shortcomings in the understanding and roll-out of effective and confidential preventive procedures and arrangements hinder the identification of transactions or funds that may be subject to ML/TF suspicions and explain the low statistics on suspicious transaction reports issued, in stark contrast to Equatorial Guinea's risk profile;

g) As no VASPs have been identified in Equatorial Guinea to date, the associated ML/TF risks still seem insignificant, although the signs of their probable emergence should not be totally underestimated in a country where the massive use of cash and the still relatively modest rate of financial inclusion may prove to be significant incubators for the use of virtual assets in the future;

h) Since the findings of the country risk assessment had not been disseminated at the time of the on-site visit, and given the lack of guidelines for effective implementation of existing regulatory provisions, virtually all of the reporting entities interviewed are facing significant constraints in complying with their obligations to identify beneficial owners, to access reliable sources to identify the natural persons involved in the governance of companies and associations, to ensure that their intermediaries, agents and sub-agents comply with AML/CFT obligations, and to receive ongoing training and appropriate awareness-raising on AML/CFT;

i) Reporting entities are also faced with the absence of a national register of asset freezes and they do not receive from the competent authorities lists of persons and entities under UN Resolution 1267, which shows FIs' unsatisfactory implementation of targeted financial sanctions, especially the regime instituted by the UN on freezing and provision of funds and economic resources to designated persons and entities linked to Daech and Al Qaeda organizations. Equatorial Guinea also does not have a national list of persons or entities designated under Resolution 1373;

j) The effectiveness of the schemes implemented remains questionable given the regulatory shortcomings concerning the obligation on the originator's FI to transmit, on request, the information accompanying the transfer to the beneficiary's FI or to the prosecution authorities within three working days, or the obligation on the intermediary FI to keep the information received from the originator's FI for at least five years. The same applies to FIs' obligations to adopt risk-based policies and procedures for deciding when to execute, reject or suspend wire transfers that do not disclose all the required originator or beneficiary information as well specifications on subsequent adapted measures to be implemented. There is also no provision for reasonable measures, which may include ex post monitoring or real-time monitoring where possible, to detect cross-border wire transfers lacking the required originator or beneficial owner information. Lastly, FIs are under no obligation to file a STR for all the countries involved in electronic transfers.

Recommendations

The authorities of Equatorial Guinea are called upon to implement the following actions:

a) Encourage all banking institutions, following prior identification, assessment and treatment of the risks of their activities, sector and environment, to develop, regularly review and validate documented risk maps, and encourage non-banking financial institutions and DNFBPs to regularly assess the ML/TF risks inherent in their activities and to adopt appropriate risk mitigation measures;

b) Issue measures for MFIs, insurance institutions and each category of DNFBP (with priority given to lawyers and casinos) specifying the AML/CFT due diligence for which they are responsible, with a view to facilitating the implementation of compliance mechanisms within them (modulated according to size and sector of activity), knowledge of the origin of the funds and assets subject to the signing of contracts, identification of the beneficial owner, implementation of a risk-based approach and modulation of due diligence measures on transactions and customers according to the criticality of their risks;

c) Initiate and/or intensify ongoing training and awareness-raising programmes and actions for managers and staff of all reporting professions, with priority given to MFIs and insurance companies, lawyers and casinos, in particular on the application of the preventive measures provided for in the AML/CFT regulations, the understanding and internal assessment of risks, the satisfactory identification of customers when entering into business relationships and the ML/TF risk vigilance and mitigation measures;

d) Improve reporting entities' understanding of the concepts of beneficial owner and PEP, encourage them to identify the beneficial owners of legal entities established or operating in Equatorial Guinea as well as those of the transactions they carry out;

e) Scrupulously ensure that reporting entities comply with the obligation to carry out prior studies before launching new products, assess the risks inherent in the use of new technologies and apply enhanced vigilance measures with regard to these products, in particular future life insurance products, and identify and verify the identity of their customers, using credible information and, where appropriate, reliable sources, the availability of which should be guaranteed by national authorities, and independent sources in the case of legal persons;

f) Implement a programme to raise awareness among reporting entities, with particular emphasis on DNFBPs, of the imperative duty to report suspicions, including attempted suspicious transactions and suspicions of terrorist financing, in accordance with clear information sheets distributed by ANIF and with particular emphasis on the application of procedures limiting access to information on suspicions to the strict minimum and, as far as possible, on the implementation of tools for identifying money laundering and TF indicators.

g) Implement the mechanisms for drawing up and making available to reporting entities lists of persons and entities designated under United Nations Resolution 1267, set up a

national asset freeze register, assist reporting entities in implementing the United Nations Security Council measures relating to targeted financial sanctions by preparing guides and organizing appropriate training, and draw up a national list of persons or entities designated under Resolution 1373;

h) Oblige reporting entities that use third parties to include them in their AML/CFT programmes and scrupulously ensure that such intermediaries, agents or sub-agents satisfactorily apply AML/CFT due diligence;

i) Intensify efforts to identify and neutralize clandestine foreign exchange and remittance networks across the country and strengthen the implementation of policies and measures aimed at financial inclusion beyond the activities of MFIs and mobile money services;

j) Remedy the technical shortcomings identified under Recommendations 9 to 23, in particular by:

(1) setting out, in AML/CFT regulations, the requirement for the source of information on the beneficial owner to be reliable and the requirement, in the event of doubt as to the identity of the beneficial owner, to identify by other means the natural persons, if any, who exercise control over the legal person (or legal arrangement) or on whose behalf a transaction is carried out;

(2) incorporating into the AML/CFT instruments in force the concept of beneficial owner with regard to the origin of funds or assets for PEPs, as well as the beneficiaries of the insurance policy or, as appropriate, the beneficial owner of a life insurance policy for this category of customers;

(3) reviewing current Community regulations to require the filing of a suspicious transaction report in all countries concerned by a suspicious electronic;

(4) formally obliging financial institutions to report all attempted suspicious transactions relating to the ML/TPF.

301. The Immediate Outcome relevant to this chapter is R14. The Recommendations whose effective implementation is subject to evaluation in this section are R.9 to 23, to which are added some elements of Recommendations 1, 6 and 29.

5.2. Immediate Outcome 4 (Preventive measures)

302. Data, information, statistics and dialogues obtained by the evaluation team during the on-site visit, from various representatives of public and private sector operators, reporting entities (as identified by Article 6 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa, hereinafter referred to as the "CEMAC Regulation"), the regulatory and control authorities and the supervisory authorities in Equatorial Guinea, give rise to the following analysis and summary relating to IO 4.

303. The CEMAC Regulation, which is immediately applicable in Equatorial Guinea's legal system, provides Equatorial Guinea with the regulatory framework for AML/CFT preventive measures for which FIs, DNFBPs and VASPs are liable. This network is usefully intensified by some regulatory instruments specific to one or other type of FI (often issued by the relevant regulatory authority), although not corroborated by guidelines that could, in practice, improve

on the effective implementation of existing regulatory provisions. For their part, the DNFBP and VASP sectors are completely devoid of instruments shedding light on the implementation of general AML/CFT measures.

304. In terms of the relative weighting that the evaluation team granted to the various types of FIs, DNFBPs and VASPs in view of the risk, context and relative weighting of the specific characteristics of Equatorial Guinea, the implementation of preventive measures was weighted **high** for credit institutions, the manual foreign exchange sector, local transfer agents and lawyers; **moderate** for MFIs, accountants and casinos; and **low** for cellular telephone financial service providers (CPFSPs), [27] insurance operators, the financial market, dealers in precious stones and metals, real estate agents, notaries and other DNFBPs as well as VASPs. Details to justify the above weighting are presented in Chapter 1 of this MER.

305. Equatorial Guinea's financial institutions are concentrated around **five (5) licensed commercial banks** established in the country[28], including three subsidiaries of foreign groups (two of which are pan-African banks[29] and one bank belonging to a French banking group[30]) as well as two majority State-owned banks, with significant shares acquired by the State[31]. At the end of the 2023 financial year, the balance sheet total of banking establishments exceeded CFAF 1807 billion, with deposits peaking at CFAF 1531 billion. It should be pointed out that Equatorial Guinea's banking sector has remained very fragile since the 2014-2016 commodity crisis[32].

306. The other types of FI have a more threadbare share of the market and are made up of: **two (2) second-category microfinance institutions** (MFIs)[33], **five (5) insurance companies,**[34] which coexist with seven (7) approved intermediaries (three of which are active, the other four having their files still under review, to date), **one (1) foreign exchange bureau** meeting the criteria of Articles 81 to 85 of Regulation No. 02/18/CEMAC/UMAC/ CM of 21 December 2018 on foreign exchange regulations in CEMAC[35]. Although banks are prohibited from

[27] In addition to the two banks (BGFI Bank and BANGE), which have received authorization as payment institutions and carry out mobile money operations, only one operator in the country (MUNI-Diniero) carries out electronic money transfer operations in Equatorial Guinea and the sub-region as a BANGE distributor, without prior authorization or approval.

[28] At end-2022, the latest BEAC baseline report shows that the five (5) banks had 58 branches and 310,837 accounts.

[29] Ecobank Transnational Incorporated (Ecobank GE) and Banque Gabonaise et Française Internationale (BGFI Bank GE).

[30] Société Générale des Banques en Guinée Equatoriale (SGBGE).

[31] *Banco Nacional de Guinea Ecuatorial* (BANGE) and CCEI Bank Equatorial Guinea (nationalized in 2020).

[32] The crisis resulted in a sharp deterioration in the quality of credit portfolios, exacerbated by the COVID-19 crisis (45.4% of gross outstanding receivables on average between 2018 and 2021). The level of the sector's net equity, burdened by major corrections on the credit risk level provisioning at several institutions and by the proper application of the capital accounting methods of the prudential framework inspired by Basel III standards, has been negative since 2019, until the massive intervention of the State, which injected CFAF 400 billion into the capital of its banks in December 2023, with consequences for credit risk.

[33] ATOM Finance and BONAFIDE, which collect savings, set up bank accounts, grant credit, make local and international money transfers, mobile banking and manual foreign exchange.

[34] Including four (4) property and casualty companies and one (1) life company, which is not yet operational.

[35] The current Foreign Exchange Regulations, which came into force in January 2019, provide for two ways of carrying out manual foreign exchange activities: direct and indirect. The first is reserved for banking and microfinance institutions, post offices and foreign exchange bureaux. The second is carried out either by a natural

supplying foreign currency to entities other than authorized foreign exchange bureaux and their customers under certain conditions, a number of converging indicators point to the prevalence of clandestine manual foreign exchange operations in the country, the sources of which raise questions and against which, moreover, the authorities we met (the Gendarmerie, the Police and the General Directorate of Banks and Insurance, in particular) stated that they have begun to take action, in particular to curb the risk of laundering the proceeds of currency trafficking in the informal sector.

307. The **money and value transfer** sub-sector is essentially domestic and with fairly modest thresholds. However, there are also products supplied by or under the cover of local co-contracting banks, in particular by two international companies[36], not constituted as legal entities under domestic law or approved, although almost exclusively for the purpose of receiving funds in Equatorial Guinea. **Mobile money** activities, which only recently emerged in the country (2016), still account for a very small share and are carried out by some banks through "wallets" dedicated to their customers, as well as by one (1) mobile phone company approved as a payment service provider by COBAC.[37].

308. The evaluation team identified one (1) intermediary in Equatorial Guinea recently approved as a brokerage or investment firm by the Central African Financial Market Supervisory Commission (COSUMAF) under the conditions of Instruction No. 2005-3 on the approval of brokerage firms operating on the Central African Financial Market. It is an investment services company[38] acting as an intermediary between the stock exchange and investors operating in the CEMAC zone and also offers financial advisory and portfolio management services. The **financial market** plays only a small part in financing the country's economy, and the Treasury regularly issues CEMAC government securities (Fungible Treasury Bonds and Securities) by auction. These are subscribed to by individuals and members of the country's four banks approved as Primary Dealers (SVT), and account for a very small proportion of the outstanding Treasury securities issued by the six CEMAC States on BEAC's public securities market, which totalled CFAF 6,342.1 billion at end-October 2023.

309. As the country's economy is heavily dominated by activities linked to crude oil, gas, timber and services, the activities of **DNFBPs** make very insignificant contribution to national wealth development and creation. While the legal and accounting professions and casinos are relatively significant, the mining and real estate sub-sectors are very marginal, given that, on the one hand, there are virtually no dealers in precious stones and metals in the country, and, on the other hand, there are no major real estate companies, apart from small agencies (95% of housing in the country is managed by the State).

310. No VASPs were met or identified by the evaluation team in the country and crypto assets seem to represent, in the view of all the people met and interviewed on the subject, nothing more than an otherness and a distant curiosity for the people of Equatorial Guinea, even if some cases, albeit isolated, of attempted scams using virtual assets were reported. This seems to

person, the authorized agent, or by some entities, the sub-delegated agents who, by virtue of their activities, receive payments in foreign currency from foreign travellers.

[36] Western Union and Moneygram.

[37] MUNI Diniero, which operates as a BANGE distributor.

[38] BANGE SOCIEDAD DE VALORIS SA.

explain the authorities' reluctance to issue clear public policies on how to tackle this issue in Equatorial Guinea.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations by FIs, DNFBPs and VASPs

311. Various contextual and structural factors as well as certain signs, described in greater detail in Chapter 1 of this MER, make Equatorial Guinea significantly vulnerable to the threats posed by ML and TF. These include the country's strategic geographical location (at the centre of the Gulf of Guinea, a major transit zone for international drug trafficking), the factors behind the country's removal from the EITI since 2010, and its ranking of 178th in the world (out of 190) and 46th in Africa (out of 54) on the ease of doing business index in 2020[39], 51st (out of 54) on the Ibrahim Index of African Governance in 2022[40], 172nd in the world (out of 180) on the Corruption Perceptions Index in 2023[41], 159th in the world (out of 184 countries) and 39th out of 47 sub-Saharan African countries on the Index of Economic Freedom in 2024[42] and the prevalence of several predicate offences. Hence the need for the reporting professions established there to understand as best they can the ML/TF risks inherent in their activities and the related regulatory requirements.

312. To meet part of the requirements of FATF Recommendation 1 and Article 13 of the CEMAC Regulation, and to identify, assess, understand and mitigate the ML/TF risks to which it is exposed, as well as to have a national ML/TF risk map that will be updated regularly, Equatorial Guinea recently carried out a National Risk Assessment (NRA) using the World Bank tool. Although the relevant report had been finalized and published on the ANIF website at the time of the on-site visit, it should be pointed out that its dissemination is still awaited, especially as most of the stakeholders we met stated that they had only been involved in the process in an inconsistent, superficial and piecemeal manner, which is likely to provide only an opaque overview of the ML/TF risks to those concerned and compromise their mitigation. However, the evaluation team noted, among other things, that the General Directorate of Banks and Insurance is working to raise awareness among reporting entities of the perception of risks in their activity sectors. Lastly, it should be pointed out that adoption of the new COBAC Regulation R-23/01 of 19 December 2023 relating to the AML/CFT due diligence of reporting institutions, already constitutes a major lever for a better understanding of risks by the financial institutions concerned, given the high requirements that are now imposed on them and which they will have to meet from 1 July 2024, the date on which the said COBAC Regulation comes into force.

BEAC/ND

313. BEAC's National Directorate, in tune with Decision No. 001/GR/2017 of 3 January 2017 of the Governor of BEAC on the framework procedure relating to AML/CFT preventive measures, has issued memos and circular letters on AML/CFT requirements, in the absence of more detailed procedures. Its understanding of the nature and level of risk exposure of its

[39] *Doing Business ranking.*
[40] *Source: Mo Ibrahim Foundation.*
[41] *Source: Transparency International.*
[42] Published by the American Think Tank *"The Heritage Foundation",* the index of economic freedom covering 184 countries.

activities, in the context of its own operations, appears to be broadly acceptable. However, its assessment of such risks and the roll-out of the risk-based approach (including risk mapping) are not yet complete. BEAC/ND also admitted that it had not carried out any study on the understanding of risks by banking establishments and other financial institutions which, in particular, casts a shadow over the understanding of risks linked to its central role of verifying the compliance of FIs' financial transactions and operations with the outside world, in accordance with its statutory missions of implementing the foreign exchange policy and managing foreign exchange reserves.

Financial institutions

314. Notwithstanding the banking sector's vulnerability, approved banks have a good understanding of the risks to which they are exposed and of their obligations to identify and constantly monitor their customers according to their profile and transactions. They ensure that their staff, at least those dedicated to internal control and compliance functions, are regularly made aware of these issues - up to twice a year for some banks. Banks that are subsidiaries of groups are better equipped to do this because they apply more stringent regulations than those applied in Equatorial Guinea. They have tools and procedures that enable them to identify and classify their customers by risk (such as the "customer information sheet" forms included in the customer relationship files) and to carry out their due diligence obligations wisely. Their assessment of the nature and level of risk exposure is generally satisfactory. In implementation of the 'Know Your Customer' (KYC) principle, and based on their exposure to risks according to business sector, geographical environment, duties performed or type of banking and financial products used by their customers, banks stated that they determine the risks to which they are exposed, which are generally categorized as *high risk, moderate risk and low risk*. However, the evaluation team, in unison with COBAC (which regularly carries out documentary controls via the platform "*Aide à la Surveillance, au Traitement et à l'Organisation de la Lutte Anti-Blanchiment*" (Assistance with Monitoring, Processing and Organizing Anti-Money Laundering), abbreviated to ASTROLAB, and more rarely on-site controls, especially in AML/CFT matters), noted that most banks do not yet have documented risk maps that are regularly reviewed and validated, based on prior identification, assessment and processing of the risks in their business, sector and environment. Subsidiary banks rely mainly on risk maps drawn up by their Groups, which are not guaranteed to reflect the reality of Equatorial Guinea's context, leaving the question of objectivity of the risk classification of Equatorial Guinea banks' customers open and nagging.

315. MFIs and the various sub-agents in the microfinance sector did not demonstrate a sufficient understanding of their risks, often categorizing their customers without any prior objective analysis, risk mapping or periodic review of their customer profiles. Although IT solutions are being implemented, MFIs do not have tools for filtering and profiling their customers' transactions, resulting in manual processing of alerts and a lack of resources to identify some high-risk customers. Understanding of their relevant obligations is further weakened by the fact that MFIs do not carry out the required on-site checks on their sub-agents who are, for the most part, modest shopkeepers who therefore receive neither sufficient training nor awareness-raising. The same is true of the Cellular Phone Financial Services Provider (CPFSP), which did not demonstrate an acceptable understanding of the risks and duties

inherent in its AML/CFT activities, a situation exacerbated, among other things, by the lack of a clear cut-off line between its activities as a CPFSP and those as a mobile phone company.

316. Despite the development of internal anti-money laundering Manuals and Instructions, insurance professionals demonstrated a generally limited knowledge of their AML/CFT obligations and ML/TF risks inherent in their activities. They do not assess their ML/TF risks and do not have risk maps. For insurance brokers (with the exception of those belonging to groups) and independent providers, understanding of their obligations as reporting entities is a very remote concern, which they even consider to be the exclusive responsibility of insurance companies which, in turn, are not known to cooperate with intermediaries, particularly with regard to customer identification. However, the only life insurance company approved by the Ministry of Finance in April 2023[43], appears to be generally aware of the ML/TF risks inherent in its activities, which will be rolled out shortly, and of its regulatory obligations in this area, even though no concrete measures were in place during the period of the on-site visit.

317. For the other financial sector reporting entities, their understanding of money laundering risks has not been demonstrated. The fact that the findings of the NRA had not been disseminated at the time of the on-site visit and that the various reports sanctioning the typology studies conducted by GABAC in the sub-region had not been satisfactorily disseminated to the aforementioned reporting entities did not make up for this shortcoming. The evaluation team did not meet with the only foreign exchange bureau in Equatorial Guinea.

Designated Non-Financial Businesses and Professions

318. Among the DNFBPs, only chartered accountants, more specifically the Big Four firms [44] operating in the country, demonstrated an understanding of the risks and an acceptable command of their AML/CFT obligations. They insist on regular AML/CFT training for all staff. Such is not the case for other accountancy professionals (local firms and chartered accountants/individuals), who even take part in auditing the AML/CFT systems of some of their customers, without proving to have a satisfactory knowledge of the relevant provisions of the CEMAC Regulation on their own obligations.

319. As for the other DNFBPs, they generally demonstrated a very poor understanding of the nature and level of their exposure to ML/TF risks, as well as maturity levels well below regulatory requirements. They do not assess their risks internally and, at national level, they themselves considered their involvement in the recent NRA process to be mixed, which has not helped to improve their understanding of risks.

320. Lawyers, who have only a rudimentary understanding of the ML/TF risks associated with their activities and of the due diligence and procedures that they are responsible for implementing in this area, stated that they were not aware of the provisions of the CEMAC Regulation, a shortcoming accentuated, according to them, by the fact that the Regulation has not been translated into Spanish. In addition to lawyers, casinos and gaming operators do not exercise any due diligence in investigating the source of their customers' money. Some of the

[43] VIDAS SEGUROS

The Big Four are the four largest financial audit and advisory groups in the world, particularly in terms of turnover: Price Waterhouse Coopers (PWC), Deloitte Touche, Ernst & Young (EY) and KPMG.

DNFBPs we met even consider themselves to be unaffected by the AML/CFT, despite the apparently cosmetic appointment of an ANIF Correspondent to virtually all reporting entities in Equatorial Guinea.

Virtual Asset Service Providers

321. There were no reports of any VASPs operating in Equatorial Guinea and the evaluation team was therefore unable to assess whether they understood the risks or whether they were able to identify their vulnerabilities and meet their AML/CFT obligations. In view of the fact that COBAC, via Decision D-2022/071 of 6 May 2022 on the holding, use, exchange and conversion of crypto-currencies or crypto-assets by reporting institutions, required the latter to be vigilant with regard to transactions involving crypto-assets, and that COSUMAF's prerogatives have been extended to the approval of crypto-asset services (digital assets including, in particular, crypto-currencies and tokens), some banks and MFIs we met reported that they had identified a few transactions labelled "Binance" or "bitcoins", which they immediately reported to COBAC, from which they have not yet received any feedback.

5.2.2. Application of proportionate risk mitigation measures

322. The relevant sectors and sub-sectors develop and apply policies, internal control measures and programmes to mitigate the ML/TF risks to which they are exposed in a piecemeal and erratic manner. The Big Four banks and law firms seem to be more at ease than the other FIs, and the latter more so than the other DNFBPs which, overall, are in their infancy in this area.

BEAC/ND

323. Anaesthetised by the quality and the public and institutional profile of its customers (Treasury, commercial banks, State institutions, CEMAC, etc.), the BEAC National Directorate does not seem to pay sustained attention to its identification and constant vigilance obligations, in proportion to the respective risk profiles of the said customers. Risk mapping has not yet been completed and measures (circular letters and memos) are beginning to be taken to implement a risk-based approach, but they have not yet reached full maturity.

Financial institutions

324. Most FIs draw up a risk profile of their customers year in year out to define the level of due diligence measures to be applied and those for filtering atypical transactions. Banks, in particular, endeavour to train and/or raise the awareness of all or part of their staff (including managers and Board members) on a fairly regular basis, and carry out internal assessments which appear to be satisfactory. However, the latest COBAC reports indicate that banking institutions have not received the joint opinion of the monetary control and supervisory authorities on the ML/TF risk weighing specifically on the Community's domestic market, at variance with Article 12 of the CEMAC Regulation. As a result, the content of the training provided and its updating depend on each institution, without necessarily taking into account the realities of the AML/CFT environment.

325. In terms of prevention, although banks claim to draw up, update and validate risk maps at least once a year, the updating of risk profiles and their use in monitoring transactions remain

to be demonstrated. From a detective point of view, cases of internal fraud identified by institutions generally remain confidential and unreported, making it impossible to specify the statistics and impact, or to know whether proportionate mitigation measures are taken to prevent recurrence. Thus, in the absence of joint consent from the monetary authorities and in the absence of guidelines from the supervisory authorities, FIs do not satisfactorily monitor the development of risks and their risk assessment does not comply with the risk-based approach.

326. Banks Equatorial Guinea's credit institutions offer their customers a wide range of products, some of which involve ML/TF risk, including: deposit transactions, term deposits, savings accounts, money transfers, domestic transfers, international transfers, foreign exchange, electronic money, prepaid Visa cards, home loans, stock market brokerage, etc. AML/CFT programmes are developed either internally or, for subsidiaries, at Group level, with acceptable quality risk assessment frameworks for the latter, which take, as appropriate, risk mitigation regimes in the context of their business relationships, which vary from one bank to another and are based on their respective compliance policies. All banks state that they carry out an institutional risk assessment to better understand their ML/TF risks and implement risk-proportional mitigation measures in their systems. This profiling begins at the start of the relationship and, particularly for the opening of accounts for legal persons operating in some sectors classified or deemed to be at risk (NGOs, oil, public works and construction, etc.), gives rise to exceptional validation by Senior Management, at least for some banks. Specifically, as part of anti-money laundering, before opening an account or entering into a relationship, banks ensure that they are not dealing with individuals under sanctions, using appropriate filtering tools. The lists of targeted financial sanctions are updated either at the level of the financial group or using solutions acquired on the market, which enable the entire customer base to be filtered. Overall, transactions over a certain amount are subject to automated filtering by the compliance services or internal control. Nevertheless, satisfactory knowledge of the customer when entering into a business relationship still poses a number of challenges, and credit institutions' systems for entering into relationships with PEPs are not watertight, particularly because of the difficulties involved in drawing up and updating lists of domestic and foreign PEPs.

327. Microfinance institutions Despite its embryonic nature in Equatorial Guinea, microfinance nevertheless remains, alongside mobile money, a financial inclusion tool par excellence. The MFIs operating in the country have an internal control unit of no more than three people, which does not classify customers according to risk and, as a result, puts all customers in the same category, without applying proportionate due diligence measures. No periodic review of customer profiles is carried out, with MFIs contenting themselves with customer statements for this purpose. Similarly, no refusal to do business has yet been recorded, with MFIs simply asking their customers to regularize their situation in the course of the relationship. The challenges of identifying customers when they enter into a relationship and implementing proportionate measures are compounded by the fact that MFIs do not have access to a credit reference service. The evaluation team was informed that COBAC has not yet carried out on-site AML/CFT inspections of Equatorial Guinea's MFIs.

328. Money and value transfer services In Equatorial Guinea, the application of AML/CFT due diligence measures and the mitigation of ML/TF risks is, in practice, almost exclusively

the responsibility of banks, not only when they themselves offer money transfer services, but also under the terms of the service provision agreements they have signed with MVTSs, the latter simply sending them regular reports from their platforms profiling the transactions monitored at the level of their parent companies. Local remittance companies also work with local banks, although no agreements have yet been signed because they have not yet been approved by COBAC. They have in-house platforms, in partnership with foreign suppliers. It should also be noted that the predominance of cash has given rise to an active informal sector of Hawala-type remittance transactions.

329. Cellular Phone Financial Service Providers Under the terms of the service agreement with the local partner bank, the mobile money issuer, which is still operating without authorization and only has the status of a distributor on behalf of the bank, shares responsibility with the bank for implementing AML/CFT requirements, in terms of risks and STRs, while maintaining the role of ensuring compliance with sub-agents, without prejudice to *ex-post* control by the co-contracting bank, the effectiveness of which was not demonstrated (the CPFSP's reports to the bank are limited to strictly statistical information). The platforms for managing mobile money transactions appear to be secure, and using the products requires customer identification, which is the responsibility of the mobile phone company's database[45]. Each account is linked to a mobile phone number and information on transactions (sender and beneficiary telephone numbers, amounts and dates) is recorded by the B-to-B and B-to-C management platform, which is supposed to integrate tools for filtering individuals and entities subject to targeted financial sanctions as well as PEPs. However, the launch of any new product is not subject to prior risk assessment. In terms of training, the partner bank only provided training for a CPFSP agent at the start of operations; the training was not repeated, nor was it provided to the various distributors, which highlights their very vague knowledge of their obligations under the CEMAC Regulation.

330. Securities sector This sector is limited to Treasury securities, with corporate bonds only being concerned for banks' own account. Indeed, four of the five banks are approved as Primary Dealers (SVT) and have a good understanding of ML/TF risks. Some have developed clear policies in this area, although the effectiveness of measures to mitigate these risks was not demonstrated.

331. Insurance sector No sector risk assessment framework was identified and the implementation of ML/TF risk mitigation measures is non-existent. To date, none of these players has drawn up an ML/TF risk map, although each reporting entity is required to do so, depending on the country. CIMA stated to the evaluation team that, with the help of a consultant, it was in the process of drawing up a map of the insurance sector, which it would eventually make available to all reporting entities. The only insurance company that will soon be handling the life business has not yet actually started operations. However, it has not carried out any prior risk assessment before launching its products, and is barely installing its software with a Moroccan supplier.

[45] MUNI SA, whose accounting is not separated from that of MUNI DINIERO (PSFTC).

Designated Non-Financial Businesses and Professions

332. Overall, Equatorial Guinea's DNFBPs do not assess their ML/TF risks and do not develop or implement policies, programmes or internal control measures to mitigate ML/TF risks in their sectors of activity. Some DNFBPs even appeared to be unaware of the existence of the CEMAC Regulation and of their status as reporting entity. With the exception of the Big Four accountancy professionals, the compliance system is non-existent and staff are not trained or made aware of it. The inclusion of some of them in the recent NRA process was only a sudden premise in the discovery of the AML/CFT risks inherent in their environment.

333. **Chartered accountants** as part of their usual due diligence, chartered accountants check, within a legal and/or contractual framework, the effectiveness and efficiency of the organization of their customers' financial and accounting information. They also assist and advise customers, helping them to organize, produce and use their legal, financial, accounting and tax information. However, chartered accountants, who suffer from the absence of a professional association and Government support, particularly in terms of AML/CFT training and awareness-raising (the only training identified for them dates back to 2022 and only covered financial inclusion), do not have a risk management framework and have not carried out any ML/TF risk assessment. Contacts with ANIF are unusual and they themselves consider their participation in the NRA to be unsubstantial. That being the case, knowledge of their AML/CFT risks does not meet regulatory requirements. Only the Big Four firms, through their parent companies, implement specific policies, internal risk assessments and proportionate risk mitigation measures.

334. **Casinos and other games of chance** Risk mitigation measures in this sub-sector are non-existent. No risk assessment has been carried out for this sub-sector, although it is not highly developed. The player we met, in this case a casino, to which the Ministry of Tourism granted a licence in 2020, renewable annually, has no knowledge of its obligations or even of the provisions of the CEMAC AML/CFT Regulation, which highlights the vulnerability of this sector to being used for money laundering purposes by the owners of the companies, including those encountered who were foreign nationals, and by customers (winners who dit not wish to identify themselves could easily sell their tickets to potential money launderers, who could use the cheques representing the wins to recycle the dirty money into official channels, especially as there is no mechanism for identifying customers or knowing the source of the money).

335. **Lawyers**, who to date number 900 nationwide (belonging to the National Bar Association, founded in 1934), 60% of whom, depending on the specific historical, contextual and legislative features of Equatorial Guinea, combine their activities as lawyers with functions within the judiciary, set up companies, act as administrators, manage customer accounts and company transactions. Although these services involve significant risks of exposure to ML/TF, lawyers did not demonstrate any mastery of their AML/CFT obligations or of the risks to which their activities are exposed. They have extremely limited knowledge of the CEMAC Regulation and focus their obligations solely on compliance with domestic and corporate laws and regulations, without considering the risks and obligations inherent in their financial transactions. They identify their customers by means of identity documents for natural persons and articles of association for legal entities, without taking too much interest in identifying the

origin of their customers' funds. They do not carry out any internal risk assessment and do not implement proportionate measures; they have no tools for effective implementation of targeted financial sanctions.

336. **Notaries** The evaluation team did not meet any representative of the notarial profession. However, in the light of the instruments organizing the profession, it has statutory and organizational similarities with that of lawyers. Similarly, the evaluators did not discuss with **real estate agents and developers**, whose activity is reduced to a minimum by the omnipresence of the State in this sector. However, Equatorial Guinea did not prove that these two sub-sectors are aware of the AML/CFT requirements and measures to mitigate the ML/TF risks they face. Neither was the evaluation team informed of any entity known to regulate these two sub-sectors in terms of AML/CFT, although the risks appear to be low. The foregoing leads to the conclusion that operators in these sub-sectors are beyond the control of any authority, disregard the required AML/CFT due diligence in their transactions, fail to identify the origin of the funds and the beneficial owners, and pay no particular attention to transactions carried out for or on behalf of PEPs.

337. The **precious stones and metals** sub-sector is embryonic in the country, given the predominance of crude oil, petroleum gas, acyclic alcohols and raw timber. No players in this sub-sector were met by the evaluation team and the country did not demonstrate the development and implementation of AML/CFT risk mitigation measures, albeit weak, nor has it conducted an AML/CFT awareness campaign, as there seems to be no relations between sub-sector players and ANIF. No specific AML/CFT regulation and control mechanisms were reported.

5.2.3. Application of customer due diligence and record-keeping requirements

338. Operational AML/CFT due diligence is based on three pillars: identification, vigilance and reporting. Even if the exact definition of the concept of "vigilance" (the backbone of the AML/CFT system) is not clearly established, the regulatory framework enacted in the sub-region clearly sets out the "vigilance" procedures expected of all reporting entities. Vigilance is implemented satisfactorily when it is carried out independently, according to the five differentiated levels: simplified vigilance, permanent vigilance, special vigilance, enhanced vigilance and supplementary vigilance.

339. The BEAC National Directorate stated, without further proof, that it was implementing specific procedures for constant vigilance with regard to services and products considered to be at risk.

340. On analysis, the implementation of due diligence measures is the most satisfactory in the banking sector although, according to the most recent results of COBAC controls, due diligence is the least satisfactory in terms of compliance. Banking institutions demonstrated their understanding of vigilance measures, following a risk-based approach by category of customer, by product, by geographical area and distribution channel. Aligned with the CEMAC and COBAC Regulations, they have introduced internal procedures and policies based thereon. They have automated systems for profiling customers and filtering transactions, as well as for communicating and keeping documents. Account opening procedures include essential

information about the customer, his activities, sources of income, associates, etc. Banks found it inadmissible to open a customer account in the absence of the required documents, in accordance with, among other things, Article 23(2) of the CEMAC Regulation, which prohibits the keeping of anonymous accounts and accounts under clearly fictitious names. Banks stated, without providing any evidence, that they draw up and regularly update risk maps including an AML/CFT component, classify risk levels according to the nature of their activities and types of customers, and step up vigilance measures according to the risk level. They also check the source of income and scrutinize all cases of 'smurfing' in transactions. They systematically seek the opinion of BEAC and the Ministry of Finance before establishing relations and carrying out transactions with foreign exchange bureau. Nevertheless, banks find it difficult to ensure constant vigilance in the case of large-value transactions or transactions with foreign countries, rights within customer companies or access to some information relating to non-resident persons and to adopt the necessary measures with regard to investors, whether natural or legal persons, resident or non-resident (in the case of banks authorized as primary dealers). Similarly, they have not yet succeeded in meeting the challenge of identifying beneficial owners, especially for money transfer transactions. Lastly, in accordance with Article 39 of the CEMAC Regulation, documents relating to customer identification obligations are communicated to the competent State authorities and employees upon request.

341. As international MVTSs are sub-agents of Equatorial Guinean banks, even though their groups provide the necessary tools for customer due diligence on a risk basis, it is the compliance department of the super-agent banks that is accountable for due diligence, through the regular reports it receives. The same applies to local transfer companies.

342. The other FIs endeavour to ensure that they fulfil their basic obligations in terms of knowing the customer and monitoring the relationship. To this end, they have more or less satisfactory procedures for verifying information about their customers' transactions. In particular, MFIs and CPFSPs tick all the boxes on their KYC forms and even collect additional information. However, implementation of due diligence measures is erratic, information on beneficial owners remains difficult to access and screening of their operations is extremely cumbersome, as is adaptation of their due diligence obligations to the requirements of financial inclusion, especially in the hinterland of the mainland. As for CPFSPs, their KYC process is summarized in the following standard table:

Table 5.1: CPFSP KYC Process

Documents required	Passport, National identity card, refugee card, residence card, military service card, student identity card...
Full name	-
Nationality	-
Date of birth	-
Place of birth	-
Civil status	-
Identification document No.	-
Phone (account) number	-
City	-
Neighbourhood	-
Mail	-
Signature	-

Source: MFSP

343. Insurance companies and insurance intermediaries implement the vigilance measures set out in the CIMA Regulation and additional enhanced measures, in particular with regard to any cash payment in excess of one (1) million CFA francs or any subscriber to the insurance contract who is different from the beneficiary. They fill in a KYC form, while admitting that they are only declarative, without deigning to carry out any other due diligence. Some customers are resistant to any request for additional information about them, and players in the sub-sector did not produce any statistics on refusals or breakdowns in relationships as a result of inconsistencies detected by the filters.

344. With regard to their obligation to keep records, FIs generally tend to know and comply with the requirements of Article 38 of the CEMAC Regulation, by fulfilling this obligation for at least ten (10) years after the end of the relationship with the customer or from the date of execution of a transaction. In addition to physical storage, banks, in particular, have software to track customer transactions and keep records for CDD/KYC in electronic format. Other FIs limit themselves to physical storage. The data is more or less accessible by all competent authorities, on request, with the exception that the records are not centralized in an appropriate location and are not always kept in ideal conditions, which is likely to hamper the timely provision of documents on request.

345. Regarding DNFBPs, with the exception of the Big Four firms, they present a bleak picture in terms of their due diligence obligations. They have not adopted due diligence measures to identify customers, especially legal entities and PEPs, and even less so the beneficial owner, a weakness exacerbated by the inaccessibility of reliable sources of information. Reporting entities or professions are hampered in the collection of information by the absence of services to collect, centralize and make available reliable information on legal entities incorporated or registered in the country and on their beneficial owners. This is all the

more worrying as some companies or regulated professions (lawyers and notaries, in particular) may be requested to incorporate, register or administer a legal entity.

346. Credit institutions, insurance companies and other FIs are well aware of their obligation to identify BOs. However, its implementation remains a stubborn challenge for all reporting entities, especially in a context where there is a lack of reliable and exhaustive information on BOs. Banks stated that they are content to check the status of their corporate customers and glean information from the One-Stop Shop. Banks are also aware of their obligation to terminate the business relationship or not to carry out a transaction in this context if they are prevented from implementing the required due diligence measures, in particular to determine the BO. However, they did not report any evidence of refusal or termination of the relationship.

347. As for record keeping, the requirements are not always understood from an AML/CFT perspective. While the Big Four accountancy and tax professionals fulfil their obligations perfectly, it is clear that in addition to facing the challenges of record keeping and disclosure, the other DNFBPs apply the record keeping requirement from the general perspective of domestic laws, without any link with the CEMAC Regulation. Lawyers, in particular, are not expressly obliged by the instruments governing their profession to keep records, but they do endeavour to keep a record of their accounts for ten (10) years. Casinos, on the other hand, stated that they keep all their data digitally, even though they do not systematically identify their customers and do not keep physical records of their transactions.

5.2.4. Use of enhanced or specific measures

348. Banking institutions draw up internal policies and procedures for implementing enhanced due diligence measures based on the risks associated with customers (including PEPs, NGOs, foreign exchange bureaux and occasional customers), products and services and geographical areas, which are assessed more or less periodically by internal mechanisms (Compliance Committees, etc.), even though the assessments of the Internal Audit, the Statutory Auditors and COBAC prove to be insignificant. They have access, on request, to some customer information from the Payment Incident Pool (*Centrale d'Incident de Paiement*), which is fed by the Central Bank, and from social security bodies. However, even though special control measures are generally adopted for at-risk customers, banks have difficulties with PEPs, for whom national lists do not exist and whose entry into a business relationship is, for some banks, only validated at Compliance Department level (without going up to Senior Management level). The same difficulties were identified in the implementation of targeted financial sanctions.

349. Only credit institutions comply with the enhanced due diligence measures based on the nature of risks, except that they are not that circumspect when they act as primary dealers. Relationships with at-risk customers are generally validated by the Compliance Service, for some banks, even when it comes to PPEs. However, no statistics on the refusal or termination of relationships were presented to the evaluation team for the purpose of expressing an opinion on the effectiveness of this measure.

350. MFIs admitted that they do not yet implement enhanced due diligence measures, either for high net worth individuals or for transfers from legal entities in their customer portfolios.

351. The other FIs and DNFBPs did not also demonstrate adopting this type of specific measure and their implementation seems hypothetical. Consequently, they have not implemented any enhanced or specific measures.

Politically Exposed Persons

352. All FIs stated that they begin identification of their customers with a declaration form filled out by the customer when the account is opened, before proceeding with screening of the available, more or less reliable commercial databases. The mother companies provide their Equatorial Guinea subsidiaries with platforms to facilitate the detection and monitoring of PEPs and, in particular, individuals with a bad press. Internal procedures are also sometimes prescribed before referring to senior management, prior to any business relationship with a PEP is approved. This category of customer is systematically included on the list of customers under enhanced surveillance of banks in particular, so that an alert can be triggered for each transaction. Nevertheless, there are constraints in identifying PEPs and, above all, the persons attached to them. To this should be added the absence of a reliable and regularly updated list of domestic PEPs and the challenges of covering the entire scope of the definition of a PEP[46] when implementing due diligence on business relationships and transactions involving a PEP or members of his family[47]. Moreover, the time limit on PEP status often affects the effectiveness of the specific measures, as virtually all FIs, particularly banking institutions, continue to consider the customer as a PEP long after he has left office or at least to assign him a higher risk rating, which implies other types of enhanced measures, but which are not commensurate with the specific measures of the FATF Recommendation in this area (see R12). Banks claim to draw up internal lists, which are updated regularly and supplemented by databases obtained using external service providers to which they subscribe, which infers varying degrees of application of measures with regard to PEPs. Lastly, a few banks reported challenges with the increasing number of PEPs who are reluctant to declare their assets when entering into a business relationship or in the course of a business relationship, forcing them, not without difficulty and threats, to refuse the business relationship or to close the account, along with a report to ANIF. However, to date, no feedback or penalties have been imposed, adding to the cloud of uncertainty surrounding this issue. The time limit on the status of PEP is one year after ceasing to hold office (see Article 60(2) of the CEMAC Regulation).

353. Insurance companies and other FIs stated that they use other forms of research via public sources to determine whether their customers are politically exposed. However, PEPs are not subject to any particular vigilance, despite their almost systematic categorization as at-risk customers, and no effective due diligence is performed to ensure that existing customers do not move into the PEP category.

354. As for DNFBPs, apart from accountants, the very notion of PEPs is understood very superficially, and enhanced or specific measures to detect and monitor their relationships with PEPs seem to be far-fetched.

[46] Under Article 1(55) of the CEMAC Regulation.

[47] Points b and k of the definition in Art. 1, or Art. 3(w) of the 2005 R-COBAC, which states that "all natural or legal persons who are clearly linked or associated with them shall fall within the scope of this definition".

Correspondent banking services

355. In Equatorial Guinea, correspondent banking is conducted with foreign banks via the BEAC/ND. Correspondent banks require local banks to comply with international AML/CFT standards. To ensure this, they periodically assess the compliance of their customers (banks established in Equatorial Guinea) and their AML/CFT systems. Until now, these assessments have been carried out on the basis of documents, without the possibility of on-site controls, which makes the management of banks in Equatorial Guinea more sensitive to image risks. In turn, they gather information on the nature of the correspondent banks' activities and ensure that they apply CDD measures at least equivalent to those implemented by their own institutions, in particular through periodic exchanges of compliance monitoring sheets, in accordance with the CEMAC Regulation, which requires reporting entities to adopt enhanced due diligence measures from the outset of the relationship.

356. Banks in Equatorial Guinea appear to be aware of the risk of severing relations with correspondent banks and the subsequent derisking that can result from persistent serious irregularities. Groups' subsidiaries, in particular, gave assurance that the parent companies, aware of the quality of their customer portfolios, which include firms with a global presence, particularly sensitive to AML/CFT issues and often including reputational risk as a selection criterion before entering into a banking relationship, are scrupulous in ensuring that all their subsidiaries comply with AML/CFT requirements wherever they are established, including in Equatorial Guinea. In peer-to-peer relationships, banks define criteria such as the level of compliance, the quality and extent of the network and the country of establishment, in accordance with the FATF Recommendations and regulatory requirements.

Targeted financial sanctions

357. The FIs interviewed stated that they use regularly updated commercial screening solutions that take into account the lists of the United Nations Sanctions Committee (Security Council Resolutions 1267 et seq.), and even those of the European Union or OFAC, to detect customers subject to asset freezing measures. Banks, in particular, demonstrated the widespread use of asset freezing procedures and embargoes. As a result of this situation, the evaluation team noted the absence of a national register of asset freezes and that the reporting entities do not receive lists of persons and entities from the competent authorities under UN Resolution 1267, which leads to the conclusion that FIs' implementation of targeted financial sanctions, in particular the asset freeze measures required for designated persons and entities, is unsatisfactory. Nor is there a national list of persons or entities designated under Resolution 1373.

358. In the insurance sub-sector, companies and intermediaries are not aware of the United Nations sanctions lists, with the exception of the group subsidiary intermediary, which applies screening relating to targeted financial sanctions, entered in Group control reports. CIMA, which has not yet carried out thematic AML/CFT controls in Equatorial Guinea, reported that the AML/CFT aspect is not covered by the controls of the General Directorate of Banking and Insurance, which focus exclusively on insurance premiums; under these conditions, CIMA does not have the necessary domestic relay to raise awareness and control operators in this sub-sector.

359. Although they are aware of the existence of the UN Sanctions Committee lists, MFIs, whose software is still being implemented, do not yet have a filtering tool to implement the measures to identify and freeze the assets of listed persons and entities, so they are content to comply with this obligation manually. MVTCs that are co-contractors of banks established in Equatorial Guinea receive the necessary identification tools from the Groups, via the banks, unless the MVTS decides to control this via the Group's compliance officer. As for CPFSPs, they rely exclusively on their partner banks' system for this purpose. Similarly, with the exception of accounting professionals belonging to Groups, DNFBPs are not aware of the United Nations sanctions lists. However, they all rely on their banks to carry out checks on their customers.

New technologies

360. FIs, banks, the CPFSP and insurance companies in particular, are developing innovative new products or services and backing them up with new technologies. However, prior to launching the new products, they did not prove that they had carried out a satisfactory risk assessment, duly endorsed in advance by senior management and/or the board of directors. They also did not demonstrate implementation of enhanced vigilance measures with regard to these products using new technologies, which worsens the high risks situation.

361. The evaluation team also noted a certain sensitivity on the part of banking institutions and MFIs with regard to virtual assets (VAs), in line with Article 5 of COBAC Decision D-2022/071 of 6 May 2022, on the holding, use, exchange and conversion of crypto-currencies or crypto-assets by institutions subject to COBAC, *which requires reporting institutions to identify transactions carried out or rejected in connection with crypto-currencies (originators, beneficiaries, amounts, legal transaction currency, crypto-currency equivalents, purpose of the transaction, etc.)*.

362. DNFBPs, for their part, are not at all fussy about applying enhanced or specific measures for new technologies.

Higher-risk countries identified by FATF

363. The BEAC National Directorate and the banks interviewed seemed alert to the countries listed by FATF as high-risk countries. Some groups forward the lists at their level to banks and insurance intermediaries established in Equatorial Guinea, and in some cases, refrain from any transaction involving some countries. The other FIs and DNFBPs seem to be aloof on this issue.

Wire transfers

364. Banks claimed to have implemented the necessary filtering measures to identify the senders and beneficiaries of wire transfers. They check the correspondence between the type of message and the transfer to be executed as well as the completeness of the information accompanying the transfer. Conversely, the effectiveness of the schemes implemented remains questionable given the regulatory shortcomings concerning the obligation on the originator's FI to transmit, on request, the information accompanying the transfer to the beneficiary's FI or to the prosecution authorities within three working days, or the obligation on the intermediary FI to keep the information received from the originator's FI for at least five years. The same applies to FIs' obligations to adopt risk-based policies and procedures for deciding when to execute,

reject or suspend wire transfers that do not show the necessary originator or beneficiary information and the appropriate consequential actions to be adopted in this respect. There is also no provision for reasonable measures, which may include ex-post monitoring or real-time monitoring where possible, to detect cross-border wire transfers lacking the required originator or beneficial owner information. Lastly, FIs are under no obligation to file a STR for all the countries involved in wire transfers, and no mechanism was identified by the evaluation team for this.

5.2.5. Reporting obligations and tipping-off

365. Not all FIs have continuous or discontinuous due diligence tools or systems, with varying degrees of sophistication depending on their size, to identify transactions or funds likely to be the subject of ML/TF suspicions.

366. When they comply in good faith with their duty to report suspicions, the CEMAC, COBAC and CIMA Regulations exonerate the managers and staff of FIs from any criminal or civil liability for transgressing the rules relating to disclosure of information, otherwise imposed by law, regulation, administration or contract. The rules of professional secrecy governing FIs may not prevent them from complying with their obligation to provide information to the supervisors and ANIF or to report suspicious transactions.

367. The FIs we met have a good understanding of their regulatory obligation to report suspicious transactions to ANIF and have or are in the process of implementing tools or systems of vigilance, ongoing or otherwise, tailored to their size, to help them identify transactions or funds that may be suspected for ML/TF. Some of them make up for the shortcomings of their own systems by also relying on the vigilance of their staff and their knowledge of their customers to identify suspicious transactions and attempts to perpetrate them. However, it should be noted that more or less serious shortcomings in the roll-out of ML/TF prevention systems have led to a serious lack of implementation of the duty to report suspicions. Only one bank out of five was able to demonstrate the existence of formalized and updated STR procedures. At the time of the on-site visit, 92% of the suspicious transaction reports received by ANIF over the last five (5) years came from banks alone, although the latter were rather timid in complying with this obligation, leaving a very high off-the-record figure. As for DNFBPs, they have an extremely limited understanding of their duty to report suspicious transactions. Indeed, even the Big Four firms admitted that they prefer to pass on identified flaws containing ML/TF indications to their customers rather than report suspicious transactions.

Table 5.2: **Breakdown of STRs issued by category of reporting entities (2018-2022)**

Year	2019	2020	2021	2022	2023	Total	Percentage
Banking institutions	54	58	9	24	6	151	92.1%
Public sector	5	2	0	2	0	9	5.5%
Private sector	0	0	0	0	0	0	0
International cooperation	2	0	0	2	0	4	2.4
Total	**61**	**60**	**9**	**28**	**6**	**164**	**100%**

Source: Approved statistics provided by ANIF/EG, April 2024.

368. Banks stated that they forwarded 30 STRs in 2021, 22 in 2022 and 15 in 2023, i.e. a total of **sixty-seven (67)** over the three financial years, which raises a paradox with ANIF figures, which show a total of 39 between 2021 and 2023. This dichotomy between the two sources seems, according to the banks interviewed, to be at the root of the decline in the reporting curve in 2023, as ANIF had recommended that they wait until the confusion in understanding the STR figures and the form used to enter the reports would have been cleared.

369. However, the figures displayed on both sides reflect annual averages for reports that are fairly low in relation to Equatorial Guinea's exposure to crime. The scale of the off-the-record figure is all the more worrying given that last year there was a dizzying fall in the number of STRs.

370. The four (4) banks approved as primary dealers in Equatorial Guinea and which are, in this capacity, subject to AML/CFT obligations, have not, to date, issued any STR with regard to securities, on the transactions of all natural or legal persons that subscribe to them and that must go through these banks. Similarly, no STR has been sent to ANIF regarding an attempted suspicious transaction or a case of terrorist financing.

371. As for measures to guarantee the confidentiality of STRs, some banks stated that, internally, information relating to STRs is only accessible to compliance service staff. On the other hand, others have suggested that other services (Internal Control, Risk Management or Internal Audit) may have access to the STRs to be issued or issued and, sometimes, the STRs are submitted to Senior Management for signature before being sent to ANIF, which may hinder the independence of Compliance Officers in their task of forwarding STRs and tolerate a censorship mechanism on the part of Senior Management, especially in the case of local PEPs, which are sometimes inclined to use influence-peddling. Furthermore, contrary to Article 97 of the CEMAC Regulation, banks are still waiting for feedback from ANIF on the follow-up to STRs or ML/TF mechanisms.

372. The other reporting entities, specifically the MTSP, is aware of its duties and has fairly sophisticated tools for detecting suspicious transactions, despite a quantitative shortfall in resources dedicated to processing the alerts generated. Unfortunately, it has not yet issued any STR to ANIF, preferring the tacit compromise of relinquishing this prerogative to the partner bank, to which it reports regularly. They make do with the blockages provided by the platforms depending on the nature of the transaction, the customer base and, in particular, the individual and cumulative limits of 2 million CFA francs per week.

373. In the insurance sub-sector, in addition to the lack of relevant internal awareness procedures, the absence of STRs can be explained by the fact that the main insurance business in Equatorial Guinea concerns the casualty (IARD) branch, and not the life branch (whose activities have not yet begun), which is the most exposed to risk.

374. As regards DNFBPs, the absence of STRs is justified by the lack of awareness and information among professionals in this sector about the ML/TF risks to which they are exposed, the absence of a compliance mechanism, the absence of regulatory pressure and failure to apply administrative and criminal penalties in the event of failure to comply with AML/CFT

obligations, as well as the absence of AML controls within the remit of the self-regulatory and supervisory authorities of these professions.

5.2.6. Internal controls and legal/regulatory requirements impeding implementation

375. The evaluation team did not identify any legal or regulatory provisions that could, on their own, obstruct the implementation of internal controls for compliance with AML/CFT obligations in Equatorial Guinea.

376. In line with the CEMAC Regulation, since December 2016, BEAC has published a framework procedure formalizing the elements of knowledge and vigilance enabling its entities, including its National Directorate in Equatorial Guinea, to organize controls and intensify ML/TPF prevention. BEAC/ND has an Internal Control Unit, but this is included in the entity responsible for Internal Audit and Risk Management.

377. Most FIs have a service (or at least one person) dedicated in part or entirely to compliance. The pressure exerted by the Groups and the correspondents has a positive influence on banks to implement internal procedures aimed at compliance with statutory ML/CFT obligations. All banking institutions have set up regulatory internal control and compliance regimes. A compliance officer, whose name is communicated to COBAC, is appointed by each bank. Banks generally have compliance charters, manuals policies, internal anti-money laundering procedures, procedures for managing relations with PEPs, procedures for managing occasional customers, etc. The internal procedures are supposed to be reviewed more or less regularly, and systematically when incidents occur. They apply from the moment a customer enters into a relationship with the bank and to all customer transactions.

378. Internal control systems exist at three levels: the first consists of controls carried out by operational staff (customer assistants, account managers, branch managers), the second of permanent control and compliance and risk management, and the third of periodic controls by internal audit, Statutory Auditors, the Regulatory and Supervisory Authority and, where applicable, the Group Auditor. In principle, the latter assess the implementation of compliance control policies and procedures, including the ML/TF aspect. However, the Internal Audit department's remit does not adequately cover the ML/TF risk, and the Statutory Auditors are silent on their AML/CFT obligations. The roll-out of a risk-based approach, intended to enable optimum allocation of resources, is understood by all banks in the sector, although its effectiveness is not demonstrated in accordance with Article 14 of the CEMAC Regulation.

379. Training programmes are initiated and implemented for all or part of the staff and sometimes governance bodies. Banks stated that they organize awareness campaigns (sometimes with ANIF) and ongoing training sessions for their staff and sub-agents (MVTS and MTSP), although the frequency and comprehensiveness of these sessions are questionable in practice. Subsidiaries of Group stated that their training programmes are subject to a yearly Group evaluation. However, in practice, only front office staff are often involved in the training provided, with other areas being relegated to end-of-year budgetary provisions.

380. Bank procedures generally provide for various types of reporting, including weekly updates to the Management Committee, monthly reporting to Management and, where necessary, to the Group, quarterly reporting to the Group on transactions with embargoed

countries and on financial security and regulatory compliance, reporting to the Risk Committee, annual reports on AML/CFT, on non-compliance risk and on annual internal control to COBAC. Relations with the Regulator and ANIF are generally based on administrative cooperation, in particular the exchange of general information and the exchange of information relating to suspicious transactions. ANIF stated that it receives reports on transactions of five million (5,000,000) CFA francs or more with satisfactory diligence. Transactions are recorded by the Compliance Service and, at branch level, registers are generally kept of cash transactions in excess of 10,000,000 CFA francs and a register of cash transactions in excess of 50,000,000 CFA francs.

381. The various interviews reveal that at the level of the other FIs, compliance officers and those responsible for internal control are appointed and their identity is communicated to the Secretariat General of COBAC (Articles 54 and 55 of COBAC Regulation 2016/04), to the General Directorate of Banks and Insurance, to the CRCA and to ANIF (Article 8 of the CIMA Regulation). However, there are weaknesses in the definition and implementation of compliance programmes, particularly with regard to the AML/CFT component, as well as in the quantitative and qualitative mismatch of the human resources dedicated to compliance who, moreover, are sometimes deprived of appropriate training to perform their duties properly, with the relevant budgets reduced to adjustment variables. For example, to date, insurance companies do not yet have an adequate compliance mechanism, with only an ANIF Focal Point being designated. Neither do they have AML/CFT procedures.

382. The Big Four firms have Codes of Conduct signed each year and mandatory annual training programmes. Local firms and individual chartered accountants do not have this type of requirement and agree to contract with customers who have been rejected by the Big Four firms, which highlights an asymmetry that is detrimental to the watertightness of the country's AML/CFT system. DNFBPs do not have internal control mechanisms or resources dedicated to implementing their AML/CFT regulatory obligations.

383. However, in the opinion of COBAC, even the information systems of credit and microfinance institutions do not, in practice, allow effective monitoring of customer transactions in relation to their profile, or appropriate controls when transactions appear to be unusual or complex. BOs and PEPs are not satisfactorily handled by their internal compliance systems. Banks and MFIs did not provide the evaluation team with evidence of the actual existence of up-to-date risk maps. The promotion of an internal control culture to control risks in general, and non-compliance risks in particular, is still struggling to become an integral part of the various management bodies in institutions. In many establishments, front office staff are still the primary target of AML/CFT training, but the training needs expressed by this category of staff in the prevention and detection of ML/TF risks are slow to be fully met. In cases where specific AML/CFT training is provided, the frequency of such training undermines the updating of related knowledge. Furthermore, risk management is often diluted and/or assimilated to the exclusive analysis of credit risk; the audit plans of Internal Audit services only inadequately cover the risk of AML/CFT non-compliance, and the Statutory Auditors do not comply with their duty to warn of any criminal acts detected in the course of their work.

384. It was also noted that banks are reluctant to comply with their obligation to share information with other FIs or authorities, except when request by judicial authorities or ANIF.

Overall Conclusion on IO 4

385. Unlike banks and accountants working for major international groups, reporting entities generally do not understand their ML/TF risks and their AML/CFT obligations. The lack of ML/TF risk assessment, the potential growth of the informal foreign exchange and money transfer sector, and the failure to provide adequate training and awareness-raising for all staff of reporting entities are all having an impact on the effectiveness of preventive measures and the statistics on suspicious transaction reports, with banks being virtually the only reporting entities to comply, albeit timidly.

386. Despite the risks associated with their respective activities and sectors, other FIs and DNFBPs demonstrate a generally lacklustre understanding of AML/CFT risks and obligations and have significant gaps in their AML/CFT arrangements.

387. ***Equatorial Guinea was rated as having a low level of effectiveness with regard to IO 4.***

6. SUPERVISION

6.1. Key findings and recommendations

Key findings

a) Generally, access to the financial sector in Equatorial Guinea is subject to authorization from Government. While the due diligence carried out in this respect provides information on the identity and good repute of promoters, it fails to identify the BO and check the origin of the capital. These shortcomings are even worse among DNFBPs in general and in important sectors like lawyers, where the Bar does not make AML/CFT due diligence a priority in access to the profession;

b) Although there has recently been a coordinated crackdown on illegal currency exchange, measures to detect and punish illegal activities are still inadequate. In fact, the major financial sectors, particularly the manual foreign exchange and HAWALA-type money transfer sectors, are faced with significant informal activity which controls a large proportion of turnover in these sectors, with high risks of use for ML/TF purposes;

c) COBAC has a limited understanding of the ML/TF risks to which the major sectors under its supervision are exposed. The tools for identifying and continuously monitoring risks are dysfunctional due to the slow progress of some reforms (SPECTRA). There is also no evidence that these reforms factored the specific characteristics of the new activities (foreign exchange and payment services) now under COBAC's supervision. In addition, COBAC has not been provided with the additional resources that would enable it perform these new tasks effectively. This undoubtedly explains the low level of compliance in the actions of COBAC, which in recent years has given priority at national level to managing the prudential risk of systemic banks in difficulty, to the detriment of compliance risk. The other financial sector supervisory authorities have elementary understanding of the country's risks due to the absence or pending roll-out of appropriate tools;

d) COBAC's application of the risk-based approach still requires substantial improvement. It has not yet drawn up a map of ML/TF risks by sector of activity and by entity in Equatorial Guinea, that can be updated on an ongoing basis. The tools currently being developed to that effect take time to implement and do not cover all the activities of the major sectors (manual exchange and remittance);

e) The risk-based approach to AML/CFT for other financial regulators is not yet effective. AML/CFT issues are only briefly taken into account during inspections. This is a major weakness given that these authorities, in particular the Ministry of Finance, are also responsible for monitoring major sectors with a high risk of ML and TF, such as foreign exchange and remittance;

f) With regard to DNFBPs, the risk-based approach is not effective in the absence of competent authority(ies) designated to ensure AML/CFT supervision. SRBs in major sectors such as the Bar are not aware of their AML/CFT obligations. Overall, understanding of ML/TF risks remains very embryonic for all DNFBPs and the administrative supervisory bodies;

g) In Equatorial Guinea, the frequency of controls remains generally mixed and the consideration given to AML/CFT aspects extremely low, even in the major sectors with a high risk of ML and TF (banks, foreign exchange, remittance, lawyers). Penalties for breaches of AML/CFT obligations are not effective. As a result, many reporting entities (foreign exchange bureaus, remittance companies and payment service distributors) continue to operate with impunity outside the Community's compliance obligations;

h) In addition, training, awareness-raising and the promotion of best practice to improve the level of compliance of reporting entities are, on the whole, very limited, due to the lack of resources and expertise and the mixed operation of the SRBs and professional associations.

Recommendations

The authorities of Equatorial Guinea are called upon to implement the following actions:

(a) Encourage the supervisory and control authorities in all the financial sectors most at risk of ML/TF to step up the intensity of controls and apply effective, proportionate and dissuasive sanctions against those that do not comply with their AML/CFT obligations;

(b) Ensure compliance of Order No. 8 of 13 July 2022 to regulate the activity of rapid money transfer and receipt in Equatorial Guinea, foreign exchange bureaus, money transfer companies and electronic money distributors, with the provisions of the relevant Community regulations, so that these entities can strengthen their compliance function and equip themselves with robust tools capable of mitigating the specific ML and TF risks associated with their respective activities;

(c) Clearly designate a competent authority for AML/CFT supervision of the most exposed DNFBPs;

(d) Allocate substantial resources to the licensing authorities to step up checks on BOs and the origin of funds;

(e) Intensify the fight against informal activities, by organizing joint missions (supervisory authority/police), including unannounced raids, to curb informal activities such as manual foreign exchange, money transfers and traders in precious stones and metals;

(f) Accelerate reforms aimed at building the capacity of the services responsible for supervising FIs (COBAC, CIMA, COSUMAF, Monetary Authority), by providing them with the tools they need to better apply a risk-based approach to AML/CFT, while increasing the number of trainings on the regulation, supervision and mitigation of risks associated with payment services and innovative financial activities or technological finance;

(g) Increase AML/CFT capacity-building activities for all stakeholders in general (Ministry of Finance, reporting entities, SRBs, administrative supervisors), and for the most exposed sectors in particular (the Bar, foreign exchange and transfers, banking), so that they can understand and play their part in ensuring the effectiveness of the national AML/CFT system;

(h) Establish guidelines to promote best practice and ensure that SRBs and professional associations are formalized and operate in the best possible way, so that their members can better implement their obligations.

388. The Immediate Outcome relevant to this chapter is IO3. The recommendations relevant to the assessment of effectiveness in this section are R.26 to 28 and R.34 and 35.

389. The assessment of the effectiveness of supervision is based on the various quantitative and qualitative data and information collected from open sources and during interviews with local authorities, supervisory and control bodies, administrative supervisors and reporting entities. The weighting of the evaluation took into account the following classification of Equatorial Guinea's economy into sectors of very high weighting, namely banks, manual foreign exchange, money transfer companies or agents and lawyers; moderate weighting, consisting of casinos and gaming establishments and chartered accountants; and low weighting, namely insurance, financial market players, real estate agents, precious metals and stones companies, MFIs, notaries, virtual asset service providers and payment services-related activities. (see Chapter 1)

6.2. Immediate Outcome 3 (Supervision)

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

Financial Institutions

390. The country's authorities have set up a number of measures to prevent criminals and their accomplices from gaining access to or taking control of financial institutions. However, an assessment of this due diligence system reveals shortcomings **both at the time of entry into the profession** and during **the life of financial institutions**.

391. **At the time of admission to the profession**, the procedures for processing applications for authorization vary according to the type of financial institution. There are three types of institution: (i) those whose authorization procedure is the exclusive responsibility of the Ministry of Finance and Budget in its capacity as National Monetary Authority; (ii) those whose authorization responsibilities are shared between the National Monetary Authority and the Community bodies which are COBAC and BEAC, as appropriate; and (iii) those whose applications are considered exclusively at Community level by COSUMAF.

392. (i) **Insurance intermediaries and local transfer agents** or companies are among the institutions whose authorization procedure falls within the exclusive remit of the Ministry of Finance and the Budget. In practice, applications submitted to the Ministry are forwarded to the General Directorate for Banking, Insurance and Reinsurance (DGBAR) for consideration. Based on discussions with the Directorate's officials, the checks carried out at this level relate to the completeness of documents required by the CIMA Code for insurance intermediaries and Order No. 8 of 13 July 2022 regulating the business of rapid money transfers and receipt in Equatorial Guinea, as far as transfer agents are concerned. In both cases, the information requested concerns the company and its future directors, namely: identification documents, registration with the RCCM or company registration certificate, tax identification number,

location plan, document certifying that the capital has been paid into a bank, and details of the technology used to develop the business. After these checks, which are carried out exclusively by DGBAR staff, a favourable or unfavourable opinion is issued on the application. In the event of a favourable opinion, Management submits a draft order or authorization to operate for signature by the Minister of Finance and the Budget.

393. On analysis, while ensuring that the regulatory documents are complete provides some insight into the identification and good repute of promoters, the checks are limited in terms of identifying the BO and verifying the origin of the funds, especially since the One-Stop Shop does not carry out these checks, even upstream, in the company establishment or registration process. Furthermore, the DGBAR does not have the resources to carry out character checks. It does not have a central database of known bankruptcies or persons at risk, which can be consulted during the approval procedure. The Ministry of Finance and the Budget also does not cooperate with some specialized government services like ANIF or ORTEL, whose expertise and participation in the examination process could be useful for AML/CFT verifications and the risks inherent in new technologies. There was no evidence of rejection of an application for approval or request for additional information. All these factors, combined with the ML and TF threat, could enable criminals or their accomplices to infiltrate the transfer agent sector, which occupies an important place in the country's financial system, with a territorial network of agents in the islands and the mainland.

394. (ii) The authorization procedure shared by the Minister of Finance, COBAC, BEAC and CIMA concerns applications for the authorization of banks, MFIs, payment institutions, foreign exchange bureaus and insurance companies. As part of this procedure:

395. The Ministry of Finance and the Budget receives and pre-studies applications for authorization. The pre-study is conducted by the DGBAR using the same process as that for examining applications for authorization of local transfer companies and insurance intermediaries, which have shortcomings in terms of controlling the BO and the origin of funds. After its verifications, the Ministry of Finance and the Budget forwards the **file to COBAC for endorsement** in the case of banks, payment institutions and MFIs, **to BEAC** for foreign exchange bureaus de change, **and to CIMA** for insurance companies. The Ministry of Finance and the Budget, which formalizes approval or authorisation orders, is bound by the opinion of these Community bodies.

396. Before giving its assent, **COBAC** also checks the identity and administrative documents to ensure that the directors, shareholders and auditors are of good repute and compatible. To verify the BO of legal entity shareholders and the origin of capital, COBAC requests information from other regulators with whom it has cooperation agreements. However, no documents attesting to this practice were presented, nor were the statistics on the cases in which AML/CFT due diligence was refused or additional information requested when applications for authorization were examined. All these factors cast doubt on whether AML/CFT measures were sufficiently taken into account during due diligence prior to COBAC's assent.

397. In addition, a telecommunications company recently opened a subsidiary dedicated to mobile financial services without applying for authorization as a payment institution. Although the business is still in its infancy, it operates without the oversight of financial sector regulators.

In the same vein, Order No. 8 of 13 July 2022 to regulate the activity of rapid money transfers and the receipt of money in Equatorial Guinea, as well as the transfer agents authorized to operate on the basis of this instrument, should comply with the provisions of the 2018 Regulation governing payment services in CEMAC. The aim is for these entities to apply for authorization as payment institution in order to equip themselves with a robust compliance system capable of mitigating the ML and TF risks associated with transfer activities. Compliance will also have the advantage of subjecting them to COBAC reporting and control, given their significant weight in the country's economy.

398. In addition, international remittance companies did not establish as national legal entities and continue to operate in Equatorial Guinea without authorization, but on the basis of partnership contracts with local commercial banks, in defiance of the provisions of the 2018 Payment Services Regulations and the 2016 AML/CFT Regulations.

399. Up to the date of the on-site visit, **BEAC** had received only one application for approval as a foreign exchange bureau. BEAC was unable to demonstrate the existence of best practices or mechanisms adopted for the identification of BOs and the origin of funds when examining applications for foreign exchange bureau authorization. Due diligence is essentially limited to checking the validity and completeness of personal and administrative documents.

400. Before 2018, the country had 9 foreign exchange bureaus approved by the National Monetary Authority on the basis of an exclusively national procedure. The entry into force of the new foreign exchange regulations in 2019 repealed the national instruments governing the activity to minimize the risks of ML and TF linked to the circulation of foreign currency. This new legal framework has: (i) tightened the conditions for doing business by setting a minimum capital requirement of CFAF 50 million; (ii) modified the licensing procedure, which is now subject to the assent of BEAC; and (iii) strengthened the compliance obligations of foreign exchange bureaus to better control AML/CFT risks. As a result, foreign exchange bureaus that were already licensed before the new Community legislation came into force had until January 2020 to comply. This involves submitting a new application for authorization to the national monetary authority, which is then pre-examined and forwarded to BEAC for approval before the Ministry of Finance and the Budget issues the authorization. At the time of the assessment team's visit, only one foreign exchange bureau had complied. The others (around 8), more than 5 years after the expiry of the compliance deadline, are still operating on the fringes of the regulations and therefore without approval.

401. In addition, the only authorized or compliant foreign exchange bureau faces competition from clandestine players, who are required to be authorized to operate. This is a significant risk factor for the ML/TF, especially as they do not comply with the daily limit of 5 million CFA francs per customer and the origin of the funds they invest in manual foreign exchange is questionable. Despite the high impact operation carried out by the Ministry of Finance and the Budget in February 2024 in collaboration with the forces of law and order, which to some extent directed customers towards the formal counters of banks, MFIs and foreign exchange bureaus, clandestine foreign exchange activity persists and remains significant throughout the country. The same applies to HAWALA-type transfers, which are gradually developing as a result of stricter conditions for international transfers.

402. **CIMA,** in addition to verifying the validity and completeness of personal and administrative documents, also sets in motion international cooperation to verify the origin of funds and BOs. However, these assertions have not been backed up by documentary evidence. The only case of rejection mentioned or refusal of approval relates to prudential aspects (financial) and not AML/CFT, which is likely to call into question the effectiveness of AML/CFT checks in the absence of a guide or procedure in this area within the institution.

403. (iii) **The authorization procedure, which is exclusively Community-based**, is the responsibility of COSUMAF, which directly receives and examines applications for authorization from brokerage companies. Up to the date of the on-site visit, the country had only one approved brokerage firm, and no applications were being processed by COSUMAF. However, in practice, in addition to checking that the identification and administrative documents required by OHADA law for company incorporation are complete, COSUMAF carries out Internet searches to check that promoters have not been convicted. Where necessary, it also exchanges information with other regulators with whom it has cooperation agreements. However, the documents attesting to the effectiveness of this due diligence were not made available. There were no cases of rejection or requests for additional information on AML/CFT grounds. All of this casts doubt on whether COSUMAF takes into account aspects relating to the identification of the BO and the origin of the funds when examining applications for approval.

404. In addition, although cases of activities related to VASP and VAS are variously perceived in Equatorial Guinea, no application for approval as a VASP had been received by COSUMAF at the time of the on-site visit. This could imply that the business is developing informally, with the risk of ML/TF.

405. **During the lifetime of financial institutions**, any change during operation that significantly affects the legal situation of banks, MFIs and payment institutions is subject to the prior authorization of COBAC or the approval of BEAC, which shall be given following an application examined under the same terms and conditions as the initial authorization. These may include: changes in share ownership, changes in the statutory auditor, changes in the share capital, changes in the company name, sales of business assets, mergers, demergers and sales of significant shareholdings. Similarly, reporting entities are subject to ongoing reporting mechanisms that provide them with up-to-date information on the situation of their managers and directors. However, shortcomings in identifying BOs and verifying the origin of funds limit the effectiveness of these measures, especially in the context of Equatorial Guinea, where three of the 5 banks in operation are under restructuring that involves capital purchases and withdrawals. Under these conditions, people of dubious character could take control of the new entities and introduce funds of dubious origin.

406. In the insurance sector, the same due diligence is carried out in the event of share buy-backs exceeding 10% during the life of a company. In addition, the information gathered revealed that on-site inspections, when organized, also verify compliance with these requirements. However, the means of controlling beneficial owners, let alone changing beneficial owners, remain limited.

407. In the case of insurance intermediaries, any increase in capital is decided at a general meeting and must be reported to the Ministry of Finance.

408. The 10 instructions adopted by COSUMAF in 2024 also provide for a system of prior authorization and declaration in the event of a situational change. However, the effectiveness of this system is yet to be demonstrated. In addition, the absence of the resources needed to check the BO and the origin of the funds limits the effectiveness of due diligence.

409. As for local transfer companies, there was no evidence during the on-site visit of any measures to monitor changes in the situation of these institutions during their lifetime. In view of their significant weight in the country, the risk of criminals infiltrating this sector to inject funds of dubious origin is high.

Designated Non-Financial Businesses and Professions

410. **Metals and Precious Stones Enterprises**: With its economy heavily dependent on oil, the country has embarked on a policy of diversifying its economy, albeit very timidly. This is reflected in the mining sector, which is gradually entering its prospecting, exploration and production phase (34 kg of gold at end-2023). During the on-site visit, 2 operating licences were granted to two foreign companies out of the 5 that had expressed an interest following the Government's call for tenders. The selective due diligence was carried out within a multi-sector framework comprising representatives from the Ministries of Finance, the Environment and Water and Forestry, under the coordination of the Ministry of Mines, Quarries and Hydrocarbons; the ministry responsible for research and mining, possession, holding, transport, storage, preparing, processing and marketing of precious substances (issue of certificate of origin and weighing prior to shipment).

411. As part of the due diligence leading to the issue of these first two (2) authorizations, the State was assisted by a consultant. The audits involved assessing the financial, legal and operational capacity of the companies. Searches were also conducted on the internet (media adversaries) and via the country's diplomatic representations, and on-site interviews were organized in the country to ensure the existence, repute and reliability of the applicants. At the end of the process, 3 companies were rejected, including one Asian company, for lack of information on credibility. Alongside these two (2) multinationals, some 8 local cooperatives, which previously operated underground, have been registered by the Ministry of Mines and Hydrocarbons. These cooperatives serve as a guide for exploring mining sites, and are registered simply by completing the registration formalities.

412. However, in the authorization process, due diligence is mainly limited to financial and technical risks and environmental impact assessment, and does not take sufficient account of AML/CFT aspects. There is no effective collaboration with ANIF or the business creation office to check the origin of the capital invested and the BOs of these businesses. In practice, the actions and resources required to detect and register players operating illegally in the mining sector are limited to identifying their members. No illegal seizure or sanction has yet been made or pronounced by the competent Ministry against clandestine operators. Furthermore, the development policies for the sector are still being drawn up in isolation from the EITI initiative, which would guarantee greater transparency and accountability for the extractive industries. All

these shortcomings give criminals the opportunity to infect this sector, which has clear development prospects.

413. Casinos and gaming establishments: The Ministry of Culture, through its General Directorate for Tourism and Crafts, controls access to the profession and monitors the activities of casinos and gaming establishments. Depending on the type or nature of the game, applications for approval or authorization are examined by an inter-ministerial committee made up of the Ministries of Finance and the Budget, Culture, the Interior and National Security. Under this procedure, emphasis is placed on checking the good repute of promoters through identification and criminal records. Bank certification that the capital has been paid up is also an important formality. Establishments must also declare any changes in their situation, and update their information annually with the Ministry of Culture. However, checks are limited to ensuring that documents are complete. Control of the origin of funds (capital) and the BOs of casinos and gaming establishments is not effective.

414. Real estate: Private real estate activity remains very rudimentary in Equatorial Guinea, insofar as the country's government has embarked on a highly ambitious social housing policy, supported by the oil windfall of recent years. Indeed, the Ministry of Major Works builds and entrusts the management, control and allocation of low-cost houses to ENPIGE, a State-owned company established by decree on 3 December 2017. It is estimated that this company controls around 95%[48] of the bank-financed housing sector. As a result, the supervision of private real estate players does not seem to be a concern for the authorities, because of this public policy. Nevertheless, with more than 2,500 housing applications pending at ENPIGE during the site visit, the company appears to be overwhelmed by the slowdown in construction due to the oil crisis. The fall in public supply and the increase in demand for housing could provide an opportunity for private investors, who could seize this opportunity to enter the real estate sector and, in the absence of regulation, inject funds of dubious origin, derived from corruption and misappropriation of public funds.

415. Chartered Accountants: To practise as a self-employed accountant, a chartered accountant must obtain approval in accordance with the CEMAC Regulations and be registered with the National Order of Chartered Accountants. However, in Equatorial Guinea, at the time of the on-site visit, the national association or college of the profession was in the process of being set up, even though international and national firms had been practising there for several years. The failure of the industry's horizontal self-regulatory body[49] to function is detrimental to the compliance and effectiveness of the country's AML/CFT system, given that the industry's players are involved in carrying out operations (building companies, advising on asset disposals, auditing, asset management, training, etc.) that are exposed to ML/TF risks.

[48] This percentage was provided by ENPIGE during the site visit. But it is not based on any document or study report made available to the evaluation team.

[49] The Big Four, which are the subsidiaries of international firms, benefit from vertical regulation driven by their parent company, which takes fairly satisfactory account of AML/CFT aspects in the procedures for entering into business relationships. However, their involvement in the operation of the country's AML/CFT system remains limited (no STRs). This is the role that the order or college must play in filtering access to the profession, strengthening the sector's participation in national cooperation, disseminating good practice and punishing offences.

416. **Lawyers**: The country has only one bar association, set up in 1934 during the colonial era. At end-2023, the Bar had around 900 natural person members, practising individually, in the judiciary[50] or in chambers (the number of chambers has not been provided by the country). The Bar has a code of ethics and professional conduct, rules and regulations and a remuneration scheme, and operates exclusively on the basis of contributions from its members. Access to the profession of lawyer is on a two-stage file review basis. After obtaining the required university degree, aspiring lawyers complete a one-year (1) pupillage in a law firm. After this probationary period, applications to join the bar are made on the basis of a file review and not by competitive examination. However, applications for admission to the bar do not include any documents designed to ensure that candidates are of good character. Similarly, no cases of sanctions or rejection of applications for ethical reasons were mentioned. This was justified on the grounds that the profession was understaffed and unattractive to young people. In view of the AML/CFT risk transactions[51] in which lawyers are involved and their weight in the country's judicial system, the failure to take AML/CFT requirements into account in the process of admission to the profession and the regulation of the sector by the Bar is a strategic failure. On the one hand, some crooked judges and lawyers could themselves, or allow their accomplices, to infest the country's judicial system and perpetuate, rather than fight, corruption, trafficking of various kinds and misappropriation of public funds. On the other hand, criminals could, in complicity with them, develop business in the country.

417. **Notaries**: Equatorial Guinea does not have a chamber of notaries. The country is made up of two notarial regions (administrative divisions), one for the mainland and one for the islands. These two (2) notaries are public officials with offices housed within the Ministry of Justice. Their activity is essentially limited to the authentication of deeds, particularly in the incorporation of companies. They do not provide private services that would expose them to the application of some preventive measures.

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

418. At the outset, it should be noted that the failure to disseminate the conclusions of the NRA report and the non-participation of COBAC, the regulator of major sectors like banking and manual foreign exchange, as well as the failure to assess some innovative financial activities like VASPs and VASs, limit the authorities' understanding of risks.

Financial sector

419. **COBAC**: The scope of COBAC's supervision has gradually been extended in Equatorial Guinea as in the other CEMAC countries. In addition to credit institutions and MFIs, since 2018 and 2019 COBAC has also supervised foreign exchange bureaus and payment institutions. With regard to VASPs and VASs, by Decision COBAC D-2022/071 of 6 May 2022, COBAC set out its position, prohibiting institutions under its supervision from subscribing to or holding crypto-currencies or virtual currencies on their own behalf or on behalf of third parties. This decision is still in force for institutions supervised by COBAC, even though COSUMAF's adoption of general regulations and regulation on the organization and functioning of the CEMAC financial

[50] The magistrates practising in the country are basically lawyers and are appointed by decree of the President of the Republic.
[51] Company incorporations, real estate and commercial transactions, etc.

market have begun to provide a framework for this activity by defining an authorization system for DASPs.

420. As part of its AML/CFT supervision, and in order to ensure a continuous understanding of the AML/CFT risks to which the sectors under its supervision are exposed, COBAC has introduced a permanent control and self-assessment tool, a questionnaire referred to as ASTROLAB[52] administered to reporting entities, especially banks and MFIs. The information provided or declared is transmitted via the CERBER[29] and SESAME[30] reporting channels to COBAC, which analyses it to assess the suitability and implementation of the AML/CFT system by these reporting entities.

421. In addition, it should be noted that COBAC has a rating system known as "SYSCO III", which although prudentially oriented, includes an "AML/CFT" block that contributes to the overall rating of the institution by the Permanent Control Department (DCP). This rating will depend on the risk profile, ASTROLAB results, on-site inspections and internal control reports relating to the implementation of AML/CFT procedures. These tools would enable COBAC to have some understanding of the risks and to plan mitigation measures.

422. To strengthen its ongoing understanding of risks, COBAC has initiated several reforms, including: (i) the SPECTRA system, which was in the trial phase at the time of the on-site visit, and which aims to automate the processing of e.CEBER and e.CESAME reporting data while generating useful ratings and alerts for decision-making; and (ii) the adoption of a new baseline regulation which will come into force on 1 July 2024 and which will repeal the 2005 regulation relating to the due diligence of reporting institutions to impose, in the light of international standards, additional supervisory due diligence in terms of activities and persons. Operationalization of this mechanism will require an update of the specific AML/CFT rating tools (review of the ASTROLAB questionnaire and configuration in the institutions' information systems), and COBAC plans to support reporting entities in this respect, which have until 1 July 2024 to comply. In the meantime, with the support of some development partners, it plans to prepare a thematic AML/CFT control manual and provide training in financial investigation techniques to enhance the effectiveness of controls.

423. However, as it did not participate in Equatorial Guinea's NRA, COBAC did not, during the on-site visit, demonstrate that it had carried out, on its own initiative, any specific AML/CFT risk assessment activity or action, with a view to drawing up a map of the risks inherent in its supervisory sector in the country, which could be updated on a regular basis.

424. Moreover, the e.CERBER and e.SESAME systems have been malfunctioning for several months and reporting entities have not received any feedback from COBAC on the analysis of ASTROLAB questionnaires. CERBER et e. -- This is due to the SPECTRA reform, which is taking time to become operational. As a result of exchanges with banks, the various audit reports (on all topics) and the follow-up and assessment of recommendations are not

[52] Questionnaire administered by COBAC since 2006 as part of the programme to assist in the monitoring and processing of regulations and the organization of anti-money laundering, abbreviated to "ASTROLAB". System for the Collection, Processing and Restitution to Banks of Regulated States. It is a paperless "e.cerber" system, with interfaces between COBAC and reporting entities. Microfinance activities evaluation and supervision system.

always forwarded to reporting entities as quickly as possible, which is detrimental to the ongoing understanding of risks. This situation could be ascribable to the lack of sufficient staff, i.e. an average of 68 employees between 2019 and 2023, to supervise all its reporting entities in the six (6) CEMAC countries.[53] In addition, AML/CFT training and capacity-building activities for controllers remain limited overall (3 out of 68 staff over the last two years) and the topics addressed are spontaneous and do not yet form part of a programme prompted by a prior understanding of the risks and adopted by the members of the Commission.

425. Furthermore, the extension of COBAC's supervisory remit to high-risk ML and TF sectors like manual foreign exchange, has not been accompanied by an increase in staff and resources for more effective and closer supervision and support. This could explain the tolerance shown towards most non-compliant foreign exchange bureaus, which continue to operate outside the regulations and without the fear of the regulator, which seems to be absent.

426. Furthermore, with more than half of the banks in difficulty, in recent years COBAC has concentrated its efforts in Equatorial Guinea on managing prudential risk to the detriment of compliance risk, by monitoring the restructuring of two systemically important banks. All these factors limit COBAC's ability to identify and understand ML/TF risks in the country, particularly in the banking sector, which remains by far the largest in the financial system.

427. CIMA: It has drawn up a risk map, which is currently being reviewed with the support of a consultant, to include AML/CFT aspects. In early 2023, two (2) supervisors from Equatorial Guinea's DGBAR took part in a seminar organized in Libreville by CIMA, on specific AML/CFT issues relating to the insurance sector. This forum enabled DNAs from the various member countries, the prudential supervisory authorities and a number of developers of IT solutions adapted to the sector to share their experience. Similarly, training at insurance schools is gradually incorporating specific modules on AML/CFT. However, CIMA did not present the evaluators with a documentary and on-site analysis report setting out the main ML/TF risks observed or identified. Furthermore, the annual AML/CFT reports submitted by insurance companies are not analysed in depth, and the controls only briefly address these aspects. The inclusion of summary AML/CFT aspects in controls is systematic and does not therefore depend on a prior risk assessment or identification. In view of the foregoing, CIMA's understanding of the country's ML/TF risks seems limited.

428. Ministry of Finance and Budget: In addition to participating in the NRA, the Ministry of Finance has made local transfer companies subject to an obligation to communicate data on customers and transactions. The participation of the staff of the General Directorate of Banking, Insurance and Reinsurance in some training courses or seminars organized sporadically by COBAC and CIMA to popularize some instruments, provides them with bits of expertise that can help them carry out risk understanding activities. However, apart from participating in the NRA, the Ministry of Finance and the Budget has not developed any tools or taken any action to understand the ML/TF risks to which Equatorial Guinea’s financial sector is exposed. The data and reports provided by local transfer companies are not used efficiently from an AML/CFT perspective. There is no automated interface between these companies and the

[5353] At end-2022: 53 banks, 445 MFIs, not excluding foreign exchange bureaus and payment institutions.

Ministry to guarantee permanent and continuous monitoring of these transactions, which play an important role in the country's financial system. With regard to MFIs and foreign exchange bureaus, the few administrative controls that could contribute to understanding of the risks are essentially limited to checks on authorizations. In the case of insurance intermediaries, the annual AML/CFT reports submitted are not of high quality, since most of the companies concerned have a limited understanding of their AML/CFT obligations. On the other hand, the reports received are poorly used by the controllers, who need the relevant capacity building. All in all, the Ministry of Finance and the Budget does not have sufficient resources and appropriate tools to identify and ensure a good and ongoing understanding of ML and TF risks in major and highly risky sectors such as remittance and manual foreign exchange.

429. COSUMAF: With only one licensed stockbroker, the activities supervised by COSUMAF remain weak in the country. However, since 2022 and 2023, COSUMAF has had a new organizational framework that factors AML/CFT issues. This framework is currently being made operational and will enable COSUMAF to better identify and understand the AML/CFT risks to which the sector is exposed. COSUMAF plans to increase the number and capacity of its AML/CFT controllers. In addition, this new body of law has begun to provide a framework for VAS and VASP activities through the institutionalization of DASPs. in this light, efforts should be made to harmonize it with the COBAC directives, which prohibit its reporting entities from carrying out or accepting related transactions.

DNFBP sector

430. No mechanism for ongoing understanding of AML/CFT risks was identified in the DNFBP sector due to the absence of dedicated national supervisory authority(ies). The Bar Association has not made AML/CFT a priority, and the Order of Chartered Accountants is being formalized.

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

Supervision of financial institutions

431. At the level of the COBAC, SBR was instituted by Service Note No. 02/SG/DREGRI/2019 of 28 January 2019 to optimize the effectiveness of on-site and documentary audits.

432. At the level organization, the documentary audit system has been modified to reflect this change of approach. Memo No. 17/SG/2020 to organize the permanent supervision department of credit and payment institutions, now provides for a specialized control service to cover the risk of money laundering and terrorist financing across the board. As an integral part of the SBR system, the use of monitoring and warning indicators, although essentially quantitative, was specified in COBAC memorandum No. 18/SG/SBR/2021 of 15 July 2021. Thus, the supervisory actions arising from the risk-based approach policy can take three forms when they occur: a one-off or short-term non-major problem that would call for a vigilant but 'normal' reaction from COBAC; a recurring non-major problem that would call for a firm and targeted reaction; and a major problem that would call for a firm and comprehensive reaction.

433. In addition, it should be recalled that COBAC has a rating system known as "SYSCO III", which although prudentially oriented, provides for an "AML/CFT" block that contributes

to the overall rating of the institution. Credit institutions are rated annually and microfinance institutions and institutions with a low or moderate risk profile are rated twice a year. By way of exception, the rating is updated quarterly or half-yearly, depending on the risk profile and the findings of on-site or ongoing controls. In addition, this system takes into account the cross-border dimension of the banking groups that make up more than 60% of Equatorial Guinea's banking sector.

434. On an operational level, the audit programme is drawn up by the COBAC Secretariat General and then submitted to the COBAC Board of Commissioners (decision-making body). The list of establishments to be audited during a financial year is drawn up on the basis of various criteria and information derived from the ongoing monitoring of reporting establishments. The selection criteria used included the rating assigned by the SYSCO III tool, information and assessments from CERBER and SESAME reporting, correspondence exchanged and interviews with reporting entities, annual reports on internal control, and the length of time since the previous audit. In general, priority is given to entities whose vulnerability has been proven, to those presenting risks likely to deteriorate their financial situation in the short or medium term, or to those for which specific instructions have been given by the Banking Commission. AML/CFT is an integral part of the various risks and vulnerabilities mentioned above.

435. However, for a number of reasons, COBAC still has a lot of work to do in implementing the risk-based approach in Equatorial Guinea.

436. First, the effective operation of the system described above is seriously undermined by the malfunctions in the system for reporting outstanding transfers, referred to in point 22, which considerably limit the ongoing understanding of ML/TF risks in major sectors such as banking. Also, there was no proof that the tools being developed provide for the identification and management of the risks associated with the new activities under the supervision of COBAC, i.e. manual foreign exchange and payment services.

437. Secondly, COBAC has not yet mapped ML/TF risks by sector of activity and by entity at national level, which could be updated on an ongoing basis in the light of cyclical events and the findings of various on-site or ongoing entity controls. It thus turned out that the failure to carry out thematic missions exclusively dedicated to AML/CFT at country level and the low level of compliance in COBAC's missions are not the result of an approach based on a prior analysis of AML/CFT risks, but rather of cyclical issues linked to the reconstitution of the country's foreign exchange reserves and the management of prudential risks. At national level, COBAC has focused on prudential risk management in the banking sector by monitoring the restructuring process of systemic banks undergoing restructuring. Marginalization of compliance risk in major sectors (banking and manual foreign exchange) and the absence of control in some sectors in a growth phase (payment services and MFIs) could also be explained by the limited resources of COBAC, marked by the departure of some staff and the challenges and delays in the recruitment process organized by BEAC.

438. Lastly, in terms of intensity, Equatorial Guinea had 5 banks (or 9.3%) out of the 54 operating in the six CEMAC countries at 31 December 2023. At the same date, the country had 2 MFIs and 1 compliant foreign exchange bureau. No financial or payment institution has yet

been approved. Analysis of the table below shows that between 2019 and 2023, only 3 out of 8 missions carried out in the country took AML/CFT aspects into account. No reports from the three missions were made available to assess the audit items. Whatever the case, the intensity of controls remains low.

***Table 6.1*: Summary of the number of missions carried out by type of mission and category of establishment**

YEARS	2018	2019	2020	2021	2022	2023	**TOTAL**
Number of missions in EG involving at least one ML/TF issue --	**0**	**0**	**2**	**0**	**1**	**0**	**3**
Credit institution (CI)	0	0	2	0	1	0	**3**
Microfinance Institution (MFI)	0	0	0	0	0	0	**0**
Foreign exchange bureau	-	-	-	-	-	**0**	**0**
Total number of missions conducted in EG (all topics)	**0**	**1**	**2**	**0**	**2**	**3**	**8**
AML/CFT missions as a proportion of the total number of missions (all topics) carried out in EG Credit institution (CI)--	**0%**	**0%**	**100%**	**0%**	**50%**	**0%**	**38%**

Source: *COBAC / Our analyses*

439. At the Ministry of Finance and the Budget, the risk-based approach in general and AML/CFT in particular is not effective, even though the Ministry also has a right of oversight in major sectors at risk of Ml or TF, such as local transfer companies and manual foreign exchange activities. The intensity of controls remains very low and ineffective due to a lack of expertise, appropriate automated tools and a lack of awareness among DGBAR officials of the issues involved.

440. Regarding CIMA, Insurance Controllers are allocated by country. CRCA has 16 controllers for around 190 companies and 7 reinsurers established in 14 Member States. Each company receives an average of 1 inspection every 4 years, and Equatorial Guinea has 4 insurance companies. In practice, audits are scheduled (by theme, country and entity) on the basis of the findings of previous audit reports and an analysis of the reports, including the AML/CFT report submitted annually by the companies. The General Secretariat defends these programmes before the Commission. However, in the absence of risk mapping that factors AML/CFT aspects, and due to manual processing and the need to build the capacity of controllers, it is becoming clear that programming is not entirely based on a risk-based approach within the meaning of FATF. This explains the absence of thematic AML/CFT controls and their systematic inclusion in CIMA control missions. On the ground, and although the life insurance branch is still in its infancy, AML/CFT aspects are still superficially taken into account and the intensity of CIMA's controls is on the whole extremely low and does not reveal a risk-based approach, but certainly a lack of resources marked by the departure of some staff and the slow recruitment process.

441. **COSUMAF** is in the process of implementing the AML/CFT risk-based approach as part of its supervision, although financial market activity in Equatorial Guinea is small (one stock exchange company).

DNFBP Control

442. DNFBPs as a whole do not have a designated authority to supervise their AML/CFT obligations, which makes it impossible to ensure risk-based supervision in this area. As far as the SRBs are concerned, the Bar gives no priority to AML/CFT despite the important role played by its members in the country's judicial system, where magistrates are originally lawyers. The College of Chartered Accountants is not yet fully operational. The administrative authorities of the gaming and casino sectors do not include AML/CFT aspects in their monitoring, despite their moderate economic weight.

6.2.4. Remedial actions and effective, proportionate and dissuasive sanctions applied

443. **COBAC** gives preference to the use of injunctions for pedagogic purposes. Over the period 2018 to 2023, there were no AML/CFT-related sanctions in Equatorial Guinea. The 5 injunctions issued following the eight (8) supervisory missions carried out by COBAC focus more on prudential risks. In conclusion, the 3 controls with a low level of compliance did not result in any penalties. The low presence of the regulator and the virtual absence of sanctions would justify most reporting entities in major sectors like manual foreign exchange and transfers, operating outside Community regulations, even though they apply immediately in the country.

444. **Regarding the other sub-regional supervisory authorities (CIMA, COSUMAF),** the evaluation mission was not aware of any sanctions imposed by these supervisors in respect of ML/TF.

445. **The Ministry of Finance and the Budget** has launched a crackdown on illegal currency exchange, which has reportedly resulted in fines being paid into the Treasury. Local transfer companies have also reportedly been closed down for failing to meet their obligations. These actions were reported in the media to reinforce their dissuasive and pedagogic aspect. However, the country did not provide the mission team with any evidence of these sanctions that would enable them assess their severity and proportionality. No other AML/CFT-related sanctions were identified in the course of the control activities carried out. This is indicative of a form of administrative tolerance towards entities in major sectors such as foreign exchange and remittance, which continue to operate outside the relevant Community regulations.

446. **For all the DNFBPs**, the mission noted the total absence of sanctions for non-compliance with their AML/CFT obligations. In reality, this situation reflects the absence of designated competent authorities for the various categories of DNFBPs. SRBs in major sectors like the profession of lawyers have disciplinary powers over their members, the effectiveness of which has not been demonstrated in order to assess the effectiveness and proportionality of sanctions.

6.2.5. Impact of supervisory actions on compliance

447. It should be pointed out that, generally, the impact of the supervisory authorities' actions on the level of compliance of financial institutions and DNFBPs in Equatorial Guinea cannot be measured in the absence of precise information and data from an impact assessment.

448. Generally speaking, the low level of AML/CFT measures taken by the supervisory authorities against financial institutions limits their compliance level, despite the vigilance requirements that the banking sector in particular is faced with or subject to in the context of correspondent relationships, and the fact that some subsidiaries implement the policies and procedures laid down by the parent companies.

449. The studies carried out under the coordination of GABAC on manual foreign exchange activities, transfers and new means of payment have served as inputs for the drafting of several Community instruments, the gradual implementation of which in Equatorial Guinea is having a definite impact on the level of compliance of institutions operating in Equatorial Guinea and other CEMAC countries. This is the case with the new foreign exchange regulations introduced in 2018, which have given greater visibility to the processes of sourcing foreign currency from BEAC, repatriating export earnings and carrying out external financing transactions. The 2018 Regulation reorganized the payment services sector by institutionalizing the new players in the financial sector, namely payment institutions. This makes it possible to separate the telecommunications business from the mobile payments business, which is now subject to a clearly defined approval and supervision system. Lastly, the limited controls exercised by the financial sector supervisory authorities may also justify this improvement.

450. As far as the DNFBPs are concerned, the good understanding of risks in the accountancy sector, particularly the BIG FOUR, can also be explained by the extreme compliance policy applied by their parent companies, which are internationally renowned firms.

451. For the other DNFBPs in general, the weakness and failure to take account of AML/CFT aspects in controls in the case of some, and the absence of supervision in the case of others, are not such as to create conditions that could have any impact whatsoever on the level of AML/CFT compliance of these various reporting entities.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks by financial institutions and DNFBPs

452. **In the financial sector**, supervisory authorities use a variety of means to help player understand their AML/CFT obligations to some extent. In addition to the websites where you can find the regulatory instruments or the documents needed to apply for a licence or to set up a company, awareness-raising activities are organized. COBAC organizes annual consultation meetings with the banking profession to present the findings of the ASTROLAB self-assessment and with the colleges of supervisors of the major financial groups with subsidiaries in Equatorial Guinea. ANIF and GABAC involve the main AML/CFT stakeholders to some extent by associating them with a number of seminars and workshops organized on the subject.

453. **However, these actions remain irregular and limited, given that** the last consultation with the banking profession dates back to 2020. The SPECTRA reform is taking time and is having an impact on the ongoing understanding of risks, ANIF does not have sufficient

resources to step up awareness-raising and training, and the NRA report had not yet been disseminated at the time of the evaluation team's visit, i.e. more than seven 7 months after its adoption.

454. Furthermore, no guidelines have been issued by the Supervisory Authorities for the various categories of reporting entities (including VASs or VASPs), to promote and ensure a good understanding of their AML/CFT obligations and the ML/TF risks to which the activities they carry out are exposed. The professional associations that could act as relays to promote best practice are in the process of being set up. Training activities in this area are also infrequent and need to be stepped up, as does support from specialist bodies such as GABAC.

455. **In the DNFBP sector**, and in the absence of a regulatory authority, activities to promote best practice cannot be carried out effectively, and ongoing capacity-building bodies such as the judiciary do not make AML/CFT a priority. The other SRBs in major sectors such as lawyers and the various administrative supervisory bodies have not taken any initiatives to promote a proper understanding of the AML/CFT obligations by their members or reporting entities.

Conclusions on IO3

456. There are major shortcomings in the supervision of major sectors in Equatorial Guinea.

457. At the level of financial institutions, COBAC has focused in recent years on prudential risk management in the banking sector, which is by far the largest in the financial system. This explains the very low compliance footprint of its actions in this sector and its virtual absence in other equally important financial sectors with high ML/FT risks, such as manual foreign exchange activities and remittance services. The absence of COBAC is not justified by an AML/CFT risk-based approach. Neither is it offset by the other authorities with oversight in these important sectors, notably the national monetary authority, due to a lack of resources. All these factors explain the low intensity of AML/CFT controls and the absence of sanctions in the financial sector in general.

458. DNFBPs are not subject to an AML/CFT regulatory authority. SRBs in major sectors such as lawyers do not make AML/CFT a priority, even though they play a significant role in the country's judicial system, and hence in the entire business sector.

459. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 3.***

7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key findings and recommendations

Key findings

a) Information on the creation and types of legal entities is set out in the OHADA Uniform Act on General Commercial Law and accessible to the public. Information on legal entities is contained in the *Registro de Propriedad y Mercantil* (Proprietorship and Mercantile Register) and the One-stop shop for businesses (VUE). The information provided at the time of creation and changes to companies are managed manually by de RCCM;

b) The authorities responsible for creating legal entities in Equatorial Guinea, for keeping the RCCM and notaries have little understanding of the risk incurred by legal entities and arrangements;

c) The national ML/TF risk assessment carried out by the country under the guidance of the World Bank did not cover legal entities established in the country, let alone legal arrangements. As a result, no measures have been taken to mitigate the AML/CFT risks specific to each type and category of legal entity in the country;

d) The public does not necessarily have access to basic information about legal entities, even though the instruments in force prescribe this obligation. Information on legal entities other than companies is public and accessible on request. However, basic information is available to the authorities in a timely manner;

e) There is no reliable and updated information in the country on the Beneficial Owners of legal entities, and this concept is not understood by all players outside the FIs;

f) Investigative and prosecuting authorities have access to available basic information and on Beneficial Owners of legal entities at the request of the FIs;

g) The country did not provide any information on the sanctions for non-compliance by legal persons and arrangements with their information and transparency obligations.

Recommendations

The authorities of Equatorial Guinea should:

(a) Provide more training for those responsible for combating ML/TF relating to legal entities;

(b) Facilitate and raise awareness among those involved in setting up legal entities in the country of the risks of using them for ML/TF purposes and of the need to request more information on BOs when setting up and monitoring legal entities;

(c) Create a file of beneficial owners within the One-stop shop for businesses or the tax department.

(d) Take the necessary regulatory measures to enable all reporting entities to identify the beneficial owners of legal persons within the meaning of FATF;

(e) Conduct a specific study of the risks of misuse of legal persons and arrangements for ML/TF purposes with a view to proposing measures to mitigate such risks and disseminate the findings to all the competent authorities and private sector players concerned in order to refine their understanding of the risks;

(f) Establish a mechanism for identifying, collecting and keeping information on the identity of the beneficial owners of legal persons when they are created and when their articles of association are amended; ensure that such information is regularly updated and penalise any failure to comply with this obligation, as appropriate.

460. The Immediate Outcome relevant to this chapter is IO.5. Relevant Recommendations for the assessment of effectiveness under this section are R.24, R.25 and some elements of R.1, R.10, R.37 and R.40.

7.2. Effectiveness: Immediate Outcome 5 (Legal persons and arrangements)

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

461. In Equatorial Guinea, following the example of other OHADA member countries, the creation of various commercial legal entities and any successive amendments to their articles of association and legal forms are governed by the OHADA Uniform Act on Commercial Companies and Economic Interest Groups of 30 January 2014.

462. In addition to commercial companies and EIGs, there are other types of legal entity in Equatorial Guinea. These include associations, NGOs and foundations. These, including foreign ones, are governed by Law No. 11/1992 of 1 October 1992 on freedom of association and Law No. 1/1999 of 24 February 1999 on non-governmental organizations (NGOs).

463. In the case of legal entities governed by the OHADA Uniform Act on General Commercial Law, there is an obligation to make information relating to the creation of legal entities accessible.

464. In the First Round Mutual Evaluation, it was noted that there was no entity in charge of creating and centralizing the company database. The country has corrected this shortcoming by creating the *Venyanilla Unica Empresarial* (VUE), which is a one-stop shop for businesses. The fundamental mission of this one-stop shop for businesses is to promote the creation of companies within a short timeframe.

465. Information on companies incorporated in the country can be found in legal announcement newspaper, at the *Registro de Propriedad y Mercantil* (RCCM), on the *Venyanilla Unica Empresarial* (VUE) (One-stop shop for businesses) website "_____.com", and at the One-Stop Shop. VUE is structured into the following five management units:

- **Technical Unit**: receives and verifies applications, registers, assists, informs and advises applicants, manages payment of the one-off tax for company incorporations or changes, and registers self-employed professionals;
- **Notary Unit**: responsible for authenticating corporate deeds;

- **Trade Register Unit**: responsible for registration in the Trade Register and issuing the forms corresponding to these services *(REGISTRO DE PROPRIEDAD Y MERCANTIL)*;
- **Tax Identification Unit**: responsible for allocating the tax identification number (TIN);
- **General Treasury Unit**: responsible for confirmations and payments to the Treasury.

466. Equatorial Guinea's One-stop shop for businesses (VUE), established by Decree No. 67/2017 of 12 September 2017, is responsible for reducing the procedures for creating, modifying and registering companies in the Republic of Equatorial Guinea. Article 6 of the aforementioned decree stipulates that *"The One-stop shop for businesses shall perform the functions of a single business register for newly incorporated and pre-existing businesses, so that businesses that are not established or modified at the One-stop shop for businesses must register with the One-stop shop for businesses."*

467. This entity is present in Malabo and Bata, offering a single point of entry for all business creation, modification and registration procedures.

468. Basic information on the creation and types of legal entities under company law is not accessible to the public. At the One-Stop Shop for businesses, it is not possible for outsiders to access company information. However, the information contained in the VUE database may be accessible to the authorities at the request of an administrative or judicial authority.

Table 7.1: BUSINESS REGISTER [ONE-STOP SHOP FOR BUSINESSES] 2019 - 2023

Year	Creation		Registration	Final cessation		Temporary cessation		Total registration
	Companies	Individuals	Companies	Companies	Individuals	Companies	Individuals	
2019	540	78	350					968
2020	466	193	421					1080
2021	491	170	469					1130
2022	522	816	411	1	2			1749
2023	272	429	313	1	1	1		1014

Source: VUE

469. These figures were provided by the One-Stop Shop for Businesses. This table provides information on trends in the creation of legal entities under OHADA law since the entry into operation of VUE in 2019. This applies to both multi-person and single-person legal entities.

470. Legal entities other than OHADA companies, i.e. associations, NGOs and foundations, are governed by the aforementioned Laws No. 11/1992 of 1 October 1992 and No. 1/1999 of 24 February 1999, and are under the supervision and control of the Ministry of the Interior and Local Corporations. Within the Ministry of the Interior and Local Corporations, the General Directorate for Civil Society is responsible for receiving files for authorization to open these non-profit organizations, which must include an application, the organization's articles of association, the minutes of the constituent General Meeting, the internal regulations and regulations and the detailed action plan of the association or foundation.

471. The General Directorate of Civil Society is responsible for the control and supervision of these entities to ensure compliance with the instruments in force.

472. All information relating to these legal entities is held manually in a register of associations that can be consulted on site at the General Directorate for Civil Society and is available on request to the applicant. According to the authorities we met, this register is public, but it is not computerized. The fact that it is not computerized means that there are no formalities to be completed for this information to be accessible. The lack of a website makes it difficult to access information. Consequently, information on legal entities other than companies is not fully accessible to the public.

473. Regulation No. 01/CEMAC/UMAC/CM of 16 April 2016 on the Prevention and Suppression of Money Laundering and the Financing of Terrorism and Proliferation in Central Africa contains provisions relating to Express Trusts in the territory of the Community and therefore in the Equatorial Guinea. However, the authorities of Equatorial Guinea have no knowledge of the creation of Trust-type legal arrangements in the country. Procedures for their creation are not that well established in the country, even though it is not excluded that a person living in the territory or abroad may manage the ownership of present or future assets, rights or securities on behalf of a third party. No data was provided on their existence in the country.

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

474. Between 15 June and 1 July 2021, following the World Bank's methodology, the country carried out its National Risk Assessment (NRA), in accordance with Articles 13 and 22 of the aforementioned Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016, to identify, assess, understand and mitigate the money laundering and terrorist financing risks to which it is exposed and keeping up-to-date information on the vulnerabilities of its AML/CFT/FP system. This assessment did not reveal any mapping of the money laundering and terrorist financing risks associated with the various categories of legal entity incorporated in the country.

475. As part of the understanding of the risks and vulnerabilities associated with the ML/TF of legal entities, the country's ENR does not contain any data relating to the identification of BC/FT risks associated with legal entities and constructions in the country.

476. The country also carried out a business census between September 2019 and July 2023. The operation was carried out by the National Institute of Statistics of Equatorial Guinea (INEGE), covering the national territory, and revealed a total of 4,038 formally registered businesses, 58.6% of which had their head office in the Island Region and the rest in the Mainland Region. Companies in the primary, secondary and tertiary sectors account for 2.0%, 17.8% and 80.2% respectively. [54]

477. A map of the owners of company capital was drawn up for companies set up by nationals, CEMAC nationals and those from outside CEMAC. These figures show that the economic fabric is slightly in the hands of non-nationals, leading to a number of consequences, like the source of the capital used to set up these companies.

[54] https://inege.org/?p=5331

Table 7.2: Classification of company managers by nationality[55]

Nationality	Entrepreneurs	%
Equatorial Guineans	1.415	44.1
CEMAC	373	11.6
Other nationalities	1.418	44.2
Total	3.206	100.0

Source: INEGE *The first business census in the Republic of Equatorial Guinea*

478. With regard to identifying, assessing and understanding risks, VUE has not carried out any operations in this area, nor does it appear to understand the ML/TF risks. No STR involving legal entities has been transmitted to the FIU, nor has any information been requested from the FIU or any other body relating to the incorporation of companies.

479. Investigative and prosecuting authorities appear not to carry out any investigations and prosecutions directed against legal entities created in the country and that may be used for ML or TF purposes due to a poor understanding of ML/FT risks and a lack of ownership of the requirements of the CEMAC Regulation. Some of the investigations and prosecutions carried out relate mainly to the predicate ML/TF offences.

480. Lastly, in view of the information received during the interviews and the fact that the NRA did not dwell on the ML/TF risks associated with legal entities in the country, the evaluators cannot comment on the authorities' ability to become aware of the potential vulnerabilities associated with the misuse of commercial legal entities and arrangements for ML or TF purposes. The country was not able to demonstrate that legal entities created in the country cannot be misused for ML/TF purposes.

481. In addition, the evaluation team noted that those involved in associations and foundations, especially private ones, do not have a good understanding of the ML/TF risks associated with this sector.

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

482. Legal entities in Equatorial Guinea are subject to the general transparency obligations inherent in the OHADA company law. Application of these measures constitutes basic protection against their use for criminal purposes. In particular, commercial companies must be registered with the *REGISTRO DE PROPRIEDAD Y MERCANTIL* in order to acquire legal personality. Pursuant to the provisions of OHADA instruments, basic information (name and corporate name, members of the management or administrative bodies) on companies is accessible to the public.

483. The One-stop shop for businesses (VUE) centralizes information on the creation of legal entities, in particular by collecting data relating to the company name, trade name,

[55] https://inege.org/wp-content/uploads/2024/04/Informe-final-de-ICE2020_FRANCES.pdf

acronym or sign, the amount of share capital with an indication of the amount of cash contributions and the evaluation of contributions in kind, the address of the registered office and, where applicable, that of the main establishment and each of the other establishments, the duration of the company or legal entity as set out in its Articles of Association, proof of incorporation, legal form, the full names and personal addresses of the partners who are indefinitely and personally liable for the company's debts, the list of corporate officers and members of the Board of Directors, the duration of the company, the full names, date and place of birth and address of the Statutory Auditors.

484. Where the company formation file is incomplete and/or the information is illegible, the One-Stop Shop rejects the company's application. The penalty is the same where one of the essential conditions required by the OHADA provisions relating to companies is not met.

485. In fact, the aforementioned Decree No. 67/2017 of 12 September 2017 relating to VUE implements a number of measures to identify the owners of legal entities. These include requests for a list of the names of members/shareholders and the extent of their shareholding, [56] the form of business activity and the distribution of dividends, the requirement to update information on legal entities at any time, the automatic cancellation and replacement of inaccurate or incomplete data and the prohibition of the collection of data by fraudulent, unfair or unlawful means [57].

486. It should be noted that the information required by OHADA instruments is relatively extensive but does not provide specific information on beneficial owners. There is no legal requirement to distinguish between nominees and actual shareholders. All the measures inherent in the OHADA law relating to the incorporation of companies are not specific to dealing with the misuse of these companies for ML/TF purposes.

487. Public limited companies may issue bearer shares and convert them into registered shares in the event of a public offering on the financial market, in accordance with Article 746 of the AUSCGIE. However, the possibility of these shares being registered under nominees is not excluded, just as it is not excluded that a director be appointed by proxy to act on behalf of another person. There is no provision requiring shareholders or directors acting on behalf of another person to disclose to the company the identity of the person appointing them in order to avoid the risk of misuse of legal entities for ML/TF purposes.

488. Customer due diligence is prescribed by Articles 21, 22, 23 and 24 of the CEMAC Regulation, and record keeping is provided for by Article 38 of the said Regulation, particularly in the case of DNFBPs. Yet, due to a lack of awareness of these provisions and the risks of ML/TF, they were unable to prove that these duties had been performed. The DNFBP professionals we met (lawyers) indicated that legal arrangements (express trusts in particular) are not part of their customers. As a result, none of the specific measures provided for in the CEMAC Regulation to prevent the misuse of legal persons and arrangements for ML/TF purposes in this type of profession have been implemented.

[56] Article 12 of Decree No. 67/2017 of 12 September 2017 to set the One-stop shop for businesses.
[57] Article 26 of Decree No. 67/2017 of 12 September 2017 to set the One-stop shop for businesses.

489. For financial institutions, it should be noted that the banks interviewed in the country have compliance services responsible for implementing AML/CFT prudential measures. This is not the case for microfinance.

490. As soon as they enter into a business relationship, FIs check the documentation required during the account opening procedure for new customers, i.e. identification of politically exposed persons/negative criminal records/US citizens/not-for-profit organizations.

491. Ultimately, although the CEMAC Regulation, the only AML/CFT standard in the country, sets out due diligence measures to prevent the use of legal persons and arrangements, the country has not demonstrated the robustness of its AML/CFT system. In the absence of a study on the vulnerabilities of the various legal entities and data on financial crime affecting these players in the business world, it is difficult to ensure that the CEMAC Regulation is implemented efficiently and appropriately.

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

492. Information on legal entities is kept at the One-stop shop for businesses and in the *Registro de Propriedad Y Mercantil* (RCCM). The OHADA Uniform Act on General Commercial Law provides for public access to this information. The One-stop shop for businesses provides all the services needed to set up a company.

493. On the other hand, this one-stop shop does not spontaneously exchange information with other services in order to achieve synergy of effort. The database of companies created in the country is non-public. The information in this database is accessible to government bodies when they request it for specific purposes. For other legal entities such as associations, private foundations and NGOs, information relating to their directors, members and budgets is centralized at the Ministry of the Interior and Local Corporations.

494. The Ministry of the Interior and Local Corporations is responsible for issuing authorizations for the creation and operation of these companies. All the information collected upon establishment of these legal entities is contained in a public register. Information is available at the Ministry of the Interior and Local Corporations, or at the General Directorate for Civil Society, on request.

495. Regarding the centralization of basic information on associations and non-profit organizations that may be set up at national level, it should be noted that apart from Bata and Malabo, the rest of the country has been left out in the cold.

496. The country's authorities revealed that the basic information contained in the two registers can be used by government services on request. There is information on exchanges between the various services and information is shared among them. However, we did not receive exchanges of information on all the types of legal entity created in the country. The information exchanged is general.

497. Regarding access to the database of bank accounts held by FIs for research purposes, FIs provide investigative and especially prosecuting authorities, including examining magistrates, with information on the accounts of their corporate customers.

498. Basic information on legal entities operating in Equatorial Guinea is spread between the One-Stop Shop, the General Directorate of Taxation and the General Directorate for Civil Society. None of these entities carry out in-depth checks to ensure that the information provided when companies are incorporated is accurate and up-to-date. The evaluation team did not obtain statistics on the number of files rejected for incorrect information, nor on inter-service requests for checks, let alone on the use of other services to detect fraudulent cases.

499. The manual management of information on legal entities makes it difficult, if not impossible, to implement the obligation to share information with the competent authorities or with the public in the case of information intended for the public. This does not guarantee the completeness, accuracy or reliability of the information collected.

500. No sanctions have been recorded for any failure to comply with the obligation to update these registers. It is therefore unlikely that the information held in the registers (VUE database and NPO register) is accurate and up-to-date.

501. In practice, the information gathered is digitized by the One-Stop Shop and stored in a database accessible, at the request of the interested party, to the General Directorate of Taxation, but not to the public, as required by FATF Recommendation 24.

502. Information on shareholders is available in the services, but the concept of Beneficial Owner is not understood and therefore the collection of information does not necessarily target the Beneficial Owners of legal entities. Only FIs have this obligation from the moment they enter into a business relationship with the customer. However, there is no evidence that FIs implement these provisions, and even less evidence that DNFBPs are fully aware of their obligations in this area.

503. The competent authorities do not have a formal tool (public or non-public register) for collecting, keeping and making available appropriate, accurate and timely information on the BOs of legal persons created in the country.

504. There was no evidence of interaction between ANIF and the FIs and DNFBPs, either through regular exchanges or awareness-raising campaigns on the need for these entities to pay particular attention to suspicions relating to legal entities.

505. For other types of legal entity, in particular not-for-profit entities such as associations and civil societies, basic information is available throughout the country. Shortcomings in the way associations are identified and monitored undermine the ability of the competent authorities to obtain satisfactory, accurate, up-to-date and timely information on associations.

506. In short, Equatorial Guinea's system ensures that competent authorities have satisfactory and timely access to basic information. However, competent authorities cannot have access to satisfactory, accurate and up-to-date information on Beneficial Owners and in a timely manner for all types of legal entities created in the country.

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

507. Despite the existence of the above-mentioned CEMAC Regulation, which establishes the legal framework, the evaluation team can state from the outset that both the competent

authorities and reporting entities are unfamiliar with the concept of legal arrangements, including express trusts.

508. No information about them is collected by the competent authorities in the country.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions applied

509. Following discussions with the country's authorities and exchanges of documents, the evaluation team did not receive any statistics enabling it to identify sanctions in the event of fraudulent completion of the formalities provided for in the OHADA Uniform Act, or failure to update the basic information at the One-Stop Shop.

510. In the absence of figures on appropriate penalties, it is impossible to assess whether they are effective, proportionate and dissuasive.

Conclusions on IO 5

511. The country effectively has a legal framework for the creation of legal entities.

512. Basic information on legal entities is available, depending on the case, either from the General Directorate of Registries and Notaries at the Ministry of Justice, or from the One-Stop Shop for Businesses at the Ministry of Commerce, or from the General Directorate for Civil Society at the Ministry of the Interior. Access by third parties to basic information on legal entities is subject to authorization from public authorities. Nevertheless, the information is accessible without hindrance to the competent authorities.

513. As regards the detection of the beneficial owners of legal entities, only the banks, when they enter into relationships with legal entities, have procedures for identifying the beneficial owners, which is a major vulnerability.

514. Lastly, in the absence of statistics on penalties imposed on legal entities relating to the obligation to provide information, it was not possible for the evaluation team to assess the effectiveness, proportionality and dissuasiveness of the penalties provided for.

515. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 5.***

8. INTERNATIONAL COOPERATION

8.1. Key findings and recommendations

Key findings

a) The Republic of Equatorial Guinea is covered by acceptable international legal instruments on mutual legal assistance. However, the tools offered by international cooperation do not make a substantial contribution in the context of AML/CFT because they are not used to good effect;

b) The country failed to respond to requests for judicial cooperation sent in the context of extradition, and also failed to provide evidence of follow-up to its own requests, which have remained unanswered. This means that mutual legal assistance, for incoming and outgoing requests, is not sought in a satisfactory and timely manner to prosecute domestic cases of ML and TF with international ramifications;

c) Requests for mutual legal assistance and extradition go through the Ministry of Foreign Affairs and International Cooperation before being forwarded to the Ministry of Justice for processing. During the on-site visit, the evaluation team was unable to contact the entity responsible for processing requests for international cooperation within the Ministry of Justice;

d) Through INTERPOL NCB and WCO, the national police and customs have a channel for exchanging information and providing support to their foreign counterparts as part of their investigations. The country can use the police-to-police surrender procedure for extradition purposes;

e) As Equatorial Guinea's ANIF is still in the process of joining the EGMONT group, it cannot have access to the financial information available on the network. However, it should be noted that it has signed various international cooperation agreements with other FIUs. However, it was unable to present a case in which this existing mechanism had been used;

f) International cooperation on identification and exchange of basic and beneficial ownership information of legal persons and arrangements is non-existent. The country has neither requested nor received requests for information on beneficial owners.

Recommendations

a) Use the mechanisms of mutual legal assistance, extradition and international cooperation in the investigation and prosecution of ML and TF offences, which generally have foreign ramifications;

b) Formalize procedures focusing on the prioritization, management and monitoring as well as the processing time for international cooperation requests in order to provide in a timely manner high-quality assistance to foreign counterparts;

c) Set up a mechanism for collection and processing of statistical data on international judicial cooperation;

d) Raise awareness among investigative and prosecuting authorities, customs, tax authorities and other bodies of the need to systematically keep computerized records of their cooperation with counterparts;

e) Continue the process of connecting ANIF to the Egmont Group website;

f) Boost cooperation between ANIF and its foreign counterparts with a view to a fluid and relevant exchange of information;

g) Encourage COBAC and other control and supervisory authorities to carry out specific AML/CFT missions with a view to a relevant exchange in the field;

516. The Immediate Outcome relevant to this chapter is IO.2. Relevant Recommendations for the assessment of technical compliance under this chapter are R.36, R.37, R.38, R.39 and R.40.

8.2. Effectiveness: Immediate Outcome 2 (International Cooperation)

8.2.1. Providing constructive and timely mutual legal assistance and extradition

517. International cooperation in Equatorial Guinea is governed by international legal instruments (the Palermo Convention, the International Convention for the Suppression of TF and the United Nations Convention against Corruption) and sub-regional instruments to which the country is a party (CEMAC). It operates bilaterally through the entities of the CEMAC Member States in implementation of the terms of the January 2004 judicial cooperation agreement.

518. Equatorial Guinea's Code of Criminal Procedure governs issues relating to mutual legal assistance and extradition and sets out the procedures for implementing them.

519. This means that the country's legal framework for mutual assistance and extradition is well established. But the country is not making sufficient use of international cooperation in AML/CFT. In light of the statistics provided by the Ministry of External Affairs, three extradition requests, including two for ML and one for terrorist financing, were made by Equatorial Guinea during the period under review (2018-2023). Equatorial Guinea also stated that it had received three requests for extradition, although it did not say whether the requesting authorities had received any replies. The content of the requests was not available for relevant analyses.

520. Prosecuting and investigative authorities have access to the many multilateral and bilateral channels for mutual legal assistance, but make almost no use of them in investigations into economic crime and crime linked to money laundering and terrorist financing. However, it was noted that, sporadically, judicial police personnel send requests for information on predicate offences to neighbouring States.

521. In addition, there are some internal principles in Equatorial Guinea, in particular those on reciprocity and verification of the facts giving rise to the offence, which could hinder some requests for mutual assistance from foreign counterparts. This restriction allows a requested State to invoke the concept of reciprocity, sovereignty or the severity of the penalties that may be applied by the requesting State in order not to respond to a request for mutual legal assistance from its foreign counterparts.

522. The Ministry of External Relations is the authority responsible for receiving and sending requests for international cooperation. As soon as a request has been received through

diplomatic channels, the relevant service of this ministry forwards the requests for mutual legal assistance and extradition to the Ministry of Justice.

523. In practice, the Ministry of External Relations and International cooperation receives requests for mutual legal assistance from requesting States and forwards them to the Ministry of Justice which forwards them to the competent judicial authorities for processing. The evaluation team was unable to meet with the entity responsible for sending requests to the competent judicial authorities.

524. Overall, convincing evidence of effectiveness and assessment of international cooperation were not made available during the on-site visit.

525. In view of the observations made, the quality of the mutual legal assistance provided by Equatorial Guinea is limited in practice.

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

526. The Ministry of External Relations and International Cooperation is the body responsible for receiving and forwarding all requests for mutual legal assistance and extradition.

527. However, advanced copies of requests may be circulated between the competent authorities and their foreign counterparts pending receipt of mails through diplomatic channels. During the on-site visit, the competent authorities of the General Directorate of Police stated that they had shared information bilaterally with their counterparts in the Republic of Cameroon in connection with investigations into car thefts between the two countries.

528. During the period covered by the mutual evaluation, Equatorial Guinea did not send an extradition request for ML but rather two others for terrorist financing.

Table 8.1: Statistics on extradition requests sent by Equatorial Guinea (2021 to 2024)

Extradition requests sent	2021	2022	2023	2024	Country
ML-related requests	00	02	00	00	Equatorial Guinea
TF-related requests	00	00	00	02	Equatorial Guinea
Others	00	03	00	00	Equatorial Guinea

529. The statistics provided by the Ministry of External Relations and International Cooperation, in the table above, show that Equatorial Guinea has issued five extradition requests, including two for TF-related investigations and three for other predicate offences.

530. The authorities of Equatorial Guinea did not provide any evidence of follow-up action with foreign counterparts or of the responses given.

Table 8.2: Statistics on extradition requests received by Equatorial Guinea (2021 to 2024)

Extradition requests received	2021	2022	2023	2024	Country
ML-related requests	00	00	00	00	00
TF-related requests	00	08	11	04	G.C, Spain
Others	00	09	08	00	Nigeria

Source: Ministry of External Relations and International Cooperation

531. The table above shows that the EG received 23 requests for TF investigations from foreign counterparts and 17 for other offences. During the on-site visit, the country's authorities gave no indication of the responses given.

532. No information was provided by the country regarding letters rogatory.

8.2.3. Seeking other forms of international cooperation for ML, related predicates and TF

533. In April 2018, ANIF signed an MoU with Peru for the exchange of information. ANIFGE continues to expand its relations with the financial intelligence units of other countries as part of information exchange. Discussions are currently underway with UIF Angola, CENTIF-Benin, CENTIF-Mali, TRACFIN-France, SEPBLAC-Spain, UIF Cuba, UIF Bolivia and UIF Italy with a view to signing cooperation agreements on matters within their remit.

534. ANIF GE takes part in GAFILAT and GAFIC training sessions, even without having defined its observer or member status. As a condition for effective cooperation, ANIF GE exchanges information with other FIUs, members and non-members of the Group. It is also a member of the CEMAC ANIF Conference (CAC), with which it cooperates.

535. ANIF GE is not a member of the Egmont Group and therefore does not have access to the Egmont Group database.

Table 8.3: STATISTICS OF INFORMATION REQUEST

Reporting entities	2019	2020	2021	2022	2023	TOTAL
International cooperation	6	8	3	5	15	37

536. The table shows statistics on information requests under ANIF's International Cooperation from 2019 to 2023. It can be seen that ANIF GE was quite active in 2023, with 15 information requests. Yet, it does not show any response to the requests from the countries solicited. To which country were these requests sent? What types of information and offences are covered by the requests for information exchange?

537. On 13 July 2020, Equatorial Guinea signed the Act of Accession to the Convention of the Customs Co-operation Council (WCO) of 15 December 1950, which triggers the procedure for admission to the said organization. It does not benefit from information from CEN (Customs Enforcement Network). During the on-site visit, the authorities stated that they had no statistics

on exchanges of financial intelligence or other information for AML/CFT purposes with their foreign counterparts.

538. The general Directorate of Taxation is not a member of the OECD and/or the Global Forum on Transparency and Exchange of Information for Tax Purposes. The DGI stated that it has not yet requested financial intelligence and information for AML/CFT purposes.

539. The DGI's lack of recourse to international cooperation demonstrates its lack of awareness of the risks in this area and its failure to assess the risks and threats of tax evasion and associated illicit capital flight.

540. Investigative authorities benefit from the BCN-Interpol network. Yet, despite claims that information is exchanged through this channel, the investigative authorities were unable to provide any information to indicate that soliciting information at international level is considered a key element to be explored when conducting ML/TF investigations.

541. COBAC, the financial market regulator, has set up frameworks for dialogue with its counterparts. In implementation of Principles 1216 and 1317 of the Basel Committee on Effective Banking Supervision, COBAC regularly organizes colleges of supervisors of banking groups under its prudential supervision.

542. No data on requests for international cooperation between supervisors for information that could contribute to the supervision of banks with international ramifications or when granting authorization to check the probity of managers, directors, shareholders and beneficial owners were made available to the evaluation team. CIMA, the country's insurance market regulator, and COSUMAF, the CEMAC community's financial market regulator, have instruments for exchanging financial information with their counterparts. No information was provided to the evaluation team during the on-site visit that would enable it assess the level of AML/CFT cooperation between these regulators, let alone the quality of such cooperation.

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

543. ANIF Equatorial Guinea has signed a number of cooperation agreements to exchange with its foreign counterparts. However, the exchanges appear to be limited.

544. ANIF GE is not yet a member of the Egmont Group and therefore does not enjoy access to the Group’s database. Despite this, ANIF GE stated that it has granted information on request on some financial intelligence and information relating to supervision and criminal prosecution or other information with their foreign counterparts for AML/CFT purposes.

545. Regarding taxes, this government service is not a member of the OECD and the Global Forum on Transparency and Exchange of Information for Tax Purposes. In this context, it stated that it had not requested information on some financial details.

546. Regarding prosecuting authorities, the police are members of the Interpol network, which is a mechanism that can be used to request information on financial intelligence. However, despite claims of information exchanges through this channel, the country did not provide evidence of requests for financial intelligence in combating ML/TF.

547. In implementation of Principles 1216 and 1317 of the Basel Committee on Effective Banking Supervision, COBAC regularly participates in colleges of supervisors. These meetings enable the various supervisors to share best practices.

548. CIMA is the regulator of the insurance market within the CEMAC community and also within the country.

549. On the basis of the agreements signed, COSUMAF exchanges information with the Moroccan Financial Market Authority and the WAEMU Regional Council for Public Savings and Financial Markets. It is also a member of the *Institut Francophone des Régulateurs Financiers* and the International Organization of Securities Commissions (IOSCO), whose role is to set international standards for financial regulators.

550. The agreement with the Moroccan regulatory authority only covers assistance in market surveillance. The evaluation mission was told that this agreement should be reviewed to include AML/CFT issues.

551. However, COBAC, COSUMAF, CIMA and the tax and customs authorities did not provide the mission with any documents outlining the cooperation or information exchanges that have already taken place in order to assess the effectiveness of their systems in this area. Yet, it's not for lack of the right tools.

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

552. All authorities in the country have access on request to basic information held by the one-stop shop for businesses, the tax authorities and the body responsible for identifying all individuals in the country and other entities. However, in the context of international cooperation, no data is available on information exchange and identification.

553. The concept of beneficial owner is not taken into account when legal entities are set up in the country. Legal arrangements are not recognized in the country.

Overall Conclusion on IO 2

554. Requests for mutual legal assistance and extradition in AML/CFT matters are not dealt with satisfactorily and in a timely manner by Equatorial Guinea. The country is not making sufficient use of international cooperation to finalize ML investigations.

555. Nevertheless, Equatorial Guinea has sent five AML/CFT extradition requests which have not been acted upon. Neither has the country responded to the extradition requests received.

556. The transnational nature of most financial crimes raises the issue of the country's real capacity to effectively prosecute complex ML cases involving some cross-border players.

557. ***Equatorial Guinea is rated as having a low level of effectiveness for IO 2.***

ANNEX ON TECHNICAL COMPLIANCE

INTRODUCTION

This annex provides a detailed analysis of the level of compliance of Equatorial Guinea with the 40 FATF Recommendations. It does not describe the country situation or risks, but focuses on the analysis of the technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

Where FATF obligations and national laws or regulations have remained unchanged, this report refers to the analysis carried out as part of the previous mutual evaluation conducted in May 2014. The report can be consulted on the following website: www.spagabac.org

Since the last mutual evaluation, Equatorial Guinea's AML/CFT system has recorded significant legal and institutional improvements which have helped to correct the shortcomings identified, in particular through the adoption of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorism and proliferation in Central Africa, which incorporated the new obligations arising from the revised FATF Recommendations in 2012.

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

Criterion 1.1 - Equatorial Guinea recently adopted its NRA, which identifies and assesses its ML/TF risks. However, an analysis of the NRA reveals that the country has not identified all the risks to which it is exposed.

Criterion 1.2 - Equatorial Guinea's NRA was coordinated by ANIF. Ministerial Decision No. 749 of 24 May 2021 designated ANIF Director General as the NRA Coordinator.

Criterion 1.3 - Article 13(1) of the CEMAC Regulation requires the NRA to be updated.

Criterion 1.4 - The obligation to share the findings of the NRA is set out in Article 13(2) of the CEMAC Regulation. At the time of the on-site visit, Equatorial Guinea did not yet have mechanisms in place to disseminate its NRA.

Criterion 1.5 - Equatorial Guinea does not yet apply the risk-based approach to allocate resources and implement measures to prevent or mitigate ML/TF. Nevertheless, the last paragraph of Article 13 of the CEMAC Regulation states that each Member State shall apply a risk-based approach to allocate its resources and implement measures to prevent or mitigate ML/TF risks.

Criterion 1.6 - Financial institutions and DNFBPs are subject to the CEMAC Regulations and domestic laws, regardless of the level of national or sector risk. Consequently, there is no regulation that exempts compliance with the FATF Recommendations.

Criterion 1.7 - Articles 56 to 59 of the CEMAC Regulation require reporting entities to take enhanced due diligence measures. However, the country does not yet have a system in place to deal with these risks, notably by:

(a) Requiring FIs and DNFBPs to take enhanced measures to manage and mitigate risks, or

(b) Requiring FIs and DNFBPs to ensure that this information is included in their risk assessments.

Criterion 1.8 - Pursuant to Articles 52 to 55 of the CEMAC Regulation, Equatorial Guinea may authorize FIs and DNFBPs to reduce the intensity of due diligence measures in certain circumstances (customers presumed to be low-risk, products presumed to be low-risk), provided that a low risk of ML/TF can be demonstrated. However, it is not expressly stated that the low risk identified must be consistent with the country's ML/TF risk assessment.

Criterion 1.9 - Article 12(4) of the CEMAC Regulation requires supervisory authorities and self-regulatory bodies to ensure that financial institutions and Designated Non-Financial Businesses and Professions implement mechanisms to identify, assess and understand the ML/TF risks to which their sector of activity is exposed. However, not all supervisory authorities and SRBs have yet adopted a risk-based approach. Similarly, SRBs have no supervisory powers in this area.

Criterion 1.10 - The CEMAC Regulation, in its provisions relating to risk assessment measures by reporting entities, requires FIs and DNFBPs to take appropriate measures to identify and assess the money laundering, terrorist financing and proliferation risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels (paragraph 1). These obligations also include those relating to:

(a)- documenting risk assessments (paragraph 2);

(b)- having policies, procedures and controls in place to effectively mitigate and manage the risks identified (paragraph 3);

(c)- keeping risk assessments up to date (paragraph 2); and

(d)- making these assessments available to control, regulatory and supervisory bodies, ANIFs and the competent authorities (paragraph 2).

Criterion 1.11 - Article 14 of CEMAC Regulation of 11 April 2016, Articles 6, 10, 12 and 14 of COBAC Regulation 2026 on the internal control of credit institutions, Article 10 of COBAC Regulation 01-17 EMF R-2017 on the operating and control conditions of microfinance institutions and Articles 2, 4, 5, 6, 7, 8 and 9 of COBAC Regulation EMF R2017/06 on internal control in microfinance institutions require MIs and DNFBPs to:

(a)- have policies, controls and procedures, approved by senior management, to manage and mitigate the risks identified at Community, Member State and reporting entity level;

(b)- monitor the implementation of these controls and strengthen them where necessary; and

(c)- take enhanced measures to manage and mitigate higher risks, where they are identified.

Criterion 1.12 - Pursuant to Articles 52 to 55 of the CEMAC Regulation, Equatorial Guinea may allow FIs and DNFBPs to take simplified due diligence measures with regard to some customers and products when they perceive the low ML/TF risk. However, as soon as ML/TF is suspected, FIs and DNFBPs are required to implement or enhance due diligence measures.

However, the shortcoming noted in Criterion 1.9 relating to the absence of a supervisory authority for DNFBPs has an impact on compliance with this criterion.

Weighting and conclusion

Equatorial Guinea has conducted its NRA process, and the NRA report has been published on the ANIF website. However, in the absence of effective dissemination of the report, the actual or potential AML/CFT risks cannot be clearly identified by the various stakeholders. As the action plan has not yet been adopted, all the authorities in Equatorial Guinea are still not applying a risk-based approach.

Equatorial Guinea is rated as Partially Compliant with Recommendation 1.

Recommendation 2- National cooperation and coordination

During the first round of mutual evaluations in 2016, Equatorial Guinea was rated 'Not Applied' for the former R. 31. Indeed, the MER had highlighted the lack of coordination at national level between those involved in the fight against money laundering and terrorist financing. Among the opportunities for improvement, it was urged to consider the creation of a framework for cooperation between ANIF and all the other players in the fight against financial crime.

Criterion 2.1 - Equatorial Guinea does not currently have a national AML/CFT policy that takes account of the ML/TF risks identified.

Criterion 2.2 - Article 13 of the CEMAC Regulation requires States to designate an authority responsible for coordinating the national response to identified risks. By Decree No. 75/2018 of 18 April 2018, the Committee for the Coordination of National Policies to Combat Money Laundering, Terrorist Financing and Proliferation was set up in Equatorial Guinea. It is the body responsible for organizing, coordinating and monitoring activities to combat money laundering and terrorist financing.

Criterion 2.3 - The mechanisms defined by the CEMAC Regulation enable the competent authorities responsible for policy development, ANIF, prosecution authorities, supervisory authorities and other relevant competent authorities to cooperate and coordinate their actions in developing and implementing AML/CFT policies and activities (Articles 66, 71 and 79). In Equatorial Guinea, Articles 2 and 3 of Decree No. 75/2018 of 18 April 2018 provide for a multi-sector composition of the national AML/CFT policy coordination committee and a mechanism for cooperation, collaboration or exchange of information between ANIF, law enforcement authorities, supervisory authorities and other competent authorities with regard to the development and implementation of AML/CFT policies and activities. The members of this Committee have been appointed and have held meetings.

Criterion 2.4 - The mechanisms for cooperation and collaboration are defined in the decree to set up the Coordination Committee for National Policies to Combat Money Laundering, Terrorist Financing and the Proliferation of Weapons of Mass Destruction. This Committee takes into account the CPF aspect in the same way as the AML/CFT.

Criterion 2.5 - Through the Coordination Committee, Equatorial Guinea has a platform for cooperation and coordination between the competent authorities to ensure the compatibility of AML/CFT requirements with data protection and privacy measures and other similar

provisions. However, the lack of a mechanism for cooperation between the operational players makes it difficult to achieve this objective which, however, is not expressly stated in the Committee's duties (*See Article 2 of Decree No. 75/2018 of 18 April 2018*).

Weighting and conclusion

Equatorial Guinea has a national AML/CFT policy coordination committee, whose remit includes defining the national AML/CFT strategy. The decree sets out the mechanisms for cooperation and coordination of these national policies. However, the country does not yet have a national AML/CFT policy that takes account of the ML/TF risks identified. Similarly, the provisions relating to data protection and privacy are not included in the decree.

Equatorial Guinea is rated as Partially Compliant with Recommendation 2.

Recommendation 3: Money laundering offence

Equatorial Guinea was rated "LC" for the former R.1 and R.2 by the 2016 MER. Criticisms were levelled at the country, including the partial inclusion of designated categories of offence, the optional nature of the additional sanction, the limited knowledge of the system by the main anti-money laundering players and the failure to implement the CEMAC Regulation.

The authorities of Equatorial Guinea were urged to strengthen compliance with the anti-money laundering legal framework by:

- criminalizing criminal conspiracy as an autonomous offence punishable by serious penalties;

- applying severe penalties for insider dealing, market manipulation, counterfeiting and product piracy, to bring them within the scope of predicate money laundering offences;

- reviewing the Regulation, under the aegis of GABAC, to clarify and specify the mandatory effect of the additional penalty of confiscation and the procedures for its implementation.

To remedy this, Equatorial Guinea improved its legal framework on confiscation with the adoption in 2016 of the CEMAC Regulation for the effective management of seized or confiscated assets.

Criterion 3.1 - In Equatorial Guinea, the offence of money laundering is criminalized in accordance with Article 3(1), (b) and (c) of the Vienna Convention and Article 6(1) of the Palermo Convention. Article 8 of the CEMAC Regulation considers the following acts to be money laundering when committed intentionally:

(a) The conversion or transfer of property by any person knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of helping any person involved in the commission of the offence to evade the legal consequences of his or her actions;

(b) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, by any person who knows that such property is derived from criminal activity or from an act of participation in criminal activity;

(c) The acquisition, possession or use of property which the perpetrator knows, at the time of receipt, to be derived from criminal activity;

(d) Participation in, association to commit, attempt to commit, aiding, abetting, counselling or procuring the commission of any of the acts referred to in points (a), (b) and (c).

Criterion 3.2 - Article 1(20) of the CEMAC Regulation provide for the offences predicate to ML, as do the other countries under the GABAC jurisdiction.

It should be noted that Equatorial Guinea makes the primacy of Community law over domestic positive law an obligation in the ordering of domestic legal standards.

In the 2016 MER, it was noted that only the offence of criminal enterprise was not criminalized. All the other underlying offences provided for in Article 1(20) of the CEMAC Regulation were criminalized.

Thus, to correct the shortcoming of the 2016 MER, Equatorial Guinea has criminalized criminal enterprise in its Criminal Code under Sections 231 to 238, 254 and 260.

As Equatorial Guinea's criminal legislation currently stands, the twenty-one (21) underlying offences provided for in the Community legal instrument have been domesticated *in extenso*.

Criterion 3.3 - Within the meaning of the CEMAC Regulation, Equatorial Guinea has not followed the threshold system or the combination of methods, in a broader sense, when implementing the criminalization of the offence of money laundering to proceeds derived from any criminal activity.

Criterion 3.4 - The definition of property in Equatorial Guinea is fairly broad and extends to all types of property representing criminal assets. In this respect, Article 1(18) of the CEMAC Regulation states that assets are deemed to be assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, fungible or non-fungible, as well as documents or legal instruments in any form whatsoever, including electronic or digital, evidencing the ownership of such assets or rights relating thereto.

Criterion 3.5 - The CEMAC Regulation does not require the original offender to be prosecuted or convicted. Repression applies even if a condition for taking legal action following the said offence is missing (Art. 120).

Criterion 3.6 - In accordance with Articles 1(42) and 8(1) of the CEMAC Regulations, the predicate offences for money laundering extend to acts committed in another country where they constitute an offence and which would have constituted a predicate offence had they been committed in Equatorial Guinea.

Criterion 3.7 - The suppression of self-laundering is authorized in Equatorial Guinea. Article 120 of the CEMAC Regulation expressly provides that the perpetrator of the original offence may also be prosecuted for the money laundering offence. The same provision states that the perpetrator of the money laundering offence may be prosecuted in cases where the perpetrator of the original offence has not been prosecuted or convicted, even if he or she lacks a condition for bringing an action.

Criterion 3.8 - The last paragraph of Article 8 of the CEMAC Regulation on the criminalization of money laundering states that knowledge or intent, as elements of the aforementioned activities, may be deduced from objective factual circumstances**.**

Criterion 3.9 - The penalties for legal entities are effective, proportionate and dissuasive. Notwithstanding the imposition of sanctions on their representatives or executing agents, Article 126 of the CEMAC Regulation provides for the criminal liability of legal persons involved in money laundering offences. Legal entities are liable to a fine equal to five times the fines imposed on natural persons (from five to ten times the amount laundered, but not less than CFAF10,000, 000) without prejudice to the penalties imposed on natural persons. In addition to criminal liability, there is still the possibility of applying optional additional civil and administrative penalties to legal persons, such as temporary or permanent exclusion from public contracts, confiscation of assets used or generated by the offending practice, prohibition from exercising some professional or social activities, permanent or temporary closure of the company's establishments and dissolution of the company (Article 126(1-6)), as well as the mandatory additional penalty of confiscation of the proceeds of money laundering (Art. 130).

Criterion 3.10- Article 126 of the CEMAC Regulation provides for the attribution of criminal liability and the application of penalties to legal persons on whose behalf or for whose benefit a money laundering offence has been committed, without prejudice to the conviction of their representatives or agents (natural persons). They are punishable by a fine at a rate equal to five times those incurred by natural persons, without prejudice to the conviction of the latter as perpetrators or accomplices in the same acts (5 to ten times the value of the assets or funds involved in the money laundering operations. These penalties are reinforced by optional supplementary penalties (Article 126 of the CEMAC Regulation) and mandatory supplementary penalties (Article 130 of the CEMAC Regulation).

All the penalties are proportionate and dissuasive.

Criterion 3.11- Articles 114 and 115 of the CEMAC Regulation punish attempts, agreements and associations to launder money. Aiding, abetting, counselling or facilitating the commission of an offence is covered by the concept of complicity and is punishable by the same penalty as that applied to the offender under the Equatorial Guinea Criminal Code**.**

Weighting and Conclusion

Equatorial Guinea improved its anti-money laundering legal framework by adopting the CEMAC Regulation in 2016. The country has criminalized criminal conspiracy in its domestic positive law.

Equatorial Guinea is rated as Compliant with Recommendation 3.

Recommendation 4- Confiscation and provisional measures

Equatorial Guinea's regime for confiscating, freezing and seizing the proceeds of crime was deemed to be "largely compliant" in the 2016 evaluation. However, it was generally stated that, at the time of the evaluation, there was no express confiscation of property from other predicate offences. In addition, the evaluation team identified the limitation of assets liable to

confiscation, as the applicable legislation did not include assets and instrumentalities used or intended to be used and assets of equivalent value.

To remedy this, Equatorial Guinea improved its legal framework on confiscation with the adoption in 2016 of the new Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorism and proliferation with a view to the effective management of seized or confiscated assets.

Criterion 4.1 - The above-mentioned CEMAC Regulation allows for the confiscation of the following assets, whether or not they are held by the accused in criminal proceedings or by third parties:

(a)- Article 105 provides for the freezing of funds and the seizure for the purpose of confiscation of laundered assets, the proceeds of money laundering, predicate offences and terrorist financing. However, confiscation is limited to persons, entities or terrorist organizations designated by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations.

(b)- Article 130 of the above-mentioned Regulation allows for the mandatory confiscation of the proceeds of the offence, i.e. income or other benefits derived from such proceeds or instruments used or intended to be used for the purpose of money laundering or predicate offences.

(c)- Article 131 of the CEMAC Regulation on the Prevention and Suppression of Money Laundering and Terrorist Financing provides for the confiscation of property constituting the proceeds of, used for or intended to be used for the financing of terrorism, terrorist acts or terrorist organizations.

(d)- These legal provisions also provide for the confiscation of property of equivalent value, but this is limited to property acquired legitimately by the convicted person and to which the proceeds of the offence are attached, as well as income and other benefits derived from these proceeds.

Criterion 4.2 *:*

(a)- Article 98 of the aforementioned CEMAC Regulation lists a range of investigative techniques that enable the competent authorities of Equatorial Guinea to identify, track and evaluate property subject to confiscation. Article 104 of the same Regulation also provides for the identification by the competent authorities of property subject to confiscation.

(b)- Articles 104 and 105 of the CEMAC Regulation allow for the implementation of provisional measures, such as seizure or freezing, in order to prevent any transaction, transfer or disposal of property under a confiscation order. These measures are directly implemented without prior notice.

(c)- Article 104 of the CEMAC Regulation provides that the release of precautionary measures may only be ordered by the competent judicial authority under conditions laid down by law. Article 105 of the same Regulation prohibits knowingly and intentionally carrying out or

participate in transactions the object or effect of which is, directly or indirectly, to circumvent a freezing order.

(d)- Equatorial Guinea has not introduced legislation enabling the authorities to take all appropriate investigative measures for the purposes of confiscation.

Criterion 4.3 - Articles 110, 112 and 131(last paragraph) of the CEMAC Regulation provide for mechanisms for administrative and judicial remedy that guarantee protection of the rights of bona fide third parties.

Criterion 4.4 - In accordance with Articles 130 and 131 of the CEMAC Regulation, confiscation following a conviction for money laundering and terrorist financing is ordered for the benefit of the Treasury. The only existing provision in the country's legal system relating to the management of seized property is found in Section 601 of the LECRIM, which states that "where the seized property is movable, the defendant shall be asked to state whether he chooses to dispose of it or to keep it in deposit and administration", which is partial and only applies to some types of property. However, no specific mechanism was identified in Equatorial Guinea for the effective management of frozen, seized or confiscated assets.

Weighting and Conclusion

Equatorial Guinea has legal provisions enabling confiscation to be carried out and guaranteeing the rights of bona fide third parties in the seizure and confiscation procedure. However, it does not have the authority to apply administrative freezing measures in relation to terrorist financing, nor does it have clear mechanisms for the management and disposal of frozen, seized or confiscated assets. The confiscation of laundered assets, the proceeds of ML, predicate offences and TF is limited only to persons, entities or terrorist organizations designated by the United Nations Security Council.

Equatorial Guinea is rated as Partially Compliant with Recommendation 4.

Recommendation 5- Terrorist financing offence

During the first round of the MER in 2016, Equatorial Guinea was rated 'To be Applied' for the former RE. II. The MER identified the following shortcomings: (i) failure to ratify and implement the Annexes to the United Nations Convention for the Suppression of the Financing of Terrorism; (ii) failure to criminalize terrorist acts and implement the EUAC Regulation; (iv) failure to criminalize the financing of a terrorist organization and a terrorist; (v) the criminal liability of legal persons was only partially asserted (absence of main criminal penalties); and (vi) the additional penalty of confiscation was optional; there was no confiscation of property of equivalent value.

Criterion 5.1 – The offence of terrorist financing (TF) is incriminated in Article 9 of the CEMAC Regulation, which is in line with Article 2 of the United Nations International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention). Article 9 of the Regulation makes it a criminal offence for a natural or legal person to commit acts of terrorism by any means, directly or indirectly, unlawfully and intentionally providing or collecting funds for the purpose of using them, or in the knowledge

that they are to be used, in whole or in part, to commit acts of terrorism. Similarly, Article 1(2) of the Regulation defines a terrorist act in accordance with Article 2(a) and (b) of the Terrorist Financing Convention.

Criterion 5.2 - Article 9 of the CEMAC Regulation, which criminalizes the offence of terrorist financing, provides that this offence is committed by any person who, by any means, intentionally, directly or indirectly, unlawfully or deliberately, provides or collects funds for use, or in the knowledge that they will be used, in whole or in part: (a) *for the purpose of committing one or more terrorist acts; (b) by a terrorist organization or by a terrorist, including support for a terrorist or a group of terrorists.* However, Article 9 of the Regulation, which determines the application of the terrorist financing offence to all funds, does not extend it to "other property".

Criterion 5.2 *bis* - The financing of travel by foreign terrorist fighters is not incriminated in Equatorial Guinea.

Criterion 5.3 - Article 9 of the CEMAC Regulation provides in essence that the TF offence is also constituted even if the funds provided or collected are of licit origin. However, the definition of funds in Article 1(38) implies that the TF offence does not apply to property other than financial assets and economic benefits.

Criterion 5.4 - Under the same Article 9 of the CEMAC Regulation, a terrorist financing offence is deemed to have been committed under Equatorial Guinea law: *(a) even if the funds were not used to commit or attempt to commit the terrorist acts envisaged (Article 9(2) of the CEMAC Regulation); (b) even if the funds were not linked to one or more specific terrorist acts (Article 9(1)(d) of the CEMAC Regulations).*

However, the shortcoming noted in c.5.2 has a negative impact on this criterion.

Criterion 5.5 - According to Article 9 in fine of the CEMAC Regulation, the intent and knowledge required to prove the offence must be deduced from an analysis of the objective factual circumstances.

Criterion 5.6 - Under Article 121 of the CEMAC Regulation, natural persons guilty of a terrorist financing offence are liable to a prison sentence of between 10 (ten) and 20 (twenty) years and a fine of at least five times the value of the assets or funds involved in the terrorist financing transactions. These penalties are doubled in the case of aggravating circumstances (Article 122) and increased by optional (Article 124) and mandatory (Articles 131 and 132) accessory penalties. Suspended sentences and amnesties are excluded (Article 125). In general classification of penalties for serious crimes set out in Equatorial Guinea's Penal Code, these penalties applicable to individuals convicted of TF are presented as proportionate and dissuasive.

Criterion 5.7 - Article 127 of the legislation applicable in Equatorial Guinea, notably the CEMAC Regulation, provides for criminal sanctions against legal persons who perpetrate terrorist financing, without prejudice to the criminal liability of natural persons who are perpetrators, co-perpetrators or accomplices in the same acts. The Regulation even extends its application to legal entities on whose behalf or for whose benefit the offence of terrorist financing has been committed. In addition to criminal liability and penalties, legal entities may

also be subject to one or more administrative and civil penalties. These penalties are proportionate and dissuasive. Similarly, Section 19 of the Equatorial Guinea's Criminal Code expressly provides that "any person criminally liable for an offence shall also be civilly liable".

Criterion 5.8 - The combination of the general provisions of Equatorial Guinea's Penal Code (Section 12(a), (b), (c) and (d)) and the special provisions of the CEMAC Regulation (Articles 9, 121 et seq.) makes the following a criminal offence: *(a) the attempted commission of a terrorist financing offence (Article 9 of the CEMAC Regulation and Section 94 of the Penal Code); (b) participation as an accomplice in the commission or attempted commission of a terrorist financing offence (Article 9 of the CEMAC Regulation and Section 97 of the Penal Code);* (c) committing or directing others to commit an offence, or attempting to commit a terrorist financing offence (Articles 9 and 121 of the CEMAC Regulation); and *(d) contributing to the commission of one or more offences, or attempting to commit terrorist financing offences, by a group of persons acting jointly (Article 9 of the CEMAC Regulation).* Without prejudice to criminal sanctions, the competent supervisory authority may also act on its own initiative and impose administrative and disciplinary sanctions where the legal person is a reporting entity.

Criterion 5.9 - According to Article 1(20) of the CEMAC Regulation, which defines the categories of designated offences, terrorist financing is one of the main money laundering offences in Equatorial Guinea.

Criterion 5.10 - Under Article 9 of the CEMAC Regulation, the offence of terrorist financing is established and the criminal sanction incurred even where the perpetrators of terrorist financing acts reside in a different territory from that of the perpetrators of terrorist acts.

Weighting and Conclusion

Equatorial Guinea has fulfilled the main criteria of the Recommendation on the criminalization of terrorist financing, an offence that can be committed by natural and legal persons. However, the instrument does not take into account the assembly or supply of "other goods". In addition, the financing of travel by foreign terrorist fighters is not specifically criminalized.

Equatorial Guinea is rated as Largely Compliant with Recommendation 5.

Recommendation 6- Targeted financial sanctions for terrorism and terrorist financing

In the 2016 MER, Equatorial Guinea was rated 'Not Applied' for the former RS III. In the said MER, it was stated that the Community mechanism for implementing the freezing measures provided for in Resolutions 1267(1999) and 1373(2001) was incomplete and that there was no complementary national mechanism for implementing the requirements of Resolutions 1267(1999) and 1373(2001).

During the previous round of evaluation, Equatorial Guinea was rated "non-compliant" on this Recommendation (formerly RSIII). The main shortcomings identified were as follows: (unclear regional arrangements for freezing funds under Resolution 1267, lack of national regulations for implementing the requirements of Resolutions 1267 and 1373, lack of mechanisms for managing lists submitted by third States under Resolution 1373, lack of confiscation of property of equivalent value); lack of mechanisms for considering lists

submitted by third States under Resolution 1373; lack of operational implementation of the requirements of Resolutions 1267 and 1373. Since 11 April 2016, the advent of Regulation No. 01/CEMAC/UMAC/CM on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa, (known as the CEMAC Regulation) has contributed to the improvement of Equatorial Guinea's legal framework relating to targeted financial sanctions.

Criterion 6.1- In Ministerial Order No. 01/2017 21 May 2017, specifically in Articles 4 et seq, Equatorial Guinea:

(a) identified the AML/CFT National Policy Coordination Committee as a competent authority with responsibility for proposing the designation of persons or entities to the 1267/1989 Committee and for proposing the designation of persons or entities to the 1988 Committee (Article 9);

(b) defines the mechanisms to identify targets for designation, based on the criteria for designation set out in United Nations Security Council Resolutions (UNSCR) (Art 9);

(c) applies "reasonable grounds" or "reasonable basis" standards of proof when deciding whether or not to make a designation proposal (Article 3(5);

(d) follows listing procedures and templates (in the case of UN sanctions regimes);

(e) however, the instrument does not provide as much relevant information as possible on the proposed name and the reasons for listing;

Criterion 6.2 - With regard to designations under UNSCR 1373, Equatorial Guinea:

(a)- has not established a competent authority or tribunal with responsibility for proposing the designation of persons or entities that meet the specific criteria for designation as described in UNSCR 1373; at the country's own initiative or after consideration and, where appropriate, giving effect to a request from another country;

(b)- does not have one or several mechanisms in place to identify targets for designation, based on the criteria for designation set out in UNSCR 1373;

(c)- failing (a) and (b), has not provided any information to assess that when it receives a request, the country has the capacity to ensure promptly, under applicable domestic (supra) principles, that the request is backed by reasonable grounds or a reasonable basis to suspect or believe that the person or entity proposed for designation meets the criteria for designation in UNSCR 1373;

(d)- should apply "reasonable grounds" or "reasonable basis" standards of proof when deciding whether or not to make a designation (Article 105(3) of CEMAC Regulation); 3 CEMAC Regulation:

(e)- in the absence of (a) and (b), has not provided any information enabling it to assess that, when another country is asked to give effect to actions taken under the freezing mechanisms, Equatorial Guinea provides all possible information for identification purposes, as well as specific information to back the decision.

Criterion 6.3 - Equatorial Guinea has not designated competent authorities for the implementation of UNSCRs, nor defined the powers and procedures or legal mechanisms they should have to:

(a)- gather or solicit information to identify persons and entities that meet the criteria for designation, on reasonable grounds, or for which there is a reasonable basis to suspect or believe that they meet such criteria; and

(b)- Intervene ex parte against a person or entity that has been identified and whose designation (or proposed designation) is under review.

Freezing

Criterion 6.4- Article 105(5) of the CEMAC Regulation requires financial institutions and any person or entity holding funds under a freezing order to freeze them immediately upon notification of the order until otherwise decided by the United Nations Security Council or by another decision taken in accordance with the same procedure or by a competent judicial authority. At domestic level, Equatorial Guinea has designated by Ministerial Order No. 01/2017, the National AML/CFT Policy Coordination Committee as the authority that can order such notification. Article 12 of the said Order requires all public or private institutions to freeze immediately and without delay the funds and assets of persons designated by the competent authority. However, the mechanism for implementing TFS in Equatorial Guinea does not allow them to be applied without delay and could exceed the 24 hours provided for in the FATF standards.

Criterion 6.5- Equatorial Guinea has designated the AML/CFT National Policy Coordination Committee as the competent national authority for the implementation and application of targeted financial sanctions. This instrument supports the CEMAC Regulation, which defines the legal framework for implementing TFS in accordance with the following procedures and measures:

(a)- Article 105(5) of Regulation No. 01/16/CEMAC/UMAC/CM states that “The financial institutions and any other person or entity holding such funds shall freeze them immediately upon notification of the said decision until otherwise decided by the United Nations Security Council”, but these provisions do not expressly state that such measures must be taken without "prior notice";

(b)- extension of the freeze to all financial assets and economic benefits of any kind, however acquired (Article 1(38) linked to terrorists, terrorist organizations or persons or organizations associated with them (Art. 105(6). However, the property, funds and other resources of persons and entities acting on behalf or at the direction of designated persons are not targeted;

(c)- prohibition on reporting entities from directly or indirectly making frozen funds available to or for the benefit of natural or legal persons, designated entities or bodies; from providing or continuing to provide services to or for the benefit of natural or legal persons, designated entities or bodies (Article105(7)(1) and (2).

However, this prohibition is limited to reporting entities and does not apply to all nationals or any other person or entity in the territory. The deprivation of funds therefore directly concerns

designated natural or legal persons, entities or bodies and does not extend to entities owned or controlled directly or indirectly by designated persons or entities; and to persons and entities acting on behalf of or on the instructions of designated persons or entities, without any licence, authorization or notification to the contrary, in accordance with the applicable UNSCRs;

(d)- there is no specific mechanism for communicating designations to the financial sector and to DNFBPs and VASPs as soon as such measures occur, and for providing clear instructions, in particular to FIs and other persons and entities, including DNFBPs and VASPs, that may hold designated funds and other assets, as to their obligations under the freezing mechanisms;

(e)- in accordance with Article 105(6) of the CEMAC Regulation, financial institutions and other reporting entities shall notify ANIF without delay of the existence of funds derived from money laundering or linked to terrorists, terrorist organizations or persons or organizations associated with them, in accordance with the decisions of the Ministerial Committee or the Ministers of Finance of the Member States relating to the list of persons, entities or bodies subject to the freezing of funds and other financial resources, in particular, the list drawn up by the United Nations Security Council and kept up to date. However, the obligation to report attempted transactions does not appear in the Regulation;

(f)- the CEMAC Regulation prescribe an obligation to publish freezing orders so that they can be brought to the attention of the public (Article 106) and provide for procedures for challenging administrative measures to freeze funds, open to any natural or legal person who considers that the freezing order is the result of an error or lacks legal basis (Article 112);

Delisting, unfreezing and providing access to frozen funds and other assets

Criterion 6.6 - By adopting Ministerial Order No. 01/2017, Equatorial Guinea has implemented publicly known procedures relating to delisting and release of funds and other assets of individuals and entities that do not or no longer meet the designation criteria. These procedures are as follows:

(a)- In accordance with Article 9 of the said decree, any person or entity, national or resident, included on the List or the parents, nationals or residents of deceased persons included on the List may request their removal from the List, either by contacting the Office of the Ombudsman (People's Defender) of the United Nations Security Council (Mediator), or the Ministry of Foreign Affairs which, after analysis, if it deems it appropriate, will forward the request to the United Nations Security Council through the appropriate channels, pending a response to the request;

(b) and (c)- In accordance with Article 13 of the said decree, the Coordination Committee takes note of and gives its opinion on the withdrawal requests from a designated person or entity and on those sent by ANIF in response to requests from other countries. In the event that the Coordination Committee dismisses a request for withdrawal of designation, this decision may be re-examined at the request of the interested party, in accordance with the exercise of administrative appeals;

(d) and (e) The legal framework does not provide for the procedures required by these sub-criteria.

(f)- for persons and entities whose funds have been inadvertently frozen, Article 112(1) of the CEMAC Regulation provides that any natural or legal person whose funds or other financial resources have been frozen and who considers that the decision to freeze them was based on an error or lacked a legal basis may appeal against the decision within one month of publication in the Official Gazette. The appeal is lodged with the authority that ordered the freezing or, if the appeal is based on the lack of a legal basis, with the emergency judge with territorial; and

(g)- there are no specific mechanisms for communicating these delisting decisions to the financial sector, DNFBPs and VASPs as soon as they are made, and to provide guidance to financial institutions and other persons and entities, including DNFBPs and VASPs, that may hold funds or other relevant assets, as to their obligations regarding delisting and unfreezing actions.

Criterion 6.7- Article 108 of the CEMAC Regulation authorizes access to funds and other frozen assets considered necessary to cover basic expenses, the payment of some types of charges, fees and remuneration for services or extraordinary expenses. Article 14 of the aforementioned 2017 Order also states that the Coordination Committee authorizes access to assets or funds in the case of expenditure required to cover costs, fees and remuneration for services or extraordinary expenditure at the reasoned request of the designated entities and persons.

Weighting and Conclusion

In addition to the CEMAC Regulation, the Republic of Equatorial Guinea has adopted a national instrument for the implementation of targeted financial sanctions based essentially on the requirements of UNSCR s1267 and 1373. However, there are still gaps in the mechanisms for implementing targeted financial sanctions without delay. Similarly, in relation to scope, the property, funds and other resources of persons and entities acting on behalf of or at the direction of designated persons are not covered by the TFS measures. Furthermore, in relation to designations under UNSCR 1988, there are no procedures to facilitate review by the 1988 Committee. With regard to designations on the Al-Qaida sanctions list, procedures to inform designated individuals and entities are lacking. In addition, there are no specific mechanisms for communicating de-listing decisions to reporting entities as soon as they are made.

Equatorial Guinea is rated as Partially Compliant with Recommendation 6.

Recommendation 7- Targeted financial sanctions relating to proliferation

This is a new Recommendation. As a result, it was not assessed in the 2016 mutual evaluation, which used the 40 previous Recommendations and 9 Special Recommendations.

Criterion 7.1- Equatorial Guinea has a regulatory framework to ensure the implementation of targeted financial sanctions without delay in accordance with the UNSCRs adopted under Chapter VII of the Charter of the United Nations, relating to the prevention, suppression and disruption of the proliferation of weapons of mass destruction and their financing. This is Ministerial Order No. 01/2017 of 21 May 2017. However, the mechanism for implementing TFS in Equatorial Guinea does not allow them to be applied without delay and could exceed the 24 hours provided for in the FATF standards.

Criterion 7.2 - Equatorial Guinea has designated the AML/CFT National Policy Coordination Committee as the competent national authority responsible for implementing and enforcing proliferation-related targeted financial sanctions, and has granted it several powers to implement the procedures and standards set out in subparagraphs (a), (b), (c), (d), (e) and (f).

Criterion 7.3 - Equatorial Guinea has not adopted any measures to monitor and ensure compliance by FIs, DNFBPs and VASPs with the applicable laws and binding means implementing the obligations set out in Recommendation 7.

Criterion 7.4 - Ministerial Order No. 01/2017 of 21 May 2017 in force in Equatorial Guinea has defined publicly known procedures for submitting delisting requests to the Security Council in the case of designated individuals and entities that, in the country's opinion, do not meet or no longer meet the designation criteria.

Criterion 7.5 :

(a) Regarding addition to the frozen account, Article 107 of the CEMAC Regulation provides that "Funds or other financial resources due under contracts, agreements or obligations concluded or arising prior to the entry into force of the procedures for freezing funds shall be drawn from the frozen accounts. The income generated by the aforementioned funds, instruments and resources as well as accrued interest shall be paid into the said accounts"; and

(b) Order No 01/2017 of 21 May 2017 sets out the arrangements for freezing measures taken in accordance with Resolution 1737 and followed by Resolution 2231, or taken in accordance with Resolution 2231, which authorize a designated person or entity to make any payment due under a contract entered into prior to the listing of such person or entity, under the conditions set out in points (i), (ii) and (iii).

Weighting and Conclusion

Equatorial Guinea has a regulatory framework for the implementation of TFSs and has designated an authority with sufficient powers for this purpose. This regulatory framework provides for payment authorization and delisting procedures. The country has not adopted any measures to monitor and ensure compliance by FIs, DNFBPs and VASPs with the applicable laws and binding means implementing the obligations set out in Recommendation 7. It therefore appears that Equatorial Guinea does not fully meet the requirements of the other criteria of Recommendation 7.

Equatorial Guinea is rated as Partially Compliant with Recommendation 7.

Recommendation 8 - Non-Profit Organizations

In the 2016 MER, Equatorial Guinea was rated 'Not Applied' for the former RS VIII. The MER highlighted the mismatch and non-compliance of laws with the SR VIII criteria; the lack of awareness of the risks of misuse of NPOs for terrorist financing purposes; the ineffectiveness of monitoring and control measures; and insufficient cooperation and coordination in the exchange of information at national level.

Risk-based approach

Criterion 8.1- The country has not adopted any measures to meet the requirements of sub-criteria (a), (b), (c) and (d).

Sustained outreach concerning terrorist financing issues

Criterion 8.2:

(a) The provisions of Articles 44 to 46 of the CEMAC Regulation which define the obligations of NPOs as well as the control and monitoring measures are intended to promote the accountability and integrity of NPOs so as to strengthen public confidence in their management and operation,

(b) Equatorial Guinea has not conducted awareness and education campaigns to encourage and deepen knowledge within NPOs and the donor community of the potential vulnerabilities of NPOs to use for terrorist financing purposes and the risks of terrorist financing, and the measures NPOs can take to protect themselves from such use;

(c) Equatorial Guinea has not taken initiatives to work with NPOs to develop best practices to address TF risks and vulnerabilities and thereby protect them from use for TF purposes;

(d)- NPOs established in Equatorial Guinea are required by law and encouraged to conduct their operations through regulated financial channels (Article 46(6) of the CEMAC Regulation and Article 11 of the Draft Community Directive on anti-money laundering and combating the financing of terrorism and proliferation).

Targeted risk-based supervision or monitoring of NPOs

Criterion 8.3 - The Directorate General for Civil Society is authorized to carry out checks on the funds with which NGOs registered under Article 44 of the CEMAC Regulation operate. However, no risk assessment of the use of vulnerable NPOs for TF purposes has been carried out and no national instrument provides for a risk-based approach in their monitoring.

Criterion 8.4:

(**a)** The supervisory measures applied to NPOs in Equatorial Guinea do not take into account the requirements of this Recommendation;

(b) The range of administrative sanctions is wide and variable; Article 46(7) specifies that the competent authority may order the temporary suspension or dissolution of NPOs that knowingly encourage, foment, organize or commit money laundering, terrorist financing or proliferation financing offences. Equatorial Guinea has not yet taken any measures at national level to implement these sanctions.

Effective information gathering and investigation

Criterion 8.5:

(a) The information held by any service in charge of NPOs may be consulted by ANIF, judicial authorities, JPOs in charge of a criminal investigation, upon request, or any NPO supervisor, in this case the Ministry in charge of territorial administration or the Technical Commission responsible for studying NGO approval applications (Article 46(3) of the CEMAC Regulation).

3 CEMAC Regulation: However, no effective information exchange cooperation and coordination mechanism has been established.

(c) By virtue of the general powers they have in conducting investigations, the investigative and prosecuting authorities in Equatorial Guinea have the ability to investigate NPOs suspected of being used for TF purposes or by terrorist organizations or of actively supporting terrorist activities or organizations.

(c) The investigative and prosecution authorities may directly access information relating to the administration and management of any NPO, including financial information (Article 46(3) of the CEMAC Regulation). 3 CEMAC Regulation:

(d) The CEMAC Regulation has introduced an obligation for any competent authority to report to ANIF any donation to an NPO where the funds are likely to relate to a terrorist or TF enterprise (Article 46(5). 5. ANIF is therefore empowered to investigate when an NPO is suspected of being used for illegal purposes. Apart from this, there is no mechanism for rapidly sharing this information with the relevant authorities.

Effective capacity to respond to international requests about an NPO of concern

Criterion 8.6- Equatorial Guinea has not designated or established a specific point of contact and has not defined appropriate procedures for responding to international requests for information concerning any NPO suspected of financing terrorism or supporting it by any other means. To respond to requests from third countries in this specific area, Equatorial Guinea relies on the traditional international cooperation mechanisms.

Weighting and conclusion

Articles 44 et seq. of the CEMAC Regulation prescribe a number of due diligence measures to be observed in respect of NPOs which are designed to promote the accountability and integrity of NPOs. These provisions also provide for a wide range of administrative sanctions against NPOs that fail to comply with these measures. Investigative authorities may have access to information held by the entity responsible for supervising NPOs by virtue of the powers conferred on them. However, Equatorial Guinea, the subset of NPOs susceptible to terrorist financing abuse has not been identified, let alone the nature of the threats to which NPOs are exposed. There are no risk-based supervision measures. NPOs are not made aware of the risks of their misuse for TF purposes and of the measures to be implemented to protect themselves from such misuse. There has been no concerted action with NPOs to develop best practices to address TF risks and vulnerabilities and thereby protect them from use for TF purposes. No effective cooperation and coordination mechanism has been established between the competent authorities for the exchange of NPO-related information. Appropriate procedures for responding to international requests for NPO-related information have not been established. Similarly, no contact point has been designated to respond to such requests.

Equatorial Guinea is rated as Not Compliant with Recommendation 8.

Recommendation 9: Financial institutions secrecy laws

The conclusions of the previous mutual evaluation of Equatorial Guinea in 2016, as part of the first round of evaluations of countries in the sub-region, revealed that Equatorial Guinea had been rated "partially compliant" (PC) with the obligations concerning professional secrecy laws (former R.4), due to the absence of relevant provisions on the exchange of information between the competent national services, guarantees that professional secrecy does not hinder the exchange of information between financial institutions, where applicable, and measures ensuring that professional secrecy covering certain data is lifted only in the cases provided for by regulation.

Criterion 9.1- Article 75 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa, hereinafter the "CEMAC Regulation", provides for a framework for information exchange between ANIF and the competent authorities, at national and international levels (para. 1), and confers an imperative and broad right of communication to ANIF, by providing that *under no circumstances may professional secrecy be invoked against requests from ANIF* (para. 2). Article 101 of the said Regulation also states that, notwithstanding any legislative or regulatory provisions repugnant thereto, *professional secrecy may not be invoked* by professionals subject to AML/CFT obligations *to refuse to provide information to supervisors and ANIF or to submit a report as provided for in the Regulation. The same shall apply to information required as part of an investigation into ML/TF offences, ordered by the judicial authority or carried out under its supervision by the State employees responsible for detecting and punishing such offences.*

Article 91(4) requires supervisors to cooperate and exchange information with other competent authorities, as well as to assist in AML/CFT investigations, prosecutions or other proceedings. Article 96 sets out the terms and conditions for sharing information among supervisors and between financial institutions belonging to the same group, in the implementation of AML/CFT due diligence.

In the same vein, Article 40 of COBAC Regulation R2005-1 of 1 April 2005 relating to the due diligence of reporting institutions in respect of AML/CFT in Central Africa [58], insists on the transmission of data to ANIF, to the judicial or investigative authorities and to COBA.

Nevertheless, it is worth noting that there are not enough provisions specifically aimed at exchanges of AML/CFT information between financial institutions at national level.

[58] It should be pointed out that COBAC Regulation R2005-1 of 1 April 2005 is repealed and replaced by COBAC Regulation R-2023/01 of 19 December 2023 on due diligence by reporting institutions in combating money laundering and the financing of terrorism and proliferation. However, given that Article 119 of the FATF Recommendations will not come into force until 1 July 2024, our analyses of technical compliance, which are issued before that date, will not take account of the provisions of the new Regulations, which are more in line with the requirements of the FATF Recommendations, in order to remain in line with the Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems.

Weighting and Conclusion

Equatorial Guinea has the necessary measures in place to implement the FATF Recommendations, despite the professional secrecy laws governing financial institutions and the lack of specific provisions for the exchange of information between financial institutions at national level under the AML/CFT law.

Equatorial Guinea is rated as Largely Compliant with Recommendation 9.

Recommendation 10: Customer due diligence (CDD)

On the basis of this Recommendation (formerly R.5), Equatorial Guinea was rated "Non-Compliant" (NC) at its last evaluation in 2016, due to the following shortcomings: (i) no obligation on banks and MFIs to formally prohibit the opening and maintenance of anonymous accounts or accounts opened under fictitious names; (ii) no obligation regarding the management of numbered accounts; (iii) insufficient measures to identify beneficial owners for all financial institutions; (iv) no obligation, for non-bank financial institutions, regarding categories of at-risk customers.

The CEMAC Regulation, adopted in April 2016, has made good most of the shortcomings identified above in Recommendation 10.

Criterion 10.1- Article 23(2) of the CEMAC Regulation prohibits financial institutions from keeping anonymous accounts or accounts under fictitious names. Article 14 of the COBAC Regulation requires reporting institutions to close any accounts held by customers who request anonymity or who present themselves under a false name.

When Customer due diligence is required

Criterion 10.2 - Chapter II of the CEMAC Regulation puts into perspective reporting entities' duty of vigilance vis-à-vis their customers. The same applies to Chapter III (Articles 4 and 5, among others) of the COBAC Regulation, Part III of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 of 2 March 2021 to define the procedures applicable by insurance undertakings in CIMA Member States under AML/CFT and Articles 227 to 229 of the COSUMAF General Regulation.

In particular, the CEMAC Regulation provides that FIs are subject to due diligence obligations when:

(a) they establish business relationships: they identify their customer and, where applicable, the beneficial owner of the business relationship by appropriate means and verify the identification details on presentation of any documentary evidence (Art. 21);

(b) they carry out occasional transactions of an amount exceeding ten million (10,000,000) CFA francs, i.e. the equivalent of 15,000 Euros, for persons other than manual money changers or the legal representatives and directors responsible for gaming operators, or of an amount equal to or greater than five million (5,000,000) CFA francs, i.e. the equivalent of 7,500 Euros, whether it concerns a single transaction or several transactions that appear to be linked. If there is any doubt as to the legality of the origin of the funds, identification is also

required even if the amount of the transaction is below the set threshold (Articles 29, 32 and 42);

(c) they carry out occasional transactions in the form of a national or international transfer of funds (Articles 29 and 36);

(d) there is a suspicion of ML/TF even if the amount of the transaction is below the threshold (Article 29);

(e) the financial institution doubts the veracity or relevance of the customer identification data previously obtained (Article 29).

Due diligence measures required for all customers

Criterion 10.3- When entering into a business relationship, Article 21 of the CEMAC Regulation requires reporting entities to identify customers and, where applicable, beneficial owners by appropriate means, by verifying identification details on presentation of any documentary evidence. Articles 29 and 32 require financial institutions to identify their customers, even occasional, and to ascertain the identity and authority of persons acting on their behalf by means of independent and authenticated documents, sources, data or information, while Article 34 urges re-identification when the identity of their customers and the identification details previously obtained are no longer accurate or relevant.

Articles 4 and 5 of the COBAC Regulation also insist on the obligation to identify a permanent or occasional customer, whether a natural or legal person, and to verify their identity using documents, data and information from reliable and independent sources.

Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 of 2 March 2021 also echoes this imperative for insurance companies.

However, no measure has been taken to specify the procedures for identifying a legal arrangement. There is also no obligation for FIs to identify customers who are or act on behalf of a legal arrangement.

Criterion 10.4 - According to Article 29(1) of the CEMAC Regulation, financial institutions identify their customers and, where appropriate, ascertain the identity and authority of persons acting on their behalf, by means of independent and authenticated documents, sources, data or information. In the event that the customer does not appear to be acting on his own behalf, Article 33(1) specifies that the financial institution must obtain information, by any means, on the identity of the true originator.

Articles 4 and 5 of the COBAC Regulation and Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 of 2 March 2021 echo these obligations, *mutatis mutandis*.

Criterion 10.5 - By virtue of Articles 21 and 23 of the CEMAC Regulation, before entering into a business relationship with their customer or assisting same in preparing or carrying out a transaction, financial institutions are required to identify their customer and the beneficial owner of the business relationship, when the customer is not acting on their own behalf, by appropriate means and to verify the identification details on presentation of any documentary evidence. They identify, under the same conditions, their occasional customers and the

beneficial owner of the business relationship. Lastly, in the event of doubt as to whether the customer is acting on his/her own behalf, the financial institution inquires about the identity of the real originator using any means.

Furthermore, the definition of *beneficial owner* provided by Article 1, point 16 of the Regulation aligns with that of Glossary of the FATF Methodology, name: *the natural person who ultimately owns or controls a customer and/or the natural or legal person on whose behalf a transaction is carried out*. *Beneficial owner also comprises persons who, ultimately, exercise effective control over a legal person or a legal arrangement.*

Nevertheless, the obligation of relevance of the information or data obtained on the beneficial owner or the reliability of the source of such information or data is not enshrined. In addition, identification of the beneficial owner is only mandatory when the customer is not acting on his own behalf (Art. 21 and 33 of the CEMAC Regulation).

Criterion 10.6 - Articles 22 and 31 of the CEMAC Regulation set out the obligations relating to understanding the purpose and nature of the proposed business relationship and obtaining the relevant information. Before entering into a business relationship with a customer, *financial institutions must gather and analyse the pieces of information from among those featuring on the list drawn up for that purpose by a competent authority, and required for knowledge of their customer as well as the purpose and nature of the business relationship* (Article 22). They must also implement mechanisms to understand the intended nature of the business relationship, the nature of the activity of legal persons and arrangements and their ownership and control structure (Article 31).

However, although it is not a requirement within the meaning of the FATF Standards, the list of information drawn up by a competent authority that must be collected by financial institutions is not provided for, minor deficiency affecting the way in which the assessed country should comply with the requirements of this criterion in accordance with the guidelines imposed by the CEMAC Regulation.

Criterion 10.7 - Articles 22 and 23 of the CEMAC Regulation requires financial institutions to exercise constant vigilance with regard to the business relationship, in particular by:

- exercising permanent vigilance with regard to any business relationship and carefully examining the transactions carried out in order to ensure that they are consistent with what they know about their customers, their business activities, their risk profile and, where applicable, the source of their funds (Article 23(1));
- gathering, updating and analysing, throughout the duration of the business relationship, information from a list drawn up for this purpose by a competent authority, which enables them to maintain an appropriate knowledge of their customer. The collection and storage of such information must be carried out in a manner consistent with the objectives of assessing the ML/TF risk and of surveillance appropriate to that risk (Article 22(2)). However, the absence of the list drawn up by an authority slightly affects the country's compliance with this criterion.

Furthermore, Articles 12 and 13 of the COBAC Regulation provide for a periodic review of customer identification data throughout the duration of a business relationship, and measures to preserve the confidentiality of customers and their transactions must not prevent reporting entities from subjecting these customers and their transactions to the same rigorous monitoring and scrutiny as is usually applied.

Specific CDD measures required for legal persons and arrangements

Criterion 10.8 - Article 31(3) of the CEMAC Regulation requires financial institutions to also implement mechanisms to understand the intended nature of the business relationship and the nature of the activity of legal persons and arrangements and their ownership and control structure.

Articles 5 and 7 of the COBAC Regulation also require reporting entities to understand the nature of the customer's activities and its ownership and control structure, where customers are legal persons or arrangements.

Criterion 10.9 - A combined analysis of Articles 31 of the CEMAC Regulation and Article 5(3) of the COBAC Regulation reveal that financial institutions are responsible for identifying and verifying the identity of the customer, a legal person, by means of the following information:

(a) the articles of association and any document establishing that it has been legally constituted and that it really exists at the time of identification, any deed or official register recording its name and legal form;

(b) the powers that govern and bind the legal person (articles of association), the powers of the persons acting on its behalf, determination of the source of funds and the identification of their beneficiaries and of the persons who control the funds;

(c) the address of the registered office.

Article 5(4) of the COBAC Regulation extends this obligation to companies whose capital is made up of bearer shares or held by agents, while Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 sets it out for insurance companies.

However, a non-negligible shortcoming is the absence of the obligation to identify the address of one of the main centres of activity, if it is different from the address of the registered office, as well as any identification of a legal arrangement and, therefore, any obligation on financial institutions to identify customers who are or who act on behalf of legal arrangements.

Criterion 10.10 - For legal entity customers:

(a) Pursuant to Article 21 of the CEMAC Regulation, financial institutions must identify the beneficial owner of the business relationship and verify his or her identity on presentation of any documentary evidence;

(b) There are, however, no provisions requiring financial institutions, where there is doubt about the identity of the beneficial owner or where no natural person exercises control through a holding, to identify the natural persons, if any, who exercise control over the legal person or arrangement by other means;

(c) Neither is there any provision requiring financial institutions, where no natural person is identified after the implementation of the measures in points (a) or (b) above, to identify the relevant natural person who holds the position of key manager.

Criterion 10.11- In view of the possibility that legal arrangement services are provided by independent legal professionals and that foreign legal arrangements or similar arrangements carry out their activities in Equatorial Guinea or are administered there, notwithstanding the fact that the creation of legal arrangements is not governed by Equatorial Guinean law, there appears to be a significant shortcoming in the absence of an obligation on financial institutions to identify the beneficial owners of legal arrangements and to take reasonable steps to verify the identity of such persons, by means of the following information:

(**a)** for trusts: the identity of the settlor of the trust, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries and any other natural person ultimately exercising effective control over the trust (including through a chain of control/ownership);

(b) for other types of legal arrangements: the identity of persons holding equivalent or similar positions.

CDD for beneficiaries of life insurance policies

Criterion 10.12 - Article 42 of the CEMAC Regulation lays down specific obligations for insurance companies, in this case due diligence for identification procedures only above the cumulative annual premium threshold of five million CFA francs or a single premium of ten million CFA francs or, under certain conditions, for pension insurance. However, apart from the general measures of due diligence and identification of the beneficial owner contained in Articles 29, 30 and 31, there are no specific provisions for the beneficiaries of life insurance policies and other insurance-linked investment products.

(a) Article 13.1 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 requires insurance undertakings, before entering into a contractual relationship, or assisting their customer in preparing or carrying out a transaction, to ascertain the identity of their contracting party, in particular, for beneficiaries who are natural persons, by recording the identity of all contracting parties (full name, date and place of birth, nationality) regardless of the amounts paid. However, this provision does not apply to the other categories of financial institutions;

The same measures apply to policyholders, originators and any person paying a premium. Where the policyholder is different from the insured, the insurance company may also record the identity of the latter if it deems this necessary. Article 13.4 of the CIMA Regulation specifies that when a transaction appears to be carried out on behalf of a third party, the insurance undertaking must enquire as to the true identity of that third party.

However, there is no provision that meets the requirements of the criterion under review. In fact, the identification requirement set out in point 13.1 only concerns the list of co-contractors and therefore does not cover the identification of the beneficiary of the life insurance, i.e. the person who receives the insurance money once the "customer" or the person for whom the life insurance was taken out has died.

(b) There is no provision requiring financial institutions to obtain sufficient information on beneficiaries designated by characteristics or by category or by other means, so as to be comfortable enough in establishing their identity at the time of payment of benefits.

(c) Neither is there any provision requiring, in the two cases mentioned above, that the identity of beneficiaries be verified when benefits are paid.

Criterion 10.13 - Article 14 of the CEMAC Regulation establishes a general obligation for reporting entities to take appropriate measures to identify and assess the ML/TF risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures must be proportionate to the nature and size of the reporting entities. However, no regulatory provision was identified requiring financial institutions to consider the beneficiaries of life insurance contracts as a relevant risk factor when determining whether enhanced due diligence measures are applicable. There are no obligations to identify and verify the identity of the beneficial owner of life insurance contracts and other insurance-related investment products at the time of payment of premiums.

Timing of verification

Criterion 10.14 - Articles 21, 22, 23 and 32 of the CEMAC Regulation as well as Article 4(4) and (5) of the COBAC Regulation require financial institutions to verify the identity of the customer and the beneficial owner before or during the establishment of a business relationship or the execution of transactions in the case of occasional customers. However, no provision is made for the possibility of finalizing the verification of the identity of the customer and the beneficial owner after the business relationship has been established or transactions carried out in the case of occasional customers, provided that:

(a) it occurs as soon as reasonably practicable;

(b) it is essential in order not to interrupt the normal course of business;

(c) ML/TF risks are effectively managed.

Furthermore, Article 13 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 requires insurance undertakings, before entering into a contractual relationship or assisting their customer in preparing or carrying out a transaction, to ascertain the identity of their co-contractor.

Criterion 10.15 - Pursuant to Article 95 of the CEMAC Regulation, financial institutions adopt systems to assess and manage ML/TF risks and take measures proportionate to their risks, nature and size, including applicable data protection requirements. However, the laws in force in Equatorial Guinea do not authorize the entry into a business relationship before verification.

Existing customers

Criterion 10. 16 - Articles 22, 23(1) and 34 as well as the exegesis of the Articles 35 and 43 of the CEMAC Regulation require financial institutions to apply due diligence measures (constant) to existing customers throughout the business relationship according to the level of risk they represent, to apply CDD measures to all customer transactions, to re-identify the customer when they have good reason to believe that the identity of their customer and the

identification elements previously obtained are not accurate or relevant, to apply due diligence measures to existing customers and to implement due diligence measures relating to these existing relationships in a timely manner, taking into account the existence of previous due diligence measures.

Articles 7, 18 and 21 of the COBAC Regulation and Article 14 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 are an echo of the above-mentioned provisions.

Risk-based approach

Criterion 10.17 - Pursuant to Articles 25, 43 and 56 to 61 of the CEMAC Regulation, 7, 22 and 24 of the COBAC Regulation, and 4 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021, financial institutions must implement risk management systems and enhanced due diligence measures if the ML/TF risks are higher.

Criterion 10.18 - Pursuant to Article 52 of the CEMAC Regulation, when the ML/TF risk appears low to them, and provided that there is no suspicion of ML or TF, financial institutions may reduce the intensity of due diligence measures, in which case they must justify to their supervisor that the extent of the measures is consistent with the risks.

Failure to satisfactorily complete CDD

Criterion 10.19 - Article 32 of the CEMAC Regulation makes transactions by occasional customers, above certain thresholds and under certain conditions, subject to due diligence and Article 33 and requires financial institutions to close their business relationships if there is any doubt as to the identity of the beneficial owner. However, these provisions do not cover transactions that exceed the thresholds, nor the absence of a clear and formal prohibition on opening an account, entering into a business relationship or executing a transaction in the event of failure to comply with due diligence obligations.

In addition, Article 14 of the COBAC Regulation requires all reporting institutions to close accounts where identification problems arise that cannot be resolved during operation (...), with the obvious disadvantage of covering only those reporting institutions affected by this Regulation.

Customer due diligence and tipping-off

Criterion 10.20 - Article 83(9) of the CEMAC Regulation provides that *where a transaction that should be the subject of a suspicious transaction report has already been carried out, either because it was impossible to postpone its execution, or because its postponement could have hindered investigations into a suspected ML or FTP transaction, or because it became apparent after it had been carried out that it was subject to such report, the reporting entity shall inform ANIF without delay*. However, there is no measure allowing financial institutions, if they suspect that a transaction relates to ML or TF, and are convinced that by fulfilling their due diligence they would alert the customer, to choose not to pursue the CDD process and instead make an STR.

Weighting and Conclusion

Equatorial Guinea has appropriate provisions that comply with FATF requirements, providing a framework for customer due diligence for financial institutions, mainly through the CEMAC Regulation of April 2016. However, a number of shortcomings cast a shadow over the country's compliance with the requirements of the FATF Recommendations. Such is the case of shortcomings of a provision requiring the reliability of the source of information obtained by reporting entities on the beneficial owner, of measures requiring financial institutions, in the event of doubt as to the identity of the beneficial owner, to identify the natural persons, if any, who exercise control over the legal person or arrangement by other means, the absence of the list of information drawn up by a competent authority that must be collected by financial institutions, the obligation for financial institutions to identify the beneficiary of a life insurance policy and to include the beneficiary of a life insurance policy among the relevant risk factors when determining whether enhanced CDD measures are applicable, the absence of a regulatory provision requiring financial institutions to consider the beneficiaries of life insurance policies as relevant risk factors when determining whether enhanced due diligence measures are applicable, particularly explicit provisions for the beneficiaries of life insurance policies and other insurance-linked investment products, or on the obligation for financial institutions to draw up a list of information established by the competent authorities. It is worth adding the lack of express provision requiring financial institutions not to proceed with the CDD process and instead to file an STR when they have a suspicion of ML/TF and they reasonably believe that proceeding with the CDD process would arouse the customer's attention.

Equatorial Guinea is rated as Partially Compliant with Recommendation 10.

Recommendation 11: Record keeping

The 2016 MER for the first round of evaluations shows that Equatorial Guinea was rated Partially Compliant (PC) with the obligations of this Recommendation (formerly R.10). In fact, the report pointed out a lack of clarity regarding the nature and availability of the record to be kept and the type of information to be collected for the purposes of reconstructing transactions. In addition, it was deemed necessary to lay down specific record keeping obligations for beneficiaries of transactions, as well as an explicit obligation for financial institutions to ensure that they can provide the competent national authorities with the information and records they hold in good time.

Criterion 11.1 - Article 38 of the CEMAC Regulation requires financial institutions, without putting into abeyance the provisions prescribing more stringent obligations, to preserve all documents and records relating to transactions carried out by their customers and confidential reports drawn up following the special monitoring of some transactions, for ten (10) years after the transaction.

Article 39 of the COBAC Regulation and Article 18 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 also include this obligation to keep records for a period of five years.

Criterion 11.2 - Article 38 of the CEMAC Regulation stipulates that the findings of the review of the implementation of enhanced due diligence measures must be kept for at least ten (10)

years. Pursuant to Article 61 of the CEMAC Regulation, with regard to the recording and storage of the findings of the implementation of the enhanced due diligence measures, the findings of the review of the implementation of the enhanced due diligence measures prescribed in Article 59 of the CEMAC Regulation are recorded in writing and preserved in accordance with the procedures set out in Article 38 of the same instrument. 59 CEMAC Regulation.

Article 39 of the COBAC Regulation prescribes a period of five (5) years for keeping documents relating to the identity of its regular or occasional customers as well as the characteristics of these transactions.

The only drawback is that these instruments do not specify the scope of the record to be kept, in this case "documents obtained as part of customer due diligence measures, customer account books and business correspondence, as well as the findings of any analysis carried out".

Criterion 11.3 - According to Article 39 of the CEMAC Regulation, the documents and records relating to the identification obligations set out in the instruments are communicated by financial institutions to the judicial authorities, to State employees responsible for detecting and punishing ML-related offences, acting within the framework of judicial proceedings, to supervisors and to ANIF, at their request. Under paragraph 2, the purpose of the obligation is to reconstruct transactions carried out by a natural or legal person and linked to a transaction that has been the subject of a suspicious transaction report or whose characteristics have been recorded in the confidential register as part of the enhanced due diligence.

It should be noted that Articles 39 and 40 of the COBAC Regulations and Article 18 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 are in the same light.

Criterion 11.4 - Article 39 of the CEMAC Regulation requires financial institutions to disclose documents to the competent national authorities and to ANIF, but failed to regulate the speed with which such disclosure should be made and to set compulsory time limits. In this regard, Article 75, which deals with ANIF's right of communication, merely mentions that the documents are to be sent to it by the financial institutions "within the time limits that it shall set" and Article 91(7) obliges the supervisors to notify ANIF "without delay" of any information relating to suspicious transactions or facts that could be linked to money laundering or terrorist financing.

Weighting and Conclusion

Equatorial Guinea largely meets the expectations of Recommendation 11, given that most of the requirements of the global network in terms of record keeping are taken into account in the regulatory instruments. The only asperity identified is that they do not specify the obligation of financial institutions to keep their customers' account books and business correspondence and to disclose documents within specific time limits.

Equatorial Guinea is rated as Largely Compliant with Recommendation 11.

Recommendation 12: Politically exposed persons (PEPs)

A review of the 2016 MER reveals that Equatorial Guinea had been rated Non-Compliant (NC) with this Recommendation (former R.6), due to (i) the absence of any obligation for non-banking financial institutions relating to PEPs and (ii) the absence of any such obligation for insurance undertakings.

Criterion 12.1 - Articles 25 and 60 of the CEMAC Regulation prescribe due diligence measures for reporting entities with regard to PEPs in general, including foreign PEPs.

(a) Financial institutions are responsible for implementing appropriate risk management systems to determine whether the customer (Article 25) or the beneficial owner (Article 60) is a PEP, although the identification of beneficial owners is only implicitly covered by this provision.

(**b**) They are also required to obtain the authorization of senior management before entering into or continuing a business relationship with a PEP customer (Article 25).

(c) In addition, they are required to take all reasonable measures to identify the origin of the funds or assets of PEPs, without however targeting the beneficial owner as regards the origin of the funds or assets.

(d) Lastly, they are required to carry out enhanced and ongoing monitoring of the business relationship.

Criterion 12.2:

(a) Articles 25 and 60 of the CEMAC Regulation require financial institutions to implement appropriate risk management systems to determine whether the customer or beneficial owner is a PEP, including domestic PEPs or PEPs that perform or have performed a significant function within or on behalf of an international organization.

(**b**) They are also required to obtain the authorization of senior management before entering into or continuing a business relationship with domestic and foreign PEPs, to take all reasonable steps to identify the origin of the funds or assets of PEPs, and to ensure enhanced and ongoing monitoring of the business relationship. However, no provisions were identified concerning the origin of funds and assets in cases where the beneficial owner is a PEP.

Criterion 12.3 - Articles 1 (point 55), 25 and 60 of the CEMAC Regulation require financial institutions to extend the enhanced due diligence requirements applied to PEPs to their close relations, in particular their spouses, any partner considered as equivalent to a spouse, descendants and their spouses or partners, ascendants, privileged collaterals and persons known to be closely associated with them. Article 8 of the COBAC Regulation echoes this by imposing the same requirements before admitting a PEP, including one of his or her relatives, to the counters.

Article 1(55) of the CEMAC Regulation requires financial institutions to apply the relevant measures of Criteria 12.1 and 12.2 analysed above to family members of all types of PEPs and to persons closely associated with them. However, the provisions on the origin of funds and assets do not cover cases where the beneficial owner is a person closely linked to a PEP.

Criterion 12.4 - Article 42 of the CEMAC Regulation requires insurance companies and insurance agents and brokers carrying on life insurance business to identify their customers and verify their identity in accordance with Article 31 thereof, whenever the amount of premiums payable during a year reaches a certain threshold, or premium payments are made in accordance with certain terms and conditions. However, no identified provision specifies whether the policyholder or, as the case may be, the beneficial owner of the policyholder of a life insurance policy are PEPs. Article 12.4 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 sets out specific due diligence requirements applicable to PEPs, except that the specific issue of life insurance contracts is not mentioned.

Weighting and Conclusion

The CEMAC Regulation and other AML/CFT legislation applicable in the legal framework of Equatorial Guinea include specific measures for managing relationships with PEPs and for initiating and monitoring relationships with this category of customer. Conversely, the issue of the beneficial owner as regards the origin of funds or assets as well as the determination of the PEP status of the beneficiaries of the insurance policy or, as the case may be, of the beneficial owner of the contract of a life insurance policy are left to lie fallow.

Equatorial Guinea is rated as Partially Compliant with Recommendation 12.

Recommendation 13: Correspondent banking

In its latest evaluation report, Equatorial Guinea was rated Partially Compliant (PC) with the Recommendation on correspondent banking (formerly R.7), due to: (i) the absence of formal procedures to define and disseminate lists of States that do not implement the Standards satisfactorily; (ii) the non-application of due diligence and control requirements in relation to correspondent banking; (iii) the absence of provisions specifying that the establishment of correspondent banking relationships is subject to senior management approval; and (iv) the lack of operational implementation by banking institutions.

Criterion 13.1- With regard to cross-border correspondent banking relationships and other similar relationships, in addition to the normal customer due diligence procedures, Article 41 of the CEMAC Regulation requires financial institutions, in accordance with sub-criteria (a), (b) and (c) of the criterion under review:

- identify and verify the identification of customer institutions with which they have correspondent banking relationships;
- gather information on the nature of the customer institution's activities;
- assess the reputation of the customer institution and the degree of supervision to which it is subject, on the basis of publicly available information (even if this does not clearly involve knowing whether the correspondent has been the subject of an investigation or action by an ML/TF supervisor);
- obtain the authorization of senior management before entering into a relationship with the correspondent bank;

- assess the controls established by the customer institution to combat money laundering and terrorist financing.

Article 11 of the COBAC Regulation requires all reporting institutions to obtain sufficient information on the nature of the correspondent credit institutions, their procedures for preventing and detecting money laundering, the purpose of the account to be opened, and the state of banking regulations and supervision in the country where these institutions are located.

However, there is no provision requiring a clear understanding of each institution's respective AML/CFT responsibilities, as recommended by sub-criterion (d).

Criterion 13.2- Regarding transit accounts, it should be noted that:

(a) Article 59(5) of the CEMAC Regulation provides that "where financial institutions receive services from correspondent banks directly used by independent third parties to carry out transactions on their own behalf, they must ensure that the contracting credit institution has verified the identity of the customers having direct access to these correspondent accounts and has taken due diligence measures for these customers in accordance with those provided for in Articles 24 and 25 of the Regulation";

(b) conversely, no requirement obliges financial institutions to ensure that the correspondent is able to provide the relevant information on payable-through accounts upon request by the correspondent bank.

Criterion 13.3 - Article 58 of the CEMAC Regulation prohibits financial institutions from entering into or maintaining a correspondent banking relationship with a credit institution or a company carrying out equivalent activities incorporated in a State where this institution has no effective physical presence allowing it to carry out management activities, if it is not attached to a regulated institution or group. They must take appropriate measures to ensure that they do not enter into or maintain correspondent banking relationships with a person who himself maintains correspondent banking relationships enabling a shell bank to use his accounts.

Weighting and Conclusion

Equatorial Guinea largely complies with the requirements of the Recommendation on correspondent banking, notwithstanding the absence of a provision requiring financial institutions to ensure that the correspondent is able to provide the relevant information relating to payable-through accounts at the request of the correspondent bank. In addition, a correspondent banking relationship within the CEMAC zone is not considered to be cross-border.

Equatorial Guinea is rated as Largely Compliant with Recommendation 13.

Recommendation 14: Money or value transfer services (MVTS)

The 2016 MER showed that Equatorial Guinea had been rated Non-Compliant (NC) for the former Special Recommendation VI on the obligations applicable to money or value transfer services. The reasons for the country's rating included the following vulnerabilities: (i) the total absence of appropriate regulation of the activity; (ii) the failure of the competent authorities to

issue authorizations to operate MVT services; (iii) the failure to monitor the activity of MVT services; and (iv) the absence of a list of agents.

Criterion 14.1- Article 92 of the CEMAC Regulation states that "in accordance with the specific regulations in force, no persons may perform the professional activity of transferring or transporting funds and values if they have not obtained approval from the relevant State authority of the territory in which they wish to conduct their business". Article 3 of Regulation 04/18/CEMAC/UMAC/COBAC includes money transmission service providers in its scope of implementation. In accordance with Article 23 of this Regulation, the exercise of the profession of money transmission service provider is subject to authorization by the Monetary Authority after receiving the assent of COBAC.

For financial institutions that are already licensed, such as banks and MFIs, it is not necessary to obtain a separate licence to provide money transfer services.

Criterion 14.2 - Equatorial Guinea has no instrument requiring the identification and proportionate and dissuasive sanctioning of natural and legal persons who provide money and value transfer services without being licensed or registered.

Criterion 14.3 - In the CEMAC zone, MVTS providers fall into the category of payment service providers (PSPs) as money transmission services are considered to be activities falling within the scope of Regulation 04/18 on payment services in the CEMAC zone.[59] To operate as a payment service provider in Equatorial Guinea, a bank must be approved by the Ministry in charge of finance, after receiving the assent of COBAC.

To this end, COBAC is responsible for supervising and controlling these providers' compliance with AML/CFT obligations.

Criterion 14.4 - The use of distributors and sub-distributors is authorized under Article 63 of Regulation No. 04/18/CEMAC/UMAC/COBAC. This is done on the basis of an agreement between the PSP and the distributor or sub-distributor. Article 64 oblige PSPs who use distributors and/or sub-distributors to ensure that the latter comply with the security and vigilance requirements laid down as part of their commercial relationship, including AML/CFT measures. PSPs are required to implement risk management systems to control all significant risks relating to the requirements of their activities and those of their distributors and sub-distributors. Lastly, they are required to carry out ongoing controls of distributors and sub-distributors and report the findings to COBAC. In the event of default, PSPs are authorized to take the necessary remedial action.

In addition, in accordance with COBAC Regulation R-2019/01 on the authorization of and changes to the status of money transmission service providers, the application for authorization must be accompanied by a list of distributors and sub-distributors already identified, or the type of distributors and sub-distributors envisaged (Article 6). Also, throughout the development of

[59] See Article 3 of the said Regulation. Furthermore, according to an accepted definition, the money transmission service is a payment service for which funds are received from a payer, without creating payment accounts in the name of the payer or payee, for the sole purpose of transferring a corresponding amount to a payee or another payment service provider acting on behalf of the payee, and/or for which such funds are received on behalf of the payee and made available to the payee.

the fund transmission service provider, the use of a distributor or sub-distributor must be notified to COBAC within one month of its occurrence (article 10).

Criterion 14.5 - There is no obligation for MVTS providers using agents to include them in their AML/CFT programmes. However, under Article 64 of Regulation 04/18, money transmission service providers using distributors and sub-distributors must carry out ongoing controls and report the findings to COBAC. They shall apply the security and vigilance requirements laid down as part of their commercial relationship, including AML/CFT measures.

Weighting and Conclusion

The country has made considerable progress since the first round on this recommendation. In fact, most of the shortcomings were corrected by Regulation 04/18 on payment services in the CEMAC in 2018. However, the persistent shortcomings relate to the fact that no action has been taken to identify natural or legal persons who provide money or value transfer services without being licensed or registered, in order to impose on them the penalties provided for by the law in this respect, and to the fact that no provision obliges PSPs using agents to include them in their AML/CFT programmes.

Equatorial Guinea is rated as Largely Compliant with Recommendation 14.

Recommendation 15: New technologies

At the time of its first-round evaluation, as entered in the 2010 MER, Equatorial Guinea was rated Non-Compliant (NC) with the Recommendation relating to new technologies and remote business relationships (former Recommendation 8). The grievances raised against the country related to (i) the lack of specific policies to control the misuse of new technologies and (ii) the mismatch of obligations in relation to the establishment of remote business relationships or the execution of remote transactions.

New technologies

Criterion 15.1 - Regarding the management of new technologies-related risks, Article 40 of the CEMAC Regulation requires financial institutions to identify and assess ML/TF risks that may arise from:

- the development of new products and commercial practices, including new distribution mechanisms;
- the use of new or developing technologies in connection with new or pre-existing products.

However, in addition to financial institutions, the FATF requirements also apply "to the country", which Equatorial Guinea does not accept.

Criterion 15.2:

(a) Article 40(2) of the CEMAC Regulation requires that the risks inherent in new technologies must be assessed before new products or business practices are launched or before new or developing technologies are used.

(b) Financial institutions must take appropriate measures to manage and mitigate such risks.

Virtual Assets and Virtual Asset Service Providers

Criterion 15.3:

(a) According to Article 13 of the CEMAC Regulation, the country must take appropriate measures to identify, assess, understand and mitigate the ML/TF risks to which it is exposed. However, Equatorial Guinea has not specifically enshrined obligations to identify and assess ML/TF risks arising from activities relating to virtual assets and VASP operations by the State. Article 5 of COBAC Decision D-2022/071 on the holding, use, exchange and conversion of crypto-currencies or crypto-assets by institutions subject to COBAC merely requires them to identify transactions carried out or rejected in connection with crypto-currencies (originators, beneficiaries, amounts, legal currency of transaction, crypto-currency equivalents, purpose of transaction, etc.).) and to provide the Secretariat General of COBAC and BEAC with a detailed statement of these transactions on a monthly basis. To this end, these reporting entities are required to take all appropriate measures and implement procedures and internal control measures to ensure that their information systems can identify information relating to crypto-currencies at any time.

(b) Article 13(3) of the CEMAC Regulation imposes on the State to apply a risk-based approach to allocate its resources and implement measures to prevent or mitigate ML/TF. However, this provision does not specifically address the risks inherent in activities relating to virtual assets and the activities or transactions of VASPs, even though Article 91 of COSUMAF's General Regulation also requires COSUMAF to apply a risk-based supervisory approach.

(**c)** Although Article 5 of COSUMAF's General Regulation of 23 May 2023 provides that in the course of their transactions, the persons, entities or bodies under COSUMAF's control (including Digital Asset Service Providers - DASPs) shall implement a risk-based approach and, in Article 93, requires DASPs to draw up a risk map, there is no specific provision requiring DASPs to take appropriate measures to identify, assess, manage and mitigate their ML/TF risks.

Criterion 15.4 - Notwithstanding Article 76 of the COSUMAF General Regulation of 23 May 2023, which confers on COSUMAF the powers of approval, authorization and registration referred to in Articles 22 et seq. of Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022:

(**a)** (i) No specific measure is identified requiring VASPs to be authorized or registered, where the VASP is a legal person, in the jurisdiction in which it was established, or

(ii) where the VASP is a natural person, in the jurisdiction where its place of business is located.

(**b)** No provision obliges the competent authorities to take the legal or regulatory measures necessary to prevent criminals or their associates from holding, or being the beneficial owners of, a significant or controlling stake, or from holding a management position, in a VASP.

Criterion 15.5- Article 123(2) of COSUMAF's General Regulation of 23 May 2023 limits the application of sanctions to approved entities or persons and their managers. Equatorial Guinea has no binding provision to take measures to identify natural or legal persons who carry out VASP activities without being approved or registered, as required, and to apply appropriate penalties to them.

Criterion 15.6:

(a) Although under Article 91 of the CEMAC Regulation and Article 90 of the COSUMAF General Regulation of 23 May 2023, the supervisory and control authorities monitor compliance with AML/CFT requirements, there is no provision dealing specifically with the regulation and control of VASPs.

(b) Under Article 35 of COSUMAF's General Regulation of 23 May 2023, COSUMAF has the broadest powers to order any inspection or investigation of any person or entity involved in the functioning of the Regional Financial Market. And under Article 90, COSUMAF ensures that market participants comply at all times with the FATF recommendations and the provisions of the CEMAC Regulation, among others. However, in the absence of more specific Instructions from COSUMAF, there is no provision requiring the supervisory authorities to have the necessary powers to control or monitor VASPs to ensure that they comply with their AML/CFT obligations, including the power to carry out inspections, to require the production of any relevant information and to impose a range of disciplinary and financial sanctions, including the power to withdraw, restrict or suspend the VASP's licence or registration.

Criterion 15.7 - Notwithstanding Article 97 of the CEMAC Regulation, pursuant to which reporting entities receive from ANIF the information available thereto on ML/TF mechanisms as well as the outcomes reserved for their suspicious transaction reports, there is no provision obliging the competent authorities and supervisory authorities to develop guidelines and provide feedback, in order to assist VASPs in implementing national AML/CFT measures and, in particular, to detect and report suspicious transactions.

Criterion 15.8:

(**a)** The instruments in force in Equatorial Guinea give no indication of a range of proportionate and dissuasive criminal, civil or administrative penalties applicable to VASPs that fail to comply with their AML/CFT obligations.

(b) Neither is there a provision for the aforementioned penalties to be applicable not only to VASPs, but also to members of the administrative organ and senior management.

Criterion 15.9:

(a) Despite Article 29 of the CEMAC Regulation, which requires financial institutions to take appropriate due diligence measures for occasional transactions of CFAF 5 million or more, there is no specific provision setting out the threshold for occasional transactions above which VASPs must take due diligence measures. Article 95 of COSUMAF's General Regulation of 23 May 2023 stipulates that market participants shall identify and verify the identity of their occasional customers and, where applicable, their beneficial owners, when they suspect that a transaction may involve ML/TF or when transactions are of a certain nature or exceed a certain

amount. The nature of the transactions concerned and their amounts are specified in a COSUMAF instruction (which has not yet been published).

(b) Article 36 of the CEMAC Regulation provides that financial institutions shall obtain and verify the name, account number, address, national identification number, place and date of birth of the originator and beneficiary of the transfer, including the name of the originator's financial institution. However, there are no specific measures requiring the originator's VASP to obtain and preserve the required and accurate information on the originator and the required information on the beneficiary of the virtual asset transfer, to submit such information to the beneficiary's VASP or its financial institution immediately and securely, and to make such information available to the appropriate authorities when requested.

(ii) Similarly, there are no provisions specifically requiring the beneficiary's VASP to obtain and preserve the required and accurate information from the originator and the required and accurate information from the beneficiary of the beneficiary virtual asset transfer, and to make such information available to the appropriate authorities upon request.

(iii) There are no specific provisions on virtual assets concerning monitoring of the availability of information. With regard to freezing measures and the prohibition of transactions with designated persons and entities, Article 105 of the CEMAC Regulation sets out these obligations for all funds and property, including virtual assets.

(iv) There are no specific obligations for financial institutions when sending or receiving a transfer of virtual assets on behalf of a customer.

Criterion 15.10 - Article 106 of the CEMAC Regulation provides that any decision to freeze or unfreeze funds must be made public. The same applies to the procedures to be followed by any natural or legal person included on the list of persons, entities or bodies covered by the decision. However, there are no specific provisions concerning the mechanisms for implementing targeted financial sanctions applicable to VASPs.

Criterion 15.11- Notwithstanding Article 91(4) of the CEMAC Regulation, which provides that each supervisory and control authority shall cooperate and exchange information with other competent authorities, there is no specific standard requiring supervisory authorities of VASPs to have a legal basis for exchanging information with their foreign counterparts, regardless of their nature or status and the differences in nomenclature or status of the VASPs.

Weighting and Conclusion

The provisions relating to the identification and assessment of ML/TF risks inherent in the use of new technologies contained in the CEMAC Regulation, as well as those setting out the general framework for the supervision of VASPs, in particular by COSUMAF's General Regulation of 23 May 2023 are virtually inoperative in the absence of a more precise framework (notably COSUMAF's Instructions setting out the implementing measures for the aforementioned General Regulation) for transactions relating to virtual assets or carried out by virtual asset providers.

Equatorial Guinea is rated as Non-Compliant with Recommendation 15.

Recommendation 16: Wire transfers

At its last evaluation, Equatorial Guinea was rated Non-Compliant (NC) with the former Special Recommendation VII on the rules applicable to wire transfers, following (i) the absence of an obligation to disseminate information on the originator, (ii) the absence of an obligation to identify occasional customers making transfers and (iii) the absence of effective and operational monitoring of the implementation of the Recommendation.

Ordering financial institutions

Criterion 16.1:

(**a**) Article 36 of the CEMAC Regulations imposes on financial institutions whose activities include domestic or cross-border wire transfers to obtain and verify, regardless of the amount:

- the full name of the originator;
- the originator's account number, or if there is no account, a single reference number for the transaction;
- the originator's address or, if there is no address, the originator's national identification number or place and date of birth.

(**b**) For wire transfers, financial institutions must also obtain:

- the name of the beneficiary of the transfer;
- the account number of the beneficiary of the transfer; or in the absence of an account, a single reference number for the transaction.

This information must appear in the message or payment form accompanying the transfer. If there is no account number, a single reference number must accompany the transfer.

Criterion 16.2 - Under Article 36 of the CEMAC Regulation, financial institutions whose activities include wire transfers must obtain and verify the full name, account number and address or, in the absence of an address, the national identification number or place and date of birth of the originator and beneficiary of the transfer including, if necessary, the name of the originator's financial institution. Where there is no account number, a single reference number must accompany the transfer.

In practice, this provision applies to individual transfers and to batch transfers carried out by the same originator.

Criterion 16.3- Equatorial Guinea does not apply thresholds. Article 36 of the CEMAC Regulation apply to all wire transfers.

Criterion 16.4 - Pursuant to Articles 29(2) and 36 of the CEMAC Regulation, in the event of suspicion as to the veracity or relevance of previously obtained customer identification data, the financial institution is required to verify the information relating to its customer as soon as there is a suspicion of ML/TF.

Criterion 16.5 - Article 36 of the aforementioned CEMAC Regulation imposes on financial institutions whose activities include wire transfers the requirement to obtain and verify all information on the originator, whether for domestic or cross-border wire transfers and, if necessary, the name of the originator's financial institution.

Criterion 16.6 - The Same Article stipulates that the required information on the originator and beneficiary must be included in the message or payment form accompanying the transfer. Where there is no account number, a single reference number must accompany the transfer.

However, it should be noted that there is no obligation on the originator's financial institution to transmit, on request, the information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities within three (3) working days of receipt of the request from either the beneficiary's financial institution or the appropriate competent authorities.

Criterion 16.7 - Article 38 of the CEMAC Regulation imposes on financial institutions to keep documents relating to their identity for ten (10) years from the closure of their accounts or the termination of their relations with their regular or occasional customers. They must also keep records and documents relating to the transactions they have carried out and enhanced due diligence reports for ten (10) years after the transaction has been carried out.

Criterion 16.8 - Article 37 of the CEMAC Regulation states that "where financial institutions receive wire transfers that do not contain complete information on the originator, they shall take steps to obtain the missing information from the issuing institution or the beneficiary in order to complete and verify it. Where they do not obtain such information, they shall refrain from executing the transfer".

Intermediary financial institutions

Criterion 16.9 - Under Article 36 of the CEMAC Regulation, financial institutions acting as intermediaries in cross-border wire transfers must ensure that all information on the originator and beneficiary accompanying a wire transfer remains attached thereto. It is stated that information on the originator and beneficiary must appear in the message or payment form accompanying the transfer. Where there is no account number, a single reference number must accompany the transfer. However, there is no explicit provision as to the scope of the information or documents to be kept, as pointed out in criterion 11.2 above.

Criterion 16.10 - Under Article 38 of the CEMAC Regulation, financial institutions must keep documents relating to their identity for ten (10) years from the closure of their accounts or the termination of their relations with their regular or occasional customers. They must also keep records and documents relating to the transactions they have carried out for ten (10) years after the transaction has been carried out.

However, there is no obligation expressly imposing on the intermediary financial institution to keep for at least five (5) years the information received from the originator's financial institution or from the other intermediary financial institution in the event that some technical restrictions prevent the required information on the originator or beneficiary accompanying a cross-border wire transfer from remaining attached during a corresponding domestic wire transfer.

Criterion 16.11- Article 37 of the CEMAC Regulation generally imposes on financial institutions receiving wire transfers with incomplete sender information to take the necessary steps to obtain the missing information from the sending financial institution or the beneficiary in order to complete and verify the information. However, there is no obligation to cover incomplete beneficiary data or for intermediary financial institutions to take reasonable steps, consistent with end-to-end processing, to identify cross-border wire transfers lacking the required originator or beneficiary information.

Criterion 16.12 - The CEMAC Regulation obliges financial institutions to have policies and controls in place to effectively mitigate and manage ML/TF risks (Articles 14, 28, 37 and 95). Such policies, procedures and controls must be proportionate to the nature and size of these institutions and the volume of their activities. However, no specific provision has been identified obliging financial institutions to: **(a)** have risk-based policies and procedures in place to decide when to execute, reject or suspend wire transfers that do not include the required originator or beneficiary information and **(b)** appropriate consequential actions to be taken.

Beneficiary financial institutions

Criterion 16.13 - Article 37 of the CEMAC Regulation obliges financial institutions receiving wire transfers that do not contain complete information on the originator to take steps to obtain the missing information from the issuing institution or the beneficiary in order to complete and verify it. Where they do not obtain such information, they shall refrain from executing the transfer. However, there are no formal provisions requiring the financial institution to take reasonable steps, which may include ex post monitoring or real-time monitoring where practicable, to detect cross-border wire transfers lacking the required originator or beneficial owner information.

Criterion 16.14 - Article 36 of the CEMAC Regulation requires the financial institution to verify the identity of the beneficiary in all cases, regardless of the amount of the transaction, while Article 38 requires the financial institution to keep the information resulting from such verification for at least ten (10) years, in accordance with Recommendation 11.

Criterion 16.15 - There is no obligation to have risk-based policies and procedures in deciding:

(a) when to execute, reject or suspend wire transfers that do not include the required originator or beneficiary information,

(b) appropriate follow-up action.

Money or value transfer service operators

Criterion 16.16 - Article 32 of the CEMAC Regulation requires reporting entities to ascertain the identity of their occasional customers and, where applicable, the beneficial owner of the transaction, in accordance with the conditions set out in Articles 30 and 31, before carrying out the transaction or assisting in its preparation or execution. Articles 62 and 63 supplement these requirements with regard to reliance on third parties. The combination of these provisions brings them into line with Recommendation 16.

Criterion 16.17:

(a) Article 63 of the CEMAC Regulation contains measures relating to the implementation of due diligence obligations by third parties. Article 83(4) requires reporting entities to report to ANIF any transaction for which the identity of the originator or beneficial owner remains in doubt despite the due diligence carried out;

(b) Article 83 of the CEMAC Regulation barely states that money or MVTS providers should file a suspicious transaction report and provide ANIF with all information on the transaction. However, there is no standard requiring suspicious transaction reports to be filed in all the countries concerned by suspicious wire transfers.

Implementation of targeted financial sanctions

Criterion 16.18 - There is a mechanism for disseminating lists of targeted financial sanctions in Equatorial Guinea, through the National AML/CFT Coordinating Committee, established by Ministerial Order No. 01/2017 of 21 May 2017 on the implementation and application in Equatorial Guinea of terrorist lists and measures to freeze funds or assets linked to terrorism and its financing in accordance with United Nations Security Council Resolutions 1267 (1999) and 1989 (2011), and subsequent Resolutions and Resolution 1373 (2011).

ANIF is responsible for implementing these sanctions by ordering the preventive freezing of funds or assets of listed persons for subsequent ratification by a judicial authority, pursuant to Article 4 of the said Order.

Weighting and Conclusion

Equatorial Guinea is only partially in line with the requirements of Recommendation 16, due to a number of significant shortcomings concerning, for instance, the obligation on the originator's financial institution to transmit, on request, the information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities within three (3) working days, and the obligation on the intermediary financial institution to keep the information received from the originator's financial institution for at least five (5) years. The same applies to financial institutions' obligations to adopt risk-based policies and procedures for deciding when to execute, reject or suspend wire transfers that do not have the required originator or beneficiary information and the appropriate consequential actions to be taken. There are also no measures requiring the financial institution to take reasonable steps, which may include ex post monitoring or real-time monitoring where practicable, to detect cross-border wire transfers lacking the required originator or beneficial owner information. Furthermore, there is no provision requiring FIs to file a suspicious transaction report in all countries involved in the wire transfer.

Equatorial Guinea is rated as Partially Compliant with Recommendation 16.

Recommendation 17: Reliance on third parties

Following its 2016 mutual evaluation, with regard to the former R9 on third parties and intermediaries, Equatorial Guinea was deemed to be Non-Compliant (NC), due to deficiencies

in obligations relating to dependence on third parties and in terms of the timeliness of information and the ability of the third party to provide due diligence information on request.

Criterion 17.1 - Article 62 of the CEMAC Regulation authorizes financial institutions to use third parties to carry out due diligence, subject to their responsibility for compliance with these obligations. Article 12 of Regulation No. 001/CIMA/PCMA/PCE/2021 of 2 March 2021 also contains more or less some provisions relating to reliance on third parties by insurance companies.

(a) Under Article 64 of the CEMAC Regulation, the third party that applies the due diligence measures must provide the financial institutions without delay with information relating to the identity of the customer, the beneficial owner and on the purpose and nature of the business relationship.

(b) At the first request, he must also send a copy of the documents identifying the customer and the beneficial owner, as well as any document relevant to the due diligence, in accordance with article 64(2) of the CEMAC Regulation, except that the obligation to send these documents without delay is not expressly mentioned in this provision.

(c) Article 63 imposes on financial institutions that rely on third parties to ensure that they are subject to equivalent AML/CFT obligations. Conversely, there is no measure requiring the financial institution to formally ensure that the third party is subject to AML/CFT regulation, supervision or oversight.

Criterion 17.2 - In implementation of Article 14(1) of the CEMAC Regulation, reporting entities take appropriate measures to identify and assess the ML/TPF risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures, in conjunction with those set out in Article 63, place the onus on third parties to assess risks relating to their country of establishment. However, they do not explicitly provide that countries using third parties must factor the information available at country level.

Criterion 17.3:

(a) Article 96 of the CEMAC Regulation obliges financial institutions to apply measures at least equivalent to those provided for in Chapter 3 of Part II, with regard to customer due diligence and account keeping in their foreign branches.

(b) Articles 63 and 96 require financial institutions using the services of a third party that is part of the same financial group to implement customer due diligence and record keeping measures and AML/CFT programmes. However, there is no specific provision on the obligation of these measures to be monitored at group level by a competent authority.

(c) To prevent ML/TF Article 96 of the CEMAC Regulation requires branches or subsidiaries established in a third country to apply the group's AML/CFT measures if they are more stringent than those of the host country. However, there are no specific provisions specifying that any risk linked to a higher-risk country is satisfactorily mitigated by the group's AML/CFT policies when the financial institution uses a third party that is part of the same financial group.

Weighting and Conclusion

Equatorial Guinea has a body of laws that allow financial institutions to use third parties to carry out due diligence and set out the due diligence procedures to be followed by financial institutions and their third parties in implementing due diligence obligations. On the other hand, there is no obligation on financial institutions to adopt measures to ensure that the third party transmits the documentation; on the contrary, the CEMAC Regulation places the obligation on the third party itself, which may apply if the third party is under the country's jurisdiction.

Equatorial Guinea is rated as Largely Compliant with Recommendation 17.

Recommendation 18: Internal controls and foreign branches and subsidiaries

In the 2016 MER, Equatorial Guinea was rated Partially Compliant (PC) and Non-Compliant (NC) for the former R.15, relating to internal controls, compliance and audit, and R.22, relating to foreign branches and subsidiaries. Grievances against the country included the fact that the necessary regulatory measures should be adopted to ensure the operational independence of internal control from its direct hierarchy, as well as to define the obligations relating to employee recruitment procedures for all parts of the financial sector. In addition, sector-specific regulations applicable to entities not subject to COBAC and CIMA should be adopted in terms of internal control against money laundering, which would blend with the common law prudential regime and create an obligation for all non-bank financial institutions to ensure that foreign subsidiaries and branches apply AML/CFT standards, and for the banking sector to require that, in the event of obstacles, the banking supervisor be informed.

Criterion 18.1:

(**a)** Article 27(1) of the CEMAC Regulation requires financial institutions to draw up and implement ML and TF prevention programmes which include, in particular, the appointment of a compliance officer at head office, each branch and each agency or local office. This obligation is captured in Articles 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies, as well as Article 8 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021, which imposes the appointment of officers responsible for implementing AML/CFT programmes.

(b) With the exception of insurance companies, obliged by Article 10 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 to implement appropriate procedures when hiring employees, to ensure that this is done in accordance with stringent criteria, Equatorial Guinea has not passed any legal provision obliging financial institutions to have selection procedures to guarantee that employees are recruited in accordance with stringent criteria, and whose staff recruitment procedures and codes of ethics should be reflected in the internal legal structure of financial institutions.

(c) Article 27(1)(3) of the CEMAC Regulation requires financial institutions to implement AML/CFT programmes that include an ongoing staff training programme to help them detect transactions and actions that may be linked to ML/TF. The provisions of Articles 46(3) of the COBAC Regulation and 11 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 are an echo of this obligation.

(d) Article 14(4), 2nd bullet, of the CEMAC Regulation obliges financial institutions to implement AML/CFT programmes that include an independent audit function responsible for testing policies, procedures and controls. Articles 6, 10, 12, 44 to 48, 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies also cover the issue of internal audit function within institutions subject to COBAC. Articles 8, 31 and 32 of COBAC Regulation EMF R-2017/06 of 24 October 2017 on internal control in microfinance institutions and Article 8 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 are also in the same line.

Criterion 18.2:

(a) Article 94(1) of the CEMAC Regulation requires financial institutions that are part of a group to implement group-wide policies and procedures, including data protection policies and policies and procedures relating to information sharing within the group, for AML/CFT purposes. Article 96 requires them to apply measures at least equivalent to those in force domestically with regard to customer due diligence and record keeping in their subsidiaries located abroad.

(b) Article 94 of the CEMAC Regulation sets out procedures for sharing information within the group. However, Equatorial Guinea did not prove the existence, in its legal arsenal, of specific provisions on the provision of information from branches and subsidiaries relating to customers, accounts and transactions, when necessary for AML/CFT purposes, to compliance, audit and/or AML/CFT functions at group level, including data and analyses of transactions or activities that appear unusual or for risk management purposes.

(c) Paragraph 1 of the aforementioned Article stipulates that financial institutions are required to implement data protection measures. Paragraph 3 states that the relevant supervisory authorities shall inform each other of cases where the legislation of a third country does not allow appropriate minimum AML/CFT measures to be applied to their branches and subsidiaries located abroad. However, satisfactory guarantees of confidentiality and use of the information exchanged are not formally provided for.

Articles 10, 12, 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies, Articles 8, 31 and 32 of COBAC Regulation EMF R-2017/06 of 24 October 2017 on internal control in microfinance institutions and Regulation No. 001/CIMA/PCMA/PCE/SG/2021 all support the above provisions.

Criterion 18.3 - Article 94(2) of the CEMAC Regulation requires financial institutions to ensure the application of AML/CFT measures consistent with those of the home country, where the minimum AML/CFT requirements of the host country are less stringent than those of the home country, to the extent permitted by the laws and regulations of the host country. Paragraph 3 of the same Article specifies that where the host country does not permit the appropriate implementation of AML/CFT measures consistent with those of the home country, financial groups should be obliged to implement appropriate additional measures to manage ML/TF risks and inform the home country supervisors accordingly.

Moreover, Articles 6, 10, 12, 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies also support the requirements of this Recommendation.

Weighting and Conclusion

Equatorial Guinea largely fulfils the measures relating to internal controls and foreign branches and subsidiaries, except that the absence of an obligation to implement programmes that take into account selection procedures guaranteeing the recruitment of employees according to stringent criteria and satisfactory measures relating to confidentiality and the use of information exchanged.

Equatorial Guinea is rated as Largely Compliant with Recommendation 18.

Recommendation 19: Higher risk countries

A reading of the 2016 MER reveals that Equatorial Guinea had been rated **Non-Compliant** with the former R.21 relating to the attention paid to the riskiest countries. Appropriate additional counter-measures should be provided where a country persists in failing to implement or insufficiently implement the FATF Recommendations; and effective measures should be implemented to ensure that financial institutions are aware of concerns about deficiencies in the AML/CFT systems of other countries. In addition, it should be ensured that all financial institutions are informed and aware of these obligations and monitor compliance with the provisions of the relevant applicable instruments.

Criterion 19.1 - Article 14 of the CEMAC Regulation obliges reporting entities to take appropriate measures to identify and assess the ML/TPF risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures must be proportionate to the nature and size of the reporting entities. However, financial institutions are not expressly required to apply enhanced due diligence measures proportionate to the risks, in their business relations and transactions with natural and legal persons (and in particular financial institutions) from countries for which the FATF so requires.

Article 43 of the CEMAC Regulation also provides that reporting entities implement additional due diligence measures when a transaction relates to a State or territory whose legislation or practices hinder AML/CFT.

Article 24 of the COBAC Regulation lays down the same special due diligence requirements for any transaction originating from or destined for institutions located in countries that are not members of FATF or classified as non-cooperative with regard to AML/CFT. Article 19 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021, on its part, obliges insurance undertakings to pay particular attention to transactions with countries and/or jurisdictions declared by FATF as non-cooperative.

Criterion 19.2 - Apart from enhanced due diligence measures, there are no provisions in Equatorial Guinea requiring the application of counter-measures proportionate to risks (a) when FATF so requests and (b) independently of any request from FATF.

Criterion 19.3 - Although Article 14(2) of the CEMAC Regulation provides that the assessments referred to in paragraph 1 shall be documented, kept up to date and made available to the supervisory and regulatory bodies, ANIF and the competent authorities; however, there has not been any proof that an explicit measure on the obligation to implement measures has been enshrined to ensure that they are informed of concerns raised by shortcomings in the AML/CFT systems of other countries.

Weighting and Conclusion

Equatorial Guinea moderately meets the requirements of Recommendation 19 insofar as the CEMAC Regulation provides for the country factor to be taken into account in ML/TF risk identification and assessment by financial institutions. However, deficiencies relating to the implementation of counter-measures proportionate to the risks identified in relations with high-risk countries, when so requested by FATF, the application of counter-measures proportionate to the risks, when so requested by FATF or independently of any request by the FATF, and the obligation to put in place measures to ensure that financial institutions are informed of concerns arising from shortcomings in the AML/CFT arrangements of other countries, cast a shadow over this country's compliance with the Recommendation.

Equatorial Guinea is rated as Partially Compliant with Recommendation 19.

Recommendation 20: Suspicious Transaction Report(ing)

The most recent evaluation of Equatorial Guinea's AML/CFT system in 2016 rated it "Partially Compliant" (PC) with the Recommendations relating to suspicious transaction reporting (R. 13 and SR IV). IV. The complaints were that (i) there was no obligation to report attempted transactions and (ii) the system had not been implemented outside the banking sector.

Criterion 20.1- An analysis of Article 83 of the CEMAC Regulation, Articles 26 and 28 of the COBAC Regulation of 1 April 2005, Article 21 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 and Article 106 of the COSUMAF General Regulation of 23 May 2023 reveals that financial institutions are responsible for filing suspicious transaction reports to NAFI when they know, suspect or have good reason to suspect that the transaction or attempted transaction in question may fall within the scope of ML or the TPF. However, only the aforementioned COSUMAF General Regulation sets out the principle (Article 106), without specifying it, of the obligation to report suspicious transactions immediately to ANIF.

Criterion 20.2 - FIs are required to declare to ANIF, under the conditions set out in the CEMAC Regulation and in accordance with a model declaration established by order of the Minister of Finance on the recommendation of ANIF, the sums entered in their books or transactions involving sums which they know, suspect or have good reason to suspect are the proceeds of criminal activity or are related to a money laundering offence or the financing of terrorism and proliferation, following an enhanced examination (Article 83 of the CEMAC Regulations).

Weighting and Conclusion

The regulatory provisions applicable in Equatorial Guinea require financial institutions to report suspicious transactions to ANIF, with the exception that they do not specify the

obligation to immediately file an STR and do not fully regulate the obligation to report attempted transactions.

Equatorial Guinea is rated as Partially Compliant with Recommendation 20.

Recommendation 21: Tipping-off and confidentiality

Equatorial Guinea was rated "Partially Compliant" (PC) in the 2016 MER, in light of the former Recommendation 14 on the protection of reporting parties and the prohibition on notifying customers. The following shortcomings were identified: (i) the absence of exceptions to the prohibition on informing third parties when exchanges take place between financial institutions belonging to the same group; (ii) the discrepancy between the measures relating to secrecy instituted by the CEMAC Regulation and the transmission of the suspicious transaction report to the public prosecutor instituted by the CIMA Regulation; and (iii) the absence of measures in the sector-specific regulations protecting managers and employees against any professional or disciplinary liability for breaching the rules of confidentiality.

Criterion 21.1 - Articles 88 and 89 of the CEMAC Regulation and Articles 30 and 31 of COBAC Regulation R-2005/01 provide for exemptions from criminal or civil liability for breach of any rule relating to the disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, for financial institutions, their directors and employees, when they submit in good faith their suspicious reports to ANIF, even where they did not know specifically what the underlying criminal activity was or where the illegal activity that was the subject of the suspicion did not actually occur.

Criterion 21.2 - Article 87(2) of the CEMAC Regulation and Article 21.3 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 prohibit financial institutions, their directors and employees from disclosing the fact that a suspicious transaction report or related information has been communicated to ANIF. These existing provisions do not prevent the sharing of information under Recommendation 18.

Weighting and Conclusion

Since the dissemination of the CEMAC Regulation, no obstacles have been identified with regard to Equatorial Guinea's compliance with Recommendation 21 criteria.

Equatorial Guinea is rated Compliant with Recommendation 21.

Recommendation 22: Designated non-financial businesses and professions: customer due diligence

Following the last evaluation of Equatorial Guinea's AML/CFT system, the country was rated "Non-Compliant" (NC) with the recommendation on customer due diligence for DNFBPs (formerly R.12), due to DNFBPs' non-compliant with AML/CFT obligations.

Criterion 22.1:

(a) Under Article 47 of the CEMAC Regulation, casinos are required to observe customer due diligence by keeping and updating information relating to players who purchase, bring in or exchange chips or plaques for an amount equal to or greater than 1,000,000 CFA francs.

However, this does not amount to an obligation to obtain and verify the information, as advocated in Recommendation 10 analysed above.

(b) Pursuant to Article 48 of the CEMAC Regulation, persons who carry out, control or advise on real estate transactions are required to identify the parties (identification of a natural and a legal person) when they are involved in the purchase or sale of real estate and when the transaction is carried out, and that amounts in excess of 3,000,000 CFA francs be paid by cheque or bank transfer.

(c) Under Article 50 of the same instrument, dealers in precious metals and stones are required by to comply with the obligations relating to customer identification when they carry out a cash transaction equal to or greater than the threshold set by the Monetary Authority or, failing that, by the Ministerial Committee, which threshold has not been set, at least to date.

(d) Pursuant to Article 49 of the CEMAC Regulation, lawyers, notaries, other independent legal professionals and accountants must observe customer due diligence requirements when preparing or carrying out transactions for their customers relating to the following activities: (i) purchase and sale of real estate; (ii) management of customers' capital, securities or other assets; (iii) management of current, savings or securities accounts; (iv) organization of contributions for the creation, operation or management of companies; and (v) creation, operation or administration of legal persons or arrangements, and the purchase and sale of business entities.

(e) Similarly, under Article 51, customer due diligence obligations are imposed on trust and company service providers when they prepare or carry out transactions for a customer in connection with the following activities: acting as an agent in the formation of a legal person; acting (or arranging for another person to act), as an officer or company secretary of a company, as a partner of a partnership or in a similar capacity for other types of legal persons; they provide a registered office, a business address or premises, an administrative or postal address to a capital company, a partnership or any other legal person or legal arrangement; they act (or take steps so that another person acts) in the capacity of trustee of an express trust or exercise an equivalent function for another form of legal arrangement; they act (or take steps so that another person acts) in the capacity of shareholder acting on behalf of another person.

However, these provisions do not clearly address the issue of identifying the beneficial owner and the origin of the funds.

Criterion 22.2 - Article 47(3) of the CEMAC Regulation requires casinos and gaming establishments to keep accounting documents for 10 years after the last recorded transaction, to identify customers whose transactions are greater than or equal to one million (1,000,000) CFA francs, their nature and amount with an indication of the full names of the players as well as the number of the document presented in a register. It should be pointed out that other DNFBPs, such as dealers in precious stones and/or metals, lawyers, notaries, chartered accountants and other independent legal professionals, and providers of services to trusts and real estate companies, are not required to keep documents for at least five years.

Criterion 22.3 - Article 25 of the CEMAC Regulation obliges DNFBPs to adopt an appropriate risk management system to determine whether the customer is a politically exposed person (PEP) and, if so, to comply with the obligations of Recommendation 12 concerning PEPs. However, this requirement does not factor the holder of a life insurance policy and/or, where applicable, the beneficial owner of the holder of a life insurance policy, where s/he is a PEP. Neither does the due diligence requirement take into account domestic PEPs and family members or any type of persons closely associated with PEPs.

Criterion 22.4 - The evaluation team did not identify any provisions requiring DNFBPs to implement the due diligence requirements relating to new technologies set out in R.15 of the CEMAC Regulation.

Criterion 22.5 - The same applies to the obligations on DNFBPs regarding the use of third parties set out in R. 17 or the obligation to ensure that the third party is subject to AML/CFT regulation and supervision.

Weighting and Conclusion

Equatorial Guinea timidly meets a few criteria for Recommendation 22. However, with the exception of casinos and real estate agents, the other categories of DNFBPs are exempt from the record keeping obligations set out in R.11. Also, the CEMAC Regulation does not oblige DNFBPs to implement the due diligence obligations relating to new technologies set out in R.15 and to comply with the requirements of third parties set out in R.17.

Equatorial Guinea is rated as Partially Compliant with Recommendation 22.

Recommendation 23: Designated non-financial businesses and professions: other measures

The 2016 MER states that Equatorial Guinea was rated "Non-Compliant" (NC) under R.16 of the old methodology, for the following reasons: (i) lack of specific AML/CFT internal controls and training programmes, and (ii) lack of provisions for taking counter-measures against countries that do not apply or insufficiently apply the FATF Recommendations.

Criterion 23.1- In line with Recommendation 20 and Article 83 of the CEMAC Regulation, DNFBPs must file suspicious transaction reports in the following circumstances:

(a) In relation to lawyers, notaries, other independent legal professionals and accountants, where they assist their client in the preparation or execution of transactions involving: (1) the purchase and sale of real estate or business enterprises; (2) the management of funds, securities or other assets belonging to the client; (3) the opening or management of current, savings or portfolio accounts; (4) the organization of contributions necessary for the formation, management or control of companies; (5) the formation, management or control of companies, trusts or similar legal arrangements; (6) the formation or management of endowment funds. However, in the exercise of an activity relating to the transactions referred to above, lawyers, when the activity relates to legal proceedings or when they give legal advice; other members of the independent legal professions, when they give legal advice, and chartered accountants, when they give legal and tax advice, are not subject to the STR obligation, unless the advice was provided for ML/TF purposes or at the client's request.

(b) Dealers in precious stones and metals are subject to the general STR obligation, with no threshold limit.

(c) As regards trust and company service providers, they are bound without any indication of the circumstances or assumptions referred to in c. 22.1(e).

Criterion 23.2 - Article 28(3) of the CEMAC Regulation requires reporting entities other than financial institutions to implement the AML/CFT internal control procedures and measures laid down by their supervisors. This obligation is subject to the supervisors' definition, in accordance with Recommendation 18, of the AML/CFT internal control procedures and measures to be implemented. However, this authority has not been identified or designated for Equatorial Guinea's DNFBPs.

Criterion 23.3 - There is no provision requiring DNFBPs of Equatorial Guinea to comply with the measures relating to higher-risk countries set out in R.19.

Criterion 23.4 - Article 87(2) of the CEMAC Regulation prohibits, under penalty of sanctions, DNFBPs, their managers and employees from disclosing the fact that a suspicious transaction report or information relating thereto has been communicated to ANIF or from giving information on the action taken thereon on the date of the report. Articles 88 and 89, for their part, stipulate that when a suspicious transaction has been carried out, reporting entities are relieved of all liability and no criminal proceedings may be brought against them.

Weighting and Conclusion

The CEMAC Regulation provides for strict measures to be taken by DNFBPs and is aligned with most of the requirements of R.23. However, attempted suspicious transaction reports are not fully covered, and DNFBPs are not obliged to file an STR immediately in the event of suspicion. Moreover, no mechanism for applying risk-proportionate counter-measures when so required by FATF has been identified, nor has the requirement to implement measures to ensure that DNFBPs are informed of concerns about shortcomings in other countries' AML/CFT regimes. The lack of designation of supervisory authorities for DNFBPs also has an impact on the compliance of the country under evaluation.

Equatorial Guinea is rated as Partially Compliant with Recommendation 23.

Recommendation 24: Transparency and beneficial ownership of legal persons

During the country's previous mutual evaluation, Recommendation 33, now Recommendation 24, was rated "Partially Compliant". The country's shortcomings related in particular to the company registration system, which did not take into account the recommendations on beneficial owners, and the country did not have a national computerized and centralized company register on the entire territory of Equatorial Guinea.

Since then, the country has witnessed major improvements, including the adoption of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorism and proliferation in Central Africa, which fills a number of gaps.

Criterion 24.1 - The country has a legal framework for commercial companies, including in particular the revised Uniform Act relating to the Law on Commercial Companies and Economic Interest Groups (Part 3 of the articles of association, Article 10 et seq.), and the Uniform Act relating to General Commercial Law (Book 1 on the status of traders and entrepreneurs), which provide mechanisms that identify and describe the different types, forms and basic characteristics of legal entities that may be created in Equatorial Guinea.

Other types of legal entity in Equatorial Guinea, namely NPOs, Foundations and NGOs, are governed by Law No. 11/1992 of 1 October 1992 on freedom of association and Law No. 1/1999 of 24 February 1999 on the regime for non-governmental organizations (NGOs), which reflect the right to freedom of association enshrined in the Fundamental Law. Their characteristics, statutes and regimes, as well as the basic information that must be obtained prior to their creation, are set out in the aforementioned instruments.

These provisions describe the procedures for creating these legal persons and the methods for obtaining and keeping basic information about them. The Uniform Acts are available online on OHADA's official website (www.ohada.com) and the laws are published in the Official Gazette. However, there is no provision mentioning the obligations to collect and keep information relating to beneficial owners in the same way and supplement, where necessary, with existing provisions in domestic law. These procedures are generally carried out by notary.

Criterion 24.2 - Equatorial Guinea has not carried out an assessment to identify, understand and mitigate the ML/TF risks associated with different categories of legal entities.

Basic information

Criterion 24.3 - Article 27 of the AUDCG requires companies covered by the Uniform Act on Commercial Companies and Economic Interest Groups to register, within one month of their incorporation, with the Trade and Personal Property Credit Register of the jurisdiction in which their registered office is located.

The register contains information on the company's name, proof of incorporation, legal form and status, the address of its registered office, the main elements governing its functioning and a list of the members of the board of directors. Article 36(4) of the AUDSG provides for information about commercial companies to be made available to the public.

For other legal entities not covered by the OHADA Uniform Act, this information is available in the country from the government authorities responsible for their authorization, regulation and supervision. It may be made available to the public on written request by the interested party.

Criterion 24.4- The provisions applicable to companies do not impose any express obligation on companies to keep the information set out in c.24.3, and to keep a register of their shareholders or members containing the information prescribed in this criterion.

In addition, there is no obligation to inform the entity holding the TPPCR of the exact location where the information is kept within the company.

Criterion 24.5 - The relevant provisions of the OHADA Uniform Acts provide that the registry in charge of the TPPCR shall verify the accuracy and updating of the information referred to in criterion 24.3. Pursuant to these provisions, it shall ensure that applications are complete and compliant, and it shall also be required to verify the continued accuracy of the information. However, these provisions do not cover the elements of criterion 24.4.

Moreover, there is no obligation relating to the requirements of this criterion in respect of other types of legal persons not governed by the OHADA Uniform Acts.

Beneficial ownership information

Criterion 24.6 - There is no mechanism for Equatorial Guinea to ensure that information on the beneficial owners of a company is obtained by Equatorial Guinea and available at a designated place in the country, or can otherwise be identified in a timely manner by a competent authority.

Criterion 24.7 - In Equatorial Guinea, the applicable company law does not require that information on beneficial owners be accurate and up to date.

Yet, FIs and DNFBPs must exercise due diligence and keep up-to-date information on their corporate customers throughout the business relationship.

Criterion 24.8 - There is no mechanism in the country to ensure that companies cooperate with the competent authorities to identify beneficial owners.

Criterion 24.9 - In Equatorial Guinea, there is no express provision requiring natural and legal persons involved in the dissolution of a company to keep information and other documents for at least five years after the date on which the company is dissolved or ceases to exist, or for at least five years after the date on which the company ceases to be a customer of the professional intermediary or financial institution.

Other requirements

Criterion 24.10 - Articles 39 and 75 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of Money Laundering and the Financing of Terrorism and Proliferation in Central Africa, state that the competent authorities, and in particular the criminal prosecution authorities, as well as ANIF have all the powers necessary to have access in a timely manner to basic and beneficial ownership information held by the parties concerned.

COBAC Regulation R-2005/01 gives the FI supervisor the power to demand the disclosure of information.

Judicial police officers and examining magistrates have the power of requisition to access basic information and information on beneficial owners (Information collected from FIs) in a timely manner.

Criterion 24.11 - Articles 744-1 and 745 of the OHADA Uniform Act on Commercial Companies and Economic Interest Groups provide that securities, whatever their form, must be registered in a securities account in the name of their owner. Each company is required to keep a register of registered or bearer shares.

AUSCGIE requires the dematerialization of bearer shares and states that all securities must be registered in an account in the name of their owner.

Criterion 24.12 - The issue of shares to be registered under nominees is not recognized by the laws in force in the country. However, directors acting on behalf of another person may be appointed by proxy.

(a) They are required to disclose to the company the identity of the person appointing them, but are not required to enter such information in the company's register or any other relevant register.
(b) Such directors are required to produce a proxy duly authorizing them to act on behalf of another person, but are not required to keep information identifying the person who appointed them or to make such information available to the competent authorities on request.

(c) No other mechanism was identified by the country.

Criterion 24.13 - None of Equatorial Guinea's legal provisions provide for liability or dissuasive and proportionate sanctions against any legal or natural person who fails to comply with these requirements.

Criterion 24.14 - Article 141.7 of CEMAC Regulation 01 provides that foreign competent authorities may have access to basic information from company registers and the exchange of information on shareholders (originals or certified true copies of relevant files and documents, including bank statements, accounting documents and records showing the operation of a company or its business activities).

Article 82 of CEMAC Regulation No. 01 allows ANIF, within the framework of the Egmont Group Charter of Financial Intelligence Units, to provide and obtain from their foreign counterpart's basic information and information on beneficial owners as part of international cooperation.

Criterion 24.15 - There are no legal provisions in the country or community level that require monitoring of the quality of assistance that the country receives from other countries in response to requests for basic information and information on beneficial owners or requests for assistance in locating beneficial owners residing abroad.

Weighting and Conclusion

Equatorial Guinea's legal system enshrines the transparency of legal entities within the meaning of OHADA as regards basic information, but has many shortcomings as regards access by the competent authorities to information on the beneficial owners of these legal entities.

The *Registro de Propriedad Y Mercantil* is responsible for centralizing basic information on commercial companies and ensuring the accuracy thereof. It is centralized and computerized to guarantee the reliability of the information it contains. Yet, the country does not have a mechanism for collecting and updating information on the beneficial owners of legal entities.

The country has a system for supervising other legal entities and centralizing basic information. For these legal entities too, collecting information on BOs is laborious.

The country has not identified or assessed the ML/TF risks associated with corporate legal entities, associations and foundations. There is also no legal or regulatory mechanism obliging the country to monitor the quality of assistance it receives from other countries in response to requests for basic information and that on beneficial owners or requests for assistance in locating beneficial owners' resident abroad.

Equatorial Guinea is rated as Non-Compliant with Recommendation 24.

Recommendation 25: Transparency and beneficial owners of legal arrangements

In the previous MER, Equatorial Guinea was rated NC for this recommendation (R.34) because its law did not recognize ordinary law legal arrangements such as trusts and similar asset management legal structures.

Criterion 25.1 - Equatorial Guinea has not ratified The Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. However, there is no relevant provision preventing express trusts constituted abroad from operating in its territory or administering property situated in its territory. Article 6 of the CEMAC Regulation makes trusts subject to the provisions of this Regulation.

(a) – Not applicable

(b) – Not applicable

(c) Pursuant to Articles 7 and 51 of the CEMAC Regulation, DNFBPs, in particular lawyers and other members of the independent legal professions who administer assets under the same conditions as a trust, are subject to the customer due diligence obligations contained in Articles 21 to 25 of the CEMAC Regulation. However, there is no provision expressly requiring professional trustees to keep the required information previously collected by them for a period of at least five years after they cease to be involved in the trust.

Criterion 25.2 - Articles 22(2) and 51 of the CEMAC Regulation require reporting entities, in particular trust and company service providers, to keep the information collected from their customers as up-to-date and accurate as possible, and updated in a timely manner.

Criterion 25.3 - The combined provisions of Articles 21 to 25, 29, 49 and 51 of the CEMAC Regulation create a mechanism to ensure that providers of services to trusts and trustees declare their status to FIs and DNFBPs when they establish a business relationship or carry out an occasional transaction of an amount exceeding the defined threshold.

Criterion 25.4 - There is no legal or regulatory provision that prevents trustees from providing the competent authorities or FIs and DNFBPs, upon request, with information on the beneficial owners and the trust assets held or managed under the business relationship.

Criterion 25.5 - The legally regulated powers of requisition and search available to judicial police officers, the examining magistrate, ANIF EG and the tax authorities enable the latter to access, in a timely manner, information held by trustees and other parties, in particular FIs and EPNFDs on (a) the beneficial owner, (b) the residence of the trustee and (c) any assets held or managed by FIs and EPNFDs.

However, it is not possible to assess whether access to this information can be provided in a timely manner.

Criterion 25.6 - On the basis of the provisions of the CEMAC Regulation, Equatorial Guinea may promptly provide international cooperation regarding information on trusts and other legal arrangements, including information on beneficial owners, in accordance with Recommendations 37 and 40. This cooperation involves in particular:

(a)- facilitating access by foreign competent authorities to basic information held in registers or held by other national authorities (Article 141);

(b)- exchanging information available at national level on trusts or other legal arrangements (Article 141); and

(c)- using, in accordance with domestic law, the investigative powers available to their competent authorities to obtain information on beneficial owners on behalf of foreign counterparts (Articles 80 and 82).

Criterion 25.7- Articles 51, 113, 117 and 123 of the CEMAC Regulation provide for sanctions against reporting entities that fail to comply with their AML/CFT obligations. As a result, trustees are (a) legally liable for any breach of their obligations; and (b) liable to criminal sanctions in the event of non-compliance with their obligations.

Proportionality and dissuasiveness cannot be assessed in this case.

Criterion 25.8 - Equatorial Guinea did not disclose any legal or regulatory provision that would make it possible to determine the effectiveness of proportionate and dissuasive penalties, whether criminal, civil or administrative, in the event of non-compliance with the obligation to make information on trusts available to the competent authorities in a timely manner.

Weighting and Conclusion

The instruments in force in the country contain a few provisions relating to the collection and transmission of basic information on professional trusts to the competent authorities. As regards information on BOs, the situation is more mixed. There are provisions on the obligation to make information available in a timely manner, but the implementation of such a mechanism does not include a mechanism to ensure the accuracy of the basic and beneficial owner information collected and kept by the trustee. Furthermore, the absence of proportionate and dissuasive penalties for non-compliance with their obligations does not deter criminals from using these legal arrangements for ML/TF purposes.

Equatorial Guinea is rated as Partially Compliant with Recommendation 25.

Recommendation 26: Regulation and supervision of financial institutions

In the 2016 MER, Equatorial Guinea was rated 'Not Applied' for the former R.23 relating to the regulation and supervision of financial institutions. In the said MER, the country was criticized for:

- A total legal vacuum in the area of supervision and control of money transfer businesses;

- The absence of effective mechanisms for controlling manual foreign exchange transactions at bank level and the existence of a vast, uncontrolled informal foreign currency sales market;
- The non-existence of specific regulations for the insurance sector and financial markets at the time of the on-site mission;
- The absence of written and operational mechanisms to prevent criminals from controlling financial institutions;
- Failure to implement the system.

Generally, it is the CEMAC Regulation that ensures Equatorial Guinea's current compliance.

Criterion 26.1 - In Equatorial Guinea, Article 91 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering, terrorist financing and proliferation in Central Africa provides that the supervisory and control authorities shall monitor financial institutions' compliance with the requirements for the prevention of money laundering, terrorist financing and proliferation.

In the same vein, Article 2(2) of COBAC Regulation R-2005/01 relating to the due diligence of reporting institutions with regard to AML/CFT in Central Africa confers on COBAC the power to exercise its supervisory and disciplinary powers over reporting institutions (credit institutions, banking intermediaries, microfinance institutions and foreign exchange bureaus), with a view to ensuring compliance with the relevant provisions.

Credit institutions are supervised by the Central African Banking Commission (COBAC) and the Bank of Central African States (BEAC) in accordance with Article 10 of the 1990 Convention establishing COBAC. Articles 32 and 38 of the Convention of 17 January 1992 on the Harmonization of Banking Regulations in Central African States give COBAC responsibility for regulating and supervising reporting credit institutions. Under Articles 4, 7, 8, 9 and 13 of Regulation No. 01/17/CEMAC/UMAC/COBAC of 27 September 2017 relating to conditions for the exercise and supervision of microfinance activity, the regulation and supervision of microfinance institutions are carried out by COBAC and the Ministry in charge of Finance**.**

Articles 13, 14, 15, 17, 17,18, 19, 20, and 21 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018, confer on COBAC, BEAC and the National Monetary Authorities, the powers of regulation and control of Payment Service Providers (PSP). Under Article 16 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in the CEMAC zone, BEAC ensures, with the assistance of COBAC and the Ministry in charge of currency and credit, that manual money changers comply with all provisions relating to foreign exchange regulations.

Under the provisions of the Treaty establishing CIMA (Art. 16), the Regional Insurance Control Commission (CRCA) is responsible for regulating and supervising insurance and reinsurance companies. Insurance intermediaries are supervised at national level by the Ministry in charge of currency and credit.

Article 1 of Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022 on the organization and functioning of the financial market in Central Africa and Parts 2 (page 4) and 3 (page 20) of the COSUMAF General Regulation adopted on 23 May 2023, give COSUMAF the power to regulate and monitor compliance with AML/CFT requirements by financial market participants, including Digital Asset Service Providers (DASPs). These digital services could include activities related to virtual assets or crypto-assets and those of virtual asset service providers.

Market entry

Criterion 26.2 - Financial institutions are required to be licensed (or authorized) before they can operate in Equatorial Guinea. The Convention of 17 January 1992 on the Harmonization of Banking Regulations in Central African States specifies that domestic law institutions or branches of institutions headquartered abroad must obtain authorization from the monetary authority, after receiving the assent of COBAC, before carrying on any credit institution business (Article 12).

To operate as a microfinance institution in Equatorial Guinea, Article 47 of Regulation No. 01/17/CEMAC/UMAC/COBAC relating to the conditions for carrying out and supervising microfinance activities in CEMAC requires an authorization issued by the monetary authority after receiving the assent of COBAC.

With regard to the financial market, Article 1 of Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022 on the organization and functioning of the financial market in Central Africa, states that: “market organizations, intermediaries, issuers and other persons or entities may not operate on the regional financial market without having first applied for and obtained approval, clearance or authorization from COSUMAF to carry out their activities or transactions”. ». This includes DASPs.

In the insurance sector, Section 326 of the Insurance Code requires insurance companies to obtain a licence before commencing business. This licence is issued by the Ministry in charge of currency and credit, after receiving the approval of CRCA for the authorization of companies.

The Ministry in charge of currency and credit issues the licence for foreign exchange bureaus (Articles 19 and 82 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC) after receiving the assent of BEAC (Article 14 of the said Regulation).

Operating as a payment service provider in Equatorial Guinea is subject to a licence from the monetary authority, issued after COBAC's assent (Article 23 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC).

In addition, Article 92 of the CEMAC Regulation prohibits the business of transferring or transporting funds and securities without a licence issued by the competent authority of the State in whose territory the business is to be carried on. This requirement applies equally to any natural or legal person operating in a CEMAC State as an agent of any money or value transfer service provider. The conditions for authorization/licensing as set out in these instruments do not allow the establishment or continued operation of shell banks.

However, the supranational and national systems do not include any provisions specifically requiring prior authorization or formal registration of large international transfer companies operating in Equatorial Guinea. The latter offer services in partnership with banks, microfinance institutions and payment institutions without forming a domestic legal entity.

Criterion 26.3- Article 91 of the CEMAC Regulation requires supervisory and control authorities to take the necessary measures to define the appropriate criteria for the ownership, control or direct or indirect participation in the management or operation of a financial institution. Specific instruments relating to banks and financial institutions (Articles 27 and 43 of the Convention on the Harmonization of Banking Regulations in Central Africa, the relevant provisions of COBAC Regulation R-2016/01 relating to the conditions and procedures for issuing authorizations to credit institutions, their managers and their statutory auditors, and lastly, Article 6 of Regulation No. 02/15/CEMAC/UMAC/COBAC to amend and supplement some conditions relating to the exercise of the banking profession in CEMAC, define in detail the criteria to be met to be a shareholder, manager or statutory auditor of credit institutions. They require all applicants to produce a number of documents, including an extract from the criminal record less than 3 months old, issued by the competent authorities of the applicant's country of nationality and country of residence. In addition, individual shareholders are required to submit a notarized statement of their assets and liabilities, as well as an exhaustive list of the holdings they have in other credit institutions or any other company. The shareholder, whether an individual or a legal entity, also submits a sworn statement indicating the origin of the funds to be invested and certifying that these do not come from illegal activities. With regard to microfinance institution, Chapters 2 and 3 of COBAC Regulation EMF R-2017/05 to lay down the terms and conditions for the approval of microfinance institutions, their managers and their statutory auditors establish a list of the information items to be submitted to enable COBAC to study the application for approval.

The information collected enables COBAC to assess the quality and reputation of shareholders, board members and managers. In addition, COBAC checks that the applicant manager is not subject to any of the prohibitions provided for by the regulations in force.

With regard to the financial market, pursuant to the General Regulation, on 5 December 2023, COSUMAF adopted 10 Instructions setting out the terms and conditions for the approval of financial market intermediaries. The approval of natural and legal persons and the authorization of managers is subject to the submission of a number of documents, including a criminal record, the identity of shareholders, a sworn statement, etc.

Section 329 of the Insurance Code prohibits any person who has been convicted of a common law crime, theft, breach of trust, fraud or an offence punishable by law as fraud, embezzlement by a public official, extortion of funds or securities, or issuing bounced cheques in bad faith, for offences against the credit of the State, for receiving goods obtained with the help of these offences, for any conviction for attempting or aiding and abetting the aforementioned offences, or any conviction for a sentence of at least one year's imprisonment, whatever the nature of the offence committed, to found, direct, administer or manage companies subject to the supervision of the Regional Insurance Supervision Commission. In addition, Section 506 sets out the conditions under which applicants are entitled to practise as general agents or insurance brokers.

One of these conditions is that anyone convicted of a felony or misdemeanour may not practise these professions.

With regard to manual foreign exchange, the provisions of Instruction No. 011/GR/2019 on the conditions and procedures for carrying out manual foreign exchange activities in CEMAC provide that applicants who are managers or directors produce among others, an extract from the judicial record less than 3 months old and a sworn statement by which they attest that they have not been under any of the prohibitions or incompatibilities provided for by the regulations in force. Individual shareholders must produce a criminal record. In the case of corporate shareholders, a detailed list of all shareholders must be produced, showing for each shareholder the number of shares held, the nominal value of the shares and the corresponding percentage holding and equivalence in terms of voting rights. In addition, there is a requirement to list all ascending shareholders until the final individual shareholders have been identified.

For payment service providers using outsourcing or technical assistance from a technical partner, Article 62 of Regulation N. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC specifies that, where the technical partner or its responsible managers are affected by incompatibilities including a felony conviction, undermining the security or credit of the State, attempt or complicity in these offences, theft, breach of trust, fraud, issuing bounced cheques, infringement of exchange and transfer regulations, COBAC may oppose or order the suspension or cessation of services.

Ultimately, with the exception of manual foreign exchange, these requirements are not sufficiently explicit with regard to information on the beneficial owners of significant shareholdings in or control of a financial institution. The aforementioned lack of information on beneficial owners could not always prevent criminals or their accomplices from owning or controlling a financial institution or holding a management position therein.

Risk-based approach to supervision and monitoring

Criterion 26.4:

(a) According to the relevant provisions of the instruments in force, financial institutions subject to the fundamental principles and falling within the scope of COBAC's supervision are subject to regulation and control in accordance with the fundamental principles, including the application of consolidated supervision at group level for AML/CFT purposes. The same framework of consolidated supervision is provided for companies in the insurance and financial markets sector.

(b) Other financial institutions not subject to the fundamental principles are also subject to AML/CFT regulation and supervision in Equatorial Guinea. Financial institutions that provide money or value transfer services or foreign exchange services are also subject to supervisory systems that ensure compliance with their national AML/CFT obligations.

Criterion 26.5- Articles 27 and 28 of the CEMAC Regulation refer to the possibility for supervisory authorities to:

(a) specify the ML/TF prevention programmes of financial institutions;

(b) define the internal control procedures and measures that they must implement; and

(c) carry out on-site and remote checks to ensure that they are being properly implemented. However, there is no provision for determining the frequency and scope of documentary and on-site AML/CFT controls based on risk profiles. Article 90 of the new COSUMAF General Regulation, which enshrines the risk-based approach to COSUMAF supervision, does not clearly establish the link between risks and the frequency and extent of controls.

Criterion 26.6 - There are no provisions relating to the ML/TF risk profiling of financial institutions or groups, and therefore no possibility of reviewing the assessment of the ML/TF risk profile of these same institutions and groups.

Weighting and Conclusion

Generally, access to the financial profession in Equatorial Guinea is conditional on obtaining a licence, including providers of services relating to digital assets. There are also supervisory bodies for each category of financial institution. All these measures are aimed at preventing criminals from controlling financial institutions and setting up shell banks. Nevertheless, the regulatory framework governing the conditions of practice of the banking profession is not very explicit with regard to due diligence concerning information on the beneficial owners of significant shareholdings in a financial institution. Furthermore, the provisions for implementing the risk-based approach as a basis for determining the frequency and extent of controls of financial institutions and subsidiaries of large groups are generally not provided for.

Equatorial Guinea is rated as Partially Compliant with Recommendation 26.

Recommendation 27: Powers of supervisors

In the 2016 MER, Equatorial Guinea was rated 'Partially Compliant' for the former R.27. In that MER, the lack of specialization among magistrates and the absence of express provisions prescribing special investigation techniques were cited as shortcomings.

Criterion 27.1- Article 91 of the CEMAC Regulation requires FI supervisory and control authorities to monitor FIs' compliance with their AML/CFT obligations. The instruments specific to other categories of financial institutions give their respective supervisory and control authorities the necessary powers in this regard. In accordance with Part II of the Annex to the Convention of 16 October 1990 establishing a Central African Banking Commission, and Article 2(2) of COBAC Regulation R-2005/01 of 1 April 2005 relating to the AML/CFT due diligence of reporting institutions, COBAC is empowered to monitor credit institutions' compliance with their AML/CFT obligations. It carries out documentary and on-site inspections of banks and financial institutions. COBAC carries out documentary and on-site inspections to ensure that microfinance institutions comply with the legislative and regulatory provisions applicable to them, whether these are issued by CEMAC Member States, the UMAC Ministerial Committee, the Monetary Authority, BEAC or COBAC itself (Articles 13 and 14 of Regulation No. 01/17/CEMAC/UMAC/COBAC of 27 September 2017 relating to conditions for the exercise and supervision of microfinance activity in CEMAC).

For the financial market, Under Article 35 of COSUMAF's new General Regulation, COSUMAF has the broadest powers to order any inspection or investigation of any person or entity involved in the functioning of the regional financial market, who intervene or exercise a function therein.

With regard to the insurance sector, the provisions of Article 16(a) give the Regional Insurance Control Commission the power to carry out documentary and on-site inspections of insurance and reinsurance companies. In addition, the Ministry in charge of currency and credit, through the Department of Insurance, also carries out documentary and on-site inspections of players in the insurance sector, in particular insurance intermediaries. For those involved in manual foreign exchange, Section 6 of Instruction No. 011/GR/2019 of 10 June 2019 relating to the terms and conditions for the exercise of manual foreign exchange activity in the CEMAC provides that BEAC, COBAC or the Ministry in charge of finance may carry out periodic checks to ensure that foreign exchange dealers comply with the provisions governing the exercise of manual foreign exchange activity. Pursuant to Articles 14 and 15 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC, COBAC carries out documentary and on-site inspections of payment service providers to ensure that they comply with the legislative and regulatory provisions applicable to them.

Criterion 27.2 - The provisions of the last paragraph of Article 27 of the CEMAC Regulation empower the supervisory authorities to carry out inspections of financial institutions. The same applies to all the instruments cited in Criterion 27.1 which, in addition to conferring powers, empower the supervisory authorities to carry out inspections of financial institutions.

Criterion 27.3 - Under Article 101 of the CEMAC Regulation on the Prevention and Suppression of ML/TPF, the supervisors are authorized to require the production of any relevant information in order to monitor financial institutions' compliance with their AML/CFT obligations. Under Article 9 of the 1990 Convention establishing COBAC and Article 44 of COBAC Regulation R 2005-01 of 1 April 2005 on the due diligence of reporting institutions with regard to AML/CFT, COBAC is empowered to require credit institutions to produce all the documents and information it deems necessary for the proper performance of its duties. Similarly, Articles 9, 14, 52, 62 and 68 of Regulation No. 01/17/CEMAC/UMAC/COBAC relating to the operating and supervisory conditions of MFIs and Article 44 of COBAC Regulation R 2005-01 authorize COBAC to require the production of any information relevant to control microfinance institutions' compliance with their AML/CFT obligations.

For the Financial Market, Article 40 of the 2023 General Regulation stipulates that COSUMAF is not bound by professional secrecy in the course of its controls and investigations, and is entitled to demand the production of all documents and information necessary to carry out its controls.

The Regional Insurance Control Commission may request any information necessary for the performance of its duties from the entities subject to its supervision. In particular, it may request the auditors' reports and, in general, all accounting documents, which it may, if necessary, request to be certified (Article 310 of the CIMA Code). Under Article 15 of Regulation No. 04/18/CEMAC/UMAC of 21 December 2018 on payment services in the CEMAC zone,

COBAC is authorized to request from payment service providers, their statutory auditors, technical partners, distributors, sub-distributors and any other person or body whose assistance may be required, any information or evidence useful for the exercise of its supervisory mission.

With regard to those involved in manual foreign exchange, foreign exchange bureaus are required to make available to the Ministry in charge of currency and credit, BEAC and COBAC and, where applicable, any other person duly authorized by virtue of legislative and regulatory provisions, the information and documents necessary for the proper conduct of controls (Article 17 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC, and Article 49 of Instruction No. 011/GR/2019 of 10 June 2019 on the conditions and procedures for carrying out manual foreign exchange activities in CEMAC.

Criterion 27.4 - Under Article 113 of the CEMAC Regulation, *"where, as a result either of a serious lack of vigilance or of failure to organize its internal control procedures, a reporting entity has failed to comply with its AML/CFT obligations, the supervisory body with disciplinary powers may act automatically under the conditions laid down by separate laws and regulations in force"*.

The specific instruments organizing these different supervisory authorities also give them powers to impose disciplinary and financial penalties, including the power to withdraw, limit or suspend the authorization of the financial institution. In fact, COBAC may initiate disciplinary proceedings on the basis of the instruments governing the profession (Art. 60 COBAC Regulation R-2005/01). Under COBAC Regulation R-2019/03 of 23 September 2019 on the application and collection of financial penalties, COBAC is authorized, in the event of non-compliance with regulations, to impose a range of disciplinary and financial penalties on credit, microfinance and payment institutions, as well as on their managers. On the basis of its power to impose sanctions, COBAC may withdraw a banking establishment's licence.

Under Article 312 of the CIMA Code, when CRCA finds that a company under its supervision is in breach of regulations, it is authorized to impose a range of disciplinary penalties, including warnings, reprimands, restrictions or bans on all or part of operations, suspension or compulsory resignation of the directors responsible, withdrawal of authorization, and fines.

Under Chapters IV and V of COSUMAF's General Regulation, it is authorized to impose financial penalties on financial market participants who fail to comply with the regulations. With regard to manual foreign exchange, Article 153 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC provides that BEAC as well as the Ministry in charge of currency and credit and COBAC shall establish infringements and, where appropriate, impose administrative and financial penalties within their respective areas of competence.

Weighting and Conclusion

Supervisory authorities have broad powers to supervise reporting entities within their respective spheres of competence. They have the power to carry out documentary and on-site inspections, with the possibility of requiring reporting entities to produce any information deemed relevant

in most cases. They also have the power to impose a range of disciplinary and financial penalties.

Equatorial Guinea is rated as Compliant with Recommendation 27.

Recommendation 28: Regulation and supervision of designated non-financial businesses and professions

In Equatorial Guinea's first MER, the country was rated Non-Compliant with this Recommendation (formerly R.24) on the regulation and supervision of DNFBPs due to non-implementation of the AML/CFT supervisory mechanism by the supervisory authorities of DNFBPs and self-regulatory bodies.

Casinos

Criterion 28.1:

(a) Article 38 of Law No. 02/1995 of 3 January 1995 to regulate conditions of authorization, operation and control of games of amusement and chance makes the opening or operation of casinos subject to an authorization issued by decree of the Ministry of Culture, Tourism and Francophonie, following a favourable opinion from the inter-ministerial commission referred to in Section 62 of the same Law. The authorization is valid for 5 years, renewable (Article 39). Where the establishment is not operated by a legal entity, the members of the Management Board must also be licensed (Article 49).

(b) As part of the approval process, the documents required by Article 41 include the presentation by the future manager of a criminal record less than 3 months old, an identity card or resident permit if the manager is a foreign national, the company's articles of association and a certificate proving deposit of FCFA 150,000,000 with a commercial bank. To some extent, these measures make it possible to verify the good repute and origin of the funds, as the capital must be deposited with a commercial bank, a sector that has a fairly good understanding of its AML/CFT obligations. In addition, there is no provision in the instrument requiring a document to be provided to identify the BO, either during authorization or in the event of a change in legal status (change of shareholder) during the operating phase.

(c) The above-mentioned Law does not designate an AML/CFT regulatory authority. The Ministry of Culture is only responsible for administrative follow-up in collaboration with the Ministry of Economy and Finance.

DNFBPs other than casinos

Criterion 28.2 - The country has not produced any instrument or document designating an AML/CFT regulatory authority for DNFBPs. Self-regulatory bodies are in the process of being formalized (bar association, college of chartered accountants).

Criterion 28.3 - Article 91 of the CEMAC Regulation sets out the general obligation of DNFBP supervisory and control authorities to ensure that they comply with their AML/CFT obligations. However, the country did not produce any documents to show that an authority has been designated to ensure that DNFBPs comply with their AML/CFT obligations.

Criterion 28.4:

(a) Articles 91 and 93 of the CEMAC Regulation confer compliance monitoring powers on DNFBP competent authorities or SRBs, enabling them to fulfil their duties. However, nothing is certain about the designation of a regulatory authority for DNFBPs.

(b) Under Article 91(1) of the CEMAC Regulation, supervisory and control authorities are required to take the necessary measures to define the appropriate criteria for the ownership, control or direct or indirect participation in the management or operation of a DNFBP. But there was no evidence of designation of an authority.

(c) Article 113 of the CEMAC Regulation of 16 April 2016 give supervisory authorities with disciplinary powers the possibility of imposing sanctions on reporting entities for non-compliance with AML/CFT obligations under the conditions set out in the specific legislative and regulatory instruments in force. Although this general obligation is provided for, the country has not provided evidence of the designation of an authority to monitor and sanction DNFBPs' non-compliance with their AML/CFT obligations.

All designated non-financial businesses and professions

Criterion 28.5:

(a) Article 14 of the CEMAC Regulation imposes an obligation on reporting entities, including DNFBPs, to carry out an assessment of the ML/TF risks to which they are exposed. These assessments are documented, kept up to date and made available to control, regulatory and supervisory bodies, and can be used as a basis for defining surveillance criteria. However, there is no regulatory evidence to suggest that the frequency and extent of the AML/CFT controls carried out by DNFBPs are a function of their understanding of ML/TF risks and taking into account their characteristics, in particular their diversity and number.

(b) In addition, there is no evidence to justify that DNFBP supervisors take into account the profile of ML/TF risks to which they are exposed and the degree of discretion granted to them under the risk-based approach when assessing the adequacy of their AML/CFT internal controls, policies and procedures.

Weighting and Conclusion

Apart from the general due diligence obligations set out in the Regulation of 11 April 2016, the country has not proved the existence of a system for monitoring AML/CFT obligations with EPNFD.

Equatorial Guinea is rated as Non-Compliant with Recommendation 28.

Recommendation 29 - Financial intelligence units

Equatorial Guinea was rated Partially Compliant for the former R26 at the previous evaluation. The main shortcomings identified were: (i) ANIF's limited independence; (ii) the lack of synergies with other players in the implementation of AML/CFT measures; (iii) the fact that no file had been forwarded to the competent judicial authority; (iv) the fact that no application for membership of the Egmont Group had been made. However, since its evaluation, legislative

provisions have been adopted to strengthen Equatorial Guinea's legal framework, notably Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of Money Laundering and the Financing of Terrorism and Proliferation in Central Africa, Decree No. 112/2019 of 9 September 2019 to set up the National Financial Investigation Agency of Equatorial Guinea.

Criterion 29.1 - Equatorial Guinea's ANIF was established by Article 65 of the CEMAC Regulation. According to Article 66 of the aforementioned Regulation, the mission of Equatorial Guinea's ANIF is to receive, analyse and disseminate information concerning the predicate offences involved and to forward information, with a view to combating money laundering and the financing of terrorism and proliferation. It also receives any other information that may be useful and necessary for the performance of its duties, including information disclosed by supervisory authorities and judicial police officers. ANIF's duties and organization are governed by the aforementioned Decree. Articles 1, 3 and 4 of Decree No. 112/2019 of 9 September 2019 to set up Equatorial Guinea's National Agency for Financial Investigation reinforce the provisions of the CEMAC Regulation on the organization and functioning of ANIF-EG.

Criterion 29.2 - In accordance with the CEMAC Regulation on the Prevention and Suppression of BC/FT and FP, Equatorial Guinea's ANIF is responsible for receiving STRs from entities.

Under Article 83 et seq., the aforementioned CEMAC Regulation obliges reporting entities to report to ANIF any sums entered in its books or transactions involving sums which it knows, suspects or has reasonable grounds to suspect are the proceeds of criminal activity or are related to money laundering or the financing of terrorism or proliferation.

(b) The aforementioned Article 83 (paragraphs 4 and 7) also requires reporting entities to report to Equatorial Guinea's ANIF, on the one hand, any transaction for which the identity of the originator or the beneficial owner or the settlor of a trust fund or any other instrument for the management of earmarked assets remains doubtful despite the due diligence carried out in accordance with their obligation to exercise due diligence and, on the other hand, information relating to fund transfer transactions carried out using cash or electronic money. In accordance with Article 18 of the CEMAC Regulation, Equatorial Guinea's ANIF also receives reports on cash transactions of an amount equal to or greater than five million (5,000,000) CFA francs, be it a single transaction or several transactions that appear to be linked.

Criterion 29.3:

(a) Article 66(1) of the CEMAC Regulation stipulates that Equatorial Guinea's ANIF may request reporting entities, as well as any natural or legal person, to provide information in their possession that could be used to enhance suspicious transaction reports.

(b) Article 75 of the aforementioned CEMAC Regulation institutes the right of communication and gives Equatorial Guinea's ANIF the ability to access the widest possible range of financial and administrative information gathered from public and private administrations and information from criminal prosecution authorities necessary for the accomplishment of its mission. This article specifies that professional secrecy may not be invoked against it. ANIF

receives, at the initiative of government services, local authorities, public establishments and any other person entrusted with a public service mission, all information necessary for the accomplishment of its mission or obtains it therefrom at its request, within the time limits it sets. Article 3 of the aforementioned Decree No. 112/2019 of 9 September 2029 stipulates that ANIF may also receive any other useful information necessary for the accomplishment of its mission, in particular information provided by the competent authorities, supervisory authorities and judicial police officers.

Criterion 29.4:

(a) Articles 66(1) point 1 and 72 of the CEMAC Regulation stipulate that Equatorial Guinea's ANIF must carry out an operational analysis of the information it receives in order to establish suspicions of ML/TF. It is therefore responsible for collecting, analysing, enriching and using any information that may help to establish the origin or destination of sums of money or the nature of transactions that have been the subject of a suspicious transaction report or a referral by the public prosecutor. It immediately processes and analyses the information collected and, if necessary, requests additional information from the reporting party and any other public and/or supervisory authority.

(b) In accordance with Article 66(1) point 4 and (4) of the same CEMAC Regulation, Equatorial Guinea's ANIF is authorized to carry out a strategic analysis. To this end, it may carry out or commission periodic studies on developments in the techniques used for money laundering and terrorist financing, both nationally and internationally.

Criterion 29.5 - In accordance with Article 71 of the CEMAC Regulation, Equatorial Guinea's ANIF may communicate information in its possession to the customs administration, the tax administration and the judicial police. It may also pass on information to the tax authorities, who may use it to carry out their duties, on facts likely to give rise to tax fraud or attempted tax fraud. Lastly, Equatorial Guinea’s ANIF may also forward to the State services responsible for preparing and implementing a measure freezing or prohibiting the movement or transfer of funds, financial instruments and economic resources, information relating to the performance of their duties. However, in the information provided, no reference was found on the transmission mechanisms used or on the fact that these are dedicated, secure and protected channels.

Criterion 29.6:

(a) Article 70 of the CEMAC Regulation on the Prevention and Suppression of ML/TPF provides for confidentiality measures. However, specific rules governing the confidentiality and security of information, as well as procedures for processing, storing, disclosing, protecting and accessing information were not provided.

(b) In the information provided, the mechanisms used to ensure that Equatorial Guinea’s ANIF staff have the necessary levels of authorization for the secure handling of information were not identified, nor the way in which it is ensured that staff understand their responsibilities with regard to the handling and dissemination of sensitive and confidential information.

(c) During the on-site visit, it was possible to ascertain that access to ANIF and its premises is regulated. ANIF's information system procedures manual describes the procedures for monitoring data processing centre equipment, monitoring software, registering users in Active Directory, etc.

Criterion 29.7 - Article 65 of the CEMAC Regulation, which provides for the establishment of ANIF, asserts the independence and operational autonomy of Equatorial Guinea's ANIF in that:

(a) It has financial autonomy, as well as autonomous decision-making power on matters within its remit. It therefore has the capacity to exercise its functions freely, in particular to decide autonomously to analyse, request and/or disseminate specific information.

(b) In accordance with Articles 79, 80 and 82 of the CEMAC Regulation, Equatorial Guinea's ANIF has the capacity to exchange information with CEMAC FIUs and foreign counterpart FIUs, as well as with the competent authorities, including the capacity to conclude agreements.

(c) Pursuant to Article 65 of the CEMAC Regulation on the Prevention and Suppression of Money Laundering, Terrorist Financing and Proliferation and Article 1 of Decree No. 112/2019 (which was not made available to the evaluation team), ANIF is under the supervision of the Ministry of Finance, Economy and Planning, but exercises powers that are distinct from those of the Ministry. It has financial autonomy, as well as autonomous decision-making power on matters within its remit.

(d) In accordance with Article 13 of Decree No. 112/2019 (not available), Equatorial Guinea's ANIF prepares its annual budget in collaboration with the Ministry of Finance, Economy and Planning. No information was released about the nature of this collaboration or how often the budget will be released.

Criterion 29.8 - Equatorial Guinea's ANIF applied for membership of the Egmont Group by Letter No. 0078 of 8 April 2022. Its membership is currently being processed by the Egmont Group's authorized bodies.

Weighting and Conclusion

Equatorial Guinea's ANIF carries out the traditional tasks assigned to FIUs. However, the evaluation team noted the lack of appropriate measures to secure and protect the dissemination of information to the competent authorities, the lack of mechanisms to guarantee access to its facilities, the lack of membership of the Egmont Group and the lack of information on obtaining and mobilizing its resources.

Equatorial Guinea is rated as Partially Compliant with Recommendation 29.

Recommendation 30: Responsibilities of criminal prosecution authorities

During its previous mutual evaluation, Equatorial Guinea was rated "Partially Compliant" for the former R. 27. Among the shortcomings noted is the failure of the legal and institutional framework of the criminal investigation and prosecution authorities to comply with the FATF recommendations and the CEMAC AML/CFT Regulation. This weakness is also reflected in

the lack of specialization and training for judges and investigators in AML/CFT matters, particularly in detection and investigation.

Criterion 30.1 - In Equatorial Guinea, several authorities, including police officers, gendarmes, public prosecutors and examining magistrates, are responsible for investigating money laundering, terrorist financing and related predicate offences. These designated competent authorities are essentially made up of officials from the Ministry of National Security (General Directorate of National Security for money laundering and terrorist financing offences), the Ministry of National Defence, Justice, the Economy, Planning and the Customs and Excise Administration.

Criterion 30.2 - In Equatorial Guinea, criminal prosecution authorities have the power to open parallel financial investigations in conjunction with those opened in cases of money laundering and terrorist financing.

Criterion 30.3 - Equatorial Guinea's law enforcement agencies are empowered to take measures to freeze or seize assets suspected of being the proceeds of crime, which may be subject to confiscation pursuant to the relevant provisions of Articles 104 and 105 of the CEMAC Regulation.

Criterion 30.4 - Other officers with special powers may conduct financial investigations into predicate offences with powers that fall within the remit of the traditional criminal investigation and prosecution authorities; in particular, officers from the General Directorate of Customs, Taxation and Water and Forestry.

Criterion 30.5 - Public prosecutors and judicial police officers responsible for combating corruption are also empowered to conduct investigations into money laundering as a predicate offence and may initiate parallel financial investigations.

Weighting and Conclusion

Equatorial Guinea does have authorities responsible for prosecuting and investigating money laundering, terrorist financing and related predicate offences. These prosecuting authorities now have the power to open a systematic financial investigation in parallel with the investigation carried out to combat money laundering and terrorist financing, followed by measures to freeze, seize or confiscate the proceeds of crime. In addition to the designated authorities, those responsible for combating corruption may also investigate money laundering as a predicate offence.

Equatorial Guinea is rated as Compliant with Recommendation 30.

Recommendation 31: Powers of criminal prosecution authorities

The former R. 28 was deemed "Largely Compliant" in the 2016 MER. However, the evaluation team was unable to verify the effectiveness of the measures in this recommendation.

Criterion 31.1 - In the light of the relevant provisions of the CEMAC Regulation and the Code of Criminal Procedure, the competent law enforcement authorities in Equatorial Guinea are entitled to access, including by means of coercion, documents and information necessary for the aforementioned investigations, related judicial proceedings and measures taken in the course of investigations into money laundering, terrorist financing and the predicate offences.

(a)The production of records held by financial institutions, DNFBPs and other natural or legal persons: The production of records held by FIs, DNFBPs or other natural or legal persons stems from the implementation of the provisions of the CEMAC Regulation, which stipulates that "documents relating to identification obligations (...) shall be communicated to the judicial authorities, State employees responsible for detecting and suppressing money laundering offences acting within the framework of judicial proceedings, supervisory authorities and ANIF, at their request, by the persons referred to in Articles 6 and 7 (regulated entities) and (Article 39) and "to obtain evidence of money laundering, terrorist financing and proliferation and to track the proceeds of crime, the competent judicial authority may, (...) ... without professional secrecy being required, (...) communicate to the competent judicial authorities documents relating to identification obligations (...). ...) without professional secrecy being required, take various measures, in particular: (...) the communication or seizure of public or private documents, bank, financial and commercial documents...".

(b) Search of persons and premises: Under Section 282 of the Equatorial Guinea Code of Criminal Procedure, paragraph 1 "The competent investigating judge or the public prosecutor may, by reasoned decision and taking into account their necessity for the purposes of the investigation, authorize judicial police officers, acting under a false identity, to acquire and transport the objectives, effects and instrumentalities of the offence and to defer their seizure".

(c) Taking witness statements: Witness statements are taken by criminal investigation police officers in implementation of Section 292 of the Code of Criminal Procedure, which states that "Judicial police officers shall draw up, either on sealed paper or on common paper, a record of the acts they carry out, in which they shall state as accurately as possible the facts they have established, inserting statements and reports received and noting any circumstances they have observed which may be evidence or clues to the offence".

(d) The seizure and obtaining of evidence is possible in accordance with Section 282 of the Code of Criminal Procedure, which states that "The purpose of the judicial police is, and shall be the duty of all members of the judicial police, to investigate public offences committed on their territory or to mark them; to exercise, according to their powers, the diligence necessary to verify them and discover the offenders and to collect all the effects, instrumentalities or evidence of the offence whose disappearance is threatened, by placing them at the disposal of the judicial authority".

Criterion 31.2 - In accordance with Articles 98 and 99 of the CEMAC Regulation, which are immediately applicable in Equatorial Guinea as a Community legal instrument, the competent investigating authorities have a wide range of investigative techniques at their disposal to investigate money laundering, related predicate offences and terrorist financing.

Such techniques include:

(a) infiltration operations;

(b) interception of communications: under domestic law, Section 282 a (6) of the Code of Criminal Procedure provides that the investigating judge may authorize judicial police officers to act under a false identity in communications maintained in closed communication channels to clarify the offences to which he is referring;

(c) access to computer systems; and

(d) controlled deliveries.

Criterion 31.3- The CEMAC Regulation requires regulated entities to provide documents attesting to compliance with their identification obligation to the supervisory authorities, as well as to ANIF, police authorities and agents responsible for detecting and suppressing money laundering offences, upon request and without professional secrecy being invoked, acting in the context of legal proceedings (Articles 39, 75 and 101).

Equatorial Guinea has set up mechanisms:

(a) to determine in good time whether a natural or legal person holds or controls accounts: In the judicial system, access to any information relating to the accounts of natural or legal persons requires the prior authorization of the investigating judge;

(b) to ensure that the competent authorities have a process for identifying assets without prior notification of the owner: The legal investigative powers and techniques available to the competent authorities to locate or identify assets as part of their investigations do not require prior notice to the owner.

Criterion 31.4 - Article 71 of the CEMAC Regulation authorizes ANIF to communicate the information it gathers to the customs and tax authorities and to the judicial police in the event of facts likely to be the subject of a suspicion report. It may also communicate to specialized intelligence services information relating to facts that are likely to reveal a threat to the fundamental interests of the nation in terms of public safety and State security.

Likewise, ANIF may communicate information on facts likely to fall within the scope of tax fraud or attempted tax fraud to the tax authorities, who may use it in the exercise of their duties. In addition, it may also communicate to the State services responsible for preparing and implementing a measure freezing or prohibiting the movement or transfer of funds, financial instruments and economic resources relating to the performance of their duties.

In accordance with Article 73(3) of the CEMAC Regulation, the Public Prosecutor may request information from ANIF as part of an investigation into money laundering and terrorist financing. However, as the national authorities have indicated, the information received by ANIF is only sent to investigating judges.

Weighting and Conclusion

In Equatorial Guinea, criminal prosecution authorities have all the powers prescribed by the CEMAC Regulations in their investigations into money laundering and terrorist financing.

Equatorial Guinea is rated as Compliant with Recommendation 31.

Recommendation 32: Cash couriers

Equatorial Guinea was evaluated in 2016 as not compliant with the FATF standard on organizing the cross-border transportation of cash and BNIs (formerly Special Recommendation IX). The main weaknesses or shortcomings identified which led to this rating are: lack of a system for declaring cash and negotiable instruments at borders; lack of systematic communication by customs to ANIF of available information on the physical transport of cash and bearer negotiable instruments; lack of an automated system for managing information relating to the physical transport of cash and bearer negotiable instruments; lack of awareness-raising and training for customs officials on the subject of anti-money laundering and combating the financing of terrorism.

Criterion 32.1 - Article 15 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of ML/TPF and Articles 76 to 80 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on Exchange Regulations in CEMAC allow Equatorial Guinea to implement a declaration system for the incoming and outgoing cross-border transport of cash and bearer negotiable instruments (BNIs). Cash declarations must be made for amounts of CFAF five million (5,000,000) or more. The customs services must ensure that the relevant controls are carried out. However, no declaration obligation is required for physical cross-border transport by courier or freight. Under domestic law, there are no provisions governing the transfer of funds between CEMAC member countries.

Criterion 32.2 - In accordance with Articles 76 to 80 of the aforementioned Regulation No. 02/CEMAC of 21 December 2018, travellers to CEMAC member and non-member States are required to declare the foreign currency they are carrying, when the amount exceeds the threshold of CFAF 5,000,000, foreign currency and CFA francs combined. Equatorial Guinea therefore has a system for declaring cross-border transport of cash or BNIs for amounts equal to or greater than CFAF 5,000,000. This declaration is made in writing at border posts.

Criterion 32.3 - Equatorial Guinea implements the declaration system.

Criterion 32.4- Articles 15 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 and 78(3) of Regulation No. 02/CEMAC/UMAC/CM of 21 December 2018 provide that in the event of the discovery of a false declaration or communication of cash or in the event of a failure to fulfil the obligation to make such a declaration or communication, the authorities of Equatorial Guinea have the power to proceed with the identification of the courier and to demand additional information on the origin of such cash or instruments. They also have the power to check that the funds are not intended for the ML/TF. With regard to these checks, the competent authorities of Equatorial Guinea may block or detain for a period not exceeding seventy-two (72) hours any cash or bearer instruments likely to be linked to money laundering and terrorist financing.

Criterion 32.5 - The authorities of Equatorial Guinea apply proportionate and dissuasive penalties against those who make false declarations or communications in accordance with the provisions of Article 168 (fourth bullet) on exchange regulations within CEMAC. These penalties include the payment of a fine of 15% of the amount by which the authorized threshold is exceeded, together with the confiscation of the undeclared sums and, where applicable, the

tools used to conceal them, without prejudice to the penalties provided for by the AML/CFT regulations in CEMAC.

Criterion 32.6 - Article 79 of Regulation No. 01/CEMAC on the Prevention and Suppression of ML/TPF stipulate that ANIF shall exchange with supervisory authorities, professional orders and national representative bodies any information that may be useful in carrying out their respective missions. When, in the course of their duties, the supervisory authorities and professional bodies discover facts relating to money laundering and terrorist and proliferation financing, they inform ANIF. However, the shortcoming identified in Criterion 32.1 may have an impact on information sharing.

Criterion 32.7- In Equatorial Guinea, satisfactory coordination between the competent authorities in the implementation of Recommendation 32 is provided for in Article 2 of Decree No. 75/2018 of 18 April 2022 to set up a national coordination committee for policies to combat money laundering, terrorist financing and proliferation, which decree was not made available to the evaluation team.

Criterion 32.8 - In accordance with Article 15 of Regulation No. 01/CEMAC, the competent authorities may:

(a) seize, for a period not exceeding seventy-two (72) hours, cash or bearer securities likely to be linked to money laundering and terrorist financing and;

(b) seize the total amount of undeclared cash in the event of undeclared amounts or false declarations.

Criterion 32.9 - In the information provided, the measures that Equatorial Guinea is implementing to ensure that its reporting or communication system allows for international cooperation and assistance under Recommendations 36 to 40 were not identified, in accordance with the requirements of Sub-Sections (a), (b) and (c) of this Recommendation.

Criterion 32.10 - Taking into account the information provided, Equatorial Guinea did not specify the mechanisms and safeguards it has implemented to ensure the proper use of the information collected through its reporting system. In this respect, it is also not possible to determine whether these mechanisms or guarantees represent a restriction within the meaning of:

(a) payments for trade in goods or services between countries;

(b) the free movement of capital.

Criterion 32.11 - Persons carrying out cross-border physical transport of cash or BNIs in connection with money laundering and terrorist financing and other predicate offences are liable to:

(a) criminal penalties provided for by Regulation No. 01/CEMAC for perpetrators of ML/TF. Regarding administrative sanctions, Article 168 of Regulation No. 02/CEMAC on foreign exchange regulations in CEMAC provides for the payment of a fine equal to 15% of the amount by which the authorized threshold is exceeded, together with the confiscation of undeclared sums and, where applicable, the tools used to disseminate amount. These penalties are proportionate and dissuasive.

(b) confiscation of undeclared cash in the event of non-declaration or false declaration or communication as provided for in Article 15 of Regulation No. 01/CEMAC on the Prevention and Suppression of ML/TF.

Weighting and Conclusion

The provisions of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of ML/TF and those of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 have enabled Equatorial Guinea to improve technical compliance under Recommendation 32. However, the porous borders and weak customs controls mean that there are still some moderate shortcomings in the system, in particular the obligation to declare, which is not required for physical cross-border transport by mail or freight, the collection and storage of information on declarations concerning amounts above the threshold, the issue of false declarations or suspicions for ML/TF for the purposes of facilitating international cooperation and assistance is not guaranteed, strict measures to ensure the proper use of information collected through the declaration system were not proven. Under domestic law, there are no provisions governing the transfer of funds between CEMAC member countries.

Equatorial Guinea is rated as Partially Compliant with Recommendation 32.

Recommendation 33: Statistics

In the 2016 MER, Equatorial Guinea was rated 'Not Applied' for the former Recommendation 32. The said MER indicated that there was a lack of statistical data on cooperation requests received and issued and on confiscations.

Criterion 33.1:

(a) ANIF has statistics on the STRs received by source and disseminated, as well as on cooperation with its foreign counterparts. However, there is no secure database.

(b) There are no statistics on investigations into money laundering and terrorist financing, prosecutions and convictions relating to money laundering and terrorist financing.

(c) Equatorial Guinea has no statistics on frozen, seized or confiscated assets.

(d) There are no statistics on mutual legal assistance or other international requests for cooperation made or received.

Weighting and Conclusion:

Only ANIF keeps statistics on AML/CFT issues. There are no statistics on ML/TF investigations, frozen assets and seizures, or on mutual legal assistance in ML/TF matters.

Equatorial Guinea is rated as Non-Compliant with Recommendation 33.

Recommendation 34: Guidance and Feedback

In the 2016 MER, Equatorial Guinea was rated 'Partially Applied' for the former Recommendation 25, due to the lack of explanatory guides, instructions or guidelines, as well as the lack of an obligation for ANIF to inform the notifier of the follow-up of suspicious transaction reports received.

Criterion 34.1- Articles 91 and 97 of the CEMAC Regulation require supervisory and regulatory authorities to issue instructions, guidelines or recommendations and to provide feedback to assist FIs and DNFBPs in complying with their AML/CFT obligations. However, no such instructions, guidelines or recommendations have been issued by supervisors or other competent authorities. However, ANIF, as the competent authority, issued some guidelines in 2023 to help reporting entities apply AML/CFT measures, in particular to detect and report suspicious transactions.

Weighting and Conclusion

The regulatory provisions in force provide for the FI and DNFBP supervisory and control authorities to issue guidelines and provide feedback to assist reporting entities in implementing national AML measures. Only ANIF, as the competent authority, has issued guidelines aimed solely at banks and MFIs. The FI and DNFBP supervisory and control authorities as well as other competent authorities have not met these requirements.

Equatorial Guinea is rated as Partially Compliant with Recommendation 34.

Recommendation 35: Sanctions

In the 2016 MER, Equatorial Guinea was rated 'Very Largely Applied' for the former Recommendation 17. The MER stated that sanctions were considered effective and proportionate. However, despite the existence of a legal framework, their implementation was difficult to assess.

Criterion 35.1 - Articles 113 to 125 of the CEMAC Regulation provide for a whole range of proportionate and dissuasive criminal, civil or administrative sanctions, applicable to natural and legal persons for failure to comply with their AML/CFT obligations as referred to in Recommendations 6 and 8 to 23. However, the lack of information on the supervision of DNFBPs prior to the application of sanctions limits compliance with the criterion.

Criterion 35.2- Articles 117, 119 and 123 of the CEMAC Regulation provide for sanctions applicable to the senior management of FIs and DNFBPs in the event of non-compliance by these legal persons with their AML/CFT obligations. No legislative or regulatory framework explicitly provides for sanctions against members of the governing bodies of FIs and DNFBPs for breaches of AML/CFT obligations committed by these legal persons. Similarly, the fact that DNFBPs are not covered in terms of supervision and the application of sanctions means that sanctions cannot generally be applied to the senior management of DNFBPs.

Weighting and Conclusion

In Equatorial Guinea, the relevant provisions of the CEMAC Regulation provide for a range of proportionate and dissuasive criminal, civil or administrative sanctions applicable to natural or legal persons subject to AML/CFT regulations. Managers or employees of natural or legal persons subject to these regulations are also punished if they are found to be complicit in money laundering or terrorist financing. However, as the DNFBP sector is not covered by supervision, the application of sanctions is limited.

Equatorial Guinea is rated as Partially Compliant with R.35.

Recommendation 36: International instruments

During the 2016 evaluation, which covered the first round of mutual evaluations, Equatorial Guinea was rated "Partially Compliant" with the former R. 35. The country had ratified the Palermo Conventions on transnational organized crime and on terrorist financing. However, it has yet not ratified the Vienna Convention on Illicit Traffic in Narcotic Drugs.

Criterion 36.1:

- The country has not yet ratified the Vienna Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention).
- Equatorial Guinea signed and ratified the United Nations Convention against Transnational Organized Crime (Palermo Convention) on 7 February 2003, as well as its additional protocol to prevent, suppress and punish trafficking in persons, especially women and children.
- The country ratified the Merida Convention, the United Nations Convention against Corruption on 30 May 2018.[60].
- Equatorial Guinea signed and ratified the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) on 7 February 2003.

Criterion 36.2:

- Equatorial Guinea has implemented the Palermo Convention and two of its three additional protocols by enacting Law No. 01/2004 of 14 September on the smuggling of migrants and trafficking in persons. The illicit manufacture and trafficking of firearms, which covers the third protocol not ratified by Equatorial Guinea, are punishable under Sections 254 and 268 of the Penal Code. The country also benefits from the mechanism implemented in the Regulation No. 01/16/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorist and proliferation in Central Africa.
- In Equatorial Guinea, as part of the implementation of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), Decree-Law No. 3/1993 of 15 September 1993 prohibiting the production, sale, consumption and illicit trafficking of narcotic drugs was adopted. In particular, it prohibits the export, sale and consumption of narcotics and psychotropic substances.
- On 30 May 2018, Equatorial Guinea ratified the United Nations Convention against Corruption. At the time of the previous evaluation, it was stated that, although the country was not a party to the Merida Convention, it nevertheless had a national court of administrative investigation responsible for trying cases of misappropriation of public funds, corruption and similar offences, and an anti-corruption public prosecutor.

[60] UNTC

- In addition, the mechanism is strengthened by Regulation No. 01/16/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorist and proliferation in Central Africa.

- With regard to the International Convention on the Suppression of TF, Equatorial Guinea applies the aforementioned Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016.

Weighting and Conclusion

At this stage, Equatorial Guinea has not yet ratified the Vienna Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances. However, the country does have the legal means to implement certain conventions, in particular the CEMAC Regulation, which criminalizes TF and corruption.

Equatorial Guinea is rated as Partially Compliant with Recommendation 36.

Recommendation 37: Mutual legal assistance

In 2016, Equatorial Guinea was found to be "Partially Compliant" with the former R. 36 on the grounds that not only were the instruments governing mutual legal assistance incomplete, but national legislation did not define the powers of the judge or the time limits for processing requests. There was also no implementation.

Criterion 37.1 - Under the provisions of the CEMAC Regulation, Equatorial Guinea can provide the widest range of accelerated mutual legal assistance for investigations, prosecutions and related proceedings concerning money laundering, related predicate offences and terrorist financing (Chapter III - Articles 141-158 of Part VI of the CEMAC Regulation). Articles 149 to 162 of Law No. 97-19 of August 1997 on the control of narcotics, psychotropic substances and precursors and on extradition and mutual legal assistance in matters of illicit trafficking in narcotics, psychotropic substances and precursors deal with mutual legal assistance in this context.

Mutual legal assistance may also be provided under bilateral or multilateral agreements to which Equatorial Guinea is a party to the 28 January 2004 Agreement on Judicial Cooperation between the Member States of CEMAC, the Vienna Convention on Combating Transnational Organized Crime and the Agreement on Cooperation and Mutual Legal Assistance between the Member States of ECCAS signed in July 2006.

At national level, Sections 48, 177, 179 and 183 of the Code of Criminal Procedure establish the principle of mutual legal assistance.

This domestic law also sets out the time limits for processing a request for mutual legal assistance.

Criterion 37.2 - The Ministry of Justice is the central authority responsible for transmitting and processing requests for mutual legal assistance in Equatorial Guinea. However, there are no clear procedures in the national legal system to prioritize and ensure real-time processing of mutual legal assistance requests, nor is there a case management system to track the progress of requests.

Criterion 37.3 - With the exception of Article 143 of the CEMAC Regulation, which sets out the only cases in which a refusal to execute a request for mutual legal assistance may be submitted, no clear normative act or procedure established by the central authority was been identified that prevents requests from being subjected to unreasonable or unduly restrictive conditions and that clearly describes the cases in which the prohibition on mutual legal assistance may be applied.

Criterion 37.4 - The grounds for refusal of a request for mutual legal assistance provided for in Article 143 of the CEMAC Regulation do not include a request relating to a tax offence. Similarly, with regard to paragraph 2 of the relevant provisions of Article 143.2 of the CEMAC Regulation, obligations of professional secrecy or confidentiality may not be evoked as grounds for refusal to execute a request for mutual legal assistance. However, no clear regulatory act or procedure established by the central authority was identified in Equatorial Guinea that would enable mutual legal assistance in tax matters to be carried out, even if professional secrecy or confidentiality are evoked.

Criterion 37.5 - Although there are no national legislative provisions on the confidentiality of information, Article 144 of the CEMAC Regulation ensures the confidentiality of requests for mutual legal assistance received.

Criterion 37.6 - Article 143 of the CEMAC Regulations lists the grounds for refusal of a request for mutual legal assistance. Double criminality is not a condition for granting requests for mutual legal assistance that do not involve coercive measures.

Criterion 37.7 - Equatorial Guinea has no legal instrument that allows the double criminality condition to be met if the act on which the claim is based is an ordinary offence under domestic positive law.

Criterion 37.8 - The CEMAC Regulation (Articles 141, 147 and 151) gives the competent national authorities powers and investigative techniques to respond to a request for mutual legal assistance. Equatorial Guinea has no relevant legal instrument. It simply applies the terms of the CEMAC Regulation (Article 141) in this area.

(a) Powers and techniques include in particular the taking of evidence or statements, the provision of judicial documents, searches and seizures, the examination of objects and places, the provision of information and evidence, and the provision of bank, financial and commercial documents held by FIs or other natural or legal persons in accordance with Article 141.3 of the CEMAC Regulation).

(b**)** The competent authorities may also use the investigative techniques specified in Article 98 of the CEMAC Regulation in the context of mutual legal assistance. The country's competent judicial authority has the power to order various measures such as: monitoring bank accounts, access to computer systems, networks and servers, communication or seizure of authentic or private documents, surveillance or interception of communications, audio or video recording or photography of acts, actions or conversations, interception and seizure of mail.

Weighting and Conclusion

The legislation governing mutual legal assistance in Equatorial Guinea is incomplete due to the lack of adequate domestic legislation. The Penal Code sets out the time limit for processing requests for mutual legal assistance.

Despite the incomplete nature of the national legal instruments, the country is called upon to apply the relevant provisions of the Community Regulation on mutual legal assistance.

Equatorial Guinea is rated as Largely Compliant with Recommendation 37.

Recommendation 38: Mutual Legal Assistance: Freezing and Confiscation

Equatorial Guinea was rated "Partially Compliant" for the former R26 at the previous evaluation. It was found that properties of equivalent value are not covered by the confiscation provisions of the CEMAC Regulation. The country has not incorporated this measure into its domestic legal arsenal. In this case, the two pieces of legislation need to be harmonized. There was also no implementation and coordination of seizure and confiscation initiatives with other countries.

At Community level, the principle of the complementary sanction of confiscation of property of equivalent value is set out in the CEMAC Regulation of April 2016, in particular Articles 126(2), 130 and 131. At national level, Sections 177, 179, 183 and 183 et seq. of the Penal Code lay down the principle of mutual legal assistance.

Criterion 38.1 - Pursuant to Articles 130 and 131 of the CEMAC Regulation, the competent national authorities, in the absence of an appropriate domestic instrument, are empowered to respond immediately to requests from foreign countries for the identification, freezing, seizure and confiscation of: (a) laundered property; (b) the proceeds of money laundering, predicate offences and terrorist financing; (c) the instrumentalities of the offence; (d) the instrumentalities intended to be used in connection with these offences; or (e) property of corresponding value.

Section 48 of the Penal Code provides for the confiscation of property of equivalent value as an additional penalty.

Criterion 38.2 - In Equatorial Guinea, there are no provisions allowing confiscation without prior conviction.

Criterion 38.3:

- **a-** There is no provision allowing the country to coordinate seizure and confiscation actions with other countries by means of agreements;
- **b-** Under a combined reading of Articles 130 and 131 of the CEMAC Regulation, the State, through the Treasury, is the owner of confiscated assets in all cases of conviction for money laundering and terrorist financing. However, there is no mechanism for managing these frozen, seized or confiscated assets.

Criterion 38.4 - In accordance with the Community legal instrument applicable in Equatorial Guinea, the State has the power to dispose of confiscated assets on national territory, unless otherwise provided for in an agreement concluded with the requesting State. This provision of

Article 154 of the CEMAC Regulation gives Equatorial Guinea the possibility of concluding agreements with other countries for the sharing of confiscated assets. However, the sharing mechanisms are not specified.

Weighting and Conclusion

Equatorial Guinea is content only to apply the provisions of the CEMAC Regulation to respond to requests from foreign countries to identify, freeze, seize and confiscate Ml-related assets, and to agree with other countries on the sharing of confiscated assets. However, moderate improvements are needed to enable Guinea Equatorial to provide assistance in the context of a request based on non-conviction-based procedures, to be able to coordinate seizure actions with other countries and to have clear mechanisms for managing assets frozen, seized or confiscated on its territory.

Equatorial Guinea is rated as Partially Compliant with Recommendation 38.

Recommendation 39: Extradition

In the first-round MER of 2016, Equatorial Guinea was rated 'Partially Compliant' for the former R.39. Overall, it was reported that, at the time of the evaluation, there was no explicit legal provision on the automatic procedure for Equatorial Guinea nationals under an extradition request. There was also a lack of implementation.

It was recommended to the authorities of Equatorial Guinea that they consider reviewing Law No. 5/1997 to include provisions determining the time taken to process extradition requests from receipt to extradition of the person concerned.

In the context of the responses given by the country, at Community level, Articles 159 to 164 of the CEMAC Regulation of April 2016, provide for extradition between Member States, and specify the terms and conditions thereof.

Equatorial Guinea is also a signatory to the Extradition Agreement between the CEMAC States. Sections 824, 825, 826, 827, 828, 829, 830, 831, 832 and 833 of the Penal Code lay down the general principle of the extradition procedure and specify how it is to be implemented.

Criterion 39.1 - In Equatorial Guinea, extradition is governed by Law No. 5/1997 of 9 May 1997. Under the terms of this domestic legal instrument (Section 2), extradition may take place on the basis of an international cooperation agreement, the aforementioned Law of 9 May 1997 or a reciprocity agreement that the State claims it is prepared to conclude (Section 3).

(a**)** The country must guarantee that money laundering and terrorist financing are extraditable offences.

Extradition is also regulated by the 28 January 2004 Extradition Agreement between CEMAC Member States. Extradition may be granted (Article 3) for offences punishable under the laws of the requesting Party and under the laws of the requesting State where the person sought is resident, by a custodial sentence or a detention order of at least one year. As money laundering is punishable by five to ten years' imprisonment (Article 46 of the Regulation), it falls within the scope of this measure.

In terms of extradition, Equatorial Guinea also applies the CEMAC Regulation of 11 April 2016, which classifies money laundering and terrorist financing as extraditable offences (Articles 159 to 164).

(b) The country must be confident that they have a case management system and clear procedures for the timely execution of extradition requests, including, where appropriate, prioritization: Equatorial Guinea has not yet legislated on this system.

(c) or undue conditions on the execution of orders: Equatorial Guinea does not impose unreasonable or unduly restrictive conditions on the execution of extradition requests as it applies the provisions of the CEMAC Regulation of 11 April 2016 on international cooperation in the fight against money laundering and terrorist financing. This principle is not defined in a domestic legal instrument.

Criterion 39.2 - Section 4 of Law No. 5/1997 excludes from extradition Equatorial Guinean nationals wanted for acts committed outside Equatorial Guinea territory.

In the event of refusal of extradition on grounds of nationality, the case shall be submitted to the competent domestic courts for appropriate measures to be taken against the person in relation to the offence for which extradition has been requested (Article 164 of the CEMAC Regulation).

Criterion 39.3 - The CEMAC Regulation (Article 159) establishes compliance with the principle of double criminality as a condition for extradition and refers to the application of the rules of ordinary law.

Criterion 39.4 - In addition to the application of the CEMAC Regulation (Articles 160 and 162), Equatorial Guinea has a simplified extradition procedure which even includes cases of provisional detention (Law No. 5/1997).

Weighting and Conclusion

The issue of implementing the extradition mechanism has been resolved by domestic legislation, as have the time limits for processing requests. However, there is no evidence that prosecutions have actually been brought against Equatorial Guinea nationals who committed offences abroad.

Equatorial Guinea is rated as Largely Compliant with Recommendation 39.

Recommendation 40: Other forms of international cooperation

In the 2016 MER, Equatorial Guinea was rated 'Partially Applied' for the former Recommendation 40. The MER stated that the legal provisions for other forms of cooperation were insufficient, and that international cooperation was inadequate.

Criterion 40.1 - Article 64(3) of the CEMAC Regulation on the obligation relating to the transmission of information, Articles 80 and 82 on the possibility for ANIF to cooperate with its counterparts in CEMAC Member States and to transmit information to foreign financial intelligence units in relation to ML, associated predicate offences and TF in accordance with the Egmont Group Charter. These information exchanges take place on request and spontaneously.

Domestic or national cooperation between ANIF and other non-homologous authorities is provided for in Article 79 of the CEMAC Regulation.

Article 75 of the CEMAC Regulation allows ANIF to obtain, on behalf of its counterparts, information from any national public or private authority. The parties may also sign agreements.

Furthermore, the country has not proven the capacity of its competent authorities to grant assistance spontaneously and on request.

Criterion 40.2:

(a) The CEMAC Regulation is a legal basis giving the competent authorities the necessary legal grounds to resort to cooperation.

The prosecuting authorities have been signatories to the agreement on cooperation in criminal police matters since 29 April 1999 and collaborate with their counterparts.

In banking matters, COBAC is authorized to exchange information with its foreign counterparts subject to reciprocity and identical professional secrecy requirements for these authorities (article 6 of the 1990 Convention).

(b) Nothing prohibits the competent authorities of the country from using the most effective means for purposes of cooperation. In addition, Article 141 of the CEMAC Regulation provides for the possibility, subject to certain conditions, of granting mutual legal assistance to third States.

(c) In the area of information exchange with other countries, Equatorial Guinea collaborates with other countries through the Interpol I-24/7 system via its National Central Bureau (NCB). Equatorial Guinea customs administration is already experimenting with the ASYCUDA programme and its accession to the Convention of the Customs Cooperation Council (WCO) on 15 December 1950 was signed on 13 July 2020.[61]

(d) There are currently no procedures in place to prioritize and execute cooperation requests in a timely manner; and

(e) The country has not provided any procedure for safeguarding information received in the context of international cooperation.

Criterion 40.3 - Equatorial Guinea's ANIF is authorized to exchange information with foreign counterparts, on request or of its own accord, subject to reciprocity or mutual agreement.

Pursuant to Article 3 of Regulation No. 02/09/CEMAC/UMAC/COBAC of 29 September 2009 granting COBAC the power to conclude cooperation and information exchange agreements with financial system supervisory authorities, COBAC is authorized to exchange information with its counterparts with which it has concluded a cooperation agreement.

Equatorial Guinea is party to several conventions. These are: (i) the Extradition Agreement between CEMAC Member States signed on 11 May 2006; (ii) the Judicial Cooperation Agreement between CEMAC Member States signed on 11 May 2006 (5th Conference of Heads

[61] https://www.omdaoc.org/pays_membres.php and sixth monitoring report on page 13.

of State of 28 January 2004 BO-CEMAC 2004); (iii) the Judicial Cooperation and Mutual Assistance Agreement between ECCAS Member States signed in July2006.

Criterion 40.4 - There is no provision obliging the competent authorities of the country to provide timely feedback to the competent authorities from whom they have received mutual assistance on the use and usefulness of the information obtained. Notwithstanding the legal vacuum, the competent authorities have not been able to show proof of feedback.

Criterion 40.5 - Under Article 143 of the CEMAC Regulation, mutual legal assistance may not be refused:

(a) even if it also covers tax issues;

(b) in the case of financial institutions or DNFBPs, for reasons of secrecy or confidentiality, and apparently also for reasons of professional secrecy;

(c) where there is an ongoing enquiry, investigation or proceeding; or

(d) because of the nature of the requesting authority, provided that it is competent.

All of these conditions are standard and do not appear to unduly restrict information exchanges.

Criterion 40.6 - In Article 144 of the CEMAC Regulation, the legislator provides that the competent authority must maintain secrecy concerning the request for mutual assistance, its content and the documents produced, as well as the actual fact of mutual assistance.

Where it is not possible to execute the said request without disclosing the secret, the competent authority informs the requesting State, which will then decide whether to maintain the request.

However, there is no information on the controls and guarantees put in place to ensure that the information exchanged is only used for the purposes for which it was provided or obtained by the authorities.

Criterion 40.7 - Article 82 of the CEMAC Regulation stipulates that ANIF must maintain confidentiality when exchanging information with its foreign counterparts.

Regarding mutual legal assistance (Article 144 of the CEMAC Regulation), the legislator provides that the competent authority must maintain secrecy concerning the request for mutual assistance, its content and the documents produced, as well as the actual fact of mutual assistance.

The principle of confidentiality is included in information sharing between the banking regulator in the CEMAC zone, COBAC, and its counterparts in accordance with Article 5 of Regulation No. 02/09/CEMAC/UMAC/COBAC of 29 September 2009.

Criterion 40.8 - Some competent authorities may make requests on behalf of a foreign counterpart acting within the framework of its missions and exchange all the information that could be obtained as if these requests were made internally.
ANIF, for example, exchanges information with its foreign counterparts (Article 82 of the CEMAC Regulation). The competent judicial authorities cooperate in accordance with the laws in force and the provisions of judicial cooperation agreements signed with other States. As a member of Interpol, the police force of Equatorial Guinea exchanges information with the

police forces of other member States of this international organization. The same applies to Customs, which is a member of the World Customs Organization.

Exchange of information between FIUs

Criterion 40.9 - Article 80 point 1 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of ML/TF relating to intra-Community cooperation, provides that Equatorial Guinea's ANIF is required to communicate, at the duly reasoned request of an ANIF of a CEMAC Member State, within the context of an investigation, all information and data relating to the investigations undertaken following a suspicious transaction report at national level. Article 82 of the same Regulation, which deals with international cooperation, provides that Equatorial Guinea's ANIF may, in accordance with the Egmont Group Charter, communicate, at their request or on its own initiative, to counterpart foreign financial intelligence units, information that appears to have as its purpose the laundering of the proceeds of criminal activity or the financing of terrorism and proliferation. However, the evaluation team noted that to date, Equatorial Guinea's ANIF is not a member of the Egmont Group. It ensures these two forms of cooperation with counterpart financial intelligence units regardless of their legal nature.

Criterion 40.10 - Equatorial Guinea does not have legislation to prove ANIF's ability to provide feedback either on request or spontaneously to its foreign counterparts regarding the use of the information provided and the findings of the analysis conducted on the basis of this information.

Criterion 40.11 - In Equatorial Guinea, ANIF has the power to:

(a) communicate, at their request or on its own initiative, to foreign counterpart financial intelligence units, information that appears to have as its purpose the laundering of the proceeds of criminal activity or the financing of terrorism and proliferation in accordance with Article 82 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the Prevention and Suppression of ML/TF;
(b) communicate, at the duly reasoned request of an ANIF of a CEMAC Member State, within the context of an investigation, all information and data relating to investigations undertaken following a suspicious transaction report at national level, in accordance with Article 80 point 1 of the same Regulation.

Exchange of information between financial sector supervisors

Criterion 40.12 - On the basis of Articles 91(2), 4 and 8 of the CEMAC Regulation, the financial sector supervisory authorities have a legal basis for cooperating with their foreign counterparts. More specifically, Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009 empowers COBAC to conclude cooperation and information exchange agreements with financial supervisory authorities. This basis for cooperation is also assigned to COSUMAF by Article 16 of Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022.

Criterion 40.13 - As part of their cooperation, the financial sector supervisory authorities are entitled, on the basis of paragraphs 4 and 8 of Article 91(2) of the CEMAC Regulation, to

exchange with their foreign counterpart information to which they have access at national level, in particular information held by financial institutions, to the extent of their respective needs. This option is also available to COBAC under Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009. COSUMAF is also authorized to exchange information on the basis of Article 16 of Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022.

Criterion 40.14 - Financial sector supervisors are empowered to cooperate and exchange information, including with other relevant supervisors sharing common responsibility for financial institutions operating within the same group (Art. 91(2), (4) and (8) CEMAC Regulation). To broaden the legal basis for cooperation, Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022 and Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009 allow the supervisors to exchange any type of information for the purposes of combating ML/TF, including:

(a) regulatory information;

(b) prudential information; and

(c) AML/CFT information.

Criterion 40.15 - Articles 91(2) and 8 of the CEMAC Regulation allow each financial sector supervisory and control authority to provide rapid and effective cooperation to bodies performing similar functions in other Member States or third countries, including through the exchange of information. COBAC and COSUMAF may conclude cooperation and information exchange agreements with their counterparts, which provide for the possibility of seeking information on behalf of their counterparts or doing so jointly.

Criterion 40.16 - Agreements concluded by COBAC with its counterparts contain provisions governing the prior authorization of the supervisor required before any dissemination or use for supervisory or other purposes.

Exchange of information between law enforcement authorities

Criterion 40.17 - The ICPO-INTERPOL police cooperation agreements and the Agreement on Cooperation in Criminal Police Matters between central African States allow for broad cooperation between authorities in the context of intelligence or investigations under the ML/TPF. This cooperation is reinforced by Article 134 of the CEMAC Regulation, which even provides for the transfer of prosecutions from one authority to another.

Criterion 40.18 - Under the CEMAC Regulation, in the context of requests for mutual legal assistance, the competent authorities may carry out investigation (Article 145), search and seizure (Article 150) and confiscation (Article 151) measures and precautionary measures in preparation for confiscation (Art. 152). This cooperation, which is as broad as possible, is also based on the police cooperation mechanisms set up by INTERPOL, of which Equatorial Guinea is a member, and on the provisions of the Agreement on Cooperation in Criminal Police Matters between Central African States.

Criterion 40.19 - Equatorial Guinea's criminal prosecution authorities may set up joint investigation teams with the competent foreign authorities to conduct investigations in a

cooperative manner (Article 145(2) of the CEMAC Regulation). Where necessary, they may conclude bilateral or multilateral agreements to this end. Such is the case, among others, within the framework of the police cooperation system established by ICPO-INTERPOL and within the framework of the Agreement on Cooperation in Criminal Police Matters between Central African States.

Criterion 40.20 - Article 134 provides that, in the continuation of proceedings from one country to another, requests for the transfer of proceedings may originate from a counterpart country or a third State. The request must be accompanied by all the information in the possession of the requesting country.

There appear to be no legal obstacles to ANIF, investigating and prosecuting authorities exchanging information with non-peer authorities. However, it was noted that the supervisory and control authorities, COBAC and CIMA, are authorized to exchange information only with their counterparts.

Weighting and Conclusion

Equatorial Guinea has a general framework for international cooperation between national authorities and their foreign counterparts. However, clear procedures for the prioritization and timely execution of mutual assistance requests are not provided for. There is no mechanism for the exchange of information between competent national authorities and non-peer foreign authorities. Furthermore, there is no express legal provision requiring requesting competent authorities to provide timely feedback to the competent authorities from which they have received mutual assistance on the use and usefulness of the information received.

Equatorial Guinea is rated as Partially Compliant with Recommendation 40.

Technical Compliance Summary - Key Deficiencies

Annex Table 1. Compliance with FATF Recommendations

Recommendation	Rating	Rating Factor(s)
1. Assessing risks and applying a risk-based approach	**PC**	• Lack of effective dissemination of the NRA report; • Lack of identification by stakeholders of the real potential AML/CFT risks; • Action plan not adopted
2. National cooperation and coordination	**PC**	• Absence of a national AML/CFT policy that takes account of the ML/TF risks; • Absence of provisions relating to data protection and privacy
3. Money laundering offence	**C**	• Equatorial Guinea improved its anti-money laundering legal framework by adopting the new CEMAC Regulation in 2016, and domesticating the full definition of the offence of money laundering in line with international standards. The country has criminalized criminal conspiracy in its domestic positive law.
4. Confiscation and provisional measures	**PC**	• Absence of an authority to apply administrative freezing measures in relation to terrorist financing; • Lack of clear mechanisms for the management and disposal of frozen, seized or confiscated assets; • Limiting the confiscation of laundered assets, the proceeds of ML, predicate offences and TF to persons, entities or terrorist organizations designated by the United Nations Security Council.
5. Money terrorist financing offence	**LC**	• Failure of the CEMAC Regulation to take account of the assembly or supply of "other assets" • Failure to criminalize the financing of travel by foreign terrorist fighters.
6. Targeted financial sanctions for terrorism and terrorist financing	**PC**	• Persistence on mechanisms for implementing targeted financial sanctions without delay; • TFS measures do not cover property, funds and other resources of persons and entities acting on behalf or at the direction of designated persons; • Lack of procedures to facilitate review by the 1988 Committee of designations under UNSCR 1988; • Designations on the Al Qaeda sanctions list and procedures for informing designated persons and entities are lacking; • There are no specific mechanisms for informing reporting entities of delisting decisions as soon as they are made;
7. Proliferation-related targeted financial sanctions	**PC**	• Lack of measures enabling FIs, DNFBPs and VASPs to implement all the requirements relating to R.7
8. Non-profit organizations	**NC**	• Lack of identification of the sub-group of NPOs likely to be misused for TF purposes; • Lack of identification of the threats to which the most vulnerable NPOs are exposed; • Lack of risk-based supervision measures; • NPOs are not made aware of the risks of their misuse for TF purposes and of the measures to be implemented to protect themselves from such misuse; • No effective cooperation and coordination mechanism between the competent authorities for the exchange of NPO-related information; • Appropriate procedures for responding to international requests for NPO-related information have not been established; • Lack of a designated contact point and procedures for responding to international requests for information regarding any NPO suspected of funding terrorism or supporting them by any means.
9. Financial institutions secrecy laws	**LC**	• The country has the necessary measures in place to implement the requirements of this Recommendation. However, the following was noted: • Absence of professional secrecy laws governing financial institutions; • Lack of specific provisions for the exchange of AML/CFT information between financial institutions at national level.

Recommendation	Rating	Rating Factor(s)
10. Customer due diligence	**PC**	• Lack of a provision on the requirement of reliability of the source of information obtained by reporting entities on beneficial ownership; • Lack of measures binding financial institutions, in the event of doubt as to the identity of the beneficial owner; • Failure to identify natural persons, if any, who exercise control over the legal person or arrangement by other means; • Lack of a list of information drawn up by a competent authority that must be collected by financial institutions; • No requirement to identify the life insurance beneficiary and to include the beneficiary of a life insurance policy in the risk factors relevant to determining whether enhanced CDD measures are applicable; • Lack of regulatory provision compelling financial institutions to consider the beneficiaries of life insurance contracts as a relevant risk factors when determining whether enhanced due diligence measures are applicable; • Absence of particularly explicit provisions on the beneficiaries of life insurance policies and other insurance-linked investment products, or on the obligation for the competent authorities to draw up a list of information to be provided by financial institutions; • Lack of express provision requiring financial institutions not to proceed with the CDD process and instead to file a STR when they have a suspicion of ML/TF and they reasonably believe that proceeding with the CDD process would arouse the customer's attention.
11. Record keeping	**LC**	• No obligation to keep account ledgers and customer business correspondence and to disclose documents within specific time limits.
12. Politically Exposed Persons	**PC**	• No express requirement for FIs to take reasonable steps to determine whether the beneficiaries or beneficial owner of a life insurance policy are PEPs.
13. Correspondent banking services	**LC**	• No requirement obliging financial institutions to ensure that the correspondent is able to provide the relevant information on payable-through accounts upon request by the correspondent bank. • A correspondent banking relationship within the CEMAC zone is not considered to be cross-border.
14. Money or value transfer services (MVTS)	**LC**	• No domestic instrument specifies conditions for the authorization or registration of MVTS; • No provision for identifying and penalizing MVTSPs operating without authorization or registration; • Lack of binding measures to monitor and enforce compliance with MVTSPs that may use agents and to integrate them into their AML/CFT programmes.
15. New technologies	**NC**	• Lack of regulation in the VASP sector
16. Wire transfers	**PC**	• The instructing party's FI is under no obligation to transmit, on request, the information accompanying the transfer to the beneficiary's financial institution or to the prosecuting authorities within three (3) working days; • No express obligation on the intermediary financial institution to keep the information received from the originator's financial institution for at least five years; • The obligations of FIs to have risk-based policies and procedures in place to decide when to execute, reject or suspend wire transfers that do not include the required originator or beneficiary information and appropriate consequential actions to be taken are not addressed;
17. Reliance on third parties	**LC**	• FIs are not obliged to take the necessary steps to ensure that the third party provides documentation on the identification of beneficial owners and the origins of transactions.
18. Internal controls and foreign branches and subsidiaries	**LC**	• No obligation to implement programmes that take into account selection procedures guaranteeing that employees are recruited according to demanding criteria.
19. Higher risk countries	**PC**	• Absence of a provision requiring FIs to apply enhanced due diligence measures, proportionate to the risks, in their business relationships and

Recommendation	Rating	Rating Factor(s)
		transactions with natural and legal persons (and in particular financial institutions) from countries for which FATF so requests; • Lack of mechanisms for applying countermeasures proportionate to the risks, when FATF calls on the country to do so or independently of any call from FATF; • There is no provision explicitly covering the obligation to implement measures to ensure that financial institutions are aware of concerns arising from deficiencies in other countries' AML/CFT arrangements.
20. Suspicious Transaction Report(ing)	**PC**	• Unclear as to the immediacy of compliance with the STR obligation; • Reduced scope of the obligation to report attempted suspicious transactions.
21. Tipping-off and confidentiality	**C**	• The country meets the requirements of this Recommendation.
22. Designated non-financial businesses and professions: customer due diligence	**PC**	• The record keeping obligations set out in R.11 are not covered by all DNFBPs; • No obligation for DNFBPs to implement the due diligence obligations relating to new technologies set out in 15 and to comply with the third-party requirements set out in R.17.
23. Designated non-financial businesses and professions: other measures	**PC**	• Reduced scope of the obligation to report attempted suspicious transactions; • Unclear as to the immediacy of compliance with the STR obligation; • Lack of mechanisms for applying countermeasures proportionate to the risks when FATF calls on the country to do so or independently of any call from FATF; • There is no provision explicitly covering the obligation to implement measures to ensure that DNFBPs are aware of concerns arising from deficiencies in other countries' AML/CFT arrangements; • Failure to designate supervisory authorities for DNFBPs.
24. Transparency and beneficial ownership of legal persons	**NC**	• No mechanism for collecting and updating information on the beneficial owners of legal entities; • No framework for other legal entities, no centralization of basic information and no mechanism for collecting BO information; • Lack of tools for identifying and assessing ML/TF risks associated with commercial legal entities, associations and foundations; • Lack of a mechanism to control the quality of assistance received from other countries in response to requests for basic and BO information.
25. Transparency and beneficial owners of legal arrangements	**PC**	• Absence of a system to ensure the accuracy of the basic and beneficial owner information collected and kept by the trustee. • Lack of proportionate and dissuasive sanctions, whether criminal, civil or administrative, where trustees fail to comply with their AML/CFT obligations. • No express binding provision regarding sanctions in the event of non-compliance with the obligation to make information on trusts available to the competent authorities in a timely manner.
26. Regulation and supervision of financial institutions	**PC**	• Difficulty gathering information on beneficial owners • No application of the risk-based approach by supervisors in conducting AML/CFT inspections of FIs and financial groups;
27. Powers of supervisors	**C**	• The requirements of R.7 are met.
28. Regulation and supervision of designated non-financial businesses and professions	**NC**	• The country did not prove the existence of a system for monitoring the AML/CFT obligations of DNFBPs.
29. Financial intelligence units (FIUs)	**PC**	• Lack of appropriate measures to secure and protect the dissemination of information to the competent authorities; • Lack of mechanisms to guarantee access to its facilities; • ANIF EG is not a member of the Egmont Group; • Lack of information on how to obtain and mobilize resources.

Recommendation	Rating	Rating Factor(s)
30. Responsibilities of law enforcement and investigative authorities	**C**	• Meets the requirements of R.30.
31. Powers of law enforcement and investigative authorities	**C**	• Meets the requirements of R.30.
32. Cash couriers	**PC**	• Porous borders • Weak customs controls; • No declaration obligation is required for physical cross-border transport by mail or freight; • No declaration required for physical cross-border transport by mail or freight, collection and storage of information on declarations for amounts above the threshold; • False declarations or suspicions for ML/TF for the purposes of facilitating international cooperation and assistance is not guaranteed • Lack of strict precautions to guarantee the proper use of information collected through declaration/communication systems; • Absence of provisions governing transfers of funds between CEMAC member countries.
33. Statistics	**NC**	• Lack of data on ML/TF investigations, prosecutions and convictions, • Lack of statistics on requests for mutual legal assistance or other international cooperation requests. • Lack of reliable and consolidated statistics on frozen, seized or confiscated assets.
34. Guidance and Feedback	**PC**	• Lack of guidelines to enable FIs and DNFBPs to apply AML/CFT measures properly.
35. Sanctions	**PC**	• The DNFBP sector is not covered by supervision, the application of sanctions is thus limited.
36. International instruments	**PC**	• Equatorial Guinea has not yet ratified the Vienna Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
37. Mutual legal assistance	**LC**	• National legal instruments are incomplete and do not allow for effective implementation.
38. Mutual Legal Assistance: Freezing and Confiscation	**PC**	• Absence of procedures for cooperation requests for confiscation without prior conviction; • No mechanism for managing confiscated assets.
39. Extradition	**LC**	• The country did not provide evidence that prosecutions have actually been brought against Equatorial Guinea nationals who committed offences abroad.
40. Other forms of international cooperation	**PC**	• Lack of clear procedures for establishing and processing priorities in a timely manner in the event of requests; • Lack of mechanisms for exchanging information between national competent authorities and non-peer foreign authorities; • No express legal provision requiring the requesting competent authorities to provide timely feedback to the competent authorities from whom they received mutual assistance on the use and usefulness of the information received.