Anti-money laundering and counter-terrorist financing measures

Uganda

MUTUAL EVALUATION REPORT OF THE REPUBLIC OF UGANDA

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TABLE OF ACRONYMS

ADF	Allied Democratic Forces
AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Act (2013)
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
ATA	Anti-Terrorism Act (2002)
BNI	Bearer Negotiable Instrument
BOU	Bank of Uganda
CDD	Customer Due Diligence
CFT	Combating the Financing of Terrorism
CICID	Criminal Investigations and Crime Intelligence Directorate
CMA	Capital Markets Authority
CTR	Cash Transactions Reports
DNFBP	Designated Non-Financial Businesses and Professions
DPP	Directorate of Public Prosecutions
EAC	East African Community
EACCMA	East African Community Capital Market Association
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FI Act	Financial Institutions Act (2004)
FIA	Financial Intelligence Authority
FIs	Financial Institutions
FI AML Regulations	Financial Institutions Anti-Money Laundering Regulations
GDP	Gross Domestic Product
IG	Inspectorate of Government
IGAD	Intergovernmental Authority on Development
IOSCO	International Organisation of Securities Commission
IRA	Insurance Regulatory Authority
JATT	Joint Anti-Terrorism Task Force
LEA	Law Enforcement Agencies
KYC	Know Your Customer
LRA	Lord's Resistance Army
ME	Mutual Evaluation
MER	Mutual Evaluation Report
MDI	Micro-Finance Deposit-taking Institution
MFI	Micro- Finance Institution
ML	Money Laundering
MLA	Mutual Legal Assistance
ML/TF	Money Laundering/Terrorist Financing
MVTS	Money Value Transfer Services
NGO	Non-Governmental Organization
NGO Board	Non-Governmental Organizations Board
NPO	Non-Profit Organisation
NRA	National Risk Assessment
PEP	Politically Exposed Persons
PF	Proliferation Financing
R	Recommendation
RBA	Risk Based Approach
SACCOs	Savings and Credit Cooperatives
SR	Special Recommendation

SRB	Self-Regulatory Body
STR	Suspicious Transaction Report
TF	Terrorist Financing
UGX	Ugandan Shilling
UN	United Nations
UNSCRs	United Nations Security Council Resolutions
URA	Ugandan Revenue Authority
URSB	Uganda Registration Services Bureau

EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in the Republic of Uganda (Uganda) as at the date of the on-site visit [15-26 June 2015]. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Uganda's AML/CFT system, and provides recommendations on how the system could be strengthened.

A. *A. Key Findings*

- Uganda's AML/CFT regime, despite the risks it is facing particularly on TF, is still not that developed. The AMLA covers all but one of the designated categories of offences in the FATF Glossary. The offences of illicit trafficking in narcotic drugs and psychotropic substances are not criminalised. Although, TF poses a huge risk to Uganda, amendments to the Anti-Terrorism Law to criminalise the offence of TF were only passed during the time when the assessment team was on-site. However, the amendments still do not fully criminalise the offence of TF consistent with the FATF requirements. The activities relating to corruption, abuse of public resources, fraud, smuggling in wildlife products and gold, trafficking in drugs and tax evasion are of significant risk to the AML/CFT regime of Uganda.
- The authorities of Uganda have not yet conducted a National Risk Assessment, and judging by the interviews conducted with the authorities during the on-site visit, there is still a very low understanding of ML risks. However, despite the absence of an NRA, the authorities have a good understanding of the risks relating to terrorism (excluding TF risks). The authorities carried out parallel financial investigations in one or two cases of terrorism. Cooperation and coordination relating to the offence of terrorism compared to other predicate offences, is well organised.
- The low level of understanding of ML risks is also reflected in the very few cases investigated by the law enforcement agencies pertaining to ML and at times during the interviews with law enforcement agencies, it was clear that they did not fully appreciate the offence of ML. No prosecutions or confiscations have been done on the offence of ML.
- In the absence of proper statistics and other data pertaining to TF cases and disruption actions taken coupled by the CFT regime in Uganda still being very young, the measures taken cannot be said to be commensurate with the huge risk of TF which exits in Uganda. The risk is also increased by Uganda's exposure to Somalia where one of the Terrorist Groups, Al' Shabaab is based. Further, there are also internal groups existing in Uganda or with origins from Uganda like the Lord's Resistance Army, whose terrorist activities are directed towards Uganda. Some of these groups, like the Lord's Resistance Army have been designated internally in Uganda or by the UN Security Council as terrorist groups.
- The functions of the FIA Board provided in the AMLA pose risk of interfering with the operational independence of the FIA.
- Financial Institutions and DNFBPs in Uganda do not adequately apply AML/CFT preventive measures commensurate with their risks.
- The AML/CFT supervisory regime in Uganda is not as strong as it should be due to there being no specific provisions in the AMLA explicitly providing for appointment of AML supervisors.

- Supervision of remittance services carried out to mobile money service providers and agents is not adequately and effectively conducted.
- The sanctions regime on AML/CFT under the AMLA does not provide for administrative sanctions. Although, criminal sanctions under the same Act appear to be dissuasive, proportionate and effective, the sanctions are still to be tested in the courts of law as there have been no prosecutions or convictions on ML yet. The administrative sanctions regime provided under the FI Act as read with the FI AML Regulations is not proportionate, dissuasive and effective.
- The legal framework currently existing in Uganda does not provide for information on beneficial ownership to be obtained and retained by the competent authorities for purposes of ML.
- Coordination and cooperation at national level is still poor in Uganda, particularly between law enforcement agencies and the DPP's office.

A. *B. Risks and General Situation*

2. As mentioned, Uganda has not carried out a National Risk Assessment to determine the ML/TF risks the country faces. The major crimes identified through the interviews during the on-site visit as generating proceeds of crime include corruption and abuse of public resources, fraud, smuggling of wildlife products and gold and tax evasion, among others. Uganda has a significant informal cash based economy and as such a lot of financial transactions are settled using cash which poses additional ML and TF threats.

3. Uganda's AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013.As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. Prior to the AMLA, the FI Act and the AML regulations issued pursuant to the FI Act in 2010 existed for financial institutions under the direct supervision of the BoU (limited scope) and the regulations did not cover any measures relating to TF. In terms of the AMLA, a wide range of financial institutions and DNFBPs are obliged to implement preventive measures, however at the time of the on-site visit the implementing regulations to some of the sections of the AMLA had not yet been issued. In terms of assessing the legal framework, AMLA as the most comprehensive AML law has been considered by the assessment team. The Anti-Money Laundering Regulations issued in terms of FI Act have also been considered for the purpose of the assessment.

4. Whilst the assessment team was able to determine that the understanding of ML risks in Uganda is still very low, the team is also of the view that vulnerabilities likely to increase ML risks are quite high given that Uganda has a huge informal sector and most of the transactions are carried out in cash which makes them difficult to trace.

5. The risks relating to terrorism are well understood but the same cannot be said about the risks pertaining to TF. TF is of high risk in Uganda and now that there is a TF law, more effort should be made by the authorities to prioritise understanding the risks associated with it. The risks of terrorism that Uganda has been exposed to are not commensurate with the measures taken to mitigate such risks as no specific cases of disruption were cited and there are only two high profile cases on terrorism pending in court.

C. *C. Overall Level of Effectiveness and Technical Compliance*

6. The legal and institutional framework of Uganda has remarkably improved since its last assessment in 2005. The AMLA enacted in 2013, ushered in a new legal framework on the criminalisation of the offence of ML, preventive measures and international cooperation and the establishment of the FIA. Although the AMLA introduced dissuasive criminal sanctions, the same cannot be said about the regime on administrative sanctions for non-compliance with the preventive measures which is not provided in the AMLA. This is worsened by the current conflict between some of the sections in the FI Act and the AMLA, with the former requiring FIs to also report suspicious transactions to the BoU in addition to reporting to the FIA in terms of the AMLA. The FI Act also empowers the BoU to impose administrative sanctions on FIs under the Act for non-compliance with preventive measures provided under the FI Act.

7. The legal and institutional framework of Uganda has been relatively strengthened, however there are still significant gaps to be addressed. The amended Anti-Terrorism Act which was enacted during the time when the assessors were on-site still does not criminalise TF in line with the requirements of the FATF. In addition, not all predicate offences to ML are criminalised. The AMLA provides for a strong framework for confiscation and investigative powers to law enforcement but there are still major weaknesses with the transparency of beneficial ownership of legal persons and arrangements requirements. The AMLA is not clear on the supervision of all reporting entities.

8. The AML/CFT regime is still young and there is still a very low level of effectiveness. Although authorities have started implementing the AMLA, significant work still needs to be done in the assessment of ML/TF risks; national cooperation; collection; analyses and use of financial intelligence; investigations; parallel financial investigations in suspected terrorism cases; prosecution and confiscations involving both ML and TF cases; implementation of preventive measures and supervision; and transparency of beneficial ownership of legal persons and arrangements. Currently, the assessment of risks pertaining to terrorism is strong but the same cannot be said about TF. In terms of overall effectiveness of AML/CFT systems, there has not been remarkable improvements since Uganda's last assessment.

C.1Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

9. Uganda has not carried out a National ML/TF Risk Assessment in order to determine its levels of ML/TF risks. There also have not been any sectoral risk assessments to inform the authorities as to the kind of ML/TF risks that exist in some of the sectors in Uganda.

10. National coordination on AML/CFT in Uganda is spearheaded by the Ministry of Finance through a multi-agency committee, the Uganda Anti-Money Laundering Committee (the Committee). In the absence of a proper risk assessment to determine the ML/TF risks of Uganda, the Committee's policy decisions and operational activities are not risk based and therefore not prioritised. Further, there has been no national strategy developed that is informed by identified ML/TF risks. The level of national coordination between some of the competent authorities dealing with AML/CFT issues is still very low, leading to at times important decisions being made by one party without adequate consultations with the other concerned stakeholders.

11. The cooperation between law enforcement and prosecution on AML/CFT is limited due to absence of adequately skilled officers and cooperation mechanisms to deal with ML investigations and prosecutions. Although, the AMLA was enacted in 2013, the provisions relating to ML have not yet been tested in a court of law and the authorities are still concentrating more on investigating and prosecuting predicate offences despite the offences of self-laundering, third party ML and stand-alone ML being provided for by the AMLA. The few number of confiscations which has been done, is also limited to predicate offences only.

12. The FIA which was only established in 2014 is now in the process of consolidating its efforts in raising awareness on AML/CFT to institutions designated as reporting entities in terms of the AMLA. However, financial institutions raised their concern with the dual reporting obligation of suspicious transactions required of them by the FI Act and AMLA, which are administered by the Bank of Uganda and the FIA, respectively. The interaction between the Bank of Uganda and the FIA on these STRs filed with both authorities was not clear to the banks nor was it satisfactorily explained to the assessors. The Bank of Uganda indicated that the reporting of STRs under the FI Act was provided as a stop gap measure in the absence of a law providing for the creation of an FIU but it could not be explained why the provision was not harmonised with the enactment of the AMLA.

13. 13. The banks and insurance companies, particularly those which are foreign owned are well aware of the ML/TF risks relating to the line of business they conduct. The DNFBPs have a varying understanding of their ML/TF risks. Whilst some have a general understanding of ML/TF risks others have knowledge of their sector specific risks.

13. 14. The authorities in Uganda still need to do more to improve on the understanding of the ML/TF and PF risks informed by a proper national risk assessment. In addition, they should have reliable mechanisms at national level to coordinate and implement policies and activities put in place to address the ML/TF risks identified.

C.2 Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

15. 15. Uganda has in place the legal and institutional framework to allow for the investigation and prosecution of ML and TF cases. However, there are still deficiencies concerning the responsibilities and powers of law enforcement authorities which need to be addressed. Uganda still has significant deficiencies in the legal framework dealing with cash couriers, and the regulations to enable implementation of the AMLA provisions on cash couriers have not yet been put in place.

15. 16. Uganda has not yet developed an effective system that ensures that ML and TF cases are properly identified, investigated and prosecuted to enable illicit proceeds and instrumentalities of crime to be confiscated. The FIA, law enforcement agencies and the DPP's office, all do not have adequate resources and training to enable the identification, investigation and prosecution of ML and TF cases. As a result there has not been a single case of ML or TF that has been successfully investigated and prosecuted.

15. 17. Law enforcement, particularly police investigators and prosecuting authorities should be capacitated, through provision of resources and training to identify, investigate (including through parallel financial investigation) and prosecute ML/TF cases.

15. 18. When Uganda was evaluated in 2005, it did not have a legal framework for the establishment of an FIU. This was addressed in 2013, with the coming into force of the AMLA. Part IV of the AMLA provides for the establishment of the FIA and sets out its objectives and functions.

However, as highlighted in paragraph 6 above, financial institutions which fall under both the FI Act and the AMLA have dual reporting obligations on suspicious transactions and this has not built confidence with the banks that the suspicious transactions they report remain confidential.

19. 19. The FIA is not adequately resourced, in terms of personnel, training and tools to provide quality intelligence to law enforcement agencies to assist with the identification of ML/TF cases.

19. 20. The FIA has made 32 disseminations out of the 210 STRs received, since it came into existence in July 2014, with only two of the STRs having been identified as having potential to lead to ML investigations.

19. 21. The AMLA provides broad functions for the FIA Board which has potential to interfere with the operational independence of the FIA.

19. 22. Police units responsible for investigating ML/TF cases do not have specialized training and skills to investigate ML/TF cases. Uganda does not pursue a deliberate policy of confiscating proceeds of crime, instrumentalities and property of equivalent value under the confiscation framework provided by the AMLA. It also does not pursue the policy of parallel financial investigations. The DPP's office reported that confiscations are sometimes undertaken arising from convictions for predicate offences, but no statistics were provided in this regard. The IG provided some statistics on post-conviction compensation orders, which the assessors did not consider as amounting to confiscation.

19. 23. The AMLA provides wide powers for both the FIA and LEAs to obtain information and gather intelligence and evidence during ML investigations. Both the FIA and LEAs have however not sufficiently used these provisions as there has been no meaningful investigation of ML cases.

19. 24. LEAs' general lack of awareness, training and resources to undertake financial investigations severely undermine their ability to investigate ML cases and to trace and cause confiscation of illegal assets.

C.3 Terrorist Financing and Financing Proliferation (Chapter 4 -IOs 9-11; R.5-8)

25. 25. When Uganda was evaluated in 2005, TF was not adequately criminalised in line with the TF Convention. There is no legal framework to implement the requirements on targeted financial sanctions relating to terrorism and terrorist financing.

25. 26. In June 2015, during the onsite visit, Uganda passed amendments to the Anti-Terrorism Act, whose effect was to criminalize TF. The amended Anti-Terrorism law still has major deficiencies in the criminalisation of the TF offence.

25. 27. Uganda still does not have a legal framework or administrative arrangements to implement the requirements of Recommendation 6 (targeted financial sanctions related to terrorism and terrorist financing) and Recommendation 7 (targeted financial sanctions relating to proliferation).

25. 28. The Non-Governmental Organisations Registration Act of 1989 as amended in 2006 provides for the registration of NPOs. The Act provides for the establishment of an NGO Board whose main functions are to consider applications for registration and has powers to refuse or revoke a registration certificate issued.

25. 29. The NGO Board employs a secretariat staff of only 7 officers who are supposed to undertake functions relating to the oversight of the NPO sector which approximately numbers 11500 organisations. The current exact number of NPOs is not known to the secretariat staff of the NGO Board.

Further, although the authorities divide their NPO sector into five different categories of NPOs, which range from domestic, regional, continental within Africa, international and foreign, the exact figures in each one of the categories were not provided.

30. 30. Due to such serious staffing constraints, the Board and its staff have not been able to undertake any meaningful NPO monitoring activities, including monitoring patterns of inflows and usage of funds by the organisations.

30. 31. No outreach has been undertaken to the NPO sector concerning TF activities. No exercise has been undertaken to assess the NPO sector's vulnerability to TF. Given the vulnerability of Uganda to

TF and the possibility of the NPO sector being abused as a conduit to channel funds to be used for TF activities, it is important that the authorities make an effort to understand the extent of the NPO sector's exposure to TF risks and take measures to mitigate the risks identified.

C.4 Preventive Measures (Chapter 5 - IO4; R.9-23)

32. 32. The legal framework relating to AML/CFT preventive measures in Uganda consist of the AMLA and the FI Act. The AML/CFT preventive measures as provided for in the AMLA are largely consistent with the FATF standards, however the AMLA does not provide for any administrative and civil sanctions and lacks implementing regulations to some of the sections. The FI Act and the scope of AML Regulations to FI Act are only limited to AML measures and does not apply to other financial institutions within the capital markets and insurance sectors.

32. 33. Uganda's AML/CFT regime is relatively young with the enactment of the AMLA only in late 2013. As a result most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. Prior to the AMLA, the AML Regulations to the FI Act had been issued as a stop gap measure to facilitate implementation of AML measures by financial institutions under the BoU. In this regard, FI Act AML Regulations had very limited scope as they did not cover TF; were only applicable to specific institutions under the supervision of the BoU; and were not extended to other institutions vulnerable to ML/TF risks. The enactment of the AMLA covered all reporting entities which carry out financial activities listed under the FATF Glossary with the obligation to implement preventive measures. NPOs and other supervisory and regulatory authorities on AML/CFT are however also obliged to implement preventive measures under the AMLA.

32. 34. Regulations to implement some of the sections of the AMLA have not been issued. There could be implementation challenges due to financial sector supervisors and regulators being also designated as reporting entities under the AMLA.

32. 35. The level of awareness and compliance with KYC and CDD obligations amongst financial institutions varies with size, with large banks having more sophisticated means of implementing the requirements compared to the average sized financial institutions. The financial institutions met during the on-site visit highlighted challenges to comply with their KYC and CDD obligations due to the lack of national identity cards in Uganda. These challenges pose inherent ML/TF risks where the identity of clients are not accurately established using reliable documents.

32. 36. Assessors noted that the absence of adequate KYC and CDD measures and the absence of screening mechanisms to ensure compliance with targeted financial sanctions by MVTS and foreign exchange bureaus, indirectly exposes banks to significant ML/TF Risks where such MVTS and foreign exchange bureaus are clients of banks. Banks during the interviews confirmed that they are also aware of

ML/TF risk exposure emanating from their business dealings (or financial transactions) with MVTS including Foreign Currency Exchange Bureaus.

37. Real estate agencies in Uganda are not supervised for AML/CFT purposes and there is no indication that they and other DNFBPs have fully taken the preventive measures set out in the AMLA on board despite being listed as reporting entities. The institutional framework providing for lawyers' compliance with their AML/CFT CDD obligations is weak and for foreign corporate clients, lawyers heavily rely on verification information they request from their foreign counterparts without necessarily verifying it themselves.

C.5. Supervision (Chapter 6 -IO3; R.26-28, R. 34-35)

38. The BoU is the only supervisor that has developed a supervisory program to ensure compliance with AML requirements as outlined in FI Act AML Regulations. The majority of the other supervisors and SRBs have not yet developed any AML/CFT programs to supervise entities under their sectors. Absence of a legal provision in the AMLA and the respective sectoral laws, which designate authorities with the responsibility for AML/CFT supervision might have contributed to the supervisory deficiencies in Uganda. Supervisory deficiencies in the AMLA in relation to the designation of supervisors also make it difficult to create a culture of AML compliance in Uganda. The AMLA does not provide administrative sanctions for non-compliance with that Act. Supervisors need to develop robust risk-based supervisory programs that assist in prioritising areas that are exposed to a higher risk of money laundering and terrorist financing. Immediate attention needs to be given to the supervision of mobile money service providers as there are currently lax AML/CFT controls for the sector.

C.6 Transparency of Legal Persons and Arrangements (Chapter 7 -IO5; R. 24-25)

39. 39. Other than the requirement under the AMLA for financial institutions and DNFBPs to identify beneficial owners of clients they will be dealing with, there is no requirement under any law in Uganda for the URSB or companies themselves to obtain, retain and maintain beneficial ownership information.

39. 40. Although the observations made in the preceding paragraph show that beneficial ownership information is not available, basic company information, including legal ownership (shareholder information) is readily available at the URSB. This information is also readily accessible by competent authorities. The information, however, is not updated regularly and therefore is not accurate in some cases.

39. 41. Information on trusts is less readily available as there is no requirement that all trusts should be registered. There is also no legal requirement under the Trustees Incorporation Act, for trustees to disclose beneficial ownership information. The authorities did not provide information on legal arrangements and how they are functioning in practice. This is an area which is poorly regulated in Uganda.

39. 42. The authorities have not conducted a ML/TF risk assessment of legal persons and legal arrangements to assess their vulnerability to ML/TF risks. The understanding of ML/TF risks posed by legal persons and arrangements is still very limited.

C.7 International Cooperation (Chapter 8 - IO2; R. 36-40)

43. 43. Uganda has got no domestic legal framework to deal with international cooperation. It relies on regional and international agreements and conventions that it is a party to. Depending on the subject matter for which mutual legal assistance is being requested, the request is directed to the appropriate authority, e.g. requests relating to corruption are directed to the IG and other requests on criminal matters are directed to the DPP's Office. The AMLA provides for international cooperation on matters limited to the Act, therefore it is limited in terms of scope of application.

43. 44. The country has received and made requests for MLA and extradition in a limited number of cases. All the requests which have been made relate to predicate offences. Although, Uganda has made requests for both MLA and extradition and received similar requests and there is evidence that in some cases, its requests were responded to and that it also responded to some of the requests made to it, there is however, no proper case management system to ensure statistics in this regard are kept. There is no recorded information giving guidance on whether requests are attended to in a constructive and timely manner and the quality of the information provided or requested by the authorities. The information provided on MLA and extradition requests is therefore not comprehensive.

43. 45. Uganda is yet to utilize the international cooperation framework to pursue ML/TF investigations, including identifying and pursuing proceeds of crime.

43. 46. Agencies such as the Uganda National Central Bureau (Interpol) and the Uganda Revenue Authority have been cooperating with foreign counterparts on matters within their jurisdiction, but the range of cooperation has been limited to the pursuit of predicate offences. However, what is noted with concern is the absence of proper coordination of mutual legal assistance requests at domestic level. Proper consultations with all stakeholders which have an interest in the criminal matter are at times not carried out resulting in decisions which have grave implications on the other institutions involved in such a case being made only by one of the stakeholders. The authorities should strive to domestically cooperate and coordinate more on matters relating to international cooperation and also keep appropriate and well detailed statistics on the MLA and extradition matters dealt with.

D. *Priority Actions*

47. 47. Uganda should implement the following priority actions in order to improve the extent to which the AMLA is effectively implemented:

a. a) Sections providing for CDD and STR reporting obligations in the FI Act and AMLA should be harmonised in order to address inconsistencies in CDD requirements and remove the dual reporting requirements.

a. b) Establish the FIA as the national centre for receipt, analysis and dissemination of financial intelligence and other information by amending the legal framework to ensure that all suspicious transaction reports are only reported to the FIA.;

c) The AMLA should be amended to provide for the full operational independence of the FIA.

a. d) AMLA should be amended to include provisions which designate supervisory authorities for AML/CFT purposes and confer on these authorities necessary powers to undertake their responsibilities and impose administrative sanctions against non-compliance;

a. e) Implement regulations to give effect to some of the provisions in the AMLA that require the promulgation of regulations to give them effect and conduct awareness raising and supervision

activities among all regulated sectors to enhance understanding of their AML/CFT obligations and the risk of ML/TF inherent in their sectors;

f. f) Conduct a National Risk Assessment or where possible sectoral risk assessments to ensure that there is adequate understanding of ML/TF risks. Proper risk based approach should be implemented to manage the identified risks, to aid in the allocation of resources to high risk areas and enable proper informed AML/CFT guidance to be provided to both regulators and regulated entities;

f. g) Law enforcement, particularly police investigators, and DPP should be capacitated in terms of resources and training to deal with ML/TF cases and be able to conduct parallel financial investigations in every investigation that involves proceeds of crime or terrorism;

h) The FIA should be provided with access to all databases that are relevant to its work;

f. i) Introduce a much more efficient system to manage and regulate the NPO sector, including strengthening the legal framework, adequately resourcing the NGO Board and AML/CFT awareness in the sector;

f. j) Resolve technical compliance issues relating to R.10, R11, R14-R16, R.19, R22 and R23 as a matter of priority in order to mitigate the risk posed by the inadequate legal framework;

f. k) Continue to roll out the National Identity Card project so as to assist and facilitate effective implementation of customer identification and verification obligations as required by Recommendation 10;

f. l) Supervisors need to develop appropriate supervisory tools which will facilitate effective AML/CFT compliance monitoring for all reporting entities including mobile money service providers;

f. m) AML/CFT controls in the supervision of mobile money service providers need to be strengthened as quickly as possible;

f. n) Strengthen national cooperation and coordination of AML/CFT Competent Authorities, particularly between the police and the DPP's Office; and

f. o) Introduce mechanisms of properly capturing statistics detailed enough to determine and understand Uganda's role in international cooperation.

E. Effectiveness &Technical Compliance Ratings

Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6
Risk, policy and coordination	International cooperation	Supervision	Preventive measures	Legal persons and arrangements	Financial intelligence
Low	**Low**	**Low**	**Low**	**Low**	**Low**

IO.7	IO.8	IO.9	IO.10	IO.11	
ML investigation & prosecution	Confiscation	TF investigation & prosecution	TF preventive measures & financial sanctions	PF financial sanctions	
Low	**Low**	**Low**	**Low**	**Low**	

Technical Compliance Ratings

AML/CFT Policies and coordination

R.1		R.2					
NC		**PC**					
Money laundering and confiscation							
R.3		**R.4**					
PC		**LC**					
Terrorist financing and financing of proliferation							

R.5		R.6			R.7		R.8
NC		NC			NC		NC

Preventive measures

R.9	R.10	R.11
C	PC	NC
R.15	**R.16**	**R.17**
NC	NC	NC
R.21	**R.22**	**R.23**
C	PC	PC
Transparency and beneficial ownership of legal persons and arrangements		
R.24	**R.25**	
NC	NC	

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30		R.31
NC	NC	NC	PC	PC		PC
R.32	**R.33**	**R.34**	**R.35**			
NC	NC	PC	PC			
International cooperation						
R.36	**R.37**	**R.38**	**R.39**	**R.40**		

C		**PC**		**PC**		**NC**		**PC**		

1 MUTUAL EVALUATION REPORT OF UGANDA

Preface

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

48. 49. This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by Uganda, and information obtained by the evaluation team during its on-site visit to Uganda from 15-26 June 2015.

48. 50. The evaluation was conducted by an assessment team consisting of: Joseph Jagada (team leader), Phineas Moloto, (technical advisor), Elizabeth Onyonka, (financial sector expert), Muluken Yirga (legal expert), all ESAAMLG Secretariat; Tom Malikebu, Reserve Bank of Malawi (financial sector and financial intelligence unit expert); Shaun van Rooi, Financial Intelligence Unit, Namibia (financial sector expert); Stephen Mkwanazi, South African Reserve Bank (financial sector expert);Oliver Chiperesa, Financial Intelligence Unit, Zimbabwe (financial intelligence unit and law enforcement expert); Susan Mangori, Director of Public Prosecutions' Office, Botswana (legal and law enforcement expert); Mofokeng Ramakhala, Financial Intelligence Unit, Lesotho (legal expert), Erastus Paulus, Financial Intelligence Unit, Namibia (observer); and Antoinette Khula, Financial Intelligence Unit, Botswana (observer).

48. 51. The report was reviewed by the FATF; Joseph Munyoro, Assistant Director, Bank of Zambia; Fetlework G. Egziabher Abrha, Deputy Director General, Financial Intelligence Centre, Ethiopia; Richard Ogetii, Legal and Policy Officer, President's Office, Kenya; and Christopher Likomwa, Legal Services Manager, Malawi Revenue Authority.

48. 52. Uganda previously underwent a World Bank Mutual Evaluation in 2005, conducted according to the 2004 FATF Methodology. That Mutual Evaluation concluded that the country was compliant with 1 Recommendation; largely compliant with none; partially compliant with 13; non-compliant with 34 Recommendations and 1 Recommendation was rated Not Applicable. The 2005 evaluation has been published and is available at www.esaamlg.or.tz

48. 53. Uganda entered into the follow-up process in 2009 and exited the process in March 2015 still with outstanding deficiencies on R. 1, 13, 26 and SR. II, III, IV. The reason for exiting the follow-up process was that Uganda was going to be assessed for the second time in June 2015. However, Uganda

will continue reporting progress in addressing deficiencies which were identified by the High Level Mission to Uganda in July 2014 until its MER under the 2nd Round of MEs is adopted.

2. ML/TF RISKS AND CONTEXT

54. Uganda is a Republic occupying about 241,038 sq. km in East Africa. It shares borders with the Democratic Republic of the Congo (877 km), Kenya (814km), Rwanda (172 km), South Sudan (475 km) and Tanzania (391 km). Uganda has a Population of about 37,101,745, with almost half (about 48%) of it being below the age group of 14 years. Uganda is a member of a number of regional and international organisations including the UN, EAC, IGAD and the Commonwealth and is one of the founding members of the ESAAMLG.

55. 55. The President of Uganda appoints the Prime Minister and Cabinet from the elected members of the National Assembly. The Government is made up of the Executive (President, his vice, prime minister and cabinet), Legislature (parliament) and the Judiciary. It has unicameral Parliament.

55. 56. The Constitution of Uganda was adopted on the 8th of October 1995, on the eve of Uganda's commemoration of its independence day. The Constitution recognises the three arms of Government and the independence of the Judiciary in Uganda. The Judiciary consists of the Supreme Court which is headed by the Chief Justice and is also head of the Judiciary, Court of Appeal which also sits as a Constitutional Court, High Court and the Magistrates Courts. Judges are appointed by the President in consultation with the Judicial Service Commission, which is an independent advisory body and have to be approved by the National Assembly and they serve until they retire. The DPPs Office is empowered by the Constitution to prosecute all criminal cases brought before the Ugandan Courts.

55. 57. The official language used in Uganda is English with the Ganda or Luganda being the mostly common spoken local language.

1.1 ML/TF Risks and Scoping of Higher-Risk Issues- Overview of ML/TF Risks

55. 58. Uganda has not yet carried out a National Risk Assessment, which might have clearly provided the crimes which are most common in Uganda and the possible amounts of criminal proceeds involved. The authorities view the crimes of corruption and abuse of public resources, fraud, smuggling of wildlife products and gold[1], and tax evasion as most common. Uganda has a significant informal, cash based economy. Majority of the financial transactions are carried out in cash which poses a high ML/TF risk to some of the sectors, like the real estate sector. Most of these transactions cannot be easily traced and accounted for due to the absence of paper trail, which poses additional ML and TF risks. Lack of implementation of cross-border currency and BNI controls also makes the country more vulnerable to ML & TF risks.

55. 59. The capital of Uganda, Kampala has had two terrorist attacks, with the most recent one being in 2010 during the World Cup Soccer Tournament. Uganda faces the risk of terrorist attacks from the Somali, terrorist group, *Al-Shabaab*. The risk is further increased by Uganda sharing almost a porous border with a difficult terrain with Kenya, which has also been targeted for attacks by the same group. Some of the neighbours, like South Sudan are politically unstable. Internally, Uganda has got groups like the Lord's Resistance Army (LRA) and Allied Democratic Forces (ADF) which, although situated outside Uganda, their operations are aimed at attacking Uganda. The risk of TF is therefore very high. The authorities seem to be concentrating on the terrorism risk and have organised structures starting from the

[1] With a component of tax evasion through misrepresentation of origins of some of the gold as imported in order to pay less tax, falsification of documents to enable trading of the gold as imported which could be a good indicator of organised crime in the gold sector.

village level to ensure that information on any suspicious activity which might be linked to terrorism is reported to the authorities. However, the extent to which the authorities carry out parallel financial investigations in such cases is negligible. No investigations on TF have been carried out yet by the authorities.

60. 60. Uganda's AML/CFT regime is relatively young. The AMLA was only enacted in 2013, whilst the amendments to the Anti-Terrorism Act to criminalise the offence of TF among other things, were enacted in June 2015. Regulations to implement some of the provisions of the amended law such as the UN Security Council Resolutions (1267/1373) are not yet in place.

60. 61. The institutional framework is generally weak, with most of the agencies lacking the expertise and resources to start implementing the requirements and obligations set out in the AMLA. In addition, although it was easy to determine that there are inadequate resources and skills to deal with ML cases for law enforcement and DPPs Office, it was not clear whether the judiciary is also affected by the same problems as no test cases of ML have yet been brought before it for trial.

60. 62. Judging from the number of cases of corruption that the IG deals with, over a thousand per year, it appears the offence of ML is not being pursued compared to the predicate offence of corruption. There is a high probability that the proceeds from the offence of corruption, which is prevalent with public officials in Uganda, are being laundered with the offences going undetected. It was not clear why the IG does not refer cases which have elements of ML to the DPP's Office for further management.

60. 63. Uganda does not have a proper legal framework to support AML/CFT supervision of mobile money service providers which is an area of concern and a missed financial inclusion opportunity. The stop-gap measure taken by the BoU of issuing Guidelines does not appear to be adequate as it cedes to the partner banks the responsibility to enforce compliance with AML/CFT obligations, a role which banks do not seem to be playing in practice. FIs, particularly the big banks are aware of the ML/TF risks and have taken measures to mitigate the risks but some of the smaller banks, non-banking institutions and the DNFBPs are still far off from identifying their ML/TF risks as well as implementing risk mitigating measures.

a) Scoping of Higher Risk Issues

64. Confirmation of Uganda's ML/TF higher risk issues would have been greatly helped, if Uganda had done a National Risk Assessment before the on-site visit. As this was not the case, the assessors based their views on the higher risk issues to focus on from information obtained from public sources, responses to questionnaires and the inputs from the reviewers to the draft scoping note. The assessors divided the areas of higher ML/TF risks to pay more attention to during the on-site visit into three main groups starting with what was deemed to be the area of highest risk of the three categories of higher risk identified and scaling them down accordingly:

- **TF risks**-The assessment team wanted to understand the continued absence of a legal framework in place adequately criminalising the TF offence despite the presence of clear indicators that TF is of very high risk in Uganda. These indicators include: the terrorist attack in Kampala in 2010, existence of regional and domestic (al-Shabaab, LRA and ADF) groups engaging in terrorist activities in Uganda, use of cash for most transactions, porous borders and a poorly regulated NPO sector. Amendments to the Anti-Terrorism

Act to criminalise the offence of TF were eventually passed whilst the assessment team was on-site but still the amendments do not fully criminalise the offence of TF.

- **ML risks**- Given the high number of corruption cases being reported which presents it as a major problem and the high chances of proceeds from the offence being laundered and the negative effect it might have in putting adequate frameworks (both legal and institutional) to mitigate the risk of ML, the assessment team wanted to have more insight as to why: a) the authorities were not conducting parallel financial investigations on the commencement of the corruption investigations; and b) no investigations relating to offences of ML had been pursued in all the cases of corruption being dealt with. Also to determine whether the authorities appreciated and understood the inherent risk of ML in all the cases which were being prosecuted only for the predicate offence of corruption and based on the magnitude of the problem, the measures which the authorities were taking to address the reluctance to investigate and prosecute ML arising out of corruption. It was important to also understand whether corruption had no impact in the gathering of information/evidence relating to other offences like tax evasion, fraud, smuggling of wildlife products and gold, which had also been identified as major crimes generating proceeds likely to be laundered.

- **FIU operations**- The operational independence of the FIU and its Executive Director vis-a-vis the functions of the Board of the FIU enshrined in the AMLA is of concern. The assessment team was concerned on the extent of the powers given to the Board to direct the Executive Director on operational policies of the FIU, including powers to appoint, remove and suspend members of staff and recommend the Executive Director's dismissal to the Minister on the basis of misconduct, incapacity or incompetence. This was seen as having potential to directly compromise the operational independence of the Executive Director and the FIU in making independent operational decisions. It was also seen to be creating room for the reporting entities to raise issues on the confidentiality of the reports they file and information they share with the FIU. Ultimately, it was seen to have the risk of reporting entities interpreting it as compromising the integrity of one of the main functions of an FIU relating to receiving, analysing and disseminating STRs.

64. 65. Lastly, given the high risk of TF in Uganda, the assessment team looked at the vulnerability of the NPO sector and how Uganda had implemented the NPO requirements. The lack of a TF risk assessment for the NPO sector, and adequate laws and resources to target those NPOs that might be at risk remains of serious concern regarding TF. On a different issue, the companies registry of Uganda is still not supported by the law or any other measures creating an obligation on entities it registers to disclose information on beneficial ownership, which again based on the high level of corruption and the likelihood of TF, makes non-disclosure of beneficial ownership a high ML/TF risk in Uganda. The lack of access by the majority of Ugandans to a national identity card, with the system only having been commenced recently, was also seen to be a huge risk to financial institutions and other reporting entities when it comes to proper implementation of KYC/CDD requirements.

1.2 Materiality

64. 66. The financial services sector of Uganda is mainly dominated by the banking institutions while designated non-financial businesses and professions (DNFBPs) are also present. Despite significant banking sector growth, access to banking services is still low. The number of commercial banks has

increased to 25 in 2015, with foreign banks holding 80 percent of the assets. The financial system is small with assets totalling approximately 27 percent of GDP and is highly concentrated, with the two major banks holding 30.29 percent of total assets. In a cash-based economy that suffers from a low savings rate, the deposit base (about 18 percent of GDP) is limited. Financial access is low with only 28 percent of adults owning a formal bank account. Efforts to promote financial inclusion and strengthening of financial literacy are underway.

67. 67. Operations in non-bank financial institutions are incipient. Credit and finance companies, microfinance institutions (MFIs), and the insurance sector are still small and immature, and only partly supervised by the Bank of Uganda (BoU) and the Insurance Regulatory Authority. Despite the presence of 29 insurance companies in the market of which 21 are non-life insurance companies and 8 are life insurance companies, penetration of insurance is only 0.86 percent of GDP well below the regional average. Combined assets of credit companies, both deposit and non-deposit taking MFIs amount to only

25. 1.25 percent of GDP. Savings and Credit Cooperatives (SACCOs) and MFIs still experience sustainability weaknesses, due to low savings mobilization, overdependence on government, lack of regulation, and fraudulent activities.

67. 68. The penetration of mobile phones, although still poorly regulated is now linking previously remote rural areas with the rest of the country. About 40 percent of the population and 76 percent of the adult population has access to mobile money services.

69. Uganda's recent economic performance has been described by the IMF as favourable[2].

1.3 Structural Elements

70. 70. Uganda appears to have the key structural elements to deal with AML/CFT although there is still need for improvement in most of these structures. Other than the threat of the terrorist groups mentioned above, there is political stability and a high level commitment to deal with AML/CFT issues. Although issues of corruption have a negative bearing on the accountability, integrity and transparency of some of the public institutions, generally there are efforts to have reporting entities built on reputable integrity and transparency. The judicial system seems to be working, although there was no clarity on its capacity and resource needs.

1.4 Background and other Contextual Factors

70. 71. Uganda's AML/CFT regime is still very young. The AML/CFT legal framework is still being developed to address some of the outstanding deficiencies. The institutional framework for both AML and CFT needs to be improved to ensure that ML and TF cases are investigated and prosecuted.

Uganda's economy is cash based with mobile money transfer services now helping in some way to cut down on the reliance on cash. Banks do not have any special accounts for low income/non-banked people. However, such institutions have products tailored to meet the different segments of the market.

70. 72. Although, the assessors used different sources of information to determine the ML/TF risks of Uganda, in the absence of a proper risk assessment it becomes difficult to categorise the extent of the risks and priority in the implementation of AML/CFT policies. However, the authorities and the assessors

[2] IMF Country Report No. 15/175 of 2015

were in agreement that terrorism and TF pose a huge risk. It is also clear that the authorities are aware of this risk based on the measures they indicate they have put on the ground to deal with the risk of terrorism but not TF, e.g. prompt reporting of anything suspicious by the communities and disruption of suspected terrorist activities. The amendment of the Anti-Terrorism Act is also expected to enhance measures dealing with TF. Despite the authorities indicating that they assess the terrorism risk, the results of such assessments were not shared with the assessors as well as some of the statistics to determine how effective are the measures being put in place.

73. 73. Uganda also has problems with corruption in the public sector. Realising this, the authorities have set up a special court and an investigative unit, the IG to investigate and prosecute corruption cases. The special court has got High Court jurisdiction which has helped to facilitate quick trials of corruption related cases. What could not be determined by the assessors is the extent of the proceeds of corruption which are being laundered as there has been no ML investigations done linked to this offence.

73. 74. The emerging mobile money business has brought in a new challenge for Uganda as it does not have a proper legal framework to support AML/CFT supervision of mobile money service providers. This is an area of great concern as mobile money is now widely used in Uganda. The stop-gap measure taken by the BoU of issuing Guidelines does not appear to be adequate as it delegates the responsibility to enforce AML/CFT compliance to the partner banks. The banks are having challenges in filling this gap and already there are cases which have been reported of abuse of the mobile money services sector.

a) Overview of the legal & institutional framework and AML/CFT strategy

75. 75. The enactment of the AMLA in 2013 strengthened the legal framework which was already in existence in Uganda to enable confiscation. Uganda now has a strong confiscation and provisional measures legal framework. The legal framework provides for a wide range of measures to enable confiscation, including confiscation of instrumentalities of crime, property of corresponding value and benefits derived from proceeds of crime.

75. 76. The offence of ML is adequately criminalised in the AMLA, including the offence of self-laundering to the extent that crimes generating the proceeds which can be laundered are criminalised as predicate offences in Uganda. The AML regime of Uganda still does not cover all categories of crimes listed as predicate offences in the FATF Glossary. The offence of drug trafficking is still not adequately covered. The regulations to implement some of the sections of the Act have not yet been passed.

75. 77. The Anti-Terrorism Act enacted in 2004, although it had elements of TF in some of the provisions, it did not fully criminalise TF. Amendments to the Act to criminalise TF were enacted whilst the assessment team was on-site and still has major deficiencies as they are not consistent with the Convention on TF and also, there is no legal framework to implement UNSCRs. Uganda is still to put in place a legal framework to deal with PF.

78. The following ministries, authorities, agencies and boards oversee the AML/CFT regime in Uganda:

a. a) Ministry of Finance, Planning and Economic Development- which oversees the activities of the Anti-Money Laundering Committee, development of AML/CFT policies and implementation;

b. b) Ministry of Justice –is in charge of upholding the rule of law, good governance, ensuring access to courts for all citizens and residents, providing legal advice and services to all government and public bodies and overseeing administration of the courts;

b. c) Ministry of Internal Affairs- is in charge of maintaining stability, peace, law and order in Uganda, registering and monitoring of NGOs, movement of people in and outside Uganda among other responsibilities;

b. d) Financial Intelligence Authority- is established in terms of the AMLA and has been in existence since July 2014. In liaison with the Ministry of Finance, it is responsible for coordinating AML/CFT issues, receiving and analysing suspicious transaction reports and any other information from financial entities designated under the AMLA and following-up on any other information relevant to the analysis before disseminating the results of the analysis to relevant competent authorities.

b. e) Directorate of Public Prosecutions- is established in terms of the Constitution of Uganda and it is responsible for instituting criminal litigation in the courts of Uganda;

b. f) Uganda Police Force-has the main responsibility of maintaining law and order. It is divided into 20 Directorates with different functions. Included in these directorates are the Directorates of Criminal Investigation and Crime Intelligence (CICI), and Interpol. The major function of the CICI is to effectively detect, investigate and prevent crime. It is the directorate which is responsible for investigating ML and commercial crime predicate offences. The Directorate of

Interpol facilitates international and regional cooperation of Uganda's LEAs in the fight against extra-territorial crimes.

b. g) Joint Anti-Terrorism Task Force-it is an administrative task force composed of members from police, army, security and other agencies which cooperates, collects and coordinates intelligence relating to terrorism before referring it to the relevant agencies for further handling;

b. h) Inspectorate of Government-is an independent statutory board accountable to the Parliament of Uganda whose main function is to deal with corruption relating to abuse of authority and public offices, promote and foster the rule of law for public officials, promote accountability, transparency and good governance in public offices, and enforcing the Leadership Code of Conduct;

b. i) Bank of Uganda-is in charge of supervising banks, MVTS, forex bureaus and mobile money service providers. It is responsible for both prudential and AML supervision of banks in terms of the FI Act. The BoU supervises 25 banks and is yet to develop procedures on supervision of mobile money service providers.

b. j) Capital Markets Authority- it regulates capital markets, oversees the licensing of brokers, dealers and investment advisors with the intention of ensuring protection of the investor's interest. It is charged with ensuring compliance with requirements of establishing Securities Exchanges, conduct of business, advertisements, maintenance of registers of interests in securities, accounting and financial requirements and licensing of all the market operators including compliance with prospectus requirements;

b. k) Insurance Regulatory Authority- regulates, supervises and monitors the business of insurance which is non-life and life insurance providing life policies, annuities, liability and general risk policy covers. It regulates, supervises and monitors the insurance sector including the agencies

and brokers as well as loss assessors' and adjustors. It aims at protecting the interests of the consumers of insurance products, who are mostly the policy holders.

79. 79. Added to the above institutions are the Ministries of Energy and Mineral Development; Foreign Affairs, Security; the Registrar of Companies; Stakeholders Committee Forum (chaired by a judge, with police, DPP, BoU, Bankers Association participating in discussions on crimes); Bankers Association; Uganda Revenue Authority and the Anti-Money Laundering Committee.

79. 80. Uganda has not yet carried out a National Risk Assessment, therefore, there is no national AML/CFT strategy informed by the risks identified in an assessment. Whereas most of the financial institutions might be applying RBA as they are aware of their sectoral ML/TF risks, the majority of the reporting entities, in particular the DNFBPs are still to do so. In terms of pursuing confiscation of proceeds of crime, Uganda has got no clear policy aimed at recovering such proceeds.

79. 81. In order to determine the ML/FT risks and deficiencies, in addition to this MER, Uganda will be better informed if it carried out an NRA. The results of such an exercise would improve on identifying sectors which need urgent attention on AML/CFT including domestic cooperation, capacity building and appropriate allocation of resources, which have not been prioritised in some of the institutions essential in fighting ML/TF. The AML/CFT institutional framework of Uganda although still young, would have been greatly enriched by having a formal understanding of where it is strong or weak and what needs to be done to address the gaps identified based on results of a risk assessment. Currently, such an exercise cannot be effectively carried out as there is no uniform understanding of the ML/TF risks.

b) Overview of the financial sector and DNFBPs

82. 82. The commercial bank sector of Uganda is the biggest in terms of asset size compared to the rest of the financial sector asset size. There are a total of 25 commercial banks making them dominant in the sector. The commercial banks at individual level hold varying market share of total assets. There are two major big banks with a total market share of assets of 30.29%, 6 medium banks with a total market share of assets of 43.59%, and the remainder (17 banks) accounting for 26.12% of the market share of total assets. The commercial banks provide various services including: acceptance of deposits, lending, financial leasing, transfer of money or value, issuing and managing means of payment and various other services. Of lessor significance are the non-bank financial institutions consisting of credit institutions, micro finance deposit taking institutions, forex bureaus, money remitters, investment advisors, security brokers and dealers, unit trust managers, fund managers and insurance companies. The majority of the institutions are supervised on both prudential and AML/CFT by the BoU in terms of the FI Act. The AMLA has got no clear provision designating the BoU and other Authorities (Capital Markets and Insurance Regulatory Authorities) as supervisors on AML/CFT.

82. 83. The non-bank financial sector of Uganda composes of 4 credit institutions, 4 micro finance deposit-taking institutions, 60 money remitters, 267 forex bureaus, 8 investment advisors, 10 stock brokers and dealers, 4 unit trust managers, 9 fund managers and 8 life insurance companies. Whilst commercial banks and credit institutions offer a number of services, acceptance of deposits, lending, financial leasing, transfer of money or value services are common to them as well as the micro finance deposit-taking institutions. Forex bureaus only offer services in money and currency changing Money.

remitters only provide transfer of money or value services. Stock brokers and dealers trade and deal in securities and provide other brokerage financial services.

84. 84. There are 29 insurance companies in Uganda. Of the 29, eight are life insurance companies and they take up about 20% of the insurance business. The other 21 provide non-life insurance services. The 8 life insurance companies are foreign in terms of shareholding. All the 29 companies are regulated and supervised by the Insurance Regulatory Authority. Agents and brokers are the major means used to sell insurance.

84. 85. All the DNFBPs listed under the FATF Glossary practice in Uganda. All the other DNFBPs other than real estate have a supervisory body.

84. 86. Uganda has about 2 088 lawyers. There is no categorisation of the lawyers. They all deal with litigation, commercial and corporate matters/business. All lawyers practicing in Uganda are subject to AML/CFT obligations. However in terms of implementation, the lawyers in general have not been doing much to comply with their AML/CFT obligations. Any lawyer who has practiced for at least five years can apply to be a notary public.

84. 87. Uganda has 1 950 enrolled accountants and 306 registered (practising) accountants. They offer a varying range of services including audits, evaluations, consultancy, company secretarial, financial statements preparation and advisory services.

84. 88. The stones and precious metal dealers are licensed and monitored by the Ministry of Energy and Mineral Development. Uganda mainly produces gold. Both small and large scale miners are involved

in gold mining with different requirements to acquire mining licences for foreigners and nationals. At the time of the on-site visit 818[3] licenses had been issued to different companies carrying out different aspects of mining in Uganda.

84. 89. Uganda has 8 casinos, 3 slot machine operators and 21 sports betting operators. Of the 8 casinos, one is an internet casino. All the gambling activities require compliance with the AMLA requirements but their supervision by the Uganda National Lotteries and Gaming Board is still weak.

Table 1: Types of financial institutions in Uganda as at June 2015

Type of financial institution	**Services performed**	**SUPERVISOR**	**Number of**	**i**
Banks				
Commercial banks		Acceptance of deposits	BoU	
		Lending		
		Financial leasing		
	Transfer of money or value			
	Issuing and managing means of			
		payment		

[3]The statistics provided by the authorities (in brackets to this footnote) to explain this figure are incoherent therefore were not relied on by the assessors. (A total of 395 mineral licenses granted to various companies. 487 were Exploration licenses (EL), 179 Prospecting licenses (PL), 70 Mineral Dealers Licenses (MDL), 36 Mining Leases (ML), 3 Retention Licenses (RL) and 43 Location Licenses (LL). 47 licenses were renewed, 334 expired and 1 revoked. Total of 818 licenses were in operation by various companies)

Type of financial institution	Services performed		
	▪	Financial	
		commitments	
	▪ Trading	in	
		instruments	
	▪ Trading in foreign exchange		
	▪ Trading in exchange interest-rate		
		and index instruments	
	▪	Safekeeping	ad
		of cash or liquid securities on	
		behalf of persons	
	▪ Money and currency changing		
	▪ Participation	in the	issu
		securities	
Non-bank financial institutions			
Credit institutions	▪	Acceptance of deposits	
	▪	Lending	
	▪	Financial leasing	
	▪ Transfer of money or value		
	▪ Trading in foreign exchange		
	▪	Safekeeping and administration	
		of cash or liquid securities on	
		behalf of persons	
	▪ Money and currency changing		
Microfinance deposit-	▪	Acceptance of deposits	
taking institutions	▪	Lending	
	▪	Financial leasing	
	▪ Transfer of money or value		
Foreign-exchange	▪	Money and currency changing	
bureau (excl. money			
remittance services)			
Money remitters (excl.	▪	Transfer of money or value	
mobile money)			

Investment advisors		Carries on the business of	
		advising	oth
		securities.	
	Issues or publishes analysis and		
		reports concerning securities.	
	Under a contract or arrangement		
		with a client, undertakes on	
		behalf of the client the	
		management of a portfolio of	
		securities for the purpose of	
		investment.	

Type of financial institution		**Services performed**
Securities brokers and dealers		
Collective investment schemes (unit trust managers)		

		▪ Exercise any function concerning
Fund managers		▪
Life insurance		▪
companies		
Table 2: Types of DNFBPs in Uganda as at June 2015		
Designated non-financial		
businesses and professions		
(DNFBPs)		
Casinos (incl. Internet casinos)		Lotteries Regulatory Boc
Real estate agents		
Dealers in precious stones/metals	Department of Licensing &	
Legal professionals		
Accountants		
Trust and company service		
providers		

		companies
Non-government organisations (NGOs) (listed as reporting entities in terms of the AMLA)	NGO Board	10 588

c) Overview of preventive measures

90. The AML/CFT legal framework with respect to AML/CFT preventive measures in Uganda is made up of three key pieces of legislation, namely the AMLA, FI Act (only covers AML) and the Anti-Terrorism (Amendment) Act. The AML/CFT preventive measures, as provided in the AMLA are largely consistent with the FATF standards. Therefore, the AMLA can be considered to be relatively strong, except for some of the areas and the conflict created by some of the provisions in the FI Act. The FI Act and its implementing AML regulations only applies to financial institutions under the supervision of the BoU, whilst the AMLA applies to all financial institutions and DNFBPs. At the time of the on-site visit, there were no implementing regulations issued pursuant to some of the sections of the AMLA which impacts on the effective implementation of the required AML/CFT preventive measures[4]. There is no risk based approach or other exemptions identified relating to CDD measures. In Uganda, NGO's although not required by the FATF Recommendations[5], are listed as reporting entities in terms of AMLA. In addition to this, several regulatory and supervisory bodies have also been listed as reporting entities which given the lack of adequate resources and skills to implement AML/CFT requirements in Uganda, may pose additional implementation challenges. No other high risk sectors have been identified and subjected to the AMLA. In terms of assessing the legal framework, AMLA as the most comprehensive AML/CFT law has been considered by the assessment team and where found to have deficiencies relating to FIs supervised by the BoU, the FI Act was considered.

d) Overview of legal persons and arrangements

91. The Companies Act of Uganda, which is administered by the Uganda Registration Services Bureau (URSB) provides for the creation of the following legal persons: a) public limited companies; b) private limited companies which are companies limited by shares such as single member companies and companies limited by guarantee; c) foreign companies; and d) unlimited companies. There are 204 404 registered companies. Of these 556 are public companies and 203 848 are private companies. Trust and

4 The basis of this observation is that a country can issue regulations not only on sections where the law says "to be prescribed" but on any other section (see section

141 of the AMLA) to assist in the implementation of the law However, the preventive measures, except perhaps for some doubt on the reporting obligations (where the law refers to forms that may be appended to regulations) are in force. The context which this observation should be understood is that this issue impacts on effectiveness as reporting entities lack information on how to go about to comply with their obligations under the AMLA. It could also be argued that this could amount to a lack of guidance as well.

5 The FATF does not recommend that all NPOs are brought under the AML/CFT framework. Recommendation 8 requires that authorities carry out a review of which NPOs are at risk for TF (not ML) and apply a limited set of measures to protect the sector from abuse by terrorist financiers. It is important that regulations and actions in this area do not harm the legitimate activities of such organizations.

corporate services providers are not regulated in Uganda. Some DNFBP professions, such as lawyers and

accountants do offer trust and corporate services, but so can anyone else, without need to register with or to be accountable to any regulatory body. As this is an unregulated service, the authorities have no way of identifying or accounting for who is providing such services. A company assumes legal personality upon being registered in the register at the URSB after which a registration number which can be used as a reference number is issued. Information of legal persons registered with URSB is available online.

92. 92. Legal arrangements in Uganda are regulated through a number of statutes, which include the Trustees Incorporation Act, the Trustees Act, Registration of Titles Act, the Succession Act, the Income Tax Act and the AMLA. However, up to the time of the on-site visit these laws had not been provided to the assessors to analyse by the authorities, and neither were the provisions of the laws and how they are implemented in practice explained to the assessors during the on-site. The assessors have however assessed the laws and none of the provisions in these laws create obligations for trustees to obtain or to retain adequate, accurate and current information on the identity of the settlor, the trustees, beneficiaries or any other natural person who might have ultimate control of the trust. There is, however, a requirement under section 6(c)(ii) of the AMLA for financial institutions and DNFBPs to identify and verify the identity of a beneficial owner when dealing with a customer who is a legal arrangement.

92. 93. The representatives from the Ministry of Lands interviewed during the onsite visit also confirmed that details pertaining to settlors and beneficiaries are not obtained when the Ministry registers trustees or a trustee in terms of the Trustees Incorporation Act. None of the laws reviewed by the assessors on legal arrangements make registration of trusts or trustees mandatory. Where there are registration provisions in the law, the word, "*may*" is used making such registration discretionary. Therefore a trust can exist in Uganda without being registered or regulated. The authorities did not provide any helpful information to enable the assessors to understand how legal arrangements operate in Uganda and there was no indication from the authorities that records relating to activities of legal arrangements are kept, although some of the laws like the Trustees Incorporation Act require that such records be kept (s. 7). Although, the AMLA designates any person that deals with trust property within the meaning of the Trustees Act as a reporting entity, it was not demonstrated to the assessors that this requirement is effectively implemented. The overall impression created to assessors by the authorities is that the number and types of legal arrangements existing in Uganda are not known and that the regime of legal arrangements in Uganda is not effectively regulated and monitored. Legal arrangements including trusts can therefore exist in Uganda without the authorities being aware of their existence.

e) Overview of supervisory arrangements

94. 94. The AMLA does not designate any agency to be responsible for AML/CFT supervision. However, in practice AML/CTF supervision in Uganda is shared between supervisory authorities and the FIA is responsible for entities which do not have a supervisory authority.

94. 95. The financial system of Uganda comprises both banking and non-banking financial institutions. The non-AML/CFT regulation and supervision of the various financial institutions is undertaken by separate and specialised regulatory entities.

94. 96. The BoU is responsible for licensing and supervising commercial banks, money remitters, credit institutions, microfinance deposit-taking institutions, and foreign-exchange bureaux. In 2013, the BoU issued the Mobile Money Guidelines to provide clarity on mobile money services to customers,

mobile money service providers, licenced institutions, mobile money agents, and other parties involved in the provision of mobile money services. The responsibility to supervise mobile money services was allocated to the BoU. Furthermore, BoU has powers to apply sanctions including civil money penalties for non-compliance with prudential requirements.

97. 97. The Insurance Regulatory Authority (IRA) is responsible for effective administration, supervision and control of the insurance sector in Uganda. In particular, IRA licenses insurance and reinsurance companies, insurance intermediaries, loss adjusters and assessors, risk inspectors and valuers; establishes standards for the conduct of insurance and reinsurance business in order to promote a sound, efficient and safe insurance market; safeguards the interests and rights of insurance policy holders and insurance beneficiaries; and, ensures strict compliance with insurance laws and regulations.

97. 98. The Capital Markets Authority is mandated to approve, license and oversee stock exchanges as well as licence brokers and dealers, investment advisors, fund managers, collective investment schemes and the central securities depository. The trading of listed securities is conducted through the Uganda Securities Exchange, which started trading in January 1998.

99. The structure of Uganda's financial sector places much of the burden of implementing

AML/CFT controls on banks, since many financial sector products require the use of existing bank accounts or payment through a banking platform. This places additional focus on banking supervisors when looking at the supervision of AML/CFT obligations.

97. 100. The DNFBP sector in Uganda consists of a range of entities, including eight casinos, 2 088 lawyers, and 1 950 accountants. The other DNFBPs do not have established databases, and as such no accurate or reliable estimates could be made on the number of entities subject to the AMLA.

97. 101. DNFBPs are supervised for non-AML/CFT obligations by licensing authorities and SRBs. Sectors that are licensed by authorities are as follows:

1. Advocates;
2. Legal professionals; and
3. Accountants.

Authorities in Uganda have oversight over the following sectors:

1. Casinos
2. Dealers in precious metals
3. Non-government organisations

The following remaining sectors are not supervised by any authority:

1. Real estate; and
2. Trust and company service providers.

f) Overview of international cooperation

102. Uganda has dealt with very few cases relating to international cooperation and none of the cases relate to ML or TF. There is need to enact an all embracing mutual legal assistance legislation which currently is not in place. National cooperation and coordination relating to international

cooperation is also not as strong as it should be. Although, the DPP appears to be the central authority on international cooperation, it is not clear how other competent authorities, like the Inspectorate of

Government interact with the DPP's Office in such matters. Particularly, after the indications by the IG's

Office that the Office of the IG and that of the DPP have concurrent jurisdictions and their offices operate independently.

103. Uganda has ratified all the international instruments (Vienna, Palermo, CFT and UNCAC) relevant to AML/CFT, which at times it uses to support its international cooperation requirements. In addition to the conventions, Uganda has entered into bilateral and multilateral agreements with other countries to facilitate international cooperation.

2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key Findings

- Overall, at national or sectoral levels, other than risks pertaining to terrorism, the authorities have not identified ML/TF risks which are of national threat to Uganda.

- In addition to the AML/CFT regime of Uganda being young, it has not undertaken a NRA. Therefore, the current AML/CFT policies are not informed by risk and the approach being taken by the different reporting entities is not focused on identified risks. Views on ML/TF risk are currently based on what is seen to be prevalent crimes in Uganda, again with different views on what the prevalent crimes are.

- The AMLA was enacted in 2013 and since then there has been no investigation or prosecution of any ML cases. The capacity of LEA in understanding and being able to investigate ML cases is still low. This also applies to prosecution.

- Large banks with foreign control have a good understanding of ML risks, with most of them having a RBA as an internal process. The other financial institutions' understanding of ML risks is again still limited with most of them yet to put in place adequate measures to comply with the requirements of AMLA. The Regulators for the DNFBP sector as well as the institutions they regulate have also not assessed the risks associated with their sectors and no sector specific measures have been taken to mitigate any risks associated with ML/TF. One of the sectors, real estate has got no Regulator.

- Most of the resources at both national and sectoral levels are not allocated according to the risks identified and there is no prioritisation according to the severity of the ML/TF risk identified.

- National coordination and cooperation is not as strong and effective as it should be.

Recommended Actions

- The authorities should carry out a NRA in order to be able to identify, assess and understand their ML/TF risks.

- Introduce AML/CFT policies and action plans informed by risk, which will also assist in prioritisation of allocation of resources in addressing the identified ML/TF risks.

- Conduct a National Risk Assessment to ensure that appropriate guidance can be provided to both regulators and regulated entities.

- The authorities need to come up with policies which encourage better coordination on investigations and prosecutions of ML/TF cases, particularly where corruption is involved.

- The authorities should put in place policies to facilitate cooperation and coordination of confiscation of proceeds of crime between LEAs, prosecution and the courts.

- The FIA should work closely with the DNFBP Regulators to ensure that they understand their AML/CFT obligations and work on the appointment of a Regulator for the real estate sector. Both the FIA and DNFBP Regulators should engage the DNFBPs more to enhance AML/CFT awareness.

- The BoU, as supervisor for the financial sector should work with the small to medium financial institutions to ensure that there is even application of the AMLA obligations.

- Build capacity within investigators and prosecution for the offences of ML/TF to be better appreciated, including maintaining close monitoring and capturing of statistics of the cases

104. The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.

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

a) Country's understanding of its ML/TF risks

105. Uganda has not carried out national and/or sector specific risk assessments for all the reporting entities. The main ML/TF risks highlighted by the authorities were not supported by any factual findings and each sector was highlighting what it perceived to be the national ML/TF risks according to its own understanding. There was no uniform understanding of what were the main ML/TF risks. The risks highlighted by FIA, BoU, banking sector, non-banking financial institutions, DNFBPs, academics, and the other reporting entities are all varied. Whilst one accountable institution highlighted the ML/TF vulnerabilities being more pronounced in real estate transactions, another one would say the highest ML/TF risk would be corruption or the parallel market which exists for foreign currency exchange. Although, the risk of TF appears to be high, most of the reporting entities met during the onsite did not perceive it as such which might mean the risk is not understood at all. The general impression created by the authorities is that as a country they are aware of some of the prevalent predicate offences but there is limited understanding of the ML/TF risks these offences pose. There is also a lack of understanding of the ML/TF risks associated with the precious stones sector, where a lot of misrepresentations are made with locally produced gold ending up being declared as imported or is smuggled out., The approach to address these risks is not coordinated nor is it prioritised.

b) National policies to address identified ML/TF risks

106. Uganda is in the process of coming up with a revised AML policy. The old AML policy was done in 2002 and was not informed by identified ML/TF risks. The authorities indicated that the AML policy was the basis upon which the AML law was proposed. However, it has to be noted that the AML

law was only enacted in 2013. The assessors are of the view that the authorities should carry out a ML/TF risk assessment before coming up with a revised AML policy. The NRA will help in identifying the ML/TF risks which the AML/CFT policy can now be focused to address. The FIA which is keen to drive the AML/CFT framework in Uganda, being relatively new, is still trying to find its own footing. Until there are well set out ML/TF risks, it is going to be difficult for it to drive well informed proposals on national AML/CFT policies.

107. The other sectors, like the police and prosecution still do not have policies intended to address ML/TF. Added to this, is also the lack of clear policy to pursue proceeds of crime relating to ML cases. Again there is no policy recognising parallel financial investigations with investigations relating to prevalent predicate crimes.

c) Exemptions, enhanced and simplified measures

108. The AML/CFT regime in Uganda has not implemented risk based exemptions. Although, FIs under the supervision of the BoU have been using a RBA in compliance with the requirements of the FI AML Regulations, no risk based exemptions or simplified measures have yet been put in place for FIs by the BoU or by any of the authorities for other reporting entities in terms of the AMLA. Section 139 of AMLA gives the Minister mandate to delete any person or category of persons from the list of reporting entities if it is noted that such a person has not been used or is not likely to be used for money laundering purposes. This action would effectively exempt such a person or category of persons from AML requirements for any financial activities covered by the FATF standards. However, it is not clear whether the decision would be an outcome of a risk assessment or not. So far, Uganda has not removed any entity or category of persons which are within the FATF standards. The legal framework also permits reporting entities to apply to customers enhanced and simplified measures if it is determined that the risks are higher or lower, respectively (s. 6(e) of AMLA).

d) Objectives and activities of competent authorities

109. 109. Most of the Regulators in Uganda have not started implementing the obligations of the AMLA in their sectors. The supervisors, particularly for the DNFBPs are still to outline their AML/CFT objectives and where they have come up with measures, the measures do not cover ML/TF. The real estate sector has no AML/CFT supervisor despite most of the transactions being conducted in cash and it being considered to be a risk area. Practicing lawyers are not being fully supervised on whether they are carrying out full due diligence on their clients as they still rely only on the referring counterpart's information, if it is a client being introduced to them without necessarily doing their own due diligence checks.

109. 110. The supervision of the mobile money services would be another example where there are clear ML/TF control weaknesses and the Bank of Uganda has not responded with supervisory action to encourage tighter controls by mobile money services providers.

109. 111. The police and other law enforcement agencies are still to set their objectives and priorities on AML/CFT as currently no ML or parallel financial investigations of significance are being done. The best example would be the practice at the IG of only pursuing the predicate offence of corruption despite the levels of such cases being so high to raise concern as to what would be happening with the proceeds.

This also applies to prosecutions in the DPP's Office.

112. 112. At the time of the on-site visit there were no cases on ML either being investigated or prosecuted despite the law having been in existence for over a year. Added to this, there have been no cases resulting with confiscation of proceeds of crime even for some of the prominent type of predicate cases noted to be prevalent in Uganda.

112. 113. The lack of understanding of ML/TF risks is also demonstrated in some of the programmes which have been developed by regulatory authorities to supervise their respective sectors for compliance with AML/CFT requirements which do not factor in ML/TF risks, with the programmes developed by the Insurance and Capital Markets Regulatory Authorities being cases in point. The situation is worsened by the country not having done a NRA and therefore, having no specific identified ML/TF risks which makes it difficult to evaluate and conclude that what competent authorities are addressing is consistent with the identified ML/TF risks and that any development of AML/CFT policies is in response to identified ML/TF risks.

e) National coordination and cooperation

114. 114. The authorities informed the assessment team that Uganda has an Anti-Money Laundering Committee which is currently chaired by the Ministry of Finance and is composed of the Ministry of Finance, Police, President's Office–Organised Crime, President's Office-Economic Affairs, URA, FIA, Ministry of Internal Affairs, IRA, Inspectorate of Government, DPP, Institute of Certified Public Accountants, Uganda Insurers Association, Uganda Registration Services Bureau, Ministry of Justice, BoU, Uganda Bankers Association and Capital Markets Authority. Although the committee is there, the assessors were not convinced that in terms of national cooperation and coordination, it has yet had a positive impact on the AML/CFT regime in Uganda. There were areas where, if the Committee was effective it would have pushed for changes to enable easier application and compliance with the AMLA. In particular, driving the alignment of the FI AML Regulations with the AMLA when it was enacted. Currently, the dual reporting of suspicious transactions for FIs to both the BoU and the FIA provided by the two Acts is of major concern to the FIs. The Committee has not driven the need for a NRA to help understand the ML/TF risks of Uganda. In the absence of NRA, the members of the Committee cannot be said to understand the ML/TF risks facing Uganda.

114. 115. The Joint Anti-Terrorism Task Force, although it is an *ad hoc* task force, coordinates its work very well and has a good appreciation of the terrorism risk in Uganda. It highlighted the threat of forex bureaus and possibly the *hawala* being used to channel funds to support the commission of terrorism offences and porous borders with neighbouring countries. The information they gather is communicated to other law enforcement agencies which use it to mitigate the risks identified. The successful sharing of information from JATT was confirmed by other law enforcement agencies, especially the Counter-Terrorism Intelligence Police which receives most of the information from JATT. The Counter Terrorism Intelligence Police also indicated that in cases where disruption of a suspected terrorist activity has been done, part of the intelligence would be coming from JATT. The ability of JATT to put the information together is commended as it is a Task Force composing of different law enforcement agencies with different operating standards.

114. 116. However, consultations between the police and the DPP's Office pertaining to investigations and extra-territorial gathering of evidence still need to be improved on to avoid prejudicing some of the cases. More effort still need to be made in the coordination and investigation of ML cases.

confiscation of proceeds of crime as more attention is currently paid to dealing only with predicate offences. There is also need for the authorities to establish reliable and better coordinated ways of obtaining and keeping statistics. The picture created is that prosecution does not keep a proper record of cases being investigated by the police in liaison with their office for guidance. Although, there were averments that there are at times prosecutor driven investigations, statistics of such cases were not provided to the assessors.

f) Private sector's awareness of risks

117. 117. Very few reporting entities are currently using the RBA, as the ML/TF risks to their sectors are still to be identified. Largely banks which are foreign owned seem to be implementing a RBA but with a varying understanding of what they perceive to be ML/TF risks to the sector. Given the fragmented way in which the FIs under the supervision of the BoU implement their AML/CFT obligations, it follows that the approach to implementing RBA within these FIs is not the same throughout the sector.

117. 118. With the exception of financial institutions and mostly those with foreign control, most reporting entities in the private sector are not aware of their ML/TF risks. As for the non-bank financial sector, there are varying degrees of AML/CFT awareness with the majority of them not aware of the nature nor extent of their ML/TF risks. The understanding of crimes posing the risk of ML also varies across the non-bank financial sector. Although, banks highlighted the exposure to ML and TF posed to them by foreign exchange bureaus, the bureaus themselves seem not to be aware of this risk as they still have low levels of compliance with the obligations set out in the AMLA. Despite the experiences of terrorist attacks in Uganda, TF risks are generally not well appreciated by the majority of the financial sector including some of the banks interviewed. However, in considering the low level of awareness on TF risks, it also has to be taken into account that Uganda only passed an amended Anti-Terrorism Law intended to criminalise the offence of TF in June 2015, when the assessors were on-site.

117. 119. The level of awareness of ML/TF risks within the DNFBPs is also still very low. Most of them have not started implementing the component of AML in most of their structures and measures. Although some of them have in-house measures to limit their exposure to general risks, none of these measures specifically address the ML/TF risks. Most of them although they are aware that in terms of AMLA they are required to comply with the obligations set out in that law, they still do not know what these obligations are and the regulators have also not started monitoring compliance of their institutions with these obligations. The worst affected sector is the real estate, which does not have a Regulator despite the ML risks some of the authorities understand it to be exposed to due to transactions being carried out in cash without proper due diligence being done.

117. 120. Majority of the private sector other than commercial banks confirmed only becoming aware of their responsibilities in terms of AMLA, two months preceding the on-site visit when they were briefed by FIA about Uganda's mutual evaluation exercise.

g) Overall conclusions on Immediate Outcome 1

121. In order to identify, assess and understand the ML/TF risks, the authorities need to carry out a NRA. At national level, there is no overall understanding of the ML/TF risks which can feed into AML/CFT risk based policy development. In general, the understanding of ML/TF risks in most of the sectors in Uganda is still very limited. The AML/CFT policies which Uganda developed in 2002 were not

informed by ML/TF risks and therefore are not relevant to ML/TF risks which the country is currently facing. As a consequence, the absence of a national ML/TF risk assessment means the measures being taken by competent authorities may not be consistent with evolving ML/TF risks in Uganda.

122. 122. The coordination and cooperation on ML/TF investigations and prosecutions is still very limited with no clear indications by either the police or the DPP of specific cases being investigated or prosecuted on ML or TF. Based on the huge numbers of corruption cases that are reported and prosecuted per year where ML investigations or any other parallel financial investigations are not carried out, there is a huge possibility that laundering of proceeds from this predicate offence could be happening with the IG, police and the DPP's Office not properly coordinating the investigations pertaining to the cases to determine whether there are offences of ML or not.

122. 123. The large banks have a good understanding of the ML/TF risks, whereas the smaller banks and non-bank financial sector do not have the same level of understanding. The BoU as the supervisor of FIs is not ensuring that there is level playing ground with respect to AML/CFT compliance within the financial sector, particularly in identifying sector specific ML/TF risks, with the mobile money service providers sector mostly affected. The BoU as supervisor needs to engage the FIs more frequently in order to ensure that there is close to the same level of awareness of ML/TF risks. The FIA needs to do more awareness to the DNFBPs supervisors and to the DNFBPs themselves to enhance their understanding of the ML/TF risks and compliance with the AMLA obligations.

124. Uganda has achieved a ***low level of effectiveness*** for IO. 1.

3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1 Key Findings and Recommended Actions

Key Findings

- Competent authorities' use of financial intelligence and other relevant information for ML and TF investigations shows a low level of effectiveness.
- The FIA does not have access to commercially held data where appropriate, e.g. commercial data held by some of the DNFBPs when such access becomes necessary. Cross-border currency and BNI reports are not yet available. The FIA's main data sources are STRs and large CTRs. The STR database is still negligible, with only 210 STRs having been filed up to the time of on-site visit.
- The FIA, which has been in existence since July 2014, does not have analytical and data mining tools to analyse the limited data it has received, especially the CTRs. The FIA does not have adequate and appropriately skilled personnel to conduct analysis and produce quality intelligence reports for use by the LEAs.
- The FIA has made only 32 disseminations since it came into existence in July 2014, with only two of the STRs having been identified as having the potential to lead to ML investigations.
- Police units responsible for investigating ML/TF cases do not have specialised training and skills to investigate ML/TF cases.
- Uganda does not have a policy of pursuing confiscation of proceeds of crime, instrumentalities and property of equivalent value under the confiscation framework provided by the AMLA. The DPP's office reported that confiscations are sometimes undertaken arising from convictions for predicate offences, but no statistics were provided in this regard. The Inspectorate of Government's office could only provide statistics showing compensation and refund orders issued. However, the statistics were not consistent.
- LEAs and the DPP's office's general lack of awareness, training and resources to undertake and advise on financial investigations severely undermine the ability to trace and cause confiscation of illicit assets. LEAs in addition, do not undertake parallel financial investigations in almost all of their investigations of predicate offences.

Recommended Actions

IO 6

- The authorities need to capacitate the FIA, in terms of adequate human resources, financial resources to procure data analysis tools and appropriate training to enable it to provide quality intelligence to, and support financial investigations by LEAs.

- The FIA should be provided with access to all databases that are relevant to its work.
- The authorities, given the possible high risk of TF in Uganda, should prioritise the reporting of cross-border transportation of cash and other BNI.

IO 7

- The AMLA should be amended to provide only one comprehensive section which criminalises the offence of ML to avoid the confusion which has been created by ss. 3 and 116, which criminalise the same conduct of ML but with each having a different standard of proof.
- The authorities need to ensure that LEAs are adequately resourced and trained to enable them to identify and investigate different types of ML cases. LEAs should adopt a deliberate policy of undertaking parallel financial investigations with a view to tracing, seizing and confiscating proceeds of crime.
- The DPP's office should, similarly, have adequate and appropriately trained officers to enable them to recommend and guide investigations on ML/TF conducted by LEAs as well as effectively prosecuting ML/TF cases[6].
- The authorities should properly retain a data base/statistics of all cases reported, investigated and

  prosecuted.

IO 8

- LEAs should be adequately resourced and trained to enable them to effectively carry out tracing, seizing and confiscation of proceeds of crime.
- The DPP's office should have appropriate skills and training to enable it to initiate provisional and confiscation measures provided under the AMLA.
- Uganda should adopt a policy of pursuing confiscation of proceeds of crime and ensure that all stakeholders in AML/CFT target confiscation of such proceeds.

124. 125. The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

3.2 Immediate Outcome 6 (Financial intelligence ML/TF)

a) Use of financial intelligence and other information

[6]The authorities did not provide information to explain: how many PPs in the DPP's Office have been trained on ML, what aspects of ML, when they were trained and the duration, how many ML investigations they subsequently assisted in guiding the police/investigators, of these investigations how many of the cases were eventually brought for prosecution, how many of the prosecutions were successful and if acquitted, reasons for the acquittals, etc.

126. 126. Competent authorities have access to financial intelligence and other information, which they have largely used in the investigation of predicate offences only. The FIA's capacity to generate quality intelligence is currently very limited due to both human and technical resource constraints.

126. 127. LEAs can access information on public bodies, such as companies and trusts, held by the URSB and Lands Office, respectively, through informal cooperation. The information is generally used in the investigation of predicate offences. While LEAs can access information held by the FIA, in practice, the LEAs do not utilize this avenue.

126. 128. Apart from the dissemination reports received from the FIA, LEAs have not benefited from the limited database of STRs and CTRs held by the FIA.

126. 129. The FIA itself has no direct access to records and other information held by various public authorities but has power to obtain the information upon request. The FIA can receive STRs from reporting entities, although only a limited number, mostly from banks, have been received in the relatively short period of the FIA's existence.

126. 130. The FIA has power to request for further information from a reporting entity that has submitted an STR. The FIA has been receiving large CTR returns from reporting entities, but due to its lack of analytical and data mining tools and appropriately trained manpower, the CTRs are generally filed away unprocessed.

126. 131. Cross-border cash and BNI declaration/disclosure information, which is an important potential source of intelligence and information for purposes of initiating or advancing ML/TF investigations, is not yet available to the FIA. This is mainly because the disclosure/declaration requirements are yet to be implemented at ports of entry/exit. The regulations to facilitate their implementation are not yet in place. The relevant forms have yet to be issued although a draft of the forms was availed to the assessors on site.

126. 132. The ability of LEAs to access and use a wide range of information sources and financial intelligence in ML and TF investigations is yet to be tested and proven, given that the authorities have, to date, barely conducted any ML or TF investigations.

b) STRs received and requested by competent authorities: July 2014 to June 2015

133. 133. In its relatively short period of existence, the FIA has received a total of 210 STRs from reporting entities since its inception in July 2014.Of the 210 STRs, 199 were from banks largely because the non-bank financial institutions and DNFBPs have not yet been adequately sensitized. In addition, the FIA advised the assessors that it noted deficiencies in the ability of reporting entities to identify suspicious transactions and to provide quality STRs, which resulted in some of the submitted reports being of poor quality. The legal framework in Uganda currently allows STRs to be submitted to the other competent authorities other than the FIA.

133. 134. The FIA also receives large cash transaction reports (CTR) from reporting entities but has no analytical and data-mining tools and human-resource capacity in the form of trained analysts, to analyse them and identify possible suspicious transactions.

135. 135. Although, the legal framework provides for reporting of cross-border movement of currency and bearer negotiable instruments (BNIs), the URA is not yet generating these reports for use by the FIA as the authorities have not issued implementing regulations as required under s. 10 of the AMLA.

135. 136. The police CICID and the URA have been receiving limited reports from the FIA. In addition, LEAs do not access and use financial intelligence and other information from the FIA in respect of cases which they investigate in order to identify and trace proceeds of crime and support investigations and prosecution of predicate offences. All of the LEAs and prosecutors which the assessment team met during the on-site visit did not give any indication that they have at any time contacted FIA for information to support on-going investigations or cases.

STRs received by FIA: July 2014 to June 2015

STRs received – by type of institution	Total
Commercial banks	199
Credit institutions	5
Micro Finance Deposit Taking Inst	3
Forex bureau	1
Insurance companies	1
Law firms	1
Total	210

c) Operational needs supported by FIU analysis and dissemination

137. 137. Since coming into being, the FIA has disseminated 32 analysis reports out of the 210 received to LEAs (23 to police CICID, 8 to the URA and 1 to the office of the DPP), with most of the disseminations having occurred in the few weeks leading up to the onsite visit. The FIA reported that two of the disseminations have given rise to investigations for possible ML. However, when the assessors met with the police and made a follow up on the cases, it turned out that there were no full-fledged ML investigations yet. The police informed the assessors that the inquiries were still on-going.

137. 138. FIA has not yet installed any analytical software tool to assist it in processing STRs and other information efficiently and to assist it in establishing relevant links. While it is appreciated that the volume of STRs is low, it must be noted that human capacity to carry out appropriate analysis is still very limited in the FIA.

139. Analysis and dissemination by the FIA has been insignificant and has not, therefore, supported the operational needs of competent authorities in terms of their quality and are not consistent to perceived ML risks in Uganda. Despite views expressed by a number of the competent authorities that corruption is one of the highest proceeds-generating predicate offence in Uganda, no single dissemination has ever been made to the IG, the country's anti-corruption agency or to the police and none of the disseminated reports have led to a corruption investigation. In addition, the police when being interviewed disclosed that of the nine out of the 23 intelligence reports which had been disseminated to them on which they were carrying out inquiries, where possible, the potential predicate offences had not been mentioned in order to assist them in conducting their inquiries.

Summary of disseminations since FIA inception in July 2014 to June 2015

To whom disseminated	Total
Police CICID	23
Uganda Revenue Authority	8
DPP's office	1
TOTAL	**32**

d) Cooperation and exchange of information/financial intelligence

140. 140. Apart from the few intelligence reports disseminated by the FIA, the assessors found no evidence of exchange of information and cooperation between the FIA and other competent authorities. In addition, given the capacity limitations of the FIA, the few intelligence reports disseminated by it are not of high quality and utility to the LEAs which receive them.

140. 141. The FIA does not use secure channels to transmit intelligence reports to LEAs. The reports are transmitted by an officer of the FIA by way of hand delivery to the registry office of the receiving agency.

140. 142. The offices of the FIA are adequately secured to prevent unauthorised access. Physical documents are, however, kept in inadequately secured cabinets in semi-open partitioned offices, including those of the analysts.

e) Overall conclusions on Immediate Outcome 6

143. Competent authorities' use of financial intelligence and other relevant information for ML and TF investigations is very limited. The FIA does not have access to a wide range of information sources, including commercial databases. Cross-border currency and BNI reports are not yet available.

The FIA's main data sources are STRs and large CTRs. The STR database is still negligible, with only 210 STRs having been filed up to the time of the onsite. The FIA, which has been in existence since July 2014, does not have analytical and data mining tools to analyse the limited data it has received, especially the CTRs. The FIA does not have adequate and appropriately skilled personnel to conduct analysis and

produce quality intelligence reports for the LEAs. The FIA has made 32 disseminations, with only two of the STRs having been identified as having the potential to lead to ML investigations. Police units responsible for investigating ML/TF cases do not have specialised training and skills to investigate ML/TF cases. The objectives of the Immediate Outcome are not being met.

144. Overall, Uganda has achieved ***a low level of effectiveness*** for Immediate Outcome 6.

3.3 Immediate Outcome 7 (ML investigation and prosecution)

a) ML identification and investigation

145. 145. ML was criminalised in Uganda with the passing of the AMLA in 2013. Therefore, there were no ML cases identified and investigated prior to that date. After the passing of AMLA, Uganda has not yet implemented tangible measures to create capacity among LEAs for the identification and investigation of ML. The authorities reported only two cases of ML still under-going inquiries by police as at June 2015. In another matter an effort to investigate a potential ML case was hampered by the failure to obtain crucial information from the UK, where the money appeared to have come from. The MLA request was submitted but it was met with a request for further information which the authorities did not have. As a result of the failed MLA the authorities were hard pressed to keep the money as it had no link then to any known criminal activity. At the time of the on-site visit, the money was still held by the BoU under a restraining order but the authorities indicated that if there is no prosecution they will have to comply with the requirement to give back the money to the suspect.

145. 146. In meetings with the assessors, the LEAs, namely the Police CICID (responsible for ML investigations), the Uganda Revenue Authority and the Inspectorate of Government (responsible for investigating and prosecuting public sector and senior officials' corruption cases) all indicated that their focus is still primarily on investigating predicate offences. There is no set structure to pursue parallel financial investigations, neither is it appreciated that it is an important tool in criminal investigations.

145. 147. Some of the competent authorities met during the onsite are not aware of the responsibilities they have in terms of the AMLA. None of the LEAs have adequate understanding of, and training to conduct parallel financial investigations.

148. 148. There is still very limited appreciation by all LEAs of the need to identify and investigate cases of ML arising from the predicate offences they deal with or as stand-alone offences.

148. 149. The FIA is not yet adequately resourced and equipped to generate sufficient and quality intelligence to assist LEAs to identify potential cases of ML or to support ML investigations.

148. 150. The Police (through the CICID) are aware of their duty to investigate money laundering but they are not yet equipped, in terms of resources and training to handle ML investigations.

151. Similarly, the DPP's office which has power to guide police investigations, does not have adequate resources and appropriately skilled personnel to effectively guide investigations and prosecute ML cases[7].

[7]The authorities should note here that the DPP's Office has experienced prosecutors in terms of length of service but this does not apply to dealing with ML investigations and prosecutions.

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

152. 152. Uganda has not yet conducted a NRA. As a result, the country has not been able to identify the country's major proceeds generating predicate offences informed by a NRA.

152. 153. Some statistics were provided on the types and number of predicate offences reported, investigated and prosecuted and convictions secured, over the four year period leading up to the on-site visit. No figures were availed to show which of the predicate offences generated the most proceeds therefore posing greater ML risks in the country.

152. 154. In various interviews with the authorities, corruption, tax evasion, fraud, wildlife trafficking and dealings in narcotic drugs were mentioned as being among the proceeds-generating offences but in none of these cases did the LEAs investigate and /or prosecute for ML.

152. 155. Although Uganda has a national AML/CFT policy document dated 2002 (it should be mentioned that the national AML/CFT policy was not informed by any ML/TF risk assessment), the lack of awareness and training on ML, generally and the absence of any successful ML investigation and prosecution to date, shows that LEAs are not implementing any policies and strategies to identify ML cases which are consistent with Uganda's risk profile.

c) Types of ML cases pursued

156. 156. Uganda has not yet built capacity in its LEAs that would enable the authorities to investigate and prosecute different types of ML cases. There are no ML cases that have been successfully pursued to the period of June 2015.

156. 157. Generally, there would be a problem with charging a defendant (accused person) with the offence of ML under the AMLA as it has two sections which criminalise the same conduct but both having a different standard of proof (ss. 3 and 116). There is therefore uncertainty as to which of the sections will be preferred when charging a defendant (accused person) and if both, what effect it will have on an accused person. This is a major deficiency and it is not clear how the DPPs Office and the courts will deal with the confusing position in practice. At the time of the on-site visit, there were no cases before the courts of anyone who had been charged with the offence of ML to assist the assessors to determine the proper position regarding the two sections.

d) Effectiveness, proportionality and dissuasiveness of sanctions

158. In the absence of any successful ML prosecution, the effectiveness of ML sanctions is yet to be tested.

e) Overall conclusions on Immediate Outcome 7

159. Uganda has not put in place effective systems for identification, investigation and prosecution of ML cases. Since ML was criminalised with the passing of the AMLA in 2013, the authorities reported only two cases of suspected ML to be under inquiries by the police. The AMLA has two sections prohibiting the offence of ML, making it difficult to determine which of the two sections

would be preferred when charging a person with a ML offence. LEAs and prosecutors are not trained and adequately resourced to deal with ML cases, resulting in them focusing on predicate offences.

160. Uganda has achieved a ***low level of effectiveness*** on Immediate Outcome 7.

3.4 Immediate Outcome 8 (Confiscation)

161. Although, the AMLA provides a strong confiscation framework, Uganda as a country does not pursue confiscation as a policy and neither is it pursued to any satisfactory standard in courts.

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

162. 162. The DPP's office, which is responsible for initiating confiscation under the AMLA, advised the assessors that the focus and objective of criminal proceedings in Uganda has largely been to secure conviction on the predicate offence and punish the criminals.

162. 163. While restitution and compensatory orders are commonly used in Uganda's courts to compel a convicted offender to make good any prejudice caused by his /her criminal conduct, no efforts have been made to utilise the confiscation framework provided in the AMLA.

162. 164. The URA, as a matter of policy, investigates tax-related offences and either imposes administrative penalties (recovery of the tax plus penalty) or prosecutes the offenders in the regular courts, under delegated prosecuting authority from the DPP.

162. 165. The Inspectorate of Government, which investigates and prosecutes public sector and senior officials corruption and related crimes, provided statistics on compensation/restitution orders imposed by courts following conviction on corruption-related cases.

162. 166. The courts sometimes impose a monetary restitution order requiring the offender to pay by a given deadline. If the offender does not pay, the IG gets the restitution order registered as a civil judgment which can then be executed against the offender's assets.

162. 167. The assessors considered that the penalties imposed for tax-related crimes and for public corruption cases as not including confiscation. The offenders remain as beneficiaries of their criminal activities, considering that no confiscation will have been done.

162. 168. The office of the DPP advised that post-conviction restitution/confiscation orders are occasionally imposed by the courts for other predicate offences but no statistics were available.

b) Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

169. Since Uganda does not pursue confiscation as a matter of policy, there are no recorded cases of confiscations from foreign predicate offences and criminal proceeds located abroad.

c) Confiscation of falsely or undeclared cross-border transaction of currency/BNI

170. The legal framework for currency disclosures and confiscation of undisclosed currency and BNIs is not fully in place. The regulations to implement the provisions of the AMLA are still to be put in

place. Therefore, no confiscations have been undertaken relating to cross-border transportation of currency and BNIs. The assessors were shown currency declaration forms which the authorities have developed but which are not yet in use, awaiting the coming in of the implementing regulations to the relevant section of the AMLA.

d) Consistency of confiscation results with ML/TF risks and national AML/CTF policies and priorities.

171. Uganda does not have confiscation of proceeds of crime as a policy. In addition, Uganda has not done an ML/TF risk assessment, therefore the marginal amounts of confiscations that have been done on some of the predicate offences are not based on ML/TF risks and cannot be said to be consistent with

Uganda's ML/TF risks. The AML/CFT policies and priorities do not address any specific known ML/TF risks as there has been no ML/TF risk assessment. The AML/CFT policies developed in 2002 do not address specific ML/TF risks but are general in nature. There have been no confiscations on ML/TF which could have helped to determine whether any of the confiscations are consistent with the perceived ML/TF risks in the absence of a proper risk assessment in Uganda.

e) Overall conclusions on Immediate Outcome 8

172. 172. Uganda does not pursue a policy of confiscating proceeds of crime, instrumentalities and property of equivalent value under the confiscation framework provided by the AMLA. The DPP's office reported that confiscations are sometimes undertaken arising from convictions for predicate offences but no statistics were provided in this regard.

172. 173. LEAs' general lack of awareness, training and resources to undertake financial investigations severely undermine their ability to trace and cause confiscation of illicit assets. Issues of low capacity to deal with confiscation cuts across all relevant institutions to do with the process, from investigations right up to the courts.

174. Uganda has achieved a ***low level of effectiveness*** on Immediate Outcome 8.

4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1 Key Findings and Recommended Actions

Key Findings

- The provisions of s. 9A(1) of the Anti-Terrorism (Amendment) Act, 2015 criminalising the offence of TF are not consistent with Article 2 of the Suppression of Financing of Terrorism Convention, 1999 and the requirements of criteria 5.1 and 5.2 of the FATF Recommendations.
- Acts of participation as an accomplice in a TF offence or contribution to the commission of one or more TF offences or attempted offences by a group of persons acting in consent are not criminalised in Uganda.
- While the authorities have a good understanding of the country's terrorism threats and have measures in place to respond to such threats, they did not demonstrate a similar understanding of TF threats;

- Uganda does not have legal or administrative measures to implement the requirements of Recommendation 6 dealing with targeted financial sanctions relating to terrorism and terrorist financing.
- The country also does not have in place a legal framework nor any other measures to implement the requirements of Recommendation 7 dealing with financial sanctions relating to proliferation.

Recommended Actions

- Immediately amend s. 9A(1) of the Anti-Terrorism (Amendment) Act, 2015 so that the criminalisation of the offence of TF can be consistent with Article 2 of the Suppression of the Financing of Terrorism Convention, 1999 and criteria 5.1 and 5.2 of the FATF Recommendations.
- Criminalise the offences of participation as an accomplice in a TF offence or contribution to the commission of one or more TF offences or attempted offences by a group of persons acting in consent.
- Uganda should carry out a national TF risk assessment in order to identify, assess and understand the terrorism financing risk.
- The country should come up with and implement measures to target and disrupt sources of funding for terrorism.
- The country needs to put in place legal and institutional measures to implement Recommendations 6 and 7.
- The country should no longer designate NPOs as DNFBPs (which is not an FATF requirement) and use some of the resources that subsequently become available to undertake a review of the TF risk in the NPO sector.

174. 175. The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

4.2 Immediate Outcome 9 (TF investigation and prosecution)

176. 176. The offence of TF is criminalised in terms of the Anti-Terrorism Act of 2002, as amended in June 2015. The amendment criminalising TF was passed during the onsite visit and its effectiveness has thus not been tested.

176. 177. The country conducts terrorist threat assessments annually and the authorities are aware of the country's vulnerability to terrorist attacks.

a) Prosecution/conviction of types of TF activity consistency with the country's risk-profile

178. Uganda has not had any prosecutions and convictions on TF to determine whether the types of TF activities prosecuted are consistent with the country's risk profile. Further, there has not been any particular focus to set-out Uganda's risk profile.

b) TF identification and investigation

179. The law enabling identification and investigation of TF was only passed during the on-site visit and is still to be effectively used. However for terrorism, there is in place a clear and intense system to gather intelligence and to investigate terrorist activities. The authorities were able to detail the processes they have put in place that ensure speedy information and intelligence gathering. They have speedy communication channels from grassroots to the highest level, of any strange, unusual and suspicious behaviour linked to or likely to result in terrorist activities. However, the same degree of attention to detail and thoroughness has not been shown in relation to TF.

c) TF investigation integrated with -and supportive of- national strategies

180. The authorities did not share any strategy to target the sources of terrorist funds which would be a way of countering terrorism. The National Strategy on AML/CFT has as one of its objectives, the amendment of the law to align it with the 9 Special Recommendations as they were prior to the development of the new 40 Recommendations. Since the law was amended this year that objective has been achieved and credit is accordingly granted for that although the amendments are not consistent with the FATF Standards.

d) Effectiveness, proportionality and dissuasiveness of sanctions

181. The sanctions for TF appear to be proportionate to the gravity of the offence but the effectiveness still has to be tested.

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

182. The authorities indicated that they employ disruption as a way of dealing with terrorist activities in instances where it is not practical to secure a conviction for Terrorism or TF. However, examples of cases where disruption was used were not provided.

f) Overall Conclusion on Immediate Outcome 9

183. 183. While Uganda has in place effective mechanisms to identify and deal with acts of terrorism, the authorities were unable to demonstrate to the assessors that Uganda pays sufficient attention to financing of terrorism cases. There appears to be no deliberate strategy to identify, investigate, prosecute and, where appropriate, disrupt financing of terrorism.

184. Uganda has achieved a ***low level of effectiveness*** on Immediate Outcome 9.

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

a) Implementation of targeted financial sanctions for TF without delay

185. The freezing regime for targeted financial sanctions is not in place. There has not been any freezing measures taken pursuant to UNSCRs.

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

186. Uganda has not undertaken a review of the TF risk in the NPO sector. The NGO Board that is charged with the responsibility of regulating and monitoring the NPO sector in Uganda is not fully resourced to do a full oversight on the sector which consist of around 11 500 NPOs in 5 different categories, and due to the absence of a risk review, the Board is not able to identify which NPOs are considered higher risk for potential TF abuse and is not fully aware of the TF vulnerabilities of the NPO sector. This makes any outreach to increase awareness to its member NPOs of the TF risks and implementation of measures to mitigate the risks, almost impossible. The Board has not put any measures in place to ensure proper accountability and transparency when it comes to the use of the funds received by the different NPOs it regulates, in order to protect those NPOs that are at risk from being abused for TF.

c) Deprivation of TF assets and instrumentalities

187. There was no evidence that authorities are able to deprive terrorists, terrorist organisations or financiers of assets or instrumentalities related to TF. In addition the authorities do not commence parallel financial investigations with all cases of terrorism which they prioritise in their investigations to determine whether there are TF assets or instrumentalities involved.

d) Consistency of measures with overall TF risk profile

188. The understanding by both the authorities and the assessment team is that the TF risk is high in Uganda. However, without a proper risk assessment, the extent of the overall TF risk cannot be determined. The authorities concentrate more on countering terrorism and little attention is being paid to the TF risks. Despite, there being a clear indication that the authorities have taken specific measures to deal with the threat of terrorism, similar measures have not been put in place relating to TF risks.

e) Overall conclusion on Immediate Outcome 10

189. 189. Although, Uganda is engaged in combating terrorist threats domestically and externally, there is little demonstration that its systems on the implementation of targeted financial sanctions related to TF are effective. The framework to implement the sanctions is not in place and at the same time the NPO sector is not as regulated on AML/CFT as it should be. It is also not addressing the ML/TF risks that befall the sector as it faces shortage of resources and adequate staff to monitor and regulate the sector. The NGO Board which regulates the sector is not fully aware of the TF risks associated with the sector. The authorities need to do more in order to identify and address the TF risks which exist in the sector, and create a regime that only targets the NPOs that are at risk for being abused for TF (instead of the current regime which designates all NPOs as DNFBPs).

190. Uganda has achieved a ***low level of effectiveness*** for Immediate Outcome 10.

4.4 Immediate Outcome 11 (PF financial sanctions)

191. 191. There is no legal or institutional framework in place yet in Uganda to deal with matters of proliferation financing, including the implementation of targeted financial sanctions related to proliferation financing without delay.

191. 192. In addition to the implementation mechanism not being in place, none of the reporting entities in Uganda are presently implementing targeted financial sanctions related to proliferation financing as an internal measure.

a) Identification of assets and funds held by designated persons/entities and prohibitions

193. The authorities view the area of proliferation financing as having low risk in Uganda but without a proper risk assessment to determine whether reporting entities have the capacity to identify funds and assets of designated persons or entities and be able to stop them from executing the transactions, the risk still remains high.

b) FIs and DNFPBs' understanding of and compliance with obligations

194. There is no legal framework setting obligations for the FIs and DNFBPs to be complying with the implementation of targeted financial sanctions relating to proliferation financing. The FIs and DNFBPs have not taken the initiative to comply with the UNSCRs relating to the combating of financing of proliferation on their own.

c) Competent authorities ensuring and monitoring compliance

195. The legal framework to enable competent authorities to monitor compliance with implementation of targeted financial sanctions relating to financing of proliferation is not yet in place in Uganda, therefore the competent authorities have not yet started monitoring such compliance.

d) Overall conclusion on Immediate Outcome 11

196. 196. The lack of legal and institutional framework to implement targeted financial sanctions relating to financing of proliferation in Uganda has resulted with all reporting entities not putting in place internal mechanisms and measures to enable them to comply with the UNSCRs relating to the combating of financing of proliferation.

197. Uganda has achieved a ***low level of effectiveness*** for Immediate Outcome 11.

5. PREVENTIVE MEASURES

5.1 Key Findings and Recommended Actions

Key Findings

The AMLA regulations had not been passed at the time of the on-site visit and this had a negative impact on the effective implementation of a few AML/CFT preventive measures

which require implementation through regulations.

The FI Act as read with the FI Act AML regulations issued pursuant to it also provides for AML preventive measures, specifically creating a parallel STR reporting regime which is considered a significant weakness in the overall AML/CFT regime in Uganda. These provisions were not harmonised by the coming into force of the AMLA and as such the AML/CFT legal regime is considered fragmented with duplicate AML provisions contained in both the FI Act AML Regulations and the AMLA.

Due to the absence of a comprehensive legal and regulatory framework for mobile money (and similar products) services, the BoU issued Mobile Money Guidelines in 2013, which provide for AML/CFT measures.It should however be noted that as the FI Act does not empower the BoU to issue guidelines on matters relating to CFT, the enforceability of these guidelines becomes questionable. Therefore, in the event of non-implementation, the BoU cannot enforce any measures against the mobile money service providers.

The FIA since its establishment in June 2014 has started with an awareness raising campaign to facilitate the reporting of suspicious transactions and cash threshold transactions by all reporting entities. As at the date of the on-site the total number of STRs received by the FIA has however been very low with the majority emanating only from a few financial institutions and has generally been of poor quality. The absence of guidance to reporting entities and a lack of awareness and a limited understanding by reporting entities on their reporting obligations have been identified as the primary reasons contributing to the majority of the STRs coming from a few financial institutions and being relatively of poor quality. The existence of a parallel reporting regime (whereby reporting entities report to supervisory bodies in addition to reporting to the FIA) may have contributed to the poor implementation of the STR reporting regime.

Uganda has a largely cash based economy with more than 75% of retail transactions settled in cash with approximately 46% of the population still excluded from the formal financial system. This high level of financial exclusion poses a significant ML/TF risk to the financial system in Uganda as transactions settled in cash are largely unrecorded and untraceable.

No AML/CFT supervisory activities (see chapter 3) have taken place over the DNFBP sector and as such a very basic understanding of the AML/CFT obligations and ML/TF risks exists.

On overall implementation of the preventive measures:

There is no ML/TF risk assessment at national or sectorial level for financial institutions and DNFBPs to rely on. As a result, a large number of the FIs and the DNFBPs have not yet designed and implemented a risk-based approach to implement their AML/CFT obligations.

A limited understanding and implementation of preventive measures in respect of beneficial owners and targeted financial sanctions exist in Uganda.

Overall conclusion is that Financial Institutions and DNFBPs in Uganda do not adequately apply AML/CFT preventive measures commensurate with their risks. The Financial Institutions and DNFBPs do not report suspicious transactions due to inadequate internal controls and/or a lack

of awareness of their obligations relating to preventive measures.

Recommended Actions

Uganda should implement the following priority actions in order to effectively improve the extent to which the AMLA is implemented:

- Harmonise sections which set out CDD and STR reporting obligations in the FI Act and AML Regulations with the AMLA, in order to address inconsistences in CDD and parallel reporting obligations;
- Issue implementing regulations to give effect to some provisions of the AMLA that require the promulgation of regulations to give them effect and provide guidance to FIs and DNFBPs;
- Conduct awareness raising and supervision activities among all regulated sectors to enhance their understanding of the AML/CFT obligations and the risk of ML/TF inherent in their sectors;
- Implement measures to ensure that Beneficial Ownership information (shareholder information of natural persons) are obtained and where such beneficial owners are high risk clients such as PEPs, enhanced CDD measures are applied;
- Complete the National Identification Card project expeditiously and implement mechanisms to allow financial institutions means to independently verify the identity of clients against national identification databases;
- Prioritize financial inclusion programmes in order to mitigate the potential ML/TF risks emanating from the level of financial exclusion and ensure that these programmes are well coordinated with entities responsible for AML/CFT supervision activities; and
- Resolve technical compliance issues relating to R.10, R11, R14-R16, R.19, R22 and R23 as a matter of priority in order to mitigate the risk posed by the inadequate legal framework.

197. 198. The relevant Immediate Outcome considered and assessed in this chapter is I04. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

5.2 Immediate Outcome 4 (Preventive Measures)

a) Background and Context

199. The AML/CFT legal framework with respect to AML/CFT preventive measures in Uganda is made up of three key pieces of legislation, namely the AMLA, FI Act (covering only AML) and the Anti-Terrorism (Amendment) Act. The AML/CFT preventive measures as provided in the AMLA are largely consistent with the FATF standards. The FI Act only applies to financial institutions under the

supervision of the BoU and does not extend to issues relating to CFT. It is important to note that at the time of the on-site visit, there were no implementing regulations issued to some of the provisions of the AMLA which impacted on the effective implementation of some of the required AML/CFT preventive measures.

200. 200. Section 129 of the FI Act as read with the FI AML Regulations sets out CDD obligations of FIs which are supervised by BoU. The FI Act in terms of section 133 overrides any other Act whenever conflicting provisions exist as it provides that '*For purposes of any matter concerning financial institutions, this Act shall take precedence over any enactment and in the case of conflict, this Act shall prevail*'. This further complicated the assessment as parallel CDD obligations and an STR reporting regime exists with AML supervisors receiving the same STRs also filed with the FIA by FIs.

200. 201. The financial sector in Uganda is dominated by Commercial Banks, Credit Institutions and Micro Finance Deposit Taking Institutions with approximately UGX 21tn[8], UGX 248bn and UGX 292bn total assets, respectively. Further, Uganda has a largely cash based economy with more than 75% of retail transactions settled in cash with approximately 46% of the population still excluded from the formal financial system[9].The low level of financial inclusion poses a significant ML/TF risk to the financial system in Uganda as transactions settled in cash are largely unrecorded and untraceable.

200. 202. Trust and Company Services are provided primarily by lawyers and accountants but is not limited to these entities alone as anyone can offer the same services. No specific additional entities providing trust and company services being formally subjected to the AML/CFT obligations were identified.

200. 203. NGO's, although not required by the FATF Recommendations, are listed as reporting entities. In addition, several regulatory and supervisory bodies have also been listed as reporting entities, which may pose severe implementation challenges. None of these entities have yet implemented any of the AML/CFT obligations as provided under the AMLA.

b) Understanding of ML/TF risks and AML/CTF obligations

204. **Uganda has not performed a National or sector specific ML/TF Risk Assessment.**

Although, the AMLA provides for a risk-sensitive approach to implementing AML/CFT obligations, the majority of reporting entities are not aware of this requirement. Financial institutions are aware of the general obligations to implement risk-based measures in dealing with customers or transactions, however with the exception of financial institutions with foreign control or ownership in the insurance and banking sectors, most of the financial institutions do not have a comprehensive understanding of the ML/TF risk exposure facing their businesses. DNFBPs do not understand their AML/CFT obligations and their ML/TF risks and most interviewed advised that they are awaiting guidance from the FIA. Lastly, there is no specific risk based guidance that has been provided to reporting entities in Uganda and no formal risk based exemptions have been identified by the assessors.

204. 205. **Uganda is still in the process of developing regulations to fully implement the provisions of the AMLA**. Application of AML/CFT requirements under the FI Act and the AMLA to

[8]This is approximately USD 7bn with the prevailing exchange rate at the time of the on-site assessment.

[9]Fin scope 2013

mitigate risks varies across the reporting entities. In terms of implementation, the AML preventive measures currently being applied by financial institutions in Uganda are mostly based on the FI Act as read with the FI Act AML Regulations. To a certain degree, foreign-owned financial institutions, specifically in the insurance and banking sectors, implement AML/CFT Group Policy from the country of origin. This has helped to continue influencing the development and implementation of AML/CFT preventive measures in these sectors and some other financial institutions, despite the absence of guidance from AML supervisors and implementing regulations to some of the sections of the AMLA.

206. 206. Guidelines were issued by the FIA to all reporting entities to facilitate the reporting of STRs and Large Cash Transactions (CTRs) above the designated threshold of UGX20 million (approximately USD 6,700) as per the AMLA. Despite these guidelines, there were however various reporting entities which were not clear as to what was expected from them in respect to their reporting obligations. This was confirmed with most reporting entities who still continue to report STRs to their respective supervisory bodies despite the creation of the FIA in the middle of 2014. The BoU also confirmed issuing a circular letter, after the Guidelines issued by FIA, instructing all FIs to continue submitting STRs to the BoU in compliance with the FI Act AML Regulations.

206. 207. Banks, Micro Finance Deposit Taking Institutions (MDI's), Credit Institutions, Foreign Exchange Bureau's and Money Remitters in Uganda have benefited from the supervisory activities performed by the BoU in terms of the FI Act as read with the FI AML Regulations prior to the enactment of the AMLA. Large Banks demonstrated a fairly comprehensive understanding of their obligations in terms of the AMLA better than other financial institutions and DNFBPs. As a result these large banks have already largely implemented the required AML/CFT preventive measures as provided under the AMLA. These measures include the designation of AML Compliance Officers, acquiring the necessary tools to screen clients, the establishment of compliance functions, on-going staff training programs and staff integrity assessments, customer acceptance and retention policies, record keeping, etc., whilst the other financial institutions and DNFBPs are still in the early stages of understanding their AML/CFT obligations.

206. 208. Other Financial Institutions and DNFBPs are not able to demonstrate an understanding of their obligations in terms of the AMLA and do not have a comprehensive understanding of the ML/TF risks in their respective sectors. Insurance companies have implemented generic AML policies based on guidance received from the IRA. The IRA has also recognized the lack of understanding of ML/TF risks and as such has commenced the undertaking of a ML/TF risk assessment for the insurance sector.

206. 209. **Lack of preventive measures applied in respect of Beneficial Owners.** Most reporting entities interviewed highlighted that they have AML policies and/or basic KYC measures in place, but do not apply to identification and verification of the identity of beneficial owners (shareholders in general) as their procedures are directed mostly at identifying directors of legal persons. As a result no specific additional measures are applied in respect of beneficial owners such as PEPs and individuals facing targeted financial sanctions, which may pose a higher risk for ML/TF. The low understanding of AML/CFT requirements is largely attributed to the absence of detailed risk based guidance and still limited general awareness raising activities.

206. 210. **Real Estate Agents and Lawyers (Advocates) provide services assisting clients with the buying and selling of property in Uganda.** Most of the institutions interviewed during the on-site visit, including the BoU considered the real estate sector to be vulnerable to ML, especially in urban cities like

Kampala where residential homes sell in the range of USD 120,000 up to USD 500,000. Clients who are able to buy in these areas include high net worth individuals, large corporate entities and foreign nationals from neighbouring countries such as South Sudan and Somalia. Most of these transactions are settled in cash which in the absence of specific mitigation measures being applied poses a significant ML risk. A lack of understanding of ML/TF risks and the lack of implementation of preventive measures increases the overall ML/TF risk of these sectors.

211. 211. **Money Remitters and Mobile Money Service providers do not have an adequate understanding of their ML/TF risks** and have not yet designed and implemented risk mitigating measures commensurate with their risks. A good example would be the Mobile Money Service Providers

which have set product limits of USD4000 as a daily account balance limit and USD1600 as a daily transaction limit per e-wallet[10].These limits are considered to be excessively high and pose significant ML risk. In addition, the assessors also view the potential for ML in the Mobile Money Service Providers sector to be significantly high as there are no restrictions on the number of e-wallets a person may have thus completely defeating the purpose of setting such limits. These features were endorsed by the regulators through the provision of the "no objection" letters issued to the service providers. In addition, no formal ML/TF risk assessments were conducted prior or post authorization of these services.

211. 212. **A general lack of awareness and understanding of targeted financial sanctions** exist across the range of reporting entities, except for banks. Except for large banks that have implemented commercial sanction screening software, none of the other financial institutions have installed commercial sanction screening software to support other measures to screen clients and payments against United Nations Security Council Resolutions (UNSCR) sanctions lists pertaining to the financing of terrorism and proliferation. These UNSCR lists are not circulated as and when updates occur by any supervisory or regulatory body. There is also no specific guidance or awareness provided to reporting entities on compliance with targeted financial sanctions.

c) Application of enhanced or specific CDD and record keeping requirements

213. 213. **Uganda is in the process of implementing a National Identification Card system. This now requires every Ugandan above the age of 16 to be registered and possess the national identification card.** Prior to this and still at parallel with this initiative, various other means of identification are in use in the identification of clients such as a passport, driver's license, voter's card or support letters from local authorities. Reporting entities do not currently have the ability to independently verify the identity of clients as they do not have access to such databases. Similarly, challenges are faced in identifying and verifying beneficial owners and keeping accurate and up to date beneficial ownership information.

213. 214. **Large Banks perform fairly comprehensive CDD, record keeping and account and transaction monitoring.** Most of these financial institutions have designed and implemented measures to identify high risk clients and relationships such as PEPs and correspondent banking. They also apply additional specific AML/CFT controls such as senior management approval for new relationships. Other financial institutions perform basic CDD and record keeping, while most lack adequate mechanisms to perform account and transaction monitoring.

[10] E-wallet - Is an electronic payment instrument which enables the store of value on devices such as mobile telephones.

215. 215. **Lawyers and Accountants have implemented basic Know Your Client and Due Diligence procedures.** Due to the fact that no AML/CFT specific supervision activities have taken place in the DNFBP sector, very limited awareness of the AML/CFT obligations exist within the sector.

215. 216. **Casinos do not perform adequate CDD and record keeping** as many advised that they still await guidance from the FIA in this respect.

215. 217. **Dealers in Precious Metals and Stones as well as the Ministry which regulates them are currently also not aware nor do they understand their AML/CFT obligations.** A significant ML and TF risk exist in this sector as Authorities highlighted that Uganda has seen a significant increase in illegal and informal gold mining activities in recent times. These activities are conducted by both local and foreign nationals (from neighbouring countries) which may result in the illicit dealing and smuggling of gold across borders with the proceeds likely to be laundered through the Ugandan financial system.

215. 218. **The current legal framework governing wire transfers in Uganda does not adequately provide for the requirements of Recommendation 16. It does not provide for management, administration, operation, supervision and regulation of the payments, clearing and settlement systems in Uganda.** Despite the deficiencies with the legal framework, most entities have designed and implemented wire transfer forms to facilitate the transfer of funds. The forms provide for basic information on the sender's details, the purpose of funds transfer and beneficiary details to be obtained.

215. 219. **Inadequate consideration of ML/TF risk that may arise as a result of new technologies** is of concern in the case of Uganda, as services such as mobile money services continue to evolve and grow without any formal assessment and mitigation of ML/TF risks.

215. 220. **There is generally a lack of specific ML/TF controls implemented by reporting entities**. Most Banks have implemented or are in the process of implementing automated monitoring systems to assist in performing on-going transaction and account monitoring aimed at identifying reportable transactions**.** Financial institutions and DNFBPs generally have not conducted formal and comprehensive ML/TF risk assessments to ensure that specific AML/CFT controls are designed and implemented and that all these mechanisms are appropriately aligned to mitigate the identified ML/TF risks.

215. 221. Uganda has had a lot of high profile and well publicized fraud scandals involving mobile money service providers which partnered with banks involving over USD4 million which highlighted the exploitation of internal control failures. Similarly, in one of Uganda's largest pension fund fraud scams, one of the banks' internal controls failed as an employee complicit in the fraud, was able to open and access over 3000 bank accounts for ghost public servants in a scam estimated to involve over USD55 million.

d) Reporting obligations and tipping-off

222. A very low volume (number) of STR's (210) has been received by the FIA to date with the majority of the STRs (94.8%) coming from Commercial Banks. Approximately 70% of the STRs from the Commercial Banks emanate from one bank. The STRs relate to transactions which occurred before the enactment of the AMLA and are not of good quality. The low reporting behaviour across the regulated populace is testimony to the low level of implementation of the AMLA. A closer examination of the statistics pertaining to reporting is contained in the table below.

Breakdown of STRs received by Category of Reporting Entities under the AMLA

Category	Number	Percentage
Commercial Banks	199	94.8%
Credit Institutions	5	2.4%
Microfinance Deposit Taking Institutions	3	1.4%
Foreign Exchange Bureaus	1	0.5%
Insurance Companies	1	0.5%
Law Firms	1	0.5%
TOTAL	210	**100%**
Source: FIA		

223. **During the on-site visit interviews, it became apparent that financial institutions under the supervision of the BoU still continue to submit copies of STRs and CTRs to the BoU.** Similarly, reporting entities under the supervision of the CMA also informed the assessment team that they file STRs and CTRs with the CMA. It was difficult to determine whether the reporting entities are filing exactly the same STRs filed with their supervisors with the FIA as well.

e) Overall conclusions on Immediate Outcome 4

224. 224. **Financial institutions and DNFBPs do not apply appropriate AML/CFT preventive measures commensurate with the ML/TF risks in Uganda.** With the exception of banks, most reporting entities do not understand the extent and nature of their ML and TF risk. The absence of a National ML/TF risk assessment, sector and/or entity specific risk assessment is generally the major contributing factor to the absence of a risk based approach to combating ML and TF in Uganda. A general lack of awareness and understanding of targeted financial sanctions also exists across non-bank financial institutions and DNFBPs.

224. 225. **The overall level of effective implementation of preventive measures by reporting entities is low** due to the absence of regulations and guidance to assist with the implementation of the AMLA. Additionally, inadequate mechanisms to conduct on-going account and transaction monitoring, the low volume and quality of STRs, a lack of preventive measures applied in respect to beneficial owners, absence of an adequate legal framework to deal with wire transfers and the absence of measures to implement targeted financial sanctions are all present in Uganda and characterise a low level of effectiveness.

224. 226. **The reporting of STRs to multiple agencies, the absence of guidance on how to deal with high risk countries and appropriate counter measures poses significant risks to effectiveness of the AML/CFT regime in Uganda.** ML/TF risks within MVTS and new technologies are currently not being adequately identified, assessed, understood and effectively mitigated.

224. 227. Uganda has a largely cash based economy with more than 75% of retail transactions settled in cash with approximately 46% of the population still excluded from the formal financial system. In addition to this, Uganda is in the process of implementing a National Identification Card system which if

completed would greatly improve the ability of reporting entities to comply with their KYC/CDD obligations, however in the meantime financial institutions and DNFBP's face significant challenges in accurately identifying and verifying the identity of their clients and where applicable beneficial owners of such clients.

228. The overall rating is ***low level of effectiveness*** for Immediate Outcome 4.

6. SUPERVISION

6.1 Key Findings and Recommended Actions

Key Findings

- The BoU as the supervisor for FIs which include banks, credit institutions, building societies, foreign exchange dealers and MVTS has a relatively good understanding of the ML risks associated with these institutions. However, the FI Act as read with the FI AML Regulations which enable the BoU to supervise FIs for AML did not equally empower it to do the same with TF. This has created a huge gap in the understanding of TF risks by the BoU as a supervisor and the majority of small FIs it supervises.

- The AMLA as the main legislation on AML/CFT in Uganda post its enactment in 2013, does not explicitly designate any authority with the oversight responsibility of AML/CFT supervision, whilst on the other end the FI Act as read with the FI AML Regulations empower the BoU to be the AML supervisor for FIs mentioned above. The FIA is only mandated in terms of the AMLA to: (i) give guidance to reporting entities, competent authorities and other persons that fall under the AMLA; (ii) issue guidelines to reporting entities not under the jurisdiction of a supervisory authority; inspect premises of reporting entities; and request any reporting entity to carry out a risk-based assessment, with no specific mandate being given to it to supervise compliance with the AMLA.

- Unlike the BoU, none of the other supervisors and self-regulatory bodies have been mandated by their sectoral laws to supervise compliance with AML for their sectors, which explains why there is no meaningful supervision on AML/CFT by these bodies on their institutions and the institutions still having a relatively low level of understanding of their AML/CFT obligations.

- The FI Act and the AMLA create parallel AML regimes. FIs supervised by the BoU in terms of the FI AML Regulations are required to report STRs and CTRs to both the BoU and national law enforcement agencies while the AMLA requires all reporting entities to submit

STRs to FIA. This makes it difficult for even the BoU to supervise the FIs for compliance with the AMLA requirements in terms of the comprehensiveness of the data which has to be provided as the purposes for filing the reports to the two bodies are not necessarily the same. This problem could also be compromising the quality of STRs filed by some of the FIs with the FIA.

- The authorities are aware of the problems created by having AML obligations in both the AMLA and FI Act and have proposed harmonising relevant sections in the FI Act in order to make the AML/CFT supervisory regime more consistent and less confusing to the reporting entities, particularly for FIs.
- The framework for effective prevention of criminals from participating in the ownership, control or management of FIs and DNFBPs is weak as in practice there is no verification of directors, shareholders and signatories information provided when representing/acting on behalf of or by those owning legal persons.

Recommended Actions

Authorities in Uganda are recommended to take the following remedial action to address some of the fundamental deficiencies identified by assessors:

1. 1. Harmonise all sections in the FI Act which impose dual AML/CFT obligations on financial institutions with the AMLA to enable the current parallel AML/CFT regimes in the FI Act and AMLA which are conflicting, including reporting of STRs to BoU to be addressed.
1. 2. Amend AMLA to ensure that supervisory responsibilities are adequately allocated to applicable supervisory authorities and self-regulatory bodies.
1. 3. Authorities need to effectively implement adequate measures deterring criminals from participating in the ownership, control or management of FIs and DNFBPs.
1. 4. After the amendment of the AMLA, the authorities should develop awareness programs to assist supervisory authorities to have an appreciation of their responsibilities.
1. 5. Supervisory authorities to develop capacity in AML/CFT supervision, e.g. the ability to develop and implement appropriate AML/CFT examination procedures.

229. 229. The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.

6.2 Immediate Outcome 3 (Supervision)

a) Licensing, registration and controls preventing criminals and associates from entering the market

230. Financial Sector regulators in Uganda have authority to licence institutions under their supervision, provided by the primary legislations. Banks, credit institutions, building societies, foreign exchange dealers and MVTS are licensed by the BoU. Capital markets and insurance sectors are regulated and supervised by CMA and IRA, respectively. These authorities have put in place processes to license their regulated entities in order for them to be able to conduct business in these sectors.

231. 231. DNFBPs are licensed by different bodies. Casinos are licensed by National Lotteries Board for conducting the business of gambling. Legal practitioners and professionals are regulated by the Uganda Law Council/Uganda Law Society. However, the oversight does not extend to lawyers employed in other sectors and not engaged in private practice. Institute of Certified Public Accountants of Uganda has an oversight responsibility over the reporting practitioners. As for dealers in precious stones and metals, they are under the oversight of the Ministry of Energy and Minerals Development. The authorities indicated that in addition to other DNFBPs, anybody can provide trust and company secretarial services. This becomes a challenge where this service is carried out by an entity which is not supervised by a regulator. Although, such services are covered under the AMLA, it is practically difficult to reach out to the unidentified entities and subject them to AML/CFT reporting obligations. The real estate sector has got no supervisor for AML/CFT purposes.

231. 232. The BoU, IRA and CMA apply fit and proper assessment standards to the shareholders, directors and senior management of financial institutions. All the three financial sector regulators request information relating to the applicant, including associated parties such as directors, shareholders and signatories of the applicant. If the shareholder is a legal entity, authorities do not extend the request for information about the subsequent layers of shareholders to identify the ultimate beneficiary. In cases where the proposed director or shareholder is a foreign resident, BoU requests a central bank in that country to verify the information on its behalf. However, the authorities did not indicate that BoU also request the central bank to carry out a background check on the proposed directors or shareholders. IRA and CMA could not explain how they deal with foreign based directors and shareholders for purposes of applying a 'fit and proper' test. The identification and verification of the ultimate beneficial owner is also not conducted by all supervisory authorities as the assessment is only done on the immediate shareholders, therefore the authorities do not 'peel off the layers' of shareholding structure to identify the beneficial owner. This is so, despite the BoU submitting that ultimate beneficial ownership information of the applicant is obtained and verified through requesting the applicant to submit a clearance from Interpol or a National security agency of the individual's residence for purposes of ascertaining that the person has not been involved in any criminal activities. In addition, the BoU submitted that it requests for submission of a confidential report from the former employers and/or regulatory authority to be sent direct to it for verification. However, BoU's submissions could not be verified as documentary proof was not provided to the assessors during the on-site visit. Therefore, it is still the view of the assessors that the process adopted by the BoU, the IRA and the CMA to assess fitness and propriety is not robust enough to adequately prevent criminals from entering the financial sector through owning or holding a management position in licenced entities.

231. 233. With regards to DNFBP regulators, lawyers in Uganda have an obligation to be registered with the Uganda Law Council/Uganda Law Society which is the legal authority to license their sector. All lawyers undergo a fit and proper test before being admitted into practice by the Uganda Law Council. Accountants are implementing sound controls to prevent criminals from being part of their sectors through their professional and ethical standards. However, the National Lotteries Board does not have controls to verify fitness of the shareholders and beneficial owner(s) of the applicant. The preventative controls to ensure that criminals do not have access to designated sectors are not applied to shareholders of legal persons or arrangements that have a shareholding in the business of the applicant.

b) Supervisors' understanding and identification of ML/TF risks

234. 234. Uganda has not developed national and/or specific sectoral risk assessments for all the sectors of the economy. In that regard, both the financial and the DNFBP sectors have no understanding of the ML/TF risks within their industries. For example, mobile money service providers have shown weaknesses in their AML/CFT control measures and the BoU has not responded with equal supervisory action to encourage tighter controls by those it supervises, including mobile money service providers.

234. 235. As the lead supervisor within the financial sector, the BoU has adopted risk-based supervision for the supervision of prudential risks in the banking sector. However, the supervision of compliance with AML/CFT requirements is still conducted using the rules-based or one-size-fits-all approach because all banks are still inspected once a year, irrespective of the size of the bank, the products and services it provides and its exposure to ML/TF risks. The supervisory approach followed in the review of prudential risks by the BoU is drawing information from different sources within the BoU to come-up with a risk-rating for each bank. The rating drawn this way is used to schedule inspections for the following year. AML/CFT inspections do not follow the same process, as inspections focus mostly on KYC requirements. The scope of inspections conducted over the past 18 months before the on-site review did not review areas such as correspondent banking and wire transfers. Furthermore, the BoU demonstrates an incomplete understanding of ML/TF risks posed by mobile money products.

234. 236. There is no evidence to suggest that the BoU and the FIA coordinate their efforts to establish and maintain an understanding of ML/TF risks within the industries supervised by the former.

The lack of information sharing relating to the freezing instructions issued by the BoU to financial institutions in terms of section 118 of the FI Act[11]as well as the existence of the parallel reporting regime of STRs are a clear indication that the two authorities do not coordinate their efforts in the fight against ML/TF. The situation is exacerbated by having two AML laws that are not aligned or harmonised to eliminate overlapping, such as creating two centres of reporting suspicious transaction reports (FIA and BoU).

234. 237. Both the IRA and the CMA have developed programmes to supervise their respective sectors for compliance with their primary legislations. However, their programmes do not factor in the ML/TF threats facing their sectors. Their understanding of ML/TF risks is therefore still very limited.

234. 238. All the DNFBP sector regulators in Uganda, although not designated for AML/CFT supervision in terms of the AMLA, are still in the initial stages of understanding and implementing their supervisory obligations in their respective sectors. For instance, two regulatory authorities that met with the assessors stated that they only got to know of their AML/CFT responsibilities about two months before the on-site visit.

c) Risk-based supervision of compliance with AML/CTF requirements

239. The AML/CFT legal framework in Uganda does not designate any Supervisory Bodies for regulating and supervising financial institutions in terms of AML/CFT requirements, consequently the bodies responsible for AML/CFT in Uganda have not yet developed nor implemented risk-based approach to supervise and monitor FIs and DNFBPs for compliance with their obligations under the AMLA and the FI Act. [As mentioned above, none of the supervisory authorities in Uganda have

[11]Section 118 of FIA: (1) The Central Bank shall if it has reason to believe that any account held in any financial institution has funds on the account which are the proceeds of crime, direction writing the financial institution at which the account is maintained to freeze the account in accordance with the direction.(2) A financial institution acting in compliance with a direction under subsection (1) of this section shall incur no liability solely as a result of that action.

undertaken an ML/TF risk assessment or developed an AML/CFT risk-based framework for the purpose of supervising reporting entities.]

240. 240. The BoU has no specific AML/CFT inspection manuals developed under the FI Act or the AMLA to clearly set out the scope, processes and procedures of supervision activities. As mentioned above, the BoU supervision is still focused on prudential issues with a limited scope for AML/CFT under the FI Act.

240. 241. The BoU conducts AML/CFT reviews for the banking, foreign-exchange, and money remittance sectors. The reviews are part of the broader prudential assessments as the scope for AML/CFT requirements is mostly limited to KYC controls. The BoU has also demonstrated that it has a staffing constraint to adequately fulfil its AML/CFT supervisory responsibilities because it has not established a unit to do offsite supervision. Furthermore, 200 foreign exchange bureaux are supervised by 7 staff members, even though authorities have identified this sector to be a ML/TF risk area. This sector also has a problem in that it has an alternative market that is not registered with BoU. Due to lack of resources BoU has taken little or no action against this alternative market in the foreign exchange.

240. 242. Both the IRA and the CMA are still in the initial stages of developing AML/CFT supervisory programmes. Their focus is limited to the AML/CFT general awareness to reporting entities that they supervise in terms of their primary legislations. As a result of the lack of appreciation of the ML/TF risks in their respective industries, the pace of implementation of AML/CFT supervisory obligations has been slow and not targeted at ML/TF risks. But this could also be attributed to their lack of designation by the AMLA as AML supervisory authorities for the two sectors, respectively.

240. 243. The FIA has not yet developed supervision manuals and as such, no supervision for AML/CFT purposes has been conducted in the entire DNFBP sector in Uganda. The lack of a clear designation of supervisory authority by the AMLA has added to the confusing situation of the AML/CFT supervisory regime in Uganda as the same supervisory authorities are simultaneously listed in AMLA as reporting entities. In this regard, there has been a slow uptake by all supervisors to commence their AML/CFT supervisory roles in terms of the AMLA.

d) Remedial actions and effective, proportionate, and dissuasive sanctions

244. 244. Whilst Regulation 19[12]of the FI Act AML Regulations provides BoU with an option to issue administrative sanctions against non-compliance with the Regulations, the AMLA has got no enabling provisions to issue administrative sanctions against non-compliance with the Act. In the absence of such provisions and also the lack of delegation of supervisory authority to supervisors in terms of the same Act, none of the supervisors can issue administrative sanctions to institutions in their sectors under the AMLA.

244. 245. As administrative sanctions can only be issued in terms of the FI Act as read with the FI Act AML Regulations it means, the BoU is the only supervisor that has issued and can issue administrative sanctions for non-compliance with the AML requirements provided under the FI Act as read with FI Act AML Regulations. Although, administrative sanctions have been issued for non-compliance with the FI Act as read with the FI Act AML Regulations, they are not proportionate, dissuasive or effective as the

[12]Regulation 19 of Anti-money laundering regulations: the Central Bank may impose any or all of the following administrative sanctions with regard to a financial institution, person, shareholder, director or officer of a financial institution that or who fails to comply with these Regulations

same findings are raised year after year against the reporting entities, and there has been minimal change towards compliance on the same issues/behaviour. The fines are not commensurate with the risks posed by the weaknesses identified. Furthermore, the value of the administrative sanctions appears to be too low to dissuade non-compliance behaviour with AML obligations, and such sanctions are not made public to try and dissuade the delinquent FIs from engaging in similar conduct. The classic case of inadequate action against non-compliance with AML/CFT requirements is the lack of more stringent measures against Cairo Bank, for breaches related to AML/CFT.

e) Impact of supervisory actions on compliance

246. 246. In general, not much has yet been done by the FIA in an effort to carry out AML/CFT supervisory responsibilities in order to improve on compliance levels by financial institutions under its purview.

246. 247. In the DNFBP sector the focus of the FIA is still very much at apprising the sector of the AML/CFT requirements set out in the AMLA. The DNFBP sector therefore has a very limited or non-existent understanding of how implementation of AML/CFT requirements should take place. The FIA has only undertaken a few awareness-raising programmes following the enactment of the AMLA in 2013, as well as in preparation for the onsite assessment. As a consequence, the overall level of compliance with AML/CFT obligations by DNFBPs is very low.

248. Banks with foreign control or ownership have a greater level of compliance with AML/CFT
obligations.

246. 249. Although, the BoU has been conducting AML supervision since 2002 as confirmed in the MER of Uganda, 2007, the Guidelines upon which the supervision was done did not cover CFT. This deficiency also exist in the current FI Act and FI (AML) Regulations. The inspection reports provided by BoU clearly show a limited capacity and expertise in carrying out effective supervision actions capable of identifying compliance deficiencies as well as issuing corrective action against a non-complying entity. The level of compliance by;(i) banks, based on the inspection reports, is good for foreign banks and low when it comes to other banks; (ii) bureau de change is very low; and (iii) mobile money service providers is very low. The BoU has not developed a strategy to tackle non-compliance by banks and mobile money service providers.

246. 250. The DNFBP sectors have provided little guidance to their regulated entities and have still not done much to have supervisory programmes in place to ensure effective and consistent supervision of the entities they regulate.

246. 251. The IRA and the CMA have adopted a gradual approach to supervising non-banking financial institutions. The authorities have decided to increase general awareness by holding meetings with their sectors which are addressed by the FIA. IRA has also given directive to all its members to develop AML/CFT policy to enable implementation of the AMLA. However, IRA has not conducted onsite inspections to check compliance with the AML/CFT policies. As a result, the adopted approach has yielded few positive results in encouraging compliance with AML/CFT requirements by these entities. The lack of reported suspicious transaction reports could be a demonstration of this fact.

246. 252. In 2010, the BoU published AML/CFT requirements to the financial institutions it regulates through the FI Act AML Regulations issued in terms of the FI Act of 2004. The gradual increase in the AML/CFT supervision of the banking and foreign-exchange sectors has assisted in increasing awareness

among financial institutions. In 2013, the BoU issued the Mobile Money Guidelines to all regulated entities that provide mobile money products. However, these guidelines do not have any legal force when it comes to non-compliance and they have had little impact as there is evidence that mobile money products have lax AML/CFT controls. Furthermore, there is evidence that the BoU has developed neither effective acceptance processes for mobile money service providers nor supervisory programmes to monitor compliance with the guidelines.

253. The low level of knowledge on ML/TF risks by the foreign-exchange and mobile money services sectors compounded by the lack of a sectoral risk assessment adds to the limited impact of supervisory actions, including enforceable means of encouraging compliance with any measures such as directives.

f) Promoting a clear understanding of AML/CTF obligations and ML/TF risks

254. 254. The FIA has only conducted few awareness raising activities to all financial institutions and the DNFBPs in preparation of the rolling out of the AMLA and the on-site visit. FIA has issued STR forms instructing all financial institutions and the DNFBPs to file STRs with it. However, the BoU which under the FI Act is mandated to receive STRs issued a Directive still requiring banks, bureau de change and money remittance service providers to continue filing STRs with it.

254. 255. DNFBP sector regulators have little understanding of the ML/TF risks in their respective sectors. Most of these regulators are of the view that their sectors are low-risk in relation to ML/TF threats, although no sectoral risk assessments have been done to enable them to know the ML/TF exposure of their sectors.

g) *Conclusions on Immediate Outcome 3 (Supervision)*

256. 256. Uganda's legal and institutional AML/CFT frameworks are still in infancy stages, with the AMLA only enacted in 2013 and the FIA established in July 2014.Measures taken by regulators to prevent criminals or their associates from acquiring significant interest or holding management positions in the financial sector are inadequate. Where the individuals are foreigners, no efforts are taken to identify and verify beneficial owners. Similar weaknesses exist in the DNFBP sector. This is worse in the real estate sector where the operations are not subject to AML/CFT supervision.

256. 257. BoU conducts risk-based prudential supervision and not risk-based AML/CFT supervision. The scope and frequency of prudential supervision is based on perceived prudential risks. However, ML/TF risks are not incorporated to guide AML/CFT programs. AML/CFT supervision programs ride on the back of prudential supervision. Whilst BoU is aware of its obligations, assessors noted lack of understanding of ML/TF risks, especially in the mobile phone services sector. As for the rest of the financial sector regulators, there is limited understanding of ML/TF risks as well as their AML/CFT obligations which has led to poor implementation of the AMLA and compliance by the market players. Furthermore, no serious enforcement has been taken by all regulators against non-compliance with the AMLA requirements. With respect to the DNFBP sector, lack of understanding of AML/CFT obligations and ML/TF risks, absence of supervisory activities and remedial action taken by DNFBP regulators have all resulted in the poor implementation of AML/CFT obligations in their sectors.

258. Uganda has a ***low level of effectiveness*** for Immediate Outcome 3 (Supervision).

7. LEGAL PERSONS AND ARRANGEMENTS

7.1 Key Findings and Recommended Actions

Key Findings

- Information on the creation of companies and the various types of legal arrangements is publicly available. Although competent authorities do not have online access to company records filed at the URSB, they have physical timely access to such records on request.

- What is available, however is basic company information, including legal ownership (shareholder information). There is no requirement for the URSB or the companies themselves to record and

  maintain beneficial ownership information and such information is not available at the companies'

  registry.

- Due to some companies not filing annual returns on time and at times not filing the returns at all and little remedial action being taken by the companies registry in terms of implementing measures set out in the Companies Act, the information kept by the registry in some cases is not accurate and up-to-date.

- While the AMLA requires reporting entities to record and maintain beneficial ownership

  information of corporate customers, the definition of "beneficial owner" provided under the same Act falls short of that provided by the FATF Standards. Furthermore, the limitations of Uganda's national identification infrastructure make it difficult for reporting entities to identify and verify the identity of beneficial owners.

- Similarly, there is no legal requirement under the Trustees Incorporation Act, for trustees to disclose beneficial ownership information or to register all trusts.

Recommended Actions

- The authorities should conduct a ML/TF risk assessment of legal persons and legal arrangements and, accordingly, implement measures to mitigate the risks identified.

- Uganda should require all trusts to be registered.

- Uganda should consider making it a legal requirement for companies and trusts to record and maintain beneficial ownership information or to file such information with the companies' registry at the time of registering the reporting entity (over and above legal ownership/shareholder information currently required under the Companies Act).

- Authorities should ensure that reporting entities comply with the requirement to identify and verify the identity of beneficial owners of their clients. The authorities should consider amending the definition of "beneficial owner" in the AMLA to bring it in line with the definition provided in the FATF Standards.

- The authorities should ensure that company information filed with the URSB is kept up to date and accurate. In this regard, authorities should effectively sanction companies that do not regularly update information with the URSB as required under the Companies Act.

- Authorities are advised to ensure that information in the companies' registry is fully computerised and to consider making such information accessible online, and not just to competent authorities.

259. The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.

7.2 Immediate Outcome 5 (Legal Persons and Arrangements)

260. 260. Companies, in their various types, are the most common corporate vehicle in Uganda, with 240 000 companies listed in the companies registry maintained by the Uganda Registration Service Bureau (URSB).The Companies Act makes provision for the registration of the various types of companies and the records are kept in the URSB

260. 261. Legal arrangements in Uganda are much less common with the result that trusts do not feature prominently as customers of financial institutions and DNFBPs. Trusts are formed under different Acts in Uganda including the Trustees Incorporation Act 165 of 1939, Registration of Titles Act, the Succession Act, Trusts Act, 1882 and Income Tax Act.

. *a) Public availability of information on the creation and types of legal persons and arrangements*

260. 262. Information on the creation of companies and their various types can be easily accessed at the URSB offices and is also available online on the website of the URSB. The website also provides information on the kind of companies which can be created under the Ugandan law and the procedures on how to go about creating a company in Uganda as well as the forms required to be lodged with the URSB. The Companies Act provides for the creation of the following legal persons: a) public limited companies (556); b) private limited companies which are companies limited by shares such as single member companies and companies limited by guarantee (203 848); c) foreign companies; and unlimited companies. The information relating to the incorporation of these types of companies is kept by the Registrar as provided by section 3 of the Companies Act. Where one registers a sole proprietorship it is governed by the Business Registration Act. Information of legal persons registered with URSB is also available online.

260. 263. Availability of information on legal arrangements is a major challenge in Uganda. Not all legal arrangements are required to be registered. In terms of the Trustees Incorporation Act, only trusts which want to acquire land or certain interest in land have to register with the relevant Ministry. In terms

of this Act (s. 7), the public upon payment of a specified fee may access copies of documents relating to a trust registered with the Ministry. Information on the other types of legal arrangements which can be created in Uganda and availability of that information to the public was not provided. However, the biggest challenge which faces Ugandan authorities in obtaining information on legal arrangements is that there is no legal obligation for all trusts and other legal arrangements to be registered. In the absence of this obligation it means trusts and other legal arrangements can exist in Uganda without being registered making their existence difficulty for both the authorities and the public to know. Due to this weakness the scope of information on legal arrangements currently in existence in Uganda and their activities is very limited and members of the public have no access to such information

b. b) Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

264. 264. Uganda has not conducted a ML /TF national risk assessment and the relevant authorities have not undertaken an assessment specifically to assess and understand the vulnerabilities and extent to which legal persons and arrangements can be, or are being misused for ML/TF. Whilst the URSB demonstrated a general understanding of risks inherent with its office such as faking of documents and signatures, the same understanding did not apply to ML/TF risks. Most of the financial institutions and DNFBPs interviewed did not appreciate the link of beneficial owners to ML/TF risks, which explained the limited compliance with the requirements on beneficial ownership in the AMLA. However, the same cannot be said about the financial institutions which have foreign control, which require beneficial ownership information whenever they are dealing with legal persons and understand the exposure to ML/TF risks such business relationships can bring to their institutions. Although, the practice of trusts is not common in Uganda, some of the stakeholders who met with the assessors, notably the academia, acknowledged the ML and TF vulnerability of trusts.

264. 265. The only information provided by the authorities on companies prosecuted is of one bank which is currently being prosecuted for causing financial loss under the Penal Code. Beyond this one case, no other information was provided by the authorities on companies that have been prosecuted or being prosecuted. With the added absence of a formal risk assessment relating to ML/TF risks and vulnerabilities associated with legal persons, it does not appear much attention is being given by the authorities to the transparency in beneficial ownership of the companies currently operating in Uganda. In general the competent authorities did not demonstrate a good understanding of the ML/TF risks and vulnerabilities of legal persons and arrangements currently incorporated or operating in Uganda. This is also worsened by the lack of legal requirements for disclosure of beneficial owners at the time of registration of the companies or the requirement for companies to file such information as accurately as possible at their offices.

. c) Mitigating measures to prevent the misuse of legal persons and arrangements

264. 266. Uganda has not implemented measures to prevent the misuse of legal persons and arrangements for ML/TF purposes.

267. 267. While the Companies Act requires companies to keep and file shareholder information [13]with the URSB, there is no requirement for the recording and filing of beneficial ownership information. Nor is there a requirement for companies to obtain and maintain such information.

267. 268. Under the AMLA (s. 6(c) (ii)), reporting entities are required to verify the identity of beneficial owners of accounts. Whilst this measure would have assisted in general to curb the misuse of legal persons and arrangements, there is however, no sufficient indication that reporting entities are in fact, complying with this requirement and maintaining the required information. The issue is further complicated by the fact that the definition of "beneficial owner" provided under AMLA does not comply with the definition in terms of the FATF Standards as the AMLA definition includes a legal person it reads ""*beneficial owner" means any natural or legal person or any other entity including any charitable organisation, natural or juridical, including but not limited to a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or any other unincorporated organization or group, capable of acquiring rights or entering into obligations*".

267. 269. In addition, as already highlighted above, the authorities have not conducted a NRA to find out the vulnerability of legal arrangements to misuse for purpose of ML and/or TF. The Trustees Act provides for the administration of trusts in general. It is important to note that this act defines land

to include "*land of any tenure, and mines and minerals, whether or not severed from the surface, buildings or parts of buildings, whether the division is horizontal, vertical or made in any other way, and other corporeal hereditaments; also a rent and other incorporeal hereditaments and an easement, right, privilege, or benefit in, over or derived from land*"; and in this definition "mines" and "minerals" include

"*any strata or seam of minerals or substances in or under any land, and powers of working and getting the same, but not an undivided share thereof*"; and "hereditaments" means "*immovable property which under an intestacy would devolve on an heir*". When this definition is considered in the light of the provisions of the Trustees Incorporation Act that trusts *may* register when only they want to acquire land and the connection of the kind of land is not made to this definition when considering such applications, then it provides a huge window for trustees running trusts to acquire all sorts of land opening them to high ML/TF risks. Once a trust has been registered in terms of the Trustees Incorporation Act, there is no indication that such trusts are properly regulated or supervised for AML/CFT purposes and yet there is a possibility that they can even possess mines or minerals or buildings, which makes them highly vulnerable to ML/TF risks.

267. 270. The authorities also did not provide information which might demonstrate the abuse of legal persons and arrangements in Uganda and the mitigating measures which have been taken to address misuse or ML/TF vulnerabilities associated with legal persons. The obligations set out in the AMLA requiring reporting entities to verify the identification of beneficial owners when dealing with legal persons or arrangements have not been effectively implemented by all reporting entities.

d. d) Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

[13]Sections 4,7, 8(1)&(2) & 61 of the Companies Act

271. 271. Competent authorities are able to access basic company information from the URSB, although such information is not always up to date and accurate.

271. 272. There is no requirement for companies to record or file with the URSB information on beneficial ownership. Companies are required under the Companies Act to file basic information and to update such information through filing of annual returns (sections 132-136). Ownership information required under the Companies Act is confined to legal ownership, which can be held by natural as well as legal persons.

271. 273. The records of the URSB are accessible to all state institutions (including all competent authorities) for free. The records are also available to non-state institutions upon payment of a search fee.Records kept by the URSB are only partially computerized and are not accessible online. One has to write to, or visit the URSB offices to access the available information. The public can access the

basic information on legal persons held at the URSB for a fee. However, the fee of almost Usd10 charged to members of the public to access information at the URSB, as much as it benefits the authorities, it might disadvantage other members of the public who cannot afford such an amount from getting such services from URSB.

274. 274. Both the URSB and the competent authorities reported that there is easy access to information maintained by the URSB. Competent authorities further indicated that they are able to access records of the URSB, within periods ranging from one to three days from date of request. Information can also be obtained on the spot if the person requiring the information visits the USRB offices.

274. 275. The basic and legal ownership information maintained by the URSB is however not always up to date as some companies do not update their information as required by law. The failure of companies to update information retained by the URSB or to file annual returns is of concern as the assessors were informed that at any given time, about 3 out of 10 companies do not keep their information updated. As this figure was based on estimation not on any statistical analysis of the records, it cannot be ruled out that there is a possibility of the number being higher than 3 in 10. If this estimation is correct, 3 in 10 is relatively high and it has an overall negative impact on the reliability and accuracy of the information kept at the URSB.

274. 276. In addition to there being no specific requirement for companies to maintain or file beneficial ownership information with the URSB, reporting entities are not adequately recording and maintaining beneficial ownership information as required under section 6(c) (ii) of the AMLA.

274. 277. The limitations and fragmentation of Uganda's national identification infrastructure also make it difficult for reporting entities to identify and verify the identity of beneficial owners.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

278. Although no satisfactory information was provided by the authorities on legal arrangements, it is clear from the requirements of some of the laws, like the Trustees Incorporation Act (s. 7) that there is no obligation for the authorities to obtain or keep adequate, accurate and current beneficial ownership information. Again, there is no obligation for all trusts to be registered meaning trusts can exist without information on their existence being known to the authorities not to mention on current beneficial ownership. It was clear to the assessors from the authorities who attended the interview from the Ministry

of Lands which administers the Trustees Incorporation Act that the connection between beneficial ownership and the kind of trusts they are meant to register was still not well appreciated which made it difficult for the officials to address themselves on what was required under the FATF standards. Generally, information on legal arrangements is not readily available in Uganda compared to legal persons and given the exposure of Uganda to the risk of TF, the serious lack of monitoring in this area becomes a huge TF risk and largely exposes the sector to TF abuse.

. *e) Effectiveness, proportionality and dissuasiveness of sanctions*

279. 279. Authorities were not able to provide any statistical data on any sanctions imposed for breach of provisions relating to legal persons and arrangements. The effectiveness of sanctions has, therefore, not been tested. Further, the URSB is taking cost cutting measures which has resulted in it not pursuing companies violating the Companies Act to be charged in terms of the Act but are opting instead to advertise the defaulting companies twice and if there is no response the company is struck off the register. However, it appears from the figure of 3 out of 10 companies not updating their records with the URSB, this approach is not effective and dissuasive enough.

f) Conclusions on Immediate Outcome 5

279. 280. The Ugandan authorities have not done a NRA or sectoral risk assessment to determine the ML/TF risks that are inherent to their legal persons or arrangements. The assessors were only provided with one case of a bank which was being prosecuted and the case is still pending in court and no any other information was given to enable the assessors to determine if any other legal persons or arrangements in Uganda had at any time committed a criminal offence and the kind of offence and sanctions applied. The level of understanding of the ML/TF risks and vulnerabilities associated with the companies is low. This also extends to the application of ML/TF obligations applying to legal persons and arrangements provided in the AMLA by reporting entities. Whilst some of the FIs were applying the requirements non-bank financial institutions and DNFBPs have not started implementing these requirements to a satisfactory level. The URSB is not required by law to obtain and maintain information on beneficiary ownership and it does not do so.

279. 281. The URSB, through its website has made information on companies available online. The URSB also maintains and avails information on legal persons incorporated in Uganda to members of the public and private institutions at a fee but provides the information for free to competent authorities. The accessibility to such information is quick, with the URSB taking from a few hours to a maximum of three days to provide it. Although, the information of legal persons incorporated in Uganda is readily available, at times the information is not reliable and accurate as some of the companies do not regularly update their records maintained by the URSB. The URSB, in such circumstances due to limited resources, does not invoke the provisions of the Companies Act like initiating a criminal complaint preferring to only take administrative measures. As already said above, due to the USRB not being required by the law to obtain information on beneficial ownership, it does not ask for such information from legal persons upon registration, therefore it does not keep such records. The URSB as the competent authority responsible for the registration of legal persons in Uganda is not well aware of the ML/TF vulnerabilities associated with beneficial ownership of legal persons. It would therefore, be important for the Companies Act of Uganda to be amended to make it mandatory for beneficial ownership information to be filed with the URSB at

the time of registering a legal person, and the URSB and the legal persons maintaining as reliable and accurate record as possible of the information by regularly updating any changes.

282. Uganda has achieved a ***low level of effectiveness*** for Immediate Outcome 5.

8. INTERNATIONAL COOPERATION

8.1 Key Findings and Recommended Actions

Key Findings

- The approach to MLA in Uganda is generally weak, with the country having made only 10 requests for the period 2010 to June 2015, as well as some of the institutions not pursuing extraterritorial cases where MLA is required.
- International Cooperation is not properly coordinated at domestic level leading to the conclusion that not all the cases of MLA from 2010 to 2015 might be documented.
- With exception of one case where there was suspicion of ML, the limited number of MLA requests made all relates to predicate offences.
- On requests received by the authorities no information is kept on the quality of information provided, timelines for providing responses and whether any feedback was received from the requesting jurisdiction.
- Uganda is yet to utilize the international cooperation framework as well as the provisions set out in the AMLA on MLA to pursue ML investigations, including identifying and pursuing proceeds of crime.
- Agencies such as Interpol Uganda and the URA have been cooperating with foreign counterparts on matters within their jurisdiction, but the range of cooperation has been limited to the pursuit of predicate offences.
- Supervisory and other competent authorities have little appreciation of the role played by MLA in enhancing AML/CFT efforts as a majority of them do not record or pursue cases where such assistance would be needed.

Recommended actions

- Uganda should pass legislation on MLA, which designates a central authority to coordinate MLA requests (both incoming and outgoing). Once the central authority has been established,

Uganda should also seek to put SOPs in place to facilitate national coordination.

- The DPP's office which currently fulfils the de facto role of coordinating MLA requests

should improve its domestic coordination of MLA requests by domestic counterparts, data management systems and maintain readily accessible statistics, information on subject matter of requests, turn-around times and prioritization of the requests.

- Supervisory bodies and SRBs in terms of the AMLA should be made aware of the relevancy of international cooperation to their work and retaining of records which at minimum should have enough information on the kind of international cooperation provided or requested, when provided and whether feedback was provided.

- Uganda should ensure that the relevant offices (DPP, IG) are properly staffed, trained and provided with the adequate resources.

- More effort should be made by the authorities to seek MLA beyond predicate offences.

- Ugandan competent authorities should consider to informally provide feedback on information they will have received from their foreign counterparts.

- In order to promote informal international cooperation, Uganda should consider joining ARINSA – which would enable it to easily exchange information with ten other countries of the sub-region (Botswana, Lesotho, Malawi, Mauritius, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe).

- Uganda should consider joining Egmont Group to enable its FIU to exchange information with other FIUs which are members to the Group.

- Uganda should revise its legislation (i.e. Extradition Act) to cover the TF offence and make it an extraditable offence.

282. 283. The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

8.2 Immediate Outcome 2 (International Cooperation)

284. International cooperation in Uganda at domestic level is not well coordinated. The authorities interviewed including the police and the DPP's Office gave the impression that issues of Mutual Legal Assistance are not properly discussed and agreed by all stakeholders concerned with the matter before important decisions are made.

285. 285. Uganda has few documented cases of Mutual Legal Assistance (MLA) and extradition requests made and received, from 2010 to 2015.

285. 286. Out of all the MLA and extradition requests made and received, only one case involved ML while none were TF related.

285. 287. The poor quality of statistics provided by the DPP's office which serves as the de facto office on mutual legal assistance matters showed that there was poor management of mutual legal assistance requests.

. *a) Providing constructive and timely MLA and extradition*

285. 288. Statistics provided by the authorities indicated that during the period from 2010 to June 2015, the country received four formal MLA requests (from Germany, Denmark, India and Austria, respectively).

289. Of the four requests received, Uganda finalised three while one was still pending as at June
2015.

285. 290. The authorities were unable to provide information on the timeliness of processing received requests. That concerns both the processing of MLA requests received for ML and for predicate offences.

285. 291. Uganda reported that since 2010, the country has made two extradition requests to Kenya and Tanzania, respectively. Both requests related to the 2010 Kampala terrorist bombing. The request to Kenya was granted while the request to Tanzania was still pending in a Tanzanian court by the date of
conclusion of the on-site visit. The application for extradition of Jamil Mukulu had been granted by the Magistrate Court in Dar es Salaam but the suspect lodged on appeal against his extradition.[14]

285. 292. During the same period, Uganda received four requests to extradite suspects to other countries relating to various predicate offences but none specifically relating to ML or TF. In two of the cases, Uganda was able to extradite the suspects while in the other two cases, the suspects were not located.

285. 293. Similarly to the timeliness of processing MLA requests, no information was provided on the timeliness regarding the extradition process.

b. *b) Seeking timely legal assistance to pursue domestic ML, associated predicate and TF cases with transnational elements*

294. 294. The statistics provided by the authorities indicated that for the period 2010 to June 2015, Uganda had made 10 requests, with only one relating to suspected ML and none on TF.

294. 295. Of the ten MLA requests made by Uganda to other countries, Uganda got the assistance it requested in three of the cases while in four cases Uganda received various responses but not necessarily the assistance that it sought. For example, in one case the requested country sought further information which Uganda did not have. In two other cases, the requested countries responded advising that they were not able to assist. In three of the ten cases, Uganda did not receive responses from the countries it had made the requests.

[14] A report was made in New Vision Newspaper Vol. 30, number 126 dated Friday, June 26, 2015 Page 4

296. 296. The authorities were unable to provide information on the specific time-frames it took to process requests made and the representatives from the DPP's Office interviewed indicated that such statistics were not kept. Further, there are no set timelines or internal monitoring by authorities on the processing of MLA requests made on ML.

. *c) Seeking other forms of international cooperation for AML/CTF purposes*

296. 297. In general, competent authorities in Uganda which are defined under the AMLA to include the investigative, prosecuting, judicial, regulatory or supervisory bodies in terms of ss. 106 and 107 of the same Act can seek and provide other forms of international cooperation on a wide range of issues. These include, exchange of information, investigations (including identifying and tracing of illicit property), joint investigations, enforcement of provisional measures, confiscation and extradition in terms of the AMLA, international conventions, treaties, agreements or arrangements to which Uganda is a party to or within the limits of the legal systems of Uganda or to take appropriate actions to fulfill the request. Although, under the two sections some of the actions might require formal court processes but for those like exchange of information where such process might not be required, the competent authorities are not effectively using these provisions under the AMLA to enable themselves to seek or provide other forms of international cooperation. Only a few of the competent authorities could provide information on cases where they had provided assistance to their foreign counterparts or other foreign competent authorities as provided under the AMLA. It was also clear that most of the competent authorities do not keep statistics in all the matters they deal with relating to other forms of international cooperation. The general impression created by most of the competent authorities is that they do not have internal systems or practices to monitor or account for matters relating to other forms of international cooperation they engage in.

C.1 Cooperation by competent authorities

i. *i.* *Financial Intelligence Authority*

298. 298. The FIA has in place memoranda of understanding for cooperation and exchange of financial intelligence with thirteen FIUs from the ESAAMLG region but no information has been exchanged as yet under these arrangements as all have been signed in the twelve (12) months preceding the onsite visit.

298. 299. The FIA is not yet a member of the EGMONT Group, thereby limiting its ability to exchange information with most of the EGMONT members.

ii. *ii.* *Inspectorate of Government*

298. 300. The Inspectorate of Government (IG) advised that it can cooperate with foreign anti-corruption agencies under the framework of the United Nations Convention against Corruption (UNCAC) as well as under the East African Association of Anti-Corruption Authorities and it has signed three bilateral agreements on exchange of information.

298. 301. The IG has only made one request for information to its counterpart in Kenya (Kenya Ethics and Anti-Corruption Commission). The request was made in March 2015 and has not yet been responded to. Beyond this one case, there were no other cases where such requests have been made by the IG.

302. 302. The IG further advised that, generally, it does not pursue cases that have a cross-border element. Its focus is more on the predicate offences committed by public officers in Uganda.

302. 303. The IG cited two cases where suspects who were being investigated by the authorities absconded out of the country. The two were not pursued because the IG felt it did not have the resources to follow up on these cases.

iii. *iii.* *Interpol NCB Uganda*

302. 304. Interpol Uganda is a Directorate within the Ugandan police. It is responsible for coordinating requests for information by Uganda Police and other law enforcement agencies to Interpol, as well as incoming Interpol requests.

302. 305. Interpol Uganda advised that it handles about 20 requests per week (including incoming and outgoing) and that response time by Uganda authorities averaged a couple of months. Interpol Uganda indicated that it was generally easy to get the requested information locally, especially for information held by public institutions. However no statistics were availed to give an indication of the cooperation levels.

302. 306. Only one outgoing request handled by Interpol Uganda related to suspected ML. The assistance obtained from Interpol was used to facilitate a request for MLA to the UK.

iv. *iv.* *Uganda Revenue Authority*

307. 307. The URA advised that it cooperates with foreign revenue authorities mainly through bilateral double taxation agreements. The authority has double-taxation agreements with (9) countries, namely Mauritius, Italy, South Africa, Denmark, India, UK, Zambia, Netherlands and Norway.

307. 308. URA also cooperates with regional countries under the framework of the Eastern African Customs Management Act.

307. 309. From January 2013 to the date of on-site visit, URA made 39 requests for information (12 under double-taxation MoUs and 27 under the EACCMA).

307. 310. The URA reported that in most of the cases it was able to get the information it wanted timely. The average turnaround time for requests was 3 days to a week. The URA has however, not handled any requests relating to ML.

C.2 Cooperation by Supervisors

i. *i.* *Bank of Uganda*

311. 311. BoU can co-operate on exchange of information with other Central Banks. BoU has signed Memoranda of Understanding (MoU) with various Central Banks such as Central Bank of Kenya, Bank of Tanzania, Central Bank of Nigeria, Reserve Bank of India, amongst others, to facilitate information sharing.

311. 312. All information which is required to enable BoU and the partner Central Bank to fulfil their mandate is provided/requested for e.g. information to facilitate conduct of tests for fitness and probity, participation in joint examinations of institutions in other jurisdictions, etc.

313. BoU has not made any specific requests for information related to AML/CFT.

ii. *ii.* *Capital Markets Authority*

313. 314. The CMA is a member of the East African Securities Regulatory Authorities, which includes Kenya, Tanzania, Rwanda and Burundi. In regional matters, it uses this platform to request for information. It has also signed bilateral agreements on exchange of information with its counterparts in Nigeria, Mauritius and Malaysia. Internationally, it is a member of IOSCO which allows it general cooperation with other Securities Market Authorities.

313. 315. However, CMA could not provide the number of requests it has made for information and the kind of information required as it indicated that the requests are not documented.

iii. *iii.* *Insurance Regulatory Authority*

316. The IRA has not made any requests for information to its foreign counterparts relating to AML/CFT.

. *d) Providing other forms of international cooperation for AML/CTF purposes*

i. *i.* *Financial Intelligence Authority*

316. 317. The FIA can disclose information to any other institutions or agencies of other jurisdictions that have the same powers and duties similar to it or whose countries have entered into treaties, agreements or arrangements with Uganda relating to ML and similar offences (ss. 19(e), 38 of the AMLA). However, such information can only be provided for purposes relating to an investigation or prosecution of a ML offence or for a substantially similar offence. This might cause limitations to the FIA on the kind of information it can exchange with its foreign counterparts. The FIA has not yet exchanged information with any of its foreign counterparts based on its powers and duties as provided under the AMLA, as a result the timeliness, quality of the information provided and feedback could not be determined.

ii. *ii.* *BoU*

318. 318. The BoU asked Malawi to host a team of 9 members of parliament in 2012. The team was to acquaint itself with the operations of the FIU and those of other ML/TF stakeholders in terms of Malawi's AML legislation. This was done at the time Uganda was working on passing their AML Law. The law has since been passed.

318. 319. In 2014, the BoU sent 2 officers to participate in an onsite examination of one of the banks in Malawi (EcoBank). The team participated in this exercise for 2 weeks. After which they together with staff from Reserve Bank of Malawi and FIU attended a training workshop organized by IMF East Afritac on ML/TF Risk Assessment.

318. 320. BoU received a request from the Reserve Bank of South Africa in 2015. It was requested to allow the Reserve Bank of South Africa to conduct an AML/CFT audit of Barclays Bank. Approval was granted by the BoU and it also participated in the audit and a report was issued.

iii. *iii.* *URA*

321. 321. During the same period, the authority received and processed 12 requests for information (5 under double-taxation MoUs and 7 under the EACCMA).

321. 322. The authority was also able to provide timely information in response to requests received. The average turnaround time to attend to such requests was three days to a week.

321. 323. Generally, the authorities did not provide any recorded cases of international co-operation for AML/CFT purposes.

iv. *iv.* *Insurance Regulatory Authority*

321. 324. The IRA has not received any requests for information from its foreign counterparts. However, it has guidelines on the turnaround period of requests for information which specify an average of one to two days.

v. *v.* *Capital Markets Authority*

325. 325. The CMA has entered into MoUs with other domestic competent authorities, such as the BoU, IRA to facilitate exchange of information and according to it, this has helped it to attend to foreign requests as it can quickly get the information pertaining to a particular request. It indicated that the kind of requests it receives are to do with companies which want to do dual listing and they mostly confirm the information requested with the police and the regulator involved before sending it out. The CMA could not give the number of requests it has received, although it confirmed that some of them relate to ML and the turnaround time to attend to the requests was about 2 days, if the information was within the CMA.

e. *e) International exchange of basic and beneficial ownership information of legal persons and arrangements*

i. *i.* *Uganda Registration Services Bureau*

325. 326. The URSB reported that there are a few instances when it has received foreign requests (telephonically and by email) for company information held in its database and that it has been able to provide such information timely.

325. 327. The URSB was, however, unable to provide statistics on requests received and the nature of the requests made.

328. The URSB has not made requests for information from foreign counterparts.

f) Conclusions on Immediate Outcome 2

329. 329. Uganda does not have a framework to properly administer MLA requests. The practice which is in existence does not allow determination of how effective the system is as there is no detailed statistics available. The information available does not make it possible to determine whether the authorities are able to provide constructive assistance in a timely manner. The information provided by the authorities does not enable categorisation of the kind of assistance requested from the authorities, in terms of whether it was on gathering of evidence, exhibits, freezing, seizing or confiscation and the kind of offences the requests related to. Of the ten requests made by the authorities, there was no information on the kind of assistance requested and the offences suspected to have been committed. Of the requests received, again there was no information on what the requests related to, the quality of assistance provided and the turnaround time of attending to the requests. The Ugandan authorities should have a

legal framework which provides for the formal appointment of a Central Authority to deal with MLA matters as the current set-up is too fragmented to allow proper monitoring of MLA matters.

330. Uganda has achieved a ***low level of effectiveness*** for IO 2.

TECHNICAL COMPLIANCE ANNEX

INTRODUCTION

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations of Uganda in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2005. This report is available from *www.esaamlg.org*.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

At the time of the 1st Mutual Evaluation Report (MER), there was no requirement for a National Risk Assessment (NRA) or other risk related requirements set out in R. 1.

Obligations and decisions for countries

Risk assessment

Criterion 1.1– (Not Met) Uganda has not conducted any ML/TF national risk assessment and no specific sectoral risk assessments have been done.

Criterion 1.2 – (Not Met) Uganda has an Anti-Money Laundering Committee which is chaired by the Ministry of Finance but there is no formal arrangement which puts this Committee together. It consists of competent authorities and agencies on AML/CFT[15]. This has however not coordinated any efforts to assess ML/TF risks in Uganda and given the mixed levels of understanding of ML/TF risks including with some of the members of the Committee, it cannot be said the Committee is doing any work or has taken any steps to determine/assess the ML/TF risks of Uganda and neither can it be said it is one of its objectives as these are not set out in a formal document. Again there is no clear mandate designating the Committee as the authority to coordinate actions on assessment of ML/TF risks. The only few times that the Committee met and there were records to confirm the meetings, was when it met twice to prepare for the on-site visit by the assessors.

Criterion 1.3–(Not met) Uganda has not yet done ML/TF risk assessments which can be kept up-to-date.

Criterion 1.4-(Not met) Mechanisms to provide information on the results of risk assessment(s) to all relevant competent authorities and self-regulatory authorities, financial institutions and designated non-financial banking and professionals, have not been developed.

Risk mitigation

Criterion 1.5-(Not met) Uganda has not done a ML/TF risk assessment and the authorities have not illustrated understanding of their national risks. There is no indication that there is a framework to enable a risk based approach in allocation of resources and implementing measures to prevent or mitigate ML/TF risks by any of the designated institutions.

[15] See paragraph 110 of page 34.

Criterion 1.6–(Not applicable) The AML legal framework in Uganda allows the Minister, with the approval of Parliament to amend the list of accountable persons to the 2nd Schedule of the AMLA through a statutory instrument by deleting any person or category of persons not being used or not likely to be used in future for ML purposes (s. 139(2)(b) of the AMLA). Effectively this provides room for Uganda to use its discretion not to apply FATF Recommendations on FIs or DNFBPs in particular circumstances. However, the only challenge is that the provision does not outline the circumstances under which the Minister may make such a decision. Further, the AMLA gives the discretion to determine the extent of application of FATF Recommendations by FIs or DNFBPs (in particular CDD measures) to reporting entities to assess on a risk sensitive basis[16]. The discretion has not been used by any of the reporting entities.

Criterion 1.7-(Partially met) The AMLA requires that reporting entities apply customer due diligence on a risk sensitive basis and in particular for higher risk categories of customers, reporting entities are to perform an enhanced due diligence, [s. 6(e) of the AMLA].The authorities indicate that this information is required to be incorporated into their AML/CFT risk management policies. However, this is not backed by any legal obligation provided by the law. Reporting entities are also required to have appropriate risk management systems to determine whether a customer is a politically exposed person, [s. 6(g) of the AMLA]. Lastly, reporting entities are required to carry out a risk based assessment as may be prescribed by regulations made under the AMLA, [s. 21(p) of the AMLA]. The regulations to implement this provision have not been issued. The authorities did not give any examples of any overall risks which have been identified by the FIA, supervisors and regulators of reporting entities where these measures have been applied other than perhaps where PEPS are involved, although no specific cases were cited.

Criterion 1.8 - (Partially met) Reporting entities, in certain circumstances where there are low risks, may apply reduced or simplified measures, [s. 6(e) of the AMLA]. However, the application of this discretion will not be consistent with the country's assessment of its ML/TF risks as no risk assessment has been done. In addition, the offence of TF is not fully criminalized in terms of the Convention on TF to cover all risks.

Criterion 1.9 - (Not met) Included in the objectives establishing the FIA is the requirement to ensure compliance with the AMLA, [s. 19(b)]. The AMLA despite providing for functions of the FIA[17], it is not clear on whether it designates the FIA as the agency responsible for overall oversight on financial institutions and DNFBPs' compliance with obligations created under the AMLA and the extent such responsibilities would cover compliance with Recommendation 1. This is further complicated by the fact that the FIA is empowered to require reporting entities to carry out risk based assessment of their customers, [s. 21(p) of the AMLA] and the regulations to enable the FIA to implement such powers have not yet been issued to enable determination of what exactly would be covered under such powers. The FIAct and FI Act AML Regulations which empower the BoU to supervise financial institutions' implementation of some of the obligations under R. 1 do not cover TF and not all FIs under the supervision of the BoU are implementing these obligations. Agencies and SRBs responsible for regulating DNFBPs have not put in place measures to ensure that DNFBPs they regulate are implementing their obligations under R. 1 and some of them still have very limited understanding of these obligations. Both the supervisors and/or SRBs have not taken any action to ensure that the FIs and

[16] s. 6(e) of the AMLA

[17] ss. 20(1)(d) & 20(1)(h) of the AMLA

DNFBPs are forced to assess ML/TF risks, mitigate the identified risks and develop policies to manage the risks.

Obligations and Decisions for Financial Institutions and DNFBPS

Risk assessment

*Criterion 1.10 - (Not met)*The legal framework of Uganda does not require reporting entities to take appropriate steps to identify, assess and understand their ML/TF risks, including documenting their risk assessments, considering all relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to apply, keeping the assessments up to date and have appropriate mechanisms to provide risk assessment information to competent authorities and SRBs.

*Criterion 1.11- (Not met)*The AML legal framework of Uganda does not have explicit provisions requiring reporting entities to have policies, controls and procedures approved by senior management to enable them to manage and mitigate the risks that have been identified, neither is there an obligation to monitor implementation of the controls and enhance them, if necessary. Measures to manage and mitigate the risks where higher risks are identified are partially addressed under ss. 6(e)(i), (f), (g), (h) and (i) of the AMLA.

Criterion 1.12- (Partially Met) The AMLA allows reporting entities the discretion to apply reduced or simplified measures, where there is low risk [6(e)(ii) of the AMLA]. The law does not, however sufficiently define the parameters for the application of this discretion. AMLA regulations, which could help clarify the parameters, have not yet been issued.

Weighting and Conclusion

Most of the criteria under this recommendation are not met, with 1.6 largely met and only a few being partially met. Uganda has not done a risk assessment to identify its ML/TF risks at national or sectoral level, where possible and the institutional framework is still of limited capacity to coordinate and assess ML/TF risks. There is no evidence that allocation of resources is based on an understanding of the ML/TF risks identified. In addition, there is no requirement for financial institutions and DNFBPs to carry out ML/TF risk assessment, develop and implement measures to mitigate and manage the identified risks. The absence of a national risk assessment negatively affects compliance with the whole criteria. **Uganda is rated *non-compliant* with R. 1.**

Recommendation 2 - National Cooperation and Coordination

In the 1st Round of Mutual Evaluations, Uganda was rated non-compliant on the requirements of this Recommendation (pages 50-51). The main deficiencies cited by the assessors included lack of national co-operation in AML/CFT matters and there being no evidence of cooperation or coordination at higher policy level. Uganda did not have legislation on AML at the time, a situation which has changed with the enactment of the AMLA but domestic cooperation and coordination is still poor.

*Criterion 2.1–(Not met)*Although there is a National AML Policy developed in 2002, the Policy was/is not informed by identified ML risks since the country has not yet carried out a national ML/TF risk assessment. In addition, the Policy has not been reviewed to incorporate changing threats and vulnerabilities over the years. Furthermore, Uganda does not have a CFT Policy.

Criterion 2.2–(Met) The Minister of Finance is responsible for national AML/CFT policies and has put in place a multi-agency committee (Uganda Anti-Money Laundering Committee) to coordinate AML/CFT activities.

Criterion 2.3 – (Partially met) The Uganda Anti-Money Laundering Committee is cited as the mechanism through which Uganda coordinates and develops its AML/CFT policies but its level of cooperation in influencing the development and implementation of AML/CFT policies and activities in Uganda is still very low. It should also be mentioned that the AML Policy which is meant to drive the main activities of the Committee is outdated as it was done in 2002 and has not been revised. The policy also does not spell out the Terms of Reference of the Committee.

Criterion 2.4-(Not met) Uganda has indicated that it has got no threats of financing of proliferation of weapons of mass destruction therefore this criterion is non-applicable to it. In the absence of a NRA to determine amongst other threats, the threat posed by PF, it is not clear what has informed the authorities to make this conclusion. In addition the assessors are of the view that the authorities might be misunderstanding and underestimating the scope of the threats posed by PF, particularly for the financial sector which currently is not as regulated as it should be.

Weighting and Conclusion

Although there is an AML/CFT Committee to coordinate AML/CFT activities, the activities are not informed by identified ML/TF risks and are not regularly updated to be consistent with the identified risks. There are no policies which have been developed pursuant to identified ML/TF risks as there has not been any kind of risk assessment. There is no framework in place to deal with coordination on proliferation issues and the extent of the risk to proliferation has not been determined to enable categorisation of the sector as high risk or low risk, and determine whether it might require prioritisation.

Uganda is rated *partially compliant* with R.2.

Recommendation 3 - Money laundering offence

In the last assessment Uganda was rated non-compliant on the requirements to this Recommendation (pages 19-20). The main technical deficiency was that Uganda had not criminalised the offence of ML, a situation the authorities addressed by enacting the AMLA in 2013. Although, some concerns have been raised with the new law it meets most of the requirements of R. 3.

Criterion 3.1- (Partially met) The Anti-Money Laundering Act criminalises money laundering pursuant to Article 3(1)(b) and (c) of the Vienna Convention, 1988 and Article 6(1) of Palermo Convention. However, the Act has sections 3 and 116[18] providing for the criminalization of money laundering, with both sections providing a different standard of proof.

18The explanations given by the FIA and DPP's Office as to why there were two sections (ss. 3 & 116) in the AMLA both criminalising the same conduct ML but both with a different standard of proof, were not consistent. Whilst the FIA acknowledged this as a mistake which would need to be addressed when the Act is amended, the DPP's Office was of the view that it could use both sections to charge an accused for the same conduct as sectio n 116 did not provide the element of intention (however the assessment of the assessors is that offences created under this section are complete offences). When asked by the assessors to elaborate on how the charge would then be framed, the assessors could not get a clear answer which is further complicated by the fact that no one has yet been charged under the

Act with the offence of ML. The assessors agree with the FIA's view that this is a mistake which has to be rectified when the Act is amended. (Also see recommendations to IO 7).

Criterion 3.2–(Largely met) Uganda has adopted an all crimes approach. However, the offence of illicit trafficking in narcotics and psychotropic substances is not criminalised as a predicate offence for money laundering.

Criterion 3.3–(Met) Uganda has adopted an all crimes approach.

Criterion 3.4–(Largely met) The offence of ML extends to all types of property, which directly or indirectly represents proceeds of crime, regardless of the value, [s. 3 as read with s. 1 of the AMLA].

Criterion 3.5–(Met) The Ugandan law does not require that when proving that the property is proceeds of crime, it be necessary that the person be convicted of a predicate offence, [s. 5 of the AMLA].

Criterion 3.6–(Met) The scope of predicate offences for money laundering in Uganda extends to conduct that occurred in another jurisdiction, which constitutes a crime under the laws of Uganda, [ss.1 and 2 of the AMLA].

Criterion 3.7-(Met) The ML offence in Uganda also applies to people who will have committed the predicate offence, (s. 5(a) of the AMLA).

Criterion 3.8–(Largely met) The intent and knowledge of a money laundering offence can be inferred from objective factual circumstances, [s. 4 of the AMLA). However, this provision appears to be limited to money laundering as criminalised under Part II not as criminalised under Part VII (refer to observations made under criterion 3.1, above covering intention).

*Criterion 3.9-(Met)*The sanctions for the commission of offences provided under ss. 3 and 116 relating to a natural person which include a term of imprisonment not exceeding 15 years or a fine not exceeding 100 000 currency points or both are sufficiently proportionate and dissuasive (s.136(1)(a) of the AMLA).

Criterion 3.10 - (Met) Under Ugandan law, the definition of person includes both natural and legal person, [s. 1 of the AMLA]. Legal persons are therefore criminally liable under the AMLA and the sanction of a fine not exceeding 200 000 currency points (s. 136(1)(b) of the AMLA) is proportionate and dissuasive. The AMLA does not however provide for civil or administrative sanctions.

Criterion 3.11–(Met) A full range of ancillary offences to the money laundering offence are covered. These include participation in, association with or conspiracy to commit, attempt to commit, aiding and abetting or facilitating and counselling commission of any of the offences criminalised under ss. 3 and 116 of the AMLA, [ss. 3(g) and 116(g) of the AMLA]. The sanctions are the same as for the offence of ML.

Weighting and Conclusion

There are two sections that are criminalising the offence of ML (Sections 3 and 116) but both with a different standard of proof. This is a major deficiency due to the confusion it brings as to which section will be preferred and why, which brings adequacy for the criminalisation of the offence under the two sections into question. The offence of illicit trafficking in narcotics and psychotropic substances is not criminalised as a predicate offence for purposes of ML. **Uganda is rated *partially compliant* with R. 3.**

Recommendation 4 - Confiscation and provisional measures

When Uganda was last evaluated in 2007, it was rated non-compliant on this Recommendation, (pages 21-22). The deficiencies related to the absence of an overall AML/CFT confiscation legislation, scope of

property subject to confiscation being limited, absence of procedures enabling tracing and identification of proceeds of crime, absence of protection of bona fide 3rd parties and poor effectiveness.

Criterion 4.1–(Partially met) Uganda is able to confiscate tainted property which is defined as property used in or in connection with crime or constituting proceeds of crime, [ss. 1 & 86 of the AMLA]. It is not clear however, whether tainted property covers instrumentalities intended to be used in the commission of a money laundering or predicate offence. Also, the factors listed under s. 86(4)(b) & (c) of the AMLA to be considered by the court when considering whether to issue a confiscation order or not, are more to do with factors dealing with aggravation to sentencing than factors to be considered in a confiscation application. The AMLA also allows for confiscation of property of corresponding value, [s. 91 of the AMLA]. The provision on confiscation of funds/property relating to the offence of TF now provided in s. 4 [para. 17B (1)] of the amendments to the ATA, 2015 do not cover confiscation of funds/property that is proceeds of, intended or allocated for use in, it only covers one element of the criterion which is funds/property used to commit the offence. This provision is also in direct conflict with s. 3 [para. 9A(2)] of the amended ATA, 2015 which provides for the offence of TF being committed regardless of whether the funds are actually used to commit an offence or not, and regardless of whether the funds are linked to a specific act of terrorism or not.

*Criterion 4.2–(Largely met)*The AMLA provides for search and seizure of tainted property [s. 61(2) of the AMLA], seizure to prevent concealment, loss or destruction of property [s. 67 of the AMLA], application for a restraining order to prohibit any person from disposing of or otherwise dealing with property specified in the order [s. 73], and setting aside by court any conveyance or transfer of property that occurred after the seizure of property or service of restraining order [s. 88 of the AMLA]. However, the latter section does not cover measures which enable competent authorities to prevent actions that would prejudice Uganda's ability to freeze or recover property that is the subject of confiscation.

Criterion 4.3–(Met) Uganda's AML regime provides for protection of the rights of bona fide third parties,
[s. 89 of the AMLA].

Criterion 4.4–(Not met) In terms of section 104 of the AMLA, the Minister is empowered to make regulations that enable management of restrained or confiscated property [s. 104 of the AMLA]. The regulations have however not been issued.

Weighting and Conclusion

Although, Uganda is still to develop regulations to enable implementation of some of the provisions of the AMLA, the current provisions of the Act meet majority of the criteria to this recommendation.
Uganda is rated *largely compliant* with R.4.

Recommendation 5 - Terrorist financing offence

In the 1st Round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main deficiencies included, TF not being a predicate offence for ML as the ML offence had not yet been criminalised and the other deficiencies related to effectiveness.

Criterion 5.1–(Partially met) Criminalisation of TF in Uganda is not consistent with Article 2 of the International Convention for the Suppression of the Financing of Terrorism (TF Convention). Uganda has not ratified two of the treaties[19] listed in the annex to the Convention.

Furthermore, Section 7(2)(y) of the Anti-Terrorism (Amendment) Act, fails to criminalise the financing of acts listed in the annex to the TF Convention which are not carried out with the specific intent set out in the language of Section 7(2) of the same Act. Specifically, in s. 7 (2) (a)-(y) criminalises numerous terrorist acts, including, in subsection 2(y), "any act that constitutes a crime in accordance with agreements, protocols and treaties described in the annex to the International Convention for the Suppression of the Financing of Terrorism, 1999." However, s. 7 (2) (a)-(y) are subordinate to the language in s. 7(2) of the Act. Thus, the various offences described in s.7 (2) (a)-(y) are only offences in Uganda to the extent that they are committed "...for purposes of influencing the Government or an international organization or intimidating the public or a section of the public and for a political, religious, social or economic aim, indiscriminately without due regard to the safety of others or property..." By placing the offences in subsection 2(y) last, as a sub-part of s.7(2), and not as a separate clause (e.g. as a new s.7(3)), Uganda has essentially merged the separate and distinct requirements of Article 2 of the TF Convention, and fails to fully meet the requirements of R.5.1.

Criterion 5.2 - (Not met)[20] R. 5.2 require the scope of a TF offence to cover the acts of willful provision or collection of funds with the unlawful intention that the funds be used or with the knowledge that they will be used in full or in part: i) to carry out a terrorist act, or ii) by a terrorist organisation, or iii) by an individual terrorist (even where there is no link to a specific terrorist act) to be complete offences on their own[21]. S. 9A(1) of the Anti-Terrorism (Amendment) Act of 2015 does not meet this standard. It reads,"*(1) A person who willingly collects or provides funds, directly or indirectly, by any means, with the intention that such funds will be used, or in the knowledge that such funds are to be used, in full or in part, by a person or a terrorist organisation, to carry out a terrorist act, commits an offence*". In terms of this section, the offence is committed when a person wilfully collects or provides funds with the unlawful intention that they be used or with the knowledge that the funds will be used in full or in part by a person or a terrorist organisation to carry out a terrorist act. The intention or knowledge that the funds provided or collected will be used by the other person or terrorist organisation to carry out a terrorist act becomes a prerequisite to be proved regardless of whether the actual terrorist act later takes place or not. This becomes a deficiency as the offence of collecting or providing funds with the intention or knowledge that they will be used to commit a terrorist act is supposed to be a complete offence on its own in terms of the FATF standard, similarly with collecting or providing the funds knowing or having the intention that they will be used by a terrorist organisation; or by an individual terrorist being two separate complete offences on their own. The latter does not require that the intention by either the terrorist organisation; or by an individual terrorist to use the funds *to commit a terrorist act* be always present when the funds are provided by the financier or the person providing the funds as required under this section of the Ugandan law. Therefore, the way this section is drafted results in the following deficiencies: a) providing or collecting funds with the knowledge or intention that they will be used to commit a terrorist act is not criminalised; b) mere provision or collection of funds with the knowledge or intention that they will be used by a terrorist organisation; or an individual terrorist (without the qualification/requirement that the

[19] a) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; b) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

[20] The requirements of the criterion and interpretative note have been deliberately included in the analyses just to lay down the assessors' understanding of the requirements to this criterion as this particular section under the Ugandan law developed a lot of debate amongst the assessors in order to understand what it was criminalising.

[21] Also, explained under the Interpretative Note to R. 5.

intention will be for the funds to be used to carry out a terrorist act) is not criminalised; and c) the use of the word "person" misses the intention of the FATF to criminalise the specific act of providing or collecting funds with the knowledge or intention that the funds be used by an "individual terrorist" not just by any person as understood in terms of legal interpretation. Under the circumstances, the criminalisation of TF under this section is inconsistent with the requirements of R.5.2.

Criterion 5.3 - (Met) The definition of funds now provided under section 2 of the Anti-Terrorism Act as amended is broad enough to cover funds however acquired.

*Criterion 5.4- (Partially met)*S. 3 [para. 9A(2)& (3)] of the amendments to the ATA provides for the offence of TF being committed without requiring the funds to have been actually used to carry out or being linked to a specific terrorist act but does not cover an attempt to carry out a TF offence.

Criterion 5.5-(Not met) There is no section that provides for intent and knowledge to be inferred from objective factual circumstances.

*Criterion 5.6 - (Partially Met)*The non-criminalisation of "carrying out a terrorist act; by an individual terrorist; or terrorist organisation" has a knock-on effect on the overall application of proportionate and dissuasive sanctions to the offence of TF as the three components making up the offence are not criminalised.

Criterion 5.7 - (Not met) The penalty provision to the offence of TF provided in s. 3 [para. 9A(4)] of the amendments to the ATA Act, which reads, "*(4) A person who commits an offence under this section is on conviction, liable to imprisonment for twenty years or to a fine not exceeding five hundred currency points,* ***or both****"*excludes legal persons as they are not subject to a custodial sentence.

Criterion 5.8 - (Partially met) S. 24 of the main Anti-Terrorism Act criminalises attempts to commit an offence in terms of that Act. S. 26 of the same Act criminalises commanding of another person to commit an offence under that Act. The Anti-Terrorism Act, does not however criminalise participation as an accomplice in a TF offence or contribution to the commission of one or more TF offences or attempted offences by a group of persons acting in consent.

Criterion 5.9 - (Met) Uganda uses an all crimes approach for predicate offences to ML.

Criterion 5.10 - (Met) S.4 of the main Anti-Terrorism Act provides for extra-territorial jurisdiction for offences criminalised under that Act.

Weighting and Conclusion

Section 9A(1) of the Anti-Terrorism (Amendment) Act does not criminalise TF consistent with the requirements of the FATF standards and this is a major deficiency to this Recommendation. Two of the treaties to the Suppression of Financing of Terrorism Convention, 1999 have not yet been domesticated in Uganda. Some of the activities required to be criminalised under TF such as participation as an accomplice in a TF offence or attempted offence and contributing to the commission of one or more TF offences or attempted offences committed by a group of persons acting with a common purpose are not criminalised and non-provision of sanctions for legal persons under the offence of TF, create major deficiencies regarding compliance with this Recommendation. **Uganda is rated *Non-compliant* with R.**
5.

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

In the 1st Round of MEs, Uganda was rated non-compliant on the requirements of this Recommendation. The major deficiencies related to the insufficient definition of "funds" in terms of TF Convention, absence of informing the FIs of their obligations and no procedures to safe guard the interests of bona fide 3rd parties as well as access to frozen funds. Most of these deficiencies have not yet been addressed.

Criterion 6.1-6.7(All criterion not met) Uganda has not put in place a legal framework to enable implementation of targeted financial sanctions relating to terrorism and terrorist financing.

Weighting and Conclusion

Uganda still has to put in place a legal framework which is consistent with the requirements of R. 6 to enable implementation of the targeted financial sanctions relating to terrorism and financing of terrorism. Currently, there is no provision under the Anti-Terrorism Act 2002 as amended to authorise the Minister to implement requirements of R. 6.**Uganda is rated *non-compliant* with R.6.**

Recommendation 7 – Targeted financial sanctions related to proliferation

These requirements were not assessed on Uganda during the last round of MEs as they were added to the FATF Recommendations when they were revised in 2012.

Criterion 7.1 – 5–(Not Met) Uganda has not put in place a legal framework to implement targeted financial sanctions related to proliferation financing or to prevent proliferation financing.

Weighting and Conclusion

There is no law authorising promulgation of regulations to implement UN Security Council Resolutions under Chapter VII or Article 41 of the UN Charter. **Uganda is rated *non-compliant* with R. 7.**

Recommendation 8-Non-profit organisations

Uganda was rated partially compliant with this Recommendation in the 1st Round of MEs on the basis that although there was a legal framework in place for registering NPOs, the system was under resourced and did not serve the function effectively.

Criterion 8.1-(Partially met) The NPO sector is regulated in terms of the Non-Governmental Organisations Act Cap 113 as amended in 2006 and the NGO Registration Regulations, SI 113-1, 1990. Currently, there is a Bill[22] – however, none of the provisions of the current Act and the Bill are relevant for the implementation of FATF Recommendation 8.Whilst there are laws governing the NPO sector in Uganda, the laws do not necessarily provide for the prevention of NPOs from abuse for purposes of financing terrorism and have not been specifically reviewed to provide for this purpose. No TF risk assessment has been done in the sector to assess which NPOs are more vulnerable to TF abuse and the kind of preventive measures which need to be taken in terms of guidance to the identified NPOs and if necessary to other NPOs to avoid exposing themselves to TF risks. The capacity of the NGO Board does not enable it to do periodic reviews and continuous monitoring of the sector to know which NPOs face a high risk of being exposed to TF risks. In addition to that despite the categorisation of the NPOs provided

22 Non-Governmental Organisations (NGO) Bill, 2015.

by the NGO Board, the Board is not in a capacity to verify the information supporting the categorisation and to obtain the information it might need timeously to enable it to verify the work the NPOs are doing, their sizes and use that information to determine which ones of the NPOs could be exposed to TF risks. The Regulations provide obligations for the NPOs (Reg. 12), instructions on how they should carry out their business operations including depositing of convertible foreign currency they receive (Reg. 14), filing of returns annually with the Board, providing information on estimates of its income and expenditure for approval and submit to the Board information it may consider from time to time to be in the public interest (Reg. 15). As already mentioned, these measures do not deal with issues of TF and the NGO Board has not implemented any of these requirements relating them to TF risks based on the activities of the NPOs.

Criterion 8.2-(Not met) The NGO Board has not conducted awareness to the NPO sector on TF risks. The Board has not provided or issued any information relating to TF risks or terrorism to the NPO sector. It does not have the capacity to do so given its size and still the limited knowledge by the Board itself on the TF risks that the NPO sector might be exposed to.

*Criterion 8.3- (Not met)*The assessment team was not provided with any policies to enable it to determine whether the country has policies which serve to promote transparency, integrity and public confidence in the administration and management of the NPO sector in Uganda. The NGO Board which is responsible for regulating the NPO sector did not provide the assessment team with any guidance it has issued to the NPO sector, particularly relating to TF.

Criterion 8.4 - (Partially met) Based on the shortcomings described in criterion 8.1, it was not possible to establish which NPOs account for: a) a significant portion of the financial resources under the control of the sector, and b) which ones have significant control of the sector's international activities. As a result such NPOs are not identified in order to determine whether they maintain information on the purpose and objectives of their pronounced activities, issue annual statements describing breakdowns of their income and expenditure, be licensed and registered, have controls in place to ensure that all the funds they receive are accounted for and are used consistent with the purpose and the objectives of the NPO's stated activities, maintain records of domestic and international transactions which are made available to competent authorities upon appropriate authority and follow a know your beneficiaries and associated NPOs rule. Following are the general requirements set out for NPOs under the laws of Uganda: the Application for registration form provided under the Regulations requires the applicants to provide information on the objectives of the organisation; names, occupations and addresses of the officers to run the activities of the organisation. However, there is no provision requiring this information to be made available to competent authorities upon appropriate authority, although NPOs are obligated to make available such information to competent authorities as accountable persons under the AMLA. Regulation 15(a) requires the organisation to provide the authorities in the area it is operating from with estimates of its income and expenditure for consideration and approval which are not necessarily financial statements providing detailed breakdowns on income and expenditure of the organisation. It was not explained to the assessors by the NGO Board what controls the NPOs have in place to ensure that organisations account for all the funds received by them to have been used for activities consistent with their outlined objectives. NPOs are required to be registered and have a registration certificate in order to operate in Uganda and if the organisation is affiliated to another organisation which is registered under the laws of Uganda, it may not operate in Uganda unless if it is itself registered to operate in Uganda but there is no *a know your beneficiaries policy*. The Non-Governmental Organisations Act Chap 113 as amended in 2006

and the NGO Registration Regulations, SI 113-1, 1990 do not have record keeping requirements for NPOs but under s. 7 of the AMLA, NPOs as reporting entities on AML/CFT are required to keep documents for at least 10 years. However, the NGO Board does not use this information to determine which NPOs fall into the two categories under this criterion and such NPOs, once identified, to be required to maintain the information described in this criterion.

Criterion8.5-(Not met) The NGO Board has got no capacity to monitor the compliance of NPOs with the requirements under *Criterion 8.4*.The NGO Board as it is, is overwhelmed to ensure that the NPOs comply with the requirements of the Non-Governmental Organisations Act Chap 113 as amended in 2006 without adding the requirements set out in Criterion 8.4. Sanctions prescribed in the Non-Governmental Organisations Act Chap 113 as amended in 2006[23], of a fine or of less than one year imprisonment or both are not dissuasive, effective or proportionate enough and are not related in any way to TF.

*Criterion 8.6 - (Not met)*Although, the NGO Registration Regulations require that the organisation provide the authorities with such information that they may consider from time to time to be in the public interest, this information does not relate to TF. Further, there was no indication that there is domestic cooperation and sharing of information among organisations that hold important information on NPOs as well as access to information on the management of some of the organisations particularly for assessment of TF risks. There is no indication that information is gathered pertaining to NPOs where there is suspicion that an organisation is being abused for purposes of financing terrorism, e.g. serving as a front for fundraising, or serving as a conduit for TF, and that, where such information is gathered it is shared promptly with competent authorities to enable preventive measures or investigative action to be taken.

Criterion 8.7-(Not met) There are no appropriate points of contact and procedures which were identified by the authorities to the assessors as dealing with international requests for information sharing regarding specific NPOs which might be suspected of TF or other forms of terrorist support. The NPO Board is not yet dealing with any issues pertaining to TF relating to the NPO sector in Uganda.

Weighting and Conclusion

The NPO sector in Uganda is still not supported by adequate legal framework to deal with issues of TF. The current requirements regulating the NPO sector do not deal with TF or the TF risks associated with the NPO sector. There is no TF risk assessment which has been done in the sector to determine which NPOs are vulnerable to TF risks and consistent with that, no guidance has been given to such NPOs on how to deal with the TF risks they are exposed to. NPOs are not obligated to submit financial statements breaking down the NPO's income and expenditure. The NGO Board has not engaged the NPO sector to raise awareness with them on TF matters and the NGO Board itself is not exposed to the kind of TF risks which some of the NPOs could be vulnerable to. Currently, the NGO Board does not have the capacity to carry out most of its functions and there is no proper coordination and administration of TF information related to the NPO sector. **Uganda is rated *non-compliant with R. 8*.**

23 s. 4(6) Non-Governmental Organisations (Amendment) Act 2005

PREVENTIVE MEASURES

Recommendation 9 – Financial institution secrecy laws

In the 1stRound of MEs, Uganda was rated compliant with the requirements of this Recommendation.

Criterion 9.1 - (Met) Financial institution secrecy laws do not appear to inhibit the implementation of AML/CFT measures. In terms of section 14(1) of the AMLA, no bank or professional secrecy, confidentiality or any other restrictions on the disclosure of information, whether imposed by law or any agreement shall affect any obligation under the AMLA to report or furnish information.

Weighting and Conclusion: **Uganda is rated *Compliant* with R. 9.**

Recommendation 10 – Customer due diligence

In the last assessment under the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The assessment was carried out based on the Financial Institutions Act, 2004 which was limited to institutions under the supervision of BoU. In addition, the CDD measures did not cover all the criteria of the Recommendation at that time. An Anti-Money Laundering Act was passed in 2013 which covers all financial institutions. Therefore, in considering compliance with Rec 10, no reliance was placed on the previous assessment.

*Criterion 10.1–(Met)*Financial institutions are required in terms of s. 6(a) of the AMLA to maintain accounts of clients or customers and such accounts should contain the true name of the account holder, and financial institutions should not open or keep anonymous accounts or accounts which are fictitious or in incorrect names.

Criterion 10.2 - (Met) Section 6(b) of the AMLA requires financial institutions to conduct CDD before initiating a business relationship or carrying out an occasional transaction or conducting a wire transfer. Financial institutions are also required to carry out enhanced CDD to determine the true identity of the client if there is a suspicion of ML or TF, [s. 6(f)(iii) of the AMLA], or if there are any doubts about the veracity or adequacy of obtained customer identification data, [s.6(f)(ii) of the AMLA].

*Criterion 10.3 –(Met)*Section 6(b) and (c) of the AMLA requires financial institutions to conduct CDD before initiating a business relationship or carrying out an occasional transaction which includes verifying the identity of the client by using reliable independent source documents, data or information.

Criterion 10.4 – (Met) Section 6(b)(iii) and (iv) of the AMLA requires financial institutions to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person.

Criterion 10.5 - (Not met) Section 6(c)(ii) and 6(d) of the AMLA require financial institutions to verify the identity of the beneficial owner of the account. The definition of beneficial owner as per the AMLA is however not consistent nor in line with the FATF definition as it includes legal person, charitable organisation, natural or juridical including corporations, partnership, trust, estate, joint stock company and others, and not only the natural persons who ultimately owns or controls a customer and/or a natural person on whose behalf a transaction is being conducted as defined under the FATF Standards.

Criterion 10.6 – (Partially met) Section 6(c)(iii) of the AMLA requires financial institutions to obtain information on the purpose and intended nature of the business relationship. There is however no explicit

requirement for financial institutions to understand the intended nature and purpose of the business relationship.

Criterion 10.7 – (Partially met) Section 6(c)(iv) of the AMLA requires financial institutions to conduct on-going CDD on the business relationship and scrutiny of transactions undertaken throughout the relationship to ensure that the transactions are consistent with the reporting entity's knowledge of the customer and the customer's business, including where necessary the source of funds. There is however a deficiency as the requirement of criterion 10.7(b) requiring financial institutions to conduct ongoing due diligence on the business relationship to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers is not provided for in the AMLA.

Criterion 10.8 – (Met) Section 6(c)(ii) and 6(c)(iii) of the AMLA requires financial institutions to obtain information in the case of legal person or arrangement, on the purpose and intended nature of the business relationship, including taking reasonable measures to understand the ownership and control and structure.

*Criterion 10.9–(Partially met)*Section 6(c)(i) and 6(c)(ii) of the AMLA includes due diligence measures to verify the customers identity using reliable and independent source documents, data and information, inclusive of partnership contracts, incorporation documents, documents providing convincing evidence of legal existence and the powers of legal representatives. However, there is no explicit provision requiring the financial institution to identify the address of the registered office and if different, a principal place of business.

Criterion 10.10-(Not met) Section 6(c)(ii) of the AMLA requires financial institutions to verify the identity of the beneficial owner of the account. However, the section does not include any of the three ways mentioned in 10.10 through which the financial institution should verify the identity of a beneficial owner of a customer who is a legal person. Further, the definition of beneficial owner as per the AMLA is inconsistent with the FATF definition provided in the FATF Glossary, as it does not contain any reference to the natural person(s) who ultimately owns or controls a customer.

Criterion 10.11–(Not met) Section 6(c)(ii) of the AMLA requires financial institutions to verify the identity of the beneficial owner of the account. The section does not mention the 2 ways through which a beneficial owner of a legal arrangement can be verified as set out in this criterion. Further, as described above, the definition of beneficial owner as per the AMLA is not consistent with the FATF definition.

Criterion 10.12–(Not met) The AMLA does not have specific provisions to satisfy criterion 10.12 relating to customer due diligence for beneficiaries of life insurance policies and other investment related insurance policies.

*Criterion 10.13–(Not met)*The AMLA does not have specific provisions to satisfy criterion 10.13 requiring financial institutions to include the beneficiary of a life insurance policy as a relevant risk factor when determining whether enhanced CDD measures are applicable or not.

Criterion 10.14-(Partially met) Section 6(d) of the AMLA requires financial institutions to verify the identity of the customer and beneficial owner before or during the course of establishing the business relationship or conducting an occasional transaction, and complete verification as soon as reasonably practicable where the ML risks are effectively managed and where it is essential not to interrupt the normal conduct of business. There is no similar provision for TF risks.

Criterion 10.15-(Partially met) Although, section 6(e) of the AMLA requires financial institutions to apply CDD measures and determine the extent of such measures on a risk sensitive basis depending on

the type of customer, business relationship or transaction, it does not specifically address the obligation of risk management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification.

Criterion 10.16- (Met) Section 6(j) of the AMLA requires reporting entities to apply CDD measures set out under s. 6 of the Act to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times. It however does not require financial institutions to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Criterion 10.17-(Met) Section 6(e) of the AMLA requires financial institutions to perform enhanced CDD for higher risk categories of customers, business relationship or transactions.

*Criterion 10.18-(Met)*Section 6(e)(ii)and 6(f) of the AMLA permits simplified CDD where lower risks have been identified and requires enhanced CDD whenever there is a suspicion of money laundering and terrorist financing. The section however does not specifically require an adequate analysis of the risks by the country or financial institution and it also does not prohibit simplified CDD measures whenever there is suspicion of ML/TF, or where specific high risk scenarios apply as required by this criterion.

Criterion 10.19 – (Met) Section 6(i) of the AMLA requires financial institutions not to open accounts, commence the business relationship, or conduct transaction; or to terminate a relationship and consider making a suspicious transaction report if unable to comply with the provisions of the section which include CDD requirements.

*Criterion 10.20 –(Not met)*There are no provisions under the Ugandan law dealing with Criterion 10.20 which requires financial institutions, where they reasonably believe that performing the CDD process will tip-off the customer, they should be permitted not to pursue the CDD process but instead be required to file an STR.

Weighting and Conclusion

All the required sectors are included within the scope of the legal framework. Several deficiencies have however been identified under Recommendation 10 including:

- The definition of beneficial owner as per the AMLA is not aligned nor is it consistent with that of the FATF. As a result inadequate measures exist to identify and verify the identity of beneficial owners. This is a material deficiency considering that money launderers would prefer to use other people or legal persons/arrangements in order to disguise true ownership;
- No legal provisions exist permitting financial institutions not to pursue the CDD process where a suspicion of ML/TF exists or where they reasonably believe that performing the CDD process will tip off the client, but rather requiring the financial institution to file an STR;
- No legal provision exist dealing with CDD for the beneficiaries of life insurance policies;
- No explicit requirement for financial institutions to understand the intended nature and purpose of the business relationship;
- There is no explicit provision requiring the financial institution to identify the address of registered office and if different, a principal place of business.
- There is no requirement for financial institutions to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained; and

- There is no requirement for financial institutions or the country to perform an adequate analysis of the risks and there is also no prohibition to apply simplified CDD measures whenever there is suspicion of ML/TF, or where specific high risk scenarios apply.

Uganda is rated *partially compliant* with R. 10.

Recommendation 11 – Record keeping

In the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main deficiency was that not all financial institutions were covered by record keeping requirements.

Criterion 11.1–(Met) Financial institutions are required to maintain records for at least 10 years in terms of section 7(a) and (b) of the AMLA.

*Criterion 11.2–(Not met)*Financial institutions are required in terms of section 7(c) of the AMLA to keep all records obtained on customer identification, account files and business correspondence for at least 5 years after termination of the account as determined by the Minister. The provision does not extend to keeping records in relation to an occasional transaction and records of results of any analysis undertaken and does not create a direct obligation until such time the Minister has made the required determination. At the time of the assessment, the Minister had not made the required determination.

*Criterion 11.3-(Partially met)*Financial institutions are required in terms of section 7(d) to establish and maintain records that enable reconstruction of individual transactions required to be reported under the AMLA. This provision, therefore, limits the obligation only to transactions that are reportable under the Act not to all transaction records.

Criterion 11.4–(Met) Financial institutions are required to promptly provide information requested by competent authorities in terms of s. 11(1) and 11(2) of the AMLA.

Weighting and Conclusion

Financial institutions are required to keep records of the transactions of their clients and of other identification information collected as part of the CDD process. The following deficiencies were however noted in assessing compliance with this recommendation, namely:

- Only records relating to reportable transactions are to be kept for the purpose of enabling reconstruction of transactions. This is not aligned to the FATF standards as information on all transactions should be kept to enable reconstruction;
- Financial institutions are not required to keep all records obtained on customer identification, account files and business correspondence for at least 5 years after termination of the account; and
- There is also no legal requirement to keep record of occasional transactions and any analysis conducted as part of CDD measures applied as required by the FATF standard.

Uganda is rated *non-compliant* with R.11.

Recommendation 12 – Politically exposed persons

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main reason was that PEPs were not factored in as a heightened risk and the Financial Institutions

had limited scope of coverage of reporting institutions. Uganda now has requirements relating to PEPs provided under s. 6(g) of the AMLA.

A PEP is defined as, "individuals who are or have been entrusted with prominent functions in a country, for example Head of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, and important party officials, as well as family members or close associates of such individuals".

Criterion 12.1-(Partially met) Under s. 6(g) of the AMLA, financial institutions are required to implement the elements of Recommendation 12 (risk management system, on-going monitoring, establishing source of funds and wealth, and senior management approval). The only exceptions observed are that section 6(g) does not require financial institutions to apply these measures on the beneficial owners and that the prescribed on-going monitoring should be enhanced as required by the FATF standards.

Criterion 12.2-(Partially met) In terms of s. 6(g) similar measures as listed in 12.1 above are applied to domestic PEPs as well. The only exception observed is that section 6(g) does not require financial institutions to apply these measures on the beneficial owners as required by the FATF standards and carry out enhanced on-going monitoring in cases of higher risk business relationship. Also, because of the reference made to "a country" in the provision and that the term "country" is not defined in the Act, assessors are of the view that application of section 6(g) of the AMLA is only limited to foreign PEPs and does not cover domestic PEPs.

Criterion 12.3. – (Partially met) The definition of PEPs in terms of the AMLA includes family members and close associates who are subject to the same measures as the PEPs themselves. However, the definition does not cover beneficial owners which greatly impacts on this criterion. Further, the law does not define who family members and close associates are.

Criterion 12.4 - (Not met) There are no provisions in terms of the AMLA or any other law dealing with the same measures relating to insurance policies beneficiaries.

Weighting and Conclusion

The requirements of R. 12 are mostly contained in section 6(g) of the AMLA, however the following deficiencies were identified:

- No legal obligations exist for financial institutions to take reasonable measures to determine whether beneficiaries and/or where required the beneficial owner of the beneficiary are PEPs;
- There is no clarity on the application of the AMLA requirements on domestic PEPs;
- No enhanced on-going monitoring is required; and
- The measures provided in relation to PEPs do not extend to beneficial owners as required by the FATF standards and as well as insurance policies beneficiaries. Failure to include beneficial owners in respect of PEPs is a material deficiency as PEPs would most likely prefer laundering proceeds of crime through other parties.

Uganda is rated *non-compliant* with R.12.

Recommendation 13 – Correspondent banking

In the 1st round of MEs, Uganda was rated non-compliant as it did not have any legal framework in place to deal with correspondent banking relationships.

Criteria 13.1 – (Met) Financial institutions are required in terms of s. 6(h)(i)-(iv) and 6(i)of the AMLA to gather information, assess AML/CFT controls, obtain senior management approval and understand the responsibilities in regards to the correspondent banking relationship(s).

*Criterion 13.2–(Met)*S. 6(h)(iv) of the AMLA requires financial institutions to satisfy themselves that the respondent bank has performed CDD measures on its customers that have direct access to the correspondent bank and that it is able to provide relevant customer identification data information upon request to the correspondent bank.

Criterion 13.3–(Met) In terms of s. 6(h)(v) of the AMLA, financial institutions are prohibited to enter into, or continue, a correspondent banking relationship with shell banks or a respondent institution which permits its accounts to be used by shell banks.

Weighting and Conclusion

The measures provided for by the AMLA on correspondent banking relationship are consistent with the FATF standard. **Uganda is rated *compliant* with R. 13**.

Recommendation 14 – Money or value transfer services

In the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main deficiency was that not all money remitters or foreign exchange dealers were subject to AML requirements due to a lack of enforcement efforts and legislative coverage for CFT.

Criterion 14.1-5 – (Partially met) Money remitters as a sub-category of MVTS providers in Uganda are licensed and supervised by the Bank of Uganda for compliance with the FI Act and Foreign Exchange Regulations, 2006. Mobile Money Service Providers are authorised as an extension of the services provided by commercial banks, however, no monitoring for compliance with the AMLA has been performed directly on Mobile Money Service Providers in Uganda.

There is no explicit legal provision for agents to be licensed or registered, nor is there an explicit legal provision that these agents should be included in the AML/CFT programmes of MVTS providers in order to be monitored by them for compliance with these programmes. MVTS, including their agents, are reporting entities in terms of the AMLA and therefore subject to the provisions of the AMLA. Enforcement action has been taken against MVTS operators which were operating without a license.

Weighting and Conclusion

MVTS are subject to the provisions of the AMLA, however in the absence of adequate monitoring on Mobile Money Service Providers (a sub category of MVTS) and the lack of explicit legal requirements for agents to be licensed or registered and included in the AML/CFT programmes of MVTS providers, not all the requirements under this recommendation have been met. Due to the risk inherent on the Mobile Money Service Providers, these deficiencies are considered significant. **Uganda is rated *partially compliant* with R.14.**

Recommendation 15 – New technologies

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that there was no requirement in place to address ML threats that could arise from new technologies. The deficiency has not been addressed.

Criterion 15.1-(Not met) Uganda has not carried out an ML/TF risk assessment associated with development of new products and new business practices, including new delivery mechanisms, and the use of new technologies for both new and existing products.

*Criterion 15.2-(Not met)*There are no provisions in law which require financial institutions to: (a) undertake risk assessments before they launch a product or use such products, practices technologies and delivery channels, and (b) take appropriate measures to manage and mitigate those risks.

Weighting and Conclusion

The requirements of R.15 regarding ML/TF risk from new technologies are not provided for under the AML/CFT legal framework of Uganda and no evidence of ML/TF risk assessments were observed.
Uganda is rated *non-compliant* with R. 15.

Recommendation 16 – Wire transfers

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that there is no regulatory framework for the inclusion by banks of originator information in wire transfers and related messages. The other deficiency related to effectiveness, which specifically highlighted the lack of monitoring and supervision by the BOU with regard to wire transfers. The AMLA has only introduced requirements for accurate originator information.

Criterion 16.1 – 18 Other than requiring financial institutions to include accurate originator information in all electronic funds transfers in terms of section 13(1) of the AMLA, which only addresses requirements of criterion 16(1)(a), no other specific legal provisions or requirements are provided for in regards to this recommendation under Ugandan law. In relation to criterion 16.1, the law does not define beneficiary and originator relating to wire transfers.

Weighting and Conclusion

The criteria under this recommendation in the majority are not met. The deficiencies are considered significant in relation to the overall recommendation. **Uganda is rated *non-compliant* with R. 16.**

Recommendation 17- Reliance on third parties

In the 1st round of MEs, Uganda was rated not applicable with the requirements of this Recommendation. The main reason for the rating was that intermediaries are not utilized to conduct CDD on behalf of Ugandan institutions.

Criterion 17.1-(Partially met) Section 6(n) of the AMLA in the absence of specific prohibition on the use of third parties, appears to allow the use of third parties as envisaged in R.17. The section makes reference to section 7 of the AMLA, which relates to obligations of reporting entities to keep records. Moreover, s.7 (a) is not specific on the information- it just mentions '*the true identity of the person on whose behalf a business relationship is initiated or a transaction is conducted'*. This does not cover all

elements of Recommendation 10 (a-c). There is no reference to identification of beneficial owner and the need to understand and obtain information on the purpose and intended nature of the relationship.

Criterion 17.2- (Not met) There is no provision in law which requires financial institutions to consider information on the level of country risk when determining in which countries the third party can be based.

Criterion17.3-(Not met) There is no legal provision which sets out requirements in respect of financial institutions which rely on third parties which are part of the same group.

Weighting and Conclusion

Due to the deficiencies on obtaining and verifying beneficial owners and PEPs, this criterion is not fully met. This also leaves out requirements of criterion 17.2 and 17.3, which ultimately leads to non-compliance with Recommendation 17.**Uganda is rated *non-compliant* with R. 17.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main deficiencies were that until the FIA regulations were promulgated, the internal procedures' requirements of the FI Act as read with AML Guidelines were not enforceable. Furthermore, the CFT was not addressed by the Guidelines or elsewhere. The requirements relating to foreign branches were rated non-applicable at the time as Ugandan banks did not have foreign branches or subsidiaries. Although, the AMLA was enacted in 2013, the regulations to implement it have still not been issued. TF is still not fully criminalised.

Criterion 18.1–(Partially met) Reporting entities are required in terms of s. 6(k) of the AMLA to implement:(i) internal policies, procedures and controls including compliance management arrangements, employee screening procedures; (ii) an on-going employee training programme; and (iii) an audit function to test the AML system and controls. AMLA s. 6(m), further requires the appointment of a Money Laundering Control Officer at managerial position to oversee the AML/CFT programme. Additionally, Section 61 of the Financial Institutions Act, 2004 requires financial institutions to have an audit function which is independent. The FI Act (Anti- Money Laundering) Regulations, 2010, although only focusing on AML and only applies to financial institutions subject to the supervision of the BoU, require all financial institutions to appoint a compliance officer at senior management level to oversee AML matters in the institution. There is however no requirement for financial institutions to consider ML/TF risks and the size of the business in the development of their AML/CFT programmes.

Criterion 18.2-18.3–(Not met) There are no specific legal or other requirements for financial groups to implement group-wide AML/CFT programmes and to ensure that AML/CFT measures in foreign branches or majority owned subsidiaries are implemented.

Weighting and Conclusion

Uganda has partially met 18.1. Requirements of criteria 18.2 -18.3 are not met. Financial institutions are not required to (a) consider ML/TF risks and the size of the business when developing their compliance programs. There are also no specific legal or other requirements for financial groups to implement group-wide AML/CFT programmes. These deficiencies are very fundamental to the implementation of an effective compliance program. **Uganda is rated *non-compliant* with R. 18.**

Recommendation 19 – High risk countries

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiencies were that Uganda had no requirement for special attention to be given to transactions/business relationships involving persons from countries that do not sufficiently apply the FATF Recommendations.

Criterion 19.1 -(Not met) Financial institutions are required under section 9(1)(e) of the AMLA to exercise vigilance with regard to transactions emanating from jurisdictions which do not impose sufficient obligations with regard to customer identification or the monitoring of transactions. These measures are however not consistent with the FATF standard in that there is no requirement for financial institutions to apply Enhanced CDD measures proportionate to the risks, to business relationships and transactions with natural persons and legal persons from countries for which this is called for by the FATF.

*Criterion 19.2-(Not met)*The law does not provide for application of countermeasures proportionate to the risks when called to do so by the FATF and independently of any call by the FATF.

Criterion 19.3-(Not met) There is no mechanism in place to ensure that financial institutions are advised of concerns about the weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

There are significant deficiencies in relation to the criteria for this recommendation. The law does not provide for application of countermeasures proportionate to the risks when called to do so by the FATF and independently of any call by the FATF. There is also no mechanism for financial institutions in Uganda to be advised of concerns about weaknesses in the AML/CFT systems of other countries.
Uganda is rated *non-compliant* with R. 19.

Recommendation 20 – Reporting of suspicious transactions

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that Uganda did not have a national center for receipt, analysis and dissemination of suspicious transactions. The AMLA, enacted in 2013 has provisions on the establishment of the FIA, which has since been set up and has already started to do some of the FIU functions.

Criterion 20.1 - (Partially met) Financial institutions are required in terms of section 9(1)(c) of the AMLA to report suspicious transactions to the Financial Intelligence Authority (FIA). The assessors note that this section requires the transaction to be reported to the Authority, on the form designated as Form B as ***may*** be appended to the regulations made by the Minister. Depending on the interpretation of this section, the implementation of this requirement may depend on the actual regulations to the AMLA being issued, which currently are not in place. However, this was not considered material in terms of assessing the technical compliance. Further, the assessors note that there is conflict between s. 9(1)(c) of the AMLA which requires financial institutions to report suspicious transactions to the FIA, and s. 130 of FI Act which require financial institutions to report suspicious transactions to law enforcement agencies copied to BoU, a provision which was not harmonised by the enactment of AMLA.

*Criterion 20.2 - (Not met)*Section 9(1)(d) of the AMLA, cited by the authorities of Uganda does not create an obligation for reporting entities to report suspicious transactions or attempted transactions but for them to provide any further information required by the FIA based on the initial report or information submitted by that particular reporting entity. There is no obligation created on financial institutions to

report attempted transactions. Due to the legal uncertainty as to the status of the provisions within the Financial Institutions Act, 2004 (s.129 and 130), doubt still exist if a national centre now exists as suspicious transaction reports may legally also be made to the respective law enforcement agencies and the regulatory bodies.

Weighting and Conclusion

Financial institutions are not required to report suspicious transactions promptly to the FIU. There is no obligation to report attempted transactions regardless of the amount of the transaction and there is uncertainty on whether there is a national centre to report STRs given the confusion created by having parallel AML provisions in the FI Act which are not consistent with those of the AMLA. The receiving by any other entity other than the FIA of STRs is contrary to the requirements of the FATF standard and is considered a significant weakness. **Uganda is rated *non-compliant* with R. 20.**

Recommendation 21 – Tipping-off and confidentiality.

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that there was no protection from civil liability for suspicious transaction reporting.

Criterion 21.1-(Met) S. 15 of the AMLA provides immunity from liability consistent with the recommendation when a report is made in good faith in terms of the AMLA, the reporting entity, its employees, directors and agents shall not be criminally, civilly or administratively liable for complying with the Act, or any breach of disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

*Criterion 21.2- (Met)*Section 117(1) states that it is an offence for an employee, officer, director or agent of any reporting entity to notify a person, other than a court, competent authority or other person authorised by law, that information has been requested or furnished or reported or submitted to the Authority under this Part. Section 117(2) states that where a person who directly or indirectly alerts, or brings to the attention of, another person, other than an authorised officer, competent authority, court or other person authorised by law, that information has been requested or furnished under Part III or Part VI of this Act, or that an investigation is being or may be conducted as a result, commits an offence.

Weighting and Conclusion

The criteria to this recommendation are fully met. **Uganda is rated *compliant* with R. 21.**

Recommendation 22 – DNFBPs: Customer due diligence

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that no AML/CFT provisions existed and there was no official body charged with AML/CFT supervision for DNFBPs. The AMLA has designated DNFBPs as reporting entities for compliance with AML obligations.

*Criterion 22.1 -(Partially met)*In terms of the 2nd Schedule to the AMLA, the following types of DNFBPs are included in the list of reporting entities: Casinos, Real Estate Agents, Dealers in precious metals and stones, Advocates, Notaries, Accountants and Trust and Company Service Providers. These DNFBPs are subject to the CDD measures as required under R.10. There are also no thresholds set for some of the

reporting entities like casinos to enable compliance with the requirements of R. 10. However, the deficiencies analysed in R. 10 on CDD measures also apply to this criterion.

Criterion 22.2 - (Partially met) All the DNFBPs are required to comply with s. 7 of the AMLA which provides for record-keeping measures as described above under R.11. However, the deficiencies observed in R. 11 also apply to this criterion.

Criterion 22.3 - (Not met) All the DNFBPs are subject to the PEP requirements as required by R.12. Refer to R.12 for analysis of the laws and deficiencies in relation to the requirements.

Criterion 22.4 - (Not met) There are no provisions of the law seen regulating DNFBPs and DNFBPs do not perform adequate ML/TF risk assessments when developing new products or technologies.

Criterion 22.5 - (Not met) Section 6(n) of the AMLA appears to deal with third parties but makes reference to section 7 of the AMLA which relates to only one area covered under Recommendation 17, which is record keeping and does not cover elements of (a)-(c) of the CDD measures set out in Recommendation 10(2). This also leaves out requirements of criteria 2 and 3, which ultimately leads to non-compliance with Recommendation 17.

Weighting and Conclusion

The Ugandan AML legal framework extends the preventative measures for CDD, record keeping, PEPs and reliance on third parties to DNFBPs. However, as discussed under R. 10, 11, 12 and 17 there are a number of deficiencies which impact on the country's compliance with R. 22 (including lack of requirements to identify a customer and/or beneficial owner and understanding the nature of the business when establishing a business relationship and when carrying out occasional transactions above a designated threshold). In addition, there are no specific legal provisions requiring DNFBPs to carry out ML/TF risk assessment when coming up with new products/services and technologies. **Uganda is rated *partially compliant* with R. 22.**

Recommendation 23 – DNFBPs: Other measures

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that no AML/CFT provisions existed. The AMLA has designated DNFBPs as reporting entities for compliance with AML obligations.

Criterion 23.1-(Partially met) All DNFBPs, in terms of section 9(1)(c) of the AMLA have an obligation to report suspicious transactions to the Financial Intelligence Authority (FIA). There is however no requirement to report attempted transactions.

Criterion 23.2 - (Partially met) All DNFBPs are subject to the requirements of R.18. However, there are significant deficiencies in AMLA as highlighted under R. 18.

Criterion 23.3-(Not met) All DNFBPs in terms of s. 9(1)e) of the AMLA, have an obligation to exercise vigilance with regard to transactions emanating from jurisdictions which do not impose sufficient obligations with regard to customer identification or the monitoring of transactions. The deficiencies highlighted under R. 19 also apply to DNFBPs.

Criterion 23.4(Met) All DNFBPs are subject to the tipping-off and confidentiality requirements as detailed in R.21.

Weighting and Conclusion

There are identified deficiencies which include the absence of the requirement for DNFBPs to report attempted transactions (R.20); an inadequate legal framework which does not provide for the application of countermeasures proportionate to the risks when called to do so by the FATF and independently of any call by the FATF (R.19). There is also no mechanism for DNFBPs in Uganda to be advised of concerns about weaknesses in the AML/CFT systems of other countries. **Uganda is rated *partially compliant* with**
R. 23.

Recommendation 24-Transparency and beneficial ownership of legal persons

In the 1st round of MEs, Uganda was rated non-compliant under this Recommendation. Among the major deficiencies were the use of nominee directors and outdated company records, limited opportunity to identify beneficial ownership and no mechanism in place to compel the disclosure of beneficial ownership.

Criterion 24.1-(Met) The Companies Act provides for the creation of the following legal persons: a) public limited companies; b) private limited companies which are companies limited by shares such as single member companies and companies limited by guarantee; c) foreign companies; and unlimited companies. The Companies Act, further makes provision for the registration of the various types of companies. Companies in their various types, are the most common corporate vehicle in Uganda, with 240 000 companies listed in the companies registry maintained by the URSB. The URSB is entrusted under the Companies Act to maintain records of the registered companies.

Criterion 24.2-(Not met) Uganda has not yet assessed the ML/TF risk associated with legal persons created in the country.

Criterion 24.3-(Met) The Companies Act requires that all companies created in Uganda be registered with the company registry, the URSB. A person registering a company in Uganda is required in terms of s. 4 as read with s. 7 of the Companies Act to record the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers and a list of directors[24].
Officials from the URSB confirmed that this information is available to the public both at their offices upon payment of a small fee and also online.

[24]Memorandum of Association filed with the USRB in terms of s. 7 of the Companies Act should be printed in English language and has to disclose the following information: "(a) the name of the company, with "limited" as the last word of the name in the case of a company limited by shares or by guarantee;(b) that the registered office of the company is to be situated in Uganda; and (c) may also state the objects of the Company.(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company if it is being wound up while he or she is a member or within one year after he or she ceases to be a member, for payment of the debts and liabilities of the company contracted before he or she ceases to be a member and of the costs, charges and expenses of winding up and for adjustment of the rights of the contributories among themselves such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital—(a) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division of that share capital into shares of a fixed amount;(b) a subscriber of the memorandum may not take less than one share; and(c) each subscriber shall write opposite his or her name the number of shares he or she takes.(5) Notwithstanding subsection (1)(c), where the company's memorandum states that the object of the company is to carry on business as a general commercial company the memorandum shall state that—(a) the object of the company is to carry on any trade or business whatsoever; and(b) the company has power to do all such things as are incidental or conducive to the carrying on of any trade or business by it"

Criterion 24.4-(Partially met) Section 119 of the Companies Act requires companies to maintain within country, the register of members, indicating the member's name, address and number of shares.

Companies are also required to give to the Registrar, written notice of the place, in Uganda, where the register is kept.

Beside the register of members, there are no provisions obliging companies to maintain, within the country, the rest of the information prescribed under criterion 24.3.

Criterion 24.5-(*Partially met*) Section 116 of the Companies Act requires that any change in the location of the registered office and the registered postal address be communicated to the registrar within fourteen days.

Sections 132 and 133 require companies to file annual returns that contain updated information on the registered office of the company, registers of members and debenture holders, shares and debentures indebtedness, past and present members and directors and secretary.

The authorities, however, admitted that, in practice, the requirement to update the information is not always met and there are no mechanisms in place to ensure companies comply.

*Criterion 24.6-(Partially met)*There is no explicit provision in the Companies Act requiring companies to file beneficial ownership information with the company registry or otherwise to maintain such information at the company's registered offices, or requirement for the companies registry to obtain information on beneficial ownership. There is no obligation for the URSB to retain information on beneficial ownership.

It is, however, a legal requirement for companies to maintain shareholder information as part of company records as well as filing such information with the company registry. Such shareholder information indicates legal ownership as opposed to beneficial ownership of shares.

Financial institutions and DNFBPs are required under s. 6(c)(ii) of the AMLA, to obtain beneficial ownership information when opening accounts or otherwise establishing a business relationship with such a customer who is a legal person. Competent authorities have access to such information by virtue of s. 11 of the AMLA.

Criterion 24.7-(Partly met) While the Companies Act does not make explicit reference to beneficial ownership information, it requires that company information, including shareholder information (which, in very few cases coincides with beneficial ownership information) be kept up-to-date. In practice, however, the information is not always updated.

*Criterion 24.8-(Not met)*There are no provisions imposing obligations on companies to co-operate with competent authorities to the fullest extent possible in determining the beneficial owner by means of measures set out under this criterion.

*Criterion 24.9-(Met)*The authorities did not cite the applicable provisions of Uganda's laws dealing with this criterion including requiring company records to be kept for at least five years after the dissolution of the company. However under the AMLA, the Registrar of Companies is listed as a reporting entity therefore has an obligation to maintain records for at least ten years in terms of the requirements of s. 7.

Criterion 24.10 - (Partly met) Competent authorities have access to basic company information held by the URSB. Such information includes legal ownership (shareholder) information. By virtue of s. 11 of the AMLA, competent authorities have access to information, including beneficial ownership information, held by financial institutions and DNFBPs.

*Criterion 24.11- (Not met)*S. 95 of the Companies Act permits a company limited by shares to issue bearer shares or share warrants. The share warrant entitles the bearer thereof to the shares referred to therein and the shares are transferrable by delivery of the warrant. The authorities did not provide any information on any measures or mechanisms in place to prevent abuse of share warrants for money laundering or terrorist financing.

Criterion 24.12- (Not met) Section 186 of the Companies Act provides for the nomination of two people as nominee directors for single member companies. Of the two nominations, one nominee director will take over in an acting position in the event of the death of the single member and the other one will be an alternate nominee director to work as a nominee director in case of the non-availability of the other nominee director. Other than the single member nominating the individuals to serve as nominee directors, the procedures of nominating such directors and whether their particulars have to be disclosed to the authorities and how such information is retained by the authorities are not provided. In the absence of legal requirements regulating the appointment of the nominee directors, the probability of such an arrangement being abused becomes high. The authorities did not provide any information on any other type of nominee directorship or nominee shares.

*Criterion 24.13-(Partly met)*Section 119 of the AMLA imposes criminal liability on financial institutions and DNFBPs who fail to comply with CDD requirements, including the requirement to identify beneficial owners as required under section 6(c)(ii) of the same Act. The penalty for the offence is provided for under section 136(2)of AMLA, which, for natural persons is imprisonment for up to five years or a fine of up to thirty-three thousand currency points or both fine and imprisonment and in the case of legal persons, a fine of up to seventy thousand currency points.

Criterion 24.14- (Partly met) Part VI of the AMLA provides the legal framework for Uganda to provide international cooperation in a wide range of matters concerning money laundering and other organised crimes. The framework allows Uganda to provide international cooperation on beneficial ownership information.

Criterion 24.15-(Not met) The authorities had no record of any requests having been made to foreign jurisdictions concerning basic or beneficial ownership information.

Weighting and conclusion

Criteria 24.1, 24.3 and 24.9 are met while 24.4, 24.5, 24.6, 24.7, 24.10, 24.13 and 24.14 are partially met. The rest are not met. Overall, significant deficiencies remain as the deficiencies that were identified under the first round of mutual evaluation have not been addressed. In particular, Uganda has not assessed the ML/TF risks associated with legal persons; there are no adequate mechanisms to identify beneficial ownership and to ensure that such information is accessible to competent authorities; the risks associated with the use of bearer shares, share warrants and nominee directors have not been addressed. There are

also no mechanisms to ensure that information kept at the company registry is kept up to date. **Uganda is rated *non-compliant* with Recommendation 24.**

Recommendation 25- Transparency and beneficial ownership of legal arrangements

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiencies cited included the lack of adequate systems and controls that would prevent unlawful use of legal arrangements by money launderers or those that finance terrorism.

The authorities in Uganda did not provide any laws or information explaining legal arrangements in Uganda. The status of beneficial ownership relating to legal arrangements was also not explained by the authorities[25]. However, of the laws found by the assessors dealing with trusts in Uganda (Trustees Incorporation Act, Trustees Act, Registration of Titles Act, Succession Act, Income Tax Act and the AMLA), none of them have provisions regulating beneficial ownership pertaining to legal arrangements.

*Criterion 25.1-(Not met)*There is no obligation on trustees to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustees, the protector (if any), the beneficiaries and any other natural person exercising ultimate effective control over the trust. While the Trustees Incorporation Act (s. 1) provides for the optional registration of trustees, there is no requirement in the Act for the trustees or trustee making the application to disclose the full details of the settlor or the beneficiaries or any other natural person who has full control of the trust. The Schedule described in s. 3 of this Act also does not require that trustees obtain adequate, accurate and current information on the settlors, beneficiaries or class of beneficiaries and any other natural person who will be exercising ultimate effective control over the trust. The specific particulars required under the schedule are those of the trustees, who have to provide their names, residences, date of their appointment, their number, qualification, tenure and method of appointing new trustees.

As the requirements of s. 1 of the Trustees Incorporation Act, make registration of trustees or trustee optional, it means a trust can exist in Uganda without being registered making it impossible that the Ministry in charge of administering this Act is obtaining adequate, accurate and current information on all such trusts and on the identity of the settlor, beneficiaries and any other relevant information which is supposed to be kept up to date when their registration with the Ministry is optional. In terms of s.1of the Trustees Incorporation Act, the trustees or trustee appointed by the associations described in the same section only register with the Ministry when they want to acquire certain rights, like land or interest in land.

The assessors did not find any provision in the Trustee Incorporation Act, or in any other Ugandan law, requiring trustees to hold information on other regulated agents of, or service providers to, the trust, including investment advisors or managers, accountants and tax advisors. In addition, the authorities did not provide any case law or rules of practice or common law provisions on this aspect. The Trustees Incorporation Act, does not provide for trustees to maintain or retain any information on the trusts they would have been involved with for a period of five years after the trustees have ceased to be associated with the trust.

[25]The assessors had to rely on laws and information found from open sources dealing with legal arrangements in Uganda.

Criterion 25.2- (Not met) In the absence of Uganda having clear requirements for trustees to obtain and maintain information on settlor, protector (if any), beneficiaries, and on any other person exercising effective control over the trust, the requirement to keep this information accurate and up-to-date is not met. There are no requirements to keep information on beneficial ownership relating to legal arrangements accurate, up to date or to be updated on a timely basis.

Criterion 25.3- (Partially met) There is no obligation for trustees to disclose their status to FIs or DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. This deficiency would have been, to some extent, mitigated if the provisions of s. 6(c)(ii) of the AMLA which require FIs and DNFBPs to verify the identity of the beneficial owner and to take reasonable measures to understand the ownership, control and structure of the customer had also required the FIs and DNFBPs to verify the identity of the trustee(s) when forming a business relationship. This would ensure that in the event of the trust or the trustee(s) entrusting someone to act on their behalf and enter into a business relationship with the FI or DNFBPs, the FI or DNFBP would have the obligation to also identify the trustee(s).

Criterion 25.4-(Partially met) There is no prohibition on trustees against providing information to competent authorities or to financial institutions and DNFBPs. In addition, section 14 of the AMLA ensures that any requirement to provide information overrides any obligations relating to professional secrecy and confidentiality. The problem, however, is that there is no clearly spelt out obligation for trustees to provide the prescribed information in the first place, except obligations under which FIs and DNFBPs have in terms of section 6 of the AMLA relating to beneficial ownership information which also are not exhaustive.

Criterion 25.5-(Partially met) S. 44 of the AMLA empowers an authorised officer when he has reasonable grounds for suspecting any person to be in possession or control of a document or documents relevant to identifying, locating, or quantifying suspected tainted property of a person or such property is linked to a crime, or transfer of such property to apply *ex parte* for a production order. The section is only limited to production of documents and does not extend to any other information held by the person. Also the restriction of only authorised officers, who are only limited to the Executive Director or Deputy Executive

Director of the FIA, a prosecutor of the DPP's office or police officer of the rank of assistant inspector of police or higher according to the definition provided under the AMLA, creates limitations on competent authorities who can make such applications. This is further compounded by the lack of a proper legal framework requiring trustees to be registered which limits the scope of known trustees, trusts and their activities to competent authorities.

Criterion 25.6-(Largely met) Ss. 107 (2), 111 and 113 of the AMLA adequately provide for this criterion. The only deficiencies are that the offence of TF is not adequately criminalised to meet the FATF requirements and that there is no law which deals with all the issues on international cooperation beyond what is provided in the AMLA, which is only limited to that Act.

Criterion 25.7 & 25.8 – (Not met) The duties of trustees under this recommendation are not adequately provided for under Uganda's legal and regulatory framework. There is no clearly spelt out duty on trustees to obtain and hold information relating to the trustees, settlor, beneficiary, any person who exercises ultimate control over the trust as well as information on other professional intermediaries with whom the

trust has a relationship. In the absence of such obligations, there is therefore no clearly defined liability on trustees in relation to these requirements.

Weighting and conclusion

The absence of a legal requirement on all legal arrangements including trusts to be registered which would have enabled the authorities to keep adequate, accurate and current information on legal arrangements in existence in Uganda is a major deficiency and affects the whole criteria under this Recommendation. There is no obligation for trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. This coupled with the lack of legal requirements to have similar information kept on the identity of the settlor, the beneficiaries or class of beneficiaries and any other natural person who might be exercising ultimate effective control over the trust means both the legal and institutional framework to regulate legal arrangements in Uganda is still very weak. **Uganda is rated *non-compliant* with Recommendation 25**.

Recommendation 26 – Regulation and supervision of financial institutions

In the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main reasons for the rating were that there was need for supervisory authority to be exercised more fully, guidelines did not address CFT, the FIA regulations had not been promulgated and supervision and regulation of FIs was not effective. There is no indication that other than the BoU, there are other supervisory authorities with the responsibility to regulate and supervise reporting entities' compliance with AML/CFT requirements.

Criterion 26.1-(Not met) The current legal framework in Uganda does not designate any authorities for regulating and supervising financial institutions in terms AML/CFT requirements. Although, the FI Act prescribes obligations with respect to customer identification and STR submission, it does not mandate the BoU to carry out AML/CFT supervision. Sections 79-81 which sets out provisions with respect to supervision refer to prudential issues and not AML/CFT matters.

Criterion 26.2-(Met) All financial institutions which are subject to core principles are licensed in Uganda. S.10 of FI Act states that companies which propose to carry out a business of a financial institution shall be required to be licensed by the BoU. This covers all deposit-taking institutions. In addition, since the definition of 'financial institutions' in s.2 of FI Act, includes money transmission services, MVTS are also required to be licensed. Similarly, s. 28 of the Insurance Act requires all companies wishing to conduct insurance business to be licensed. The same applies to capital market players as set out in ss. 23-44 of the Capital Market Authority Act and Capital Market Licensing Regulations (1996) in respect of various categories of capital market players. There is no specific law which prohibits establishment or continued existence of shell banks. However, the process of licensing and authorising establishment of a bank does not provide room for shell banks to exist.

Criterion 26.3-(Largely met) In considering new entrants into the financial sector, BoU has to be satisfied with respect to the integrity of the proposed management, directors and substantial shareholders by applying a fit and proper test on them (Section 11 of FI Act). Schedule 3 sets out the criteria which BoU applies on the directors, management and significant shareholders and these include a background check on their criminal record and violation of any laws. The same standards are also applied on new

shareholders, directors and management who wish to join or acquire significant shareholding in a financial institution subsequent to the licensing stage. However, authorities indicated that they do not go beyond the immediate owners to establish beneficial owners in order to subject them to the vetting requirements. Insurance companies and capital market players are also subjected to similar vetting requirements. If the proposed individuals do not meet the criteria then they are not permitted to hold such positions or acquire the shareholding.

Criterion 26.4-(Partially met) All financial institutions in Uganda are subject to licensing processes and ongoing prudential supervision although some aspects of the licensing process, particularly in relation to the conduct of fit-and-proper assessments of significant shareholders need to be strengthened so that beneficial owners are covered. Save for this deficiency, BoU has the power to review, reject and impose prudential conditions on any proposals to transfer significant ownership or controlling interests held in existing financial institutions to other parties. The assessors also found that BoU, IRA and CMA generally had a good supervisory process in place which integrates a risk-based approach into their supervisory activity. It was also noted that BoU has general powers to undertake consolidated supervision that allows it to exercise supervision over all financial institutions that are a part of a banking group. All financial institutions are required to have adequate internal control frameworks and policies and processes to promote high ethical and professional standards in the financial sector. In addition all financial institutions which fall under BoU are further required to have strict customer due diligence rules. Except for the CDD obligations imposed on financial institutions under the purview of BoU, the rest of the obligations are applied for purposes of prudential supervision and not AML/CFT supervision.

Criterion 26.5-(Not met) BoU adopted a risk-based approach to prudential supervision. AML/CFT supervision is carried out as an integral part of prudential supervision. While the frequency and intensity of on-site supervision is based on the financial or prudential risks, there is no evidence that the AML/CFT part of the supervisory activity is guided by ML/TF risks as identified by the supervisory authorities or that it is commensurate with the level of ML/TF risks in the country. The IRA and CMA have not yet started conducting AML/CFT supervision in their respective sectors.

*Criterion 26.6-(Not met)*There is no indication that the BoU inspections are ML/FT risk based or have that element and that the supervisors review the assessment of the ML/TF risk profile of FIs supervised by it. ML/TF risk based supervision should be different from prudential supervision which laws cited seem to be providing. It is also not clear who has the obligation to assess ML/TF risks of the other sectors. The supervisory agencies on AML/CFT are not provided under the provisions of the AMLA.

Weighting and Conclusion

The criteria to this recommendation in the majority of the significant areas are not met. **Uganda is rated *non-compliant* with Recommendation 26.**

Recommendation 27 – Powers of supervisors

In the 1st round of MEs, Uganda was rated partially compliant with the requirements of this Recommendation. The main deficiencies related to poor effectiveness due to lack of statutory authority.

*Criterion 27.1-(Not met)*There are no specific legal or other provisions providing power to supervising authorities to supervise and monitor compliance with the AML/CFT measures as provided for in the AMLA.Ss. 79-81 of the FI Act empowers the BoU to supervise financial institutions under the FI Act for AML only but not for CFT as the FI Act does not provide for CFT.

Criterion 27.2-(Not met) In terms of the current legal framework, there is no specific provision which empowers a supervisory authority to conduct inspections of financial institutions. Although BoU carries out AML/CFT inspections, this is not provided for in the FI Act or FI Act AML Regulations. On the basis of information and data specified in ss.79-81, which relate to supervision, AML/CFT is not covered.

Criterion 27.3-(Not met) The laws do not provide powers to supervisors to compel production of any information relevant to monitoring compliance with AML/CFT requirements.

Criterion 27.4-(Partially met) The AMLA does not provide for supervisors to impose sanctions in line with R.35 for failure to comply with AML/CFT requirements. The BoU can however, impose sanctions on financial institutions it supervises under the FI Act as ready with the FI Act AML Regulations for failure to comply with AML requirements only as the Act does not provide for CFT.

Weighting and Conclusion

There are no specific legal or other provisions under the AMLA providing powers to supervising authorities and self-regulatory bodies to supervise and monitor compliance, compel production of information relevant to monitoring AML/CFT compliance and to impose sanctions as required under R. 35.The powers granted to the BoU under the FI Act to supervise and impose sanctions on financial institutions regulated under this Act, are only limited to AML as the FI Act does not provide for CFT.

Uganda is rated *non-compliant* with R. 27.

Recommendation 28 – Regulation and supervision of DNFBPs

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that no AML/CFT provisions existed.

*Criterion 28.1 - (Not met)*Although, casinos are required to be licensed under the Gaming and Pool Betting Act, there are no provisions enabling competent authorities to take legal and regulatory measures to prevent criminals or their associates from holding a significant or controlling interest or from operating a casino. The licensing authorities have no powers to supervise licensees to comply with the anti-money laundering provisions within the AMLA, nor to conduct any risk assessment relating to money laundering and terrorist financing risks.

Criterion 28.2 – 5-(Not met) There are no legal provisions requiring designation of a competent authority or SRB for monitoring and ensuring compliance of other DNFBPS with AML/CFT requirements. The other DNFBPS are not subject to monitoring of compliance with the AML/CFT requirements nor are they supervised for compliance with AML/CFT requirements. The law does not provide for such supervision to be done on a risk-sensitive basis as required under this Recommendation.

Weighting and Conclusion

There are no provisions enabling competent authorities to take legal and regulatory measures to prevent criminals or their associates from holding a significant or controlling interest or from operating a casino as well as supervising them for compliance with AML/CFT requirements. In addition, there are no legal provisions requiring designation of a competent authority or SRB for monitoring and ensuring compliance of other DNFBPS with AML/CFT requirements. **Uganda is rated *non-compliant* with R. 28.**

Recommendation 29 - Financial intelligence units

When Uganda was evaluated in 2007, it did not have a legal framework for the establishment of an FIU with functions set out under this Recommendation. The enactment of the AMLA in 2013, largely addressed this deficiency, although there are concerns with some of the provisions establishing the institution. Uganda was rated non-compliant on the requirements of this Recommendation.

Criterion 29.1 - (Partially met) The Financial Intelligence Authority is established in terms of s. 18 of the AMLA. S. 20 of the AMLA describes the functions of the FIA. Ss. 18 and 20 are both silent on the FIA being the national centre (for receipt, analysis and dissemination of suspicious transactions). This becomes important when ss. 129 and 130 of the FI Act are considered. These sections create an obligation for FIs to report any suspicion of ML to law enforcement agencies not to the FIA or it is not clear whether this also includes the FIA. S. 20 of the AMLA, which describes the functions of the FIA, does not indicate receiving suspicious transactions as being one of its main functions. It starts mid-way, on the 'processing' of information and uses the term 'disclosed' to it. The term "disclosed" is not defined in the AMLA, which creates the problem of understanding the context in which it is being used under this section. The functions should meet the criteria of receiving, analysing and disseminating of STRs set under the criterion. The receiving component is not apparent from the provisions of s. 20 of the AMLA. The AMLA makes reference to suspicious transaction reports being done on designated forms appended to the AML Regulations. Although in practice, the FIA reported that it is currently receiving STRs manually and has even disseminated some of the STRs to law enforcement agencies using the same process, the regulations to facilitate filing of the STRs and their dissemination have not yet been issued. Further, the requirements of the FI Act AML Regulations, 2010, which require FIs in terms of regulation 12(1), to use a Suspicious Transactions Report set out in Schedule 2 to the Regulations appear to be operating at parallel with the requirements of the AMLA without making cross reference to each other.

Criterion 29.2- (Not met) The AMLA does not specifically provide the FIA as the central agency for the receipt of disclosures filed by reporting entities. Ss. 18 and 20 of the AMLA, do not describe the FIA as being the national or central agency for receipt of STRs neither does the function of receipt of STRs come out clearly in the functions of the FIA provided in s. 20 of the Act. In addition, similar to STRs, cash transaction reports are also submitted to law enforcement agencies with copies to the BoU, [regulation 13 of the FI Act AML Regulations, 2010. The existing AML legal framework does not create a consistent understanding that the FIA currently serves as the central agency for receipt of disclosures filed by FIs.

*Criterion 29.3-(Largely met)*The FIA is empowered to require and obtain additional information from reporting entities listed in terms of s. 21(j) of the AMLA as reporting entities, supervisory agencies and law enforcement agencies. In addition, under s. 37 of the same Act it is empowered to have access to the widest possible range of information. Information on cross-border transportation of currency and BNIs is

not yet available to the FIA as the regulations to implement the relevant section of the AMLA have not yet been issued which is a major deficiency as such reports are an important source of information[26].

Criterion 29.4- (Partially met) Although ss. 20(1)(a) and 37(d) of the AMLA, empower the FIA to carry out analysis of reports and information disclosed, both provisions are not detailed enough to show what kind of analysis is conducted with the reports and information. The authorities did not guide the assessors with such information, either. It is therefore not clear what kind of analysis is conducted (operational or strategic, or both) and what the analysis has been used for (identify specific targets, follow trail of particular activities or transactions, determine links between the targets and possible proceeds of crime, ML, predicate, TF offences, or alternatively, to identify ML and TF related trends and patterns) to determine whether the requirements of this criterion are being met.

Criterion 29.5-(Partially met) The FIA is empowered to disseminate, both spontaneously and upon request, the results of its analysis, [s.20 (1) (b) of the AMLA]. The section does not cover spontaneous dissemination of information upon request. The authorities have not been able to show that the FIA uses dedicated, secure and protected channels for the dissemination of the results of the analysis which currently is being done by hand delivery.

Criterion 29.6-(Partially met) The FIA does not have rules and procedures in place governing the security and confidentiality of information. In addition there is no indication that there are necessary security clearance levels of FIA staff members and that they understand their responsibilities in handling and disseminating sensitive and confidential information. This leaves the FIA vulnerable. Currently in practice, the authorities have indicated that they have in place adequate security measures. The measures include a biometric security system and security personnel to limit and regulate access to the FIA premises through maintenance of a register of non-staff members who enter the premises.

Criterion 29.7-(Partially met) The AMLA, to a large extent provides for the independence of the FIA. S. 22 provides that the FIA shall be independent in the performance of its functions and shall not be subjected to the direction, instruction or control of any person or authority. Section 24 of AMLA, however, dilutes this autonomy. It provides among others, the functions of the Board as including giving direction to the Executive Director in connection with the management, performance, operational policies and implementation of the policies of the Authority, [s. 24(1)(b) of the AMLA], prescribe such administrative measures as may be required to safe guard all revenue of the Authority, [s. 24(1)(e) of the AMLA] and subject to sections 28, 30 and 32 of the AMLA, appoint, remove and suspend the members of staff of the Authority, [s. 24(1)(f)].This compromises the operational independence of the Authority. It is not sufficient to state in the law that the FIU is operationally independent and then proceed to take away the independence through other provisions of the same Act.

Criterion 29.8-(Not met) The FIA has not taken any steps towards applying for EGMONT membership.

[26] S. 10 of the AMLA requires cross-border transportation of cash above a threshold of one thousand five hundred currency points to be declared by completing Form "C" for outgoing persons and Form "D" for incoming persons appended to the AMLA regulations. The Regulations to implement this provision have not yet been issued.

Weighting and conclusion

A number of the criteria are met. There are, however, a number of significant deficiencies. Although, the FIA is empowered to carry out analysis of reports and information disclosed, it still does not conduct strategic analysis. It also does not have a laid out process governing protection of information. The requirement for an FIU to be a "national centre" is key to its work, the current dual reporting of STRs existing both in terms of the AMLA and FI Act has created confusion and inconsistencies with the FIs in reporting STRs. Lack of information being reported on cross-border transportation of cash due to absence of implementing regulations to section 10 of the AMLA. The current provisions of the AMLA setting out the functions of the Board do not guarantee the operational independence of the FIA. The FIA has not taken steps to apply for EGMONT membership. **Uganda is rated *partially compliant* with R.29.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation (pgs. 25 – 33 of the MER). The deficiency was that there was no competent authority designated with the responsibility to investigate ML/TF cases.

Criteria 30.1-(Partially met) The AMLA designates institutions defined as "competent authorities" under s. 1 to have the responsibility to investigate crimes prescribed under Part II, [s. 2(2)]. These crimes include the offences of ML, associated predicate offences with the exceptions of those mentioned in criterion 3.2, above. The competent authorities include investigative, prosecuting, judicial, regulatory or supervisory authorities of the Government of Uganda and this includes the FIA. Although, the AMLA provides for regulatory and supervisory authorities to have such responsibilities, it is not clear if the statutes establishing these authorities provide AML responsibilities for them. The lack of this information limits the ability to determine whether beyond the law there is actually a comprehensive institutional framework to deal with ML and associated predicate offences.

Criterion 30.2-(Partially met) Although, the Ugandan authorities explain that the police under the Police Act are authorized to investigate all predicate offences and after the enactment of AMLA, after getting a referral from the FIA or on their own, police can investigate any ML offence during a parallel financial investigation and may in turn refer such investigation to another competent authority like the IG. The authorities do not support these responsibilities with any provisions of the law or set out mechanisms.

*Criterion 30.3-(Largely met)*The authorities indicate that the AMLA has designated in s. 1, the DPP and the police as the two competent authorities to expeditiously identify, trace and initiate freezing and seizing property that may become subject to confiscation or is suspected to be proceeds of crime. Further reference is made to Part V of the AMLA. However, s. 1 of the AMLA has got no provision designating the DPP and the police as the two competent authorities to carry out such responsibilities. Furthermore, Part V designates the responsibilities performed under that Part to an authorised officer, which under s. 1 of the AMLA is defined as either the Director General or Deputy Director General, a prosecutor of the DPP, or a police officer of the rank of assistant inspector. What is however apparent from the provisions under Part V, applications to courts to enable identification, tracing, freezing and seizing of property that is or may become subject to confiscation, can be done expeditiously by an authorised officer by means of an *ex parte* application.

*Criterion 30.4-(Not met)*The authorities did not explain if this recommendation applies to competent authorities which are not law enforcement authorities *per se* but which can still pursue financial investigations of predicate offences to the extent of covering functions set out under this recommendation.

Criterion 30.5– (Largely met) Although, the IG in terms of the provisions of the AMLA (s. 1) is a competent authority and in terms of s. 2(2) of the same Act, mandated to investigate the offence of ML, the representatives from the IG informed the assessors that their mandate was only to investigate corruption cases and to that extend they do not follow proceeds of corruption crimes or similarly, engage in extraterritorial cases arising from corruption cases. The IG, going by its own submissions does not seem to be aware of its AML obligations under the AMLA as well as the other powers provided to competent authorities under the same Act to identify, trace, and initiate freezing and seizing of assets.

Weighting and conclusion

The AMLA adequately designates competent authorities to investigate ML/TF offences. However, there is no clear framework establishing an obligation for law enforcement to carry out parallel financial investigations or to refer such cases to other agencies for follow up. Although, the AMLA provides for regulatory and supervisory authorities to have AML responsibilities, the statutes establishing these authorities other than the BoU do not provide AML responsibilities for them. **Uganda is rated *partially compliant* with R30.**

Recommendation 31 - Powers of law enforcement and investigative authorities

In the 1st MER, Uganda was rated partially compliant with the requirements of this recommendation. The deficiencies related to Penal Code, Drug, Corruption and Anti-Terrorism Acts providing differing and inconsistent authorities for investigators and prosecutors to gain access to financial and other records needed to adequately conduct investigations.

Criterion 31.1-(Met) The Police (Amendment) Act 2006, in terms of s. 27A provides police officers of the rank of assistant inspector and above investigating any criminal offence with powers to make a request in writing for the production of any document, matter or thing relevant to the offence under investigation. The same section provides a police officer with powers to record any statement made to him or her under this section and take possession of any relevant document, matter or thing produced by the person making the statement, whether or not that person is suspected of having committed an offence. Further, the AMLA (s. 44) provides for *ex parte* application of an order to compel production by any person suspected to have in his possession or control of documents relating to the identification, location, or quantification of suspected tainted property. Authorised officers in terms of the AMLA may have powers to search a person or enter upon premises of a person either with the person's consent or with a warrant to search the premises and during the course of the search to seize any other documents or other evidence relevant to the commission of any other crime (ss. 49, 54).

Criterion 31.2-(Not met) The legal framework in Uganda does not provide for a wide range of investigative techniques to be used during investigations of ML, associated predicate offences or terrorist financing. Engaging in undercover operations, intercepting communications, accessing computer systems and controlled delivery are all investigative methods not provided in any of the laws. Again, if there are

administrative procedures which enable use of these investigative techniques, they were not explained to the assessors by the authorities.

*Criterion 31.3-(Partially met)*In answer to part (a) of this criterion the authorities indicated that BoU as part of its mandate has mechanisms to identify, in a timely manner, whether natural or legal persons hold or control accounts but the authorities could not explain the basis of the mechanisms (whether they were based on any law or otherwise) and what these mechanisms were. The authorities did not provide any other mechanisms which can be used to identify in a timely manner whether natural or legal persons hold or control accounts.

The competent authorities in Uganda have in terms of ss. 44 and 56 of the AMLA, a process to identify assets without prior notification to the owner. The provisions allow authorised officers to apply for production and monitoring orders *ex parte*, and courts to grant such applications where the authorised officer has laid reasonable grounds supporting the application.

Criterion 31.4-(Met) The FIA is mandated to avail to competent authorities conducting investigations, all relevant information in its possession upon request, [s. 19(d) of the AMLA].

Weighting and conclusion

The requirements of Criteria 31.1 and 31.4 are met while requirements for Criterion 31.2 are not met and for Criterion 31.3 are partially met. The absence of a legal framework or clearly spelt administrative procedures to carry out a wide range of investigative techniques is a major deficiency particularly when it comes to investigation of complex ML cases. **Uganda is rated *partially compliant* with R. 31.**

Recommendation 32 – Cash Couriers

Uganda was rated non-compliant with this Recommendation in the first MER. The main deficiency was that Uganda did not have a legal framework relating to cash couriers. The AMLA enacted in 2013 now addresses the deficiency by providing a legal framework for cross- border transportation of cash.

*Criterion 32.1 -(Not met)*S. 10 of the AMLA requires declaration of cross-border transportation of cash, by filling in a form which is yet to be issued in terms of the regulations to be issued under the AMLA. S. 10 envisages separate forms for incoming (Form C) and for outgoing (Form D) cross-border cash or BNIs declarations once the regulations are in place.

Criterion 32.2-(Partially met) S. 10 of the AMLA provides for a written declaration system of cross-border transportation of cash or BNI above the threshold of Ushs30 000 000**.** However, the section requires that the person intending to transport or send such currency, before transporting or sending it notifies the URA in a specified form. The impression created by the subsection is that the notification is done in advance before the actual transportation, making it unclear whether the declaration in this regard is done at the entry or exit points at the time of either entering or leaving Uganda or whether there are any declaration requirements at these points at all. This also includes how this is done at points of sending (like post offices) either cash or BNI beyond Ugandan borders.

Criterion 32.3-(NA) Section 10 of the AMLA provides for a declaration system as opposed to a disclosure system. This criterion is therefore, not applicable.

*Criterion 32.4-(Not met)*There is no provision in the AMLA for designated competent authorities to request and obtain further information from the carrier concerning the origin of the currency or BNI or its intended use in the event of false declaration or non-declaration.

Criterion 32.5-(Largely met) The offence for failure to declare or false-declaration of cross-border transportation of cash or BNIs is set out in section 126 of the AMLA, while the applicable penalties are set out in section 136(2) of the Act. For natural persons the applicable penalty is imprisonment for a period of up to five years or a fine of up to thirty-three thousand currency points.

Criterion 32.6-(Met) S. 10(2) of the AMLA, requires the URA (through the Customs & Excise Department) to transmit copies of the completed declaration forms to the FIA. Failure to forward the forms is a criminal offence in terms of s. 127 of the AMLA and the penalty provided in s. 136 of AMLA appears proportionate and dissuasive.

Criterion 32.7-(Partially met) The authorities have indicated that the FIA and the URA have a MoU in place which will facilitate cooperation between the two agencies. The criterion, however, specifically requires that there be adequate coordination among *customs, immigration and other relevant authorities on issues related to the implementation of Recommendation 32*. The authorities have not shown that such coordination is in place.

*Criterion 32.8-(Not met)*The AMLA makes no provision empowering authorities to stop or restrain currency or BNIs for a reasonable time to enable further investigations in cases where there is suspicion of ML or TF or in the case of false declaration or non-declaration.

Criterion 32. 9 – (Not met) The declaration/disclosure system in Uganda does not allow international cooperation and assistance in accordance with Recommendations 36 to 40.

*Criterion 32.10 – (Not met)*Uganda does not have strict safeguards relating to proper use of information collected through declaration or disclosure systems so that it does not lead to restricting trade payments and freedom of capital movements in any way.

*Criterion 32.11-(Largely met)*The sanctions prescribed in s. 136(2) of AMLA, seem to be proportionate and dissuasive enough but they are not complemented by the gaps identified in criterion 32.1, 31.4, 32.8, 32.9, and 32.10 which compromise obtaining of information to enable proper prosecutions and confiscation to be done.

Weighting and conclusion:

Despite having introduced measures on cross-border transportation of cash/BNI, there are still major deficiencies on this Recommendation. These include the legal framework not being complete in terms of regulations to enable implementation of the declaration provision, absence of a provision allowing restraining of cash/BNI for a reasonable period to enable investigations to determine source of the funds and absence of a provision allowing designated competent authorities to request and obtain further information from the carrier concerning the origin of the currency/BNI or its intended use. Added to this is the lack of responses to criteria 32.9-32.10. The summarised legal deficiencies create serious limitations to law enforcement in carrying out their duties/investigations. **Uganda is rated *non-compliant* with R.32.**

Recommendation 33 - Statistics

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that there was only general crime statistics and AML/CFT regime to enable effectiveness to be determined. The position with statistics in general has not improved.

Criterion 33.1-(Partially met) During the on-site it was difficult to determine the real position with statistics relating to STRs as some of the supervisory authorities like the BoU for the financial sector (in terms of the FI Act) and the CMA were still receiving STRs from the institutions they regulate and at the same time expected to report the same STRs to the FIA in terms of the AMLA. As a result of this practice and inconsistent laws, of the small number of STR statistics which were provided by the authorities, the statistics are distorted. Although, the financial sector is supposed to be reporting the same STRs to both the BoU and FIA, in practice it was realized that the BoU had more STRs filed by the financial sector than the FIA for the same period. As a result, the statistics of STRs reported are not consistent and reliable.

Although the AML/CFT regime of Uganda is still young, for the time that the AMLA has been in existence (since 2013) there were no statistics of ML cases that had been investigated, prosecuted or convicted. Only the URA and the IG (law enforcement agencies) have statistics which provide predicate offence cases which of been investigated, prosecuted, convicted and in some cases property frozen and seized but the number of cases are few.

The law enforcement and the DPP's office do not keep statistics relating to property frozen, seized and confiscated. The few statistics provided related to predicate offences and were only limited to compensation/restitution orders. There was no statistics provided on property frozen, seized or confiscated.

The DPP's office submitted statistics on 10 cases which it has handled on mutual legal assistance but the statistics of the cases were not helpful as they did not have information to give context to the statistics. The statistics provided by the DPP's office on the mutual legal assistance requests handled are not comprehensive as they do not give full details of the cases, the kind of assistance which was being requested, the kind of allegations relating to the assistance requested, timelines of the requests, feedback and the quality of assistance received or provided.

There are no proper systems of maintaining comprehensive statistics in Uganda particularly amongst the Competent Authorities.

Weighting and Conclusion

Uganda has major deficiencies on this Recommendation. The statistics kept by the authorities are not comprehensive, particularly relating to areas which are important to Uganda's AML/CFT regime such as STRs; cases investigated, prosecuted and convictions; and seizures, freezing and confiscations. **Uganda is rated *non-compliant* with R. 33.**

Recommendation 34 – Guidance and feedback

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The main deficiency was that there was no FIU and guidelines issued to FIs by the BoU did not deal with

CFT and no guidelines dealt with the DNFBPs. The AMLA has allowed the establishment of the FIA and empowered it to issue guidelines. A lack of issuing of guidance in specific areas of the AML/CFT, particularly to DNFBPS was observed in the current assessment.

*Criterion 34.1-(Partially met)*S. 20(1)(d) and (h) provide for issuing of guidance by the FIA to reporting entities, competent authorities and other reporting entities not under the supervision of supervisory authorities regarding compliance with the AMLA. BoU issued guidelines as an attachment to FI Act AML Regulations, covering customer identification and verification of various categories of customers as well as detection of suspicious transactions. Furthermore, FIA issued guidelines on STRs. However, from the onsite interviews with DNFBPs, it was evident that they need guidance in other areas such as customer identification and verification, detection of suspicious transactions, etc. In terms of feedback, FIA provides general feedback through acknowledgment of STRs and meetings with reporting institutions.

Weighting and Conclusion

The FIA has not issued comprehensive guidelines to assist reporting institutions in such areas as ML/TF risks, CDD, detection of unusual and suspicious transactions. This is very important considering that AMLA is a new law. **Uganda is rated *partially compliant* with R.34.**

Recommendation 35 – Sanctions

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The deficiencies identified for the rating included, enforcement authority for institutions regulated by the BoU being limited to moral suasion and licensing, and that there were no criminal sanctions due to absence of criminalisation of ML/TF.

Criterion 35.1-(Partially met) The AMLA in s. 136, provides for a range of proportionate and dissuasive criminal sanctions for failure to comply with the provisions of the Act. However, as has already been explained under R. 3, ss. 3 and 116 of the AMLA criminalise the same conduct. The authorities could not help the assessors to understand, in the event of an offence being committed which is criminalised under the two sections, which of the two sections would be preferred and the reasons for such a choice and the effect of such choice when it comes to sentencing of the accused. Due to similar conduct being criminalised twice under the same Act, it is also not clear to the assessors whether the accused persons will not be eligible to challenge the authorities on the preferred section and ultimately the sentence imposed.

The law does not provide for administrative and/or civil sanctions, which is a major deficiency when it comes to violations of preventive measures by reporting entities.

Criterion 35.2-(Largely met) In terms of s. 136 of the AMLA, criminal sanctions do apply to both natural and legal persons and are not limited to only reporting entities (financial institutions and DNFBPs) with the exception of activities relating to R. 6 as Uganda does not have a legal framework in place to deal with the requirements of that Recommendation. However, the absence of administrative sanctions also affects the taking of effective remedial actions by the authorities to both natural and legal persons.

Weighting and Conclusion

The lack of provisions for administrative sanctions is a major deficiency to the A ML/CFT sanctioning regime of Uganda. Further, the legal framework does not provide for sanctions for failure to comply with

requirements meant to enhance implementation of targeted financial sanctions related to terrorism and terrorist financing. **Uganda is rated *partially compliant* with R. 35.**

Recommendation 36 – International instruments

Uganda was rated PC on this recommendation in the 1st round of Mutual Evaluations. The main reason for the rating was that although Uganda had ratified the Vienna and Palermo Conventions at the time, it had not taken measures to implement the measures into its domestic law. Uganda has since domesticated the provisions of both the Vienna and Palermo Conventions through the enactment of the AMLA in 2013, the Merida Convention through the Anti-Corruption Act of 2009 and the Suppression of Terrorism Convention through the amended ATA of June 2015, although there are still deficiencies.

Criterion 36.1-(Met) Uganda is party to the Vienna Convention (ratified 24 June 1988), Palermo Convention (ratified 12 December 2000), TF Convention (ratified 2003) and the Merida Convention (ratified 9 December 2003).

Criterion 36.2-(Met) Uganda has enacted laws to enable domestication of the provisions of the four Conventions relevant to its AML/CFT regime. The AMLA criminalises ML and sets out provisions to improve the regime on provisional measures and confiscation of illicit proceeds in Uganda. In order to curb on corruption, the authorities have formed the IG to enforce the provisions of the Ant-Corruption Act. The authorities amended the Anti-Terrorism law in 2015 to meet the requirements of the Terrorist Financing Convention, although there are still deficiencies with the criminalisation of the TF offence.

Weighting and conclusions

Uganda has ratified and implemented all the conventions relevant to combat ML and TF. **Uganda is rated *compliant* with R. 36.**

Recommendation 37 - Mutual legal assistance

In the 1st round of Mutual Evaluations, Uganda was rated non-compliant with this Recommendation. The main reason being that Uganda did not have laws or other mechanisms in place to enable mutual legal assistance. Uganda still does not have a law dealing with mutual legal assistance matters. However, the AMLA has provisions dealing with mutual legal assistance relating to matters covered by this Act only.

Criterion 37.1-(Partially met) Uganda does not have a specific law dealing with Mutual Legal Assistance but relies on the Commonwealth Harare Scheme on Mutual Legal Assistance and the IGAD Convention for mutual legal assistance. The AMLA only provides mutual legal assistance limited to ML. Uganda has also entered into bilateral and multi-lateral agreements which also complement its framework on mutual legal assistance but the absence of a specific law dealing with mutual legal assistance negatively affects the timely administration of MLA requests and the extent of the range of mutual legal assistance which can be provided by the authorities.

Criterion 37.2 - (Not met) Uganda does not have a central authority for receiving, transmission and execution of mutual legal assistance requests. Although, the DPP's Office provides the *de facto* role of handling mutual legal assistance requests, the office does not have mechanisms to ensure processes in dealing with mutual legal assistance request are done in a timely manner and that they are prioritised.

*Criterion 37.3-(Partially met)*S. 114 of the AMLA, which sets out the provisions regarding requests for mutual legal assistance does not subject such requests to unreasonable and unduly restrictive conditions.

Further, there have not been any cases cited by the authorities where mutual legal assistance had been denied due to such measures.

Criterion 37.4-(Largely met) S. 114(12) of the AMLA prohibits refusal of a request for mutual legal assistance on the sole basis that the offence is also considered to involve fiscal matters in Uganda. This application is however only limited to matters covered by the Act. S. 114(11) of the AMLA prohibits the refusal to deal with a mutual legal assistance request on the grounds of bank secrecy or confidentiality.

Criterion 37.5 - (Partially met) S. 114(6) of the AMLA provides for requests on mutual legal assistance to be kept confidential upon request, however, this is not extended to the information which is contained in the request.

Criterion 37.6- (Not met) Under s. 114(13) of the AMLA authorities in Uganda have discretion to decline to provide mutual legal assistance due to absence of dual criminality. The provision does not exempt situations where the request does not involve coercive actions.

Criterion 37.7- (Partially met) There is no explicit provision under the Ugandan law requiring dual criminality in mutual legal assistance cases. However, s. 107(3)(d) of the AMLA requires such requests to meet with the requirements of the Ugandan law and it is not clear whether these requirements would include dual criminality.

*Criterion 37.8-(Met)*The competent authorities in Uganda in terms of s.107(2) of AMLA have the same powers when assisting in a foreign request for mutual legal assistance as they would have when investigating a domestic case in terms of the provisions of the AMLA.

Weighting and Conclusion

Uganda has no specific legislation which deals with mutual legal assistance matters other than the provisions provided in the AMLA dealing with mutual legal assistance relating to matters covered under the same Act. There is no central authority to receive, transmit and execute mutual legal assistance requests leaving different competent authorities to deal with their own requests. The statistics kept by the authorities do not show clear processes, timelines or prioritisation of requests. **Uganda is rated *partially compliant* with R. 37.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In the 1st round of MEs, Uganda was rated non-compliant with the requirements of this Recommendation. The deficiencies identified were that there was no statutory framework for confiscation in general or for MLA in confiscation. The enactment of the AMLA has addressed some of the deficiencies identified but they can still be improved on for Uganda to be fully compliant with the Recommendation.

*Criterion 38.1- (Not met)*S. 107 (2) of the AMLA provides authority to competent authorities to receive a request from a competent authority of another State to identify, trace, freeze, seize or confiscate property derived from ML and other crimes, and may take appropriate action to fulfil the request. The provision is deficient to the extent that it does not cover instrumentalities used in a crime, instrumentalities intended to be used in committing a crime or property of corresponding value or proceeds generated from such property. The provision also does not require the Ugandan competent authority to expeditiously act on the request as set out under the criterion.

Criterion 38.2-(Not met) There are no specific provisions under Ugandan law dealing with non-conviction based confiscation forfeiture.

Criterion 38.3-(Not met) Arrangements for coordinating and managing seizure and confiscation actions with other countries are not provided under the Ugandan law.

Criterion 38.4-(Met) S. 112(3)(b) of the AMLA provides for sharing of confiscated property with other States, on a regular or case by case basis or funds derived from sale of such property, in accordance with the laws of Uganda.

Weighting and conclusion

The numerous limitations in the range of assistance which can be offered and the lack of requirements to expeditiously attend to requests create major deficiencies to the recommendation. **Uganda is rated *partially compliant* with R. 38.**

Recommendation 39 – Extradition

In the 1st round of mutual evaluations, Uganda was rated non-compliant on this Recommendation on the basis that the Extradition Act did not provide for AML/CFT and that dual criminality was a requirement for extradition. The AMLA enacted in 2013 now has provisions for extradition on ML and predicate offences.

Criterion 39.1-(Not met) S. 113 of the AMLA which provides crimes committed under the same Act as extraditable offences does not cover the offence of TF as it is not criminalised under this Act. The offence of TF is not covered as an extraditable offence. There are no case management systems and clear processes for the timely execution of extradition requests including prioritisation where appropriate and some of the competent authorities, like the IG do not have a policy of pursuing fugitives beyond the Ugandan borders. Criteria 39.1(a) and (b) are therefore not met. The provisions of s. 113(6) of the AMLA, providing for situations where extradition shall not be granted are neutral in nature and falls within the internationally accepted norms for refusal of an extradition request. These provisions are not considered to be unreasonable or unduly restrictive. Criterion 39.1(c) is therefore met. The overall rating is not met as TF is not an extraditable offence.

Criterion 39.2-(Met) S. 113(7) of the AMLA provides for Uganda, where it refuses extradition[27] and upon request by the requesting state, to refer the case without undue delay to its competent authorities in order that proceedings may be instituted against the person whose extradition request would have been denied.

Criterion 39.3-(Not met) Extradition in terms of s. 113(3) of the AMLA, is only permissible where the crime for which extradition is being sought is punishable under the laws of both Uganda and the requesting State. The subsection does not proceed to provide for the requirement to be seen to be satisfied regardless of whether Uganda places the offence in a different category of offence or qualifies the offence by the same terminology as long as the conduct is criminalised in both Uganda and the requesting State.

Criterion 39.4-(Partially met) Section 113(9) of the AMLA provides simplified extradition measures relating to taking into custody of a person whose extradition is sought and is available in Uganda pending

[27] Which may happen based on any of the ten reasons given in s. 113(6) of the AMLA

the extradition hearing proceedings. The law does not, however, provide for the quick extradition of a person whose extradition is sought and is present in Uganda, upon his/her consent to be extradited to the requesting country.

Weighting and Conclusion

The offence of TF is not covered as an extraditable offence under the provisions of the AMLA. There are no provisions providing for extradition based on the underlying conduct being the same in both Uganda and the requesting country. The provisions provided in the AMLA do not provide for simplified measures pertaining to expediting extradition of the requested person upon his/her consent. **Uganda is rated *non-compliant* with R. 39.**

Recommendation 40 – Other forms of international cooperation

Uganda was rated partially compliant with this Recommendation during the 1st round of MEs. The main reason for the rating was that the channels and mechanisms for exchange of information between counterparts were deficient. The AMLA now has provisions regulating the exchange of information by competent authorities with their counterparts.

General principles

Criterion 40.1-(Largely met) Competent authorities are allowed to exchange/share information with their counterparts (section 111 of the AMLA). Section 111 allows the competent authorities to provide a wide variety of mutual legal assistance to other counterparts. This information among others, includes assistance to obtain testimony or statements from persons in Uganda; facilitating voluntary presence of people in Uganda to give testimony; effecting service of documents; executing searches, seizures and freezing; providing information, evidentiary items and expert evaluations; providing relevant documents, locating and identifying persons, identifying or tracing proceeds of crime, property, instrumentalities or other things for evidential purposes. The assistance is even extended to competent authorities to provide State copies of Government records, documents or information in its possession that under the laws of Uganda are available as public records. Although, subsection (4) empowers competent authorities to give spontaneous disclosures to foreign counterparts, the scope of such assistance is restricted to criminal cases. Subject to this restriction in respect of spontaneous disclosures, competent authorities in Uganda have authority to assist and request assistance in a wide range of matters relating to ML and other offences. There is, however, no guidance in the law on the time frames within which Uganda must act, when assisting foreign counterparts. It is therefore, difficult to determine how timely the requests can be processed.

Criterion 40.2-(Partially met) (a) Competent authorities in Uganda, in terms of s. 111(1)(b) of the AMLA are provided with the authority to provide cooperation. In terms of this section competent authorities may receive requests for assistance from another State in matters relating to civil, criminal, or administrative investigation, prosecution or proceedings involving ML or other cases. b) In terms of this section, the competent authorities are allowed to take appropriate measures with respect to assisting the requesting State. However, this provision is not explicit on competent authorities being allowed to use the most efficient means to co-operate. c) There are no clear and secure gateways, mechanisms or channels that facilitate the transmission and execution of requests in Uganda. For sub-criterion d) & e), there are no processes which allow prioritisation and timely execution of requests as well as for safeguarding the information received in Uganda.

*Criterion 40.3 –(Largely met)*The AMLA, under s. 105 provides for the Minister or an authorised officer (defined in s. 1 of the same Act as, "Executive Director or Deputy Executive Director of the FIA, a prosecutor of the Director of Public Prosecutions, or a police officer at the rank of assistant inspector of police or higher"), to enter into an agreement with any ministry, department, public authority or body outside Uganda for the collection, use or disclosure of information, with the aim of exchanging or sharing information outside Uganda. Whereas this provision allows the Minister and specific competent authorities to enter into bilateral or multilateral agreements or arrangements to co-operate, the competent authorities allowed to do this are limited leaving out the other competent authorities which could be important in the AML/CFT regime of Uganda. Further, there is no guidance given on the timeliness of signing such agreements as required under this criterion.

Criterion 40.4- (Not met) The laws of Uganda do not require that Ugandan competent authorities provide timely feedback to the competent authorities from which they will have received assistance on the use or usefulness of the assistance obtained.

*Criterion 40.5-(Largely met)*The legal framework in Uganda has a few restrictions on exchange of information: a) s. 114(12) of the AMLA prohibits refusal of a request for assistance because the crime is also considered to have fiscal matters; b) s. 114.(11) of the AMLA prohibits denial to render mutual legal assistance on the grounds of bank secrecy or confidentiality; c) the law does not deal with situations where a request is made and it relates to a matter which is under inquiry, investigation, or proceeding in Uganda and assistance being requested would impede that inquiry, investigation or proceeding; d) The nature or status of the requesting counterpart authority being different from that of Uganda seems not to be an impediment in Uganda as s. 111(b) of AMLA is wide enough to allow the competent authorities in Uganda to receive and take appropriate measures relating to requests for assistance in connection with a civil, criminal, or administrative investigation, prosecution or proceeding, as the case may be relating to ML or other crimes and the provision does not provide any restrictions relating to the different status of the country making the request.

*Criterion 40.6-(Not met)*Uganda's legal framework does not provide for controls and safeguards to ensure that information exchanged with other competent authorities is not used for any other purpose than what it would have been requested for. However, Uganda has a provision which restricts information it transmit or evidence furnished to other jurisdictions to be used for other purposes other than those stated in the request but the provision does not apply to extra-territorial information or evidence received by competent authorities in Uganda.

*Criterion 40.7-(Not met)*There are no explicit provisions under the Ugandan laws that require competent authorities in Uganda to maintain appropriate confidentiality for any requests for cooperation and the information exchanged consistent with both parties' obligations concerning privacy and data protection. S. 114(a) of the AMLA which is close to providing this requirement only applies when a request is made from the requesting country to keep the existence and substance confidential but again this does not apply to all cases, where that is not possible then the requesting State has to be informed.

Criterion 40.8- (Met) S. 111(2) of the AMLA is wide enough to enable the competent authorities of Uganda to conduct inquiries on behalf of foreign counterparts and exchange information with foreign counterparts that would have been obtainable by them if such inquiries were being carried out in Uganda.

Exchange of Information between FIUs

Criterion 40.9-(Met) Ss. 19 and 38(1) of the AMLA, allow the FIA to exchange information with local competent authorities and foreign counterparts. In relation to foreign counterparts, both sections of the AMLA require that the FIA shares such information with foreign counterparts whose countries have treaties, agreements or arrangements with the Government of Uganda relating to money laundering and similar offences.

Criterion 40.10-(Not met) There are no requirements for the FIA to provide feedback to foreign counterparts upon request or whenever possible on the use of the information provided and on outcome of the analysis conducted based on the information provided.

Criterion 40.11- (Met) The requirements of this criterion are covered under sections 19(e) and 38(1) of the AMLA.

Exchange of information between financial supervisors

Criterion 40.12 - (Largely met) S.106 of the AMLA, provides the legal basis for financial supervisors to co-operate with their foreign counterparts. However, such assistance is only provided in accordance with the provisions of the AMLA, or any international conventions, treaties, agreements or arrangements to which Uganda is a party (note has to be taken here of the limitations created by the requirements of s. 105 of the AMLA) and within the limits of the legal systems of Uganda. Such assistance cannot be provided outside these requirements.

Criterion 40.13 – (Met) In terms of memoranda of understanding that BoU, IRA and CMA have signed with their foreign counterparts, they can facilitate information sharing and conduct joint inspections relevant to their respective needs. Where there are no such MoUs signed with any of Uganda's financial sector supervisors, the supervisors can provide such assistance in terms of s. 106 of the AMLA.

Criterion 40.14- (Largely met) All financial supervisors have demonstrated that they can share regulatory and general information with their foreign regulatory counterparts as well as information relating to financial institutions' business activities, and fit and properness. BoU has also demonstrated that they can also share information relating to internal AML/CFT procedures and policies, CDD, customer files and transactions. However, no evidence was demonstrated to prove that all financial institutions can assist on information relating to beneficial ownership as there was no central depository of information relating to legal entities and arrangements. Other supervisors have also not shared any information which will have demonstrated that they can share information relating to their internal AML/CFT procedures and policies, CDD, customer files and transactions.

Criterion 40.15-(Largely met) Although s. 111(1)(b) of the AMLA provides specific circumstances under which financial supervisors can be able to conduct inquiries on behalf of foreign counterparts *(such assistance has to relate to a civil, criminal, or administrative investigation, prosecution or proceeding, as the case may be involving ML or another),* s. 111(2) which provides the kind of assistance which can be rendered is wide enough to cover conducting of inquiries by the financial supervisors on behalf of their foreign counterparts when they relate to other issues which facilitate effective supervision. What is not clear with both ss. 111(1)(b) and 111(2) is whether the financial supervisors can use these two provisions to authorise foreign counterparts to conduct inquiries themselves in Uganda. These provisions are also

supplemented by the general provisions on extra-territorial cooperation by competent authorities set out in s. 106 of the same Act.

Criterion 40.16-(Not met) In terms of s. 111(4) of the AMLA, financial supervisors in Uganda subject to other laws, may without prior request to the requested financial supervisor transmit information relating to criminal matters to a competent authority in another State if they are of the view that such information can assist the authority in undertaking or successfully concluding enquiries and criminal proceedings or could result in a request formulated by the other State under that Part of the Act. This provision does not have a proviso requesting the financial supervisor under such circumstances, at minimum, to promptly inform the requested authority of this possibility as required under this sub-criterion.

Exchange of information between law enforcement authorities

Criterion 40.17-(Met) Law enforcement authorities are able to exchange domestically available information with foreign counterparts in terms of s. 106 of the AMLA.

Criterion 40.18-(Met) Law enforcement authorities are empowered to conduct inquiries and obtain information on behalf of foreign counterparts in terms of ss. 106 and 107(2) of the AMLA. S. 106 of the AMLA also empowers law enforcement authorities in terms of agreements entered into by Uganda with other law enforcement agencies such as Interpol, Europol, or Eurojust.

Criterion 40.19 - (Met) S. 106 of the AMLA allows law enforcement authorities in Uganda to enter into joint investigative teams to conduct investigations.

Exchange of information between non-counterparts

Criterion 40.20-(Not met) There is no provision under Ugandan law allowing competent authorities to exchange information indirectly with non-counterparts.

Weighting and Conclusion:

The requirements for other forms of international co-operation are in the majority provided in Uganda. However, there are still gaps which could impede or affect the other forms of international cooperation envisaged under this Recommendation. These include: lack of guidance on the timeframes to provide assistance required or feedback; lack of clear gateways to facilitate execution and sending of requests; lack of a framework to allow prioritisation of requests; limitations to competent authorities allowed to enter into bilateral or multilateral agreements or arrangements to co-operate; *lack of controls and safeguards to ensure that information received is not used for other purposes than it was requested for; lack of requirements to maintain appropriate confidentiality of the requests made or information received; possibility of the information received being shared with other 3rd parties without the knowledge of the requested party;* and lack of provisions allowing competent authorities to exchange information indirectly with non-counterparts. The deficiencies highlighted in italics are of major concern as they have the potential of causing the exchange of any kind of information to be refused by foreign counterparts/competent authorities. **Uganda is rated *partially compliant* with R. 40.**

Summary of Technical Compliance– Key Deficiencies

	Recommendation		Rating		
1.	Assessing risks & applying a risk-based approach	NC		Most of the criteria under this recommendation are not	met, with 1.6 largely met and only a partially
					Uganda has not carried out a NRA its ML/TF
					The institutional framework is still o

						capacity to
						▪ Allocation of resources is not curre on an
						▪ There is no requirement for financi and
	2.	National cooperation and coordination		PC	▪	The activities of the AML/CFT Committee are not informed by identified ML/TF risks a
						▪
						▪
	3.	Money laundering offence		PC	▪	The AMLA has got two sections which criminalise the

	Recommendation			Rating		
4.	Confiscation and provisional measures			LC		
5.	Terrorist financing offence		NC		The scope of the TF offence does not criminalise the	
6	Targeted financial			NC		There is no law authorising

	.						regulations
		sanctions	related	to			
		terrorism & TF					
	7.	Targeted	financial		NC		There is no law authorising regulations
		sanctions	related	to			
		proliferation					
	8.	Non-profit organisations		NC		The current requirements regulating the NPO sector in	

	Recommendation			Rating	

9. Financial	institution secrecy laws		C	The Recommendation is fully met.
10. Customer due diligence		PC		The definition of beneficial owner as per the AMLA is

	Recommendation			Rating	
11. Record keeping		NC		Only records relating to reportable transactions are	

	12. Politically exposed persons		NC		No legal obligations exist for financial institutions to	
	13. Correspondent banking		C		The Recommendation is fully met.	
	14. Money or value transfer		PC		There is inadequate monitoring on Mobile Money	
		services				

	15. New technologies		NC		The Ugandan legal framework does not provide for	
	16. Wire transfers		NC		Except for the requirement to have financial institutions	
	17. Reliance on third parties		NC		No requirements	for finan institutic

	Recommendation			**Rating**		

18. Internal	controls	and	NC		Financial institutions are not required to consider	
	foreign	branches	and			ML/TF risks when
	subsidiaries					

19. Higher-risk countries			N C		The law does not provide for application of	

20. Reporting of suspicious NC transaction

- Financial institutions are not required to report suspicious transactions promptly to the FIU.
- There is no obligation to report attempted transactions regardless of the amount of the transaction.
- There is uncertainty on whether there is a national centre to report STRs given the confusion created by having parallel AML provisions in both the FI Act and AMLA which impose dual reporting obligations of STRs on financial institutions supervised by the BoU to both the FIA and BoU.

21. Tipping-off and confidentiality	and	C	The Recommendation is fully met.

22. DNFBPs: Customer due PC diligence

- Lack of requirements to identify a customer and/or beneficial owner (impact of deficiencies to R. 10, 11, 12 and 17)
- No requirements to understand the nature of the

	Recommendation			**Rating**	

23. DNFBPs: Other measures		PC		DNFBPs are not required to report attempted	
24. Transparency	and		NC		The ML/TF risks as legal
	beneficial ownership	of			
	legal persons				

25. Transparency and beneficial ownership of legal arrangements		NC			

- There are no legal requirements on legal arrangements, including trusts to be registered.
- No legal obligation for trustees to identify settlors, beneficiaries or class of beneficiaries and any other natural person who might be exercising ultimate effective control over a trust.
- No legal obligation for trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.
- No legal requirements for authorities to keep adequate, accurate and current information on legal arrangements in existence in Uganda.

	26. Regulation and supervision	NC	The current legal framework in Uganda does not

	Recommendation			Rating		
	of financial institutions					desig super
						Th inspe
						Th an

							Th or ho
	27. Powers of supervisors		NC		There are no specific legal or other provisions under the		
							Th auth
							Th Act
	28. Regulation and supervision		NC		There are no provisions enabling competent authorities		
		of DNFBPs					to ta preve

							Th Regu
							Th desig
	29. Financial intelligence units		PC		The FIA does not conduct strategic analysis.		
							Th repo

	Recommendation			Rating	

	30. Responsibilities of law		PC		Although, the AMLA provides for regulatory and	
		enforcement		and		
		investigative authorities				

31. Powers of enforcement and investigative authorities	law		PC	▪ There is r out
32. Cash couriers			NC	▪ No regulc provisions

	33. Statistics				NC	

	Recommendation			Rating	
34. Guidance and feedback		PC	■ The FIA has not issued comprehensive guidelines to		
35. Sanctions		PC	■ The AMLA does not provide for administrative and/or		

	36. International instruments		C	■ The Recommendation is fully met.		
	37. Mutual legal assistance		PC	■ Uganda has no specific legislation which deals with		
	38. Mutual legal assistance:	freezing and confiscation	PC	■ The provision providing for assistance to identify, trace,		freez from

	Recommendation			Rating
39. Extradition		NC		▪ The offence of TF is not covered as an extraditable

40. Other forms of international cooperation			PC				

- Lack of guidance on the timeframes to provide assistance required or feedback; lack of clear gateways to facilitate execution and sending of requests.
- There is framework to allow prioritisation of requests.
- Limitations to competent authorities allowed to enter into bilateral or multilateral agreements or arrangements to co-operate.
- Lack of controls and safeguards to ensure that information received is not used for other purposes than it was requested for; lack of requirements to maintain appropriate confidentiality of the requests made or information received.
- Possibility of the information received being shared with other 3rd parties without the knowledge of the requested party.
- Lack of provisions allowing competent authorities to exchange information indirectly with non-counterparts.