

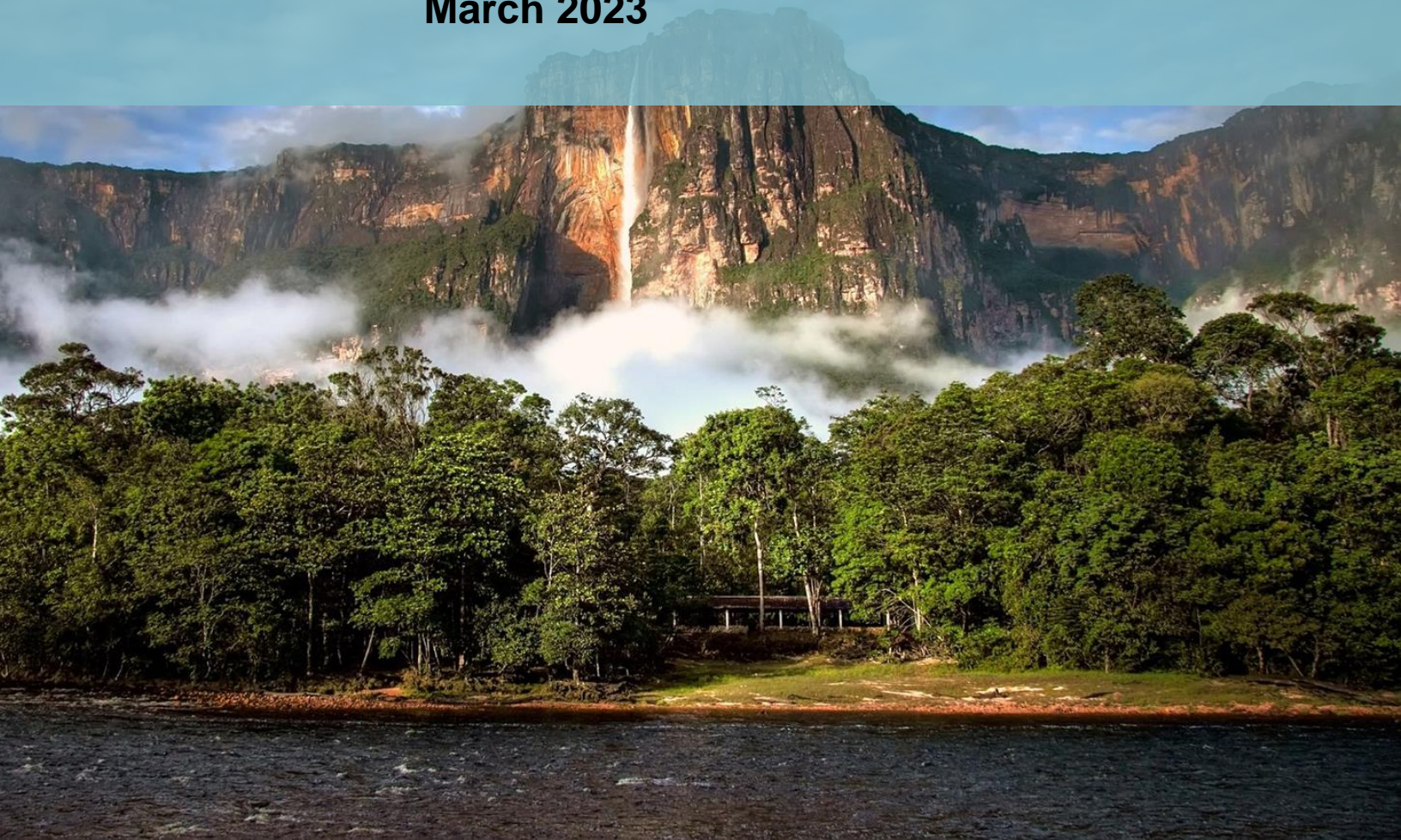


Anti-Money Laundering and Counter-Terrorist Financing Measures

Bolivarian Republic of Venezuela

Mutual Evaluation Report

March 2023





The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-four member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: www.cfatf.org

This report was adopted by the Caribbean Financial Action Task Force (CFATF) at its November 2022 Plenary held in Grand Cayman, Cayman Islands.

Citing reference:

CFATF (2023). *Anti-Money Laundering and Counter-Terrorist Financing Measures – Bolivarian Republic of Venezuela, Mutual Evaluation Report*, <https://www.cfatf-gafic.org/documents/4th-round-meval-reports>

© 2023 CFATF. All rights reserved. No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate reproduce or translate all or part of this publication should be obtained from the CFATF Secretariat at cfatf@cfatf.org

Table of Contents

Executive Summary	
Key findings	4
Risks and general situation	6
Overall level of effectiveness and technical compliance	6
Effectiveness and technical compliance ratings	13
MUTUAL EVALUATION REPORT	
Preface	14
Chapter 1. ML/TF RISKS AND CONTEXT	15
1.1. ML/TF risks and scoping of higher-risk issues	16
1.1.1. Overview of ML/TF risks	16
1.1.2. Country's risk assessment & scoping of higher risk issues	16
1.2. Materiality	20
1.3. Structural elements	22
1.4. Background and other contextual factors	23
1.4.1. AML/CFT strategy	24
1.4.2. Legal and institutional framework	24
1.4.3. Financial sector, DNFBCPs and VASPs	25
1.4.4. Preventive measures	28
1.4.5. Legal persons and arrangements	29
1.4.6. Supervisory arrangements	31
1.4.7. International cooperation	33
Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION	35
2.1. Key findings and recommended actions	35
2.2. Immediate Outcome 1 (Risk, policy and coordination)	37
2.2.1. Country's understanding of its ML/TF risk	37
2.2.2. National policies to address identified ML/TF risks	40
2.2.3. Exemptions, enhanced and simplified measures	41
2.2.4. Objectives and activities of competent authorities	42
2.2.5. National coordination and cooperation	42
2.2.6. Private sector's awareness of risks	43
Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES	46
3.1. Key findings and recommended actions	46
3.2. Immediate Outcome 6 (Financial intelligence ML/TF)	52
3.2.1. Use of financial intelligence and other information	52
3.2.2. SARs received and requested by competent authorities	55
3.2.3. Operational needs supported by FIU analysis and dissemination	58
3.2.4. Cooperation and exchange of information/financial intelligence	59
3.3. Immediate Outcome 7 (ML investigation and prosecution)	61
3.3.1. ML identification and investigation	61
3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies	63
3.3.3. Types of ML cases pursued	65
3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions	67
3.3.5. Use of alternative measures	68
3.4. Immediate Outcome 8 (Confiscation)	69
3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective	69
3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad	70

3.4.3.	Confiscation of falsely or undeclared cross-border transaction of currency/bearer negotiable instruments (BNIs)	72
3.4.4.	Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities	74
Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION		75
4.1.	Key findings and recommended actions	75
4.2.	Immediate Outcome 9 (TF investigation and prosecution)	78
4.2.1.	Prosecution/conviction of types of TF activity consistent with the country's risk profile	78
4.2.2.	TF identification and investigation	80
4.2.3.	TF investigation integrated with -and supportive of- national strategies	82
4.2.4.	Effectiveness, proportionality and dissuasiveness of sanctions	82
	Overall conclusion on IO.9	82
4.3.	Immediate Outcome 10 (TF preventive measures and financial sanctions)	83
4.3.1.	Implementation of targeted financial sanctions for TF without delay	83
4.3.2.	Targeted approach, outreach and oversight of at-risk non-profit organisations	84
4.3.3.	Deprivation of TF assets and instrumentalities	86
4.3.4.	Consistency of measures with overall TF risk profile	86
4.4.	Immediate Outcome 11 (PF financial sanctions)	87
4.4.1.	Implementation of targeted financial sanctions related to proliferation financing without delay	87
4.4.2.	Identification of assets and funds held by designated persons/entities and prohibitions	89
4.4.3.	FIs, DNFBPs and VASPs' understanding of and compliance with obligations	89
4.4.4.	Competent authorities ensuring and monitoring compliance	90
Chapter 5. PREVENTIVE MEASURES		92
5.1.	Key findings and recommended actions	92
5.2.	Immediate Outcome 4 (Preventive measures)	95
5.2.1.	Understanding of ML/TF risks and AML/CFT obligations	95
5.2.2.	Application of risk mitigating measures	98
5.2.3.	Application of CDD and record-keeping requirements	99
5.2.4.	Application of EDD measures	102
5.2.5.	Reporting obligations and tipping off	102
5.2.6.	Internal controls and legal/regulatory requirements impending implementation	103
Chapter 6. SUPERVISION		106
6.1.	Key findings and recommended actions	106
6.2.	Immediate Outcome 3 (Supervision)	107
6.2.1.	Licensing, registration and controls preventing criminals and associates from entering the market	108
6.2.2.	Supervisors' understanding and identification of ML/TF risks	109
6.2.3.	Risk-based supervision of compliance with AML/CFT requirements	111
6.2.4.	Remedial actions and effective, proportionate, and dissuasive sanctions	113
6.2.5.	Impact of supervisory actions on compliance	116
6.2.6.	Promoting a clear understanding of AML/CFT obligations and ML/TF risks	117
	Overall conclusion on IO.3	118
Chapter 7. LEGAL PERSONS AND ARRANGEMENTS		119
7.1.	Key findings and recommended actions	119
7.2.	Immediate Outcome 5 (Legal persons and arrangements)	120
7.2.1.	Public availability of information on the creation and types of legal persons and arrangements	120
7.2.2.	Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities	121
7.2.3.	Mitigating measures to prevent the misuse of legal persons and arrangements	122
7.2.4.	Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons	122
7.2.5.	Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements	124

7.2.6.	Effectiveness, proportionality and dissuasiveness of sanctions	124
Chapter 8. INTERNATIONAL COOPERATION		126
8.1.	Key findings and recommended actions	126
8.2.	Immediate Outcome 2 (International cooperation)	127
8.2.1.	Providing constructive and timely mutual legal assistance (MLA) and extradition	127
8.2.2.	Seeking timely legal assistance to pursue domestic ML, associated predicate offences and TF cases with transnational elements	130
8.2.3.	Seeking other forms of international cooperation for AML/CFT purposes	131
8.2.4.	Providing other forms of international cooperation for AML/CFT purposes	133
8.2.5.	International exchange of basic and beneficial ownership information of legal persons and arrangements	135
TECHNICAL COMPLIANCE		
	Recommendation 1 - Assessing risks and applying a risk-based approach	137
	Recommendation 2 - National cooperation and coordination	140
	Recommendation 3 - Money laundering offence	141
	Recommendation 4 - Confiscation and provisional measures	144
	Recommendation 5 - Terrorist financing offence	146
	Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing	149
	Recommendation 7 - Targeted financial sanctions related to proliferation	154
	Recommendation 8 - Non-profit organisations (NPOs)	155
	Recommendation 9 - Financial institution secrecy laws	158
	Recommendation 10 - Customer due diligence (CDD)	159
	Recommendation 11 – Record-keeping	164
	Recommendation 12 - Politically exposed persons (PEP)	165
	Recommendation 13 - Correspondent banking	167
	Recommendation 14 - Money or value transfer services (MVTs)	168
	Recommendation 15 - New technologies	169
	Recommendation 16 - Wire transfers	174
	Recommendation 17 - Reliance on third parties	177
	Recommendation 18 - Internal controls and foreign branches and subsidiaries	177
	Recommendation 19 – Higher-risk countries	179
	Recommendation 20 - Reporting of suspicious transactions	180
	Recommendation 21 - Tipping-off and confidentiality	181
	Recommendation 22 - DNFBPs: Customer due diligence	181
	Recommendation 23 - DNFBPs: Other measures	184
	Recommendation 24 - Transparency and beneficial ownership of legal persons	185
	Recommendation 25 - Transparency and beneficial ownership of legal arrangements	187
	Recommendation 26 - Regulation and supervision of financial institutions	188
	Recommendation 27 - Powers of supervisors	192
	Recommendation 28 - Regulation and supervision of DNFBPs	193
	Recommendation 29 - Financial Intelligence Units	195
	Recommendation 30 - Responsibilities of law enforcement and investigative authorities	198
	Recommendation 31 - Powers of law enforcement and investigative authorities	200
	Recommendation 32 - Cash Couriers	201
	Recommendation 33 - Statistics	203
	Recommendation 34 - Guidance and feedback	204
	Recommendation 35 - Sanctions	204
	Recommendation 36 - International instruments	205
	Recommendation 37 – Mutual legal assistance	206
	Recommendation 38 – Mutual legal assistance: freezing and confiscation	208
	Recommendation 39 – Extradition	209
	Recommendation 40 - Other forms of international cooperation	210
	Summary of Technical Compliance - Key Deficiencies	213
	Glossary of Acronyms	216

Executive Summary

1. This report provides a summary of the AML/CFT measures in place in the Bolivarian Republic of Venezuela as at the date of the on-site visit conducted from 17 to 28 January 2022. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of its AML/CFT system and provides recommendations on how the system could be strengthened.

Key findings

- a) In general terms, the Bolivarian Republic of Venezuela has limited legislative and regulatory instruments and structures to combat ML/TF effectively. During the assessment process, several technical deficiencies were identified that should be addressed to ensure a robust AML/CFT/CFP system.
- b) The Bolivarian Republic of Venezuela has undertaken two risk assessment exercises, the first of which covered the period 2014-2018, while the second covered 2015-2020. Both national risk assessments were based on cooperation among authorities, but there has been no confirmation that the use of the methodology approved to conduct them was systematic. In the case of the most recent assessment, the country's analysis of threats and vulnerabilities is not deep enough and the focuses mainly on mitigating measures.
- c) Regarding the abuse of DNFBPs for ML/TF purposes, it is recognised that these may be used for ML, but there is no explanation of the types DNFBPs used and the extent to which they are abused nor there is consideration of their exposure by considering their context and materiality. In general, the country regards DNFBPs as high risk based on the insufficient regulation and supervision, they are subject to.
- d) The National Financial Intelligence Unit (UNIF) is an administrative FIU and the central authority for receiving processing and analysing the suspicious activity reports (SARs) submitted by the reporting entities designated by the Organic Law against Organized Crime and Terrorist Financing (LOCDOFT) to report on ML/TF/PF issues. The UNIF does not have access to other reports other than SARs, which limits the scope of the information to which the UNIF has access.
- e) The reporting entities prepare SARs manually and submit them in paper at the UNIF's service desk, which could affect the quality of SARs since the time allocated for their preparation may be reduced by the time needed to disseminate them within the vast Venezuelan territory.
- f) The Attorney General's Office (AGO) is the main recipient and user of these intelligence products since it is the lead criminal investigative agency in the Bolivarian Republic of Venezuela. Regarding cooperation with investigative and law enforcement agencies (LEAs), the current system is not agile or efficient, since there is no direct contact between different authorities and it is the Attorney General's Office that mediates the communications of all stakeholders.
- g) Although the AGO conducts ML investigations, the assessment team could observe that the number of investigations on predicate offences exceeds the number of ML investigations, which reveals that ML is not an investigation priority.

- h) Confiscation and forfeiture of the instrumentalities and the proceeds of crime are not considered as policy objectives of the Bolivarian Republic of Venezuela. The country has no specific national strategy or plan focused on confiscation and forfeiture.
- i) There are no data on international cooperation regarding the repatriation and restitution of the proceeds of ML and predicate offences committed abroad, or of the proceeds sent to other countries.
- j) According to the findings of the 2015-2020 NRA, the Bolivarian Republic of Venezuela faces five medium TF risks and one high TF risk. The country considers that the use of non-profit organisations (NPOs) to facilitate TF is its highest TF risk.
- k) The TF risk analysis performed in the 2015-2020 NRA is brief and, although it identifies the risks arising from the presence of terrorist groups in the region, the analysis of such groups, other threats and risks related to the geographical location and porous borders is not comprehensive or detailed.
- l) With respect to the investigation and punishment of TF offences and activities, the assessment team did not obtain information regarding inter-agency and international cooperation, the activity of specialized anti-terrorist units and their analysis of the current situation of the country in relation to terrorism and TF, and the education and training of the officials of competent agencies and entities responsible for TF identification and investigation.
- m) The assessment team considers that the lack of a legal framework implementing Recommendation 7 prevents reporting entities from being aware of or understanding the obligations arising from the United Nations Security Council Resolutions (UNSCRs) related to proliferation.
- n) In general, Venezuelan supervisory authorities do not have records of the deficiencies identified and, if they do, such records are related to the failure to comply with obligations, for example, the submission of risk self-assessments, procedures manuals or annual operating plans.
- o) Financial institutions (FIs) and DNFBPs not subject to regulation and control, i.e., savings banks and cooperatives that provide financial services, real estate agents, lawyers, accountants and other legal professionals, and trust and corporate service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts) do not see themselves as reporting entities, since, although most of them are covered by the LOCDOFT, there is no subsidiary legislation in place.
- p) Basic information on the creation and types of legal persons that can be registered in Venezuela is physically available to the public, since this information cannot be accessed electronically.
- q) Trusts are not common. The Banking Superintendency (SUDEBAN) and the Insurance Superintendency (SUDEASEG) review the financial information of the reporting entities under their supervision and determine if they are acting as trustees. Only insurance companies and banks offer trusts, and this service accounts for less than 1% of their transactions.
- r) The country has not assessed the risks of trusts or legal persons (commercial companies, cooperatives and NPOs). Therefore, neither the authorities nor the reporting entities are aware of or understand the ML/TF risks posed by them.
- s) Except for the communications within the Egmont Group, the Ministry of Foreign Affairs plays a coordinating role in relation to the exchange of information at the international level. Thus, the other

authorities do not directly communicate with their foreign counterparts, but in case they require any information, they request it to the Ministry of Foreign Affairs, which subsequently forwards the request to the foreign counterpart. No evidence was provided either to confirm that these communications actually occur. Nor was there evidence of international cooperation between the other competent authorities and other countries.

Risks and general situation

2. The Bolivarian Republic of Venezuela faces national and international ML/TF risks related to its geographical position in South America, its vast territory and the fact that it has over 2,000 kilometres of territorial border with the Republic of Colombia, a country that is considered to be a drug producer and where there is also a regional threat driven by the activity of the National Liberation Army (ELN) and the Armed Forces of Colombia (FARC). The situation is worsened by the lack of resources to control borders and border areas, making these areas very attractive for organized criminal groups to operate without control in Venezuelan territory. This can be observed in the findings obtained in the 2015-2020 NRA update, where this situation is rated as high risk, and in the growing number of cross-border crimes, such as the smuggling of gold, fuel, medicines, medical equipment and foreign currency.

3. The information provided by the country and the information available from reliable public sources reveal that the country is exposed to a series of situations that affect its good functioning, namely, drug trafficking, corruption in a state-owned company, illegal exploitation of natural resources, smuggling, human trafficking for sexual exploitation purposes and migrant smuggling, and the high level of informal economy, which permits the excessive use of cash outside the regulated financial system.

4. According to the NRA, the TF risk in the country is medium, while the risk related to NPO is classified as high. The latter was supported by cases whereby it was possible to identify that these entities have been used to finance actions classified as terrorist acts in the country. The assessment does not analyse the use of resources for TF in the Venezuelan territory or the access to resources for this purpose through other crimes. In addition to the NRA, the country has conducted sectoral risk assessments that allow for a better understanding of the banking, insurance, securities and virtual assets sectors. However, knowledge of the remaining FIs and DNFBPs is limited.

Overall level of effectiveness and technical compliance

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

5. The Bolivarian Republic of Venezuela has conducted two national risk assessments (NRA). The first NRA covered the period 2014-2018, and it was later updated to include the period 2015-2020. In general, Venezuela conducts an exercise to understand ML/TF risks, including a generic analysis of threats and vulnerabilities and risk identification. On the contrary, the NRA is mainly focused on the mitigating measures affected and it is not clear whether the risks are fully understood. In addition to the NRA, the Bolivarian Republic of Venezuela has conducted some sectoral risk assessments which enable the country to better understand some sectors. However, the assessments conducted by the SUDEBAN, the SUDEASEG and the Superintendency of Cryptoassets and Related Activities (SUNACRIP) do not delve enough into the risk identified. In the remaining sectors, the analysis was non-existent or the assessment team considered it insufficient.

6. To conduct the NRA, the country developed a National Network comprising all AML/CFT competent authorities. On the other hand, there is no evidence that the private sector has participated in

the NRA and that it understands the risks identified therein. However, the sector was more involved in the sectoral risk assessment.

7. The country's ML/TF strategy falls within the framework of the government plans *Plan de la Patria 2019-2025* and *Gran Misión Cuadrantes de Paz*. Nonetheless, the scope of these AML/CFT policies is general, and they are not based on the risks identified. The country has not been able to demonstrate that these major objectives are reflected in specific actions.

8. The National Office against Organized Crime and Terrorist Financing (ONCDOFT) has the power to coordinate AML/CFT issues in 2012. This agency received such responsibility over time from the National Anti-Drug Superintendency (ONA, today SUNAD) and the UNIF, and its coordination duties are not fully developed to date. In addition, the Bolivarian Republic of Venezuela has a large number of AML/CFT competent authorities and supervisors, but there is lack of clarity as to the powers granted to each of them and an overlapping between some of the actions performed by the different authorities, mainly among supervisors. Regarding cooperation with LEAs and investigative agencies, the Attorney General's Office is responsible for the communications of all the stakeholders, including the receipt of financial intelligence from the UNIF and its referral to law enforcement agencies.

9. Finally, regarding proliferation financing (PF), there is no evidence of cooperation and coordination on the matter.

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

10. The UNIF is the central agency responsible for receiving and analysing suspicious activity reports (SARs) sent by reporting entities and for disseminating intelligence products. The lack of transparency in the appointment of the General Director affects UNIF's operational independence. According to a decree reviewed, the President of the Republic has appointed the UNIF's General Director; additionally, there are no requirements to hold office. This weakens transparency regarding the selection criteria, the suitability of candidates and UNIF's operational independence.

11. The AGO is the main user of the intelligence products elaborated by the UNIF. Most competent authorities know the UNIF to a certain extent, but they cannot communicate directly with it since the legislative framework identifies the AGO as the lead criminal investigative agency in the Bolivarian Republic of Venezuela.

12. The UNIF has shown that it can access various sources of information directly. Nonetheless, timeliness of information is affected because the UNIF must make formal requests to access some of the government's databases.

13. There is a legal framework to investigate ML in the Bolivarian Republic of Venezuela. The ONCDOFT and the Scientific, Criminal, and Forensic Investigations Corps (CICPC) are the main authorities assisting the AGO in the investigation of ML cases. It should be noted, though, that there is a lack of cases initiated by other investigative agencies, which demonstrates a gap in the AML/CFT system.

14. The Bolivarian Republic of Venezuela has demonstrated that it investigates and prosecutes ML. However, these investigations are not consistent with the country's risk and context, since there is a small number of ML prosecutions.

15. There have been some ML cases related to drug trafficking, which was identified as one of the risks in the 2015-2020 NRA. However, no cases have been initiated in relation to other predicate offences and areas identified in the 2015-2020 NRA, such as corruption.

16. The subsidiary investigative agencies do not have direct access to or use UNIF's analytical products to carry out ML investigations. Subsidiary agencies may require UNIF's assistance by means of a "start order" issued by the AGO in its capacity as the agency responsible for criminal prosecution.

17. Competent authorities do not have special software to identify and investigate the crime of ML to assist them in their investigative activities, which has an impact on the production of timely and high-quality research products.

18. The AGO and the Supreme Court of Justice (TSJ) investigate, prosecute and sanction stand-alone ML. There is no evidence that third party ML or self--laundering is prosecuted.

19. The AGO has a system for tracking and assigning cases, but data are not congruent, accurate or consistent with the statistical data yielded by the databases of the different competent authorities, particularly those of the TSJ.

20. The TSJ demonstrated its understanding of ML and has prosecuted several cases. The criminal sanctions and fines provided for in the legislation seem to be dissuasive, but the sentences passed have been lower than those required by law in some cases.

21. Although the TSJ has prosecuted ML cases, the time in which such cases are solved is not effective and has negative consequences for the State, the victims and the accused.

22. The Bolivarian Republic of Venezuela is empowered to forfeit, confiscate and seize assets, although their nomenclature is different. Since data on forfeitures and confiscations are unified, it was not possible to determine how dissuasive forfeiture and confiscation measures were.

23. Confiscation and forfeiture of the instrumentalities and the proceeds of crime are not considered as policy objectives of the Bolivarian Republic of Venezuela. Current policies are not based on the risks analysed, but on the central government's strategic pillars. Although such pillars could coincide with the risks identified, current government policies were developed without a risk-based approach.

24. Although the Bolivarian Republic of Venezuela conducts forfeitures, the number is low. Most forfeitures are related to drug trafficking, which is consistent with one of the risks identified in the NRA. However, other cross-border crimes and transactions are not monitored and prosecuted in the same way.

25. Although statistics are kept by competent authorities, the extension, accuracy and consistency of the data are not sufficient, and there is a need to have adequate record-keeping systems.

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

26. The Bolivarian Republic of Venezuela developed national policies and strategies against TF but has not implemented any specific measure to adopt them.

27. The assessment team also identified deficiencies in the use of inter-agency and international cooperation to address TF cases. There is also a lack of education and training of officials from the AGO and the CICPC to identify and investigate TF.

28. On the other hand, although the legislation provides for dissuasive sanctions for TF, the information available on TF prosecutions and convictions reveals that such sanctions are not consistent with the TF-related risks identified in the NRA.

29. The Bolivarian Republic of Venezuela has developed a legal framework to implement targeted financial sanctions (TFS) related to UNSC Resolutions 1267 and 1373, but excludes UNSC Resolutions 1988, 1989, 2253 and subsequent resolutions. Nonetheless, the competent authorities and reporting entities showed that they had a limited understanding of the mechanisms in place, which affects their effective implementation. In addition, the authorities have not designated persons or entities as terrorists despite the TF-related risks identified in the 2015-2020 NRA. The country recognizes the existence of foreign terrorist organisations operating in its territory.

30. All NPOs are considered as high risk by the NRA; however, such conclusion is not based on an in-depth sectoral assessment. Consequently, NPOs are rated as high-risk customers for all reporting entities. The excessive attention given to the NPO sector and the measures that the country is trying to implement are not justified under the FATF Standards.

31. The Bolivarian Republic of Venezuela has not established any measure to prevent persons and entities involved in the proliferation of weapons of mass destruction from collecting, transporting and using funds pursuant to UNSC Resolutions 1718 and 2231. Consequently, targeted financial sanctions related to proliferation are not implemented; compliance with the requirement to implement them is not monitored; and there is no adequate cooperation and coordination among authorities to prevent sanctions evasion.

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

32. Most FIs and virtual assets service providers (VASPs) are subject to preventive measures, as well as registrars and notaries and casinos in the case of DNFBBs. Nevertheless, there is a considerable number of entities that are not subject to regulation and control, particularly within DNFBBs: savings banks, cooperatives that provide financial services, real estate agents, lawyers, accountants and other legal professionals, as well as trust and company service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts), because, while most of them are covered by the LOCDOFT, there is no subsidiary legislation in place. Consequently, they are not aware of their risks nor do they implement any type of preventive measures.

33. From a formal point of view, the reporting entities regulated for ML/TF purposes comply with their obligation to assess ML/TF risks and are aware of their obligations in this regard. However, the understanding of the risk is not homogeneous among the different sectors, except in the case of the understanding of the TF risk, which is deficient in all cases.

34. Regarding FIs, the banking sector has a better understanding of its risks and a more solid methodology as compared to the other reporting entities within the FIs sector, which have a more general understanding, as is the case with VASPs. Casinos and the Autonomous Service of Registries and Notaries Offices (SAREN) comply with the formal obligation to assess risks, although ML/TF threats and vulnerabilities are actually unknown in practice. Regarding the implementation of preventive measures, it is possible to observe that only the banking sector implements such measures based on the risks related to the adoption of policies and procedures. For the rest of the reporting entities, the implementation of

preventive measures is rule-based rather than risk-based. Thus, it is possible to observe that the level of compliance with the adoption of policies and procedures is much lower.

35. FIs, DNFBPs and VASPs subject to regulation and control, except for those entities recently incorporated into the AML/CFT system, as part of the due diligence process, conduct an examination that is useful to monitor the requirements for natural persons with low-risk and simple legal persons and arrangements. However, they do not go deep enough in terms of CDD where necessary. Significant deficiencies have been observed regarding beneficial ownership identification and the analysis of the source of funds, which similarly affect different sectors, except for, to a certain extent, the banking sector. Furthermore, the reporting entities do not apply enhanced measures in the case of politically exposed persons (PEPs), correspondent banking, new technologies, wire transfer regulations, TF -related targeted financial sanctions and higher-risk countries identified by the FATF.

36. The level of reporting of suspicious activities to the UNIF is low in all sectors, except for the banking sector. In this sense, the evaluation team identified that a bank was responsible for 37% of the SARs sent to the UNIF between 2016-2020. Finally, most non-bank reporting entities do not have automatic alert systems, which hinders their capacity to comply with their reporting obligations.

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

37. In terms of ML/TF, the legal framework of the Bolivarian Republic of Venezuela assigns supervisors for financial institutions. Thus, the banking, securities, insurance and non-bank payment service providers sectors are supervised by the SUDEBAN, the National Securities Superintendency (SUNAVAL), the SUDEASEG and the Central Bank of Venezuela (CBV), respectively. Although DNFBPs are also subject to the same regulation and control, only the National Commission of Casinos, Bingos and Slot Machines (CNC) supervises casinos, and the Registries and Notaries Offices Autonomous Service (SAREN) supervises registries and notaries; the rest of the entities of the sector have not been assigned a supervisory entity. The virtual assets sector is supervised by the Superintendency of Cryptoassets and Related Activities (SUNACRIP). Finally, the UNIF has been granted generic supervisory powers, focused mostly on supervising and providing feedback to reporting entities on the deficiencies found in relation to what is required by the UNIF; the supporting documentation reveals that the inspections have focused on the banking sector.

38. The Bolivarian Republic of Venezuela requires FIs and VASPs to have a license and registration to operate. Regarding DNFBPs, this requirement is only for casinos, registrars and notaries, but not for the rest of the DNFBPs.

39. The evidence submitted by the country and the results of the on-site visit allowed the assessment team to determine that financial supervisory entities have a reasonable understanding of the ML/TF risk and that inspections are not conducted by applying a risk-based approach. Likewise, they could observe that such entities take corrective actions and apply sanctions that are effective, proportionate and dissuasive, since most of the time, they are limited to recommend improvements. In the case of the SUNACRIP, which focuses on an emerging and small sector of virtual assets, from the beginning it has mechanisms that allow it to understand the sector risks and apply the respective corrective measures.

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

40. In Venezuela, there are legal persons that conduct commercial activities and other legal persons that perform non-profit activities or duties. It is possible to establish legal persons through nominative and bearer shares.

41. Legal arrangements, such as trusts, are rare in the country. The lack of a specific registry and the limited supervision that trust service providers have had so far are deficiencies limiting the veracity and transparency of the persons exercising ultimate effective control over this type of legal arrangement.

42. The country has not assessed the risks of trusts or legal persons (commercial companies, cooperatives and NPOs). Therefore, neither the authorities nor the reporting entities are aware of or understand the ML/TF risks posed by them.

43. Although basic information on legal persons is not publicly available, such information can be accessed through the Single Tax Registration System (RIF) under the National Integrated Tax Administration Service (SENIAT) or the SAREN.

44. The existing measures to prevent the misuse of legal persons and arrangements for ML/TF purposes are limited, and they are affected by the country's limited preventive framework. Some relevant stakeholders are not designated as reporting entities in the country's legislation. For example, real estate agents, dealers in precious metals and stones, lawyers and accountants are not subject to specific regulations or supervision. This is a significant challenge in terms of AML/CFT, considering the nature of their activities and their role in the identification of the BO.

45. Although the basic and beneficial ownership information used by the relevant competent authorities is available through the SENIAT (RIF) or the SAREN, it is difficult to access basic information on the beneficial owners of legal persons which is accurate and updated. To date, no sanction has been imposed for failing to keep beneficial ownership information updated.

46. Based on the information provided by the global network, some delegations highlighted the quality of the beneficial ownership information, as well as the authorization granted by the UNIF to disseminate the information provided, thus making cooperation effective. Although the number of cases in which the UNIF collected beneficial ownership information from its foreign counterparts is reduced, it has been highlighted that the UNIF makes use of this mechanism when such information is required.

47. There was no evidence that other authorities other than the UNIF have conducted an active search and requested beneficial ownership information from their foreign counterparts.

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

48. The Ministry of People's Power for Foreign Affairs (MPPRE) is responsible for international cooperation and exchange of information on AML/CFT matters. The AGO, together with the MPPRE, is responsible for processing MLA and extradition requests, as well as any other relevant communication. The AGO created the positions of national prosecutors in international criminal cooperation, who are responsible for the feasibility study regarding the execution of MLA requests and extradition in criminal matters.

49. In the exchange of information at the international level, the MPPRE has a coordinating role, particularly in relation to the ALM, in such a way that the rest of the authorities do not communicate directly with their foreign counterparts, but rather, in case of requesting information, they make the request to the Chancellery and this, in turn, transfers it to their foreign counterpart. However, UNIF, with the Egmont Group, the National Interpol Office and SUNAD with their respective foreign counterparts, carry out the exchange of information directly.

50. Within the framework of the Egmont Group, the UNIF provides international cooperation to its foreign counterparts, which rate its information positively. However, the country does not frequently and proactively seek the cooperation of its foreign counterparts through information requests. Only the SAREN and the UNIF reported that they exchange beneficial ownership information with foreign authorities.

Priority Actions

- a) Improve the understanding of ML/TF risks by:
 - Deepening the analysis of the threats and vulnerabilities identified in the 2015-2020 NRA.
 - Identifying and assessing the ML/TF risks of the criminal and terrorist groups operating in or from the country, the use of cash and the parallel foreign exchange market, new technologies and legal persons.
 - Identifying and assessing the ML/TF risks of the FI and DNFBP sectors that were not subjected to risk assessment up to the moment of the onsite visit (whether or not they are recognised as reporting entities through legislation).
 - Strengthening and consolidating the TF risk assessments of the NPO sector.
- b) Update the AML/CFT national strategy and plan of action based on the results of the previous priority action and ensure that the objectives, activities and enforceable means of the competent authorities are consistent with these and the ML/TF risks identified.
- c) Improve the supervision and regulation of FIs, DNFBPs and VASPs by:
 - Addressing the shortcomings identified in R.10.
 - Including in the preventive framework, the FIs and DNFBPs that are still not subject to AML/CFT regulation and supervision, using a risk-based approach.
 - Carrying out supervisions based on the risks for all FI and DNFBP and VASP sectors.
 - Ensuring that FIs and DNFBPs identify and report suspicious activities adequately.
 - Amending the penalty system and applying remedial actions and effective, proportionate and dissuasive sanctions.
- d) Address the shortcomings related to the acquisition of basic information and information on the beneficial owner of legal persons and arrangements (including trusts) identified in R.10, 22, 24 and 25 and take measures for basic information and information on the beneficial owner of legal persons and trusts to be accurate and up to date, including the adoption and implementation of mechanisms to monitor or verify this information.
- e) Improve the UNIFs intelligence products by:
 - Revising the formats of its reports and using technological resources to facilitate the visualisation of complex cases.
 - Increasing the number of information sources of the UNIF and the memorandums of understanding that it has signed with other government institutions.
 - Strengthening measures for confidentiality and compartmentalisation of information.
- f) Develop and implement policies and procedures to identify, investigate and prosecute ML and TF cases, in line with the risks faced by the country.
- g) Amend the legal framework to allow the confiscation of goods and assets obtained illegally through ML, predicate offences or TF.
- h) Amend the legal framework that implements TFS against TF to address the shortcomings identified in R.6 and resume their implementation. Additionally, establish a legal framework to meet the requirements of R.7 and immediately commence the implementation of the UNSCRs associated with PF.

Effectiveness and technical compliance ratings

Table 1. Effectiveness ratings

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

Note: Effectiveness ratings can be either a high, substantial, moderate or low level of effectiveness

Table 2. Technical compliance ratings

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

Note: Technical compliance ratings can be either a C- compliant, LC- largely compliant, PC- partially compliant, NC- noncompliant or NA- not applicable

MUTUAL EVALUATION REPORT

Preface

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

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the assessment team during its on-site visit to the country from 17 to 28 January 2022.¹

The evaluation was conducted by an assessment team consisting of:

1. Ms. Irene Sánchez, Deputy Sub-Director General of Inspection and Control of Capital Movements within the Spanish Ministry of Economy and Digital Transformation (financial expert),
2. Mr. Mauro Ortega, General Coordinator of the Financial Intelligence Unit of El Salvador (financial expert),
3. Mr. Sergey Levoshin, Representative of the Ministry of Internal Affairs of the Russian Federation in the Republic of Peru and the Dominican Republic (law enforcement expert),
4. Mr. William Lightbourne, Inspector in charge of the National Criminal Intelligence Agency of the Royal Turks and Caicos Islands Police Force (law enforcement expert) and
5. Mr. Bayardo Orozco, Director of Control and Compliance of the Financial Analysis Unit of Nicaragua (legal expert)

The assessment team was supported by Mr. Héctor Sevilla, Legal Advisor (Mission Lead) and Ms. Ana Folgar, Deputy Executive Director (Mission Co-Lead), both from the CFATF Secretariat.

The report was reviewed by Ms. Ligia Stella, Director of the Financial Intelligence Unit of San Martín, Ms. Solange López, Legal Advisor of the Financial Intelligence Unit of Curaçao, Ms. Arianne Schneider, Project Officer of the MONEYVAL Secretariat, and Mr. Steven Inglis, Senior Advisor to the U.S. Department of the Treasury.

The Bolivarian Republic of Venezuela was previously subject to a CFATF Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology. The 2009 evaluation and the eight follow-up reports published between 2012 and 2014 are available at www.cfatf-gafic.org. The mutual evaluation concluded that the country was compliant with six (6) FATF Recommendations; largely compliant with twelve (12); partially compliant with seventeen (17); and non-compliant with fourteen (14). The Bolivarian Republic of Venezuela was rated compliant or largely compliant with 6 of the 16 Core and Key Recommendations. The Bolivarian Republic of Venezuela was placed under enhanced follow-up in 2009 and was removed from it in 2014 where it was deemed as having achieved a satisfactory level of compliance with the Core and Key Recommendations.

¹ At the beginning of the Mutual Evaluation, the CFATF and the Bolivarian Republic of Venezuela agreed to have the on-site visit between 1 and 12 November 2021. Nonetheless, the Ministry of People's Power for Internal Affairs, Justice and Peace requested the postponement of the on-site visit due to the rise in COVID-19 cases in October of the same year and the lack of resources to simultaneously attend the on-site visit and activities related to the regional elections to be held on 21 November. During its 53rd Plenary Meeting, the CFATF approved postponing the on-site visit for 3 December 2021.

Chapter 1. ML/TF RISKS AND CONTEXT

1. The Bolivarian Republic of Venezuela is a northern South American country, on the coast of the Caribbean Sea. The country limits to the north with Trinidad and Tobago, Grenada, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, France (Guadeloupe and Martinique), the Netherlands (Aruba, Curaçao, Bonaire, Saba, and Saint Eustatius), the United States of America (Puerto Rico and the Virgin Islands) and the Dominican Republic; to the south with Colombia and Brazil; to the west with Colombia; and to the east with the Cooperative Republic of Guyana.
2. Its territory has an area of 1,076,945 km² (including territorial sea) and 916,445 km² of mainland. It has a coastline extension of 4,209 km, a border line extension of 2,219 km limiting with the Republic of Colombia and 2,199 km limiting with the Federative Republic of Brazil and the Cooperative Republic of Guyana.
3. The territory of the Bolivarian Republic of Venezuela is divided into twenty-three (23) states and a capital district (where the capital Caracas is located), federal dependencies and territories. State (regional) public power is represented by the states, which are autonomous and politically equal entities with a legal personality different from that of the Republic and whose agencies are organized by means of a state constitution. The national political-administrative organisation includes municipalities, which have autonomy to elect their authorities, manage matters within their competence and produce, collect and make investments in relation to their resources.
4. The Constitution of the Bolivarian Republic of Venezuela, approved by a popular referendum on 15 December 1999 and promulgated by the National Constituent Assembly on 20 December 1999, establishes that the Bolivarian Republic of Venezuela is a federal, democratic and social State under the rule of law and justice.
5. The national government agencies are located in the city of Caracas. Functionally, the National Public Power is divided into a) Executive Branch, b) Legislative Branch, c) Judicial Branch, d) Electoral Power and f) People's Power.
6. The Executive Branch is represented by the President, the Executive Vice-President and the Cabinet of Ministers. The President of the Republic is elected through direct, universal and secret ballot for a period of six years and may be re-elected for the immediately following period. The President leads the State, the Government and the National Armed Forces. The Constitution empowers the President of the Republic to exercise legislative initiatives and to require from the National Assembly the power to legislate on specific matters.
7. The Legislative Branch is represented by the National Assembly, a collegiate and unicameral agency, comprising two hundred and sixty-seven representatives, three of which represent Indigenous peoples. Representatives from the National Assembly will hold office for five years and can be re-elected for a maximum of two consecutive periods. Like the President of the Republic, they are elected through direct, universal and secret ballot. The Judicial Branch in Venezuela has the power to administer justice, emanates from the citizens and is served in the name of the Republic by the authority of the law.
8. The Judicial Branch in Venezuela is empowered to administer justice, which emanates from the citizens and is served in the name of the Republic by the authority of the law. The Supreme Court of Justice is the highest judicial agency in the country. The Supreme Court of Justice will operate in constitutional, political and administrative, electoral, civil cassation, criminal cassation, social, cassation courts, as well as plenary courts, each of which consists of judges. The constitutional court will consist of five judges whereas the other courts will consist of three judges. All judges are appointed by the National

Assembly for a term of twelve years. The Moral or People's Power comprises three institutions: the Comptroller General of the Republic, the Attorney General's Office and the Ombudsman Office. The holders of these institutions make up the Republican Moral Council.

9. The Electoral Power leads, organizes and monitors all acts related to popularly elected public offices, as well as referendums and plebiscites. It may also perform its duties in the sphere of civil society organisations when so required in the public interest and in the terms determined by law.

10. The People's Power is part of the National Public Power and is exercised by the Republican Moral Council, which is a representative body comprising the Ombudsman, the Prosecutor, the General Prosecutor and the Comptroller General. It ensures the integrity of state agencies.

1.1. ML/TF risks and scoping of higher-risk issues

1.1.1. Overview of ML/TF risks

11. The Bolivarian Republic of Venezuela has a series of inherent money laundering (ML) risks related to its geographical position in South America and its geographical border with Colombia. The number of cross-border crimes have increased due to the size of the country's border, the lack of resources to control it and the country's political instability. These crimes include the illicit trafficking of gold, fuel, medicines, medical equipment and foreign currency, among others.

12. The Venezuelan geographical location was identified as "high risk" in the updated 2015-2020 National Risk Assessment (2015-2020 NRA), since the criminal organisations involved in drug trafficking use the country as a transshipment point to the Caribbean, North America and Europe. Terrorist financing (TF) risks were mostly rated as medium risks, whereas the abuse of non-profit organisations (NPOs) was rated as the "highest risk," which, according to the Bolivarian Republic of Venezuela, was evidenced by the cases where it was possible to identify that NPOs have been used to finance incidents deemed by the country as terrorist acts committed within its jurisdiction.

1.1.2. Country's risk assessment & scoping of higher risk issues

13. The 2015-2020 NRA was coordinated by the National Office against Organized Crime and Terrorist Financing (ONCDOFT) and by an Interdisciplinary Technical Committee made up of representatives from the public and private sectors. Nonetheless, the scope of the assessment and the level of inclusion were not exhaustive. Several key government institutions and entities from the private sector did not participate in the assessment. The interviews revealed that the findings were disclosed to a certain extent; however, several important sectors which, during the on-site visit, advised they had not seen the assessment report were not included.

14. When deciding which problems shall be prioritized, the assessment team reviewed the material submitted by the Bolivarian Republic of Venezuela on national ML and TF risks and consulted open and reliable sources of information. The assessment team focused on the following priority areas:

a. Predicate offences:

- i. **Drug trafficking:** The Bolivarian Republic of Venezuela is affected by drug trafficking committed by foreign criminal organisations, which exploit the country's geographical position as

a starting or transit point for the shipment of drugs to other countries and regions, in particular North America.² The Attorney General's Office has prosecuted a significant number of drug trafficking cases, totalling 2,781 in 2020; during the period 2015-2020, only five (5) persons were convicted of ML related to this crime.

- ii. **Corruption:** Corruption is a serious problem in the country that affects the functioning of public institutions³, including the state-owned company Petróleos de Venezuela, S.A. (PDVSA), which is subject to several investigations at the national and international levels⁴. In addition, corruption in the country has served as the basis for other illegal activities, such as bribery⁵, illicit exploitation of natural resources and smuggling of several types of goods, including food, medical supplies and gasoline.⁶
- iii. **Illicit exploitation of natural resources:** Armed groups and state-owned companies engage in illegal logging, bribery of public officials, smuggling of gasoline and precious metals and stones smuggling and illegal mining. Regarding the latter, it was estimated that, by 2013, 91% of the country's gold (16 tonnes) was illegally produced with a value equivalent to USD 700 billion, which is a problem that persists in the country.⁷
- iv. **Smuggling:** The Bolivarian Republic of Venezuela also faces smuggling of gasoline⁸, food, medicines, agro-industrial products, among others, across its borders, either in small or large amounts of goods⁹. Thus, the Attorney General's Office prosecuted a total of 3,033 cases related to this crime in 2018.

² Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 23 and 25; Narcotics Control International Board (JIFE), *2019 Report*, ONU, 2019, pp. 51, 80, 91, and 92, incb.org; C. Nellemann *et al.*, *World Atlas of Illicit Flows*, INTERPOL, RHIPTO and GI-TOC, 2018, pp. 79 and 123, globalinitiative.net; and UNO, *World Drug Report 2021 - Booklet 4*, pp. 22-29, [unodc.orghttps://www.unodc.org/res/wdr2021/field/WDR21_Booklet_4.pdf](https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_4.pdf)

³ OHCHR, *Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight* UNO, pp. 4 and 46, ohchr.org; OAS, *Democratic institutions, the rule of law and human rights in Venezuela: Country report*, 2017, pp. 19 and 82-84, oas.org; Transparencia Internacional, *Corruption Perception Index*, 2020, pp. <https://www.oas.org/en/iachr/reports/pdfs/Venezuela2018-en.pdf> 3, 7, 11 and 12, transparency.org; European Research Center for Anti-Corruption and State-Building (ERCAS), *Corruption Risk Forecast - Venezuela* (data from 2018-2020), corruptionrisk.org; Warf, *Global Corruption from a Geographic Perspective*. Springer Nature Switzerland AG, 2019, pp. 13, 15, 23-28, 39-41, 46; R. Rotberg, *Corruption in Latin America*. Springer International Publishing AG, 2019, pp. 2, 8, 9, 172-174; and *Corruption in Venezuela: The Alex Saab Case | Center for Strategic and International Studies* (csis.org)

⁴ Transparencia Venezuela, *A Story with International Impact. 2018 Corruption Report*, Venezuela, 2018, transparencia.org.ve; Transparencia Venezuela, *PDVSA, Fuel of Corruption*, Venezuela, n.d., transparencia.org.ve and Organized Crime and Corruption Reporting Project, *several articles*, [website], occrp.orghttps://transparencia.org.ve/wp-content/uploads/2019/10/Una-historia-con-impacto-Internacional.-Informe-de-Corrupción-2018.-TV.pdfhttps://transparencia.org.ve/project/petroleo/https://www.occrp.org/en/component/tags/tag/pdvsa

⁵ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 26 and 27 and Rendón, M., Sandin, L., & Fernández, C., *Minería Ilegal en Venezuela: Muerte y Devastación en las Regiones del Amazonas y Orinoco* [Illegal Mining in Venezuela: Death and Devastation in the Amazon and Orinoco Regions], CSIS, 2020, pp. 3-5, www.csis.org

⁶ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 26 and 27.

⁷ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 29 and 32; M. Rendón, L. Sandín and C. Fernández, *Minería Ilegal en Venezuela: Muerte y Devastación en las Regiones del Amazonas y Orinoco* [Illegal Mining in Venezuela: Death and Devastation in the Amazon and Orinoco Regions], CSIS, 2020, csis.org; Wagner, Livia, *Organized Crime and Illegally Mined Gold in Latin America*, GI-TOC, 2016, p.83, globalinitiative.net; and OECD, *Gold Flows from Venezuela: Supporting Due Diligence on the Production and Trade of Gold in Venezuela*, 2021, oecd.org

⁸ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 26 and 27 and INTERPOL, RHIPTO and GI-TOC, 2018, pp. 24, globalinitiative.netfile:///C:/Users/Ana/Downloads/globalinitiative.net

⁹ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 23 and 27-29 and N. Albornoz-Arias *et al.*, *Los pactos sociales y el contrabando en la frontera colombo-venezolana* [Social contracts and smuggling at the Colombian-Venezuelan border],

- v. **Human trafficking for sexual exploitation purposes and migrant smuggling:** The assessment team considers that human trafficking for sexual exploitation purposes and migrant smuggling are relevant crimes in the Venezuelan context, which are exacerbated by the economic and migration crisis, the COVID-19 pandemic and illegal mining¹⁰. Despite this, these crimes were not assessed in the NRA.

15. Considering the situation of the above-mentioned crimes, the assessment team focused on the measures implemented by the country for detection, investigation, international cooperation, prosecution, conviction and confiscation purposes for the different types of ML (third party, stand-alone and linked to foreign predicate offences) related to these crimes. paying especial attention to the cases related to transnational and domestic criminal organisations.

- a. **Informal economy:** The assessment team considered it essential to analyse the weight of the informal economy in the Bolivarian Republic of Venezuela, as well as the effects of hyperinflation and the exchange policy throughout such circumstances. The country estimates that the illicit trade of goods amounts to more than 2 billion dollars a year and that approximately 30% of the country's food items, 40% of all goods and 100,000 barrels of gasoline per day are traded therein.¹¹ In addition, the assessment team focused on the role of remittances in the Venezuelan economy, which is estimated to account for 5% of the GDP (according to estimates from 2020)¹², and analysed the risks involved in the sending of remittances through informal means, including virtual assets (VA), as well as the parallel exchange market.¹³ Based on the above, the assessment team focused on the measures implemented by the country to address the ML risks arising from informal economy.
- b. **Cross-border transportation of currency:** Considering that (i) the country's land borders are extensive and, in relation to Colombia, particularly porous; (ii) the country considers that its resources to monitor such borders are insufficient; and (iii) the authorities have detected an increase in the movement of cash and securities¹⁴, the assessment team focused on the measures implemented by the country against currency smuggling, including authorities' resources and capacities.

Convergencia Revista de Ciencias Sociales, No. 81, 2019, Universidad Autónoma del Estado de México, semanticscholar.org

¹⁰ UNODC, *The Effects of the COVID-19 Pandemic on Trafficking in Persons Victims and Responses to the Challenges*, pp. 8 -14, 25, 27 and 33, www.unodc.org and Huma Rights Council, *Informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos, Independencia del sistema judicial y acceso a la justicia en la República Bolivariana de Venezuela, también respecto de las violaciones de los derechos económicos y sociales, y situación de los derechos humanos en la región del Arco Minero del Orinoco* [Independence of the justice system and access to justice in the Bolivarian Republic of Venezuela, including for violations of economic and social rights, and the situation of human rights in the *Arco Minero del Orinoco* region: report of the United Nations High Commissioner for Human Rights], 2020, undocs.org

¹¹ Bolivarian Republic of Venezuela, *2013-2018 NRA*, p. 69.

¹² M. Orozco and K. Klaas, *Money Transfers to Venezuela: Remittance Flows Amidst Evolving Foreign Exchange*, 2020, [thedialogue.org](https://www.thedialogue.org/wp-content/uploads/2020/05/Report-Money-Transfers-to-Venezuela-May-2020-2.pdf) <https://www.thedialogue.org/wp-content/uploads/2020/05/Report-Money-Transfers-to-Venezuela-May-2020-2.pdf>

¹³ Bolivarian Republic of Venezuela, *2015-2020 NRA*, p. 28 and R. Maldonado and A. Flores, *Migración internacional, remesas familiares e inclusión financiera: El caso de Venezuela* [International migration, family remittances and financial inclusion: the case of Venezuela], CEMLA, 2021, [cemla.org](https://www.cemla.org/PDF/remesaseinclusion/2021-08-migracion-remesas-inclusion-venezuela.pdf) <https://www.cemla.org/PDF/remesaseinclusion/2021-08-migracion-remesas-inclusion-venezuela.pdf>

¹⁴ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 34, 89, 91, 92.

- c. **Terrorist financing:** According to the 2015-2020 NRA findings, the Bolivarian Republic of Venezuela is exposed to foreign terrorist threats and domestic terrorism and its financing¹⁵, although few of the TF cases registered are prosecuted in practice. The assessment team focused on the actions taken by the country to combat TF, including the implementation of targeted financial sanctions and the disruption of the financing activities conducted by foreign terrorist organisations in Venezuelan territory, as well as activities related to the use of its territory as a transit point for the movement of financial resources and persons to commit terrorist acts in other countries, the raising of funds for TF purposes in the context of migratory flows, the illicit exploitation of natural resources and the activities of terrorist groups in the country.
- d. **Controls applicable to Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs):** The assessment team focused on the understanding of ML/TF risks by FIs and DNFBPs, the level of financial inclusion, the implementation of preventive measures, including the identification of beneficial owners, the obligation to report suspicious activities¹⁶, the application of customer due diligence measures¹⁷, risk-based supervision, proportionality and effectiveness of the sanctions imposed and supervision and registration of the DNFBPs that operate with no registration or supervision¹⁸. The assessment team analysed these elements regarding the banking sector because, according to the 2015-2020 NRA, it is exposed to risk factors such as the intensive use of cash, deficiencies in compliance, the aiding and abetting of bank employees in illegal transactions and the inappropriate application of due diligence measures. Considering the use of informal means of payment, attention was paid to the foreign exchange sector and money or value transfer service providers. The real estate sector has also been analysed, since its activity has increased considerably in recent years. In addition, the dealers in precious metals and stones were examined, as a result of lack of clarity with regard to their regulation and supervision. The casino sector¹⁹, which has recently grown and undergone some changes related to the possibility of operating with virtual assets, was also analysed.
- e. **Targeted financial sanctions (TFS):** The Bolivarian Republic of Venezuela has commercial relations with the Republic of Iran²⁰, which could lead to non-compliance with targeted financial sanctions regimes related to proliferation financing (PF). On the other hand, the UN Security Council is currently investigating military and technological cooperation with the Democratic People's Republic of Korea²¹. The assessment team explored the measures implemented by the country to prevent the escape or dissipation of funds or other assets that are linked to the proliferation of weapons of mass destruction.
- f. **New technologies:** The Bolivarian Republic of Venezuela recognizes that ML/TF risks in the sector of virtual assets (VAs) are inherently high and that VASPs are likely to be used by organized criminal groups to develop and use new techniques and methods that facilitate ML/TF activities.²² On the other

¹⁵ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 87-89 and Questionnaire on effectiveness sent by the assessed country.

¹⁶ Bolivarian Republic of Venezuela, *2015-2020 NRA*, p. 34.

¹⁷ Bolivarian Republic of Venezuela, *2015-2020 NRA*, p. 68.

¹⁸ Bolivarian Republic of Venezuela, *2015-2020 NRA*, p. 57.

¹⁹ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 28, 56 and 68 and Questionnaire on effectiveness sent by the Bolivarian Republic of Venezuela, pp. 405 and 502.

²⁰ <https://www.president.ir/EN/90568>

²¹ Security Council, Letter dated 2 March 2021 from the Panel of Experts established pursuant to resolution 1874 (2009) addressed to the President of the Security Council, 2021, [website], www.securitycouncilreport.org https://www.securitycouncilreport.org/atf/cf/{65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9}/s_2021_211.pdf

²² Bolivarian Republic of Venezuela, *Risk and Context*, p. 38.

hand, the country has the FinTech sector, formally known as Banking Sector Financial Technology Institutions (ITFB), where the government promotes the use of VAs.²³ In addition to this, the economic crisis encourages the adoption of such assets²⁴ (for example, by sending virtual asset remittances from abroad to the country) and there exist transactions with VAs conducted on the dark web from or to the Bolivarian Republic of Venezuela.²⁵ In this context, the assessment team considered that new technologies, virtual assets and virtual assets service providers (VASPs) are a higher risk emerging issue, and therefore it focused on the identification and understanding of the ML/TF risks related to these issues by the authorities, FIs, DNFBPs and VASPs, as well as on the effective implementation of preventive measures by the supervised sectors and the actions taken by competent authorities to combat ML related to the abuse of new technologies, VAs and VASPs.

- g. **Lower risk FIs and DNFBPs:** Risk in the insurance sector is considered to be low given the economic volume of the sector and the type of portfolio managed, which is not focused on life and investment insurance policies, as well as the preventive measures in place. Based on the information available, the securities sector is also considered to pose a low risk, mainly due to its limited contribution to the GDP and the small number of transactions, as well as the preventive measures in place. The assessment team has verified the existence of other FIs with little economic importance, such as savings banks or non-bank electronic payment service providers, which are considered to have little relevance. On the contrary, none of the DNFBPs was considered by the assessment team as posing a low risk.

1.2. Materiality

16. In 2022, the gross domestic product (GDP) of the Bolivarian Republic of Venezuela would amount to, at current prices, to USD 40.4 billion²⁶. As a result of the economic crisis, this amount was reduced from USD 323.6 billion in 2015²⁷, going from the forty second (42nd) position in the world economy ranking in 2016 to the eighty-ninth (89th) position in 2021. Likewise, in 2021 the inflation rate was at 686.3%.²⁸

17. In the period 2016-2021, the country has experienced several situations that have led to the *de facto* dollarization of the Venezuelan economy and the use of dollars in cash. These situations include increased inflation rate, devaluation of the bolivar, the demonetization of the 100-bolivar note in 2016, monetary re-conversions and the abrogation of the Law on Foreign Exchange Crimes in 2018. Consequently, the amount of national currency in circulation has been reduced and Venezuelan citizens have resorted to the US dollar to escape from the inflationary crisis and cash shortage. More than a half of the transactions conducted in many cities in the country are estimated to be made in US dollars and in

²³ A. Calderaro, *Maduro Announces Crypto Casino in Support of Petro and Public*, 2020, [website], cointelegraph.com

²⁴ E. Rojas, *Exploring Venezuela's crypto ecosystem since the start of the pandemic*, 2021, [website], [cointelegraph.com](https://cointelegraph.com/news/exploring-venezuela-s-crypto-ecosystem-since-the-start-of-the-pandemic)<https://cointelegraph.com/news/exploring-venezuela-s-crypto-ecosystem-since-the-start-of-the-pandemic>

²⁵ Chainalysis, *The 2021 Crypto Crime Report*, 2021, p. 52, go.chainalysis.com <https://go.chainalysis.com/rs/503-FAP-074/images/Chainalysis-Crypto-Crime-2021.pdf>

²⁶ According to estimates made by the International Monetary Fund.

²⁷ IMF, *World Economic Outlook Database. Report on Countries and Selected Topics*, n.d. <https://www.imf.org/en/Publications/WEO/weo-database/2021/April/weo-report?c=299,&s=NGDPD,&sy=2015&ey=2022&ssm=0&scsm=1&scc=0&ssd=1&ssc=0&sic=0&sort=country&ds=.&br=1>

²⁸ Data provided by the CBV. In addition, the inflation rate was at 274.4%, 130,060.2% and 9,585.5% in 2016, 2018 and 2019, respectively. Although the inflation rate is still quite high, it has dropped significantly in 2021 compared to previous years.

cash.²⁹ On the other hand, although the assessment team has not had access to the estimates made by the country regarding the amount of money generated by the underground economy, the National Statistics Institution (INE) estimates that, in 2018, 40.7% of the workforce operated in the informal sector.³⁰

18. The country has one of the largest crude oil reserves in the world and the external sector of the economy largely depends on exports made by this sector.³¹ According to the data from the Central Bank of Venezuela (CBV), oil activities account for 11.75% of the GDP. In addition, the mining of precious metals and stones accounts for approximately 1.07% of the GDP.³²

19. The Bolivarian Republic of Venezuela has a relatively small financial system. Its weight in the economy has been reduced during the assessment period, accounting for 3.9% of the country's GDP by 2021. The financial system comprises 32 entities from the banking sector, particularly universal public and private banks. In total, the country has nineteen (19) universal private banks and five (5) universal public banks. The six major banks in the country (two (2) public and four (4) private banks) hold more than 85% of the sector's assets and more than three quarters of the credit portfolio.³³

20. As compared to the banking sector, the importance of other sectors of the financial system is considerably lower. Regarding the insurance sector, it barely accounts for 0.2% of the Venezuelan GDP, and the total amount of premiums collected during 2020 amounted to approximately USD 126 million. In relation to the securities sector, it accounts for 0.61% of the GDP and administers assets for USD 286 million. Although there are some important international financial groups in the banking and insurance sectors, in general, the Venezuelan financial sector is not characterized by a significant internationalization.

21. Considering the characteristics of the Venezuelan economy pointed out above, such as informality, *de facto* dollarization, important weight of cash and reduced weight of the financial sector, the assessment team considers that the importance of DNFBPs may be relevant. However, the country has not provided any data regarding the weight of the different DNFBPs in the economy, except for the real estate sector. Regarding real estate services, they accounted for 10% of the GDP in 2021, 8.5% of which was linked to the leasing of properties.

22. Finally, regarding virtual assets (VAs), there are currently fifteen (15) VASPs authorized in the country, and the volume of assets administered by the sector by the end of 2021 barely amounted to USD 39.5 million. Regarding the Petro, the VA issued by the government of the Bolivarian Republic of Venezuela, accounts for around 3% of the country's liquidity. On the contrary, as compared to the regulated VA sector, Chainalysis points out that the country has an important initiative in P2P activity, valued at USD 629 million in VA for the period June 2020-June 2021, and, during the same period, received VAs for an estimated value of USD 28 billion were received.³⁴ The number of VASPs operating without authorization in the country has not been estimated.

²⁹ Ecoanalítica. 2020 Nuevo estudio de dolarización en Venezuela. [New study of dollarization in Venezuela.] Weekly Report, year 15, number 07, week III. Caracas.

³⁰http://www.ine.gov.ve/index.php?option=com_content&view=category&id=103&Itemid INE, *Workforce*, ine.gov.ve

³¹ Authorities state that the creation of the strategic development area of the *Arco Minero del Orinoco* aims at replacing oil revenue with mining revenue.

³²<http://www.bcv.org.ve/estadisticas/producto-interno-bruto> CBV, *Gross Domestic Product*, bcv.org.ve

³³ A single universal public bank is the main bank in the country, accounting for more than 60% of the total assets of the sector.

³⁴ Chainalysis, *The 2021 Crypto Crime Report*, 2021, p. 10, [go.chainalysis.comhttps://go.chainalysis.com/rs/503-FAP-074/images/Chainalysis-Crypto-Crime-2021.pdf](https://go.chainalysis.com/rs/503-FAP-074/images/Chainalysis-Crypto-Crime-2021.pdf)

1.3. Structural elements

23. The Bolivarian Republic of Venezuela has been subject to unilateral coercive measures applied by the United States, the United Kingdom, EU members, Canada, Panama, among other countries, between 2014 and 2021, on specific sectors of the economy administered by the government, such as the oil and gold sectors. This leads to the fact the Venezuelan economy and financial system are not highly integrated with the international economy.

24. The Bolivarian Republic of Venezuela is going through political, economic and social instability, and there have been demonstrations and violent upheavals. Consequently, the country is also affected by a migratory crisis, which has encouraged the use of foreign currency in cash through unauthorized money transfer service providers and electronic payments.

25. According to the projections made by the National Institute of Statistics (INE), the total population of Venezuelans in 2022 would reach 33,360,238.³⁵

26. On the other hand, estimates by the World Bank on governance indicators for the Bolivarian Republic of Venezuela for the period 2010-2020 show quite low results and they continue to decrease as observed below:

Table 1.1. Governance indicators for the Bolivarian Republic of Venezuela

Indicator	2015	2010	2020
Voice and accountability	24.17	19.70	7.25
Political stability and absence of violence/terrorism	12.32	15.71	9.43
Government effectiveness	11.96	10.58	2.4
Regulatory quality	3.83	2.4	1.44
Rule of law	1.43	0.48	0
Control of corruption	7.62	4.33	3.85

Source: info.worldbank.org

27. The Bolivarian Republic of Venezuela had a score of 43 out of 100 in the World Economic Forum's 2018 Global Competitiveness Index^{36 37}, ranking 127th out of 140 nations considered.

28. In addition to the foregoing, competent authorities such as investigative agencies, namely, the National Anti-Drug Superintendency (SUNAD), the National Bolivarian Armed Forces (FANB) through the Regional Anti-Drug Intelligence Unit, the National Bolivarian Police Corps (NBP), the Attorney General's Office (AGO), an independent Supreme Court of Justice (TSJ), and the National Office against Organized Crime and Terrorist Financing (ONCDOFT) provide a weak institutional framework (see c.1.5), since the plan *Gran Misión Cuadrantes de Paz* is not specific to combat ML, nor does it broadly support all its thematic areas.

³⁵ INE, *Proyecciones de Población*, n.d., ine.gov.ve

³⁶ reports.weforum.org/reports.weforum.org

³⁷ The World Economic Forum's 2018 Global Competitiveness Index assesses the ability of countries to provide high levels of prosperity to their citizens based on how productively a country uses available resources. The index rates competitiveness with scores from 1 to 100, the latter being the score accounting for the highest competitiveness.

29. Regarding the national AML/CFT system, the ONCDOFT is responsible for the coordination of such system. The UNIF, the AGO and other agencies engaged in the prevention, control, supervision, inspection and monitoring established in Article 7 of the LOCDOFT participate in the AML/CFT system.

30. The main objectives of the ONCDOFT are:

- a) To strengthen government policies and strategies against organized crime and TF.
- b) To take actions aimed at preventing the crimes set forth by the LOCDOFT.
- c) To strengthen actions against organized crime and TF.
- d) To strengthen the mechanisms for the prevention, supervision, investigation and suppression of ML/TF.
- e) To promote international cooperation in the fight against organized crime and TF.

31. Criminal investigation and prosecution of ML/TF is directed by the AGO, which has specialized prosecutors in different regions of the country and a national unit specialized in ML/TF, illicit finance, drug-related crimes and terrorism. The police have a subsidiary role in the investigations conducted by the AGO. The country has Scientific, Criminal and Forensic Investigations Corps (CICPC), whose officers participate in criminal investigations under the supervision of the case prosecutor.

32. Regarding reporting entities, to date, some sectors have implemented AML/CFT measures, but there are some deficiencies in the application of customer due diligence (CDD) measures and the submission of Suspicious Transaction Reports (SARs). However, it was possible to observe that some sectors, such as savings banks and cooperatives that provide financial services, real estate agents, lawyers, accountants and other legal professionals, are not subject to specific regulations or supervision, and therefore they do not apply AML/CFT measures. Likewise, the DNFBPs that are currently under supervision do not apply measures that are proportionate to their risks.

33. The Bolivarian Republic of Venezuela faces TF challenges since its geographical location increases the risk of movement of suspicious persons and products. The Bolivarian Republic of Venezuela is a transshipment point for many companies and a commercial hub, which makes the jurisdiction prone to risks of terrorism, since targeted financial sanctions related to terrorism and TF are not applied. In addition, the lack of solid measures to combat TF makes the jurisdiction liable to TF activities.

1.4. Background and other contextual factors

34. The Bolivarian Republic of Venezuela has made efforts to implement the United Nations Convention against Corruption and has a National Anti-Corruption Agency. However, different national and international sources reveal that corruption is a serious problem in the country.³⁸

35. According to data from the Economic Commission for Latin America and the Caribbean for 2014, the percentage of the population with an average per capita income below extreme poverty and poverty was at 28.3% and 12%,³⁹ respectively. A national academic source reveals that health, education,

³⁸ Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 25-27; European Research Centre for Anti-Corruption and State-Building (ERCAS), *Corruption Risk Forecast - Venezuela* (data from 2018-2020), corruptionrisk.org; Mazuera-Arias, R. et al, *Corruption and smuggling on the border North of Santander (Colombia) and Táchira (Venezuela)*, corruptionrisk.org Journal of Social Sciences, ISSN-e 1315-9518, Vol. 25, no. Extra 1, 2019, pp. 170-186, dialnet.unirioja.es

³⁹https://statistics.cepal.org/portal/cepalstat/dashboard.html?indicator_id=3328&area_id=930&lang=en ECLAC, *Statistical Databases and Publications - Venezuela (2014)*, statistics.cepal.org

income and food conditions were very deteriorated in 2021.⁴⁰ Finally, it is possible to highlight the importance of the flow of remittances in the Venezuelan economy. According to data from the CBV, the annual flow of remittances from other countries to Venezuela is estimated to range from USD 1.5 to 2 billion for the assessment period.

36. Likewise, apart from the country's political challenges, the economy has experienced a slowdown in GDP growth, an increase in inflation and a significant recession—among other effects derived from a series of international economic and financial sanctions⁴¹—, deficiencies in the management of PDVSA and a drop in oil prices, among other factors which have limited the country's participation in international trade and its capacity to sell crude oil, which is the country's main export product.

1.4.1. AML/CFT strategy

37. The national strategy “*Gran Misión Cuadrantes de Paz*,” approved by Decree 4078 in December 2019, provides for, in its thematic area 2, a set of national policies on security, including the fight against corruption, organized crime, drug trafficking and terrorism.

38. The plan “*Plan Patria 2019-2025*” established, in its General Objective 2.7.6.11, “to take actions in relation to drug trafficking, as well as drug prevention, abuse, consumption and treatment under the principle of common and shared responsibility in order to contribute to the citizens’ security and create a culture of peace.” Although, in principle, this objective is related to drug trafficking, six of the specific objectives are related to ML/TF: to strengthen government policies and strategies against organized crime and TF; to take actions aimed at preventing the crimes set forth by legislation on the matter; to strengthen mechanisms for the prevention, supervision, investigation and suppression of ML/TF/PF by criminal investigative and supervisory agencies; to raise awareness on the risks and consequences of committing ML/TF; to strengthen the Venezuelan justice system on the matter, and to promote international cooperation in ML/TF.

39. The assessment team considers that these strategic documents require national plans and programs that are more focused on AML/CFT and that define specific objectives and activities, authorities responsible for their implementation and the development of measurement indicators.

1.4.2. Legal and institutional framework

40. The Law against Organised Crime and Terrorist Financing (LOCDOFT) is the law against ML/TF of the Bolivarian Republic of Venezuela, which establishes the National Office against Organised Crime and Terrorist Financing (ONCDOFT) as the body responsible for formulating and implementing policies and strategies against organised crime and TF and which serves as the interinstitutional coordination mechanism in these same areas.

41. The Central Bank of Venezuela (CBV), the Banking Superintendency (SUDEBAN), the Insurance Superintendency (SUDEASEG), the National Securities Superintendency (SUNAVAL), the National Superintendency of Cryptoassets (SUNACRIP), the Registries and Notaries Offices Autonomous Service (SAREN) and the National Commission of Casinos (CNC) are the authorities with the power to regulate and supervise reporting entities in the area of AML/CFT. The legislation provides

⁴⁰ Universidad Andrés Bello, *Encuesta Nacional de Condiciones de Vida 2021* [National Survey on Living Conditions 2021], proyectoencovi.com

⁴¹ U.S. Government Accountability Office, *Venezuela: Additional Tracking Could Aid Treasury's Efforts to Mitigate Any Adverse Impacts U.S. Sanctions Might Have on Humanitarian Assistance*, [gao.gov](https://www.gao.gov)

that Ministries with competence in internal affairs, oil and mining, electrical energy, planning and finance, tourism, science and technology, industry and commerce and the National Integrated Tax Administration Service (SENIAT) are also regulators and supervisors, even though the legislation is unclear regarding which sectors of reporting entities have jurisdiction over AML/CFT matters.

42. These are the authorities that establish the preventive framework that all the reporting entities should comply with to properly perform customer due diligence (CDD), keep special records and conduct specific monitoring on certain customers, services or products. It should be noted that outreach and training activities complement and strengthen the AML/CFT system.

43. On the other hand, regarding the detection of suspicious activities, when any natural or legal entity regulated by the LOCDOFT, in the performance of their activities, detects any act, operation or transaction that, in accordance with AML regulations and practices, meets the criteria of “suspicion” on ML/TF, they are required by law to report it to the UNIF through a SAR. The UNIF is the authority responsible for developing financial intelligence products on such report, in order to detect whether there is evidence of ML/TF transactions and, where appropriate, submit the case to the AGO.

44. Finally, ML/TF criminal investigation and prosecution are exclusively directed by the AGO, assisted by subsidiary criminal investigative agencies, such as the police services. There are specialized prosecutors in different regions of the country as well as a national unit specialized in ML, which provides technical advice to prosecutors. Prosecutors in charge of ML/TF investigations may always request from the UNIF information that they deem necessary for investigation purposes. The subsidiary role of the police, through specialized units, to assist the AGO in its investigative tasks should be noted.

1.4.3. Financial sector, DNFBPs and VASPs

45. The designation of “reporting entities” set forth in Article 9 of the LOCDOFT includes an extensive list of activities that are not considered by the FATF Standards, such as the sale of vessels, aircrafts and motor vehicles, works of art and archaeological objects and new or used mobile phones.

46. Likewise, there are sectors of reporting entities covered by the LOCDOFT, including several DNFBPs, that do not count with coercive means to comply with their AML/CFT obligations or that have not been assigned a supervisor on this matter. Such is the case of lawyers, administrators, economists and accountants, persons engaged in the sale of real estate or dealers in precious metals and stones.

47. Outside the framework of the LOCDOFT, the Bolivarian Republic of Venezuela has included as reporting entities some activities that are not considered by the FATF Standards as FIs or DNFBPs and whose inclusion in the AML/CFT system has not apparently been made applying an RBA; example of this are public companies or tourism service providers.

48. On the other hand, there are other activities, such as VA exchanges, which were defined as reporting entities by means of the Decree on the Adjustment of the UNIF, based on the definition of reporting entities set forth in Article 4 of the LOCDOFT.

49. The assessment team also identified savings banks and cooperatives that provide financial services as FIs, although they are not subject to AML/CFT regulation or supervision.

50. When considering informality in the Bolivarian Republic of Venezuela, the assessment team identified an increase in informal activities related to remittances, exchanges and money lenders, including the sale of real estate properties with loans between individuals and the issuance of mortgage certificates, as well as low levels of financial inclusion.

51. Taking into consideration the general description of FIs, DNFBPs and VASPs provided above, the data included in Tables 1.3 and 1.4 and the information on materiality in section 1.2, the assessment team considers that the banking, real estate, money or value transfer service providers (MVTS) and VASP sectors, as well as lawyers and accountants, are highly important, as shown below:

- a. **Banking sector:** There are 32 institutions in the banking sector with assets valued at USD 5.9 billion, being the most important group within the financial sector, although, as pointed out for materiality above, its importance in the GDP is low. In the assessment context, the sector has been considered as highly important given its size, its exposure to certain high-risk products and services, such as foreign exchange or the receipt of remittances, as well as the influence of other elements identified in the NRA, for example, the extensive use of cash in the country, the deficiencies detected in compliance and offenders' complicity in banking institutions.
- b. **Real estate sector:** The real estate sector accounted for 10% of the GDP in 2021, which makes this sector one of the most important in the country's economy. According to the data provided by the Venezuelan Real Estate Chamber, there are approximately five thousand (5,000) brokers and real estate agents affiliated with regional chambers, although they can operate without affiliation. One of the characteristics of the sector is that it is not subject to any general regulation or AML/CFT obligations, so that real estate agents can perform their activities without any type of authorization and they have not been designated as a DNFBP. The economic weight, the lack of regulation and the importance of cash transactions in the country are the factors considered by the assessment team to characterize this sector as highly important.
- c. **Virtual assets sector:** At present, although the number of authorized VASPs in the country is low, representing a level of activity valued at USD 39.5 million, the use of virtual assets in the country through foreign VASPs is considerably higher. In addition, the Bolivarian Republic of Venezuela recognizes that ML/TF risks in the VA sector are inherently high. This, together with the relevance the use of virtual assets has for the flow of remittances, has been key when characterizing the sector as highly important.
- d. **Lawyers:** The Bolivarian Republic of Venezuela does not have information regarding the number of lawyers exercising the profession in the country. This sector may provide the corporate services included in Recommendation 22 as long as there are no restrictions on the performance of such activities. In addition, the country does not have data regarding the extent to which lawyers provide corporate services. The sector is not regulated or supervised for AML/CFT purposes, which is an additional risk factor for the country.
- e. **Accountants:** As in the case of lawyers, the country does not have information regarding the number of accountants exercising the profession in the country. The Federation of Public Accountants estimates that around 10% of them are engaged in the activities included in Recommendation 22.1.e.: acting as a formation agent of legal persons; acting as (or arranging for another person to act as) a director or secretary of a company; a partner of a partnership, or a similar position in relation to other legal persons; providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; or acting as (or arranging for another person to act as) a nominee shareholder for another person. Although the sector faces a problem similar to lawyers regarding its regulation, supervision and risk factors, the assessment team was able to verify that the sector is more willing to cooperate with competent authorities and to receive training on AML/CFT matters.

52. Regarding the activities considered of moderate importance, the assessment team has included money or value transfer service providers, casinos, dealers in gold and precious metals, and notaries and registrars.

- a. **Money or value transfer service providers:** In the Bolivarian Republic of Venezuela, there are nine (9) exchanges holding total assets for USD 1.1 million. These companies are also engaged in processing electronic parcels or remittances. According to the CBV, the volume of remittances in the country would range from USD 1.5 to 2 billion, although, some private sources, such as Ecoanalítica, estimate it at USD 3.6 billion in 2019. According to data from the sector, only 5% of the remittances sent and received by the country are channelled through exchanges, whereas most of this activity is concentrated in the banking sector and alternative remittance systems. There is no information on the number of transactions conducted through the latter. Despite the limited number of transactions processed by the sector, exchanges are considered moderately important given the ML/TF risks generally associated with exchange and remittance activities, as well as the country's overall volume of remittances.
- b. **Notaries offices:** There are 184 notaries offices in the country conducting over 400,000 procedures a year. Notaries have attestation powers on legal acts and transactions performed before them. They are officials from the SAREN, which is responsible for regulating and supervising notaries on AML/CFT matters. The assessment team considers that notaries offices are a basic element in the AML/CFT system to the extent that their services can be used to facilitate ML schemes through the preparation of powers of attorney and any type of contract, including those related to the sale of real estate.
- c. **Dealers in gold and precious metals:** Mining of precious metals and stones accounts for 1.07% of the Venezuelan GDP, and the country recognizes illegal mining as one of the country's main ML/TF threats in its 2015-2020 NRA. The country is characterized by having broad control over mining exploitation. The Decree with Rank, Value and Force of the Organic Law that Reserves for the State the Exploration and Exploitation of Gold and other Strategic Minerals (LEOME) establishes that the proceeds of mining exploitation are required to be compulsorily sold to the Central Bank of Venezuela. Despite the relevance of activities related to the exploitation and trade of precious metals and stones, the assessment team did not have access to information on the number of wholesalers or retailers in the country. The Bolivarian Republic of Venezuela has designated the sale of precious metals and stones as an activity subject to AML/CFT measures in accordance with Article 9 of the LOCDOFT. However, there are no provisions established in administrative instruments developing the general AML/CFT obligations applicable to them in accordance with such law. Based on this, the assessment team considers that the trade of precious metals and stones is moderately important.
- d. **Casinos:** Until 2021, the number of licensees in the Bolivarian Republic of Venezuela was 8, all of them located in the State of Nueva Esparta, having increased by 18 throughout such year. Although the country has not provided information on the total turnover of the sector, it is understood to be low. However, the use of cash, the location of casinos in a country considered to be of risky due to the influx of tourists and the existence of casinos operating illegally in the country are factors to consider this sector as moderately important. Another factor that should be considered is online gambling, which, although the authorities recognize its existence, said activity is not currently regulated and no information is available in this regard.

53. Finally, the remaining activities of the financial sector are considered to be of low importance.

- a. **Insurance sector:** It accounts for 0.2% of the Venezuelan GDP, and therefore its weight in the economy is lower. With 49 insurance companies and 6 reinsurance companies, the sector has a low turnover. With a total volume of premiums at around USD 127 million, health insurances, individual

life insurances and group life insurances account for 60%, 0.27% and 0.34%, respectively, so it is considered to be very insignificant.

- b. **Securities sector:** The securities sector accounts for 0.61% of the Venezuelan GDP according to data from the SUNAVAL, and therefore, its weight in the country's economy is low. All the entities from the sector are regulated and, as recognized by the supervisor, the investment culture is not developed among the population, at least within the country, which accounts for the low volume of funds in this sector.
- c. **Other financial institutions:** Beyond the banking sector and exchanges, the SUDEBAN regulates other entities which either are not currently operating or their activity is very low, as is the case of credit card issuers and administrators. On the other hand, the Central Bank of Venezuela supervises non-bank payment service providers. At present, there are 6 non-bank PSPs and their total assets do not reach EUR 1 million. The ITFB sector was also regulated in 2021, since the country set forth some ML/TF obligations in its specific regulation, namely SUDEBAN Resolution 001.21 of 4 January 2021. Nevertheless, among the activities included in such resolution, only mobile payment-direct mobile billing methods would be considered as reporting entities according to the FATF Standards, which are included in the definition of non-bank payment service providers. Finally, throughout the assessment, it was possible to verify the existence of other entities that would fall within the category of FIs, such as savings banks, which, though not regulated for ML/TF purposes, are considered of low importance given the characteristics of their activity and the low volume of funds they administer. At the time of the on-site visit, the country was working on the development of AML/CFT regulations for savings banks. However, said regulations should be proportionate to the risks of the sector once they are analysed.

1.4.4. Preventive measures

54. The LOCDOFT was passed by the Bolivarian Republic of Venezuela in January 2012. This law aims to prevent, investigate, prosecute, criminalize and punish crimes related to organized crime and terrorist financing in accordance with the provisions of the Constitution of the Bolivarian Republic of Venezuela and the international treaties on the matter signed and ratified by the Bolivarian Republic of Venezuela.

55. This law creates the ONCDOFT as the lead agency responsible for designing, planning, structuring, formulating and implementing government policies and strategies against organized crime and terrorist financing as well as for organizing, controlling and supervising the prevention and suppression of such crimes at the domestic level. International cooperation on this matter is also included under its responsibilities.

56. Additionally, the ONCDOFT is created as an entity empowered to coordinate efforts with different competent agencies at the national and international levels to effectively prevent and suppress organized crime and terrorist financing. Reporting entities and their respective supervisory agencies are also detailed in the same law.

57. The LOCDOFT includes other reporting entities which are not established by the FATF Standards. However, they do not seem to have been included based on the findings of the National Risk Assessment. The assessment team could verify that in the 5th, 6th and 7th follow-up reports of the 3rd Round of Mutual Evaluations published in 2012 and 2013 the country reported it had analysed the possibility of adding five sectors to the AML/CFT system as a result of the recommendation on “studying the feasibility of extending AML/CFT controls to other risk sectors beyond DNFbps” included in its 2009 MER. These sectors were: auction houses, pawnbrokers, dealers in precious metals and stones, car

dealers and mobile phone distributors, and construction companies. The first two sectors were not included in the LOCDOFT.

58. Within the national legal framework, the country includes AML/CFT measures for two groups of reporting entities that are not within the FATF categories of FIs, DNFBPs and VASPs: registrars and tourism service providers.

59. **Registries:** In the country there are 48 commercial registries, 22 main registries and 211 public registries that conduct more than 900,000 procedures annually. As notaries, they are affiliated with the SAREN and are supervised and regulated by said entity. Its inclusion as reporting entities is considered to be justified on the grounds of the country’s situation, given their role in the registration and recording of all legal acts or transactions relative to the ownership and other rights in real property—in the case of public registries—as well as in the registration of dealers and other entities set forth by law, and foreign dealers or representatives when they do business in the country. Given their role and the high risk posed by the real estate sector, their inclusion as reporting entities is considered to be justified.

60. **Tourism service providers:** Recently, the country has included tourism service providers as a sector subject to AML/CFT supervision. The assessment team considers that implementing AML/CFT measures to this sector is not justified; and this, because no ML/TF threats, vulnerabilities and risks for this sector were identified in the updated 2015-2020 NRA carried out by the country; the sector has little importance given its limited weight in the economy; and, as at the time of the on-site visit, the assessment team could verify that there were no tourism service providers authorized to exchange foreign currency. It is also important to make reference to the ML/TF/PF sectoral risk assessment submitted, which was conducted in January 2022 by the Ministry of People’s Power for Tourism. Although this SRA includes the methodology used and the risks found in the hotel and travel agencies sectors, it does not reflect the depth of the analysis conducted, nor whether reliable sources were consulted during said analysis to support or provide evidence of arrests for the crimes defined as threats, the number of cases prosecuted, the convictions achieved and, if applicable, the seizures conducted. These are basic elements to consider a crime as a threat.

1.4.5. *Legal persons and arrangements*

61. The Bolivarian Republic of Venezuela has a wide variety of legal persons. The Code of Commerce (CDC) establishes that companies are commercial legal persons. Companies may be classified into general partnership [*en nombre colectivo*], limited partnership [*en comandita*], public limited [*anónimas*] and limited liability [*de responsabilidad limitada*]. In 2021, there were a total of 70,956 active companies. A much greater number of new companies register with the SAREN every year; for example, only in 2021, 82,320 companies were registered. However, according to the authorities, many of these companies never start operating. The country is not characterized by being a training and administration centre for commercial legal persons. The number and characteristics of these companies are detailed in the following table:

Table 1.2. Definition, legal nature and characteristics of companies

Type of company	Definition and legal nature	Characteristics
Public limited company [<i>Sociedad anónima</i>]	Those established by two or more shareholders with own legal personality. The corporate capital is divided into shares or securities that can be transferred without the consent of the other shareholders pursuant to the provisions of the bylaws. Partners’ liability is limited only to the amount of the shares subscribed, and the death or disability of one of the shareholders does not affect the life of the company.	1. Corporate capital is divided into “shares.” 2. No minimum capital required and there may be a subscribed and paid-in capital.

Type of company	Definition and legal nature	Characteristics
Limited liability company [<i>Sociedad de responsabilidad limitada</i>]	Corporate obligations are limited by the corporate capital contributed. The corporate capital is divided into stakes, which should not be represented by any negotiable instrument or share.	<ol style="list-style-type: none"> 1. Corporate capital is divided into "stakes." 2. Minimum capital of VES 2 and maximum capital of VES 2000. 3. Partners' liability is limited to the amount of the capital contributed.
General partnership [<i>Sociedad en nombre colectivo</i>]	Partners' liability is joint and limited.	<ol style="list-style-type: none"> 1. Partners respond jointly, limited and secondarily to corporate obligations. 2. Corporate capital represented by nominative shares and held by partners.
Limited partnership [<i>en comandita simple</i>]	They are established by one or several general partners who respond to corporate obligations in a joint, subsidiary and limited manner, and one or several silent partners whose liability is limited to the capital contributed.	<ol style="list-style-type: none"> 1. Corporate obligations are guaranteed by the joint and several liability of one or more partners, called general or silent partners. 2. Obligations are guaranteed by limited liability up to a certain amount.
Limited partnership by shares [<i>en comandita por acciones</i>]	They are established by one or several partners respond to corporate obligations in a joint, subsidiary and limited manner, and one or several silent partners whose liability is limited to their shareholding, which is what makes them different from limited partnerships.	<ol style="list-style-type: none"> 1. Partners respond to corporate obligations in a joint, subsidiary and limited manner. 2. Silent partners' liability is limited to their shareholding.

62. The Civil Code (CC) establishes that the nation and its political entities, including churches, universities and public agencies, private associations⁴², NPOs and foundations, are civil legal persons.

63. Civil associations are made of individuals that do not pursue profit, but cultural, scientific, religious, artistic, sports, political or social purposes. Civil associations may have capital, but their purpose is not to increase it through fund raising or profitable activities, or to distribute profits among their members. On the contrary, the capital is used to achieve their goals. Examples of civil associations are neighbourhood associations or recreational and sports clubs. Corporations are legal persons for non-profit purposes, but collective purposes. They are aimed at promoting their members' interests. Examples of corporations are professional associations. Consequently, associations and corporations are aimed at providing benefits to their members, and foundations are aimed at providing benefits to individuals outside the legal person. According to these characteristics, foundations would coincide with the FATF definition of NPOs. According to the data provided by authorities, the country had 2654 foundations in 2021.

64. The Special Law on Cooperative Associations governs cooperatives, which may be engaged in several activities, including the collection of savings and the granting of credits. In 2021, this sector had 1050 members.

65. According to the CBV, cooperatives and foundations, whose weight in the economy is measured together, account for approximately 0.22% of the GDP.

66. Regarding legal arrangements, the country only regulates express trusts in accordance with the Law on Trusts, which are agreements whereby an individual transfers property to another individual, who is required to use it in favour of the former individual or a beneficiary. According to the legislation, trusts can only be administered by banks and insurance companies that obtain authorization to function as "trust companies."

⁴² Associations and corporations provide benefits to their partners, whereas foundations are aimed at providing benefits to individuals outside the legal person.

67. There are no provisions that set out controls applicable to trusts or other legal arrangements established abroad that are executable in or that have trust service providers operating in the Bolivarian Republic of Venezuela. There is no authority centralizing information on existing trust contracts in the country, so it is not possible to determine how many trusts are effective. At present, 21 banks serve as trustees for a total of 6,284 trusts, including investment, real estate, testamentary and social contribution trusts, among others. The total value of trusts amounts to \$336,312,492.56.

1.4.6. Supervisory arrangements

68. The Bolivarian Republic of Venezuela establishes 16 agencies for prevention, control, supervision, inspection and surveillance purposes in Article 7 of the LOCDOFT. For the purposes of verifying if all the reporting entities listed in Article 9 of such law are supervised and whether they require authorization or license to operate, the assessment team, for a better understanding, classified the reporting entities into FIs, DNFBPs, VASPs and other entities, which have been included in the AML/CFT system in Tables 1.2 and 1.3.

69. The ONCDOFT has established a co-ordination and orientation relationship with the supervisors of FIs (insurance, securities, banking sectors) and VASPs. However, it does not maintain any relationship with reporting entities that do not have an AML/CFT supervisor, such as lawyers, accountants, real estate agents and dealers in precious metals and stones.

Table 1.3. Reporting entities included in the LOCDOFT and covered by the FATF Standards

Reporting entity	Does the reporting entity require authorization, registration or license?	Supervisor	Types of business, activity or profession	Number	Value of assets or proceeds in 2020 ⁴³
Financial institutions					
Banking sector	Authorization	SUDEBAN	Banking sector	32	USD 5.9 billion
			Exchanges	9	USD 1.1 million
			Credit card issuers / administrators	4	USD 31 million
Insurance sector	Authorization	SUDEASEG	Insurance companies	49	USD 126 million
			Reinsurance companies	6	USD 675,000
			Insurance and reinsurance agents	15,150	USD 15.4 million
			Insurance and reinsurance brokerage companies	379	USD 5.7 million
			Insurance cooperatives	15	USD 19,000
Non-bank payment service providers	Authorization	SUDEBAN / CBV	-	7	USD 1 million
Securities sector	Authorization	SUNAVAl ⁴⁴	Stock market agencies and	55	USD 32 million

⁴³ The information contained herein does not collect data regarding other reporting entities included in the LOCDOFT other than financial institutions, DNFBPs and VASPs, to the extent that the country has not provided data in this regard, and, in practice, such other reporting entities are not subject to supervision, nor do they comply with AML/CFT measures.

⁴⁴ This sector also includes transfer agents (7) and agricultural brokerage firms (10), which have been inactive since 2012.

Reporting entity	Does the reporting entity require authorization, registration or license?	Supervisor	Types of business, activity or profession	Number	Value of assets or proceeds in 2020 ⁴³
			brokerage firms		
			Mutual funds	11	USD 27.7 million
			Administrator	7	USD 19.5 million
			Traditional stock exchanges	1	USD 8 million
			Decentralized stock exchanges	1	USD 33,000
			“Bicentenario” Stock exchange	1	USD 65.6 million
			Agricultural supplies exchanges	1	USD 2.4 million
			Security exchanges	1	USD 118.8 million
			Securities agents	244	-
			Investment advisors and advisory and investment firms	123	-
			Agricultural supplies agents	38	-
			Credit rating agency	6	-
DNFBPs⁴⁵					
Casinos	License	CNC	Casinos	18	-
Lawyers / Accountants	Not required	No supervisor ⁴⁶	-	-	-
Notaries offices	Designated by the SAREN	SAREN	-	184	-
Dealers in precious metals and stones	Not required	Not supervised for ML/TF purposes	-	-	-
VASPs					
Cryptocurrency Treasury	Authorization	SUNACRIP	-	1	USD 21.4 million
Cryptocurrency exchanges	Authorization	SUNACRIP	-	15	USD 1.9 million
Platform <i>Sistema Patria</i>	-	-	-	1	USD 14.7 million
Digital platform Venezuela Exchange (VEX)	Authorization	SUNACRIP	-	1	USD 1.1 million
Decentralized securities exchanges	Authorization	SUNACRIP	-	-	-

⁴⁵ Trust and company service providers as defined by the FATF standards are not covered by the country’s legislation, except when acting as trustee of an express trust, which is performed by authorized banking entities (22) and insurance companies (9).

⁴⁶ When acting as trustee, the activity is supervised by the SUDEBAN or the SUDEASEG respectively, since banking entities and insurance companies are the only one that can provide trust services in the country.

Table 1.4. Other reporting entities included in the LOCDOFT, but not covered by the FATF Standards⁴⁷

Reporting entities as per Article 9 of the LOCDOFT	Requires license	registration/	Supervisory agency
NPOs			
Foundations, civil associations and other non-profit organisations.	Not defined		Not supervised for AML/CFT purposes
Organizations with political purposes, electoral groups, citizen groups and individuals running for positions of popular election by own initiative	Not defined		Not supervised for AML/CFT purposes
Other entities			
Companies engaged in the transportation of securities (minted coins, bills, securities or other financial instruments)	Authorization		SUDEBAN
Building construction (shopping centres, households, offices, among others)	Not defined		Not supervised
Dealers in works of arts and archaeological objects	Not defined		Not supervised
Merchant navy	Not defined		Not supervised
Leasing and custody services of safe deposit boxes and transfer or remittance of funds	Not defined		Not supervised
Advisory services on investments, loans and other financial business to customers, regardless of their residence or nationality	Not defined		Not supervised
Companies engaged in the purchase and sale of vessels, aircrafts and ground motor vehicles	Not defined		Not supervised
Companies engaged in the purchase and sale of spare parts and used vehicles	Not defined		Not supervised
Companies engaged in the purchase, sale, marketing and services of new and used mobile phones	Not defined		Not supervised
Hotels and tourist agencies ⁴⁸	Not defined		MINTUR

1.4.7. International cooperation

70. According to the results of the NRA, the Bolivarian Republic of Venezuela faces, among others, risks related to: money laundering from international drug trafficking; terrorist financing by foreign terrorist organisations; use of its territory as transshipment for financial resources and people to commit terrorist acts abroad; collection of funds for TF purposes in the context of migratory and commercial flows with neighbouring countries; abuse of services provided by financial institutions or other reporting entities for TF/PF purposes; and use of NPOs to facilitate TF. However, the complex relations between the Bolivarian Republic of Venezuela and other countries in the region, as well as unilateral, bilateral or multilateral sanctions regimes to which the Bolivarian Republic of Venezuela is subject to, have a negative impact on the practice of international anti-criminal co-operation among competent authorities, including for AML/CFT purposes.

71. On Mutual Legal Assistance (MLA) matters, the central competent authority is the Attorney General's Office. For the purposes of providing a prompt, timely and effective response to foreign requests, in 2017 the AGO created the role of national prosecutors for international criminal co-operation, who are exclusively responsible for studying the feasibility of responding to mutual legal assistance requests on criminal matters and formal requests for passive extradition.

⁴⁷ The assessment team did not obtain information on the number of natural or legal persons participating in the sectors, nor on the value of their assets.

⁴⁸ At present, there is no hotel in the Bolivarian Republic of Venezuela that is authorized to exchange currency.

72. The UNIF is empowered to exchange information with its foreign counterparts for the study and analysis of ML/TF cases and other cross-border organized crime. It can sign agreements or memorandums of understanding and represent the Bolivarian Republic of Venezuela before international organisations related to ML/TF/PF prevention, investigation, prosecution and conviction.

73. The UNIF has an appropriate structure and resources to perform its international cooperation duties. It has also established an international cooperation framework since it is a member of the Egmont Group and based on the memorandums of understanding signed with 39 countries, 34 of which are still in force. The UNIF exchanges financial and non-financial information, information requests and disclosures with other countries mainly through the Egmont Secure Web.

74. With respect to law enforcement agencies, the National Interpol Office and the SUNAD exchange information directly with their foreign counterparts. For their part, supervisors have the opportunity to communicate directly with their foreign counterparts, even though the MPPRE can serve as a conduit for interaction with those abroad, in the case where it receives requests.

75. The number of requests made to other countries during the period 2016-2021 is low (21) and does not seem to be consistent with the level of risk or the number of requests received in the country in the same period (232), which is eleven times higher.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key findings and recommended actions

Key findings

- a) The Bolivarian Republic of Venezuela has made efforts to understand its ML/TF risks, including the appointment of the ONCDOFT as the authority responsible for conducting NRAs, the approval of a methodology for this purpose and the performance of its first assessment exercise for the 2014-2018 period, which was updated in 2020. The assessment team noted the lack of specific statistics to support the conclusions reached.
- b) The Bolivarian Republic of Venezuela has developed general strategic plans for the country, which include sections on ML/TF. After the approval of the NRA, the ONCDOFT prepared an action plan specifically linked to it. However, the country did not provide evidence that the NRA was formally approved, nor which actions were taken based on it other than the LOCDOFT amendment project.
- c) In general terms, the assessment team observes that competent authorities have achieved a reasonable understanding of ML/TF threats in the country through the two national risk assessment exercises performed.
- d) Some supervisors, particularly SUDEBAN, SUDEASEG, SUNACRIP and SUNAVAL, have a better understanding of the risks that affect their sector based on the sectoral risk assessment (SRA). However, in the remaining sectors, risks are not known or the assessment team considered such risks as very limited.
- e) The country created the ONCDOFT to coordinate and design ML/TF policies, which is assisted by the UNIF. Regarding supervision, the duties of different authorities overlap. In addition, there are a number of reporting entities defined by the FATF that are not subject to regulation and control.
- f) Competent authorities have disseminated the risk analysis exercises performed, both in the NRA and the SRAs. Reporting entities did not participate in the preparation of the NRA, although some financial institutions in the banking, insurance and securities sectors demonstrated a general understanding of it. Regarding the SRA conducted by SUDEBAN, SUNAVAL, SUDEASEG and SUNACRIP, it has been possible to verify a better understanding of the results by the private sector.
- g) Despite ONCDOFT's efforts, ML/TF cooperation among authorities is not currently systematized. Regarding PF, a cooperation scheme has not been developed yet.

Recommended actions

- a) The country should improve its inter-agency coordination and cooperation structure through
 - (i) the introduction of high-level representatives of each competent authority in the AML/CFT mechanism coordinated by the ONCDOFT; (ii) the reinforcement of the ONCDOFT's role and duties as coordinator, issuer and executor of state public ML/TF policies and strategies; (iii) the clarification of the functions assigned to each authority, particularly in the case of supervisors, and (iv) the appointment of competent authorities for the reporting entities that are not subject to regulation and control. Additionally, the recently created ML/TF National Network should be enhanced so that information does not only flow vertically from the ONCDOFT to the other agencies, but also horizontally among the various parts thereof.
- b) Authorities, together with the private sector, should deepen their understanding of ML and TF risks, mainly by strengthening the analysis of the vulnerabilities and threats identified in the NRA as well as identifying and assessing additional risks. This includes, among others, distinguishing between foreign and domestic threats, deepening the analysis of the organized criminal groups operating in the country and the use of cash, and updating the analysis of the risks related to the parallel foreign exchange market.
- c) Supervisory authorities should improve their SRAs to promote understanding of how different sectors can be used for ML/TF purposes. These assessments should focus primarily on high-risk sectors and areas and be justified on the grounds of relevant information provided by the different sectors, including data related to customers, products, number of transactions or delivery channels. The exercise could benefit from a greater collaboration on the part of supervisors, especially supervisors that have not conducted risk assessment exercises yet, in order to establish the methodology to be used making use of the existing synergies, as well as from a greater exchange of information with the private sector.
- d) The country's authorities should promote the development of a specific national strategy and action plan in this regard based on the updated NRA, prioritising their objectives with a Risk-Based Approach. Competent authorities should ensure that their objectives and activities are in line with the priorities of the future national AML/CFT strategy to be approved pursuant to this recommended action.
- e) For the purposes of enhancing the understanding of ML/TF risks, the country should promote the collection and maintenance of statistics, considering the deficiencies identified in R.33.

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

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

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

77. **The Bolivarian Republic of Venezuela has made efforts to understand its ML/TF risks.** The country has conducted two NRA exercises. The first NRA covered the 2014-2018 period and was updated to cover the period 2015-2020. The country identifies the main ML risks: Venezuela as a transit country for drug trafficking from Colombia; ML proceeds of smuggling activities; increase of non-state stakeholders in the economic sphere given the appearance of new economic stakeholders that can be used to commit crimes, the laundering of proceeds of corruption and the use of the activities and services performed and provided by some DNFBPs. The NRA also includes a TF analysis, whereby foreign terrorist organisations operating in Venezuelan territory and the use of the country to transport financial resources abroad were identified as risks.

78. The update essentially identifies the same risks from the 2014-2018 assessment, except for the effects of the foreign exchange policy and the parallel foreign exchange market, which has been omitted from the most recent assessment. Despite the fact that the currency exchange was liberalized in 2018, the existence of a parallel market with a different price compared to the official price is still a fact, although it has a lower weight than in the previous period.

79. **The preparation of both reports has been coordinated by two different authorities throughout the evaluation period, thus, there are information gaps regarding the participation of different stakeholders in such processes.** The ONA (renamed SUNAD) coordinated the evaluation for the 2014-2018 period and the ONCDOFT was responsible for its 2015-2020 update through a Coordinating Technical Committee. For the preparation of the first NRA, various technical meetings were held between different authorities. A total of 8 workshops on techniques and tools were also held for the identification of ML/TF risks by the affected sectors, with a total of 218 participants from different financial institutions and DNFBPs. The information provided is partial, but it is possible to observe the collaboration of different authorities prior to the preparation of such document.

80. **The Bolivarian Republic of Venezuela developed a Methodological Guide to assess its risks at the national level, but its use thereof in the 2015-2020 NRA has some shortcomings.** This guide provides for the application of the principles included in the FATF Guide on ML/TF National Risk Assessment⁴⁹, a ML/TF risk identification and diagnostic phase, including the implementation of working groups (on legal, statistical, and national and international cooperation issues) and the application of a SWOT (strengths, weaknesses, opportunities, and threats) matrix and a risk matrix. However, the 2020 updated NRA does not reflect the implementation of all the elements of said guide. There are records of four meetings of the National ML/TF Network, two meetings with the SUNACRIP and a final meeting to present the findings. On the other hand, the NRA update schedule included diagnosis and identification phases (to be conducted in October 2019) and an analysis phase (to be conducted between January and December 2020), in which included there was participation by all sectors. Such schedule also provided for the development of sectoral risk assessments. However, by the time the update was being conducted, such SRAs did not exist, so that the established planning was not completed nor their information was used in the NRA. Finally, although private stakeholders were expected to participate, there is no record of their direct participation. In updating the 2015-2020 NRA, although, as highlighted in the previous paragraph, they did in fact take part in the development of the NRA for the period 2014-2018, and also in the development of the SRAs.

⁴⁹ FATF (2013), *Guidance on National Money Laundering and Terrorist Financing Risk Assessment*, FATF, Paris, <https://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%202022%20Feb%202013.pdf>

81. **The country has demonstrated it has moderate knowledge of existing threats. The country's authorities still need to enhance their knowledge of ML/TF risks and how these threats are materialized.** In general, the Bolivarian Republic of Venezuela performs an exercise to understand ML/TF risks through the NRA, including the analysis of threats and vulnerabilities and the identification of risks. The analysis does not distinguish between foreign and domestic threats. Beyond this analysis, the NRA is largely focused on the mitigating measures. It is not clear whether the risks are fully understood. According to the information provided, it is not possible to observe that the Bolivarian Republic of Venezuela has thoroughly analysed how the threats identified pose a ML/TF risk to the country, except for, to a certain extent, the risk of drug trafficking. It is not clear how a certain rating is reached and how the different vulnerabilities affect each of the risks identified. There are still doubts regarding the type of information, the quantitative or qualitative data used to analyse the threats and vulnerabilities that have led to the corresponding risk rating. However, there is evidence that the country used information on the crimes with the highest incidence processed by the Attorney General Office (ATO) in the period 2015-2020, as well as SARs sent as Intelligence Reports to the ATO and data from SUNAD. The assessment team also obtained some specific data such as the use of questionnaires to collect information from the entities that participated in the NRA update process and the identification of the specific areas of the country where the main threats to the country operate, as well as evidence of meetings held where threats and vulnerabilities were discussed.

82. Regarding the abuse of DNFBPs for ML/FT purposes, it is recognised that these may be used for ML, but there is no explanation of the types DNFBPs used and the extent to which they are abused nor there is consideration of their exposure by considering their context and materiality. In general, the country regards DNFBPs as high risk, based on the insufficient regulation and supervision they are subject to. The analysis of the financial sector is performed in the same way and presents the same shortcomings, although the conclusion is that its risk level is medium because regulations and supervision are more fully developed in this sector.

83. In addition to the risks identified, the Bolivarian Republic of Venezuela has failed to conduct an in-depth analysis of other subjects that seem to be relevant in the Venezuelan context, such as the significant weight of Vas in the Venezuelan economy, beyond the analysis on VASPs referred to in paragraph 84, or the role of corruption, which is mentioned in the section regarding threats. Regarding this last crime, the country concluded that there is a ML risk from corruption crimes, indicating that these allow the flight of national capital that re-enters as investment, e.g. the acquisition of movable and immovable property through intermediaries or front men. However, due to the importance observed in the context of the country, the evaluation team considers it opportune for the country to further develop the analysis of the risk of money laundering from corruption.

84. Regarding TF risk, the analysis performed is brief. It identifies potential risks and omits the analysis of other risks that may exist in the country due to its geographical location and its porous borders, for example, the presence of terrorist groups in the region such as the National Liberation Army (ELN) or the Armed Forces of Colombia (FARC). Likewise, the assessment does not analyse the use of resources for TF purposes in the Venezuelan territory or the link between obtaining resources for such purposes with other crimes such as drug trafficking and illegal mining. The analysis of these circumstances could have enhanced the understanding of the impact of TF risks.

85. **In addition to the NRA, the Bolivarian Republic of Venezuela has conducted some sectoral risk assessments that allow the country to have a better understanding of some sectors, although the understanding of ML/TF risks among the authorities is not homogeneous.** Particularly, the

banking⁵⁰, insurance⁵¹ and virtual assets⁵² sectoral risk assessments were approved in 2021. Regarding these sectors, it was possible to verify that a methodology was developed whereby threats and vulnerabilities are analysed, and that the SUDEASEG had developed some efforts prior to the 2017 assessment. Regarding the banking and insurance sectors, there is an effort to determine the size and relevance of the sectors, while the virtual assets sector has not been deeply analysed due to it is an emergent sector.

86. The sectoral assessments submitted reveal that supervisors have an adequate understanding of the ML/TF risks affecting the sectors, although such assessments would benefit from delving into the different existing risk factors and types of reporting entities of every sector in relation to customers, country or geographic area where they operate, products, services, transactions or delivery channels. Thus, the risk assessments conducted provide some information on the risks of each sector considered generically, but the breakdown is not deep enough for supervisors and reporting entities to understand to which areas within the sector they should give their attention.

87. Regarding the securities sector, the SUNAVAL demonstrated having an adequate understanding of the risks affecting the sector, although the sectoral risk assessment is not as detailed as the assessments of the SUDEBAN, the SUDEASEG, and the SUNACRIP. In particular, the SUNAVAL submitted two documents, an executive risk report and a risk assessment, which describe the factors considered by reporting entities. However, these factors are focused on the vulnerabilities detected by reporting entities and not on the inherent risks affecting the sector or on the analysis made by SUNAVAL that deepens into threats and vulnerabilities, customers, geographical areas, products and services of the different types of reporting entities in the sector.

88. Although the UNIF has not analysed a specific sector given its broad supervisory powers, it also revealed greater knowledge of ML/TF risks affecting the country and the different sectors. This is revealed by risk typology exercises coordinated by the UNIF and attended by different competent authorities.

89. **The CBV, the CNC and the SAREN have conducted risk assessments, although it is not possible to understand the threats and vulnerabilities of the sectors analysed.** The risk assessments shared by the CBV (whose sector analysed is not clearly defined in such assessment), the SAREN (analysis of its own service) and the CNC (analysis on the casino sector) are characterized by the provision of generic information without including a detailed explanation of how broad and deep their threats and vulnerabilities are for customers, geographic areas, products and services, and the determination of specific risks.

90. There are no sectoral risk assessments for the remaining financial reporting entities. The fact that money or value transfer service providers are not included should be noted, given the significant importance they have in a country that receives remittances. However, SUDEBAN excluded this sector from the analysis since the volume of transactions made by the registered exchanges is low. Regarding financial institutions that are not currently subject to ML/TF regulation and control, such as cooperatives and savings banks, the country has not conducted a risk assessment yet to know whether they are affected by ML/TF to prepare, where necessary, the respective regulation.

⁵⁰ 2020 Risk-based assessment. Banking sector (published in April 2021).

⁵¹ 2020 Venezuelan insurance sectoral risk assessment.

⁵² First sectoral risk assessment on Venezuelan money laundering, terrorist financing, financing of proliferation of weapons of mass destruction and cryptocurrency.

91. The analysis of the sectors that have not been properly analysed yet could also benefit from an increased collaboration among supervisors to establish a common methodology to make use of existing synergies, particularly with supervisors that still have not performed risk detection activities. More exchange of information with the private sector would also be beneficial. In this regard, SUDEBAN shared the methodology used by the “*Technical Working Group of the National Network against ML/TF with Supervisory Agencies*,” although no further activities have been currently performed to improve the exchange of information towards a common methodology for sectoral assessments.

92. **In conclusion, the country has conducted an effort to assess ML/TF risks since 2018 through the preparation of the NRA and different sectoral assessments.** Although the country has analysed ML/TF threats, the general understanding of ML/TF risks among most authorities is still limited. The SUDEBAN, the SUNAVAL, the SUDEASEG and the SUNACRIP assessments would benefit from a more thorough analysis of the risk factors identified, while it is urgent that authorities to complete risk assessments in other sectors.

2.2.2. National policies to address identified ML/TF risks

93. **The Bolivarian Republic of Venezuela has prepared general strategic plans for the country, that include specific AML/CFT policies.** Specifically, Decree 1063 of 20 June 2014, developed the program “*Plan A toda vida Venezuela*,” which included two thematic areas related to ML/TF: 7. “Fight against the misuse of drugs and drug trafficking”, coordinated by the ONA, and 8. “Strengthening of control mechanisms for financial and non-financial systems for the prevention of ML and TF”, coordinated by the ONCDOFT. This last thematic area included five strategic pillars related to ML/TF: strengthening of state policies and strategies, actions to prevent crime and fight against organized crime and terrorist financing, strengthening of prevention mechanisms, supervision, investigation and suppression of ML/TF and international cooperation.

94. Afterwards, the government’s plan *Patria 2019-2025* established, in its General Objective 2.7.6.11, “to take actions in relation to drug trafficking, as well as drug prevention, abuse, consumption and treatment under the principle of common and shared responsibility in order to contribute to the citizens’ security and create a culture of peace.” Although, in principle, this objective is related to drug trafficking, there are six specific objectives which are related to ML/TF: (4) to strengthen government policies and strategies against organized crime and TF; (5) to take actions aimed at preventing the crimes set forth by legislation on the matter; (6) to strengthen mechanisms for the prevention, supervision, investigation and suppression of ML/TF/PF by criminal investigative and supervisory agencies; (7) to raise awareness on the risks and consequences of committing ML/TF; (8) to strengthen the Venezuelan justice system on the matter, and (9) to promote international cooperation in ML/TF. Within the framework of this general plan, Decree 4078 of December 2019 created the program *Gran Misión Cuadrantes de Paz*, including a set of public policies with national scope on comprehensive security, whose thematic area 2 covers the fight against corruption, organized crime, drug trafficking and terrorism, whose strategic lines address threats identified in the NRA, including corruption, organized crime, terrorism, drug trafficking, human trafficking, migrant smuggling and theft of strategic materials, as well as the modernization of the SAREN.

95. **Therefore, the assessment team verified that the fight against ML/TF is considered a country’s strategic policy.** Although these policies seem to be promoted at the political level, it was not demonstrated that the ONCDOFT had a role in the design and planning of such policies. In addition, the plans and strategies presented have two deficiencies. Firstly, the plans include objectives to be pursued, although they do not have specific actions to implement them in this specific regard, such as *Plan de la Patria 2019-2025*, or they refer to generic actions, for example, the program *Plan a Toda Vida Venezuela*. It is not possible to verify whether these actions are performed effectively.

96. Regarding the relationship between such policies and the risks identified, the Bolivarian Republic of Venezuela focuses mainly on the threat of drug trafficking, while the other objectives and policies address ML/TF in a general way. Thus, it is not possible to verify that, effectively, the Bolivarian Republic of Venezuela focuses on areas where risks have been identified.

97. **After the NRA has been approved, the ONCDOFT prepared an action plan of the 2015-2020 NRA, which covered various aspects detected in the assessment and actions for correction purposes, including an implementation timeline.** This plan would have been a good example of how national AML/CFT policies and activities are oriented to the risks identified, although this document was not formally approved and it is not possible to verify whether it has been implemented. However, the country plans to address the main risks identified in the NRA by amending the LOCDOFT. Authorities report they are working on this amendment.

2.2.3. Exemptions, enhanced and simplified measures

98. **The Bolivarian Republic of Venezuela has not used the results of the NRA updated in 2020 to justify the exemptions to the FATF Recommendations occurring in practice.** Several types of reporting entities pursuant to Article 9 of the LOCDOFT are not subject to AML/CFT regulation and supervision, so that, indeed, there is a lack of AML/CFT measures that is not justified on the grounds of a risk assessment.⁵³ In fact, the importance of DNFBPs can be inferred from the NRA, particularly the real estate sector and dealers in high-value goods sectors; nonetheless, these sectors are not subject to regulation.

99. Savings banks and cooperatives that provide financial services are not included as reporting entities in the LOCDOFT, although they would fall within the FATF definition of financial institution since they receive deposits and grant loans. This is an additional exemption that is not supported by the results of the NRA update. The country began implementing procedures to regulate the activity of savings banks prior to the on-site visit, although the draft of the regulation was not approved prior to the completion of the visit.

100. **Coercive means issued by supervisors establish the duty to apply measures that are proportionate to the risks, but the country has not established, to date, enhanced and simplified measures based on the risks identified in the update of the 2015-2020 NRA.** There are some factors identified in the NRA, which different supervisors have already considered to be high-risk under their regulations. Thus, application of enhanced customer due diligence is required in these cases, for example, when customers are NPOs or DNFBPs. In any case, reporting entities have the duty to define their own enhanced and simplified measures in their regulatory compliance manuals. However, given that there is a broad framework of high-risk categories in the regulations developed for the different sectors, simplified measures are practically non-existent in practice.

⁵³ Reporting entities in this situation are: (a) real estate agents; (b) lawyers, administrators and economists, and (c) natural and legal persons engaged in: (i) construction of buildings; (ii) trade of works of art and archaeological objects; (iii) merchant marine; (iv) service of leasing, safe deposit boxes security services and transportation of securities; (v) advisory services on investments, loans and other financial business; (vi) purchase and sale of ships, aircrafts and ground motor vehicles; (vii) purchase and sale of spare parts and used vehicles, and (viii) purchase, sale, marketing and services of new and used mobile phones.

2.2.4. Objectives and activities of competent authorities

101. The Bolivarian Republic of Venezuela includes its national policies on ML/TF in the strategic plan *Cuadrantes de Paz 2019* and in *Plan de la Patria 2019-2025*, which demonstrates commitment from the highest-level authorities to combat ML/TF.

102. The assessment team found that, although competent authorities focus on combating ML/TF, they align their objectives and activities mainly with the national AML/CFT policies and pay less attention to the results obtained in the NRA. This conclusion is supported by the fact that the legal framework addresses risks that have not been identified in the risk assessments.

2.2.5. National coordination and cooperation

103. **The Bolivarian Republic of Venezuela has a wide range of competent authorities.** The ONCDOFT, as the lead agency, is empowered to coordinate with different competent agencies to effectively prevent and suppress terrorist financing and organized crime. This coordinating function is supported by the UNIF, which must contribute with the ONCDOFT to design, plan, and execute the state strategies in this regard, and promote the adequate supervision of reporting entities and ensure compliance with the regulations. Although some means of strategic and operational cooperation have been verified, it is considered that they are not sufficiently developed.

104. As a result of the information provided during the on-site visit, the assessment team observe that the ONCDOFT's coordinating role, whose creation is set forth by the LOCDOFT, has been recently strengthened, absorbing the powers that the ONA (renamed SUNAD) had on the matter and reducing the UNIF's role to the preparation of instructions and actions aimed at promoting the issuance of high-quality SAR. The ONCDOFT has signed eight agreements with various competent authorities on ML/TF matters between July and August 2021, mainly for the purpose of improving training between different authorities. This has resulted in the provision of different training workshops during the period. The UNIF continues to play a crucial role regarding coordination. Thus, for example, the UNIF currently has eight agreements with the ONCDOFT and other supervisory authorities. The agreement signed between the UNIF and the Superintendency of Savings Banks (SUDECA) on 27 June 2019, is aimed at promoting cooperation and facilitating the submission of SARs by savings banks. The UNIF also signed agreements with six other supervisors in October and December 2021, respectively, and the Agreement with the ONCDOFT was signed on 18 August 2021. The latter includes some matters such as the exchange of information and trainings. The assessment team considers that the AML/CFT system could be improved if the UNIF and the ONCDOFT facilitate coordination to prepare inter-agency cooperation agreements for the purpose of promoting the ONCDOFT's role as lead agency, in addition to its training powers.

105. **In practice, coordination by the ONCDOFT is still in progress and is affected by the specialised human resources are replaced regularly.** The assessment team considers that the progress achieved regarding coordination by the ONCDOFT is positive, although it is not sufficiently effective for the situations currently faced. On the one hand, the development of strategic ML/TF policies does not consider the findings of risk assessments, which affects coordination. On the other hand, the ONCDOFT's structure has been recently affected by frequent changes in the personnel appointed for such purpose, making it difficult for them to have the necessary specialization.

106. **The assessment team was able to verify that cooperation and coordination between competent authorities has taken place throughout the period evaluated; in particular, in 2020, the ONCDOFT created the National Network against Money Laundering and Terrorist Financing to coordinate the cooperation in the context of the mutual assessment process, which is seen as an important step towards advancing cooperation among authorities.** There are no statutes governing the

frequency of the National Network against Money Laundering and Terrorist Financing meetings or the number of members that should attend. However, it was verified that this body meets relatively frequently by request of the ONCDOFT and has proven useful in facilitating cooperation among authorities, particularly in the preparation of the 2015-2020 NRA. In addition, the country provided examples of circulars and meetings for the entire assessment period, demonstrating that there is an effort to coordinate AML/CFT policies. Still, the country has not provided information to demonstrate successful cases of effective cooperation to address specific situations relevant to the country's context. The assessment team is of the opinion that there is a lack of synergy among different authorities. For example, the fact that each supervisor has developed its own methodology independently, of the others, for its sectoral assessment is considered inefficient, although some actions have been performed that may lead to more cooperation in this regard, as explained in section 2.2.1.

107. **The assessment team observed that, on some instances, the distribution of powers among authorities is not sufficiently clear and there may be shortcomings affecting coordination and cooperation on AML/CFT matters.** In particular, there is an overlapping of the duties of different supervisors, as well as between their duties and those of the UNIF. The supervisory powers of the UNIF and other supervisors, specifically the SUDEBAN, are oriented towards the same reporting entities. During the on-site visit the authorities explained that the inspections conducted by the UNIF are exclusively oriented towards supervising the reporting of suspicious activities. They also provided an example of an inspection conducted by the UNIF over the banking sector and exchanges throughout 2020 due to the pandemic, which reveals that the UNIF also supervised other elements of the Comprehensive Risk Management System. The authorities indicated that supervision was extended to these elements because, as a whole, they affect the quality and timeliness of SARs. The assessment team is of the view that this situation shows that there are shortcomings regarding how supervision is coordinated since there is an excessive focus on certain reporting entities, while others are not subject to regulation or control. Also, coordination authorities, such as the ONCDOFT and the UNIF, do not pay due attention to them.

108. Regarding cooperation with law enforcement and investigative authorities, there is no direct contact among different authorities. The AGO mediates communication among all the stakeholders, including for the dissemination of financial intelligence by the UNIF to the LEAs, which prevents the development of bilateral cooperation and coordination that facilitate timely actions and exchanges of information among these agencies.

109. Finally, regarding proliferation financing (PF), there is no evidence that there is cooperation and coordination in practice.

2.2.6. Private sector's awareness of risks

110. **Competent authorities have disseminated the risk analysis exercises performed, although the participation towards their preparation is different between the NRA and the SRAs.** Regarding the NRA, financial institutions, VASPs and DNFBPs did not participate directly in the exercise of risk identification and assessment at the national level conducted by the ONCDOFT, although channels for its disclosure were established. In particular, the ONCDOFT published an executive summary on its website and communicated the results of the NRA to competent authorities, which subsequently submitted notifications to their supervised entities in this regard. Private sector's awareness of risks is dissimilar. In general, some financial institutions interviewed, particularly from the banking, securities and insurance sectors, as well as VASPs, could identify some results of the NRA, particularly the importance of drug trafficking, and they agreed with such results. However, not all the reporting entities interviewed were aware of the results of the NRA.

111. Regarding the SRAs, the private sector has previously participated in the preparation of the assessments conducted by the SUDEBAN, the SUDEASEG, the SUNACRIP and the SUNAVAL. This participation consisted of providing information, mainly through questionnaires, to identify and measure the risks of each sector. The SRAs were approved and subsequently disclosed by supervisors in information sessions, to which their supervised entities were summoned. The exchange of information between such authorities and their reporting entities is frequent. For example, in the case of the SUNACRIP and the SUDEASEG, the approval of their SRAs was also published on their websites and disseminated to their reporting entities through mass mailings and social media. Consequently, these FIs and VASPs have a greater understanding of the results of the SRAs. Thus, most of the reporting entities interviewed in these sectors demonstrated awareness of the results of these assessments.

112. **There is increased engagement between the public and the private sectors, which facilitates communication between both sectors.** Thus, both the UNIF and supervisors, such as the ONCDOFT, exchange information with the private sector through communications, working groups and meetings, where reporting entities are informed of the changes made in the current official legislation. In general, the UNIF engages with the private sector through meetings on ML/TF risks, which are frequently held with compliance officers from the banking sector and, to a lesser extent, with exchanges, virtual asset exchanges and payment service providers. Feedback reports on suspicious transactions and the circulars issued to the private sector are published by the UNIF on its website. Nonetheless, not all the circulars are included on the website (for example, the Circular of 21 September 2020, regarding the risks caused by the pandemic was not on the website at the time of writing this analysis). Thus, it is not possible to know the full scope of these communications. The UNIF also holds training sessions for the private sector with some regularity and has performed several risk typologies exercises together with the SUDEBAN. The results of these exercises are published on the website and can be consulted by reporting entities. The most recent exercise was performed in 2021 and was focused on emerging risks arising from the COVID-19 pandemic. Personnel from both the public and private sectors were present at these exercises. This is considered a positive opportunity to inform the private sector about their existing risks. Although these exercises were initially conducted less frequently, the country has valued their importance and increased the frequency with which they are conducted.

113. Thus, the Bolivarian Republic of Venezuela has utilised different mechanisms to communicate the NRA and SRAs results to the private sector. Still, it was possible to observe during the on-site visit that knowledge between reported entities is dissimilar. In any case, **the fact that the private sector assimilates this information and integrates it into its AML/CFT systems was not sufficiently demonstrated.**

Overall conclusion on IO.1

114. The Bolivarian Republic of Venezuela conducted a first national risk assessment exercise for the 2014-2018 period, which was updated in 2020. In addition, FIs and VASPs supervisors have analysed the risk of their respective sectors. In relation to the NRA, the use of a Methodological Guide and the participation of a wide range of authorities in matters of ML/FT was verified. The assessment team considers that the understanding reached in said NRA regarding threats is moderate and provides adequate descriptive information on the most important criminal activities in the country, such as drug trafficking, corruption, smuggling, illegal mining and trafficking of strategic materials. The analysis of these threats, however, would have benefited from more statistical information, since its availability is limited, except for drug trafficking. Similarly, the assessment team considers that the country should have delved into other people, activities or circumstances, internal and external to the country, that could be

relevant to ML, as well as in terms of the interaction between threats and vulnerabilities. This has impacted the knowledge of ML risks by the different authorities.

115. Notwithstanding, some of the country's authorities have demonstrated a better understanding of ML risks, as is the case of the UNIF and several supervisors. The SUDEBAN, the SUDEASEG, the SUNAVAL and the SUNACRIP, for their part, have an adequate understanding of the ML/TF risks faced by their sectors. Through sectoral risk assessments, these supervisors have relevant information, among other things, regarding the context of their sectors and the extent to which mitigation measures are applied, and they have prospectively analysed their exposure to several risk factors.

116. In light of the foregoing, the assessment team is of the view that there is limited knowledge about TF risks and the ML/TF risks of DNFBNs.

117. The country formulated a specific national anti-ML/TF plan emanating directly from the 2015-2020 NRA, although it did not provide information to demonstrate that it has been approved officially. However, it does have the national strategy entitled "Great Mission Quadrants of Peace", which covers important elements such as organised crime and drug trafficking, identified as highly relevant in the NRA and thus, the policies of the Bolivarian Republic of Venezuela are, to some extent, risk-based in nature, even though they have not been the result of the NRA. In any event, currently, there are no enhanced and simplified measures nor exceptions are established based on the risks identified.

118. As regards coordination and cooperation in the area of ML/TF, the ONCDOFT, as the lead agency, has been assuming coordination duties, together with the UNIF, promoting cooperation among different AML/CFT authorities, through the National Anti-Money Laundering and Terrorist Financing Network, which has led to a commitment from the various competent authorities. Regarding the understanding of the risks by the private sector, competent authorities have made an effort to send reporting entities their respective risk assessments. Although not all reporting entities interviewed had in-depth knowledge of the NRA, the knowledge of their SRAs is, in general, very good.

119. **The Bolivarian Republic of Venezuela is rated as having a moderate level of effectiveness for IO.1.**

Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1.Key findings and recommended actions

Key findings

Immediate Outcome 6

- a) The UNIF is the central authority empowered to receive suspicious activity reports (SARs). The UNIF is empowered to receive SARs and request additional information from reporting entities and governmental agencies. The UNIF's operational independence is affected by the lack of transparency in the appointment of the UNIF's General Director.
- b) Financial intelligence reports are made available to the Attorney General's Office. This agency uses such reports as the basis of their investigations and to file charges of ML before the TSJ.
- c) Nevertheless, the UNIF may require information from reporting entities and competent authorities; except for the AGO, the different competent authorities do not make use of the financial intelligence produced by the UNIF or other financial information. This is so because the legal system empowers the AGO to initiate criminal actions and conduct investigations.
- d) Subsidiary investigative agencies do not have direct access to or use UNIF's analytical products. Subsidiary agencies may require assistance from the UNIF through a start order issued by the Attorney General's Office. However, there is no evidence that requesting competent authorities (Attorney General's Office's subsidiary agencies) receive information from the UNIF. The Attorney General's Office does not share financial intelligence results and other types of intelligence with subsidiary agencies. This restricts the use of such essential information to perform their duties and reduces their capacity to understand the benefits of financial intelligence and other types of intelligence.
- e) The incoming and outgoing cross-border transportation of currency and bearer negotiable instruments is reported to the SENIAT. However, this information is not automatically shared with the UNIF, thus affecting UNIF's access to such information.
- f) The UNIF provides feedback to reporting entities regarding the SARs received. However, the quality and frequency of the feedback provided is not consistent.
- g) Although the UNIF has been operating independently from the SUDEBAN since 2018, the existing security measures do not fully ensure the compartmentalization, confidentiality and security of the financial intelligence information managed by this agency. In addition, it is possible to verify that several reporting entities and regulatory agencies are confused about the link between the UNIF and the SUDEBAN.
- h) The UNIF receives SARs in physical format and, to a lesser extent, scanned copies, which facilitates confidentiality breaches and prevents adequate protection and security of the information. However, the assessment team has welcomed the actions taken by the UNIF to digitize SARs.

- i) Although competent authorities keep certain statistics, the extent, accuracy and consistency of the data is limited.
- j) Investigative agencies, including the UNIF, have not received specific training for operational and strategic financial analysis, which affects the capacity of different competent authorities to efficiently identify and investigate ML/TF cases.
- k) The budget allocated to the UNIF is not sufficient for it to meet its operational needs, perform supervisory functions, analyse SARs and fulfil information requests received from competent authorities.

Immediate Outcome 7

- a) The Bolivarian Republic of Venezuela has demonstrated that it investigates and prosecutes ML. However, these investigations are not consistent with the country's risk and context since the number of ML cases prosecuted is low.
- b) The Attorney General's Office, as the lead criminal investigative agency, together with subsidiary agencies, investigates and files charges of ML and predicate offences. The Attorney General's Office has submitted legal decisions that have led to legal proceedings on ML matters. However, the investigation and prosecution of ML and most predicate offences is not one of the AGO's main objectives, and it is not possible to verify whether these investigations are conducted in accordance with the NRA. The investigation of some predicate offences, such as drug-related offences, is consistent with the findings identified in the NRA, in which such offences are identified as significant threats.
- c) Communication among subsidiary criminal investigation agencies is limited to requiring authorization from the Attorney General's Office through a start order. However, there is no evidence that requesting competent authorities (Attorney General's Office's subsidiary agencies) receive information from the UNIF. This restricts the use of such essential information to conduct ML investigations and affects the capacity of subsidiary agencies to exchange useful information to conduct investigations.
- d) The TSJ, as the agency empowered to pursue crime, prosecutes the crime of ML and predicate offences. Although there are general policies on ML, they do not comprehensively address ML nor do they allow judicial authorities to prioritize the prosecution of ML over predicate offences, such as drug offences. Consequently, criminal prosecution does not derive from such policies. The prosecution of some predicate offences is consistent with the findings identified in the NRA.
- e) The Attorney General's Office and the TSJ investigate and prosecute self-laundering. There is no evidence that third party ML and self-laundering are prosecuted.
- f) The TSJ does not apply dissuasive sanctions since imprisonment is not consistent with the threshold established in the current legal framework. There is no evidence that monetary sanctions are applied.
- g) The AGO has a system for tracking and assigning cases, but the data are not congruent, accurate or consistent with the statistical data yielded by the databases of the different

competent authorities, particularly those of the TSJ.

- h) Competent authorities do not have specialized software to identify and investigate ML or assist in their investigative activities. This affects the development of timely and high-quality research products.

Immediate Outcome 8

- a) There is a constitutional barrier that prevents the forfeiture and confiscation of the proceeds of ML/TF and predicate offences.
- b) Confiscation and forfeiture of the instrumentalities and the proceeds of crime are measures that are addressed in various strategic documents of the Bolivarian Republic of Venezuela; however, these documents do not take into consideration the findings of the 2015-2020 NRA, even though they partially address the risks identified therein.
- c) There are no data on international cooperation regarding the repatriation and restitution of the proceeds of ML and predicate offences committed abroad, or of the proceeds relocated to other countries.
- d) Although the Bolivarian Republic of Venezuela conducts forfeitures, the number is low. Most forfeitures are related to drug trafficking, which is consistent with one of the risks identified in the NRA. However, statistics on forfeitures associated with organised crime are not broken down by type of crime, and the current number of drug trafficking-related forfeitures, case and year cannot be determined, which limits the capacity to identify the degree to which the forfeitures conducted are consistent with the ML/TF risks.
- e) The SENIAT and the Venezuelan National Guard (GNB) have seized a very small amount of undeclared cash during the period. It is not possible to verify the number of searches conducted. This demonstrates that these competent authorities do not understand ML/TF risks and their role in the regime, considering the cross-border crime risks identified in the NRA.
- f) Although statistics are kept by competent authorities, the extension, accuracy and consistency of the data are not sufficient, and there is a need to have adequate record-keeping systems.

Recommended actions

Immediate Outcome 6

- a) Competent authorities should have adequate legislative provisions and administrative procedures to allow for fluid and secure access to financial intelligence and other relevant information on ML/TF matters.
- b) Competent authorities should have adequate legislative provisions and administrative procedures to establish, in particular, a clear and transparent procedure for the application, election and appointment of the General Director of the UNIF, to ensure UNIF's operational

independence, thus operating free of undue interference.

- c) The UNIF should use technological resources for the layout of cases generating financial intelligence and should update the format of the Intelligence Report format to provide visual concise information to understand the relationships between individuals investigated in highly complex cases. This will enhance the solid understanding of the case.
- d) The UNIF should develop a consistent feedback mechanism to support the operational and strategic needs of the competent authorities and end users, which would allow them to investigate ML/TF and predicate offences, as well as track and confiscate assets and goods in a reasonable time.
- e) The UNIF should continue with its outreach and raising awareness activities aimed at financial intelligence users regarding the types of analytical products made available to them, and also those aimed at its reporting entities regarding the quality of SARs, new trends and typologies on a quarterly basis. In addition, the UNIF should establish an approach to raise the awareness of high-risk sectors whose SAR reporting level is low and provide training for such sectors.
- f) The UNIF and other competent authorities should increase the number of information sources and sign more memorandums of understanding (MOUs) with governmental institutions to gain direct access to institutional databases to increase the financial analysis and reduce the confidentiality-related risk. This should include a change in the legislation for the UNIF to have direct access to the databases of other agencies, such as the SENIAT, regarding declarations of transportation of physical currency and bearer negotiable instruments.
- g) The UNIF and other competent authorities should create and update a database of the number of requests sent and received to track and monitor the timeliness of responses from competent authorities and reporting entities. Competent authorities shall keep and release, where necessary, statistics on the number of requests in an accurate, efficient and timely manner. The UNIF should provide feedback to reporting entities on a consistent basis.
- h) The UNIF should conduct a sensitization and awareness campaign to clearly identify itself as an independent entity from SUDEBAN, and this should be informed to all its reporting entities, which would generate greater trust among reporting entities regarding the confidentiality of the SARs that may be sent and facilitate stakeholder's understanding of the way in which the UNIF's analytical products could be used.
- i) The UNIF should strengthen the measures of confidentiality and compartmentalization as well as reinforce the registry of visitors, in which the verification of individuals visiting the office should be included.
- j) Training on operational and strategic financial analysis should be provided to officials from the UNIF, the Attorney General's Office and other competent authorities. In addition, such training should be delivered regularly to ensure that researchers are updated with new ML/TF techniques and methodologies. Protocols, guides and manuals should be developed to facilitate the use of financial information in the investigations conducted by competent authorities.

- k) The UNIF should have an adequate budget that would allow it to increase the human resources allocated for supervisory and analysis functions, strengthen and update the technical capabilities of its staff and have proper technological resources; among other administrative needs, which are essential for the UNIF to perform its functions effectively.
- l) The UNIF should provide financial intelligence and other analytical products to support the operational and strategic needs of the competent authorities in ML/TF matters and predicate offences, in keeping with the risk profile of the Bolivarian Republic of Venezuela.
- m) The UNIF should continue efforts to implement a system that would allow it to receive all the information sent by regulated entities in digital format, via an information system equipped with mechanisms to ensure the security and integrity of information.
- n) The UNIF should have the resources necessary, including human resources and training, which are essential for the agency to perform its functions effectively, as well as the operational analysis.

Immediate Outcome 7

- a) The AGO and the subsidiary investigative agencies should develop and implement policies and procedures to prioritize the identification, investigation and prosecution of ML cases in line with the risks faced by the country.
- b) The Bolivarian Republic of Venezuela should implement legislative changes to allow competent authorities exchange information and broaden the range of competent investigation authorities that have access to, and can use, the UNIF reports to prosecute ML and TF cases.
- c) Competent authorities and the AGO should develop a work strategy to identify and combat all types of ML, including self-laundering and third-party ML, in the Bolivarian Republic of Venezuela, with a view to developing practical guidelines for investigative and judicial authorities, which are in line with international standards.
- d) The Bolivarian Republic of Venezuela should the wide range of sanctions provided for the offence of ML (i.e., imprisonment, fine and forfeiture or confiscation) in accordance with the provisions set forth in the criminal law for natural and legal persons, in a manner consistent with the country's risks, in order to effectively deter possible criminals from committing offences that generate funds and ML.
- e) The Bolivarian Republic of Venezuela should demonstrate that it applies alternative measures when it is not possible to apply a criminal sanction for ML.
- f) Competent authorities should receive specific training on ML investigation and criminal prosecution.
- g) Competent authorities should identify alternatives to obtain specialized programs that effectively provide assistance in their investigation of ML.
- h) Competent authorities should implement a system to keep and use statistical data consistent

with the information stored by subsidiary criminal investigation agencies and the TSJ. The TSJ, particularly, should implement an automated system to keep and use statistics to ensure that ML cases are timely investigated and convicted, and that information is accurate.

Immediate Outcome 8

- a) The Bolivarian Republic of Venezuela should approve constitutional measures and legislation to allow the confiscation of all the proceeds of ML/TF and predicate offences that have been obtained illegally, including the forfeiture and confiscation of proceeds of crimes committed against public property and the proceeds of persons who have illicitly enriched themselves under the protection of public power.
- b) The country should develop forfeiture and confiscation policies and update existing strategic documents to incorporate national plans and programs that are more focused on AML/CFT and that define specific objectives and activities, authorities responsible for their implementation and the development of measurement indicators.
- c) The country should keep records of the international cooperation related to repatriating and restitution of assets derived from foreign predicates as assets relocated to other countries.
- d) The Bolivarian Republic of Venezuela should confiscate the proceeds of crime, instrumentalities and property of equivalent value as a priority policy objective at the domestic level. This should include specific actions to track and forfeit direct and indirect proceeds of crime, including the proceeds sent abroad. The results of such policy should reflect the ML/TF risks faced by the country.
- e) Competent authorities should provide their personnel with ML/TF training and teach them how to identify, trace and forfeit the proceeds of crime.
- f) Competent authorities should develop and keep a database to record accurate and high-quality information on the requests sent and received both at the domestic and international level to track and monitor the timeliness of responses. This will also allow competent authorities to keep and release, where necessary, statistics on the number of requests in an accurate, efficient and timely manner.
- g) The Bolivarian Republic of Venezuela should prioritize and strengthen forfeiture related to cross-border movements of cash, through: (i) broadening controls on passengers, (ii) applying dissuasive and proportionate sanctions; (iii) increasing the number of dedicated personnel in SENIAT; (iv) implementing a written declaration system upon entering the country by sea or land; (v) identifying typologies, based on the results of an analysis regarding the use of cash in the country, to guide the work of the SENIAT.

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

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

3.2.1. Use of financial intelligence and other information

121. In compliance with Article 25 of the LOCDOFT, the UNIF is the central authority to receive, process and analyse SARs received from the reporting entities designated by the LOCDOFT. Apart from SARs, the UNIF receives reports on facts that constitute information of interest (*notitia criminis*) on natural and legal persons that could be linked to ML/TF/PF schemes (as shown in Table 3.2); information received through the Egmont Group; and reports from special investigations of ML/TF/PF cases. Although the UNIF has direct access and upon request to a list of databases, the range of information sources from which the UNIF receives reports, whether automated or manual, is reduced, which limits the scope of the information to which the UNIF has access. The UNIF is an administrative FIU and supervises reporting entities on ML/TF matters.

122. The UNIF's General Director is appointed by the President of the Republic in compliance with the legislation in force. The process to appoint the UNIF's General Director seems to be centralized, which is aggravated by the fact that the hiring process is limited to the appointment by the President of the Republic and the compliance with some necessary requirements for public officials. This weakens transparency regarding UNIF's selection criteria, the suitability of candidates and UNIF's operational independence (see criterion 29.7 d).

123. The UNIF prepares intelligence products from the analysis of the SARs received, as well as special reports and reports that it sends to the Attorney General's Office (see Table 3.1). The Attorney General's Office is the agency empowered to initiate criminal actions and it is the main user of the intelligence products since it is the lead criminal investigative agency in the Bolivarian Republic of Venezuela. There are several authorities operating as subsidiary agencies and assisting the Attorney General's Office in criminal investigation. These agencies do not have direct access to or use UNIF's analytical products. In case subsidiary agencies require UNIF's assistance, they must receive authorisation from the Attorney General's Office by means of a *start order*. Subsidiary investigative agencies cannot request, by their own, financial information from the UNIF regarding natural or legal persons. This shows a shortcoming in the capacity of the UNIF to support subsidiary agencies and a lack of access to intelligence information by subsidiary agencies. Although it is true that this process protects the confidentiality of investigations, it potentially degrades the quality of cooperation between the UNIF and subsidiary agencies and hinders communication since there is no feedback mechanism between them.

124. The Attorney General's Office is the main user of UNIF's intelligence products (SARs or response to requests received). The Attorney General's Office is also the competent authority to file charges that lead to criminal trials in the country. During the period 2016-2021, the UNIF shared with the Attorney General's Office a total of 935 Intelligence Reports and 37 Special Reports related to 1570 SARs.

125. The UNIF consists of 41 members empowered to receive, analyse suspicious activity reports (SARs), disseminate intelligence products and perform other duties as required by national and international law. The UNIF has access to financial, administrative and public information held by other competent authorities, such as the Administrative Service of Identification, Migration and Foreigners (SAIME), the SAREN, the Venezuelan Institute of Social Security (IVSS), the NEC, the SENIAT, the National Procurement Service (NPS) and the National Institute of Land Transport (INTT), to perform its duties and analyse SARs (see criterion 29.3). However, except for the Attorney General's Office, other competent authorities do not have access to financial intelligence products generated by the UNIF and, consequently, they do not directly use financial intelligence. There is no evidence that competent authorities use other relevant information to conduct their investigations. Competent authorities do not

have broad knowledge of the benefits of using other types of relevant information to reinforce their investigations.

126. The UNIF classifies its intelligence reports into A and B. Intelligence reports A include information that, in the UNIF's opinion, could support a criminal investigation and criminal charges. Thus, the A reports are forwarded to the Attorney General's Office. Intelligence reports B record that there are no sufficient indications the commission of a crime. The UNIF files the B reports in its database to be used in the future and does not send them to the Attorney General's Office.

Table 3.1. Number and classification of reports during the period 2016-2021

Description	2016	2017	2018	2019	2020	2021	Total
Intelligence reports	208	110	193	182	85	153	931
Special Reports	0	0	6	11	20	10	47
Total of reports sent to the AGO	208	110	199	193	105	163	978
The reports above consist of were based on the following number of SARs	481	252	301	201	107	222	1,564

Table 3.2. Type of persons subject to *notitia criminis* or other information not related to SARs

Type of person	2016	2017	2018	2019	2020	2021	Total
Natural person	163	85	69	654	431	1,155	3,194
Legal person				224	79	96	
Total	163	85	69	878	510	1,251	

127. Regarding access to information, the UNIF, with prior authorization from the SUDEBAN and based on the Inter-agency Cooperation Convention on ML/TF/PF with the SUDEBAN, has access to the Comprehensive Financial Information System (SIF). This system allows the UNIF to have access to deposit accounts, foreign currency accounts, records of transfers received or sent, amounts and financial profile of natural and legal persons, withdrawals, exchange transactions, personnel, shareholders and board of directors. It is possible to obtain information on natural or legal persons previously reported through the SAR Control System (Data Entry). There is also a Registry of International Information Requests, which is a source for developing financial intelligence. The assessment team considers that having access to these systems is a positive and valuable element for the development of analytical products.

128. In addition, the UNIF has access to the databases included in the table below, which can be accessed directly or indirectly by filing a request. The Bolivarian Republic of Venezuela indicated that, in the case of obtaining data through requests, these are responded within a period from one to seven days, which depends largely on the amount of data involved and/or documentation required. However, the assessment team could not verify the response time of the requests made.

Table 3.3 List of databases to which the UNIF has access and type of access

Agency	Internal databases	Type of access
Administrative Service of Identification, Migration and Foreigners	SAIME	Direct
Registries and Notaries Offices Autonomous Service	SAREN	Direct
Venezuelan Institute of Social Security	IVSS	Direct
National Electoral Council	NEC	Direct
National Integrated Tax Administration Service	SENIAT	Direct
National Procurement Service	NPS	Upon Request
National Institute of Land Transport	INTT	Upon Request
International Criminal Police Organization	INTERPOL	Upon Request
Central Risk Information System	SICRI	Direct
Police Information System	SIPOL	Direct
U.S. Treasury Office of Foreign Assets Control	OFAC	Upon Request

129. Regarding access to information by request, the UNIF made 21 international information requests during 2016-2021. However, it is not possible to determine the purpose of such requests or their relevance to gather as much useful information as possible. During the same period, the UNIF received a total of 284 information requests from foreign agencies. From such requests, 11 were related to TF.

Table 3.4. Requests made by the UNIF to other FIUs through the Egmont Secure Web – Period 2016-2021 - by crime

Crime	2016	2017	2018	2019	2020	2021	Total
ML	2	3	3	4	1	0	13
Exchange crime	1	0	0	0	0	0	1
Corruption	0	3	1	0	0	0	4
Gold trafficking	0	0	0	1	0	0	1
Fraud	0	0	0	1	0	1	2
Total	3	6	4	6	1	1	21

130. During the period 2016 - 2021, the UNIF received a total of 23,041 information requests from competent authorities. The Attorney General's Office demonstrates that financial information from the UNIF was actively requested and that it was the main information requester. The Attorney General's Office made a total of 21,130 requests, which accounts for 92% of the total requests made to the UNIF at the national level, as shown in Table 3.5. The assessment team considers that the number of requests from the Attorney General's Office is healthy and demonstrates that the Attorney General's Office values financial intelligence during its investigations.

Table 3.5. Information requests made by competent authorities to the UNIF

Agency	2015	2016	2017	2018	2019	2020	2021	Total
AGO	1,195	4,399	5,077	3,506	2,404	1,568	2,981	21,130
CICPC	60	203	169	232	55	156	294	1,169
TSJ	4	0	62	34	0	18	41	159
NBP	0	4	3	3	2	14	45	71
SUNAD	7	38	18	1	1	0	2	67
Military Prosecutor's Office	0	0	36	14	0	8	2	60
GNB	1	19	8	5	2	10	0	45
ONCDOFT	0	0	15	4	0	16	8	43
Comptroller General of the Republic	1	17	9	15	0	1	0	43
Bolivarian Intelligence Service (SEBIN)	1	4	8	6	5	8	7	39
General Directorate of Military Counter-intelligence (DGCIM)	1	2	12	11	0	2	2	30
National Council of Climate Change (CNCC) - Climate Change National Policy (PNCC)	0	0	2	23	0	0	0	25
Special Group against Violence Perpetrators (BEGV)	0	0	0	0	0	4	17	21
General Directorate of Special Criminal and Forensic Investigations (DEIPC)	0	0	0	0	0	12	7	19
Police General Directorate (DIGIPOL)	0	0	0	0	0	0	17	17
SEB	0	0	0	0	0	11	0	11
Others	2	7	12	17	5	21	28	92
Total	1,272	4,693	5,431	3,871	2,474	1,849	3,451	23,041

Notes:

- The agencies that made less than 10 requests to the UNIF in the period 2016-2021 were grouped in the row "Others". These included: SAREM, GNB, INTERPOL, SNB, SAIME, PGR, CONAS, MPPPD, IAPEM, DGPI, FAES, FGM, DEEPP, DGCC, DGDPE, IAMPOSAD, MPPRIJP, FOGADE, INTT, SUDEASEG, SUNACRIP, MGCIM, IGFANB, MPPPF, CPMCH, JP, ICAP, POLIVARGAS, PMG, SUNDDE, JSE, PBML, INTT and SENIAT.
- The UNIF responded to all information requests within a period of 1 to 30 days after receiving them.

Source: UNIF

3.2.2. SARs received and requested by competent authorities

131. Reporting entities supervised by the different sectors are required to submit SARs to the UNIF. The submission of SARs is not consistent or timely since reporting entities are regulated by different regulations that establish deadlines ranging from 2 to 30 days. The reporting entities prepare SARs manually and submit them in paper at the UNIF's service desk, which could affect the quality of SARs since the time allocated for their preparation may be reduced by the time needed to disseminate them within the vast Venezuelan territory. This mechanism could also be dissuasive for reporting entities in remote areas, since the distance, time and cost to be incurred would imply limitations to the submission of SARs physically to the UNIF's premises. This reduces the chances of the UNIF to prevent or disrupt a suspicious activity, negatively affecting crime victims and the economy as a whole. The UNIF stated its plans to digitize SARs through digital forms. The SENIAT manages a written declaration system for the incoming and outgoing cross-border transportation of physical currency and bearer negotiable instruments. Nonetheless, this information can only be obtained from the SENIAT by filing a request, thus affecting the promptness with which the information can be obtained.

132. During the period 2016-2021, the UNIF received a total of 11,336 SARs. From this amount, 9,542 or 84% of the SARs came from the banking sector, which was identified as having medium risk in the Venezuelan NRA.

Table 3.6. SARs received by the UNIF during the period 2016-2021 by sector⁵⁴

Sector	2016	2017	2018	2019	2020	2021	Total
Banks	1,878	1,563	1,626	1,505	1,390	1,580	9,542
Registries and notaries offices	637	540	305	71	29	8	1,590
Insurance	70	50	21	5	3	1	150
Bingos and casinos	9	0	0	0	0	0	9
Securities	4	2	7	0	0	3	16
VASPs	0	0	0	0	7	4	11
Other sectors established in the LOCDOFT	14	2	2	0	0	0	18
Total	2,612	2,157	1,961	1,581	1,429	1,596	11,336

Table 3.7. Number of persons reported through SARs during the period 2016-2021

Type of person		2016	2017	2018	2019	2020	2021	Total
Natural person	Venezuelan	1,611	1,320	1,076	739	877	1,142	6,765
	Foreigner	86	50	22	22	21	44	245
	Subtotal	1,697	1,370	1,098	761	898	1,186	7,010
Legal person	Government	1	1	0	2	1	0	5
	Legal	914	786	863	818	530	410	4,321
	Subtotal	915	787	863	820	531	410	4,326
Total		7,240	6,331	5,940	5,181	4,878	5,213	22,672

133. The following table shows a breakdown of the SARs received by the UNIF classified by economic activity of the natural or legal person reported. During the on-site visit, the assessment team tried to assess the reasons why the number of SARs received by the UNIF decreased during the period assessed. The UNIF states that this was due to the feedback provided by the UNIF and the COVID-19 pandemic. The assessment team could not verify that such feedback coincided with the dates on which the number of SARs decreased. However, it should be noted that the COVID-19 pandemic could have affected the number of SARs received in 2020, because there was an increase during the following year.

⁵⁴ The lack of reports from the sector is more consistent with the results of the UNIF's "Executive Report: NPO Risk Analysis (No.: IT/2021/018)," which concludes that a very limited number of NPOs have a moderate or high TF risk. Nevertheless, the assessment team considers that the risk related to NPOs is not justified, as noted in Chapters 4 and 5 of this MER. This note is not considered for the rating of IO.6, since the FATF Standards do not require the NPO sector to report suspicions of ML/TF.

Table 3.8. SARs received by the UNIF during the period 2016-2021 by type of activity of natural or legal person reported

Economic activity	2016	2017	2018	2019	2020	2021	Total
Wholesale and retail trade	1,035	1,028	907	670	667	511	4,818
Services	558	606	380	226	108	218	2,096
Construction	77	66	83	84	99	76	485
Manufacturing	105	7	33	95	69	139	448
Business activities	174	47	23	26	9	156	435
Compulsory social security plans	53	23	42	71	57	98	344
Manufacture of food, beverages and tobacco	56	10	7	63	77	98	311
Land, aerial and sea transport	57	51	45	49	38	39	279
Teaching	52	38	37	46	10	78	261
Agriculture, livestock, hunting and related activities	65	34	29	37	32	27	224
Information technology activities	13	4	17	40	86	25	185
Sale, maintenance and repair of vehicles	31	37	50	19	1	8	146
Real estate agencies	30	6	17	18	13	12	96
Extraction of oil, crude oil, natural gas, mines and quarries	26	6	12	11	16	9	80
Legal and accounting professions	0	0	0	17	43	15	75
Hotels and restaurants	19	6	4	11	8	10	58
Others	261	188	275	98	96	77	995
Total	2,612	2,157	1,961	1,581	1,429	1,596	11,336

Note: The "Others" category includes, but is not limited to, activities such as electricity supply, machinery repair, professional, scientific and technical activities, associations or organisations, arts, entertainment and creativity activities, and gambling and betting activities.

134. The Financial Intelligence Directorate is the department within the UNIF responsible for receiving SARs, which are subsequently subject to a series of quality controls prior to their processing. The assessment team noted the procedures followed by the UNIF from the moment they receive the SARs to their completion. The UNIF provides the analytical products requested by other competent authorities and sends them to the AGO. During the on-site visit, the assessment team observed that UNIF employees understood the requirements for high-quality SARs and the UNIF provides reporting entities with feedback when a low-quality SAR is received or when relevant information is missing.

135. Once the UNIF receives the SARs from the reporting entities, these reports are sent to the SAR Risk Group, which performs a compliance and risk assessment and later issues a report with the findings. This report classifies the SAR as low-, medium- or high-risk. Low-risk SARs continue to be monitored by the UNIF, while medium- and high-risk SARs are sent to the SAR Evaluation Group, which analyses and determines whether the SAR falls into category B to continue to be monitored by the UNIF or whether a report is issued to send it to the SAR Analysis Group. This group consults internal and external sources of information and issues an intelligence report that can be classified as medium or high. Intelligence reports classified as medium continue to be monitored by the UNIF, whereas intelligence reports classified as high are sent to the AGO.

136. The UNIF has specific procedures for the analysis of TF SARs. The procedures established in the UNIF's "Financial Intelligence Directorate's Rules and Procedures" instruct intelligence analysts on the actions to be taken when analysing SARs, which are equally applicable in case of suspicions of ML and TF and set the basis to identify TF cases and produce the corresponding intelligence reports for the AGO.

137. The low number of TF SARs limits UNIF's opportunity to analyse TF cases. During the assessment period, the UNIF received nine (9) TF SARs, which were sent from other FIUs through the Egmont Secure Web. There is no evidence that the UNIF has requested information from reporting entities to analyse TF cases. On the other hand, although the UNIF received 30 SARs involving NPOs, they were submitted for causes other than suspicions of TF.

3.2.3. Operational needs supported by FIU analysis and dissemination

138. The UNIF has a staff complement of 41 persons, 11 of which are responsible for analysing SARs, disseminating intelligence products and performing other duties as required by the national and international laws. The assessment team considers that the number of UNIF officials is not adequate to perform their duties since each analyst has an average of nine cases per month to analyse, which subject to the complexity of the case, may affect productivity, without taking into account the resources required to address the requests made by the AGO. In addition, the assessment team obtained information regarding the budget allocated to the UNIF by the MPPEFC. Although this budget has increased steadily in recent years, the assessment team considers that it is low when considering the resources needed by the UNIF to perform its financial analysis and supervisory duties and when comparing such budget with that of other FIUs from the region.

139. The UNIF has direct access to internal and external databases, as described in Table 3.3 above. It also uses open-source intelligence (OSINT) to conduct the analysis of the SARs, which adds value to the report. However, the assessment team did not obtain information on the timeliness with which the UNIF receives information after requesting it from its indirect sources or reporting entities

140. The UNIF has a database (Data Entry) that it uses to record and search for the SARs submitted. However, they could not demonstrate that they could prioritize reports based on risk. The UNIF benefits from the use of electronic devices and software such as the Microsoft Product Suite to produce analytical reports and other documentation.

141. As regards the operational analysis, the UNIF supports operational needs through intelligence reports and other analytical products sent to the Attorney General's Office. With respect to the characteristics of the intelligence reports, these include information regarding reporting entities, an executive summary, financial information on related persons, intelligence sources used and conclusions. The reports present basic information on the natural or legal persons reported, a description of the facts and the compilation of data from UNIF information sources and from external information sources accessible by the UNIF. The reports also present details on bank transactions, movements of transactions and migratory movements. Each report establishes a conclusion that describes the suspicions that led to the intelligence report, in addition to the actions recommended for the AGO to continue the corresponding investigative efforts., The intelligence report would be enhanced with the inclusion of association diagrams, visual flows of transactions and other visual resources that assist in understanding the relationships between the individuals under investigation.

142. With respect to the strategic analysis, the assessment team had access to strategic products such as feedback reports by sector, which provide information that allows the profiling of customers depending on risk factors such as geographic zone and region in which they operate, states where there are reports of more suspicious activities, economic activities, nationalities, types of persons, warning signs that lead to the suspicious activity and the A or B classification assigned by the UNIF to the SARs sent by the sector of the reporting entities. The information contained in these feedback reports is presented by way of graphics and statistics. These elements provide sufficient and adequate information to develop policies and plan programmes.

143. With respect to the AGO using the analytical products generated by the UNIF, there are some statistics on the number of requests made by the Attorney General's Office and, to a lesser extent, by other subsidiary investigative agencies. However, there is not enough data to demonstrate the use of UNIF's analytical products by other subsidiary agencies, since there are few statistics regarding the cases in which they were used to identify, track, detain, confiscate assets or successfully convict of ML/TF. The Attorney General's Office considers that the intelligence reports prepared by the UNIF have improved in

quality based on the work by working groups which derive actions to be considered when conducting investigations.

144. The UNIF considers that the quality of the 11,336 SARs received in the period 2016-2021 is moderate. When reviewing samples of SARs considered to be of a good quality, the assessment team found that SARs include some good-quality information. However, the quality of SARs should be enhanced based on the feedback provided by the UNIF.

145. In addition, the limited use of SARs received to produce analytical products. The UNIF used 1,570 (14%) of the SARs received during the period assessed to develop a total of 935 analytical products. Consequently, the vast majority of the *moderate* quality SARs received and the limited use of SARs to produce analytical products affect UNIF's capacity to identify, investigate and assist in ML, TF and predicate offences investigations. This is supported by the fact that 94% of the investigations initiated by the Attorney General's Office and derived from analytical products are still in the investigation phase given the lack of crucial elements required by the Attorney General's Office to conduct investigations.

146. The UNIF also uses feedback as a tool to address deficiencies in the quality of SARs. The UNIF stated that feedback is sent to the reporting entities on a regular (twice a month) and sectoral basis, for example, during inter-agency meetings. The feedback occurred through:

- a) Quarterly "Risk Compliance Assessments" for 2016-2021, whereby the UNIF verified the quality, timeliness and supporting documentation of the SARs submitted by the reporting entities (including the banking sector), which include relevant information to improve the quality of SARs.
- b) Bi-annual feedback reports issued throughout the assessment period, which are of good quality and use statistics and visual resources in the product.
- c) Sectoral feedback reports focused on the SARs submitted by the insurance sector for the period 2015-2019.

147. The assessment team noted that training events for UNIF officials were scarce and there was no training on financial intelligence analysis, TF, and operational and strategic analysis. This affects the UNIF's capacity to analyse SARs and produce analytical reports that support the operational needs of the competent authorities.

148. The training received by UNIF personnel to identify and analyse TF cases is extremely limited. During the period 2016-2021, only one UNIF official received training on scientific and financial investigation techniques to combat ML/TF given by the CICPC, which is clearly insufficient when considering the country's TF risk profile and the FIU's general operational needs.

3.2.4. Cooperation and exchange of information/financial intelligence

149. Between 2019 and 2021, the UNIF entered into 8 inter-agency cooperation agreements with the SUDECA, the ONCDOFT, the SUDEBAN, the SAREN, the SUNACRIP, the SUDEASEG, the CNC and SUNAVAL. According to Table 3.5, the UNIF facilitates cooperation by providing intelligence and information to the Attorney General's Office for criminal proceedings as well as information to other competent authorities through the cooperation agreements. The extent to which the UNIF can cooperate directly with other competent authorities and exchange information during a criminal proceeding is limited since the UNIF does not have the legal power to directly interact with competent authorities if there is no start order issued by the Attorney General's Office. The assessment team considers that this procedure obstructs the smooth flow of cooperation between competent authorities. The UNIF also provides inter-agency information to other competent authorities outside the scope of criminal proceedings.

150. The UNIF and the Attorney General's Office cooperate with each other and exchange information and financial intelligence. This is achieved through intelligence reports (produced spontaneously or upon request), special reports containing strategic analyses, and SARs sent to the Attorney General's Office when conducting investigations, for example, in the "*Manos de Papel*" case. The assessment team is of the view that, in most cases, this inter-agency coordination between the organisations is adequate and conducted through formal communication channels. That level of cooperation between the Attorney General's Office and other investigation agencies does not occur in the same way and with the same frequency as it does with the UNIF.

151. The low number of feedback activities provided by the UNIF to the Attorney General's Office during the period 2016-2021 limits support provided the investigative authorities' needs, which, in this case, is the Attorney General's Office.

152. The assessment team also noted that in addition to the fact that the UNIF is still located in the same building with the SUDEBAN, during the on-site visit, several interviewees expressed confusion as to whether or not the UNIF is still part of the SUDEBAN, as a result of which, the assessment team deems it necessary to make this known to the public, reporting entities and other authorities, in such a manner that these stakeholders would understand the separation of the UNIF from the SUDEBAN.

153. Regarding confidentiality, it should be noted that the UNIF is located within the premises of the SUDEBAN, the agency on which the UNIF previously depended. However, the UNIF states that there are security controls to access its offices; the security of the building depends on the SUDEBAN. Security protocols to enter the specific area where the UNIF is located are vulnerable and the level of internal access control is limited. The area where the UNIF is situated does not provide the necessary privacy required for UNIF's operations. privacy to prevent the SUDEBAN personnel or the reporting entities that visit the UNIF from knowing about FIU's operations.

154. Regarding information security protection, the UNIF depends on a secure network protected by a firewall that prevents unauthorized access to private information. In addition, the UNIF has a Windows server which provides access control through usernames and passwords managed by the Microsoft Active Directory. There is a Directorate in charge of managing computer systems, which has system monitoring programs to identify and mitigate electronic security problems. The UNIF has institutional email accounts with adequate security measures to send and receive emails securely.

155. Regarding the security of communications, information is managed through institutional email or the Egmont Secure Web, which is the appropriate mechanism used to exchange and receive information. The UNIF does not use social networks to receive or exchange sensitive information, which is an effective measure to prevent information leakage and preserve confidentiality. The UNIF only uses social networks to inform the public about relevant events.

156. The officials in charge of investigations and officials that become aware of such investigations should keep secrecy and are subject to administrative, disciplinary and criminal sanctions in case of non-compliance. Once the admission of professionals to the UNIF is approved, a Declaration of Confidentiality is signed, which prevents the dissemination, transmission and disclosure to third parties of any information they have access to in the performance of their duties, whether such information has been obtained directly or indirectly, during and after the contract period. The UNIF has not had any type of information leak during the period of assessment.

Overall conclusion on IO.6

157. The Bolivarian Republic of Venezuela has demonstrated that financial intelligence is used to conduct investigation and mainly used by the AGO. However, financial intelligence is not used by all competent authorities and there are legislative impediments (constitutional and ordinary laws) that affect communication between competent authorities. Competent authorities do not have direct access to the different databases that are available in the country. The quality of UNIF's analytical products can be improved to support the investigative activities of the AGO; it should be noted, though, that the UNIF keeps complete records of the SARs and its analytical products. The UNIF is the central authority empowered to receive the SARs submitted by the different reporting entities, to whom the UNIF provides constant feedback. The system for receiving and manually analysing SARs, together with some legislative barriers, lengthen the periods for the UNIF to receive SARs. Thus, SARs are not timely received and this has a negative impact on the preparation of analytical products. The assessment team also considers that UNIF's human and financial resources are limited. Although the UNIF has been operating independently from the SUDEBAN since 2018, the existing security measures do not fully ensure the compartmentalization, confidentiality and security of the financial intelligence information managed by this agency. There are no complete statistics between competent authorities and the UNIF that measure the timeliness of the assistance provided, and this negatively affects the capacity of the UNIF and the different agencies to monitor the progress of the requests.

158. **The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.6.**

3.3.Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. *ML identification and investigation*

159. In the Bolivarian Republic of Venezuela, the AGO is the lead investigative agency in matters of criminal proceedings; it has the competence to conduct the criminal investigation of the facts related to ML and is supported by different subsidiary criminal investigation agencies. The AGO is responsible for initiating investigations and for deciding which subsidiary agencies are necessary to conduct the investigation. The AGO is also responsible for filing the charges to the TSJ, once it is considered that there are sufficient grounds to bring criminal action. The TSJ is the highest governing body of the judicial authority, it has a Constitutional chamber, a Political-administrative chamber, an Electoral chamber, an Appeal chamber, a Criminal chamber, Civil chamber and other special chambers, each one with a specific remit. Through its chambers, the SCJ has as its primary function, to hear and decide on matters falling under its jurisdiction, settle disputes, hear appeals, issue judgements within the legal framework and any other remit established under the Constitution of the Bolivarian Republic of Venezuela and the Laws.

160. The AGO can initiate the criminal investigation *ex officio* or based on accusations. Subsequently, it conducts the basic investigation procedures, including cooperating with other authorities and obtaining information from their databases. Once the investigation is concluded, the charges are filed before the competent judge in ML proceedings, who exercises judicial control over the matters submitted to their knowledge. This action sets into motion the preliminary stage of the trial, in which the judge hears the request made by the AGO, specifically in terms of custodial measures, material and formal control of the legal decision (charges, stay of prosecution or dismissal), and measures involving the seizure of assets. Subsequently, during the trial stage, it will be the Judge's responsibility to determine the criminal liability of the persons accused by the AGO and therefore pass an acquittal (the accused is acquitted of all charges) or a conviction (provided that the Supreme Court of Justice finds sufficient evidence to sentence

the accused to imprisonment or to impose a monetary sanction, such as a fine, or both) in accordance with the Law. It should be noted that courts can pass a conviction or acquittal as final judgment in any of the stages of the criminal proceeding, according to the judicial function (control, trial, enforcement or appeal) of any of the stages of the proceeding.

161. Within the framework of its investigative tasks, the AGO has the support of the following subsidiary investigative agencies: The Scientific, Criminal, and Forensic Investigations Corps (CICPC), mainly used to investigate ML/TF; the INTERPOL National Central Bureau, for cases where international assistance is required; the National Anti-Drug Superintendency (SUNAD), for drug trafficking cases; the National Anti-Corruption Superintendency (SUNAC), the National Bolivarian Police (NBP); the National Bolivarian Armed Forces (FANB); the National Security and Intelligence Corps; and the UNIF, among others. The AGO relies mainly on the financial analysis produced by the CICPC and its own technical and scientific unit, which has financial accounting experts to conduct ML investigations. The subsidiary investigative agencies should obtain an start order by the AGO to be able to access the information held by other authorities and which cannot be accessed directly according to their respective ambits of competence. allowing for collaboration Although, the subsidiary criminal investigation agencies carry out investigative procedures, there is no evidence that they have conducted parallel financial investigations. There is also no evidence that the staff of these authorities have received training on this type of investigation.

162. The AGO has prosecutors specialized in the subject matter, who are distributed according to their competence. The Directorate for the Combat of ML and Illicit Finance, attached to the AGO General Directorate for the Combat of Organized Crime, has 15 Prosecutor's Offices (7 national prosecutor's offices and 8 regional prosecutor's offices). It also has the support of 54 Prosecutor's Offices with full jurisdiction to hear ML cases within the national territory. The distribution of powers among prosecutor's offices is conducted according to jurisdiction. The assessment team considers that the AGO is adequately equipped with human resources and has access to different subsidiary agencies to assist it in the criminal investigation. However, competent authorities lack technical resources and, in some cases, financial resources; as well as specialized technological programmes to identify and investigate ML.

163. The AGO indicates that assigns an identification number to ML cases, including cases identified by the UNIF, which are subsequently investigated. The AGO has two electronic systems: the case tracking system and the distribution system to electronically assign cases and competent prosecutor's offices. Notwithstanding the foregoing, the system does not allow for the prioritization of ML/TF/PF cases.

164. According to the statistics presented and explained by the assessed country, during the period 2016-2021, there were 423 ML investigations conducted by the AGO and which were subsequently prosecuted by the courts of justice. There is a higher incidence of prosecutions during 2017 and 2018 with a considerable decrease in 2020 and 2021, presumably due to the scarcity of resources derived from the COVID-19 pandemic. Out of the total of 423 cases, there were 897 persons involved in the prosecutions. The Assessment Team underscores that although the authorities presented statistics, many of them did not provide adequate details; for example, table 3.10 presents aggregate data on all types of ML and predicate offences, without specifying how many cases corresponded with each type of offence. This type of statistics was replicated in relation to the other core issues, which demonstrates that the authorities have difficulty maintaining complete and organised statistics on ML investigation and prosecution.

Table 3.9. ML investigations conducted by the AGO and prosecuted by the courts of justice - 2016 to 2021

	2016	2017	2018	2019	2020	2021	Total
Prosecutions	51	86	174	46	26	40	423
Persons involved	99	197	371	103	43	84	897

165. To strengthen the technical capacities of competent authorities, they have received specialized training in ML matters. The TSJ provides judges with regular training in ML prosecution. However, except for the SUNAD and the CNCC, the training received by competent authorities in terms of ML identification and investigation is not provided on any specific or regular basis.

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

166. The Bolivarian Republic of Venezuela perceives ML as a high-risk offence. The NRA and its update show that competent authorities have a moderate knowledge of ML threats. In addition, the crime of ML is included in the country's strategic plans, such as the *Plan de la Patria 2019-2025* and the *Gran Misión Cuadrantes de Paz* and is pursued in the Bolivarian Republic of Venezuela.

167. Although the Bolivarian Republic of Venezuela has the plan *Gran Misión Cuadrantes de Paz*, which is considered a national strategy or policy, as well as statistics on cases of predicate offences grouped by law, the plan *Gran Misión Cuadrantes de Paz* is not specific to combat ML issues nor does it broadly support all its thematic areas. Although the law enforcement authorities apply the provisions of the Code of Criminal Procedure that require “*the absence of prediction of conviction*” to dismiss an ML investigation, said legal provisions are not reflected in a policy that allows the law enforcement authorities to prioritize the prosecution of ML over predicate offences.

168. On the other hand, the ML prosecution statistics provided by the TSJ show that there are a total of 897 final judgments throughout the control, trial, enforcement and appeal stages. The legal decisions at the control stage include charges, stay of prosecution, cases pending legal decision, or dismissals, totalling 678 legal decisions. At the control stage, most of the legal proceedings (356) are awaiting a final judgment, and the AGO filed 250 charges at the end of the control stage. As shown in table 3.11 below, there were a total of 88 convictions, 27 acquittals, 710 ongoing cases and 72 dismissals. It should be noted that when applying the procedural principles of the Venezuelan criminal procedure system, the judge can either convict or acquit at any stage of the legal proceeding. Out of a total of 88 convictions, there were 25 convictions at the control stage, 24 at the trial stage, and 39 at the enforcement stage. Regarding acquittals, the 27 of them were issued at the trial stage.

169. There is a relevant percentage of ongoing legal proceedings, due to the deferral of hearings to non-appearance of the defendant at the control stage, due to lack of transfer of the prisoner to the hearing or due to non-appearance of the defendant at trial, which has an impact on the effectiveness of the prosecution of the crime of ML and the procedural speed. It is possible to observe that there are pending cases from 2016 to 2021. The assessment team considers that the time it takes for ML cases to be resolved is slow and that said time periods should be reduced.

Table 3.10. Total of defendants prosecuted for the crime of ML as a stand-alone crime and predicate offences by type of legal decision and judgment passed during the period 2016-2021

Court	Type of legal decision	Acquittals	Convictions	Ongoing	Dismissals	Total
Control	Charges	0	25	218	7	678
	Stay of prosecution	0	0	7	0	
	Awaiting legal decision	0	0	356	0	
	Dismissal	0	0	0	65	
Trial	Charges	27	24	128	0	179
Enforcement	Charges	0	39 ⁵⁵	0	0	39
Appeal	Charges	0	0	1	0	1
Total		27	88	710	72	897

Source: Supreme Court of Justice

170. Regarding investigations of predicate offences conducted by the AGO and its subsidiary investigative agencies during the period 2016-2021, the AGO investigated a total of 74,051 cases involving predicate offences, which are broken down as follows: 19,594 (26.46%) corresponded with drug offences, 12,825 (17.32%) were smuggling offences 3,076 (4.15%) were corruption offences, 2,729 (3.69%) corresponded with ML, 850 (1.15%) involved the illegal trafficking in metals, precious stones or strategic materials, 179 (0.24%) corresponded with human trafficking and 34,977 (47.23%) were other offences. When considering these significant numbers of cases of predicate offences generating illegal funds and which are the most important according to the 2015-2020 NRA, the assessment team concludes that the authorities could have investigated the laundering of such funds to a greater extent, which suggests therefore that the AGO has not prosecuted ML as a priority and is not consistent with the levels of predicate offences identified. The following table presents the range of predicate offences prosecuted by the competent authorities, grouped according to the laws governing them.

Table 3.11. Cases of ML and predicate offences investigated, grouped by law, in the period 2016-2021

Law	2016	2017	2018	2019	2020	2021	Total
Organic Tax Code	6	6	1	5	2		20
Criminal Code	215	195	184	204	118	30	946
Decree with Rank, Value and Force of Organic Law on Fair Prices	1451	940	1097	422	269	27	4206
LEOME	24	42	90	65	48	5	274
Decree Law of Organic Tax Code	30	40	13	25	10	3	121
Anti-Corruption Law	20	10	7	12	8	0	57
Amendment of Anti-Corruption Law	595	553	497	486	564	100	2795
Organic Law against Organized Crime	272	350	383	264	233	49	1551
Organic Law against Organized Crime and Terrorist Financing	2924	6149	8270	4152	3116	769	25380
Organic Customs Law	3	3	3	3	1		13
Organic Drug Law	5412	4250	2872	3668	2781	611	19594
Organic Law on Fair Prices	15	10	13	4	11	2	55
Organic Law for the Protection of Boys, Girls, and Adolescents	94	80	91	65	52	12	394
Environmental Criminal Law	1506	1770	1649	1658	1549	267	8399
Law on Smuggling	1513	1854	3033	1784	1857	202	10,243
Copyright Law			2		1		3
Total	14080	16252	182 05	12817	10620	2077	74051

⁵⁵ Twenty-five (25) convictions for ML as a stand-alone crime at the enforcement stage.

3.3.3. Types of ML cases pursued

171. The Bolivarian Republic of Venezuela has shown that both ML as a stand-alone crime and predicate offences are prosecuted. In accordance with the criminal procedure in Venezuela, the authorities have prosecuted 897 persons throughout the control, trial and enforcement stages during the period 2016-2021 (see Table 3.11). The TSJ passed 88 ML convictions at the control, trial and enforcement stages, of which 40 sentences were issued for ML predicate offences and 48 for ML as a stand-alone crime. It is not possible to determine whether the convictions for ML as a stand-alone crime and ML linked to predicate offences are convictions of third persons or convictions for self-laundering. Nor is it possible to determine whether there is any legal person among the 897 accused that were prosecuted throughout the various stages of the criminal proceeding (including 25 persons who were convicted of ML as a stand-alone crime).

Table 3.12. Number of persons convicted of ML as a stand-alone crime and ML together with related predicates offences in the period 2016-2021

Type of offence	No. of accused of predicate offences	No. of accused of ML as a stand-alone crime
Control stage		
<i>Money laundering (stand-alone crime)</i>		18
ML and Illegal carrying of firearms	4	
ML and Aggravated smuggling of fuel; Illegal possession of explosive devices	2	
ML and Illicit trafficking of strategic goods	1	
Subtotal	7	18
Total of persons convicted of predicate offences and ML as a stand-alone crime at the control stage		25
Trial stage		
<i>Money laundering (stand-alone crime)</i>		5
ML and Fraudulent embezzlement; Collusion between government official and contractor; Association to commit crime	6	
ML and Association to commit crime; Fraud	4	
ML and Electronic Fraud; Association to commit crime; Fraudulent embezzlement	4	
ML and Foreign currency counterfeiting	3	
ML and Drug trafficking; Association to commit crime	2	
Subtotal	19	5
Total of persons convicted at trial of predicate offences and ML as a stand-alone crime		24
Enforcement stage		
<i>Money laundering (stand-alone crime)</i>		25
ML and Association to commit crime	5	
ML and Conspiracy ; Fraudulent embezzlement	3	
ML and Import of goods harmful to health	2	
ML and Association to commit crime; Violence or resistance to authority	1	
ML and Fraud and forgery of documents	1	
ML and Resistance to authority	1	
ML and Aggravated illegal transportation of drugs	1	
Subtotal	14	25
Total of persons convicted of predicate offences and ML as a stand-alone crime at the enforcement stage		39
Total of convictions for predicate offences and ML as a stand-alone crime, by stage of criminal proceeding	40	48
Total of convictions at all stages of the criminal proceeding		88

Source: Supreme Court of Justice

172. Regarding the types of sanctions applied, all were custodial sentences. A total of 39 convictions for ML and predicate offences were passed at the final stage (enforcement) of the criminal proceeding.⁵⁶ Regarding predicate offences, there were 1,710 convictions for drug-related crimes and 391 acquittals, being the sentences for drug-related offences the most applicable in relation to the 88 sentences handed down for ML as a stand-alone crime and predicate offences.

Table 3.13. Sentences passed for ML, drug-related crimes and associated crimes in the period 2016-2021

Type of sentence	2016	2017	2018	2019	2020	2021	Total
ML acquittals	7	2	11	5	2	0	27
ML convictions	14	13	26	12	13	10	88
Drug-related crime acquittals	72	65	61	62	82	49	391
Drug-related crime convictions	408	276	231	253	261	281	1,710
Total of ML and drug-related crime dismissals	62	78	34	22	5	13	214

Source: TSJ

173. The Bolivarian Republic of Venezuela participated in the international investigation of the “Andorra” case. Competent authorities (UNIF, AGO, AGO’s subsidiary bodies, and TSJ) demonstrated their capacity to effectively provide MLA to contribute to the successful prosecution of ML cases of international importance. Competent authorities also showed that there is coordination between them, that they use secure mechanisms to share information to successfully conduct the criminal prosecution of cases of international importance.

Box 3.1. Andorra case

During 2014, the UNIF received and processed information requests from the Swiss FIU through the Egmont Secure Network, on Venezuelan citizens allegedly linked to corruption and the crime of money laundering in “Banca Privada d’Andorra” (BPA). ML activities were possible due to, among other aspects, by weaknesses in internal controls, thus the BPA became an easy vehicle to channel the proceeds of organized crime and corruption through the financial system of the United States of America.

In 2015, the UNIF furthered the investigation based on a SAR submitted by a banking institution, in which they reported on a natural person who appeared in a *notitia criminis* for being linked to alleged criminal association, and consulted information available to the public in the news section of the website of the Financial Crimes Enforcement Network (FinCEN). In that regard, the UNIF analysed the respective case and notified the AGO of its results.

In developing its analysis, the UNIF discovered information published at the FinCEN website that made reference to the “Banca Privada d’ Andorra (BPA)”, as a foreign financial institution of primary concern in relation to ML, according to section 311 of the USA PATRIOT Act and issued a Notice of Proposed Regulation. In its publication, FINCEN also referred to the activities of a second high ranking manager at BPA, who allegedly accepted exorbitant commissions for processing transactions associated with Venezuelan third party money launderers. This activity involved establishing fictitious companies and complex financial products to divert funds from the Venezuelan state-owned oil company. BPA processed approximately USD 2 billion in transactions related to this ML scheme.

Coupled with the foregoing, the Swiss Federal Prosecutor’s Office initiated investigations to clarify the source of several million dollars allegedly linked to corruption in the Venezuelan oil sector, following the submission of a suspicious transaction report alluding to two natural persons and three legal persons.

Additionally, during December 2017 and January 2018, the UNIF received and processed 4 SARs containing

⁵⁶ At the enforcement stage, there were 14 sentences for predicate offences and 25 convictions for ML as a stand-alone crime.

information on one legal person and two individuals related to this case, whose accounts shown transactions that were not consistent with their financial profile and who had acquired many real estate properties and foreign currency in a tax haven. The intelligence reports were sent to the AGO to supplement the investigations conducted in relation to the case.

Based on the elements of risk present in this case, the National Financial Intelligence Unit, through its various sources of information (financial profile, wire transfers, foreign exchange transactions, National Registry of Requested Persons, reporting entities' reports, among others) carried out tasks of intelligence, thus contributing to the investigations conducted by the AGO.

The criminal investigation agencies achieved the arrests of senior executives of the Venezuelan state-owned company, who were accused of "fraudulent embezzlement, collusion between government official and contractor, ML and association to commit crime."

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

174. According to Article 35 of the LOCDOFT, the person who commits the crime of ML is likely to be punished by a penalty of 10 to 15 years' imprisonment or a fine equivalent to the value of the assets obtained as a result thereof. When the crime is committed by an organized criminal group, the monetary sanction may be equivalent to the value of the assets obtained as a result thereof. The LOCDOFT also provides for the confiscation of the proceeds of crime as a sanction. Regarding the calculation of penalties, Article 37 of the Criminal Code establishes that when the penalty is between two limits, the average resulting from the sum of the two numbers is applied, which may be reduced or increased depending on the mitigating or aggravating circumstances of the case. When calculating the punishment, the judge applies legal principles, as well as the constitutional parameters of legality, humanity of the punishment, and equality.

175. Based on the application of the law and the legal principles, the TSJ has passed convictions consisting of prison sentences ranging from 1 to 15 years; the prison sentences ranging from 5 to 9 years being the ones that are applied more frequently. The custodial sentences imposed are adjusted to the rules governing the calculation of penalties that should be applied by judges and which can be considered proportionate; nevertheless, the absence of more detailed data makes it difficult to determine whether or not these have had a dissuasive effect. There is no evidence that monetary sanctions are applied to natural and legal persons.

Table 3.14. Severity of custodial sentences in convictions for ML and ML in conjunction with predicate offences in the period 2016-2021

Type of offence	Length of sentence					Total
	Less than 1 year	1 - 4 years	5 - 9 years	10 - 15 years	Over 15 years	
ML	-	7	41	-	-	48
ML / Fraudulent embezzlement / Collusion between government official and contractor / Association to commit crime	-	-	5	1	-	6
ML / Association to commit crime	-	1	4	-	-	5
ML / Association to commit crime and fraud	-	1	1	2	-	4
ML / Electronic fraud / Association to commit crime / Fraudulent embezzlement	-	4	-	-	-	4
ML / Illegal carrying of firearms	-	-	4	-	-	4
ML / Conspiracy / Fraudulent embezzlement	-	3	-	-	-	3
ML / Import of goods harmful to health	-	2	-	-	-	2
ML / Drug trafficking / Association to commit crime	-	-	-	1	1	2
ML / Smuggling of fuel / Illegal possession of explosive devices	-	2	-	-	-	2
ML / Foreign currency counterfeiting	-	1	2	-	-	3
ML / Resistance to authority	-	-	1	-	-	1
ML / Illegal transportation of drugs	-	-	1	-	-	1
ML / Illicit trafficking of strategic goods	-	-	-	-	1	1
ML / Fraudulent acts and false documents	-	-	1	-	-	1
ML / Association / Violence or resistance to authority	-	-	1	-	-	1
Total	0	21	61	4	2	88

176. Although the Bolivarian Republic of Venezuela has demonstrated that 48 sentences have been applied for ML as a stand-alone crime, the assessment team considers that the number is limited in relation to the number of 297 charges filed by the AGO, which reflects that the ML offense is not prosecuted actively. The assessment team considers that the sanctions imposed are not effective or proportionate and do not have a dissuasive effect that discourages future criminals from getting involved in ML activities and that makes them perceive that they will be severely punished for their crimes.

3.3.5. Use of alternative measures

177. When it is not possible to apply a criminal sanction for the crime of ML, the courts of justice of the Bolivarian Republic of Venezuela have the power to apply the following measures:

- a) **Forfeiture.** This measure involves the permanent disposition of assets that have been declared abandoned and for which the owner has not been identified; after a year, it is possible to submit a forfeiture request to the judge.
- b) **Confiscation.** It is the measure adopted after a court ruling ordering the deprivation of assets that are the proceeds or instrumentalities of crime.
- c) **Preliminary Seizure.** The judge in the case is responsible for preventive asset seizure, which, at that instance, the ONCDOFT is aware of and responsible for the seizure thereof.

178. Although the Bolivarian Republic of Venezuela has indicated that it has the power to apply the measures indicated for cases involving ML and other related crimes, there is no evidence that said measures have been effectively applied. It is not yet clear whether this type of measure was applied in the “Andorra” case.

Overall conclusion on IO.7

179. The Bolivarian Republic of Venezuela has demonstrated that it conducts investigations on ML and predicate offences, although not at a level consistent with the country's risk and context. Although it is true that there are policies that address ML, they are not specific to ML nor do they develop the issue extensively, therefore, ML investigations are not developed in accordance with said policies nor do they fully address the risks and threats to which the country is exposed. . Additionally, the competent authorities receive some training on ML; however, such training is not provided on a regular basis and it is not specific to investigations of this crime. Training is not a priority, which limits the effectiveness of ML investigations. Lastly, the system used to record and maintain statistics used by the AGO, the subsidiary criminal investigation agencies and the TSJ in particular, presents significant discrepancies that made it difficult for the assessment team to evaluate the effectiveness of efforts for the investigation, prosecution and conviction of ML and related predicate offences which in turn, according to the assessment team, also influences the AML policies and priorities of these authorities.

180. **The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.7.**

3.4. Immediate Outcome 8 (Confiscation)

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

181. The Bolivarian Republic of Venezuela regulates confiscation and forfeiture as two separate mechanisms. Confiscation is the definitive deprivation by a court decision of any property, while forfeiture is the definitive deprivation by a court decision of the property rights over any property that has been abandoned or unclaimed. Article 116 of the Constitution of the Bolivarian Republic of Venezuela, which limit the confiscation of the proceeds of crimes committed against public property, the proceeds of those who have illicitly enriched themselves under the protection of government, and the proceeds of commercial, financial or any other activities linked to the trafficking of psychotropic and narcotic substances, or the property or the proceeds held by third parties; despite the foregoing, the authorities provided information on forfeitures associated with ML and related predicate offences, although there is no data on forfeitures and confiscations stemming from the prosecution of TF cases.

182. Confiscation and forfeiture of the instrumentalities and the proceeds of crime are policy objectives of the Bolivarian Republic of Venezuela. While the national strategy “*Gran Misión Cuadrantes de Paz*,” the “*Plan a Toda Vida Venezuela*,” and the National Anti-Drug Plan 2019-2025 address elements of confiscation and forfeiture, these policies derive from strategic pillars of the central government which, although they could be consistent with the risks identified, the existing government policy was developed without measuring the magnitude of the risks, which pre-empts the formulation of policies according to the magnitude of the risks identified. The strategy “*Gran Misión Cuadrantes de Paz*” provides a generic framework to guide the development of all public policies and the actions derived from or generated by the different branches of government in terms of forfeiture and confiscation. The “*Plan a Toda Vida Venezuela*” includes thematic area 8 related to the fight against organized crime and TF and considers strengthening and setting into motion the ONCDOFT's Specialized Asset Service responsible for the seizure, administration, forfeiture and confiscation of the proceeds of organized crime and TF in accordance with the LOCDOFT. The 2019-2025 National Anti-Drug Plan includes strategy number 1, which aims to strengthen legal proceedings and implement security procedures for

confiscation, and strategy number 3, which seeks to use the alienated assets for the development of plans and programmes for drug prevention, abuse, consumption and treatment. The assessment team considers that these strategic documents require national plans and programmes that are **more focused** on AML/CFT which define specific objectives and activities, authorities responsible for their implementation and the development of measurement indicators.

183. The assessment team considers that forfeitures and confiscations are carried out as one more step in the criminal proceeding and that the authorities do not consider that these measures should be prioritized and applied to all possible types of crime (for example, through the forfeiture of property of equivalent value) in order to prevent and disrupt the commission of criminal activities.

184. The Bolivarian Republic of Venezuela has the National Service for the Administration and Disposal of Seized, Forfeited or Confiscated Assets (SNB) within the SUNAD, which focuses on assets linked to drug-related crimes. It also has the Specialized Service for the Administration and Disposal of Seized, Forfeited or Confiscated Assets (SEB), an agency that reports to the ONCDOFT and focuses on assets that have been used in organized crime and TF. The existence of these two services demonstrates the country's concern about specializing the management of assets according to the type of crime considered.

185. The Bolivarian Republic of Venezuela has delivered training and raised awareness in forfeiture, as a mechanism to combat crime. Competent authorities in charge of applying forfeitures (AGO, SUNAD and SEB) have been trained in forfeiture and confiscation, as well as in the administration and management of seized assets and international cooperation in terms of asset management throughout the assessment period. Regarding the training provided by the SUNAD and the SNB on forfeited, seized and confiscated assets, 7 training sessions were delivered to 255 government officials.

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

186. The forfeiture, the preventive seizure of the assets used in the commission of the crime under investigation, and confiscation are the responsibility of the judges with criminal jurisdiction, which is carried out at the request of the prosecutors from the AGO, who have requested the seizure of assets to the jurisdictional agency in order to effectively dismantle the financial structure of organized criminal groups.

187. The SEB performs its functions based on the competent judge's orders, whether what is required is the seizure, confiscation or forfeiture of an asset. In the case of seizures, the AGO requests the judge to issue an order for the preventive seizure of movable and immovable property used in the commission of the crime under investigation. When the judge passes a final conviction, the SEB receives the sentence declaring the forfeiture of the preventively seized assets. In the event of an acquittal, the seized assets are returned to their owners. The SEB Procedures Manual establishes the procedures that should be followed to dispose of assets, determine their value, modify ownership or auction them. The SNB follows the same procedure.

188. During the period 2016-2021, the SNB and the SEB forfeited or confiscated USD 525,785.00, and forfeited and confiscated movable and immovable property for a total amount of USD 12,199,924.68 and USD 14,130,307.88, respectively. The consolidated statistics of the SNB and the SEB on the value and amount, and the type of instrumentalities and proceeds forfeited and confiscated are presented below. Among the type of instrumentalities and proceeds forfeited and confiscated, there are motor vehicles, vessels, aircrafts, livestock, and other movable property, as shown in Table 3.15.

Table 3.15. Total value of forfeited and confiscated instrumentalities and proceeds

Year	Forfeited / confiscated money	Movable property	Immovable property	Total
2016	\$56,851.00	\$2,015,345.27	\$2,336,321.72	\$4,408,517.99
2017	\$7,412.00	\$841,136.15	\$1,182,401.80	\$2,030,949.95
2018	\$5,030.00	\$864,290.32	\$763,971.62	\$1,633,291.94
2019	\$2,906.00	\$1,705,519.83	\$780,778.65	\$2,489,204.48
2020	\$480.00	\$3,571,972.72	\$5,273,057.81	\$8,845,510.53
2021	\$453,106.00	\$3,201,660.39	\$3,793,776.28	\$7,448,542.67
Total	\$525,785.00	\$12,199,924.68	\$14,130,307.88	\$26,856,017.56

Source: Consolidated data from the SEB and the SNB

Table 3.16. Number and type of forfeited and confiscated instrumentalities and proceeds

Year	Status	Motor vehicles	Vessels	Aircrafts	Livestock	Other movable property	Immovable property
2016	Forfeited	36	6	1	0	2	68
	Confiscated	257	1	3	0	1	10
2017	Forfeited	54	4	10	0	2	0
	Confiscated	328	2	4	0	0	7
2018	Forfeited	2	0	0	0	4	0
	Confiscated	0	2	0	0	2	5
2019	Forfeited	5	3	2	0	0	5
	Confiscated	107	0	0	0	3	6
2020	Forfeited	12	1	0	0	0	10
	Confiscated	23	5	4	0	0	15
2021	Forfeited	2	0	1	0	0	5
	Confiscated	28	4	2	0	5	1
Total	Forfeited	111	14	14	0	8	88
	Confiscated	743	14	13	0	11	132

Source: Consolidated data from the SEB and the SNB

189. The authorities gave two examples of cases in which forfeitures or confiscations have been achieved, which are presented below.

Box 3.2. El Loco Barrera

In August 2012, the National Anti-Drug Office (ONA), today SUNAD, was informed of the location of different real estate properties in Venezuelan territory allegedly owned by a Colombian national, who was requested by the USA and Colombia through an INTERPOL red notice in relation to drug trafficking, conspiracy to commit a crime, money laundering, and homicide. In September 2012, the suspect was arrested and deported to Colombia to be finally extradited to the United States in 2013. Venezuelan authorities investigated, prosecuted, and convicted four persons related to the suspect on the grounds of various crimes, including identity theft, forgery of stamps, concealment of firearm, and ML. In all these cases immovable property, movable property like motor vehicles, commercial merchandise, national currency, as well as other property were forfeited, totalling 42 items.

Box 3.3. Family member of former senior official from PDVSA

In December 2017, the ONCDOFT received an official letter from the Supreme Court of Justice informing that it had agreed to the preventive seizure of movable and immovable property owned by the family member of a former senior official from PDVSA. The immovable property included apartments in a building, apartment in residences, and a corporate large building. Movable property included high-end motor vehicles and motorcycles.

190. Based on the statistics submitted by the SEB and the SNB and case examples, authorities deprive criminal organisations of the assets and instrumentalities related to the commission of criminal activities punished in the national territory. Nevertheless, there is no evidence that there is international cooperation regarding the repatriation and restitution of the proceeds of ML and predicate offences committed abroad, or of the proceeds sent to other countries.

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/bearer negotiable instruments (BNIs)

191. The SENIAT and the GNB's Customs and Tax Protection Service are the competent authorities responsible for the monitoring and management of declared or undeclared cross-border transactions of currency and bearer negotiable instruments. The SENIAT is responsible for the application of the national customs and tax legislation, as well as the exercise, management, and development of powers related to the integrated enforcement of customs and tax policies set by the National Executive Power

192. SENIAT maintains cooperation with counterpart agencies in relation to cross-border transaction of currency/BNI; however, such cooperation has not been frequent and has been related to undeclared or prohibited products. In the event the SENIAT identifies undeclared currency, it informs the GNB for the sake of property protection and the AGO so that the investigation can be initiated.

193. The SENIAT has a hybrid system of written or oral declaration for nationals of the Bolivarian Republic of Venezuela. Passengers, tourists and crew members, without exception, who enter by air should make a written declaration using form 82 to declare carrying foreign currency above USD 10,000.00 or the equivalent in another currency. The written declaration is not requested when entering by land or sea, where the oral declaration system is used through two oral questions. Reliance of customs officers on the oral declaration system at entry or exit creates a limitation for the application of forfeiture and makes prosecution difficult in case there is a false declaration or that such is omitted.

194. The SENIAT uses a good faith system to analyse the declarations submitted by taxpayers and does not perform a financial analysis thereof. The SENIAT analyses the declarations when there is a declaration outside the declarant's normal parameters. The authorities do not have an automated system to analyse the declarations and identify suspicious activities in the declarations. This limitation creates a problem in the SENIAT's capacity to analyse and identify undeclared or falsely declared assets, currency, and other items, and demonstrates that the SENIAT is not proactive in the identification of cases of abuse of the tax system of the Bolivarian Republic of Venezuela.

195. The SENIAT and the GNB show that there is a limited number of forfeitures in relation to cross-border cash transactions, since during the period 2018-2019 only one forfeiture was reported each year. These amounts are not consistent considering the use of alternative channels to the existing financial system in the country, which facilitate the flow of foreign currency in cash without control and considering that illegal foreign exchange transactions in the territory were identified as high risk in the NRA. The assessment team considers that the authorities should apply enhanced measures to detect cross-border transactions conducted by natural and legal persons intending to transport currency and bearer negotiable instruments.

196. Regarding databases, the SENIAT has its own database for the purpose of registering taxpayers and monitoring income. The different investigative agencies have access to part of this system when there are agreements with the SENIAT. On the other hand, the SENIAT did not demonstrate that it has direct or indirect access to the different databases that the Bolivarian Republic of Venezuela has.

Table 3.17. Number of activities conducted by the SENIAT during 2016-2021

Year	Entry	Exit	Declaration	Confiscations or forfeitures	Proceedings initiated	Proceedings initiated
Land						
2018	41	211	252	0	252	-
2019	113	6	119	0	119	-
2020	74	2	76	20	76	-
2021	0	21	21	0	21	-
Sea						
2018	138	82	220	0	220	-
2019	208	2	210	3	210	-
2020	133	4	137	0	137	-
2021	110	11	121	0	121	-
Air						
2018	1	0	1	0	1	-
2019	10	1	11	0	11	-
2020	0	0	0	0	0	-
2021	0	2	2	0	2	-

197. The SENIAT and the GNB do not have exhaustive statistics on the number of entries and exits, showing the number of declarations or inspections that have conducted to understand the level of traffic that takes place.

198. The low number of seizures reflects a lack of understanding of the risks to which the borders and ports of entry to the Bolivarian Republic of Venezuela are exposed. There is no appreciation of the potential that ports have of being used for crimes related to drug trafficking, undeclared assets and currency, and other types of smuggling.

Table 3.18. Number of forfeitures conducted by the SENIAT during 2018-2019

Description	2018	2019
Annual number of forfeitures conducted from undeclared or falsely declared transactions by travellers.	\$12,068 and €1,150	\$21,010
Number of undeclared transactions detected	1	1
Additional sanctions imposed	0	0
Number of declarations received	0	0
Observations related to both procedures	Upon seeing the irregular images on the RX machine, the passenger was taken to an area where a physical check-up was conducted in collaboration with the Bolivarian National Guard. The money was counted in the presence of the passenger and witnesses and seized; and the passenger's belongings were held in the custody by Detachment 451.	

Source: SENIAT

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

199. The Bolivarian Republic of Venezuela has assessed its risks and reflected them in the NRA, which identifies several crimes as high risk. High-risk crimes include offences related to drug trafficking, which is classified as the highest risk crime. The Bolivarian Republic of Venezuela indicated that there have been 4149 and 1945 forfeitures related to drug trafficking and organized crime, respectively. The number of forfeitures related to drug trafficking shows that there is certain consistency between the results and identification in the NRA. Nonetheless, statistics on forfeitures related to organized crime are not broken down by type of crime, and the actual number of drug trafficking forfeitures by case and by year cannot be determined. Statistics generation systems are inefficient, which creates great challenges for agencies to access statistical information. The shortcomings in the generation of statistical data limit the capacity of the authorities to determine to what extent the forfeitures applied are consistent with the ML/TF risks, the national policies and the country's priorities. Although the assessed country has demonstrated having applied forfeiture and confiscation measures, it was unable to demonstrate the number of forfeitures conducted by type of crime within the assessment period.

200. In terms of technical capacity, the SENIAT staff received training during the period 2016-2021 through multiple workshops, technical round tables, and courses relevant to their job. However, the results of the training are not reflected in the execution of their functions at the borders and ports of the Bolivarian Republic of Venezuela, since the number of seizures and forfeitures is lower, considering the risk assessed by the Bolivarian Republic of Venezuela in relation to the cross-border transportation of goods and currency.

Overall conclusion on IO.8

201. The Bolivarian Republic of Venezuela has policies derived from strategic pillars of the central government in terms of ML/TF and the confiscation and forfeiture of their proceeds, but these policies do not derive from the risks analysed as such. The existing government policy was developed without having measured the magnitude of these risks, which prevents these policies from being consistent with the magnitude of such risks, that is, these strategic documents require national plans and programmes that are more focused on AML/CFT. The authorities provided aggregate statistical data on the value, quantity and types of assets and instruments forfeited and confiscated, which was not detailed sufficiently to determine the magnitude of the forfeitures conducted by type of offence or the scope with which assets are recovered through the forfeiture measure separate from the application of the confiscation measure. It is also well known that the country has no experiences of forfeitures or confiscations involving foreign predicate offences, assets that have been moved to other countries, forfeiture of assets of equal value, nor repatriation and restitution of assets. In considering forfeiture derived from cross-border declarations, the assessment team discovered several factors that affect the capacity to detect undeclared cash or BNIs or false declarations due to the absence of an automated system to monitor declarations, the lack of comprehensive statistics or the application of an underdeveloped system for questioning travellers entering the country by land or sea.

202. The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.8.

Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1.Key findings and recommended actions

Key findings

Immediate Outcome 9

- a) The TSJ does not prioritize or allocate resources to the prosecution of TF cases proportionate to the medium TF risk in the country. Moreover, there is no evidence that any of these cases are related to relevant terrorist organisations according to the context of the Bolivarian Republic of Venezuela (e.g., the FARC or the ELN).
- b) The statistical data and the explanations provided by the TSJ indicate that the 105 convictions for TF during the period 2016-2021 were related to gang members without there being substantial evidence that these individuals provided financing to terrorist organisations, individual terrorists, or terrorist acts and how they carried out financing activities for terrorist purposes.
- c) In the assessment period, the UNIF analysed three SARs related to TF, which prompted investigations related to one case of TF; however, the assessment team did not receive information about the performance of the AGO and the CICPC in relation to the identification and investigation of TF cases and the results of such activities.
- d) The 2015-2020 NRA states that the TF risk of NPOs is high. Nevertheless, there are no TF investigations, prosecutions, or convictions in relation to this sector in the country. The assessment team does not share this opinion, since the NRA did not include an in-depth analysis of the sector. The assessment team concludes that the high level of TF risk assigned to this sector cannot be justified.
- e) The authorities did not show that the “*Gran Misión Cuadrantes de Paz*” is integrated with the activities conducted by the AGO, the CICPC, the FANB, the NBP, and the National Security and Intelligence Corps in relation to the fight against TF.

Immediate Outcome 10

- a) The Bolivarian Republic of Venezuela approved Resolution 122 to implement UNSCR 1267 but excludes its successor resolutions. The Venezuelan authorities have not applied TFS based on Resolution 122 nor do they communicate amendments made under UNSCR 1267 without delay to reporting entities.
- b) The authorities did not implement TFS pursuant to UNSCR 1373 during the assessment period. Implementation is hampered due to both Resolutions 122 and 158 treat with the implementation of UNSCR 1373 with conflicting provisions, and the authorities are unable to gather sufficient evidence to substantiate domestic designations.
- c) The Bolivarian Republic of Venezuela has not conducted any criminal, civil, or administrative proceeding to deprive terrorists, terrorist organisations, and networks supporting terrorism of resources and means intended for TF, which contrasts with the

understanding of the country's TF risks set forth in the 2015-2020 NRA and the multiple terrorist acts that recently occurred in the country according to open sources of information.

- d) According to the 2015-2020 NRA, the authorities consider that all NPOs have a high TF risk. The assessment team does not share this opinion, since the NRA did not include an in-depth analysis of the sector.
- e) The Bolivarian Republic of Venezuela has not shown that it applies proportionate and risk-based supervisory measures to NPOs. In particular, the country created two registries: the Unified Registry for Reporting Entities (RUSO) and the Registry of Non-Domiciled NGOs (REGONG), both with the purpose of contributing to the monitoring of the NPO sector, of which only the latter is operating. In any event, the country failed to prove that these registries are useful to prevent the abuse of NPOs for TF.

Immediate Outcome 11

- a) Overall, the Bolivarian Republic of Venezuela does not have a legal framework to implement R.7. Although the SUNACRIP has established the duty to freeze assets in the context of VA transfers, this is not based on a primary law that exempts Article 115 of the Constitution, which protects the right to property.
- b) Despite the lack of a legal framework, the UNIF has issued official letters related to the 1718 Sanctions List, which reflect a low understanding of the objectives and implementation mechanisms of PF-related TFS. In addition, these letters were not part of a continuous process of notification or dissemination of updates, but rather occasional communication to inform of obligations that have no legal basis.
- c) The sectors interviewed during the on-site visit demonstrated no understanding of the scope of the UNSCRs in relation to PF or of the UNIF circulars. While the UNIF's actions aimed at providing guidance on this issue have not been sufficient as it has not been regularly conducted; in addition, the UNIF has not reached all the sectors of reporting entities, limiting itself to the communication of obligations.
- d) Supervisors do not have the mandate to monitor compliance with PF-related TFS obligations as a result of the lack of a legal framework in place. On the other hand, although the SUNACRIP verifies that VASPs have adequate tools to identify persons and entities designated in their inspections, this does not ensure that VASPs comply with the full range of requirements derived from R.7.

Recommended actions

Immediate Outcome 9

- a) The authorities should modify the criminal definition of TF to strengthen the capacity of the AGO and the CICPC to identify and investigate TF cases.
- b) The country should improve its TF risk analysis by including, but not limited to, a detailed

analysis of the threats (e.g., foreign terrorist organisations that operate or have a presence in Venezuela, and national groups or persons that have terrorist motivations); the TF methods that could be or have been used in the country; and the link between organized crime and terrorism.

- c) The authorities should develop a national plan against TF derived from a national strategy that includes objectives and guidelines against terrorism and TF. This plan should include actions that are in line with the country's TF risks, ensuring that the identification, investigation, prosecution, and conviction of TF activities are consistent with the country's risk profile.
- d) Considering the terrorist threats in the Venezuelan context, including foreign criminal organisations that have a presence in the country, competent authorities should request assistance from foreign counterparts in cross-border TF cases and engage in inter-agency cooperation and coordination to pursue TF investigations.
- e) The AGO, CICPC, UNIF, and TSJ should take action to train officials in relation to the identification, investigation, prosecution and conviction of TF cases, respectively. This training should be in line with international standards on TF.
- f) The Bolivarian Republic of Venezuela should ensure that competent authorities have sufficient human resources and technological tools to combat TF in a way that is consistent with the country's TF risk.
- g) The Bolivarian Republic of Venezuela should establish and implement alternative measures when a TF conviction is not possible.
- h) Investigative authorities and the UNIF should adopt a specific approach to investigate TF in accordance with the risks identified, including, but not limited to, criteria to decide when to proactively initiate investigations, criteria to prioritize cases, TF specific investigation procedures, and the use of parallel financial investigations.

Immediate Outcome 10

- a) The authorities should address the deficiencies identified in R.6 by reviewing their legal framework and strengthening procedures to implement the lists of designated persons and entities under UNSCRs 1267/1988 and 1989 and their successor resolutions, as well as under UNSCR 1373.
- b) The UNIF should resume the implementation of TFS under UNSCRs 1267, 1988, and 1989 and subsequent resolutions through the dissemination without delay of the corresponding list updates.
- c) The authorities should conduct an adequate analysis of the risk posed by NPOs in line with the work carried out by the UNIF and implement targeted measures to prevent the abuse of NPOs for the terrorist financing in high-risk scenarios.
- d) The country should designate a competent authority responsible for supervising and monitoring compliance with the obligations of NPOs related to TF prevention that are proportionate to the risks identified.

- e) The authorities should promote the awareness of TF risks among NPOs by enhancing communication with the sector and the mutual exchange of information related to TF prevention that are proportionate to the risks identified
- f) Authorities should adopt a specific strategy to use criminal, administrative (such as the application of TFS) or civil proceedings to deprive terrorists of their assets.

Immediate Outcome 11

- a) The country should establish a legal and institutional framework for the implementation of PF-related TFS without delay.
- b) Once the corresponding legal framework is established, the authorities should:
 - (i) Review the mechanisms through which the lists and freezing obligations are communicated without delay to the reporting entities.
 - (ii) Monitor that reporting entities comply with their PF-related TFS obligations.
 - (iii) Provide guidance and feedback to reporting entities on the implementation of their obligations related to TFS.
- c) The country should raise awareness and train competent authorities involved in the implementation of TFS on the content and scope of the UNSCRs related to PF prevention and disruption.

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

4.2.Immediate Outcome 9 (TF investigation and prosecution)

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

204. **The TSJ is the competent authority to prosecute and convict TF.** This authority has reported TF prosecutions and convictions in the assessment period, as reflected in Table 4.1.

205. According to Table 4.1, two cases have totalled 105 convictions at the trial stage (*fase de control*) for the crimes of terrorism, TF and related crimes (i.e., illicit ammunition trafficking, treason to their country, and criminal association, among others). These were the “Gedeón” case (eight defendants) and the “Cota 905-El Koki” case (97 defendants), in which not all defendants have been sentenced yet. According to the TSJ, the 105 individuals were convicted of TF.

206. The assessment team observed that in cases involving terrorism, TF and related crimes, TF coincided with the drug trafficking offence, which is one of the threats associated with TF according to the 2015-2020 NRA and open sources, although there were no cases associated with smuggling or illegal mining. In contrast, the TF cases referred to in the statistics were mostly related to association to commit

crime, treason to the country, conspiracy with a foreign government, and illicit trafficking of ammunition, which are not identified as threats associated with TF in the 2015-2020 NRA.⁵⁷

207. Regarding the convictions obtained in Cota 905-El Koki case, the assessment team observed that this case related to criminal phenomena typical of criminal gangs in poor neighbourhoods, whose activities would not necessarily fall within the definition of TF⁵⁸; in any case, the information obtained did not explain whether those convicted provided financing to specific terrorist organisations or individual terrorists, with or without links to a particular terrorist act, or to finance a specific terrorist act. It should also be noted that there is no evidence that the authorities have designated any of the individuals or criminal groups involved in the Cota 905-El Koki case as terrorists or terrorist organisations prior to their prosecution.

Table 4.1. Number of cases and persons involved in terrorism and TF in the period 2016-2021

Indicator	Terrorism ^[1]	TF ^[2]	Terrorism, TF y related offences ^[3]	Total
Tried cases	59	5	9	73
<i>Sentence passed</i>	8	0	2	10
<i>Ongoing cases</i>	51	5	7	63
Persons involved by nationality	202	15	120	337
<i>Nationals</i>	196	14	118	328
<i>Foreigners</i>	6	1	2	9
Persons involved by procedural status	202	15	120	337
<i>Acquitted</i>	1	0	0	1
<i>Convicted</i>	20	0	105	125
<i>Dismissed</i>	15	0	0	15
<i>Pending</i>	166	15	15	196

Source: TSJ

Notes:

[1] This column presents cases where terrorism was prosecuted separately.

[2] This column presents cases where TF was prosecuted separately.

[3] This column presents cases where terrorism, TF and related offences were prosecuted altogether.

208. **The TSJ has special courts for terrorism.** Since 2004, the TSJ has had special courts with exclusive jurisdiction to hear and decide on cases related to terrorism, including TF cases. At present, there are a total of four courts for constitutional guarantees, three trial courts, and two courts of appeal. In 2019, the TSJ established special courts similar to those described above within the criminal liability system for children and adolescents. Regarding minors and adolescents, the TSJ informs that there are six minors being prosecuted for the crime of TF and eight who are currently being tried for terrorism and TF, while no individual has been convicted of TF in the criminal liability system of children and adolescents.

209. **The TSJ has procedures to speed up criminal proceedings, which are equally applicable to TF cases, but these have not been effective.**⁵⁹ These procedures order the courts to classify cases and conduct certain acts within specific timeframes, as well as authorize that hearings are conducted through

⁵⁷ Bolivarian Republic of Venezuela, NRA 2015-2020, page 30; C. Nellemann et al, *World Atlas of Illicit Flows*, INTERPOL, RHIPTO and GI-TOC, 2018, pages 79 and 123, globalinitiative.net; OECD, *Gold Flows from Venezuela: Supporting Due Diligence on the Production and Trade of Gold in Venezuela*, 2021, pages 26–30, oecd.org

⁵⁸ Paragraphs 1068 to 1098 of the UN Human Rights Council Report “Detailed findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela” provide details on this case. The report is available at ohchr.org

⁵⁹ These procedures are established in SCJ Resolutions 2016-001, 2020-0009 and 2021-001.

video conferences when the accused or appellant⁶⁰ and the competent court are in different places, and that summons are served via electronic means. Although the assessment team considers this initiative to be positive, the TSJ was not able to demonstrate to what extent these procedures have sped up TF prosecutions. The assessment team considers that the fact that only 10 cases of terrorism and TF have been resolved out of a total of 73 which were prosecuted between 2016 and 2020 shows that there are obstacles that prevent the efficient prosecution of these cases. Among these obstacles, the assessment team identified the constant resignation of judges and personnel working in the country's courts and the lack of budgetary resources.⁶¹

210. According to the findings of the 2015-2020 NRA, the Bolivarian Republic of Venezuela identified five TF risks; four being medium risk and one being rated as high risk. The medium risks identified are: (i) the existence of terrorist organisations outside the Republic of Venezuela aimed at committing terrorist acts in the Venezuelan territory, (ii) the use of the geographic area of Venezuela for the transportation of financial resources and persons to promote terrorist acts abroad, (iii) the collection of legal or illegal proceeds intended for TF, and (iv) the use of the services provided by financial institutions or other reporting entities for TF purposes. Fifthly, the country considers that the use of NPOs to facilitate TF is its highest risk in relation to TF.

211. TF prosecution and conviction are not in line with the country's risk profile. The assessment team considers that, although there is a significant number of TF prosecutions pending before the TSJ and there are special courts to resolve the cases, most are awaiting to be tried, thus demonstrating the lack of prioritization or allocation of resources proportionate to the medium level of TF risks. In addition, most cases are not related to specific TF-related threats that would be relevant in the Venezuelan context (e.g., the FARC or the ELN). It should also be highlighted that most prosecutions were not related to crimes that generate assets in favour of terrorist organisations, such as smuggling or illegal mining, as they are in the 2015-2020 NRA and the open sources of information. Likewise, the assessment team, as expressed in other parts of this report, does not share the authorities' view regarding the high level of TF risk assigned to NPOs; a conclusion that is ultimately supported by the fact that the country has not prosecuted or sentenced any NPO for the crime of TF.

4.2.2. TF identification and investigation

212. The AGO and the CICPC are the competent law enforcement authorities to identify and investigate TF cases. The technical deficiencies identified in the legal framework have the potential to undermine the capacity of these authorities to investigate TF. Specifically, the deficiencies in TF criminalization would affect the range of terrorist activities that the AGO, the CICPC, and even the UNIF can investigate in relation to TF. For example, conspiracy to finance terrorism or the financing of persons to travel to another country to conduct terrorism-related activities are not prohibited activities (see analysis of R.5, 30 and 31).

213. The assessment team did not receive information about the performance of the AGO and the CICPC regarding TF identification and investigation. Although the AGO has a unit called "Coordination against Terrorism and ML," the assessment team did not receive the procedures applied by the Unit or the results obtained. The assessment team neither had at its disposal data on the number of TF cases or of the persons accused of such crime between 2016 and 2021. The lack of information limited the assessment team's capacity to analyse the TF activities (e.g., the cross-border transportation of currency or the provision of material support to commit terrorist acts) that were conducted in the Bolivarian

⁶⁰ In case cassation appeals are filed.

⁶¹ These weaknesses are referred to in the "*Judiciary's Report on Sectoral Risk Assessment. Update 2021.*"

Republic of Venezuela during the assessment period. The same was found regarding the CICPC. The assessment team assumes that the lack of information on this matter was due to the fact that these authorities do not have a specific approach for investigating TF offences according to the country's risks, thus, they do not have criteria to decide that they should start criminal investigations in a proactive manner, nor criteria for case prioritisation, specific investigative procedures for TF and procedures for conducting parallel financial investigations in cases of terrorism.

214. The authorities did not provide other relevant information to allow for the analysis of core issue 9.2, such as the training provided to personnel of the competent agencies in charge of TF identification and investigation or information on the means or instrumentalities that are used for TF purposes according to the investigations carried out. The assessment team was not given any evidence showing that TF identification and investigation is a priority for competent authorities.

215. These authorities did not demonstrate the use of international cooperation mechanisms to identify and investigate TF cases.

216. The UNIF, through the receipt and analysis of SARs, has the potential to identify TF cases and produce financial intelligence in this regard. During the period 2015-2020, the UNIF received only three SARs in relation to three nationals allegedly involved in TF, in relation to a 2018 assassination attempt. The case was referred to the AGO in that same year and to date 17 persons have been charged, but no convictions have yet been achieved; the details of this case are presented in Box 4.1. The assessment team considers that the limited number of analysts available compared to the number of cases handled by the UNIF, the lack of staff training in TF, and the technological resources the UNIF has (which it cannot update or replace, partly due to the unilateral financial sanctions to which the country is subject), explains the scarcity of intelligence reports related to TF prepared by the UNIF.

Box 4.1. Case of assassination attempt

In Caracas, on 4 August 2018, a drone exploded while a public event was taking place in the presence of high-ranking government and military authorities. On 27 August, a bank submitted three SARs to the UNIF in relation to three persons appearing in adverse media for allegedly being involved in the terrorist attack.

The analysis conducted by the UNIF based on SARs included reviewing its databases and requests for information from public agencies and banks in relation to real estate properties, migratory movements, financial profiles, foreign exchange transactions, and bank transfers associated with the suspects, the latter including transfers to relatives and other natural and legal persons that were related to the attack.

According to the UNIF, the deposits and withdrawals of cash and checks showed that the funds did not remain for long in the bank accounts of those involved. One of those involved was flagged for having received a cash deposit in a state-owned bank totalling VES 7,850,000, which was not consistent with his financial profile. The UNIF also concluded that those involved used the money from their accounts to pay the rent for the office from which the drone was piloted and to cover hotel and food expenses for those involved.

When analysing the foreign exchange transactions conducted by one of the persons involved equivalent to USD 413.73, the UNIF also determined that the funds were related to the seven persons whose accounts had been blocked as a result of the *Manos de Papel* case; to 8 persons who had been previously reported to the UNIF; and to 2 persons who were being investigated by law enforcement authorities.

Based on the information analysed, the UNIF sent a financial intelligence report to the AGO, which subsequently charged 17 persons and issued red alerts through INTERPOL with regard to another 18 persons.

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

217. **TF investigation is not integrated into a national counter-terrorist strategy.** The country has a national security and defence strategy “*Gran Misión Cuadrantes de Paz*” (see c.1.5), where thematic area number two focuses on, among other issues, the fight against terrorism. Strategic line 5 derived from the thematic area provides for the “implementation of the National Plan against Terrorism and the creation of the National Anti-Terrorism Corps;” however, the country did not provide evidence demonstrating that it exists in practice or that, in general terms, thematic area two (2) of the “*Gran Misión Cuadrantes de Paz*” is integrated with the activities of the AGO, the CICPC, the FANB, the NBP, and the security and intelligence government agencies in relation to the fight against TF. Likewise, the authorities did not show that the identification and designation of terrorists, terrorist organisations, and terrorist support networks is part of the actions that the country takes to combat terrorism in line with a national strategy.

4.2.4. *Effectiveness, proportionality and dissuasiveness of sanctions*

218. **The TSJ has not imposed effective, proportionate and dissuasive TF-related sanctions.** In accordance with Article 53 of the LOCDFT, the crime of TF is punished by a penalty of 15 to 25 years’ imprisonment, as well as with the confiscation of the instrumentalities and the proceeds used to finance the crime, and such penalty will be increased by half where the TF offence is committed by an organized criminal group in accordance with Article 28 of the LOCDFT (see c.5.6). In practice, the 105 TF sentences passed by the TSJ ranged from five to nine years’ imprisonment.

219. The TSJ explained that these sentences were lowered based on three criteria: the age of the accused (between 18 and 21 years old) as a circumstance mitigating criminal liability; the collaboration provided by the accused to identify other persons involved in the case; and the use of the special “admission of facts” procedure.” All these circumstances allowed the judicial authorities to reduce the applicable penalty in accordance with Articles 37 and 74 of the Criminal Code, and Articles 40 and 371 of the Organic Code of Criminal Procedure. Notwithstanding, the assessment team observed that the Gedeón and Cota 905 - Koki cases were considered by the authorities as TF cases involving organized criminal groups, and as such the judges had to apply Article 28 of the LOCDFT and impose more severe punishments.

220. The Bolivarian Republic of Venezuela did not provide information on the application of alternative measures when it is not possible to achieve a TF conviction.

221. In conclusion, the punishment against the persons convicted of TF are not effective, proportionate or dissuasive.

Overall conclusion on IO.9

222. The assessment team did not obtain information on the actions taken by the AGO and the CICPC to investigate and prosecute TF, although the UNIF managed to demonstrate its capacity to produce intelligence in a TF case occurred in 2018 and support the investigative work conducted by the law enforcement authorities. Regarding TF prosecution and conviction, the assessment team received statistics on a considerable number of cases; however, the information revealed that most cases are pending despite the existence of institutional procedures and courts specialized in terrorism, which reflects the resource limitations of the TSJ. Likewise, the information provided about TF convictions does not allow for a clear understanding of how the persons convicted committed TF and reveals the widespread application of fairly low prison sentences, which range from five to nine years in prison, despite the fact that, according to the legal definition of the crime of TF, this crime should be punished by

a penalty of 15 to 20 years' imprisonment and the sentence applied should be increased by half if the crime is committed by a criminal organisation, which is not consistent with the magnitude of the risks identified in the 2015-2020 NRA.

223. **The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.9.**

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

4.3.1. *Implementation of targeted financial sanctions for TF without delay*

224. Joint Resolution 122 of the MPPRIJP and the MPPPF and Resolution 158 of the MPPRIJP are the instruments that the authorities have at their disposal to implement the UNSCRs 1267 and 1373, but there are important deficiencies that affect the application of TFS without delay, which are detailed in the analysis of [R.6](#).

225. **The UNIF communicated updates of the UNSCR 1267 List occasionally through official letters.** The UNIF is the authority empowered to implement UNSCR 1267, while the ONCDOFT is responsible for implementing UNSCR 1373. Although the UNIF is responsible for the implementation of UNSCR 1267, Article 7 of Resolution 122 indicates that the ONCDOFT must disseminate the list under such UNSCR. In practice, the UNIF has assumed this function.

226. The Rules and Procedures Manual of the UNIF's Financial Intelligence Directorate establishes a procedure for notifying the updates to the lists made under UNSCRs 1267 and 1988 (excluding the lists under UNSCRs 1989, 2231 and other successor resolutions), which involves a large number of government officials and verification activities that do not seem necessary and that, in practice, have the potential to slow the issuance of official letters.

227. In this regard, the UNIF provided the assessment team with an official letter from 2018 and another from 2019 in which it directly communicated to banks and exchanges an update to the list under UNSCR 1267. Likewise, in July, September, October, and November 2019, the UNIF also sent forty-three (43) official letters to supervisors informing about updates made under UNSCR 1267. The assessment team did not have at its disposal official letters of the same nature issued during 2020 and 2021, and therefore it assumes that these communications are currently suspended.

228. On the other hand, although the date of some of the official letters coincides with the period when the lists under UNSCRs 1267/1988/2253 were updated, in other cases it is possible to observe that the notification occurred several days or months after the corresponding Committee approved amendments to the lists.

229. **Supervisors sporadically disseminated circulars ordering the implementation of UNSCRs against TF.** In 2019, the SUDEASEG disseminated two official letters from the UNIF on this matter through Circulars SAA-8-3-5595-2019 and SAA-8-3-5-3660-2019. On the other hand, in 2016 and 2017, the SUNAVAL issued Circulars DSNV-GPFCLCFT/0007/2017 and DSNV-GPFCLCFT/0002/2016. The latter circular orders the review of the updates made to the list updated by the ISIL (Da'esh) and AI-Qaida Sanctions Committee and the Taliban Sanctions Committee, even though the legal framework does not provide for the application of TFS against ISIL or the Taliban. The assessment team did not have access to circulars of a similar nature issued by other relevant competent authorities.

230. Based on the information available, the assessment team reinforces its conclusion that the UNIF only occasionally disseminates the updates made under UNSCR 1267, and not necessarily in a matter of hours, after the UNSC has added a new designation.

231. The UNIF reported that it has not received true positives or false positives from reporting entities derived from searches for the names of designated persons and entities in their databases. In particular, the SUDEASEG indicated that between 2016 and 2020 it sent 2,560 notifications to the insurance sector reporting entities requiring the implementation of TFS, and in all cases they reported that they found no matches between their customer databases and the designated persons and entities. The assessment team did not receive this type of information from the other supervisors. Consequently, FIs, DNFBPs and VASPs have not frozen assets or rejected transactions related to designated persons and entities, which implies that the country has not tested its freezing procedures to determine if such procedures can be carried out without delay after a designation occurs and if improvement is needed.

232. The UNIF has issued circulars to guide banking institutions and exchanges to search for the names of persons and entities designated in the 1718 List in their databases in accordance with R.6, which demonstrates a lack of understanding on the part of the UNIF on the scope of the FATF requirements and the obligations derived from the respective UNSCRs.

233. Regarding the prompt implementation of UNSCR 1373, the ONCDOFT stated that to date the jurisdiction has not designated any person or entity as a terrorist and suggested that, although there has been the possibility of proposing domestic designations, insufficient information has been found to support such designations. Likewise, the country did not provide information on requests to apply designation mechanisms based on requests from foreign authorities, and therefore the country has no international cooperation experience related to this matter.

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

234. **The Bolivarian Republic of Venezuela considers that all NPOs have a high TF risk, but this conclusion is not sufficiently substantiated nor is it shared by all competent authorities.** On the one hand, the country considered all NPOs as high-risk entities in relation to TF in its 2015-2020 NRA, without identifying which subgroup of organisations falls within the FATF definition of NPOs or the characteristics and types of NPOs, which, by virtue of their activities, are likely to be at risk of abuse for TF purposes.

235. By the end of 2021, the SUDEBAN and the UNIF completed two documents related to the TF risks of NPOs.⁶² SUDEBAN's "Procedures to rate NPOs and NGOs as high risk" state that all NPOs and NGOs are high-risk entities based on ML factors, while the risk matrix in UNIF's "Executive Report: NPO Risk Analysis (No. IT/ 2021 /018)" reflects that NPOs show different levels of risk. Thus, out of a total of nine thousand nine hundred and sixty (9,960) organisations assessed⁶³, forty-four (44) are rated as having a high TF risk and eighty-four (84) as having a moderate TF risk.

⁶² The SUDEBAN's document is titled "Procedures Applied to Rate NPOs and NGOs as High Risk," and that of UNIF's is titled "Executive Report: NPO Risk Analysis" (No.: IT/2021/018).

⁶³ This is the total of NPOs identified as bank customers.

236. The assessment team agrees with the UNIF that not all NPOs should be rated as high risk and so verified it during the on-site visit, when the team interviewed two NPOs that did not channel funds and, therefore, did not face the aforementioned risk.⁶⁴

237. In any event, the country has not furthered the analysis conducted by the UNIF; it has not unified the country position around such analysis; and it has not adopted measures that are proportionate to the risks. Thus, at present, the Bolivarian Republic of Venezuela:

- a) Continues to rate all NPOs as high risk for TF.
- b) Includes NPOs as reporting entities in the LOCDOFT, although there are no subsidiary regulations and even though NPOs do not consider themselves as such.
- c) Urges the rest of the reporting entities and, in particular, the banking sector, to take enhanced measures against NPOs, although the banks themselves do not agree with this risk perception.

238. **Between 2018, 2019, and 2020, the UNIF issued 16 official letters to supervisors in relation to NPOs, which were insufficient to justify the emphasis placed on this sector.** Some of these official letters aimed to communicate best practices to prevent the abuse of NPOs, while most informed supervisors that banks (without referring to any other reporting entity) should closely monitor the funds received and disbursed by NPOs and apply freezing measures when a customer classified as an NPO is linked to natural or legal persons designated under UNSCRs 1267, 1373, and 2253. Although the text of the official letters does not contribute to justifying why NPOs should be subject to enhanced monitoring, the assessment team considers it useful to provide examples of warning signs that banking institutions and other reporting entities should consider when reporting suspicious transactions of NPOs.

239. **The country proposes the establishment of registries to control NPOs and prevent them from being abused.** Upon the creation, NPOs should register with the public registry in accordance with the Civil Code, and they should complete a document on the source and destination of the proceeds. In addition to this registration, NPOs should also register with other different registries, respectively:

- a) There is a registry of religious associations that is administered by the MPPRIJP.
- b) The Unified Registry for Reporting Entities (RUSO), under the ONCDOFT, whose regulations were published in 2021 but which is not currently operating, and with which all NPOs should register.
- c) The Register of Non-Domiciled NGOs (REGONG), created in 2020, with which twenty-eight (28) NGOs are currently registered.

240. The country did not demonstrate how these registries can prevent the abuse of NPOs for TF purposes and, in particular, in the case of RUSO and REGONG, the monitoring powers that seem to be conferred upon the ONCDOFT and the Foreign Ministry, respectively, are not considered to be justified from the point of view of TF prevention in the case of those NPOs that are not rated as high risk.

241. **Apart from the creation of said registries and the meetings held between the authorities and NPOs to resolve any doubts that NPOs may have regarding such registries, the country does not directly collaborate with NPOs,** nor does it provide them with instructions and training so that they can avoid being abused for TF purposes. In any case, the interviewed NPOs were not aware that the RUSO started operating, so it is understood that communication with the authorities is scarce in all areas. The

⁶⁴ The assessment team requested a meeting with several representative NPOs, but those that were proposed did not accept to participate in the on-site visit. Consequently, the assessment team based its conclusions on the meetings held with the rest of the authorities and the review of the documentation provided by the country, as well as on the interviews with the two aforementioned NPOs that, due to their characteristics, are considered as representative of the sector.

assessment team considers that both outreach to NPOs that enables them to identify their risks and the provision of tools to prevent them from being abused are key elements for TF prevention, but the country does not consider conducting any type of activity in this regard.

242. **In general, the authorities did not show that they monitored NPOs obligations to prevent TF** and, therefore, there are no statistics on such monitoring or on the civil or administrative sanctions or remedial actions applied.

243. **From the assessment team's point of view, the excessive attention given to the NPO sector and the measures the country is trying to implement are not justified under the FATF standards.** Beyond the creation of various registries, which entails an additional burden for NPOs, particularly for those with no risk at all, the excessive emphasis placed by the authorities on this issue cannot be justified on the grounds of the risk implied and it is detrimental to other activities. The assessment team was able to verify that, in its inspections, the SUDEBAN included an analysis of NPO samples regarding the implementation of enhanced CDD measures and the monitoring that banking institutions are supposed to conduct on NPOs; however, other types of highly relevant customers are not subject to a similar analysis in the inspections, as is the case of lawyers and real estate agents, which pose a high ML and TF risk due to the fact that they are not regulated. This demonstrates the absence of an RBA that covers NPOs and other reporting entities.

4.3.3. Deprivation of TF assets and instrumentalities

244. **The Bolivarian Republic of Venezuela is not depriving terrorists, terrorist organisations, and terrorist financiers of assets and instrumentalities related to TF activities.** The assessment team found that:

- a) Competent authorities are not applying TF-related TFS or making use of the power to preventively block or freeze bank accounts provided for in Article 56 of the LOCDOFT, even though the country has experienced recent terrorist acts, as discussed in the section focused on IO.9.
- b) It is not clear to what extent criminal or administrative proceedings are used to deprive terrorists or terrorist financiers of assets and instrumentalities intended to support terrorist acts.
- c) There is no information about forfeiture or seizure of assets from terrorists, terrorist organisations, and their financiers in the country.
- d) Competent authorities did not demonstrate that they use international cooperation to seize or forfeit assets or instrumentalities related to TF activities.

4.3.4. Consistency of measures with overall TF risk profile

245. The low implementation of TF-related TFS without delay under UNSCR 1373 and the lack of deprivation of assets and instrumentalities related to TF are not consistent with the risks identified in the 2015-2020 NRA in relation to the existence of foreign terrorist organisations that commit terrorist acts in the Venezuelan territory or the movement of funds or other assets for terrorist purposes.

246. On the other hand, the country has suffered several terrorist incidents committed by internal and external threats, such as the ELN, throughout the period 2016-2019, which have been aimed at attacking the government, security forces, citizens, and the press, according to information obtained through open

information sources.⁶⁵ These incidents should have required financing or material support for the perpetrators in order to be committed; however, the assessment team notes that the country has not designated persons and entities at the domestic level or put in place mechanisms to freeze their funds or other assets or those of their financiers without delay.

247. Regarding the measures applicable to NPOs, the assessment team does not agree with the high level of risk assigned to the NPO sector according to the analysis provided in section 4.3.2 and, therefore, the measures are disproportionate and should be reviewed through a risk assessment and improve its understanding of the scope of R.8.

Overall conclusion on IO.10

248. The deficiencies identified in the analysis of R.6 affect the implementation of TF-related TFS, although the UNIF occasionally sends notifications ordering the cross-checking of names between the list of persons and entities designated under UNSCR 1267 and the databases from a very limited sector of reporting entities; however, such notifications do not meet the requirement that disseminations under 1267/1988/2253 Lists should occur within a matter of hours.

249. On the other hand, the country has not yet implemented UNSCR 1373 upon its own motion or at the request of other countries. At the domestic level, this situation is due to the fact that the authorities have not been able to collect sufficient information to support domestic designations, which contrasts with the fact that the country has been subject to several terrorist acts in recent years, resulting in no seizures, or forfeitures involving funds or other assets related to terrorism.

250. Likewise, the Bolivarian Republic of Venezuela has not adopted measures to prevent NPOs from being abused for TF which are based on an inadequate sectoral risk assessment, which has led to the application of measures that can be considered as disproportionate.

251. The above circumstances show that there is no consistency between the CFT measures in place in the Bolivarian Republic of Venezuela and the country's TF risk profile.

252. **The assessed country is rated as having a low level of effectiveness for IO.10.**

4.4.Immediate Outcome 11 (PF financial sanctions)

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

253. **The Bolivarian Republic of Venezuela has not implemented TFS without delay.** This is due to the lack of an enabling legal framework, as explained in the analysis of R.7 and R.15 in the Technical Compliance Annex.

⁶⁵ The assessment team consulted the “Global Terrorism Database of the National Consortium for the Study of Terrorism and Responses to Terrorism” at the University of Maryland. The specific web page documenting the terrorist acts which took place in the Bolivarian Republic of Venezuela in the aforementioned period is www.start.umd.edu

254. **Despite the lack of legal framework, the Rules and Procedures Manual of the UNIF's Financial Intelligence Directorate establishes a procedure to notify updates in relation to the 1718 List** (excluding the UNSCR 2231 List), which involves a large number of government officials and verification activities that do not seem necessary and that, in practice, have the potential to slow the issuance of notifications. Although the UNIF has this manual, there is no evidence that it has been put into practice to disseminate updates related to the 1718 List without delay.

255. **In 2019, the UNIF issued two official letters related to the 1718 List, but they did not have sufficient substance or content to enable a proper and without delay implementation of TFS.** Regarding the official letters, the assessment team found that the letters:

- a) were only addressed to banks and exchanges, excluding the other sectors of reporting entities pursuant to Article 9 of the LOCDOFT, and there was no evidence that this was considered in subsequent communications by supervisors.
- b) did not result in relevant actions for the implementation of TFS against PF, such as the communication of name search results, whether they were true or false positives.
- c) did not establish a maximum action period of twenty-four (24) hours for their recipients to search for names based on the lists, to ensure action without delay.
- d) took Resolution 122 as their legal basis, but this only refers to UNSCRs against TF.
- e) were issued in 2019, but no name appearing on the 1718 List⁶⁶ was added, amended or deleted during that year, so their purpose was to occasionally order the search for names of persons and entities designated on previous occasions, rather than to serve as instruments for disseminating the updates to the list without delay.
- f) refer to R.6, from which it can be deduced that the UNIF does not have an adequate understanding of the sanctions regime to be applied in relation to UNSCR 1718.

256. Moreover, in 2019, **the UNIF sent 12 official letters to some supervisors and other entities informing about the duty of reporting entities to conduct searches for the names of persons and designated entities among their customers, but the content shows a low understanding of the objectives and implementation mechanisms of PF-related TFS**, according to the following considerations:

- a) The recipients of the official letters included supervisors such as the Ministry of University Education, Science and Technology, the Ministry of Electric Power, and the Ministry of Petroleum and Mining, but they could not have had any effect because these agencies do not supervise any sector of reporting entities.
- b) The UNIF states that the federations of associations of business administrators and accountants are competent supervisory authorities, but this is not correct according to the legal framework, which shows certain confusion as to which entities are competent authorities in terms of ML/TF/PF.
- c) Other recipients were agencies and state-owned companies that are not part of the AML/CFT/CFP system and do not play a significant role in it.
- d) Thirteen (13) official letters instruct their recipients and the reporting entities under their supervision to pay special attention to the funds received and provided by NPOs due to their potential link with persons and entities designated in the 1718 List, which finds no justification in the official letters themselves nor does it reflect the results of the NRA that would be published the following year.

257. **There is no evidence to conclude that the supervisors have sent the above-mentioned UNIF's communications to the respective sectors under supervision.** The only exception to this

⁶⁶ <https://www.un.org/securitycouncil/sanctions/1718/press-releases>

finding occurred in the case of the SUDEASEG. This agency issued a circular with the same implementation deficiencies as the official letters sent directly by the UNIF to banks and exchanges.

258. As can be seen, the activities involving the communication to the reporting entities of the duty to conduct searches for the names of designated persons and entities among their customers and to freeze their assets were only conducted in 2019.

259. The information regarding effectiveness provided by the country and that collected during the on-site visit demonstrated that **the Bolivarian Republic of Venezuela has taken no actions to implement TFS without delay in relation to UNSCR 2231.**

260. During the on-site visit, some interviewees from the public sector stated that the government is working on a draft law to improve compliance with these resolutions. The ONCDOFT mentioned that the government is developing technological tools that allow the dissemination of updates to the 1718 and 2231 Lists.

261. When exploring the possibility that the Bolivarian Republic of Venezuela is being used to contribute to the nuclear programmes of the Islamic Republic of Iran or the Democratic People's Republic of Korea, interviewees stated that the country does not produce or sell dual-use goods. When focusing on the relationships with the Islamic Republic of Iran, interviewees assured that the country maintains trade relations based on the exchange of products, as well as relations of friendship, cooperation, energy development, pharmaceutical and motor vehicle manufacturing.

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

262. The Bolivarian Republic of Venezuela has identified no matches between the names of persons or entities designated in 1718 and 2231 Lists and, therefore, does not have information or statistics in this regard.

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

263. During the on-site visit, none of the interviewees were aware of what actions to take in relation to the freezing measures under UNSCRs 1718 and 2231.

264. In addition to the above and, despite the lack of a legal framework to implement R.7, in 2019, the UNIF issued two official letters related to the subject discussed in this subsection:

Table 4.2. UNIF's Guidance Circulars on PF

Official letter	Date of issue	Sector	Content
SIB-DSB-UNIF-19610	6/12/2018	Banking institutions, Municipal Institute of Popular Credit (IMCP), and exchanges	Provide guidance on domestic and cross-border wire transfers, referring to the possibility that they may be used to get round the sanctions imposed by UNSCRs against TF and PF.
SIB-DSB-UNIF-01091	25/1/2019	Banking institutions	Best practices on the application of enhanced CDD to NPOs and the freezing of their funds or other assets when these are related to proliferation in accordance with UNSCRs 1718 and 2231.
UNIF-DIF-DAE-00342	26/2/2019	Banking institutions, Social Protection Fund for Bank Deposits (FOGADE), IMCP, and exchanges	Provide guidance on basic concepts and control measures to prevent ML, TF, and PF.

265. As can be seen, these official letters were addressed to a very limited group of reporting entities and, upon review, it is possible to conclude that they do not sufficiently contribute to the effective implementation of the PF-related TFS, since the content is limited to stating obligations, without going further to explain or recommend how to put them into practice.

266. In particular, the content of Official Letter SIB-DSB-UNIF-01091 is not enough to justify the emphasis placed therein on NPOs as potential holders of proceeds or other PF-related assets nor is such emphasis consistent with the understanding of the PF risks reflected in the 2015-2020 NRA.

267. In general, the assessment team considers that the lack of a legal framework to implement R.7 requirements results in reporting entities not knowing or understanding the obligations under the UNSCRs related to proliferation. Even in the VASP sector, where SUNACRIP Resolution 044-2021 establishes obligations regarding the freezing of assets in the context of VA transfers, the VASPs interviewed did not demonstrate an awareness of or understanding these obligations.

4.4.4. Competent authorities ensuring and monitoring compliance

268. Due to the lack of legislation in this area, supervisors, except for the SUNACRIP (see c.15.10), do not have a mandate to monitor compliance with obligations related to proliferation to ensure compliance.

269. Only the SUNACRIP reported that during its inspections it has identified that its reporting entities lack, or do not sufficiently implement, technological tools and IT systems applicable to the entire customer database, which allow them to carry out name searches and filter customers automatically with respect to the lists of persons and entities designated by the UNSC; however, this component of supervision does not cover the full range of obligations arising from R.7.

Overall conclusion on IO.11

270. The Bolivarian Republic of Venezuela has not established a legal framework to prevent persons and entities involved in the proliferation of weapons of mass destruction from collecting, transferring, and using funds in accordance with UNSCRs 1718 and 2231. In practice, the country's actions related to the implementation of TFS are limited to official letters issued by the UNIF in 2019 that were intended to guide the search for the names of designated persons and entities and the freezing of their assets, although this action was not taken within hours after a UNSC designation. This means that PF-related TFS are not implemented, their compliance is not monitored, and there is no adequate cooperation and coordination between authorities to prevent sanctions evasion. These deficiencies become especially important when considering the Bolivarian Republic of Venezuela trade relations with the Islamic Republic of Iran, in such a way that its current legal framework does not establish measures that, in compliance with UNSCR 2231, prevent the financial system from being misused to finance Iran's nuclear programme.

271. Based on the above, the Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for Immediate Outcome 11.

Chapter 5. PREVENTIVE MEASURES

5.1.Key findings and recommended actions

Key findings

- a) The reporting entities interviewed by the assessment team that are regulated in terms of ML/TF, comply with the obligation to analyse the ML/TF risk, and are aware of their ML/TF obligations. However, the understanding of the ML risk is not consistent among the different sectors of reporting entities, and in the case of TF, the risk understanding is deficient in all sectors.
- b) The supervisory authorities of the Bolivarian Republic of Venezuela, as a matter of practice, do not keep a record of the deficiencies identified and, where they do, such records focus on issues such as the submission of risk self-assessments, procedure manuals or annual operating plans. Consequently, supervisors are not fully aware of the deficiencies of their reporting entities.
- c) Within the FIs, the banking sector has a risk assessment methodology and has a wider knowledge of its risks as compared to other reporting entities, while the securities and the insurance sectors and other entities supervised by the SUDEBAN have a more generic knowledge and, to a significant extent, such knowledge is not sector specific. In the case of VASPs, the SUNACRIP carried out a recent notable effort to assess the risks faced by the sector. Finally, in the DNFBP sector, casinos and the SAREN comply with the formal obligation to assess risks, but in practice they are not aware of ML/TF threats and vulnerabilities.
- d) FIs, VASPs, and DNFBPs subject to regulation and control in the country are required to adopt programmes and procedures to mitigate ML/TF risks framed within what the country calls a Comprehensive Risk Management System; however, not all reporting entities demonstrate the same degree of compliance. In the case of the banking sector, the adoption of policies and procedures considers the risks to some extent. For the rest of the FIs and DNFBPs, the implementation of preventive measures is rule-based rather than risk-based, and compliance with the obligation in terms of the adoption of policies and procedures is much lower.
- e) The FIs, DNFBPs, and VASPs subject to regulation and control, except for those recently incorporated into the AML/CFT system, conduct simplified due diligence in the case of customers that are low-risk natural and legal persons and arrangements, but fail to apply enhanced CDD measures based on the identified risks. Major shortcomings have been observed in terms of beneficial owner identification and analysis of the source of the proceeds that affects the different sectors in a comparable way, except for the banking sector, where such impact is limited.
- f) FIs, DNFBPs, and VASPs do not apply AML/CFT measures which are proportionate to their risks, given that the level of risk is prescriptive and rule based. As a result, to avoid sanctions, the reporting entities opt to comply with the regulations. The FIs of the three main sectors conduct their respective risk assessments. Most DNFBPs do not apply preventive measures, and VASPs, being an emerging sector, are still in an initial stage of

the risk assessment process.

- g) The FIs and DNFBPs which are not subject to regulation and control, that is, savings banks and cooperatives that provide financial services, real estate agents, lawyers, accountants and, trust and company service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts) do not consider themselves as reporting entities, since, although most of them are covered by the LOCDOFT, there is no subsidiary legislation in place. Consequently, they are not aware of their risks, nor do they implement any type of preventive measures.

Recommended actions

- a) The Bolivarian Republic of Venezuela should include the FIs and DNFBPs which are not subject to regulation and control in its AML/CFT framework and, in case it decides to exempt any of them, said exception should be made based on the risk identified.
- b) The ML/TF regulations should be in line with the risks identified so that all FIs, VASPs, and DNFBPs implement measures proportionate to their risks. In addition, the country should take the necessary measures to correct the technical deficiencies identified in terms of due diligence and monitor effective compliance with said obligations.
- c) Competent authorities should ensure that all FIs, DNFBPs, and VASPs understand their TFS obligations and apply the necessary measures.
- d) The authorities should raise awareness and ensure that the quality of the SARs submitted by FIs, DNFBPs, and VASPs is improved, with the support of a supervisory approach and the monitoring of compliance with SAR filing obligations.

For FIs, the authorities should:

- e) adopt appropriate awareness raising and training initiatives to promote a change in the culture of compliance by FIs based on ML/TF risks, and to promote a better understanding of ML/TF risks and AML/CFT obligations, with the participation of competent authorities; in particular, non-banking FIs.
- f) ensure that FIs improve its customer information verification methods and fully implement ongoing CDD requirements, based on comprehensive and dynamic customer risk profiles which consider transaction records.
- g) ensure that FIs implement appropriate and complete information systems—considering criteria of proportionality in relation to the complexity of FIs—that integrate CDD data and transaction monitoring, with parameters in line with the business of FIs, the risks identified, and customer behaviour and risk profiles based on appropriate monitoring and detection scenarios.

For DNFBPs, the authorities should:

- h) enhance the understanding by DNFBPs of their of AML/CFT obligations, including through the provision of sector-specific guidance and specific outreach programmes on the application of appropriate and proportionate AML/CFT measures to address the risks identified, with a specific focus on the implementation of CDD measures and, in particular, enhanced due diligence.

For VASPs, the authorities should:

- i) ensure the understanding of ML/TF risks by VASPs and ensure that all new technological developments are analysed based on ML/TF risks.
- j) adopt a culture of compliance by VASPs by providing the necessary guidance and support for understanding of AML/CFT requirements, with specific focus on the application of AML/CFT requirements in relation to their risk assessment.
- k) develop guidance for the reporting of suspicious transactions considering risks and scenarios tailored to the activities of VASPs.

272. The relevant Immediate Outcome considered and assessed in this chapter is IO.4⁶⁷. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

273. Regarding FIs and DNFBPs subject to preventive measures, Article 9 of the LOCDOFT includes a list of reporting entities, but, in practice, only in those cases where there exist subsidiary regulations, the entities consider themselves as reporting entities, a position that is shared by the authorities of the country. Therefore, the situation of the reporting entities included in the LOCDOFT would be as follows:

- a) Within financial institutions, banking sector entities—including exchanges and card issuers—, those in the securities sector and insurance companies would be reporting entities, since they have clear regulations and an assigned supervisor.
- b) Within DNFBPs, only notaries, registrars, and casinos would be effectively subject to regulation and supervision.

274. The LOCDOFT allows for the inclusion of other entities bound to report by Law or Decree. Reporting entities include:

- a) Exchange houses and other entities of the Integral System of Cryptoassets are reporting entities pursuant to the Presidential Decree of 12 November 2018 on the reorganization of the UNIF and SUNACRIP Resolution of 21 April 2021.
- b) Every tourism service provider—not limited to those conducting foreign exchange activities—is a reporting entity under the 2014 Organic Law on Tourism developed by MINTUR Resolution of 14 April 2021.⁶⁸

⁶⁷ When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

- c) According to a Resolution of the CBV of 2018, non-bank payment service providers are not reporting entities, but payment system administrators are. They are reporting entities under Article 9 of the LOCDOFT, and the CBV has the power to supervise them; however, they have not been subject to supervision so far.

275. The following FIs and DNFBPs are not reporting entities and do not conduct preventive measures:

- a) Savings banks and cooperatives that provide financial services.
- b) Real estate agents.
- c) Dealers in precious metals and stones.
- d) Lawyers, accountants and other independent legal professionals.
- e) Trust and company service providers, those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts.
- f) Online gaming companies.

276. Based on the above and on the materiality and risk indicated in section 1.4.3, the implementation of preventive measures in the different sectors has been considered as: highly important in the banking sector, real estate sector, virtual assets sector, lawyers and accountants; moderately important in the sectors of money and value transfer services, casinos, dealers in precious metals and stones, and notaries; and less important in the insurance and securities sectors, and other financial institutions, such as non-bank payment service providers, savings banks and cooperatives that provide financial services.

277. The findings on IO.4 are based on interviews with a variety of representatives from the private sector, including representatives from reporting entities that are not regulated in the country, as well as some associations of professionals and relevant authorities. However, the assessment team was unable to interview dealers in precious metals and stones, nor the supervisor of cooperatives (SUNACOOOP). Regarding lawyers, the assessment team held a meeting with only one law firm, because the other law firms, as well as the Caracas Bar Association, whose participation had been requested, were not present during the visit. In any case, supervisors could not provide statistics on the deficiencies detected in relation to the different mitigating measures, therefore the analysis is based on the perceptions of the assessment team after reviewing inspection reports, SARs, as well as the documentation submitted by the reporting entities themselves.

5.2. Immediate Outcome 4 (Preventive measures)

5.2.1. *Understanding of ML/TF risks and AML/CFT obligations*

278. **Although the LOCDOFT does not establish specific requirements for the understanding of the risk by the reporting entities, the subsidiary regulations of the banking sector, securities sector, insurance sector and VASPs clearly establish the need to identify the risks to prepare internal rules and procedures.** In the case of casinos and tourism service providers this obligation is implied since they should create a Comprehensive Risk Management System, but this is not clearly defined in the regulations. Lastly, in the case of notaries and registrars, the SAREN is required to identify risks and provide training in the subject matter to the staff from notaries' offices and registries. In the case of non-bank payment service providers, the existing regulations do not provide for the need to identify risks to

⁶⁸ No hotel establishment or tourism service provider is currently authorized to exchange currency, and therefore, in line with the Methodology, they have not been analysed under Immediate Outcomes 3 and 4.

prepare internal rules and procedures. The remainder of the reporting entities, specifically, the remaining FIs, such as savings banks and cooperatives that carry out financial intermediation activities, and most DNFBPs, those being, the real estate sector, lawyers and accountants, dealers in precious metals and stones and company service providers do not have subsidiary regulations and, therefore, such obligation does not exist.

279. In general, the understanding of the risk by reporting entities is not an issue that has been analysed in depth by supervisors, and, consequently, they have no data on deficiencies identified by supervisors or on sanctions imposed. Thus, the assessment team has based its conclusions on the review of the risk self-assessments and the on-site visit interviews with the reporting entities. However, since 2021 SUDEBAN has incorporated the Risk Self-Assessment Validation analysis procedure, with the respective follow-up of findings.

280. The reporting entities (FIs, DNFBPs and VASPs) interviewed by the assessment team that are regulated in terms of ML/TF comply with the obligation to analyse the ML/TF risk and are aware of the obligations they have. However, their understanding of the risk is not consistent among the different sectors of reporting entities, nor are the measures always proportionate to the risks. The main deficiency detected among the reporting entities, as occurs among competent authorities, is that they do not have a full understanding of the TF risk, which is not assessed. The country has not demonstrated that the reporting entities are aware of their TFS obligations.

281. There are differences among reporting entities regarding the extent to which risk is understood. Most FIs, DNFBPs and VASPs, in sectors in which their supervisor carried out a sectoral risk assessment, were aware of the results of such and were able to point out the most important risks identified, but none put forward a critical perspective or could explain specific issues that could affect their sector in particular. On the other hand, the understanding of risks identified in the 2015-2020 NRA by the reporting entities interviewed turned out to be limited, since, although some were able to refer to the main threats identified, many indicated that they were not aware of the results of such NRA.

282. Regarding the deficiencies identified in relation to the understanding of the risks by the public sector, except in the case of the banking sector, the threats and vulnerabilities are not assessed in depth by the different reporting entities, which means that, where there was a general knowledge of the ML risks, in many cases the interviewees did not seem to understand the ways in which their sector could be abused for ML/TF purposes.

283. In general, the large banking sector institutions have a solid risk assessment methodology and a generic understanding of the ML risk that affects their sector. These risk assessments have a broad matrix of analysis, which includes both an analysis of the risks of products, services, customers and geographic areas, as well as of the controls implemented.

284. Among the entities interviewed, private sector institutions proved to have a greater understanding of risk than those of the public sector. In particular, the banking sector noted that one of the fundamental elements of risk is cash management in the context of the growing use of dollars. However, in several of the risk self-assessments to which the assessment team had access, the risk of elements, such as correspondent banking, transactions with higher risk countries or PEPs, are underestimated.

285. On the other hand, the banking sector reporting entities identified and rated risks based on the AML/CFT authorities' definition of risk. Thus, the fact that Article 43 of SUDEBAN Resolution 083.18 identifies an extensive list of customers, activities, products, services and channels as high risk, has an impact in the sense that, in practice, some banks assigned the same rating to factors that they do not really consider as posing such a risk. An example of this are trusts providing social services, which manage

funds transferred by public sector employers to provide benefits to their employees. The interviewed banks considered that there are no relevant risks in relation to these trusts. Nevertheless, since SUDEBAN Resolution 083.18 establishes that all trusts without exception are rated as high risk, some interviewees assign that level of risk to them. This also occurs in the case of NPOs that are customers of entities in the banking sector. On this issue, the SUDEBAN understands that the fact that Resolution 083.18 rates them as high risk does not prevent reporting entities from rating them as low risk, and therefore it seems that reporting entities' interpretation on this point is not clear enough.

286. Exchange houses, also supervised by the SUDEBAN, are fully aware of the inherent risk of the activity, even though the risk analysis methodology is not as solid as in the banking sector and conclusions underestimate the residual risk of their activity. Methodologically, their risk analysis is not as deep and they assign greater weight to the controls applied, which means that, although the activity is considered as high risk, with the controls they are already implementing, the residual risk is low, and they do not detect any deficiency in said controls.

287. As for the **insurance and securities sectors**, their knowledge of the risk is somewhat more limited, because, in general, their risk assessments are not based on a methodology that adequately takes into consideration all risk factors. Nonetheless, they have a generic notion of the existing ML threats, although such threats are not necessarily targeted to the sector as entities in these sectors are not always aware of how their activity can be misused for ML, in particular in the securities sector. On the other hand, the assessments of the entities of the securities sector usually rate risks as high, but such assessments do not sufficiently justify those ratings, while the level of risks is possibly lower if the materiality of the securities sector is considered.

288. The rest of the FIs subject to AML/CFT supervision, which are reduced in size and relevance, also have a generic knowledge of ML threats.

289. **The virtual assets sector complies with the formal obligation to assess its risks, although the understanding of the risk is uneven throughout the sector.** The SUNACRIP indicated that none of the reporting entities that were inspected in 2020 had an initial risk assessment; however, at the time of the on-site visit the interviewed entities had already made such assessment, which demonstrates an effort to comply with the existing AML regulations. During the on-site visit, some of the entities interviewed were able to describe the main threats they face in the sector. In other cases, though, their understanding was superficial or non-existent, since the risk assessment had been outsourced and the entity's staff did not participate in the analysis nor were the findings of such assessment disseminated.

290. **The level of risk awareness among DNFBPs is considerably low.** In the case of casinos, the reporting entities interviewed comply with their duty to conduct risk analysis; however, the real understanding of the risk is uneven among the reporting entities interviewed and, in general, it is superficial and focused on generic threats.

291. In the case of the registrars and notaries under supervision, the risk assessment conducted by the SAREN had substantial deficiencies, so that, in practice, the knowledge of the risk of both the supervisor and the supervised entities is very limited. The analysis conducted by the sector is methodologically weak as it is based on a SWOT matrix that includes general threats and vulnerabilities. In practice, no analysis by type of customer or service provided was included, which reduces its practical value.

292. In general, the reporting entities supervised by the SUDEBAN, SUDEASEG, SUNAVAL, SUNACRIP, SAREN and, to a lesser extent, by the CNC and MINTUR are aware of the AML/CFT obligations established by their specific regulations. Nevertheless, the country authorities' lack of understanding of some obligations based on international standards can also be found in reporting entities.

293. **The rest of FIs and DNFBPs not subject to subsidiary regulations or supervision** (i.e., savings banks; cooperatives that provide financial services; real estate agents; lawyers, accountants and other legal professionals; and trust and company service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts) are not aware of the risks that affect them, in the understanding that they are not reporting entities. In the case of the Federation of Public Accountants, a risk assessment was conducted in 2016, which constitutes an approximation of the threats and risks it faces; however, said assessment has not been updated and there is no evidence that accountants are aware of the risk therein identified. The accounting firms interviewed were aware of the ML/TF risks, but such knowledge referred to risks faced by other sectors, since they provide advice to other reporting entities.

5.2.2. Application of risk mitigating measures

294. **FIs, VASPs and DNFBPs subject to regulation and control in the country are required to adopt programmes and procedures within the framework of a Comprehensive Risk Management System to mitigate ML/TF risks. However, the degree of implementation varies across reporting entities.**

295. **For FIs, VASPs and DNFBPs subject to regulation and control in the country, the implementation of preventive measures is based on a rule-based rather than a risk-based approach.** Given that supervisory authorities mostly focus their attention on formal obligations, such as the submission of risk self-assessments, procedure manuals, annual operating plans and audits, and focus less on the practical implementation of obligations, FIs, VASPs and DNFBPs do not apply a risk-based approach. Manuals, for example, usually do not include functional procedures and measures to be implemented based on customer risk are not clear. Furthermore, the implementation of a risk-based approach is hampered by the limited understanding of the risks faced by each sector and the correct classification of customers.

296. In general, **the banking sector** has more policies and structured procedures to implement preventive measures, but it is not clear what policies are adopted based on customer's risk, products and services. The larger institutions in the sector have information systems to monitor transactions, thus facilitating a risk-based analysis; however, beyond this mechanism, they do not seem to apply a risk-based approach and there is certain lack of consistency in the adoption of said policies. In some cases, CDD measures are not carried out on a risk basis, all customer documentation is updated at the same time and there are inconsistencies in the way risk is rated. For example, the assessment team analysed several inspection reports submitted by the same large banking entity. The inspection report of 2019 is notable because the supervisor considered as a deficiency that the entity had identified only one customer as high risk, while 90% of the customers were considered as low risk. In 2020, more than 95% of the customers of the same entity were rated as moderate risk, with a similar weight between those rated as high and low risk and, by 2021, only 209 customers were considered as low risk. The analysis seems to be disproportionate in relation to the customer risk assessment.

297. During the on-site visit, some institutions in the banking sector showed a low appetite for risk and avoided establishing business relationships with sectors considered as high risk by the SUDEBAN, such as casinos, exchange houses, DNFBPs or NPOs, which can have an impact on the weight of the country's informal economy.

298. In the case of the **securities and insurance sectors**, there exist policies and procedures to implement preventive measures, although they are not risk-based. In addition, all the interviewed entities

did not have information systems to monitor transactions, which the assessment team regards as a major deficiency.

299. The remainder of financial institutions supervised by the SUDEBAN have much lower levels of compliance. The inspection reports highlight the absence of operational plans, the lack of customer risk ratings, inadequate training and the lack of a manuals, which shows that the adoption of preventive measures is not systematized and, in the case of exchanges, their risk rating is not consistent.

300. Regarding VASPs, as a new sector of reporting entities, the SUNACRIP found several deficiencies in the implementation of the Comprehensive Risk Management System. In addition, VA exchanges did not have information systems, neither for the creation of alerts nor for customer risk rating. Although some of the entities interviewed had already implemented changes in this regard at the time of the on-site visit, others, in particular larger entities, have not yet implemented an automated alert system nor have rated their customers according to their risk.

301. **Among DNFBPs, casinos are required to adopt their own policies and procedures to implement preventive measures, and notaries and registrars implement the policies and procedures identified by the SAREN.** In both cases, the regulations provide for the adoption of customer due diligence (customers are called “users” in SAREN’s regulations) and, in the case of casinos, for the monitoring of transactions; however, the regulations are not risk-based and customer control measures do not take into account risk factors. In the case of casinos, there is no information on inspections, so the extent of compliance cannot be assessed. In the case of notaries and registrars, the inspections shown do not reflect whether the measures are risk-based; as, the inspection records are very short, they do not include information to assess this issue. According to the information provided by the SAREN, those participating in legal transactions are not considered customers and SAREN’s action is limited to verify user’s data through a system developed by the SAIME. In fact, these reporting entities do not have automated mechanisms for monitoring transactions.

302. **FIs’, DNFBPs’ and VASPs’ policies and procedures are adjusted to what the regulations require, but these sectors have not developed specific measures based on the risks identified in the NRA and the respective sectoral risk assessments.**

303. Lastly, the rest of the FIs and DNFBPs that are not subject to regulation and control do not adopt any risk-based preventive measure.

5.2.3. Application of CDD and record-keeping requirements

304. **Most FIs, DNFBPs and VASPs subject to regulation and control implement CDD and record keeping based on what is established in the LOCDOFT and the subsidiary regulations.** In general, due diligence focuses on the identification and verification of the customer, as well as of the person who claims to be acting on behalf of another person but there are significant difficulties in identifying the beneficial owner and in monitoring the purpose of the business relationship and the consistency between the transactions conducted and customer knowledge.

305. **In general, the reporting entities in the country conduct a verification of requirements that is useful for low-risk natural customers and simple legal persons and arrangements, but the country could not show that sufficient CDD is applied in case of high-risk customers.** For example, the interviewed entities did not provide evidence showing that they requested additional information from customers rated as high or that there have had customers who were reluctant to submit additional information or that they have rejected customers after examining additional requested documents.

306. Regarding beneficial owner identification, interviewees claimed that they identify every shareholder as such⁶⁹ and, in practice, reporting entities are not fully aware of other forms of control other than shareholding, which can be partly explained by the scarce regulation existing in the country and the weak understanding by the authorities in this regard, which is an issue that is brought forward in R. 10 and 24, respectively. The SAREN stated that, although there is no regulation establishing the mechanisms to identify the beneficial owner based on the limit of shareholding percentage in acts related to legal persons, notaries identify as beneficial owner those having the highest percentage of shares and, in case of equal shareholding, those having the greatest number of powers. During the interview, the SAREN stated that there might be difficulties in identifying the beneficial owner when dealing with complex legal structures, such as share holding companies.

307. The lack of implementation of CDD measures by other authorities and reporting entities, together with the scarce information provided, leads to the conclusion that there is a strong weakness in this regard. These deficiencies are particularly relevant in the country as corruption is considered a key risk in its NRA and there is a wide variety of open sources of information which refer to the use of front companies and front men to disguise the ownership of assets.⁷⁰

308. Beyond the previous general considerations, **banking sector** entities have better CDD systems and, based on their manuals, verifications are usually more complete than in the rest of the sectors and include verifications regarding the source of proceeds. On the other hand, banking sector entities are required to initiate business relationships through face-to-face interactions and, consequently, they cannot establish business relationships electronically.

309. During the on-site visit, the SUDEBAN stated that the reporting banking sector entities breached their obligations regarding keeping records updated, which they are required to comply with every 18 months. Notwithstanding as the updating process is similar for all customers, this is not risk-based. The inspection reports regarding several large banking entities demonstrate the existence of deficiencies in CDD files relative to data verification, record-keeping or the updating of data related to the source and destination of the customer's funds. Additionally, there is no evidence of the adoption of measures applicable to customers that the SUDEBAN considers to be high risk, such as NPOs and PEPs.

310. Another issue that was pointed out by the entities in the sector are the difficulties involved in the impossibility of closing accounts by the banking institution once the business relationship has been initiated as required under Article 15 of the LOCDOFT and Article 58 of SUDEBAN Resolution 083.18, which is not based on the FATF standards and is detrimental to the correct compliance with the preventive obligations of the sector, in particular, the possibility of closing accounts when it is not possible to conduct all due diligence measures under R.10.

311. The country did not provide the assessment team with statistics on CDD measures implementation, nor has it sanctioned any banking institution for deficiencies relative to CDD, but, based on the examples provided, the team concludes that the CDD process of banking institutions is adequate, although improvements are needed, in particular, with regard to the beneficial owner identification, determining the source of the proceeds and the application of proportionate due diligence to high-risk customers.

⁶⁹ The Venezuelan legal framework does not provide for a limit of shareholding percentage and, therefore, all those having shares are considered to be beneficial owners.

⁷⁰ *2018 Odebrecht Report* and *2019 Report on Corruption*. Transparencia Venezuela

312. The **insurance and securities sector** entities, similar to the banking sector, establish certain measures in their CDD mechanisms to verify and check the source of funds; beyond requiring a “sworn statement”, they request bank references, income tax or annual accounts returns in the case of companies. Overall, compliance with CDD requirements is considered appropriate, with the exceptions previously identified in the general sections.

313. Based on the information provided regarding these sectors, there are deficiencies related to both the application of CDD and record-keeping requirements, and no information was provided on the sample of customers.

314. Regarding the implementation of CDD and record keeping measures in the sectors supervised by the SUDEASEG, the assessment team had access to records of the deficiencies corresponding to the period 2017-2020, which were identified according to Resolution 514 of 2011 (now abrogated and succeeded in 2021 by Resolution SAA-8-004-2021). From the 749 deficiencies found, 89 are related to customer registration, being this the second major deficiency identified after those related to the creation of the AML/CFT Unit. Additionally, only three sanctions of the 167 imposed in the period 2015-2021 are based on an inspection; the remainder are related to non-compliance with the submission of documentation. Out of such three sanctions, the country presented the report of the two sanctions that were imposed most recently (2018), which were related to deficiencies in CDD.

315. In the case of the securities sector, there is no list of general deficiencies identified in the sector. Notwithstanding, the assessment team had access to information on the seven sanctions imposed during the assessment period. Only one sanction was imposed after an AML/CFT inspection was completed; the deficiency found was related to record keeping. In another case, the sanction was imposed after the completion of a general inspection, which was not specifically related to ML/TF; in this case, the supervision revealed that no customer files were being kept. In the other 5 cases, the sanction was imposed for the non-compliance by the reporting entity with the submission of a semi-annual report; hence, these sanctions were not derived from an inspection.

316. **Regarding the remainder of the FIs subject to supervision by the SUDEBAN**, inspections were carried out for the first time in 2021, and no deficiencies in CDD were detected and these reporting entities have recently started to increase their focus on CDD as their internal training demonstrate. However, based on the findings of the on-site visit, in general, customer identification measures are applied, although procedures to verify the source of the funds are scarce.

317. On the other hand, the activity of **VASPs** is at an early stage and SUNACRIP inspections have focused more on formal aspects related to the risk assessment and the establishment of policies and procedures, which some of the interviewees had already addressed at the time of the on-site visit. Those entities with a reduced number of customers proved to have a more appropriate CDD, although they face the difficulties that the non-face-to-face relationships entail, while the largest entity in the sector showed that it is still at a very early stage of CDD implementation. Even so, the assessment team considers that the SUNACRIP is currently conducting adequate monitoring of these reporting entities, which may have a positive result in improving compliance in the sector.

318. In the case of **DNFBPs, casinos, registrars and notaries** conduct customer identification and verification procedures and keep customer files, but they have no obligation to obtain financial information from them, beyond a sworn statement on the source of their funds. In the case of registrars and notaries, the SAREN proved to have greater knowledge than other supervisory authorities in terms of beneficial ownership, although no evidence was provided that such CDD is effective. In addition, the Instructions for the implementation of CDD policies issued by the SAREN in July 2016 is an excessively brief document that does not provide the information that registrars and notaries need to correctly apply

CDD. The supervisors for casinos, registrars and notaries do not carry out inspections that analyse whether due diligence measures have been correctly applied; hence, in the absence of this control, the assessment team cannot determine whether CDD measures are applied based on risks.

319. **The remainder of FIs and DNFBPs do not have CDD systems or are in the initial phase of its creation.** Thus, in the case of non-bank payment service providers, the first steps have been taken to establish the corresponding preventive measures. On the other hand, in the case of FIs and DNFBPs not subject to supervision and control there is no mechanism in place.

5.2.4. Application of EDD measures

320. Both supervisors and reporting entities are required to apply a risk-based approach, and most of them even have risk matrices to this end.

321. There is no evidence, though, that FIs, DNFBPs and VASPs apply enhanced or specific measures to PEPs, correspondent banking, new technologies, TF-related wire transfers and higher risk countries identified by the FATF. Although they are required by law to have due diligence manuals and operative plans, the results of the inspections do not reflect compliance with the enhanced due diligence measures established by the FATF standards. On the other hand, there is a series of circulars issued by the SUDEBAN on 14 January 2022 which refer to the adoption of a risk-based approach and in some cases establish sector risk levels; although the ONCDOFT as AML/CFT coordinator, as well as the different supervisory agencies, have instructed the reporting entities to apply enhanced due diligence base on legislation and circulars, the monitoring conducted reflects non-compliance, for which reason it was necessary to issue new circulars to remind them of the importance of applying this approach to mitigate ML/TF risks.

5.2.5. Reporting obligations and tipping off

322. **FIs submit most of the SARs to the UNIF.** In particular, the banking sector submitted approximately 84% of the SARs for the period 2016-2021, while entities in the insurance and securities sectors and exchanges submitted around 2% of the SARs. The UNIF has not received SARs from the sector of card issuers or administrators. According to the authorities, there was a decrease in the number of reports submitted by the FIs between 2019 and 2021 due to the adoption of confinement measures related to the COVID-19 and the application of policies to improve the detection of suspicious activities. Despite these measures, the assessment team considers that the activity regarding the reports did not vary significantly during the assessment period (see Table 3.6).

323. **Based on the information obtained through interviews and documents provided by representatives of the private sector during the on-site visit, there are significant variations in the frequency with which the banking sector entities submit SARs.** In this sense, the assessment team identified that one bank was responsible for up to 37% of the SARs submitted to the UNIF between 2016-2020, without it being the most important bank in the country, while the rest reported between 9% and 0.1%. It should also be noted that there are banks that reported with a moderate frequency between 2016 and 2018, and that after that year the number of their reports has drastically decreased. Finally, the assessment team found that a group of banks did not submit any SAR during the assessment period, which is an indicator that there are reporting entities which do not have the necessary capacity to monitor, detect, analyse and report suspicious activities, while the obligation to submit SARs is not complied with by all FIs. There is no evidence that the UNIF and supervisors have taken any action to improve the reporting capacity of those entities which did not comply with this requirement.

324. **When focusing on DNFBPs, the assessment team verified that public registries and notaries offices accounted for approximately 12% of all SARs submitted in the assessment period.** When comparing the number of SARs from all DNFBP sectors, it becomes clear that around 99% of SARs come from public registries and notaries offices, while the rest were submitted by the casino sector only in 2016. This is consistent with the fact that the casino sector had little activity and there were only eight licensees until 2021. It should be noted that the number of SARs submitted by public registries and notaries offices decreased significantly between 2019 and 2021. The UNIF attributes the decrease observed in 2019 to feedback activities that prevented the submission of low-quality SARs, while in 2020 and 2021 such decrease is attributed to the total closure of many registries and notaries offices as part of the measures adopted by the government in the context of the COVID-19 pandemic. The other DNFBPs did not submit SARs during the assessment period, which reflects and confirms that the sectors of real estate agents, dealers in precious metals and stones, lawyers and accountants are not aware that they must report suspicious activities pursuant to the LOCDOFT.

325. **The VASP sector has submitted a low number of SARs, which is reasonable given the circumstances of the sector.** The VASP sector is small and it was incorporated into the AML/CFT regime in 2019. The assessment team understands that the sector is still developing its knowledge and experience in the detection of suspicious activities and considers that the number of reports it has submitted is acceptable as it reflects its current situation.

326. **The reporting entities submit SARs in a timely manner and provide the information requested by the UNIF in the requisite format; however, over the course of the assessment period there have been significant deficiencies.** The semi-annual feedback reports and those reports issued by the UNIF and sent individually to each reporting entity between 2017-2019 and 2021 highlight a lack of thorough analysis of suspicious activities, the lack of sufficient grounds for suspicion and the outdated or inaccurate CDD information, which are deficiencies that affect the reporting of suspicious activities. Despite the considerable and constant efforts to provide feedback to assist FIs, DNFBPs and VASPs in detecting and reporting suspicious activities, it was not possible to achieve homogeneity in the quality and completeness of SARs across the reporting entities sectors.

327. **Lastly, there is no evidence of the application of practical measures to prevent tipping-off SARs or related information,** although neither there is information of cases in which information leaks had occurred. Notwithstanding, the assessment team considers that the fact that SARs are submitted in physical format instead of electronically is a vulnerability that could facilitate the tipping-off of SARs and related information. The UNIF informed that it is working on a project aimed at having SARs submitted electronically.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

328. To verify the application of internal controls and legal or regulatory requirements by reporting entities, the UNIF uses a supervision matrix that includes the following factors:

A	RISK AND CONTEXT (geographic areas, customers, products or services, employees and delivery channels)
1	Entity's risk assessment:
	Methodology
	Risk identification
	Mitigating factors
	Findings
	Decision-making

2	Coordination between the ML/TF/PF Control and Prevention Unit and other units
	With the Risk Management Unit
	With the Human Resources Unit
	With the Marketing Management Unit
3	Number of customers and fund-raising instruments
	Natural and legal persons (high, moderate and low risk)
	Number of fund-raising instruments
B	ORGANIZATIONAL STRUCTURE AND SENIOR MANAGEMENT
1	Organizational structure
2	Board of Directors and ML/TF/PF Control and Prevention Unit / Institutional commitment
5	Remedial actions of the Board of Directors on the reports prepared by the compliance officer
6	Report on compliance with the Annual Operational Plan prepared by the compliance officer
7	Quarterly and Annual Management Report prepared by the compliance officer
C	AML/CFT/CFP RULES AND PROCEDURES MANUAL
1	Updated info. on general aspects (ML/TF/PF new trends, regulations and country's economic situation)
2	Policies and procedures for ML/TF/PF risk management
3	Procedure for the detection of unusual transactions and reporting of suspicious activities
4	Procedures for the dissemination of periodic reports
5	Procedures for the treatment of information requests
6	Customer risk parameterization
7	Procedures related to PEPs and corruption
8	Procedures related to TF/PF
9	Customer-non-acceptance criteria
10	Procedures for review sources of information / libraries / newspaper libraries / Internet
11	Procedures for disseminating information to staff
12	Procedures related to the prohibition to tip-off a customer
13	Provisions for the application of UNSC Resolutions
D	TRANSACTIONS MONITORING
1	Compliance with disseminations through the SIF
2	Report on the risks arising from the abuse of cash
3	IP address records (authorized customers)
4	IP address records (conditioned customers)
5	IP address records (credit card transactions)
6	Internal SARs filed at the ML/TF/PF Control and Prevention Unit
7	Description of the technological tools (trends, profiles and unusual activities)
E	BUDGETARY ASPECTS
1	Training programmes
2	Inspection visits
3	Acquisition of systems and technological improvements
F	REPORTS BY INTERNAL AND EXTERNAL AUDITORS AND FROM THE SUPERVISOR
1	Reports by the internal auditor
2	Reports by the external auditor
3	Reports by the supervisor
G	TRAINING
1	Test of awareness of the Code of Ethics of the institution taken by its employees (once a month)
2	Training for the Board of Directors and the ML/TF/PF Control and Prevention Unit (content / attendance / instructor resume / invoice / training statement)
H	FIELD TESTS

No.	LEVEL OF COMPLIANCE	Scale
0	Non-compliant	
1	Low level	Less than 80%
2	Medium level	Between 80% and 90%
3	High level	More than 90%

329. The supervision and the compliance matrices derive from a previous matrix. In 2020, the UNIF compliance matrix reflected that several reporting entities were not complying with various factors from the matrix and, therefore, they were assigned a “low” level of compliance. The supervision matrix also reflects that UNIF held feedback meetings with banking institutions, but these meetings were not focused on the application of administrative sanctions, but on the issuance of instructions to strengthen the preventive measures applied by the reporting entities.

330. The ONCDOFT, as the agency responsible for the coordination of the AML/CFT system, issues regulations requiring reporting entities to establish prevention units, set out policies and procedures, conduct internal audits and hold trainings, so every employee and official knows and is aware of the ML/TF risks they may face; however, the findings of the on-site and off-site inspections show that the reporting entities are more concerned with compliance with the regulations than with understanding the business risks. The UNIF, on the other hand, issues regulations related to the different reports it receives.

Overall conclusion on IO.4

331. Actions taken by FIs, DNFBPs and VASPs subject to regulation and control are focused on regulatory compliance rather than on the application of a risk-based approach. In general, the level of compliance is higher in the case of banking institutions, and lower in the case of entities of the securities and insurance sectors, followed by notaries, registrars, casinos and VASPs. Nonetheless, deficiencies are found both in risk identification and risk mitigating measures. Said reporting entities comply with the regulatory obligations related to the adoption of procedure manuals, annual operational plans and risk self-assessments, but these policies and procedures are not focused on implementation. Regarding CDD, reporting entities apply basic measures, but, in general, these are not sufficiently sophisticated for high-risk customers. In addition, the absence of automated alert systems in most reporting entities and the low reporting levels are key in the assessment of this Immediate Outcome. Finally, the absence of preventive measures in most DNFBPs—some of them of great importance in the country—has been considered.

332. **The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.4.**

Chapter 6. SUPERVISION

6.1.Key findings and recommended actions

Key findings

- a) Not all reporting entities have an AML/CFT supervisor or subsidiary regulations. In particular, savings banks, cooperatives that provide financial services, real estate agents, lawyers, accountants and other legal professionals, and trust and company service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts) do not have a supervisory authority or regulator.
- b) Supervisors of the banking, securities, and insurance sectors conduct inspections and monitor compliance with AML/CFT obligations. In 2020, the SUNACRIP started to conduct inspections of entities in the virtual assets sector. Such inspections are mainly aimed at monitoring compliance with obligations related to policies and procedures. In the case of DNFBPs, only registrars and notaries have been subject to AML/CFT inspections.
- c) No evidence was found of the application of proportionate and dissuasive sanctions. Only the SUDEBAN, the SUNAVAL and the SUDEASEG have imposed monetary sanctions, but they involve low amounts and, in the opinion of the assessment team, are not proportionate. In contrast, the country's supervisors prefer to recommend reporting entities to make changes to address the deficiencies detected, but there is no evidence that such monitoring has an impact on compliance by those subject to supervision. The UNIF, the SAREN and the SUNACRIP also include recommendations for action, while the rest of the supervisors, that is, the CNC, the MINTUR, and the CBV, have not yet conducted any inspection.
- d) The SUDEBAN, the SUNAVAL, the SUDEASEG, the SUNACRIP and the SAREN conduct supervisory actions quite frequently. However, the country did not provide statistical data or case studies that demonstrate the impact of supervisory actions on reporting entities.
- e) Reporting entities subject to regulation and control maintain a good relationship with their supervisors, which can have a positive impact on the understanding of AML/CFT obligations. In particular, the SUDEBAN, the SUNAVAL, the SUDEASEG, the SUNACRIP, the SAREN and the UNIF try to promote awareness of reporting entities' obligations through circulars and training, despite the fact that such training is not always related to manage risks.

Recommended actions

- a) The country should assign a supervisory agency to non-regulated sectors and should provide sufficient human, financial and technological resources to face the risks established in the national risk assessment and in the specific sectoral risk assessment.

- b) The Bolivarian Republic of Venezuela should conduct an in-depth analysis of all sectors, in order to determine the priority areas in terms of ML/TF. The country should allocate resources and efforts to those sectors that, in the Venezuelan context, pose a higher ML/TF risk.
- c) The respective supervisors should conduct risk-based supervision, ensuring an adequate scope and depth, based on the risk of each sector.
- d) The country should reform the sanctioning framework in order to address the technical deficiencies related to the proportionality of the sanctions, considering the country's context, so that they can continue being proportionate even in a period of hyperinflation.
- e) All supervisors should conduct a follow-up of the deficiencies identified and use a complete set of coercive measures, including monetary sanctions, to punish ML/TF in a manner that is both dissuasive and proportionate to the size of the entity and the seriousness of the offences.
- f) The SUNACRIP should have intelligence software that allows it to trace the transactions of the virtual asset wallets authorized in the country and to monitor the transactions conducted by nationals in other virtual asset wallets or providers domiciled outside the country.
- g) The AML/CFT authorities should continue to provide assistance and information to the reporting entities to facilitate their work, as well as to disseminate communications to all the reporting entities. In particular, specific guidelines should be provided to the different sectors, including risk typologies, which help the private sector to identify and understand the ML/TF risk. In any case, the use of circulars should also be prioritized considering the risk, so that the reporting entities can be clear about the elements on which they have to focus.

333. The relevant Immediate Outcome considered and assessed in this chapter is IO.3⁷¹. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

334. As in IO.4, the findings are based on interviews with supervisory authorities, representatives of the private sector, professional associations and authorities in the matter. The assessment team could not interview representative dealers in precious metals and stones, nor the supervisor of cooperatives (SUNACOOOP). Likewise, in the case of lawyers, they could only interview the representatives of one law firm. The assessment team was informed by the country that the representatives of other law firms and the Caracas Bar Association had declined the invitation.

6.2.Immediate Outcome 3 (Supervision)

⁷¹ When assessing effectiveness under Immediate Outcome 3, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

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

335. **The supervisors have powers and procedures to control the entry into the market of reporting entities**, as indicated in the Technical Compliance Annex. Most of the laws, resolutions and manuals used by supervisors set forth prohibitions that prevent criminals and their associates from being the owners of reporting entities or holding management positions in them. However, most of these documents do not establish specific measures to determine if the criminals or their associates are trying to obtain or be the beneficial owner of a significant or controlling interest or are trying to control or occupy a management position in a reporting entity. The lack of these measures could be affecting the capacity of supervisors to detect the violations of these requirements while processing their authorization to operate (see c.15.4(b), 26.3, 28.1(b) and 28.4(b)).

336. According to the information provided, the CBV granted seven operating licenses to PSPs between 2020 and 2021. Upon reviewing the requirements, the CBV concluded that there were no instances where criminals or their associates had attempted to obtain ownership or control of these PSPs. On the other hand, in the period 2016-2021, the SUDEBAN approved four requests for authorization and rejected 12: one of them was rejected on the basis that it was impossible to determine the source of the proceeds to promote the establishment of a bank and the others were rejected based on the fact that they were not technically or economically feasible. The assessment team did not obtain information on the procedures used by these authorities to reach these conclusions. Moreover, the CBV rejected at least five requests for authorisation to operate based on non-fulfilment of technical and financial requirements and requested the halting of operations of two service providers that were functioning as PSPs without obtaining authorisation.

337. The SUDEASEG has not detected any activity related to this core issue. The SUNAVAL has not identified incidents either. When reviewing the documentation of the shareholders and members of the Board of Directors the SUNAVAL verifies the information, which includes cross-checking the data of the shareholders and directors with the NEC, by calling the interested parties to verify that they are aware of the process that is being conducted and confirming they are trustworthy by calling the persons certifying their personal references. The SUNAVAL also request the interested parties to submit a declaration of origin or source of their funds, but there are no procedures to verify the information contained in these declarations. In addition, SUNAVAL's ML/TF Prevention, Supervision and Control Unit investigates persons through online searches and the tool Agile Check, in order to determine if the shareholders and the members of the Board of Directors have been designated in sanctions lists or if they are PEPs or if they have ML/TF/PF-related criminal records.

338. In 2018, the CNC denied the operating license to an individual who was accused by the AGO of the crimes of ML, tax fraud, smuggling and association to commit crime. In 2021, the CNC processed other 10 operating license applications; in these cases, the CNC did not detect any circumstance that motivated the denial of the licenses. The assessment team did not obtain information on the suitability tests or other similar measures specifically applied by the CNC in these 11 cases. According to the documents reviewed, the assessment team concludes that the CNC receives information from other authorities, such as the police corps, about the criminal records of the persons who already operate in the market or are interested in entering the market and acts accordingly based on such information.

339. In the Bolivarian Republic of Venezuela, notaries are not self-employed professionals. Registrars and notaries are appointed by the SAREN and become officials of this agency. To authorize them, they should demonstrate their notable morality and pay a bond. The appointment can be revoked if any of such requirements is contravened posteriorly. The SAREN requires them to have an AML/CFT system and supervises them. There is no evidence that lawyers need to obtain authorization or license to practice their

profession. In the case of accountants, the sector's Code of Ethics refers to their registration with the Association of Accountants of their domicile, but accountants do not apply controls that prevent criminals and their associates from obtaining licenses.

340. Hotels, companies and tourism centres that obtain authorisation to conduct foreign exchange transactions would be under the supervision of the MINTUR and required to have an AML/CFT system. In the interviews conducted by the assessment team, this sector and the supervisor stated that at present these service providers are not conducting this activity.

341. **Some supervisors have identified cases of natural and legal persons operating without a license.** In 2021, the SUDEBAN detected three cases of service providers that provided, without proper authorization, services that involved conducting transactions restricted to banking sector institutions. The assessment team did not obtain information on the procedures used by the SUDEBAN to detect these incidents. In the case of the SUDEASEG, 16 unauthorised entities were identified during the period by monitoring social networks, advertising announcements and webpages of these entities, exposing the irregular situation of said companies by publishing Public Announcements on the various social networks and on the Official Page of the SUDEASEG, so as to avoid the contracting of their services. According to the SUNAVAL, during the assessment period no cases or complaints were filed of companies or entities operating without authorization.

342. In 2021, the SUNACRIP detected two VASPs⁷² that operated without a license through monitoring different social media platforms, other internet web sites and databases of other public agencies, such as the SENIAT. Consequently, the SUNACRIP proceeded to inspect the premises and seize the equipment used in VA activities and ordered the immediate cessation of operations and the public offering of virtual assets. In one of these cases, the VASP forged a SUNACRIP operating license, SUNACRIP referred the case to the AGO, which initiated the respective criminal proceeding and those involved were convicted of forgery.

343. Based on information provided by the police corps or complaints and information obtained from the internet, the CNC detected three cases of casinos that were operating without a license, which resulted in them being shut down; the seizure of the instruments used in gambling; and the filing of criminal charges for the commission of crimes provided for in the LCC.

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

344. **The level of understanding of ML/TF risks in the financial sector and other sectors varies across supervisors.**

SUDEBAN

345. The SUDEBAN affirms that it identifies and enhances the understanding of ML/TF risks in the financial sector through the supervision of its reporting entities. This supervision includes (i) review of the ML/TF risk assessment of reporting entities; (ii) the evaluation of specific factors of the reporting entities related to warning signs identified through off-site inspections, *notitia criminis*, requests from SUDEBAN's highest authority, among other actions; and (iii) annual on-site or off-site supervision of compliance with the AML/CFT regulations in place. In practice, the SUDEBAN conducted a total of 71 supervisions in 2020.

⁷² The SUNCARIP reported a third case in which they were operating without a license, but it is related to digital mining activities, which are beyond the scope of this evaluation.

346. In addition, the SUDEBAN prepared the report “Risk-Based Assessment of the Banking Sector 2020” which analyses the context of the banking sector, even considering the influence of both internal (e.g., increase in inflation) and external (e.g., loss of correspondent banking relationships) contextual factors of the Bolivarian Republic of Venezuela, its composition, assets held by the banking sector, geographic areas, delivery channels, products and services, and customers. Likewise, it examines a wide range of vulnerabilities, but the analysis of threats is limited, since the risk assessment was conducted with the understanding that vulnerabilities translate into threats, and therefore it does not include an identification of individuals or groups of individuals or specific activities that have the potential to abuse the banking sector for ML/TF purposes. The report, though, does not identify specific ML/TF risks.

347. According to the previous paragraphs, the assessment team considers that the SUDEBAN has important sources of information that allow it to reach a reasonable understanding of the ML/TF risks faced by the sector, although it needs to develop an approach to specifically identify them.

SUDEASEG

348. The SUDEASEG has a “Sectoral Risk Assessment of the Venezuelan Insurance Sector,” which was published in 2020 and which is based on data obtained since 2017 from 470 members of the private sector; the ONCDOFT, the UNIF and the National Network against Organized Crime; and strategic documents, including the 2015-2020 NRA and typology reports. This risk assessment reveals the SUDEASEG’s understanding of the composition, size, activities, products of the sector, volume of transactions, and analyses a wide range of ML/TF threats and vulnerabilities, including the risks related to new technologies, resulting in a general “medium-low” ML/TF risk level for the insurance sector. The assessment team considers that the SUDEASEG has adequately identified ML/TF threats and vulnerabilities in the insurance sector, although there is no specific identification of ML/TF risks specific to the sector.

SUNAVAL

349. The SUNAVAL conducted a “Stock Market Risk Assessment” covering the period 2015-2020, where it identifies that (i) the AML/CFT legal framework is adequate, (ii) there is moderate compliance with the obligations of risk management by the reporting entities and the AML/CFT measures, (iii) the level of referral of SARs was considered optimal, and (iv) it considers that the supervision and training activities at the SUNAVAL are developed optimally. While this sectoral risk assessment provides important information, it focuses on vulnerability factors related to regulatory compliance and supervisory performance. This risk assessment could have benefited from an analysis of ML/TF threats and a review of other vulnerability factors. Based on this, the assessment team considers that this risk assessment moderately contributes to the identification and enhancement of the understanding of ML/TF risks in the securities sector. Beyond this sectoral assessment report, the assessment team was able to verify a reasonable understanding of the risks by the SUNAVAL during the interviews conducted in the context of the on-site visit.

SUNACRIP

350. The SUNACRIP published its first ML/TF/PF sectoral risk assessment of the national ecosystem of virtual assets in 2021. This assessment examines the contextual factors of the VASP sector, such as its size, and analyses a wide range of threats and vulnerabilities that could be faced by the sector. The assessment team considers that the analysis conducted by the SUNACRIP allows it to have adequate knowledge of the VASP sector and of the ML/TF risks it faces, although it would be appropriate to delve into the different existing risk factors for each of the sectors and types of reporting entities within the

sectors in relation to customers, country or geographic area in which they operate, products, services, transactions or delivery channels. It would also be convenient to analyse the risks derived from virtual assets in general, and the possible impact that non-registered VASPs may have on the country.

UNIF

351. The UNIF indicates that its understanding of the ML/TF risks of the reporting entities is based on weighing the level of compliance of each reporting entity with its AML/CFT obligations. Likewise, when supervising reporting entities, it reviews their institutional risk assessments and data on their products, services, customers, delivery channels, geographic location, among others, to determine the risk rating of each institution. This authority also considers that each reporting entity has characteristics and operational procedures that are in line with their sectoral regulations, so the UNIF verifies these elements. In addition, when conducting inspections in coordination with the sector-specific supervisor, the UNIF varies the information requirements according to the objectives, scope and strategies of the actions being taken. Additionally, the UNIF's "Supervision and Inspection Manual" includes a section dedicated to the creation and maintenance of risk matrices to determine the risk profile of the reporting entities that will be subject to supervision, which they are required to keep updated. The assessment team did not have the chance to see these matrices. The assessment team observes that the UNIF has a reasonable understanding of the risks of the reporting entities based on the sources of information described.

CBV, SAREN and CNC

352. In 2021, the SAREN analysed the weaknesses, threats, strengths and opportunities of public registries and notaries offices; however, it identified some vulnerabilities as threats but did not indicate ML/TF risks specific to the sector. The assessment team considers that this analysis needs significant improvements in the way it identifies and understands the ML/TF risks of public registries and notaries offices. The CBV and the CNC conducted sectoral ML/TF risk assessments applying the same methodology as the SAREN and, therefore, the comments made above in this regard are equally valid for these two authorities.

Identification and understanding of the risks in other sectors of reporting entities

353. As indicated in other parts of this report, savings banks, cooperatives that provide financial services, real estate agents, lawyers, accountants and trust and company service providers (i.e. those who may be serving as director, representative or partner of a legal person; those providing a domicile or physical space for a legal person or arrangement; or those acting as a trustee for legal arrangements other than trusts) do not have a designated AML/CFT supervisor so they are not subject to an authority that is responsible for identifying and maintaining an understanding of their ML/TF risks.

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

354. **The SUDEBAN submitted a plan for general inspection visits to be conducted in the period 2019-2021, which includes 36 reporting entities.** Out of all the supervisory agencies, the SUDEBAN is the most active and therefore the one that conducts the most inspections. The assessment team points out that it did not obtain data indicating that the frequency of the inspections is risk-based. Regarding the scope of the inspections, it could observe that the SUDEBAN's AML/CFT Office conducts general, special and follow-up inspections. According to the data provided, between 2019 and 2021, the SUDEBAN conducted 25 general inspections and 106 special inspections and sent 85 communications to monitor general and follow-up inspections. It should be noted that some of the entities under supervision were subject to multiple general, special and follow-up inspections in the same year, while others were not subject to any supervision at all for two consecutive years.

355. **Between 2016 and 2020, the SUNAVAL conducted 52 on-site inspections, while in 2020 it did not conduct any due to the COVID-19 pandemic.** Additionally, in the period 2016-2020, it conducted 235 off-site inspections. There is no evidence that these on-site or off-site inspections were planned in accordance with the risks of the sector. In any case, the samples of inspection reports reveal that the SUNAVAL is focused on supervising that the securities sector complies with all current AML/CFT obligations and, in the event that major deficiencies are identified during an off-site inspection, the SUNAVAL plans an on-site visit for the next supervision cycle to determine if such deficiencies were overcome. The SUNAVAL's 2021 Supervision Plan confirms this approach to supervision.

356. **The SUDEASEG conducts two types of inspections: general and partial.** Between 2016 and 2020, the SUDEASEG conducted 527 AML/CFT inspections. The inspections conducted by the SUDEASEG are scheduled considering the size of the reporting entity, the results of previous inspections and the profile that the reporting entity (derived from its behaviour and compliance with the regulatory framework) and based on requests for information from the SUDEASEG itself.

357. **The SUNACRIP supervises a small and complex sector, but despite this, the supervision exercised is in line with the recent emergence of this sector.** The SUNACRIP's Crime Prevention and Control Unit has guidelines for AML/CFT supervision that establishes VASPs be subject to continuous and cyclical supervision, so that at least one annual ordinary inspection is conducted on each VASP. Regarding extraordinary inspections, it establishes that it is possible to conduct as many of these inspections as deemed necessary. The first inspection conducted by the SUNACRIP is aimed at diagnosing the level of compliance with the AML/CFT obligations. The frequency and extent of subsequent inspections are determined based on the deficiencies in terms of control and the risks identified in VASPs. The samples of the inspection reports prepared by the SUNACRIP show that supervision is conducted this way, as they refer to the supervision of the full range of obligations applicable since 2021.

358. **The ONCDOFT has issued several official letters with instructions related to the supervisory function,** but specifically official letter ONCDOFT/DGCLCFT 2081 of 2021, dated 16 November 2021, instructs the SUDEBAN to conduct sectoral risk assessments, supervise reporting entities by 100%, and conduct activities in relation to technical compliance and effectiveness; however, these instructions do not consider that inspections should be conducted with a risk-based approach.

359. **In 2019, the UNIF conducted both on-site and off-site inspections on 133 reporting entities⁷³ and in 2020 on 87, focusing on the obligations to report suspicious activities,** the maintenance of databases on NPOs, responses to requests for information, among other issues. In particular, the UNIF reported that in 2020 it supervised the specific reporting and preventive measures applied by 33 reporting entities in the banking sector (including banks and exchanges) to face emerging risks arising from the COVID-19 pandemic and concluded that the level of compliance with these measures was between low and moderate.⁷⁴

⁷³ The sectors subject to supervision included reporting entities and non-reporting entities. These sectors were: savings banks, casinos, science and technology, foreign trade, public accountants, cooperatives, VASPs, economy and finance, electoral, electricity, industry and national production, internal justice and peace, lotteries, mining and ecology, monetary, oil, planning, registries and notaries offices, SAIME, technology and innovation, tax and tourism.

⁷⁴ Report IT-2020-005 by the Monitoring and Surveillance Division under UNIF's Supervision Directorate.

360. **The CNC does not apply risk-based supervision.** The CNC conducted two inspections per year on the eight licensed casinos in the period 2016-2019. In 2020 and 2021, the inspections of these licensees were reduced to one. According to the samples of inspection records, the assessment team observes that the CNC has focused its supervision on compliance with AML/CFT obligations. Furthermore, the frequency and extent of the inspections is not based on the risks assessed by the supervisor itself, the country's risks or the characteristics of the sector. The Rules and Procedures Manual of the CNC's ML/TF Prevention, Control and Supervision Directorate indicates that the extent of the inspections should increase when the entity under supervision has incurred in breaches of its AML/CFT obligations in the previous inspection, but it does not refer to any other risk-based consideration. Consequently, the regulatory obligations and the results of previous inspections determine the content of the checklist used by the CNC inspectors.

361. The assessment team received a small sample of on-site inspection records and technical sheets, which shows that, when supervising, the SAREN applies a checklist-based rather than a risk-based approach.

362. During the years 2020, 2021 and 2022 so far, the economic activity decreased in all countries worldwide because of the COVID-19 pandemic. The pandemic and the restrictions that it brought along had a direct impact on on-site inspections, and therefore, where possible, the supervisors conducted off-site inspections. These inspections, though, make it difficult to truly focus on actual threats and risks. The exception to this are the SUDEBAN and the SUDEASEG, which, despite the pandemic, continued with its on-site inspection plans.

6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions

363. **The existing regulatory framework for reporting entities regarding the application of sanctions is deficient, which affects the proportionality, effectiveness and dissuasiveness of the sanctions.** As highlighted in R.35 of the Technical Compliance Annex, not all obligations are necessarily punished by a monetary sanction, as far as some of the obligations are established in subsidiary regulations rather than in the LOCDOFT. Where not covered in said law, in the case of financial institutions, each supervisor uses the generic regulations of each sector to impose sanctions related to other breaches in each sector, thus demonstrating also operational independence on the part of the supervisors when applying sanctions. Although it is positive that the country can sanction without having a specific framework, the assessment team considers it important to reformulate the sanctioning regime to include proportionate and dissuasive sanctions in this area.

364. **In general, the fact that the sanctions are defined in bolivars or in tax units denominated in bolivars makes it difficult to maintain proportionality over time, given the existing hyperinflation process in the Bolivarian Republic of Venezuela.** Thus, for example, in 2015 the SUDEASEG imposed several fines for 30,000 tax units, equivalent to USD 26,818.18 at the time of application, according to data provided by the country.⁷⁵ The highest fine in tax units imposed by the same supervisor in 2018 was for 42,000 tax units. At present, however, the equivalent of the fine in dollars is USD 6.21.

365. In the case of the SUDEBAN, it has not provided data on the value in dollars that the fines had at the time they were applied, which makes it difficult to understand the proportionate and dissuasive nature of the fines in the context of hyperinflation and economic crisis that it is going through. However, taking into account the deficiencies that have been observed in the various reports to which it has had access,

⁷⁵ Given the currency reforms affecting the bolivar, in the case of the SUDEASEG the amounts have been indicated in tax units by way of example, since the data are more stable than the price in bolivars.

such as the impossibility of providing information on customers requested as a sample, or the detection of unreported suspicious transactions linked to large criminal operations in the country, the assessment team considers that the actions cannot be deemed as proportionate or dissuasive in any case.

366. **In general, the deficiencies detected in the inspections conducted by the different supervisors (SUDEBAN, UNIF, SUNAVAL, SUDEASEG, SAREN, SUNACRIP) as a general rule result in recommendations, action plans or remedial plans, while only very exceptionally result in the application of sanctions.** In addition, not all supervisors conduct follow-ups to such activities, nor have they been able to demonstrate that, in the event of subsequent non-compliance, additional actions are conducted. The country could not show either that said recommendations include a certain deadline for correction and subsequent follow-up. Finally, the country has not provided statistical data on the total of remedial actions requested by each supervisor or on the follow-up of said actions.

367. Taking into account the information provided, during the period 2016-2021, the SUDEBAN initiated 36 administrative proceedings against 32 universal banks, 1 microfinance bank and 3 exchanges, but exclusively imposed 9 sanctions on the banking sector, whose amounts range from 0.2% to 2% of the corporate capital. The assessment team has not had access to the equivalent amounts in USD, but they are not considered proportionate or dissuasive, particularly in those cases in which the sanction was related to the absence of suspicious transaction reports in transactions involving high amounts linked to the *Manos de Papel* case. Regarding the closure of the administrative proceedings in the other 27 cases, the Bolivarian Republic of Venezuela argues that evidence had been submitted to refute the assumptions made, which makes the assessment team doubt about the quality of the inspections conducted. Finally, it should be noted that no sanctions have been imposed after 2018.

368. Out of the 9 sanctions imposed by the SUDEBAN, 5 were linked to inspections whose purpose had been to analyse exclusively whether there had been reports filed in relation to customers who had participated in the *Manos de Papel* operation. In the 5 cases from 2018, the fine was 2% of the corporate capital. Additionally, 2 of them, from 2017, were imposed based on the deficiency in virtual banking controls and, specifically, because said systems lacked a transaction limit; one of them was 0.2% of the corporate capital and the other 1%. Finally, in 2016, 2 sanctions were imposed, of 0.2% of the corporate capital: one for including information from a person reported to the UNIF in the information provided to the external auditor, and which was imposed as a result of said audit report; and another for not having annual plans to monitor and control deficiencies in the procedures manual. In short, except in the case of the inspections conducted as a result of the *Manos de Papel* operation, and whose sanctions are considered to have little dissuasive effect, a lack of the supervisors' will to sanction is observed, since even in the presence of inspection reports pinpointing significant deficiencies (such as, for example, the absence of records or weaknesses in due diligence on PEPs), they have not imposed any sanction.

369. In general, it is possible to observe that there is a preference for not conducting remedial actions that are detrimental to the entity in question, which harms the country's AML/CFT system. An example of this is the case contained in Box 6.1.

Box 6.1 Remedial actions ordered by the SUDEBAN

Company X, belonging to financial group Y, conducted a type of activity that corresponded to one of the activities for which it was not authorized: it was acting as a non-bank payment service provider. In this case, said company held a concentration account with the bank that, as stated in Resolution SIB-DSB-CJ-OD-06561, of 27 November 2020, the bank should have known. Although it should be noted that the banking institution was managing the payments of the unauthorized company without doing the proper follow-up, the measure adopted resulted in prohibiting the advertising of the product and requesting the entity to only conduct actions of such nature with authorized non-bank

service providers. In the case of the company, it was prohibited from continuing to operate the product in question. The deficiencies identified, however, did not entail any type of monetary or operational sanction for any of the parties.

370. In the case of the SUNAVAL, during the period mentioned above, a total of 7 sanctions were imposed in the sector it supervises for violations of ML/TF regulations. The amount of the sanctions ranges between 2,500 and 12,750 tax units as is the case in the banking sector, the last fine imposed is from 2018 and the data provided do not prove the proportionality of the sanctions. This lack of proportionality seems to be partially caused by hyperinflation: the first fine shown, from 2015, amounted to an equivalent of USD 14,000, while in the case of the 5 fines imposed in 2018, the exchange rate in dollars was less than USD 1. In any case, of the 7 sanctions imposed, only 1, from 2016, derives from the deficiencies identified in the AML/CFT systems, while, in the rest of the cases, the sanction results from the absence or delay in the submission of documents.

371. In the case of the insurance sector, the SUDEASEG imposes sanctions on a more frequent basis, but such sanctions are imposed for not sending the requested information, while, where deficiencies are identified, it usually requests for their correction. In any case, the amount of these sanctions is not necessarily proportionate, which can be partly explained by hyperinflation. For the period 2016-2020, there are 167 fines imposed for a total of USD 266,969.72; most of them refer to the obligation to submit reports of different nature (Implementation Reports and Annual Operational Plans, Audit Reports) and only 3 of them are the result of inspections conducted by the supervisor. Regarding proportionality, only 33 sanctions are above USD 1,000, and there is a significant volume of sanctions below USD 30, which cannot be considered proportionate or dissuasive.

372. Lastly, in relation to other FI supervisors, the CBV has not yet conducted inspections on non-bank payment service providers, and therefore it has not implemented corrective actions. Since it was separated from the SUDEBAN in 2018, the UNIF has continued to conduct inspections, although the legal basis for exercising said function is not clear based on what is provided for in the LOCDOFT. None of the inspections has led to monetary sanctions, but rather official letters.

373. In the case of the SUNACRIP, no sanction has been imposed so far, which can be explained by the recent creation of the system. However, the inspection reports contain recommendations that VASPs should comply with, urging them to provide updates on implementation to the SUNACRIP. On the other hand, during the on-site visit, the supervisor explained that until that time it had conducted a follow-up policy; however, in subsequent inspections, failure to correct the deficiencies identified in a previous inspection could lead to more effective corrective actions.

374. In the case of the SAREN, it seems that the deficiencies detected may lead to a subsequent follow-up visit, although the Bolivarian Republic of Venezuela does not implement any type of corrective action in the sector. There is only one example of an employee who has been dismissed, and such dismissal is related to the investigation being conducted by the Attorney General's Office in which such employee was charged with the crimes of ML, extraction of strategic materials and substances, among others.

375. For the rest of FIs and DNFBBs, that is, non-bank payment service providers; exchanges; savings banks; cooperatives that provide financial services; casinos; real estate agents; lawyers, accountants and other legal professionals; and trust and company service providers, the Bolivarian Republic of Venezuela has not implemented any corrective actions.

6.2.5. Impact of supervisory actions on compliance

376. **The SUDEBAN, the SUNAVAL, the SUDEASEG, the SUNACRIP and the SAREN conduct supervisory actions quite frequently, so, regardless of the deficiencies detected in terms of scope and remedial actions, such inspections are positive since they promote compliance by the reporting entities.** Nevertheless, these supervisory actions are not risk-based and the fact that they are focused on verifying the existence of policies and procedures (submission of manuals, audits, annual operational plans, risk self-assessments or the existence of an alert system) reduces their impact.

377. The country has not provided statistical data to understand whether there are changes in the behaviour of reporting entities and whether there is an increase or decrease in the instances of non-compliance; however, based on the inspection reports submitted by the country, the summary of the main findings of each inspection by reporting entity in the case of the SUDEBAN and the interviews conducted, the assessment team understands that the supervisory actions are useful for the reporting entities to know and understand their AML/CFT obligations, but they are not always implemented correctly.

378. **In the case of the banking sector, the inspections have an impact on the entity's policy since they entail recommendations; however, what is not always adequate is the follow-up of the changes made based on such recommendations.** Indeed, the country provided some examples of follow-up inspections revealing that measures are adopted in the areas identified as vulnerable, but cases have also been identified where the follow-up inspections do not sufficiently analyse the implemented measures. Such is the case of the change in the customer risk rating exposed in section 5.2.2: the entity subject to supervision changes its customer risk rating based on the results of the first inspection report, but the supervisor does not conduct an analysis on whether the new risk rating assigned is correct. In other cases, it is possible to observe that performance in the last inspection report was worse than in the previous one, as is the case of staff training or the absence of information on PEPs. However, since 2021, the SUDEBAN is implementing a change in the inspections related to risk self-assessments, in which it seeks to generate a greater impact on reporting entities: thus, in the analysis of the different variables of the risk matrix, it includes the weighting related to the repetition of deficiencies and the effectiveness of the mitigation plan with respect to the deficiencies detected in the same aspect on previous occasions; a methodology that, though not applied in all ML/TF inspection areas, has been positively weighted by the assessment team in order to measure the supervisory actions and generate an impact on the reporting entities.

379. In the case of other financial sectors, such as the insurance sector, the fact that most of the sanctioning regime is based on the submission or not of the documentation does not have a positive impact on the actual compliance with the obligations. For example, one of the 3 entities that were imposed sanctions by the SUDEASEG in 2018 following an inspection had previously been sanctioned for the untimely submission of the implementation report and the annual operational plan, which suggests the limited usefulness of these supervisory actions.

380. The supervisory actions by the SUNACRIP in exchange houses and other entities participating in the National Integral System of Cryptoassets do have a certain impact on the implementation of the AML/CFT system, since these reporting entities have proved to have developed policies and procedures. Nevertheless, the supervisor has not yet fully analysed the practical implementation of the system.

381. Lastly, with regard to DNFBPs, the data on the impact of supervisory actions are much more limited and they are basically reduced to the case of the SAREN. In this case, the SAREN showed an inspection report from 2018, where it referred to the previous inspection (from 2013) and reiterated the deficiencies indicated in the previous report. Therefore, the deficiencies were not corrected, nor does the

reiteration of the deficiencies imply any sanction, so the supervisory actions do not seem to be dissuasive. On this point, the SAREN indicated that it had not imposed sanctions because of the absence of follow-up inspections during the assessment period.

382. **In general, with respect to all the sectors, besides the absence of statistical data, neither is there any information on supervisory actions addressed at a specific issue detected in terms of ML/TF, as could be the case of the parallel foreign exchange market or high corruption, and neither has the country provided any specific cases showing the impact of supervision on compliance by the reporting entities.** The only case that could be identified would be the 5 sanctions imposed by the SUDEBAN in 2018 for failing to report customers related to the *Manos de Papel* operation. The assessment team does not have data on the development of this inspection nor on whether it involved other entities. However, the data provided by the UNIF reveals that, of the 5 banks which received sanctions, 4 of them have reduced the number of SARs submitted in subsequent years. The number of SARs only increased in one of them, which is the entity filing the largest number of SARs in the country. Therefore, it seems that the supervisory action was not useful to improve the quality of the reports submitted by the banking institutions, in spite of the fact that the SUDEBAN has stated that such sanctions were not aimed at increasing or decreasing the number of reports.

383. Lastly, the on-site visit revealed that, in the case of the reporting entities under supervision, there is a constant flow of requests, as is the case of the submission of operational action plans, risk self-assessments or procedures manuals by their supervisors. The fact that, for example, the ONCDOFT promotes that the whole sector is subject to supervision on an annual basis involves a burden for the reporting entities under supervision. However, since they do not conduct risk-based inspections, the impact on the effectiveness of the system is low. This contrasts with the absence of supervision in a variety of unregulated sectors, in particular DNFBPs.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks

384. **In general, supervisors maintain a good relationship with the sectors of reporting entities they supervise, which has a positive effect on the understanding of the AML/CFT obligations.**

385. The UNIF issues circulars to the supervisors of the reporting entities. In general, the UNIF issues a wide range of circulars, but there are no verification mechanisms to check whether the information is understood by the reporting entities and integrated into their AML/CFT systems. Like the UNIF, the SUDEBAN, the SUNAVAL and the SUDEASEG promote the understanding by the reporting entities of their AML/CFT obligations through the dissemination of circulars; however, all these agencies face the same difficulty as that mentioned above for the UNIF.

386. The UNIF also conducts many training activities, in which there may be greater feedback than when sending circulars, but these are more oriented to the banking sector, other institutions in the securities and insurance sectors and, to a lesser extent, to the rest of the reporting entities, such as casinos, VASPs or the tourism sector. In the case of 2021 typologies exercise, for example, there was a broad representation from the banking sector, while the number of participants from other sectors was very low or non-existent, particularly from those sectors where knowledge of their risks is considerably lower. In any case, the information on the typologies exercise is published on the web, which facilitates its access by the rest of the reporting entities.

387. **The country has some information exchange initiatives with the private sector that may have a great potential in terms of prevention.** Within the banking sector, the Compliance Officers Committee, comprised by the compliance officers of all banking institutions, meets regularly and representatives from the SUDEBAN and the UNIF are usually present at its meetings, which undoubtedly

favours a better understanding of the ML/TF risks and the AML/CFT obligations, as well as the resolution of doubts about the implementation of the existing regulation.

388. The SUNAVAL, the SUDEASEG and the SAREN also have various training initiatives that, in spite of being less risk-based, promote understanding of the AML/CFT obligations among their reporting entities.

389. The SUNAVAL, for example, has promoted the Virtual Stock Exchange School, which delivered a specific course on ML/TF for the reporting entities of the sector for auditors (*Terceros Independientes Calificados de Cumplimiento*) and stock advisors. It provided training to 196 persons during 2021. On the other hand, the SAREN combines virtual and face-to-face training. Regarding virtual training, the SAREN has a “virtual classroom” where documentation related to the prevention of ML/TF is available. On the other hand, there were face-to-face courses, with a total of **577 persons who received training in the period 2015-2020. Virtual courses started in 2020 when 159 reporting entities were trained.**

390. The other supervisors did not provide evidence of having delivered specific training to improve the understanding of risks and obligations, but some supervisors, such as the SUNACRIP, maintain a fluid communication with their reporting entities, which promotes a clear understanding of the risks and AML/CFT obligations.

Overall conclusion on IO.3

391. A significant number of reporting entities, in particular DNFBPs, are not subject to supervision. Different supervisory agencies do not supervise compliance with the AML/CFT requirements of FIs, DNFBPs and VASPs in a way that is proportionate to the risks posed by each of the reporting entities in their sector, and most of them focus on verifying compliance with the instructions given and the guidelines do not refer to the levels of risk. Moreover, these supervisory actions do not lead to proportionate and dissuasive sanctions, which has a negative impact on the level of compliance by the sector. The country has not been able to show the impact that supervisory actions have on compliance with preventive obligations by the reporting entities. However, it is possible to observe the effort made by most supervisors to promote awareness of the AML/CFT obligations among their reporting entities. **The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.3.**

Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key findings and recommended actions

Key findings

- a) Basic information on the creation and types of legal persons that can be registered in Venezuela is physically available to the public, since this information cannot be accessed electronically.
- b) The country has not assessed the risks of legal persons and, therefore, neither the authorities nor the reporting entities are fully aware or understand the ML/TF risks posed by them.
- c) The country does not have specific mitigation measures to prevent the undue use of legal persons and trusts for ML/TF purposes.
- d) Although there is access to certain basic information on legal persons and trusts via the SAREN, SENIAT, SUDEBAN and the SUDEASEG, these sources of information do not guarantee access to information on the beneficial owner.
- e) The SENIAT is the authority that has applied sanctions consistently for non-fulfilment of the obligation to keep information updated on legal persons in the RIF. Other than the securities sector, there is no other sector in which non-fulfilment of obligations to obtain and update basic information and information on the beneficial owner of legal persons and trusts has been identified.

Recommended actions

- a) Basic information on the creation and types of legal persons that can be registered in Venezuela should be available to the public electronically.
- b) The country should assess the risks of legal persons to ensure that the authorities and the reporting entities are aware of and understand their ML/TF risks.
- c) The authorities should establish specific mitigation measures to prevent the undue use of legal persons and trusts for ML/TF purposes.
- d) The relevant competent authorities should take measures for basic information and information on the beneficial owner of legal persons to be accurate and up to date (including mechanisms to monitor or verify information).
- e) The shortcomings related to the acquisition of basic information and information on the

beneficial owner of legal persons and trusts identified in R.10, 22, 24 and 25, should be addressed in order to improve their transparency and safeguard them against abuse for ML/TF purposes and to strengthen the applicable penalty system.

392. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.⁷⁶

7.2. Immediate Outcome 5 (Legal persons and arrangements)

7.2.1. Public availability of information on the creation and types of legal persons and arrangements

393. The Commercial Code of the Bolivarian Republic of Venezuela identifies the types of legal persons. In addition to this Code, the Law on Registries and Notary Offices and various administrative provisions of the SAREN establish the requirements for creating legal persons. Similarly, the Law on Trusts establishes the requirements for setting up trusts in the country. Based on the foregoing, this information is available through laws, resolutions and orders that become public knowledge once published in The Gazette, the official daily newspaper of the country, although, persons interested in setting up businesses could benefit from the publication of this information on government websites or other forms of publication.

394. Legal person's basic information is available to the public through the information recorded by the SAREN. This agency keeps record of the following information on legal persons in a physical manner: Corporate Name; Type of Company; Registry Entry Number; Volume Number; Registration Date; Shareholders' Data (name and last name, and identity card); File Number (assigned once incorporated). This information is not digitized or available remotely. The SENIAT records the information of natural and legal persons (trading companies, foundations, government agencies, cooperatives, community organisations, among others) for tax purposes. Each government agency, in accordance with its procedures, creates or may create the necessary registries to conduct the corresponding controls.

395. The Single Tax Information Registry (RIF) allows the authorities to remotely access a wide range of information on legal persons as it concentrates the data obtained by the SAIME, the SAREN, the IVSS, the NEC, the NPS and the INTT, in addition to the tax information that is normally gathered by the SAREN (e.g., tax domicile, registration data, address and complete identification of the partner-shareholders; legal representative, among other data).

396. Trusts can only be established by banking and insurance institutions pursuant to the Law on Trusts. Banking and insurance institutions do not have significant portfolios focused on trusts. The SUDEBAN maintains a record of trusts, that captures the information of grantors, as established in the Manual of Technical Specifications AT05. The SUDEASEG reviews the financial information of the

⁷⁶ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

reporting entities, authorized to operate as such, in order to determine if they are acting as trustees. The trusts administered by insurance companies account for less than 1% of their transactions.

397. In relation to trust, the SAREN only keeps records of real estate property. Movable property is not registered before the SAREN, but in the respective trust agreement only. Trust agreements established abroad are not registered with the SAREN.

398. The country did not provide evidence that the beneficial ownership information on commercial legal persons is obtained by subordinate registries and notaries offices. Neither was evidence provided showing that notaries offices request information from the shareholders of companies to conduct CDD, including the submission of identity cards and the implementation of enhanced measures. The reporting entities registered under the SAREN's supervision are public registries, commercial registries, main registries and notaries offices. The Bolivarian Republic of Venezuela does not have regulations defining what percentage of shares is considered a majority shareholder. Given this, notaries identify at least two persons holding most of the shares and both are identified as BOs. It is not possible to determine whether financial institutions maintain up-to-date beneficial ownership information and whether such information is available for use in a certain location.

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

399. The country has not assessed the risks of trusts or legal persons (trading companies and cooperatives). Therefore, neither the authorities nor the reporting entities are aware of or understand the ML/TF risks posed by them.

400. In addition, the UNIF conducted its "8th Typologies Exercise" in 2018 and the "IX Exercise of Typologies in 2021", which represent efforts which, among other things, help the authorities to be aware of and understand the ML schemes involving the abuse of legal persons and which could be used in the assessment of their risks. The report of the typologies exercise indicates that the public and private companies belonging to the banking, insurance and securities sector and national business companies are those most used in ML schemes and, in this regard, it provides a list of 16 warning signs, which highlights the use of national or foreign front companies in various forms of corruption.

401. It should also be pointed out that the SUDEBAN and the UNIF have conducted assessments on the ML/TF risks of NPOs. The differences in the results of these assessments demonstrate that there is no unified and homogeneous understanding of the risks to which NPOs are exposed in the country, which is addressed in greater detail in the analysis of IO.10. Other authorities, especially the ONCDOFT, share the perspective that NPOs are highrisk legal persons, although their understanding is not based on concrete information such as any of the assessments mentioned in this paragraph or other source of information, but rather on the importance given to this sector in antiML/TF standards and guides.

402. Although the Bolivarian Republic of Venezuela has not assessed the risks of NPOs, the Attorney General's Office informed the assessment team about the Gedeón case and the case of assassination attempt, addressed in more detail in section 4.2, in which they identified the involvement of NPOs in TF schemes. However, despite the importance of such cases, the assessment team considers that there is little information on TF threats related to NPOs.

403. A wide range of DNFBPs operate in the jurisdiction with no sectoral risk assessment. They do not have a regulator and, therefore, they are not supervised.

404. The SAREN has not conducted any sectoral risk assessment on legal persons and trusts. During the update of the NRA, the SAREN provided information on its own vulnerabilities, such as, for example, technological vulnerabilities.

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

405. The strategic document “*Gran Misión Cuadrantes de Paz*” contains strategic guidelines that are applicable to the prevention of the abuse of legal persons, especially in thematic areas 2 and 6, which focus respectively, on the fight against corruption, organised crime, illegal drug trafficking, terrorism and the strengthening of public safety and criminal investigation bodies. However, in reviewing the strategy, the assessment team found no elements that are clearly and expressly related to the protection of legal persons and arrangements. In general, the assessment team considers that the fact that a risk assessment on legal persons has not been conducted affects the design and the implementation of mitigating measures to prevent the misuse of legal persons.

406. Additionally, the dissemination of the report of the “8th Typologies Exercise” to the CBV, AGO, MINTUR, SENIAT, CNC, the accounting sector and several ministries designated as supervisors under the LOCDOFT, is an action which, to some extent, helps to prevent the misuse of legal persons, while providing the authorities with information that they can use in fulfilling their duties; in fact, one of the objectives of the exercise is to support the investigation and suppression of ML/TF offences.

407. In an interview with the SAREN, no clarification was provided to the assessment team as to whether the subordinate registry offices are required to obtain and maintain accurate and up-to-date basic and beneficial ownership information.

408. Regulators claim that they have adopted mitigating measures to prevent the misuse of legal persons and arrangements, and that they have not found any instances of non-compliance with due diligence obligations. Nevertheless, the assessment team underscores that the deficiencies found in technical compliance, specifically in R.10 and R.24 on beneficial owner requirements, where the country did not show evidence of having up-to-date legislation to implement this issue.

409. As for trusts, only banks and insurance companies can serve as trust institutions. Trust agreements account for less than 1% of their transactions. The SUDEASEG reviews the financial information of the reporting entities authorized to operate as such to determine if they are acting as trustees. Both the SUDEBAN and the SUDEASEG have not conducted specific inspections focused on trusts, but compliance with trust-related obligations have been examined in the context of broader inspections where supervisors have not identified deficiencies, which was verified by the assessment team by reviewing samples of inspection reports.

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

410. The UNIF ensures that it can remotely access basic information on legal persons through the SAREN, despite the fact that the assessment team was unable to verify this; and that it has full access to the information on the reporting entities, as well as on related legal persons (customers, employees, suppliers, among others); however, it recognizes that the beneficial ownership information is not available in the SAREN.

411. In this regard, from 2015 to 2020, 12,481 SARs were received at the UNIF, among which, and according to the classification of the reasons for reporting, 1,877 SARs correspond to unusual procedures in registries and notaries, accounting for 15.04% of their grand total.

412. The subordinate offices of registries and notaries submitted a total of 1,877 SARs to the UNIF in the period 2015-2020, equivalent to 15% of the total number received (12,481).

413. According to UNIF's intelligence statistics, a total of 4,405 SARs of legal persons stands out in the period 2015-2020, of which seven correspond to public companies, and the remaining 4,398 SARs, to private companies.

414. Regulators claim that there has been no situation so far involving non-compliance with basic or beneficial ownership information on legal persons, and therefore, they have not initiated any action against those refusing to provide said information, which is at odds with the deficiencies found regarding the regulation of beneficial ownership measures.

415. The CBV ensures that the information it requests is what is requested in the authorization process to operate and that, through the application of due diligence measures, it can obtain basic and beneficial ownership information on the legal person. In this sense, the articles of incorporation are requested for reviewing purposes. If while reviewing said document the identity of the natural persons who ultimately serve as shareholders of the companies is not evident, additional documents are requested to verify this aspect.

416. In this regard, the CBV has not required competent authorities to provide such documentation, in order to obtain basic or beneficial ownership information on (i) legal persons and (ii) legal arrangements. Regarding the registration and control of the beneficial owner, as well as the amount and periodicity in the updating of the information, it should be noted that in the Registry of Authorized Signatures before the CBV the data are continuously updated, since it is the obligation of those registered therein to maintain the relationship with the CBV. Likewise, in case of modifications or updates, the corresponding supporting documents are requested. In this respect, the External User Instructions for the Registration of Signatures of Natural and Legal Persons (Public or Private) before the CBV is available for consultation at: <http://www.bcv.org.ve/instructivo-del-usuario-externo-para-el-registro-de-firmas-de-personas-naturales-y-juridicas>.

417. During the assessment period, the SAREN received 19,478 information requests on natural and legal persons from the national competent authorities and sent a timely response to 18,806 information requests within a maximum period of (5) business days, taking into consideration that the search is carried out through the SAREN System, in place since 2008. The searches are conducted manually in the files stored in each of the registries and notaries offices.

418. Some regulators, including the CBV, the SUDEBAN, the SUDEASEG and the SUNAVAL, stated that they do not have access to the SAREN, but rather they check the RIF of the legal persons deemed relevant through the SENIAT website. These authorities cannot access all the RIF information with the same scope as the UNIF, but instead, the SENIAT website only provides access to data on corporate name, business activity and tax status of the legal person.

419. The assessment team did not receive information on the extent to which other competent authorities, especially law enforcement authorities, have access to adequate, accurate and up to date basic information and information on beneficial owner and legal persons.

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

420. The SUDEBAN receives monthly information updates on the trusts managed by banks. This information is obtained via information files dispatched to the SUDEBAN through the Comprehensive Financial Information System. In the case of trusts, the information file is entitled “ATO5”, which contains data on the contract number, type of customer with which the contract has been signed and their identification details (including whether or not the contractor is a public sector entity), the types and currency of the transactions that have been carried out by virtue of the contract, the bank branch at which trust-related transactions have been conducted, the accounting code identifying the operations carried out according to the Accounting Manual for Banks, other Financial Institutions and Savings and Loan Entities, information on the value and movement of assets associated with the trust and the duration of the contract.

421. Additionally, based on the supervision information provided by the SUDEBAN, banks managing trusts maintain proper records on the parties creating them, information on service providers for trusts, as well as information on the source, purpose and destination of the capital with which the trust fund is established. This information does not include data on the beneficial owner of trusts.

422. The assessment team did not receive information regarding information requests made by competent authorities to the SUDEBAN or reporting entities for details on trusts, therefore, it cannot be determined if such information could be provided in a timely manner.

423. In the insurance sector, the SUDEASEG obtains the information on the beneficial owner of the reporting entity in real time, since it is mandatory to submit to the supervisory agency the potential sale or disposal of the shares, or amendment of the articles of incorporation for its approval, as established in Article 8.5 and 8.15 of Decree with Rank, Value and Force of Law of the insurance industry. Just like the SUDEBAN, the SUDEASEG receives monthly updates on the services provided by insurance companies through the System for Reporting Business Operational Transactions (RBOT), including data on the trusts that they manage. This information can be made available to the competent authorities when requested. The RBOT requires insurance companies to provide the following information on trusts: types of trusts that they manage, expiry date of the trust contract, opening value of the trust assets, current value of the trust fund and details on the identification documents of the trustor. The assessment team is of the view that the information contained in the RBOT does not cover all the requirements of R.25, especially the identification information of the beneficial owner of a trust contract and, therefore, they cannot be considered adequate for meeting the needs of the other competent authorities. In fact, the SUDEASEG reported that the competent authorities request from it all the information it has at its disposal or which can be obtained from insurance companies, including data on their customers and the contracts they have with them; thus, the SUDEASEG has received no information requests focusing specifically on trusts.

424. The data provided by the SUDEASEG indicates that during the period 2018-2021, it received 3,370 information requests from 12 authorities, most of which came from the AGO and the CICPC. The SUDEASEG responded to 1,086 of these, based on the information already in its possession or obtained through requests made to its reporting entities.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

425. The information on legal persons maintained by the SENIAT through the RIF is updated every three years. Failure to update tax information prevents taxpayers from conducting administrative procedures with public and private institutions. Thus, legal persons should update basic information such

as address, composition of board of directors, telephone, email, legal representative, among others. Once taxpayers access their personal accounts through the SENIAT web site, they have thirty (30) days to submit the documents providing evidence of the changes made. Failure to comply with this last obligation is punishable. The SENIAT has sanctioned 3,262 taxpayers for not updating the RIF.

426. Based on the above, it is possible to conclude that legal persons that are taxpayers are required to keep their RIF updated under penalty of not being able to conduct any public or private administrative procedure, including bank movements. Organic Tax Code, “Article 100 provides for formal tax offences related to the duty to register with the Tax Administration Agency: 4. Failure to provide or communicate to the Tax Administration Agency the information related to the data for updating the records within the times set out.”

427. Regarding the performance of the SUNAVAL, from 2015 to 2020, it applied 7 sanctions to reporting entities for non-compliance with the requirements to provide basic and beneficial ownership information on legal persons and arrangements, and the value of such sanctions ranges between 5,000 and 10,000 tax units. It is unknown whether these sanctions are effective and proportionate. Articles 126 and 128 of the Decree with Rank, Value and Force of Law of the Securities Market set forth the application of effective and proportionate sanctions denominated in tax units in case of failure to send information within the times set out and submission of information that is not in line with the regulations in place. The SUDEBAN confirmed that no breaches have been observed so far and consequently no sanctions have been imposed.

Overall conclusion on IO.5

428. The Bolivarian Republic of Venezuela has a limited range of measures to prevent legal persons and other legal arrangements from being misused for criminal purposes and from being transparent. The country has measures to ensure that basic information is available to the public in a timely manner through public registries. Nevertheless, there are deficiencies since there is a lack of beneficial ownership information on legal persons and arrangements that is accurate and up to date. The beneficial ownership information is available to competent authorities through the reporting entities, but the technical deficiencies identified in the implementation of R.10,22, 24 and 25 ultimately have an impact on the capacity of competent authorities to obtain beneficial ownership information on legal persons and arrangements.

429. Based on the above, the Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for Immediate Outcome 5.

Chapter 8. INTERNATIONAL COOPERATION

8.1. Key findings and recommended actions

Key findings

- a) The MPPRE and the AGO coordinate the processing of MLA requests, in such a manner that the remaining authorities do not communicate directly to the AGO, which then passes it on to the the Ministry of Foreign Affairs, which forwards it to its foreign counterpart. The UNIF, the National Interpol Office and the SUNAD share information directly with their respective foreign counterparts.
- b) The Bolivarian Republic of Venezuela's actions in terms of international cooperation are currently limited due to the consequences of flight restrictions and border closures, among others, and the lack of international recognition by some countries of the current Government.
- c) Competent authorities did not provide statistics on the number of extradited persons, nor on the time it took to process the extradition requests, mainly in relation to those requests that are pending since 2016.
- d) Within the Egmont group, the UNIF provides international cooperation to its counterparts in other countries, whose information is generally rated positively by other countries. However, the country does not frequently seek the cooperation of its foreign counterparts through requests for information. During the assessment period, the FIU made a total of 21 requests to other FIUs. This number is considered low and suggests that cooperation is not consistent with the country's risk.
- e) Cooperation between law enforcement agencies is mainly conducted through the Interpol Office to address ML/TF issues. The country has provided statistics on the response to requests by the Interpol and Red Notice requests, but not on the full range of possible requests in this respect.
- f) Regarding the exchange of beneficial ownership information, both the SAREN and the UNIF provided data on the requests received, which, although few, demonstrate their capacity to provide said information. The country does not provide evidence showing how other authorities provide beneficial ownership information or how they seek the cooperation of their foreign counterparts for this type of information.
- g) Regarding the rest of the AML/CFT authorities, data have been provided on the signing of MOUs, but there is no evidence that they cooperate internationally with other countries.

Recommended actions

- a) The competent authorities should increase their international cooperation requests for ML/TF cases in a manner that is consistent with the country's risks.

- b) The AGO should review its policies and priorities based on the ML/TF risks and international cooperation procedures and resources, to determine those elements that lead to a bottleneck in the processing of passive MLA requests and take action to develop its capacity to respond to same within reasonable timeframes, focusing on executing a significant number of MLA requests that are pending since 2017.
- c) Competent authorities should review their policies and procedures for the exchange of information and assistance with their counterparts in order to define the criteria according to which they should exchange information proactively and in a timely manner, in particular, in those cases in which they observe a link with another country in a case involving ML, predicate offence or TF.
- d) Competent authorities should be made aware through training of the value and importance of international cooperation for their functions.
- e) The country should demonstrate how other authorities provide beneficial ownership information and how they seek the cooperation of their foreign counterparts for this type of information.
- f) The competent authorities, especially the AGO, the TSJ and the INTERPOL National Central Bureau, should improve the procedures and systems used to maintain statistics on MLA, extraditions and other forms of international cooperation in such a manner that, at the very least, they could disaggregate the information requested by type of offence, estimate the time it takes them to process requests, record the actions taken to make progress and identify the reasons why these have their current status when they have not been completed or answered.

430. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

8.2.Immediate Outcome 2 (International cooperation)

8.2.1. Providing constructive and timely mutual legal assistance (MLA) and extradition

431. **The AGO is the competent authority regarding MLA and extraditions in criminal matters.** The AGO, in coordination with the Ministry of Foreign Affairs, is empowered to submit and answer letters rogatory and requests for mutual assistance in criminal matters. In the period 2016-2021, the AGO received 103 MLA requests. Out of these requests, 22 were related to legal persons established in the Bolivarian Republic of Venezuela. Between 2017 and 2021, the MP accumulates 81 requests in process, which suggests that the competent authorities face obstacles to complete them in a timely manner. The status of these MLA requests is detailed in Table 8.1, which presents combined data on ML, TF and predicate offences.

Table 8.1. Passive MLA requests

Status	2016	2017	2018	2019	2020	2021	Total
Ongoing	0	14	16	10	4	37	81
Partial response	0	2	0	1	0	1	4
Returned	0	0	2	3	0	1	6
Deferred	1	0	3	0	0	0	4
Request for additional information	0	0	0	2	0	1	3
Answered	0	5	0	0	0	0	5
Total	1	21	21	16	4	40	103

Source: AGO

432. **The AGO has prosecutors specialized in international criminal cooperation.** In March 2017, the AGO created the positions of national prosecutors in matters of international criminal cooperation attached to its Directorate of International Affairs (DAI), who are responsible for conducting a feasibility study on requests for MLA and extradition in criminal matters.

433. **The AGO has not estimated the average time in which passive MLA and extradition requests are answered.** According to this authority, the execution of an MLA request depends on the type of request that is made, which affects the legal assistance in a constructive and timely manner.

434. **The AGO distinguishes between two mechanisms for processing passive extraditions, but it cannot determine how long it takes for their execution.** The first mechanism is applied where there is no INTERPOL international notice. In this case, the requesting country provides the Bolivarian Republic of Venezuela with the documentation that supports the search for the requested person and take actions to locate and apprehend such person. The second mechanism consists in executing an INTERPOL international notice. In both cases, the AGO cannot estimate the time it takes to arrest the requested person.

435. **The AGO defers the execution time of specific MLA requests.** When an incoming MLA refers to an ongoing criminal investigation in the territory of the Bolivarian Republic of Venezuela, the AGO does not execute it if doing so constitutes an obstacle to domestic criminal proceedings. Once the actions conducted by the different national authorities are completed, the AGO proceeds to provide the requested cooperation.

436. **According to the data from the Bolivarian Republic of Venezuela, the time taken by competent authorities to process extradition requests can range from 40 to 120 days,** since the time needed to execute them may change in accordance with the procedure set out in the treaties and agreements undertaken at the bilateral and multilateral level for the processing of extradition requests. The Attorney General's Office has a database called Case Tracking System (SSC), which contains all the investigations conducted by prosecutors.

437. **The TSJ, through its criminal chamber, is competent over extraditions and, therefore, it is responsible for processing extradition requests and for issuing legal decisions in this respect.** The three judges of the Criminal Court of the TSJ are trained to give their opinions and settle extradition requests, while the Criminal Court Secretariat appoints an assistant attorney, an associate attorney and a team of assistant attorneys to carry out the administrative procedures related to the request. Data on the extradition requests received by the Bolivarian Republic of Venezuela during the assessment period are provided below.

Table 8.2. Status of extradition requests received

Status	2016	2017	2018	2019	2020	2021	Total
Pending	0	0	0	0	2	0	2
Dismissed	10	1	4	5	4	4	30
Admitted	14	12	31	9	7	3	102
Total	24	13	35	14	13	7	134

Note: These 134 extradition requests were received from 22 countries. Most of such requests came from Colombia (31), Spain (30), the United States (22) and France (9).

438. **The Bolivarian Republic of Venezuela denies extradition requests when they involve Venezuelan nationals.** In this regard, the assessment team had access to a case example. In 2016, the TSJ received an extradition request from Spain in relation to a person involved in an ML case. The TSJ declared it inadmissible because the requested person had Venezuelan nationality; it referred the case to the AGO for it to investigate the facts, which, eventually, filed charges.

439. The crimes for which extraditions were requested in the assessed period were: Drug-related crimes 50, ML 6, and ML and terrorism 1. It should be noted that, in the 29 cases presented in the previous table above as “admitted” in the period 2015-2020, the extradition procedure was concluded; in some cases, the requesting countries were still completing administrative procedures to relocate the required persons. Competent authorities did not provide statistics on the number of extradited persons.

440. The Bolivarian Republic of Venezuela provided statistics on 12 extradition requests that were denied on the basis of the fact that the requested persons were Venezuelan citizens. It should be noted that there are 8 cases from 2016, out of which one was dismissed and three are still in the investigation phase; and two cases from 2018 which are in the same status. Once the request is received, the average response time to passive extraditions is five months.

Table 8.3. Active and passive extradition requests related to drug trafficking

Status	2016	2017	2018	2019	2020	2021	Total
Active	2	5	9	2	3	1	22
Admitted	2	5	9	2	3	1	22
Passive	10	4	4	7	6	2	33
Pending	0	0	0	0	2	0	2
Dismissed	7	1	2	5	3	1	19
Admitted	3	3	2	2	1	1	12
Total	12	9	13	9	9	3	55

Source: Anti-Drug Directorate

Table 8.4. Active and passive extradition requests related to corruption

Status	2016	2017	2018	2019	2020	2021	Total
Active	0	1	5	0	4	0	10
Admitted	0	1	5	0	4	0	10
Passive	0	0	0	0	0	0	0
Pending	-	-	-	-	-	-	0
Dismissed	-	-	-	-	-	-	0
Admitted	-	-	-	-	-	-	0
Total	0	1	5	0	4	0	10

Source: Anti-Corruption General Directorate

441. Despite the Bolivarian Republic of Venezuela indicated that it does not have a wide range of action regarding international due to the lack of international recognition of the current Government, the country provided an example of a case of passive extradition processed by Venezuela in response to a formal request made by Colombia. This example refers to a citizen of Colombian nationality in relation to different sexual offences against more than 200 minors and for ML stemming from the proceeds of these crimes. The formal request for passive extradition was received and the individual was extradited to the requesting country in a timely manner.

8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicate offences and TF cases with transnational elements

442. **The AGO's DAI advises prosecutors in investigations where MLA request are needed.** Over 2015-2020 the period, the Attorney General's Office processed 286 MLA active requests, seeking information from the requesting country. Nevertheless, during the interviews with the assessment team, it was mentioned that the country did not have a legal framework in place to share assets with foreign authorities when international investigation teams are formed. Active MLA requests are listed below:

Table 8.5. Active MLA requests in criminal matters

Status	2016	2017	2018	2019	2020	2021	Total
Pending	51	72	52	18	22	7	222
Returned	4	4	5	1	0	0	14
Dismissed	0	1	1	0	0	0	2
Answered	18	18	8	4	0	0	48
Total	73	95	66	23	22	7	286

Source: AGO and TSJ

443. **The AGO's specialized prosecutors maintain constant communication with the DAI.** Prosecutors specialized in ML and organized crime exchange internal communications with the DAI to provide it with documents that support the active MLA requests, request the prioritisation of the MLA requests that are related to organized crime, and to get updates on the progress of such requests.

444. **The AGO does not have an estimated execution time for active MLA requests.** The processing time depends on the type and number of documents required, including the company's articles of incorporation, criminal records, financial profiles, bank account statements and so on. In addition to the above, there are some cases in which they have not received a response to requests due to the suspension of diplomatic relations with the requested countries.

445. **The AGO states that it sends reminders to the requested countries to encourage compliance with active MLA requests.** Nevertheless, it recognizes that it does not keep a statistical record of such reminders sent and that it should start doing so and incorporate it as a practice within its procedures.

446. **The AGO request the submission of active extraditions to the TSJ.** Once an active extradition request is received, the TSJ decides if such request is admissible and, where appropriate, this is submitted to the requested country. The country provided an example from 2017 related to corruption, influence peddling, ML and criminal association by a Venezuelan citizen located in Colombia. In that case, the grounds for an extradition include the principle of dual criminality and the applicability of international agreements, such as the Bolivian Agreement on Extradition signed in Caracas in 1911.

447. **The TSJ is also responsible for monitoring the progress of the active extradition requests submitted and, consequently, sends reminders to the requested country through the Ministry of Foreign Affairs.** The assessment team did not obtain statistical information on the active extradition requests submitted by the AGO to the TSJ between 2016 and 2021, nor on the number of such requests that were declared admissible or inadmissible or how many of them are still ongoing. Likewise, it did not receive information either on the number of reminders sent to requested countries to encourage them to execute the active extradition requests.

448. **According to the AGO, the country processed 64 active extradition requests in the period 2016-2021,** which involved 83 persons. The jurisdictions with the largest number of requests were Colombia (27), Spain (15), the United States (14) and Panama (5). The following table details the status of these requests:

Table 8.6. Active extradition requests

Status	2016	2017	2018	2019	2020	2021	Total
Dismissed	0	0	1	0	0	1	2
Admitted	10	9	29	7	5	2	62
Total	10	9	30	7	5	3	64

Source: AGO's Directorate of International Affairs

449. **Once the country makes a formal extradition request, the requested country should comply with the time set out in the treaties and agreements signed and ratified,** which can range from 40 to 120 days. It should be noted that at the time of writing of this report, Venezuela had limited assistance from countries such as Colombia and the USA, since they refused to recognize Venezuelan government agencies and did not cooperate with the requests made.

450. **The Bolivarian Republic of Venezuela did not make information available to the assessment team on the number of active extradition requests completed,** the number of reminders sent to the central authorities of the requested countries, nor the average time in which responses to extradition requests were received where they dealt with persons involved in cases of ML, predicate offences and TF.

8.2.3. Seeking other forms of international cooperation for AML/CFT purposes

The UNIF and law enforcement authorities

451. **As a member of the Egmont Group since 1999, the UNIF has a well-developed international cooperation framework.** The UNIF does not require an MOU to facilitate the exchange of information with its foreign counterparts. Notwithstanding this, it has signed MOUs with 39 countries and 34 of those MOUs are still in force. During the assessment period, the country exchanged information with 17 jurisdictions with which it had not signed MOUs, thus demonstrating that the absence of MOUs is not an obstacle to cooperation. According to the information provided by the Bolivarian Republic of Venezuela, all information exchanges between the UNIF and its foreign counterparts are conducted through the Egmont Group's secure web, which is protected by an end-to-end communication system that allows the receipt and dissemination of encrypted emails.

452. **However, from a practical point of view, the Bolivarian Republic of Venezuela does not make sufficient use of international cooperation mechanisms.** Over the 2016-2021 period, the UNIF submitted a total of 21 requests to other FIUs (three in 2016, six in 2017, four in 2018, six in 2019, one in 2020 and one in 2021). Regarding the types of crime involved, nine requests were related to ML, seven to corruption, two to fraud, one to drug trafficking, one to currency exchange crimes and one to cybercrime.

When taking into consideration the risks faced by the country according to the 2015-2020 NRA, this number is low. In addition, the number of requests made by foreign counterparts to the UNIF during the assessment period was 232 and the number of spontaneous disclosures received was 64; these amounts are considerably higher than that of the number of requests sent, which suggests that cooperation is not sought in a manner that is consistent with the country's risk. The two spontaneous disclosures sent were related to fraud and cybercrime, respectively. On the other hand, the country has not provided information on how useful the cooperation received by the UNIF was, so the assessment team could not analyse this factor.

453. International cooperation among law enforcement authorities is conducted through the INTERPOL National Central Bureau, which is located within the Ministry of People's Power for Internal Affairs, Justice and Peace. Previously, said agency was attached to the CICPC. Based on the information provided, this modification does not affect the readiness and timeliness of police cooperation, since the personnel attached to said agency are employees on secondment from the CICPC and they have direct access to the operational information contained in the CICPC records. Thus, information on criminal records would be provided immediately, while information that needs to be requested to other authorities (fingerprints, migratory movements, photographs, among other types of information) would be provided in a term of about a week.

454. From the data provided by the Venezuelan authorities, during the period 2015-2021, a request was made to the General Secretariat of the Interpol to include 83 cases as red notices in relation to ML/TF. Out of these requests, 43 were published by the General Secretariat of the Interpol: 41 related to ML and 2 to TF. However, no information was provided on the response to such requests, nor on how useful it was in the pursuit of AML/CFT objectives.

Other competent authorities

455. In accordance with Article 5 of the LOCDOFT, the ONCDOFT organizes and monitors international cooperation on organized crime and TF. In practice, though, other competent authorities establish direct relations with their foreign counterparts, although this cooperation can also be conducted through the Ministry of Foreign Affairs.

456. During the on-site visit, both the ONCDOFT and the supervisory authorities and the SENIAT made reference to the role of coordinator played by the Ministry of Foreign Affairs, to which they make the request if they need information and which subsequently forwards such request to its foreign counterpart.

457. On the other hand, the country provided information on international agreements that, though not limited to ML/TF, could be used for the exchange of information on the matter, as is the case of the MOUs that the SUDEBAN has signed with foreign counterparts. Specifically, since 1997, the SUDEBAN has signed 17 agreements (16 of which are currently in force) with banking supervisory authorities, mainly from neighbouring countries. The country has not provided evidence that the rest of the supervisory authorities have signed similar agreements.

458. Notwithstanding, the country did not provided information demonstrating that this cooperation is actually being sought by the Venezuelan authorities. During the on-site visit, the assessment team tried to obtain data on the exchanges of information with other authorities channelled through the Ministry of Foreign Affairs over the assessment period. However, this information was not obtained, so it is concluded that, beyond the exchanges conducted by the UNIF and the requests channelled through the AGO by law enforcement authorities, the rest of the authorities do not actively seek cooperation from their foreign counterparts.

8.2.4. Providing other forms of international cooperation for AML/CFT purposes

The UNIF and law enforcement authorities

459. **The UNIF has demonstrated its capacity to provide quality information to its foreign counterparts.** Over the 2016-2021 period, it received a total of 232 requests by other FIUs, a number ten times higher than the number of requests made.

460. Out of the 232 requests made in the assessment period, 146 (62.93%) received a positive response. According to the Bolivarian Republic of Venezuela, the average response time, which according to the Procedures Manuals should range from 1 to 4 weeks, was 30.51 days in practice. During the assessment period, it also issued 2 spontaneous disclosures.

Table 8.7. Requests received by the UNIF in the period 2016-2021

Indicator	2016	2017	2018	2019	2020	2021	Total
Number of requests	61	58	46	29	22	16	232
Answered	36	33	31	23	12	11	146
Rejected	25	25	15	6	10	5	86
Average response time - in days	27.7	32.15	19.73	18.65	36.89	47.94	30.51

461. Regarding the type of crime related to the requests, 118 were related to ML, 39 to corruption, 14 to drug trafficking and 9 to TF. As for spontaneous disclosures, the breakdown by type of crime is as follows:

Table 8.8. Requests received by the UNIF by type of crime in the period 2016-2021

Crimes	2016	2017	2018	2019	2020	2021
ML	38	30	24	12	10	4
Drug-related crime	5	0	2	4	2	1
Terrorism	1	1	5	0	2	0
Fraud	0	4	2	1	1	0
Tax evasion	1	2	0	0	0	1
Corruption	10	8	8	9	0	4
Transportation of undeclared cash	3	3	1	2	3	1
Misappropriation of funds	0	1	0	0	0	0
Bribery	1	6	0	0	1	0
Cybercrime	1	1	0	0	2	2
Embezzlement	1	0	2	0	0	1
Organized crime	0	1	0	0	0	0
Unlicensed bank intermediation	0	0	1	0	0	0
Forgery of documents	0	0	1	0	1	1
Trafficking of gold	0	0	0	0	0	1
Human trafficking	0	0	0	1	0	0
Extortion	0	1	0	0	0	0
Total	61	58	46	29	22	16

462. Based on the information provided by the global network, countries regard that the information provided the UNIF is good, except for some cases in which no response was received. It should be mentioned that the responses channelled through the Egmont Group are adequate, both in terms of quality and average response time. Specifically, out of the 11 delegations that made comments to the UNIF, 7 assessed the information received positively, 2 did not assess the quality of the information, and 2

highlighted the lack of response. In some cases, the disposition of the Venezuelan FIU to cooperate informally has also been highlighted. It was pointed out that on a certain occasion the UNIF has functioned as a point of contact with other national authorities which were difficult to reach otherwise.

463. From the data provided by the country, it was possible to verify a progressive reduction in the number of requests for information from other countries to the UNIF, in particular as of 2019. The assessment team does not have specific data to account for this change in pattern; however, this could be explained by the rupture of diplomatic relations at the beginning of 2019 between the Bolivarian Republic of Venezuela and two countries of the global network. The assessment team, though, did not see this change as an obstacle for the UNIF to provide information to its foreign counterparts, as shown in the case of Table 8.1.

Box 8.1. Cooperation between FIUs

In 2019, the UNIF received a request from a foreign FIU which was conducting an analysis of a Venezuelan woman and her dual citizen husband, who was awaiting sentence in the requesting country for the crimes of corruption and money laundering. Following a telephone call, the UNIF urgently set the process into motion and sent the requesting country the findings and authorization to disclose them to the law enforcement authorities in their jurisdiction. The requesting country requested additional information on the professional activity of the Venezuelan citizen which was subsequently obtained from the SENIAT.

As a result of this request, the UNIF provided the appropriate contacts to continue with a formal MLA request. According to the information provided by the Bolivarian Republic of Venezuela, the funds of the requested persons were frozen at that moment and the legal proceeding was still ongoing in the requesting jurisdiction.

464. The Bolivarian Republic of Venezuela has provided several examples that demonstrate that the country cooperates with foreign authorities, as well as examples of cases in which they refused to provide information when, according to the country, doing so was not in accordance with the Best Practices for the Exchange of Information between FIUs adopted by the Egmont Group. Most of the requested rejected by the UNIF did not allow to understand the relation between the information and the requesting country, since they were addressed to all the FIUs that are members of the Egmont Group.

465. Regarding examples of successful cooperation, the Bolivarian Republic of Venezuela told the assessment team about the Andorra Case, where the exchange of data between the UNIF and the Swiss FIU and the acquisition of information available in the news section of the FinCEN website, in relation to senior officials from *Banca Privada d'Andorra* led to the arrest of senior executives of a Venezuelan state-owned company. According to the information provided by the country, the fact that such cooperation was triggered by information requests made in 2014 by the Swiss FIU and an open FinCEN publication, demonstrates the capacity of the Venezuelan authorities to cooperate with foreign counterparts in terms of financial intelligence, but not their proactivity.

466. The DAI reported that it did not receive any MLA requests related to the Andorra case from any of the countries associated with it. As for active MLA requests, in 2017, the National Anti-Corruption Public Prosecutor's Office sent two MLA requests to the USA and to the Principality of Andorra, respectively, and in 2018, it sent an MLA request to Switzerland; however, there has been no response to these requests to date.

467. The mechanism described above, that is, requests made by other countries through the INTERPOL network, is the mechanism used by law enforcement authorities to provide information. In particular, during the period 2015-2021, the CICPC received 667 requests for information regarding ML and 77 regarding TF, out of which 52% were processed and 48% were rejected. The average response

time for such requests being between 3 weeks and two months. The type of information requested in relation to ML can be seen in the following table:

Table 8.9. Type of information requested to the INTERPOL National Central Bureau in the period 2016-2021

Answered				Rejected		
Footprints	Photographs	Migratory movements	Criminal records	Company's articles of incorporation	Bank accounts / movements	Telephone records
96	96	96	99	119	119	119
387				357		

468. As can be seen in the table above and taking into account the information provided by the country, the number of rejected requests is 357. These requests were related bank accounts, bank movements, telephone records or articles of incorporation, among others, and, according to the country, they should be processed through diplomatic mechanisms or mutual legal assistance that exceed the powers of the INTERPOL National Central Bureau.

469. Likewise, during the assessment period, the INTERPOL National Central Bureau issued 117 red notices from other countries, involving mainly the following predicate offences: drug trafficking (34); fraud and embezzlement (23); robbery (11), criminal association (10) and money laundering (7).

470. The country indicated that there are no pending requests, since they were all accepted or rejected. However, some delegations of the global network have expressed the absence of a response or delay in response times.

471. Finally, in the case of the rest of the law enforcement authorities, the SUNAD plays an active role in international cooperation on drug trafficking, and, in some cases, the international cooperation instrument approved with foreign counterparts allows it to provide cooperation on ML/TF issues; however, in practice, the bilateral cooperation provided by the SUNAD so far has not been related to ML or TF.

Other competent authorities

472. The rest of the Venezuelan authorities offer little cooperation at the international level. Apart from cooperation in the framework of financial intelligence and law enforcement authorities, information on cooperation provided by other authorities is scarce. From the organisational point of view, cooperation would be channelled through the Ministry of Foreign Affairs, but there is no data to demonstrate that this type of cooperation has been provided, with the exception of the SAREN, which is explained in the following core issue.

473. Based on the information provided by the global network, there is only one case in which cooperation was requested by a supervisor to the Venezuelan counterpart and there was no response in this regard, so little information is available. Thus, the assessment team could confirm that this type of cooperation is neither frequent nor a priority.

8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements

474. The country has provided information on the exchange of beneficial ownership information conducted by the UNIF and the SAREN, but not by the rest of the authorities.

475. According to the information provided by the Bolivarian Republic of Venezuela, the UNIF has access to the beneficial ownership information through its own databases (SIF, SAR Control, national registry of requested persons, registry of MLA), databases of other government agencies (e.g., the SAIME, the SAREN and the SENIAT) and open sources of information.

476. However, the assessment team considers that deficiencies in technical compliance have an impact on this. Thus, the LOCDOFT does not define “beneficial owner” (see analysis of criterion 10.5), which affects the understanding by competent authorities and reporting entities of what information should be gathered to identify the persons who own or control a natural or legal person (see analysis of criteria 24.6 and 24.7) or a trust (see analysis of criterion 25.1); therefore, the information that the UNIF can consult and share with foreign authorities on this matter is incomplete.

477. On the other hand, the exchange of beneficial ownership information during the assessment period is scarce, and the country has not shown that the information it provides is good quality information. During the period 2015-2020, the UNIF made 19 requests for beneficial ownership information and received 54 requests on the same matter. Based on the information provided by the global network, some delegations highlighted the quality of the beneficial ownership information, as well as to the authorization granted by the UNIF to disseminate the information provided, thus making cooperation effective. Regarding the cases in which the UNIF collected beneficial ownership information from its foreign counterparts, although the number is not high, it should be pointed out that the UNIF makes use of this mechanism when it requires said information.

478. Regarding the SAREN, during the period 2016-2021, 13 information requests were received from foreign competent authorities in relation to information on natural and legal persons which were channelled through the Directorate of Consular Relations, attached to the Ministry of People’s Power for Foreign Affairs. The SAREN responded to the requests received but did not provide data on the response time or content of said requests, so the assessment team could not verify the quality of the information provided. The technical compliance deficiencies would also have an impact on this.

479. Finally, it is worth noting that there is no information on cooperation with other agencies, such as the SENIAT, in terms of beneficial ownership, or data showing that they have information on legal persons. Nor was it mentioned that there had been an active search for beneficial ownership information through requests sent to foreign counterparts by authorities other than the UNIF.

Overall conclusion on IO.2

480. The UNIF provides good quality information, although it is considered that the country does not proactively seek cooperation from other countries and the information that it does seek is not in line with the country’s risk. Apart from the UNIF, the exchange of information with foreign counterparts is not among the priorities of the rest of the authorities, and in the case of law enforcement agencies, the mediation of the AGO is seen as a hindrance to ensure the timeliness of information.

481. The Bolivarian Republic of Venezuela is rated as having a low level of effectiveness for IO.2.

TECHNICAL COMPLIANCE ANNEX

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

2. Where both the FATF requirements and national laws or regulations remain the same as those reviewed in the context of the 3rd Round of Mutual Evaluations, this report refers to analysis conducted as part of the Mutual Evaluation of the Bolivarian Republic of Venezuela in 2009. This report is available at www.cfatf-gafic.org.

Recommendation 1 - Assessing risks and applying a risk-based approach

The requirements of R.1 were incorporated into the FATF standards in 2012 and therefore were not assessed in the 3rd Round of Mutual Evaluations.

Criterion 1.1 – The first NRA of the Bolivarian Republic of Venezuela covered the period 2014-2018. This assessment was updated to include the period 2015-2020 and assesses the country’s ML, TF and PF risks. This analysis focuses on the 2015-2020 NRA.

Risk identification was conducted based on round table discussions, expert opinions, sectoral statistics, case studies and typologies. However, although the 2015-2020 NRA states that sectoral risk assessments were used, these were still not available during the assessment period.

When analysing ML threats, the report addresses the nature, frequency and location of the main predicate offences committed in the country. Nevertheless, the assessment does not address other threats that are relevant according to the context of the country, such as human trafficking and migrant smuggling. When analysing vulnerabilities, the report addresses a range of political, economic, social, technological, environmental and legislative factors. As a result, it was possible to identify eight ML risks. However, the concept of risk is not clear in relation to the threats and vulnerabilities mentioned in the report, and it is possible to observe conceptual confusion between risks and vulnerabilities.

Regarding TF threats, the 2015-2020 NRA does not explain in detail which persons or groups could finance terrorism, while the identification of vulnerabilities is very limited and only briefly addresses the lack of technology and training in the public sector, as well as a low perception of risk in the private sector. The concept of TF risk has the same shortcomings as that of ML risk explained above.

Both in the case of ML and TF risks, the report does not explain which criteria were used to determine their likelihood of occurrence and impact and, consequently, to determine their magnitude and the priority with which they should be addressed.

Criterion 1.2 – According to Articles 5 and 6.3 of the LOCDOFT, the National Office against Organized Crime and Terrorist Financing (ONCDOFT) is the agency empowered to coordinate the NRAs of the Bolivarian Republic of Venezuela and, in practice, it has established a Technical Coordinating Committee to conduct risk assessment activities.

Criterion 1.3 – The Bolivarian Republic of Venezuela assessed its ML and TF risks at the national level for the first time for the period 2014-2018. Such assessment was updated to cover the period 2015-2020. Nevertheless, this update is not part of a formal exercise provided for within the operational framework of the ONCDOFT.

Criterion 1.4 – The ONCDOFT published an executive summary of the 2015-2020 update of the NRA via its webpage and forwarded the results of the NRA to supervisors by means of official communications.

Criterion 1.5 – The strategy called “*Gran Misión Cuadrantes de Paz*” is the main instrument to guide government actions against organized crime, which includes ML, TF and various predicate offences regulated in the LOCDOFT. However, its content is not based, where relevant, on a ML/TF NRA. Although the country has an anti-drug plan, the lack of a plan adopting the strategy in other areas shows that no actions have been taken to apply an RBA to the allocation of resources and the implementation of measures to prevent or mitigate ML/TF risks.

Criterion 1.6 – The Bolivarian Republic of Venezuela has not applied any exemption from the FATF Recommendations in its AML/CFT framework.

Criterion 1.7 – In general, supervisors do not require FIs and DNFBPs to adopt enhanced measures to manage and mitigate the major risks identified in the 2015-2020 NRA or to incorporate this information into their institutional risk assessments. On the other hand, Article 14.4.g. of SUDEASEG Resolution SAA-8-004-2021 requires entities in the insurance sector to consider the findings of NRAs when identifying high-risk geographic areas; however, this provision is a just a small exception to the significant shortcoming identified here.

Criterion 1.8 – The sectors supervised by the SUDEBAN, the SUDEASEG and the MINTUR are not authorized to apply simplified measures. The same is true for casinos, the real estate sector and dealers in precious metals and stones. This criterion is not applicable to these sectors. In contrast, the sectors supervised by the SUNAVAL and the SAREN are authorized to implement simplified measures, but the application of such measures is not conditional on their being consistent with the results of the NRAs (see c.10.18 and c.22.1). Regarding the application of enhanced measures in those cases in which the FATF identifies high-risk activities, the deficiencies identified in R.10, 12-16 and 19 affect compliance with this criterion.

Criterion 1.9 – Article 7 of the LOCDOFT details the list of prevention, control, supervision, oversight and surveillance agencies, granting the responsibility of supervising financial institutions (FIs) to the Banking Superintendency (SUDEBAN), the Insurance Superintendency (SUDEASEG) and the National Securities Superintendency (SUNAVAL).

In the case of designated non-financial businesses and professions (DNFBPs), Article 7 of the LOCDOFT only identifies two supervisory agencies: the Registries and Notaries Offices Autonomous Service (SAREN) and the National Commission of Casinos, Bingos and Slot Machines (CNC). No supervisory agency was found for the rest of the DNFBPs defined by R.22. Article 8 of the LOCDOFT describes the obligations of supervisors, while Article 9 lists the reporting entities. With the exception of notaries and casinos, it was not possible to determine the respective supervisory agency.

As indicated in c.1.10, not all FIs and none of the DNFBPs are required to conduct assessments of their ML/TF risks. Therefore, not all relevant sectors can be supervised nor are they required to comply with the requirements of R.1.

Criterion 1.10

- (a) Based on Article 40 of SUDEBAN Resolution 083.18, Articles 10 and 19 of SUDEASEG Resolution SAA-8-004-2021 and Article 14 of SUNAVAL Resolution 209, the assessment team interprets that the reporting entities in the banking, insurance and securities sectors are required to document their institutional ML/TF risk assessments. The other FIs and DNFBPs are not subject to provisions that meet this sub-criterion.
- (b) Regarding ML/TF, in accordance with Article 42 of SUDEBAN Resolution 083.18, Article 11 of SUDEASEG Resolution SAA-8-004-2021 and Article 9 of SUNAVAL Resolution 209, the reporting entities of the banking, insurance and securities sectors are required to consider all the relevant risk factors before determining the overall level of risk and the appropriate type and extent of mitigation to be applied. The other FIs and DNFBPs are not subject to provisions that meet this sub-criterion.
- (c) Article 40 of SUDEBAN Resolution 083.18, Article 11 (second paragraph) of SUDEASEG Resolution SAA-8-004-2021 and Article 14 of SUNAVAL Resolution 209 require reporting entities in the banking, insurance and securities sectors to keep their institutional assessments updated in terms of ML/TF. The other FIs and DNFBPs are not subject to provisions that meet this sub-criterion.
- (d) Regarding ML/TF, Article 40 (second paragraph) of SUDEBAN Resolution 083.18, Articles 10 and 19 of SUDEASEG Resolution SAA-8-004-2021 and Article 14 of SUNAVAL Resolution 209 establishes mechanisms for reporting entities in the banking, insurance and securities sectors to provide information on their institutional risk assessments to their respective supervisors. The other FIs and DNFBPs are not subject to provisions that meet this sub-criterion.

Criterion 1.11

- (a) The banking, securities and insurance sectors; tourism service providers; casinos and bingos; and VASPs should have policies, rules and procedures to manage ML/TF/ PF risks and such should be approved by the senior management, in accordance with Articles 8.2, 15.3, 16, 19.4 and 40 of SUDEBAN Resolution 083.18; Articles 6, 7 and 16.4, of SUNAVAL Resolution 209; Articles 6, 7 and 21.7 of SUDEASEG Resolution SAA-8-004-2021; Articles 7, 11.2 and 12.1 of MINTUR Resolution 020; Articles 6 and 9.3 of CNC Administrative Resolution DE-19-01; and Articles 6, 13.2 and 14 of SUNACRIP Resolution 44-2021. The SAREN should also have risk-based policies, rules and procedures. It is responsible for planning and executing preventive, control and supervisory measures in relation to the registries and notaries offices. However, this centralized planning can make it difficult to consider the specific risks of each reporting entity (Articles 7, 10.1 and 12.1 of SAREN Resolution 008. The other FIs, including, at least, cooperatives and savings banks, and the other DNFBPs, have no obligations in this regard.
- (b) The reporting entities specified in the preceding section should monitor controls in order to improve. The relevant provisions for this sub-criterion are Articles 19.5 and 39 of SUDEBAN Resolution 083.18; Articles 6 and 77 of SUNAVAL Resolution 209; Article 17 of SUDEASEG Resolution SAA-8-004-2021; Article 38 of MINTUR Resolution 020; Articles 14.7 and 40 of CNC Administrative Resolution DE-19-01; Articles 15, 16 and 24 of SAREN Resolution 008 and Article 32 of SUNACRIP Resolution 44-2021.
- (c) The reporting entities specified in Criterion 1.11 (a) are required to adopt enhanced due diligence where higher risks are identified. The relevant provisions for this sub-criterion are Article 46 of SUDEBAN Resolution 083.18; Article 44 of SUNAVAL Resolution 209; Article 18 of SUDEASEG Resolution SAA-8-004-2021; Article 40 of MINTUR Resolution 020; Articles 32 and 40 of CNC

Administrative Resolution DE-19-01, Article 26 of SAREN Resolution 008 and Articles 35 and 45 of SUNACRIP Resolution 44-2021.

Criterion 1.12 – The adoption of simplified measures to manage and mitigate risks is only allowed for the securities sector. Article 44 of SUNAVAL Resolution 209 allows the reporting entities in the securities sector to adopt simplified measures to manage and mitigate risks if low risks have been identified. However, such provision does not prohibit the application of simplified measures where there is suspicion of ML/TF. On the other hand, while SUDEBAN Resolution 083.18 and SUDEASEG Resolution SAA-8-004-2021 do not allow for the application of simplified measures, the banking and insurance sectors should apply standard measures where risks are low, so this criterion is not applicable to them. The country neither establishes simplified measures for DNFBPs.

Weighting and conclusion

The Bolivarian Republic of Venezuela has assessed its ML/TF risks on two occasions and the ONCDOFT is the agency in charge of conducting such risk assessments. The 2015-2020 NRA is the most recent assessment and it analyses the country's ML, TF and PF risks. The assessment team considers that there exist several deficiencies related to the identification, analysis and assessment of the threats, vulnerabilities and risks identified, and has also found that the results of the 2015-2020 NRA have not been used as a basis to establish mitigating measures which are proportionate to the country's risks. On the other hand, several FIs and DNFBPs are not subject to risk assessment and mitigation requirements.

R.1 is rated Partially Compliant.

Recommendation 2 - National cooperation and coordination

The Bolivarian Republic of Venezuela was rated LC with respect to the national cooperation and coordination requirements in its 2009 MER. The deficiency identified was lack of implementation of the principle of inter-agency cooperation and coordination provided for in several laws. Since 2018, the requirements of the current R.2 include the duty to ensure the compatibility of AML/CFT requirements with data protection and privacy rules, as well as the promotion of the exchange of information among competent authorities.

Criterion 2.1 – The country has a national security and defense strategy called “*Gran Misión Cuadrantes de Paz.*” This strategy, approved in 2019 and therefore covered by the 2015-2020 NRA, establishes strategic lines to address corruption, organized crime, drug trafficking and terrorism, among other issues. These strategic lines were supposed to lead to national plans against corruption, drugs, criminal gangs, terrorism, human trafficking, migrant smuggling, kidnapping, robbery and theft of strategic materials, among other threats. Nevertheless, except for the 2019-2025 National Anti-Drug Plan—whose approval also precedes the 2015-2020 NRA—, these plans were not in force at the time of the on-site visit. The ONCDOFT also reported that it has worked on the design of a national plan against organized crime and TF as part of the actions derived from this strategy, but such plan was not approved at the time of the assessment either. Based on these findings, the assessment team concludes that the country does not have AML/CFT policies at the national level that take into account the risks identified in the 2015-2020 NRA and that are reviewed periodically, either by legal provision or in practice.

Criterion 2.2 – Article 5 of the LOCDFT designates the ONCDOFT as the agency responsible for national AML/CFT policies.

Criterion 2.3 – Article 6.1, 6.3 and 6.4 and Article 24 (second paragraph) of the LOCDFT allow the Venezuelan authorities, under the direction of the ONCDOFT, to cooperate and coordinate to develop AML/CFT policies. Notwithstanding this, Article 3 of Decree 3656 empowers the UNIF to formulate

AML/CFT policies based on contributions provided by supervisors, which is at odds with a provision of higher rank—Article 5 of the LOCDOFT—which designates the ONCDOFT as the agency responsible for the formulation of policies against ML, TF and organized crime. Secondly, it should be noted that supervisors should cooperate with the UNIF in the implementation and execution of the policies issued by this agency, but this duty has no legal basis in the case of the SUDEBAN and the SUNAVAL, since they are autonomous agencies and this duty cannot be imposed on them by executive decree, as can be confirmed by the provisions of Article 153 of the Law of Entities in the Banking Sector (LISB), Article 93 of the Securities Market Law (LMV) and Article 3 of Decree 3656.

On the other hand, Articles 1, 6.3, 8.7 and 8.8, and 25.8 of the LOCDOFT; Article 5.26 of the Organic Law on Drugs (LOD); Article 6.9 of the LAA; Article 3.12 of SENIAT Resolution 0016; and Article 98.21 of the LMV allow for cooperation, coordination and exchange of information among competent authorities.

Criteria 2.4 and 2.5 – The country does not have mechanisms or provisions, respectively, for the implementation of these criteria.

Weighting and conclusion

In the Bolivarian Republic of Venezuela, the ONCDOFT is the authority responsible for national AML/CFT policies. In spite of this, at the time of the on-site visit, the country did not have national AML/CFT policies that took into account the risks identified in the 2015-2020 NRA. On the other hand, competent authorities have a legal framework to cooperate and establish coordination activities to address AML/CFT policies and activities. However, they do not have similar mechanisms for PF, nor to ensure that the AML/CFT regulations are compatible with data protection and privacy. **R. 2 is rated Partially Compliant.**

Recommendation 3 - Money laundering offence

The Bolivarian Republic of Venezuela was rated LC in relation to the requirements on the criminalization of ML in its 2009 MER based on the 2005 Organic Law against Organized Crime. The deficiencies identified were lack of some predicate offences, few convictions and, as a consequence, lack of effectiveness in the implementation of the ML offence. The Organic Law against Organized Crime was abrogated in 2012 by the LOCDOFT.

Criterion 3.1 – Article 35 of the LOCDOFT criminalizes ML. This article implements Article 3(1) (b)(i) and (c)(i) and (ii) of the Vienna Convention and Article 6(1)(a)(i) of the Palermo Convention. Article 3(b)(ii) of the Vienna Convention and Article 6(1)(a)(ii) of the Palermo Convention are not adequately incorporated into Article 35.2 of the LOCDOFT because this article does not refer to the illicit origin of the goods. On the other hand, the LOCDOFT does not set forth any special provision on ancillary crimes, and therefore the provisions of the Criminal Code on this issue are applicable to the crime of ML. In this regard, Articles 80, 83, 84, 284 and 287 of the Criminal Code comply with Article 3(c)(iii) and (iv) of the Vienna Convention and Article 6(1)(b)(ii). On the other hand, Article 37 of the LOCDOFT, as well as Article 287 of the Criminal Code, criminalizes association, although they name and punish the conduct differently, which can create confusion as to which is the applicable provision in the event that an individual associates with another to commit the crime of ML.

Criterion 3.2 – According to Article 27 of the LOCDOFT, the organized crime-related offences provided for in the LOCDOFT, the Criminal Code and special laws are ML predicate offences when they are committed by an organized criminal group. Article 4.9 of the LOCDOFT defines “organized crime” as the action or omission of *three or more persons that associate with* other criminals to commit crime, as

well as the action conducted by a single person acting as the administrative or governing body of a legal person, leaving a legal vacuum for the application of the crime of ML in the case of predicate offences committed by one or two persons acting on their own behalf and not on behalf of a legal person. The country has regulations in place regarding the classification of crimes in accordance with the categories of offences in the FATF Glossary.

Criterion 3.3 – All the crimes provided for in the legislation are ML predicate offences pursuant to the provisions of Article 35 of the LOCDOFT, which criminalizes ML.

Criterion 3.4 – Pursuant to Articles 4.6 and 35 of the LOCDOFT, the crime of ML covers any type of property that, regardless of its value, constitutes, either directly or indirectly, the proceeds of crime.

Criterion 3.5 – In the Bolivarian Republic of Venezuela, the crime of ML is a stand-alone offence that requires specific intent, meaning that the accused knows and is aware of the fact that the funds or benefits come directly or indirectly from an illegal activity. As provided for in Article 35 of the LOCDOFT, no prior conviction of a predicate offence is required to be convicted of ML.

Criterion 3.6 - Articles 3 and 73 of the LOCDOFT establish that the provisions with extraterritorial scope contained in said law are mandatory.

Criterion 3.7 – The crime of ML appears to be applicable to all persons committing a predicate offence. Although Article 49.7 of the Constitution of the Bolivarian Republic of Venezuela establishes that no person may be prosecuted for the same facts by virtue of which they had been tried previously, the crime of ML does not seem to require the application of a prior conviction of the predicate offence and there seems to be no obstacle to the application of the money laundering offence.

Criterion 3.8 – The LOCDOFT does not establish special rules regarding evidence. Therefore, the evidence-related provisions of Articles 22 and 182 of the Organic Code of Criminal Procedure are applicable to this criterion. However, Article 182 of the Organic Code of Criminal Procedure is not clear when indicating that the intent and knowledge required to prove the crime of ML can be inferred from objective factual circumstances, since said article limits the application of this legal provision to the fact that there are no other legal provisions that contradict it or that are not expressly prohibited by other laws.

Criterion 3.9 – Articles 37 and 94 of the Criminal Code set forth the rules to apply punishments within maximum and minimum limits, stating also that the prison sentence may not exceed, in any case, the maximum limit of thirty (30) years.

Article 35 of the LOCDOFT establishes a minimum sentence of ten (10) years in prison and a maximum of fifteen (15), as well as a fine equivalent to the value of the ill-gotten wealth, for the crime of ML. According to Article 4.10 of the LOCDOFT, the severity of this punishment makes ML a serious crime.

On the other hand, the severity of the punishment for ML is similar to that provided for in the LOCDOFT for other organized crimes-related offences, e.g. trafficking and illegal trade in strategic resources or materials is punishable by imprisonment for eight (8) to twelve (12) years; arms trafficking is punishable by imprisonment for twelve (12) to eighteen (18) years; and illegal immigration and human trafficking is punishable by imprisonment for eight (8) to twelve (12) years.

In addition to the above, Article 28 of the LOCDOFT establishes that when the crimes provided for in said law, including ML, are committed by an organized criminal group, the punishment will be increased by half. Article 16 of the Criminal Code establishes as punishment the accessory penalty of political disqualification during the time of the sentence and surveillance by the authority for a fifth of the time of

the sentence once served; and Articles 35 and 55 of the LOCDOFT set forth that the instrumentalities or the proceeds of ML should be forfeited or confiscated.

In accordance with the above, the assessment team considers that the punishment to the crime of ML is proportionate and dissuasive.

Criterion 3.10 – Articles 31 and 32 of the LOCDOFT allow criminal, administrative and civil sanctions to be applied to private legal persons, their governing bodies or representatives.

Legal persons, management bodies or representatives of legal persons that are state-owned cannot be sanctioned in accordance with the LOCDOFT. The assessment team considers that this characteristic is an important deficiency because the public sector has a large number of highly relevant companies which could not be sanctioned if they engaged in ML cases.⁷⁷

In the case of legal persons in the banking, financial or any other sector of the economy that wilfully commit or contribute to organized crime and TF, the AGO notifies the corresponding supervisory agency for the application of administrative measures.

The sanctions that the competent judge can impose include the definitive closure of the legal person; the prohibition to carry out commercial, industrial, technical or scientific activities; the confiscation or forfeiture of the proceeds and instrumentalities of crime; the publication of the sentence; a fine equivalent to the value of the capital and assets or of their products; and referral of the case to the corresponding entities to decide the cancellation of concessions, authorizations and administrative licenses granted by the State. These sanctions are applied according to the nature of the act committed, its seriousness, the consequences for the company and the need to prevent crime. The sanctions applied are proportionate and dissuasive in relation to private legal persons.

Criterion 3.11 – The fundamental principles of the Venezuelan law do not pre-empt the existence of ancillary offences to ML. On the other hand, since the LOCDOFT does not establish special provisions on ancillary offences, the provisions of the Criminal Code on this matter are applicable to the crime of ML. In this sense, Articles 80, 83, 84, 284 and 287 of the Criminal Code consider as crimes the participation in, association with or conspiracy to commit, attempt to commit, the acts of aiding and abiding, and the act of facilitating and advising the commission of crimes. However, Article 37 of the LOCDOFT, as well as Article 287 of the Criminal Code, criminalizes criminal association, although describing and punishing the conduct differently, which can create confusion as to which is the applicable provision in the event that an individual associates with another to commit the crime of ML.

Weighting and conclusion

The criminalization of ML in the Bolivarian Republic of Venezuela includes the relevant provisions of the Vienna and Palermo Conventions, although there is a minor deficiency regarding the ancillary offence of criminal association to commit ML. The country has a wide range of predicate offences and can apply the crime of ML to all types of property; Likewise, it can prosecute ML as a stand-alone and extraterritorial offence, and it has proportionated and dissuasive sanctions to punish it. However, the legislation is not clear as to whether the crime can be inferred from objective factual circumstances and the crime is not applicable to legal persons in the public sector. **R.3 is rated Largely Compliant.**

⁷⁷ According to the 2021 report *Transparencia Venezuela, Gobernanza para las Empresas Propiedad del Estado Venezolano* [Governance for Venezuela's State-Owned Companies] (available at transparencia.org.ve), the State has around nine hundred (900) state-owned companies.

Recommendation 4 - Confiscation and provisional measures

The Bolivarian Republic of Venezuela was rated PC with respect to provisional measures and forfeiture requirements in its 2009 MER. The deficiencies identified were related to the lack of registration systems and statistics on forfeitures and the lack of effectiveness in the implementation of the requirements. These deficiencies were addressed through the automation of public registries, the creation of an entity in charge of the administration of forfeited assets and the maintenance of statistics on these. The current R.4 maintains most of the same requirements previously evaluated, the following being new: (i) the requirements on forfeiture and provisional measures extend to properties and assets related to terrorist financing (TF); (ii) the requirements have a more robust approach to the adoption of non-conviction-based forfeiture measures; and (iii) INR.4 requires countries to establish mechanisms that allow their competent authorities to manage and dispose of frozen, seized, or forfeited assets.

At present, the Bolivarian Republic of Venezuela regulates *confiscation* and *forfeiture* as two separate mechanisms. Confiscation is the definitive deprivation of ownership of any property by a court decision, while forfeiture is the definitive deprivation of property rights by a court decision of any property that has been abandoned or unclaimed.

There are deficiencies that affect compliance with the entire Recommendation. First, Article 116 of the Constitution of the Bolivarian Republic of Venezuela limits the application of confiscation to crimes committed against public property, the property of those who have illicitly enriched themselves under the protection of the Public Power and property from commercial, financial or any other activities linked to the illicit trafficking of psychotropic substances and narcotics, which does not cover the full range of predicate offences and does not cover the crimes of ML and TF. Second, there are no provisions for the confiscation or forfeiture of property or assets that are held by third parties.

On the other hand, the Organic Law against Organized Crime and Terrorist Financing (LOCDOFT) only establishes the forfeiture and confiscation of assets of organized crime, a term that includes ML and TF; however, the definition of “organized crime” and of “organized crime offence” established in Article 4.9 and Article 27 of the LOCDOFT only cover acts committed by three or more associated persons or by a single person acting as the governing body of a legal person, with the intention of committing organized crime offences. Thus, the LOCDOFT does not provide for forfeiture and confiscation in the case of crimes committed by an individual acting independently.

Criterion 4.1

- (a) Article 35 of the LOCDOFT authorizes the confiscation and forfeiture of assets or property related to ML, but the implementation of these measures is subject to the limitation of Article 116 of the Constitution.
- (b)
 - (i) Article 32.3 of the LOCDOFT only establishes the confiscation and forfeiture of assets that are the *proceeds* of organized crime and ML committed by legal persons.
 - (ii) The legislation does not explicitly allow for the confiscation and forfeiture of the proceeds of ML or predicate offences *or other benefits derived from such proceeds*.
 - (iii) The forfeiture of *instruments* used in ML or predicate offences is also limited to criminal acts committed by legal persons, in accordance with Article 4.9 and Article 32.3 of the LOCDOFT.
 - (iv) The legislation does not provide for the confiscation and forfeiture of assets that were intended to be used in ML or predicate offences.

- (c) The legislation does not provide for the confiscation or forfeiture of property that is the proceeds of, or was used in, or was intended or allocated to be used to finance terrorism and terrorist acts or organisations.
- (d) The legislation provides for the confiscation or forfeiture of property of equivalent value only for the purpose of providing MLA, but not in relation to offences criminally prosecuted in the Bolivarian Republic of Venezuela, in accordance with Article 86 of the LOCDOFT.

Criterion 4.2

- (a) Article 3.1.c. of Resolution SEB-ONCDOFT-001-2019 requires the SEB to conduct appraisals of assets on seized assets; there are no analogous provisions applicable to the SNB. In general, there are no measures that allow competent authorities to identify and trace assets subject to forfeiture; however, Article 291 of the Organic Code of Criminal Procedure (COPP) requires public and private organisations to provide the information requested by the Attorney General's Office or any investigative agency, and Article 10 of the LOCDOFT requires reporting entities to maintain a minimum amount of information related to their transactions for a minimum of five years (see analysis of R.11), which are provisions that allow, to a certain extent, to identify, track and assess property subject to forfeiture.
- (b)
 - (i) Article 55 of the LOCDOFT establishes the seizure of movable and immovable property that has been used in the commission of the offence under investigation or on which there are conviction elements of its illegal origin.
 - (ii) Articles 56 and 64 of the LOCDOFT allow the *freezing* of bank accounts belonging to people linked to organized criminal groups; however, the law does not extend to persons who act independently from a criminal organisation. Furthermore, this measure is only applicable in relation to organized crime offences and does not extend to a wide range of predicate offences.
 - (iii) Article 518 of the COPP establishes that the provisions of the CPC on the application of preventive measures related to the seizure of movable and immovable property, that is, *seizure* of movable property, *seizure* of certain assets and *prohibition to sell or encumber* real estate properties, are applicable to criminal procedural matters. In addition to these measures, the judge may agree on complementary provisions to ensure the effectiveness and result of the measure.
 - (iv) There are no provisions establishing that property subject to confiscation may be subject to the above-mentioned measures without prior notice.
- (c) Article 57 of the LOCDOFT establishes the concepts of depositary and special administrator, who have the responsibility, among others, of preventing the seized assets from disappearing or being destroyed. Depositaries also intervene in the case of real estate subject to the preventive measures provided for in the CPC. Moreover, Article 59 of the LOCDOFT establishes that, in the case of assets to be confiscated, the judge should conclude whether the legitimate interested party acquired the asset or any right over it in circumstances that reasonably lead to the conclusion that they were transferred to them to avoid a possible preventive seizure, forfeiture or confiscation.
- (d) Article 111 of the COPP, Article 1 of the LOMP and Article 34 of the LOSP empower the Attorney General's Office to conduct investigations. Article 35 of the LOSP empowers the CICPC to do the same. The authorities can also utilise the other investigative measures referred to in the analysis of R.31.

Criterion 4.3 – In accordance with Article 55 of the LOCDOFT, in case of *confiscation* of perishable or difficult-to-manage assets, the judge should listen to interested third parties in good faith before disposing

of such assets, but there are no provisions that establish precisely how such right is exercised and the circumstances under which the judge should conclude that individuals appearing before him have acted in good faith. According to Articles 58 and 59 of the LOCDFT, when it comes to the *forfeiture* of assets, without distinction of their type, the judge should apply a procedure for determining if the legitimate interested parties have the right to have the assets returned to them.

Criterion 4.4 – Based on Articles 54, 55 and 61 of the LOCDFT, the SEB is empowered to manage and dispose of assets seized, forfeited and confiscated in relation to organized crime offences. These provisions are supplemented by Articles 2, 5.1 and 20-31 of Decree 592⁷⁸. Articles 12-17 of Decree 8103⁷⁹ establish similar provisions for the SNB.

Weighting and conclusion

The legal framework regulates several aspects related to the requirements on forfeiture and provisional measures; however, the applicable provisions restrict the scope of provisional confiscation measures to organized criminal groups or persons linked to them and because only predicate offences covered by the LOCDFT are included. On the other hand, the Bolivarian Republic of Venezuela should address the deficiencies related to the constitutional regulation of confiscation; regulate the confiscation and forfeiture of assets that are held by third parties; ensure the forfeiture and confiscation of all types of relevant assets and property; establish measures to track and value assets subject to forfeiture; and strengthen provisions that protect the rights of bona fide third parties. **R.4 is rated Partially Compliant.**

Recommendation 5 - Terrorist financing offence

The Bolivarian Republic of Venezuela was rated PC with respect to the criminalization of TF in its 2009 MER due to deficiencies related to the autonomy of the TF offence, the processing of TF cases and the criminalization of individual terrorists, which were addressed in 2012 with the criminalization of TF in the LOCDFT.

Criterion 5.1 – Article 53 of the LOCDFT criminalizes TF, but it presents deficiencies with respect to the International Convention for the Suppression of the Financing of Terrorism, as shown in Table 1. On the other hand, the ancillary TF offences required in paragraph 5 of Article 2 of the Convention are implemented through Articles 83 and 84 of the CP:

Table 1. Deficiencies in the criminalization of TF

Paragraph of Article 2 of the Convention	Deficiencies identified in the LOCDFT
Paragraph 1	Article 53 of the LOCDFT does not provide for the fact that funds are provided or collected “knowingly” that they will be used in whole or in part to commit said acts.
Paragraph 1, subparagraph a)	The definition of a terrorist act established in Article 4.1, of the LOCDFT does not take into account the offences defined in the following treaties: Protocol for the Suppression of Unlawful Acts of Violence at Airports that Provide Services to International Civil Aviation, Convention on the Physical Protection of Nuclear Materials, Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.
Paragraph 1, subparagraph b)	Article 4 of the LOCDFT defines “terrorist act” as the attempt against the life of a person that “may” cause death, but not as an act “intended” to cause it.

⁷⁸ Decree 592 - Decree establishing the creation of the Specialized Service for the Administration and Disposal of Seized, Forfeited and Confiscated Assets, dependent on the National Office Against Organized Crime and Terrorist Financing.

⁷⁹ Decree 8103 - Decree creating the National Service for the Administration and Disposal of Seized, Confiscated and Forfeited Assets.

Criterion 5.2 – According to Article 53 of the LOCDOFT, the TF offence is extensive to whoever supplies or collects funds by any means to commit one or several terrorist acts or to be used by an individual terrorist or a terrorist organisation, directly or indirectly, and with the aim of using them in whole or in part. In this sense, Article 53 of the LOCDOFT includes options (a) and (b) of Criterion 5.2, so that the assessment team considers that the criterion is covered to the extent that the country satisfies option (a); however, it observes that the country should improve the way in which option (b) has been criminalized, consisting of providing funds to an individual terrorist or to a terrorist organisation because Article 53 of the LOCDOFT does not establish that an offence has been committed in the event that the financing of these terrorist stakeholders is not linked to a specific terrorist act or acts; this observation on option (b) does not affect the way in which this criterion is assessed. In addition to the above, Article 53 of the LOCDOFT is supplemented by the definition of “funds” of Article 4 of the LOCDOFT, which is equivalent to that provided by the FATF for “funds or other assets.” However, the classification of TF does not foresee the case that the financier acts “knowing” that the funds are going to be used to conduct terrorist acts or by a terrorist organisation or by a terrorist.

Criterion 5.2^{bis} – Although Article 53 of the LOCDOFT regulates the TF offence regardless of the country where the terrorist act is carried out, said reference does not address the financing of the trip of individuals who travel to a State other than their State of origin or where they reside with the purpose of perpetrating, planning, preparing, or participating in terrorist acts or providing or receiving terrorist training.

Criterion 5.3 – Article 4 of the LOCDOFT defines “funds” in a manner consistent with the FATF definition of “funds or other assets”; moreover, there are no restrictions in the legislation that prevent the TF offence from extending to funds from legitimate or illegitimate sources.

Criterion 5.4 – When analysing whether the crime of TF does not require that funds or other assets were actually been used to carry out or attempt to carry out a terrorist act (option (a) of the criterion), the assessment team observes that in Article 53, first paragraph, of the LOCDOFT, the TF offence does not require that the funds or other assets are actually used to carry out a terrorist act; however, the provision does not extend to the case where the funds or other assets were not used to “attempt” a terrorist act. On the other hand, the assessment team concludes that option (b) of this criterion is not applicable to the extent that the country already addresses, with limitations, option (a).

Criterion 5.5 – There are deficiencies in the provisions that permit that the intention and knowledge necessary to prove the offence to be inferred from objective factual circumstances (see c.3.8).

Criterion 5.6 – Articles 37 and 94 of the CP establish the rules to apply the sentences within maximum and minimum limits, also establishing that the sentence of deprivation of liberty cannot exceed in any case the maximum limit of 30 years.

Article 53 of the LOCDOFT establishes a prison sentence of at least 15 years and a maximum of 25 years. According to Article 4.10 of the LOCDOFT, the range of this penalty makes TF a serious offence.

On the other hand, the range of the penalty is higher than that provided for other serious offences established in the LOCDOFT, e.g., ML, whose commission is punishable by 10 to 15 years in prison; trafficking and illicit trade of resources or strategic materials, which is punished by a penalty of 8 to 12 years’ imprisonment; and arms trafficking, whose penalty is 12 to 18 years’ imprisonment.

In addition to the above, Article 28 of the LOCDOFT establishes that when the offences provided for in said law, including TF, are committed by an organized criminal group, the sanction will be increased by half. Article 16 of the CP subjects all crimes to the accessory penalties of political disqualification during

the time of the order and subject to surveillance by the authority for a fifth of the time of the sentence, once served, and Article 55 provides that capital, goods or assets subject to organized crime offences, including TF, should be forfeited or confiscated.

In accordance with the foregoing considerations, the assessment team considers that the penalty assigned to the TF offence is proportionate and dissuasive.

Criterion 5.7 – Article 31 of the LOCDFT recognizes the criminal liability of legal persons in relation to TF. The article also establishes the administrative responsibility in the case of “legal persons of the banking, financial system or any other sector of the economy” and subjects them to the measures that their supervisor may apply. There are no provisions that prevent attributing criminal liability to natural persons involved in the TF offence. Article 32 of the LOCDFT establishes proportionate and dissuasive sanctions for legal persons for the commission of TF.

Despite the above, Article 31 of the LOCDFT differentiates between private and public legal persons and establishes that the latter are not subject to criminal liability, which the assessment team considers a moderate deficiency because the public sector has a large number of highly relevant companies which could not be sanctioned if they get involved in TF cases⁸⁰.

Criterion 5.8 – The CP provisions on ancillary offences are applicable to the TF offence; in this sense, Article 80 of the CP considers the attempt as an offence, while Articles 83 and 84 take into account conducts equivalent to acting as an accomplice, the organisation or direction of others and the contribution to commit offences.

Criterion 5.9 – TF is designated as a ML predicate offence in accordance with Article 4 of the LOCDFT (see Criterion 3.2).

Criterion 5.10 – Article 73 of the LOCDFT establishes the applicability of the TF offence (i) to Venezuelans and foreigners who commit the offence outside the country and (ii) to the foreigner who is in the Bolivarian Republic of Venezuela and has committed the offence or part of it in the country, on the high seas, in the extraterritorial sea or in international airspace. Article 53, second paragraph, on the other hand, establishes the applicability of the TF offence regardless of whether the funds are used by an individual terrorist or by a terrorist organisation operating in foreign territory or regardless of the country where the terrorist act is conducted.

Weighting and conclusion

The assessment team concludes that there are moderate deficiencies related to TF criminalization in the Bolivarian Republic of Venezuela. On the one hand, Venezuelan legislation complies with the requirements to extend to funds or other assets that come from legitimate sources, establish proportionate and dissuasive penalties for individuals convicted of TF, provide for ancillary TF offences, make TF a ML predicate offence, and establish the extraterritoriality of the Venezuelan law to TF acts committed abroad. Despite the foregoing, the TF criminalization does not implement all the requirements of the International Convention for the Suppression of the Financing of Terrorism, in addition to the fact that it does not foresee the case that the financier acts “knowing” that the funds are going to be used to carry out terrorists acts or by a terrorist or terrorist organisation, nor does it allow the offence to be considered

⁸⁰ According to the 2021 report *Transparencia Venezuela, Gobernanza para las Empresas Propiedad del Estado Venezolano* [Governance for Venezuela’s State-Owned Companies] (available at transparencia.org.ve), the State has around nine hundred (900) state-owned companies.

committed when the funds were not used to “attempt” a terrorist act. On the other hand, the LOCDOFT does not criminalize the financing of people who travel for terrorist purposes, there is no clear basis to understand that the intention and knowledge necessary to prove the offence can be inferred from objective factual circumstances, and the TF offence cannot be applied to legal persons. In accordance with the above, **R.5 is rated Partially Compliant.**

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

The Bolivarian Republic of Venezuela was rated NC with respect to the requirements on targeted financial sanctions (TFS) related to terrorism and TF in its 2009 MER due to the fact that the country did not have a legal framework for this purpose. The country addressed its deficiencies through the issuance of administrative resolutions that consider the preventive blocking of funds and provisions to enlist natural or legal persons who commit or attempt to commit terrorist acts and their financing.

Criterion 6.1 – Article 1 of Joint Resolution 122 of 2012 of the Ministry of People’s Power for Internal Affairs, Justice and Peace (MPPRIJP) and the Ministry of People’s Power for Planning and Finance⁸¹ (MPPPF) (hereinafter Resolution 122) establishes provisions to implement UNSCRs 1267 and 1373, but excludes UNSCRs 1988, 1989, 2253 and their other successor resolutions. The provisions of this resolution present the following deficiencies:

- (a) Although the UNIF has the responsibility to apply the procedures of the UNSCRs 1267 in accordance with the text of Article 5 of Resolution 122, there is no procedure for it to propose the appointment of persons or entities to the 1267/1989/2253 and 1988 Committees.
- (b) to (d) Resolution 122 of 2012 does not contain provisions implementing these sub-criteria.

Criterion 6.2 – The Bolivarian Republic of Venezuela has two resolutions to implement UNSCR 1373: Resolution 122 and Resolution 158 of the MPPRIJP. These resolutions contain some conflicting provisions detailed in the analysis of sub-criteria 6.2(a) and 6.5(a) and (b). In addition, the assessment team considers that there is no legal basis to determine which of the two ministerial resolutions is valid to implement UNSCR 1373 because Article 1 of both does not establish that these resolutions are complementary, so the assessment team infers that the purpose of both resolutions is the same: to apply all the requirements of UNSCR 1373. In accordance with the above, the assessment team considers that there is no legal basis to determine which of the two ministerial resolutions is valid to implement the UNSCR 1373 and, for this reason, the criterion is deemed not met. Regarding the sub-criteria:

- (a) The ONCDOFT is empowered to appoint:
 - (i) *By motion of the Bolivarian Republic of Venezuela:* Article 5 of Resolution 122 provides that the ONCDOFT is the authority responsible for implementing UNSCR 1373 and its Article 17 establishes criteria that allow it to designate any person or entity that commits or attempts to commit terrorist acts, or that participates in, or facilitates the commission of, terrorist acts and any entity owned or controlled, directly or indirectly, by any designated person or entity; however, the ONCDOFT does not have a clear basis for designating any person or entity acting on behalf of, or at the direction of, any designated person or entity. On the other hand, Article 5 of Resolution 158 presents the same deficiency as the previous Resolution but includes the designation of natural or legal persons that are considered the alleged perpetrators of any organized crime offence.

⁸¹ This ministry ceased to exist by virtue of Decree 01 published in the Official Gazette 40.151 of 2013.

- (ii) *By request from another country*: Article 23 of Resolution 122 establishes that the country will apply the procedures established in the national legislation to comply with requests from other countries to designate persons or entities that meet the specific designation criteria; however, these procedures are not specified in this resolution nor did the country indicate that they were provided for in another coercive means. Article 27 of Resolution 158 establishes that requests from requesting states should contain the requirements and criteria indicated in it, which, by interpretation, are those established in its Articles 5 and 6.
- (b) Regarding the existence of a mechanism or mechanisms to identify the recipients of the designation based on UNSCR 1373:
 - (i) According to Article 5, second paragraph, and Article 6 of Resolution 158, when the Bolivarian Republic of Venezuela promotes the designation, the mechanism consists in the UNIF and the criminal investigative agencies providing information to the ONCDOFT, although there are no provisions in this resolution or another resolution examined by the assessment team that establishes the legal basis through which the UNIF and the investigative agencies obtain this information in the first place.
 - (ii) According to Articles 6-8 of Resolution 158, when the designation is requested by another country, the ONCDOFT analyses the information provided through international cooperation requirements and, based on this, requests information from the competent national authorities to verify the link of the person or entity identified in the request of the requesting country with terrorism or its financing.
 - (c) In accordance with Articles 4-7 of Resolution 158, the ONCDOFT should comply with an administrative process to decide if it is satisfied that a designation is supported by a reasonable basis to suspect or believe that the person or entity proposed for designation satisfies the UNSCR 1373 designation criteria; however, there are no provisions to ensure that this decision is made quickly.
 - (d) Based on Articles 5, 6 and 8 of Resolution 158, the ONCDOFT should apply an evidence assessment standard to determine if there is a reasonable basis to decide on a designation, regardless of whether the proposed designation is presented at the initiative of the relevant country itself or by request of another country.
 - (e) Pursuant to Articles 25 and 26 of Resolution 158, when the Bolivarian Republic of Venezuela requests from another country that the actions initiated by virtue of the freezing mechanisms become effective, it should provide all possible information for the identification of the designation target as well as the specific information that supports it.

Criterion 6.3

- (a) In relation to the UNSCR 1267 and 1989, the UNIF is only empowered to implement UNSCR 1267 in accordance with Article 5 of Resolution 122. Furthermore, it is unclear what provisions empower it to collect or request information for the purpose of identifying persons or entities that meet the designation criteria of UNSCR 1267. In the case of UNSCR 1373, Article 4 of Resolution 158 establishes that the UNIF and the investigative bodies should send information to the ONCDOFT on persons and entities in order for them to be designated; however, there are no provisions establishing how these authorities would obtain such information in the first place. In addition, in accordance with Article 7 of Resolution 158, once the ONCDOFT receives said information, it may request additional information from other competent authorities to determine if it should proceed with a designation. In addition to the above deficiencies, the existence of two resolutions aimed at implementing UNSCR 1373 makes it difficult to determine which provisions are applicable, which impacts compliance with this sub-criterion, as indicated in the analysis of c.6.2.

- (b) There are no provisions that expressly authorize the UNIF and the ONCDOFT to operate without prior notice against a person or entity that has been identified and whose appointment is being considered.

Criterion 6.4 – Pursuant to Articles 7, 8 and 19 of Resolution 122 and Article 9 of Resolution 158, the legal requirement to freeze funds or other assets is effective as from the dissemination of the update of the designations made based on UNSCR 1267 or designations made at the national level under UNSCR 1373.

Notwithstanding the foregoing, these provisions do not establish that said dissemination should take place in a matter of hours after the designation is made; in particular, Article 19 of Resolution 122, which is applicable to UNSCR 1373, does not explain what should be understood when it requires that freezing should be done “without delay.”

In addition to the above findings, the assessment team considers that the duty to freeze funds or other assets, or the power to require them to be frozen, should be established in a law, since Article 115 of the Constitution of the Bolivarian Republic of Venezuela, which *ensures the right to property and provides that every person has the right to use, enjoy, and dispose of their property*, establishes a protection on the right to property that prevents the freezing of funds or other assets of designated persons and entities. Consequently, the provisions of the analysed ministerial resolutions that order the freezing of funds or other assets do not have an enabling legal provision, so they cannot be considered applicable according to the hierarchy of the country’s laws.

Criterion 6.5 – The UNIF is the competent authority to implement UNSCR 1267 and the ONCDOFT in relation to UNSCR 1373, according to Article 5 of Resolution 122 and Articles 1 and 2 of Resolution 158, respectively. Regarding the sub-criteria:

- (a) In accordance with Articles 7 to 10 of Resolution 122, the Bolivarian Republic of Venezuela requires the reporting entities established in the LOCDOFT to freeze without delay the funds or assets of persons and entities designated based on UNSCR 1267, without the need for prior notification to be made to designated persons and entities for this purpose; however, this obligation does not extend to all natural and legal persons in the country who are not reporting entities. In the case of UNSCR 1373, there is also the duty of the reporting entities to freeze, but they are not expected to do so without delay and the obligation does not cover any other natural or legal person other than the reporting entities, according to Articles 19, 20 and 23 of Resolution 122 and Article 9 of Resolution 158, not to mention that there is no clarity about which of the two resolutions is the one that the reporting entities should consider applicable in this case. Circular SIB-DSB-UNIF-36069 issued by the SUDEBAN and the UNIF urges to only require banking institutions and exchanges to freeze, without delay and without prior notice, the funds or assets of designated persons and entities. In accordance with Article 31.20, of SUNACRIP Resolution 044-2021, VASPs should establish a manual with procedures to freeze funds or other assets of designated persons and entities, while Article 41 of the same resolution prompts them to freeze the funds or other assets of designated persons and entities in the context of VA transfers, although none of the provisions establishes the duty to act without delay and without notifying designated persons and entities. The constitutional limitation explained in c.6.4 contradicts the applicability of the provisions mentioned in this sub-criterion.
- (b) The Bolivarian Republic of Venezuela provides for the freezing of all funds and other assets owned or controlled by the designated person or entity, both in the case of the implementation of UNSCR 1267 and UNSCR 1373 but does not include the funds and other assets provided for in (ii) to (iv) of this sub-criterion, in accordance with Articles 10, 20 and 23 of Resolution 122 and Article 9 of

Resolution 158. The above conclusion takes into consideration the contradiction between Article 19 of Resolution 122 and Article 9 of Resolution 158, which consists in these coercive means establishing two different ranges of funds or assets subject to freezing within the framework of the implementation of UNSCR 1373. Circular SIB-DSB-UNIF-36069 issued by the SUDEBAN and the UNIF does not address the types of funds or other assets that should be subject to freezing. As for the VASPs, Article 41 of SUNACRIP Resolution 044-2021 requires them to freeze funds and virtual assets that are owned or controlled or that are available, directly or indirectly, or for the benefit of designated persons and entities; however, this obligation is only applicable in the context of VA transfers and, consequently, does not cover the funds and other assets provided for in numbers (ii) through (iv) of this sub-criterion.

- (c) There is no prohibition for Venezuelan citizens or for any person or entity within the territory of the Bolivarian Republic of Venezuela in relation to providing funds or other assets, economic or financial resources or other related services to designated persons or entities who are under their control. Reporting entities established in the LOCDOFT, excluding VASPs, would be subject to this prohibition in the case of natural and legal persons designated at the national level in compliance with UNSCR 1373, in accordance with Article 10 of Resolution 158. It should be noted that there is no equivalent provision that establishes this prohibition for reporting entities in Resolution 122, which constitutes another inconsistency between both resolutions.
- (d) The ONCDOFT should communicate the designations made in accordance with UNSCR 1267 to the supervisors and these to their respective reporting entities in accordance with Articles 7 and 8 of Resolution 122, which does not establish that this action should be taken without delay after the designation is made. The ONCDOFT should do the same in relation to the designations made in accordance with UNSCR 1373 based on Article 9 of Resolution 158, but it should be noted that, although said provision indicates that the communication should be made “immediately and without delay,” there are no complementary provisions that allow us to understand that this should occur in a matter of hours after the ONCDOFT has decided to enlist a person or entity at the national level. In practice, the UNIF has assumed the responsibility of communicating the designations derived from the UNSCR 1267, limiting its dissemination mechanism to the issuance of official letters (see Section 4.3.1 of the report). Circular SIB-DSB-UNIF-36069 issued by the SUBEBAN and the UNIF offers guidelines only to banking institutions and exchanges, which may be in possession of funds or other assets, on their obligations related to undertaking actions in accordance with the freezing mechanisms. On the other hand, the provisions analysed do not foresee that supervisors should provide reporting entities with a clear guideline on their obligations related to freezing mechanisms. In addition, the legislation does not foresee those other persons or entities that, without being reporting entities, could be in possession of funds or other assets and that, therefore, should be reached by the freezing measure.
- (e) Reporting entities should inform the UNIF about frozen assets in compliance with UNSCR 1267 based on Article 10 of Resolution 122. In the case of UNSCR 1373, this obligation is not expressly stated in the text of Article 20 of Resolution 122. There are no provisions requiring the reporting entities to inform the UNIF about transaction attempts made by designated persons and entities. Circular SIB-DSB-UNIF-36069 issued by the SUBEBAN and the UNIF orders banking institutions and exchanges to inform the UNIF of frozen assets but does not require that attempted transactions be reported.
- (f) The Bolivarian Republic of Venezuela adopts measures that protect the rights of third parties that act in good faith when they implement the preventive freezing of funds or other assets based on UNSCRs 1267 and 1373 in accordance with Article 12 of Resolution 122 and Article 13 of Resolution 158;

however, the lack of clarity as to which ministerial resolution is valid to implement the UNSCR as noted in the analysis of c.6.2. affects compliance with this sub-criterion.

Criterion 6.6 – In accordance with Article 21 of Resolution 122 and Articles 14 and 15 of Resolution 158, the Bolivarian Republic of Venezuela has general provisions to remove persons and entities from the lists that do not meet or no longer meet the designation criteria of UNSCRs 1267 and 1373 but does not have precepts on the unfreezing of funds or other assets. These procedures are characterized by the following:

- (a) Based on Article 21 of Resolution 122, the Attorney General’s Office is responsible for submitting delisting requests to the UNSC in relation to designations made under UNSCR 1267, but not in relation to those based on UNSCR 1988. This authority does not have procedures that are consistent with those adopted by the 1267/1989/2253 Committee to request the removal of designations, nor does it have the mandate to substantiate its removal requests in which, in its judgment, the designated persons and entities do not meet or do not longer meet the designation criteria (according to paragraph 13 of INR 6).
- (b) The ONCDOFT is the authority responsible for delisting persons and entities designated under UNSCR 1373 in accordance with Article 14 of Resolution 158; however, the deficiency found in sub-criterion 6.2(a) on the designation criteria affects compliance with this sub-criterion.
- (c) Article 14 of Resolution 158 establishes that the ONCDOFT may decide to remove a person or entity listed at the national level on its own initiative based on evidence that these are not related to acts of terrorism or their financing; however, this provision does not establish the procedure by which the ONCDOFT would obtain this information, nor the terms that should be met to make its decision or the frequency with which it should review its designations. On the other hand, Articles 15 and 18-23 of the same resolution establish that designated persons and entities may request that their names be removed from the national list through a reconsideration appeal. The designated person or entity or their trust representative may file an appeal for reconsideration before the ONCDOFT within fifteen days after it notifies them that they have been designated, and they will be able to provide any type of lawful evidence to support their delisting request, while the ONCDOFT has fifteen days to decide whether to confirm or withdraw the designation. In the event that the ONCDOFT rules on the appeal by maintaining its decision, the designated person or entity may file a hierarchical appeal addressed to the MPPRIJP so that it knows and decides on the case, although Articles 22 and 23 do not establish the formalities to present said appeal or the term that the MPPRIJP has to rule on it. In addition to the above, Article 24 of Resolution 158 establishes that designated persons and entities may file a claim for annulment of the administrative act in court, regardless of whether they use the aforementioned resources. In addition to those deficiencies identified in the aforementioned procedures to review the ONCDOFT’s decision, the assessment team considers that the lack of clarity about which resolution is applicable for the implementation of UNSCR 1373 affects compliance with this sub-criterion.
- (d) – (g) The Bolivarian Republic of Venezuela does not have provisions implementing the requirements referred to in these sub-criteria.

Regarding unfreezing, the assessment team reiterates what was said in the last paragraph of the analysis of c.6.4, that is, that the duty to unfreeze and the power to require unfreezing should also be protected by law.

Criterion 6.7 – Article 22 of Resolution 122 authorizes access to funds or other assets frozen by the reporting entities under the LOCDOFT in accordance with the procedures established in UNSCR 1452; however, Resolution 122 is not applicable to successor resolutions to UNSCR 1267, particularly UNSCR

1988 and 1989. In relation to UNSCR 1373, the Bolivarian Republic of Venezuela does have a procedure for this purpose, in accordance with Article 16 of Resolution 158.

Weighting and conclusion

The legal framework established to implement the UNSCRs that impose TFS related to terrorism and TF presents important deficiencies related to the identification and designation of persons and entities, the procedures for delisting persons and entities, unfreezing funds or other assets and awarding access to frozen funds or other assets. The assessment team also highlights the lack of provisions with the force of law that allow the freezing of funds or other assets through exempting Article 115 of the Constitution of the Bolivarian Republic of Venezuela, the lack of provisions that require the implementation of TFS by persons and entities other than the reporting entities, the lack of provisions to prohibit citizens or any person or entity that provides funds or other assets to designated persons and entities, and the lack of clarity about the ministerial resolution that implements UNSCR 1373. **R.6 is rated Non-Compliant.**

Recommendation 7 - Targeted financial sanctions related to proliferation

The requirements of R.7 were incorporated into the FATF standards in 2012 and, therefore, were not assessed in the 3rd Round of Mutual Assessments.

Criterion 7.1 – The country does not have a legal framework to implement this assessment criterion.

Criterion 7.2 (Not Met)

- (a) Articles 30.20, 41 and 43 of SUNACRIP Resolution 044-2021 establish that VASPs should freeze assets related to the proliferation of weapons of mass destruction; however, the assessment team considers that the duty to freeze funds or other assets or the power to require them to be frozen should be established in a law, since the provision of Article 115 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right to property and provides that every person has the right to use, enjoy, and dispose of their assets, so that the provisions of the aforementioned resolution do not have an enabling legal provision. The other AML/CFT supervisors do not have provisions implementing this sub-criterion.
- (b) Articles 30.20, 41 and 43 of SUNACRIP Resolution 044-2021 refer specifically to the application of TFS in the context of VA transfers and order the freezing of funds or other assets owned or controlled by the designated person or entity but does not cover the types of funds or other assets provided for in (ii) to (iv) of this sub-criterion; likewise, the aforementioned constitutional provision limits compliance with this sub-criterion. The other AML/CFT supervisors do not have provisions implementing this sub-criterion.
- (c) Article 41 of SUNACRIP Resolution 044-2021 prohibits VASPs from providing funds or other assets to designated persons or entities or to benefit persons; however, this provision only refers to freezing orders in the context of VA transfers. The other AML/CFT supervisors do not have provisions implementing this sub-criterion.
- (d) The country does not have a legal framework to implement this sub-criterion.

Criterion 7.3 to 7.5 – The country does not have a legal framework to implement these assessment criteria.

Weighting and conclusion

Overall, the Bolivarian Republic of Venezuela does not have a legal framework to implement R.7. Although the SUNACRIP has approved provisions on this matter through coercive means, these are not covered by a primary law and, in any case, refer only to the freezing of assets in the context of VA transfers. **R.7 is rated Non-Compliant.**

Recommendation 8 - Non-profit organisations (NPOs)

The Bolivarian Republic of Venezuela was rated as NC with respect to NPO requirements in its 2009 MER, as there was no evidence of a national central registry on these organisations, their scope of action and their owners or founders, as well as of the existence of public control over the projects that these organisations carry out, nor over the funds managed by them. The country partially addressed these deficiencies by requiring NPOs to register in public registries and by designating the sector as having a high risk of TF through laws and coercive means. In 2016, the current R.8 was amended to clarify which subset of NPOs should be subject to supervision and monitoring and the scope of the duty to employ an RBA when implementing the requirements of this Recommendation.

Criterion 8.1

- (a) The 2015-2020 NRA does not identify which subgroup of Venezuelan NPOs falls under the FATF definition of NPOs, nor has it identified the characteristics and types of NPOs that, by virtue of their activities or characteristics, have the potential risk of being abuse for TF purposes. On the other hand, the 2015-2020 NRA indicates in one of its sections that the TF risk of NPOs is not high and in another that the risk is high and should be addressed immediately⁸², without sufficiently justifying one or the other statement, denoting the lack of clarity of the risks of the sector. The Bolivarian Republic of Venezuela provided two additional documents prepared by the SUDEBAN and the UNIF. While all organisations are considered as high risk by the SUDEBAN, in the UNIF matrix makes a distinction between risk levels where forty-four (44) NPOs out of a total of nine thousand nine hundred and sixty (9,960) are rated as high risk. Therefore, there is no agreement on the risk level of NPOs based on these documents.
- (b) – (d) The Bolivarian Republic of Venezuela does not have provisions implementing the requirements of these sub-criteria.

Criterion 8.2 The Bolivarian Republic of Venezuela does not have provisions implementing sub-criteria (a) through (d) of this criterion.

Criterion 8.3 – The country has adopted some measures to promote the supervision of NPOs, which are detailed below:

- (a) According to Articles 21 to 23 of the Civil Code (CC), NPOs are subject to the supervision of judges of first instance.
- (b) The articles of incorporation of NPOs certified before the Public Registry should contain the name, address, purpose of the NPO and the way in which it will be managed and directed, in accordance with Article 19 of the CC.

⁸² Bolivarian Republic of Venezuela, *2015-2020 NRA*, pp. 95, 96 and 109.

- (c) Based on Articles 4, 6 and 13 of Administrative Resolution ONCDOFT-002-2021⁸³, the ONCDOFT requires NPOs to register in the RUSO their articles of incorporation and bylaws, the act of election of the board of directors, the list of organisations or entities, whether national or foreign, from which it receives funds, the specification of who its beneficiaries are, the list of associated NPOs and audited or certified annual financial statements; all this information should also be updated annually.
- (d) Based on Joint Resolution 082 and 320 of the MPPRIJP and the MPPRE, the REGONG is created, in which data should be included regarding the name of the organisation, place of incorporation, address in the country, the purpose of the organisation, sources of financing, activities to be carried out, data on the representatives of the organisation that are in the country, affidavits and the articles of incorporation or bylaws.
- (e) The RUSO was not in force at the time of the on-site visit and, in the case of the REGONG, only twenty-eight (28) non-domiciled NGOs are registered. In addition to the above:
 - (i) There are no provisions establishing a relationship between the information in the RUSO, the REGONG and the role of civil trial judges mentioned in paragraph (a), so the RUSO and the REGONG are not intended to contribute to the supervision of the NPOs.
 - (ii) These measures, applied to all NPOs without distinction, do not demonstrate that the country applies risk-based measures to NPOs, which is evidenced by the deficiencies identified in c.8.1.

Criterion 8.4

- (a) The Bolivarian Republic of Venezuela includes all NPOs as reporting entities in matters of organized crime and TF and should comply with the obligations set forth in Articles 10 to 17 of the LOCDOFT. According to Articles 21 to 23 of the CC, NPOs are subject to the supervision of civil judges of first instance. On the other hand, the subscription and registration in the RUSO is reviewed off-site by the ONCDOFT, in accordance with Article 9 of Administrative Resolution ONCDOFT-001-2021, but the country did not provide information on the data available to said registry. In any case, these obligations do not demonstrate that the Bolivarian Republic of Venezuela supervises compliance by NPOs with the requirements of this Recommendation, including the adoption of risk-based measures that should be applied by virtue of c.8.3 and the identification of NPOs exposed to TF risk.
- (b) The Bolivarian Republic of Venezuela includes sanctions for non-compliance by all reporting entities provided for in Articles 10 to 17 of the LOCDOFT whose value is from three hundred (300) to three thousand (3,000) tax units, each tax unit being equivalent to twenty thousand (20,000) bolivars according to Administrative Resolution SNAT/2021/000023. It has not been demonstrated that said sanctions are effective, proportionate and dissuasive. In addition, it is not established which supervisory agency or body is in charge of said monitoring. In the case of the registration obligation, non-compliance does not entail any type of sanction after the modification by Administrative Resolution ONCDOFT-002-2021. Regarding the supervision carried out by the civil judges of first instance, there is no range of effective, proportionate and dissuasive sanctions, except for the possibility of dissolving the NPO in the event that its objective has become impossible or illegal, according to Article 23 of the CC, which is considered disproportionate due to its high severity and because it is the only sanction available.

⁸³ Administrative Resolution ONCDOFT-002-2021 was published in the Official Gazette No. 42.118, whereby Administrative Resolution ONCDOFT-001-2021 was reprinted due to flaws in the originals.

Criterion 8.5

- (a)
- (i) The Bolivarian Republic of Venezuela has the ONCDOFT as a coordination and information exchange agency, in collaboration with the UNIF, in accordance with Articles 6, 24 and 25 of the LOCDOFT.
 - (ii) The collaboration between the MPPRIJP and the MPPRE is established based on Article 8 of Joint Resolution 082 and 320 of the MPPRIJP and the MPPRE, in relation to the information contained in the REGONG.
 - (iii) The country provided at least one minute of the 2021 meeting reflecting the collaboration between the MPPRE and the ONCDOFT regarding the exchange of information on NPOs.
 - (iv) The assessment team interprets that the information exchange mechanisms between authorities described in c.2.3 are equally applicable to this criterion (with the limitations indicated therein).
 - (v) The authorities that maintain relevant information about them (the SENIAT, the ONCDOFT, the MPPRE and the MPPRIJP) and the civil judges of first instance as their supervisory authority have not taken actions to ensure cooperation, coordination and exchange of information about NPOs (for example, through the signing of cooperation agreements that contain provisions on this matter).
- (b) The authorities failed to prove their expertise and capacity to investigate NPOs under suspicion or that are being exploited or that actively support terrorist activities or organisations (see section 4.2.2). The UNIF, through the Suspicious Activity Reports (SARs) sent by the reporting entities, can analyse whether suspicious transactions and TF are taking place (see c.20.1).
- (c) In accordance with Article 25 of the LOCDOFT, during the conduct of an investigation, the Attorney General's Office can obtain access to any information held by the UNIF. Further, in accordance with Article 52 of Resolution 008 of the MPPRIJP, SAREN gives the Attorney General's Office access to the information held by Registrars and Notaries Public, which includes data on NPOs. In addition to the above, the analysis of R.31 shows that the legal framework of the country provides for the law enforcement and investigative authorities to access any information on natural and legal persons, which would include data on the administration and management of NPOs, as well as the financial and i programmatic information maintained by the civil trial judges, the SAREN, the SENIAT, the ONCDOFT, the MPPRE and the MPPRIJP.
- (d) In accordance with Articles 13 and 25 of the LOCDOFT, reporting entities are required to report suspicious activities to the UNIF, including those involving NPOs, and the UNIF should provide information and the results of its analyses on SARs to the AGO to undertake preventive or investigative actions; however, there is no legal provision stating that this information should be shared promptly. Besides that, there are no mechanisms for other authorities, in particular the civil judges of first instance, the MPPRE, the MPPRIJP or the ONCDOFT, to share their suspicions or reasonable grounds for suspicion with competent authorities to take preventive or investigative actions.

Criterion 8.6 – The Bolivarian Republic of Venezuela applies general international cooperation procedures and mechanisms to process requests related to NPOs and may use the same existing contact points and procedures for MLA and other forms of international cooperation to process requests related to this sector. Articles 111.17 and 185 of the COPP; Articles 16.7 and Article 37.13 of the LOMP; and Articles 74, 75, 76, 77, 78, 79 and 80 of the LOCDOFT form a legal basis to provide a wide range of MLA that can be applied to respond to international information requests related to NPOs that are suspected of financing terrorism or being involved in other forms of support for terrorism, with the Attorney General's Office being the central authority for the transmission and execution of MLA

requests, in accordance with Article 111.7 of the COPP; Articles 16.7 and 16.13 of the LOMP, and Article 77 of the LOCDOFT.

When considering other forms of international cooperation, the UNIF can share information about NPOs with its foreign counterparts, in accordance with Article 25.5 of the LOCDOFT, Article 4.5 of Decree 3656 and the chapter on International Financial Information Management, procedure B, paragraph 64re, of UNIF's "Manual of Rules and Procedures of the Directorate of Agreements and Financial Information Management."

Weighting and conclusion

The Bolivarian Republic of Venezuela designates all NPOs as reporting entities through the LOCDOFT and has created two registries to register them: the RUSO (which is not yet operating) and the REGONG. The country has not identified the NPOs that fall under the FATF definition, nor the characteristics and types of NPOs that are at probable risk of TF abuse and, as a consequence, has not implemented targeted measures and proportionate to the risks of NPOs in order to protect them from being abused for TF purposes, nor does it have a control structure over these entities beyond their supervision by the civil judges of first instance provided for in the CC. **R.8 is rated Non-Compliant.**

Recommendation 9 - Financial institution secrecy laws

The Bolivarian Republic of Venezuela was rated C with respect to the requirements related to FIs secrecy laws in its 2009 MER.

Criterion 9.1 – Article 291 of the COPP, Articles 86, 87 and 90 of the LISB, and Article 111.2 of SUDEBAN Resolution 083.18, Article 67 of the LAA, and Articles 93 and 109 of SUDEASEG Resolution SAA-8-004-2021, Article 90 of SUNACRIP Resolution 044-2021 and Article 13 of the LOCDOFT exempt the duty to keep customers' financial information confidential and allow competent authorities to access or receive information from the banking, insurance and VASP sectors to carry out their supervisory, investigative and financial intelligence duties, respectively. In the case of other FIs, there are no analogous provisions.

On the other hand, Articles 185 and 291 of the COPP allow the AGO to obtain information from FIs in order to respond to requests for cooperation from foreign authorities without the secrecy of the customer's financial information being an obstacle. Additionally, Article 87 of the LOCDOFT establishes that bank secrecy cannot be filed to prevent the detection and preventive seizure or seizure of assets subject to forfeiture or confiscation when providing MLA.

Art. 85 of Resolution No. 083.18, sections 1 and 5 of Circular No. SIB-DSB-UNIF-12800 dated 02/08/2018 and Circular No. SIB-DSB-UNIF-19610 to the FIs, allow for information to be shared among them when required as such by R.13 and R.16. Banking and securities institutions can share information with third parties without any hindrance related to bank secrecy. However, the country has not provided information on provisions that are applicable to the FIs that are part of the same financial group and delegate to third parties as required by R.17.

The Bolivarian Republic of Venezuela does not have a law on the protection and privacy of personal data. Consequently, there are no provisions of this nature that inhibit the implementation of the FATF Recommendations.

Weighting and conclusion

Competent authorities have provisions in different laws and coercive means that ensure that the duty to maintain the secrecy of the customer's financial information does not affect the implementation of the FATF Recommendations; however, these provisions do not cover some FIs of low materiality or the possibility for FIs to share information in the cases required by R.13, R.16. There are also no provisions that allow the FIs that belong to a financial group to share information with third parties as required by R.17. **R.9 is rated Largely Compliant.**

Recommendation 10 - Customer due diligence (CDD)

The Bolivarian Republic of Venezuela was rated LC with respect to CDD measures in its 2009 MER due to its lack of implementation in the securities sector, inadequate application of customer and beneficial owner identification and verification requirements in various sectors of the reporting entities, and the lack of regulation, implementation and supervision of compliance with these requirements with an RBA. These deficiencies were corrected through the issuance of Resolution 110 of 2011 applicable to the securities sector and the execution of inspections focused on compliance with CDD measures.

At present, the LOCDOFT establishes some of the specific CDD requirements, in particular, the obligation to identify the customer, the customer's representative and the beneficial owner; non-compliance, with these obligations is subject to sanctions. The rest of the specific CDD requirements are contained, where appropriate, in administrative instruments issued by the supervisors; that is, SUDEBAN Resolution 083.18, SUDEASEG Administrative Resolution SAA-8-004-2021, SUNAVAL Resolution 209, MINTUR Resolution 020 and the CBV Circular of 8/02/2019, although the latter contains a very small section on CDD, limited to the identification of legal persons. However, in the instances where the requirements introduced by the administrative instruments issued by the supervisors are not based on a general obligation to perform CDD set out in statute with the rank of law such as the LOCDOFT, the assessment team considers that there is a deficiency that affects the rating of each relevant criterion.

In addition, there are some FIs that are not designated as reporting entities by the LOCDOFT and that, consequently, are not required to apply CDD measures. These FIs are, in particular, cooperatives and savings banks. The lack of CDD measures applicable to this range of FIs is a deficiency that affects compliance with the Recommendation.

Criterion 10.1 – Article 11 of the LOCDOFT prohibits reporting entities from maintaining anonymous accounts or accounts under fictitious names. This obligation is specified for the banking sector in Article 63 of Resolution 083.18, for the securities sector in Article 51 of SUNAVAL Administrative Resolution 209, and for tourism service providers in Article 25 of MINTUR Resolution 020. The insurance and PSP sectors are required to comply with this obligation in accordance with Article 11 of the LOCDOFT.

Criterion 10.2

- (a) Articles 11, 12 and 16 of the LOCDOFT require that the reporting entities apply CDD measures when establishing commercial relationships.
- (b) The existing regulatory measures regarding this sub-criterion is not based on a law. Article 63 of SUDEBAN Resolution 083.18, Articles 55 and 62 of SUDEASEG Resolution SAA-8-004-2021, and Article 51 of SUNAVAL Resolution 209 require FIs in the banking, insurance and securities sectors to adopt CDD measures when they conduct occasional transactions without establishing a threshold. In the case of tourist service providers, Article 24 of MINTUR Resolution 020 does not include the category of occasional customers, but it does distinguish between initial and usual customers, with

CDD having to be applied to all initial customers and, therefore, being understood in accordance with this criterion.

- (c) The existing regulatory measures regarding this sub-criterion is not based on a law. Article 62 of SUDEBAN Resolution 083.18 requires the institutions in the banking sector to identify and verify the identity of the customer when they conduct occasional transactions through wire transfers. Furthermore, Article 88 of the resolution only develops the identification obligations for the case in which the beneficiary of the transfer is abroad. The other FIs are not subject to obligations that implement this sub-criterion.
- (d) The existing regulatory measures regarding this sub-criterion is not based on a law. Article 47.5 of SUDEBAN Resolution 083.18 requires banking sector institutions to adopt CDD measures when there is suspicion of ML/TF regardless of the exemptions or thresholds of the recommendations. The other FIs are not subject to obligations that implement this sub-criterion.
- (e) There are no provisions regarding this criterion.

Criterion 10.3 – Article 11 of the LOCDOFT establishes that business relationships may not be established with persons not fully identified. Articles 49 and 51 of SUDEBAN Resolution 083.18; Articles 53, 54 and 63 of SUDEASEG Resolution SAA-8-004-2021; Articles 46 and 48 of SUNAVAL Resolution 209, and Article 25 of MINTUR Resolution 020 require FIs in the banking, insurance, securities and tourism services sectors to identify their customers, whether natural or legal persons, and to verify their identity using documents, data or reliable information.

The obligation to identify the parties to an express trust constituted in the country is established in Article 46 of SUNAVAL Resolution 209 and Article 89 of SUDEBAN Resolution 083.18. These provisions present two deficiencies; the first limited to Resolution 083.18, which consists in the fact that the SUDEBAN only establishes the obligation for “trust company,” that is, banks authorized to function as trustees, instead of establishing this duty for all reporting entities of the banking sector. The second deficiency is that both the SUNAVAL resolution and the SUDEBAN resolution do not establish provisions that require the identification of the person who acts in the country in the interest of a legal arrangement established abroad.

In addition, the SUDEBAN sets out exemptions such as the verification of the identity of public agencies; of workers, whether public or private, as long as the data are officially provided by their respective employers, and of the accounts of retired or pensioned persons, as long as these accounts are opened by mandate of the State competent agency that provides these benefits.

Criterion 10.4 – Article 16 of the LOCDOFT introduces the term “third party” and requires their identification when applying CDD measures. Regarding this term, the assessment team interprets that it covers the persons who act on behalf of a customer, the term “trust representative” being included in the sectoral regulations. The Article 50 of SUDEBAN Resolution 083.18 requires banking sector institutions to identify and verify the identity of the customer’s “trust representative.” Article 46 of SUNAVAL Resolution 209, in its sections on identification requirements for legal persons and cooperatives, requires institutions within the securities sector to identify their “trust representative,” but does not extend this requirement to representatives of customers who are individuals or NPOs. Article 55 of SUDEASEG Resolution SAA-8-004-2021 requires institutions within the insurance sector to identify their representatives. Articles 25 and 33 of MINTUR Resolution 020 require tourism service providers to identify and verify the identity of the “third party” which is the “trust representative” of the customer, as explained in the definition provided in Article 3.37.

Criterion 10.5 – Article 16 of the LOCDOFT requires FIs to identify and verify the beneficial owner, but it does not define what this term means. The last paragraph of Article 49 of SUDEBAN Resolution 083.18 requires the identification of the beneficial owner, although the resolution does not define what is understood by beneficial owner and the obligation only applies to customers who are legal persons, excluding, therefore, customers who are individuals and the beneficial owners of a trust or other legal arrangement. Article 4.5 of SUDEASEG Resolution SAA-8-004-2021, applicable to the insurance sector, contains the identification of “beneficial owner” in an appropriate manner, while Articles 54 and 80 include the obligation to identify it generically, without express mention of natural persons and legal arrangements. Article 53 of SUNAVAL Resolution 209, applicable to institutions in the securities sector, complies with this criterion, in addition to adequately defining “beneficial owner” in Article 4.4. Article 24 of MINTUR Resolution 020, applicable to tourism service providers, requires the identification of “end users or beneficial owners” but the definition of this term included in Article 3.4 of such resolution is not consistent with that of the FATF.

Criterion 10.6 – Article 51 of SUDEASEG Resolution SAA-8-004-2021 establishes that reporting entities should carry out CDD measures to find out the true purpose of the contracts. For the rest of FIs, this requirement is not taken into account.

Criterion 10.7 (Not Met)

- (a) The existing regulatory measures regarding this sub-criterion is not based on a law. Articles 8, 16.6, 24 and 27 of MINTUR Resolution 020 require tourism service providers to continuously implement CDD, in a way that ensures that the transactions and activities of the customer are consistent with their knowledge of them; however, these provisions do not require consideration of the origin of the customer’s funds. In the case of the insurance sector, the continuous CDD obligation is implicitly contained in Article 96 of SUDEASEG Resolution SAA-8-004-2021 and it is established that the subject should pay attention to any operation whose characteristics are not related to the profile and the economic, professional or commercial activity conducted by the customer. The rest of the FIs are not subject to provisions implementing this criterion.
- (b) The existing regulatory measures regarding this sub-criterion is not based on a law. FIs from the banking, insurance and securities sectors update customer information in accordance with Article 47 of SUDEBAN Resolution 083.18, Article 58 of SUDEASEG Resolution SAA-8-004-2021 and Article 45 of SUNAVAL Resolution 209. These provisions, with the exception of the one applicable to the securities sector, establish a specific term to carry out the update, but do not include a specific reference for high-risk customers. Tourism service providers are not subject to provisions implementing this sub-criterion.

Criterion 10.8. – The existing regulatory measures regarding this sub-criterion is not based on a law. Articles 45 to 51 of SUDEBAN Resolution 083.18 and Articles 51, 54, 57, and 59 of SUDEASEG Resolution SAA-8-004-2021; Articles 46, 48, 49 and 53 of SUNAVAL Resolution 209 and Article 25 of MINTUR Resolution 020 include the obligation to identify and verify the identity of the legal person, including beneficial ownership information, with the clarifications made in Criterion 10.5, which allows obtaining information on the shareholding structure and customer control. The SUDEBAN, SUDEASEG and SUNAVAL regulations also contain references relating to the activity conducted by the legal person, which means that the entity understands the nature of the customer’s business. The rest of the FIs are not subject to provisions implementing this criterion. Except for the securities sector in the case of trusts, for the rest of FIs there are no provisions implementing this criterion in relation to trusts or other legal arrangements.

Criterion 10.9

- (a) Article 49 of SUDEBAN Resolution 083.18, Article 59 of SUDEASEG Resolution SAA-8-00-4-2021, Article 46 of SUNAVAL Resolution 209, and Article 25 of MINTUR Resolution 020 requires FIs to have information on legal persons related to the name, as well as proof of their existence with the inclusion of documents, such as the articles of incorporation and bylaws, with the latest statutory modification; the Commercial Registry document with its respective modifications, or the Single Tax Information Registry (RIF). In the case of the securities sector, it is also required to provide information of the name and prove their existence with the contract and the RIF of the trusts. No reference to its legal form is included in the regulations of any sector. With the exception of the securities sector in relation to trusts, there are no name application requirements and proof of existence of legal arrangements for the rest of the FIs.
- (b) Articles 51, 55 of SUDEBAN Resolution 083.18; Articles 55 and 59 of SUDEASEG Resolution SAA-8-004-2021, Article 46 of SUNAVAL Resolution 209, and Article 25 of MINTUR Resolution 020 include for legal persons the request for the registration document in the Commercial Registry, with their respective modifications, as well as the request for the company's bylaws or incorporation documents with their respective modifications, which meet the information required in the criterion. In the case of trusts in the securities sector, said information is contained in the trust agreement. In the rest of the FIs, there is no information requirement regarding the powers that regulate and bind the legal arrangement or the names of the appropriate persons who hold a senior management position within it.
- (c) The address information is included in the RIF issued by the SENIAT, whose data are required in the terms provided for in the previous section.

Criterion 10.10 – There are no provisions implementing this criterion. In addition, the deficiencies identified in c.10.5 affect compliance with this criterion.

Criterion 10.11 – In the case of the securities sector, Article 46 of SUNAVAL Resolution 209 establishes the identification of the settlor, trustee and beneficiaries of the trust, but there are no provisions to identify who controls the trust, including through a chain of control or ownership. The identification of the beneficial owner is also included in Article 89 of SUDEBAN Resolution 083.18, although in this case it is only required for trust companies, so the obligation should not be implemented by all reporting entities in the banking sector, but only by banks authorized to function as trustees. For the rest of FIs, there is no provision. In addition, the country does not require FIs to verify the identity of beneficial owners of other types of legal arrangements.

Criterion 10.12

- (a) Articles 58 and 59 of Resolution SAA-8-004-2021 require entities in the insurance sector to take the name of the insurance beneficiary. The other FIs are not subject to provisions implementing this sub-criterion.
- (b) and (c) FIs are not subject to provisions implementing these sub-criteria.

Criterion 10.13 – There are no provisions regarding this criterion.

Criterion 10.14 – The Bolivarian Republic of Venezuela requires FIs to verify the identity of the customer and beneficial owner before or while the business relationship is established or transactions are conducted for occasional customers according to the analysis of c.10.2(a). Article 55 of SUDEBAN Resolution 083.18 allows entities in the banking sector to complete the verification after the business

relationship is established, in compliance with sub-criteria (a)-(b), while sub-criterion (c) does not include implementing provisions. The rest of the FIs are not subject to provisions that allow the identity of the customer to be verified after the business relationship has been established and, therefore, this criterion is not applicable to them.

Criterion 10.15 –The existing regulatory measures regarding this sub-criterion is not based on a law. Article 55 of SUDEBAN Resolution 083.18 require the institutions of the banking sector to adopt risk management procedures in reference to the conditions under which the customer can use the business relationship before the verification; however, the assessment team considers that this resolution is not a coercive means. The rest of the FIs are not subject to provisions implementing this criterion.

Criterion 10.16 – The existing regulatory measures regarding this sub-criterion is not based on a law. There are no provisions requiring FIs to apply CDD measures to previously existing customers based on materiality and risk. However, the need to comply with this obligation is deduced from Article 45 of SUNAVAL Resolution 209 and Article 70 of SUDEASEG Resolution SAA-4-008-2021, since the FIs to which they are applicable should have updated information for each of their customers. Article 47 of SUDEBAN Resolution 083.18 establishes the duty to assess customer risk every twelve (12) months. Tourist service providers are not subject to similar provisions.

Criterion 10.17 – The existing regulatory measures regarding this sub-criterion is not based on a law. Article 46 of SUDEBAN Resolution 083.18, Articles 18 and 80 of SUDEASEG Resolution SAA-8-004-2021, Article 44 of SUNAVAL Resolution 209 and Article 40 of MINTUR Resolution 020 establish the need to carry out an enhanced CDD when risks are high; however, these provisions have no basis in the LOCDOFT, since it does not establish conditions for reporting entities to apply an RBA to CDD measures. On the other hand, Article 43 of SUDEBAN Resolution 083.18, Article 14 of SUDEASEG Resolution SAA-4-008-2021 and Article 12 of SUNAVAL Resolution 209 include a list of high-risk categories for their respective sectors of reporting entities, notwithstanding that additional categories are determined, to which they should apply better due diligence.

Criterion 10.18 – The existing regulatory measures regarding this sub-criterion is not based on a law. Article 44 of SUNAVAL Resolution 209 allows entities in the securities sector to apply a simplified CDD when the reporting entity detects low risk, but it does not establish that they should not be implemented when suspicions of ML/TF arise. In accordance with Article 46 of SUDEBAN Resolution 083.18, Article 18 of SUDEASEG Resolution SAA-8-004-2021, and Article 40 of MINTUR Resolution 020, the respective FIs should apply a standard CDD when low risks are identified. Despite the above, in the case of the banking sector, Article 55 of Resolution 083.18 establishes exceptions to the need for verification when opening accounts, which can be considered simplified CDD measures, even though they are not identified as such.

Criterion 10.19 (Not Met)

- (a) Article 11 of the LOCDOFT establishes that commercial relations may not be maintained with natural or legal persons not fully identified; however, Article 15 of the same law establishes that the reporting entities may not suspend their relations with the customer, nor close their accounts or cancel services, unless previously authorized by a competent judge, which is inconsistent with respect to the requirement of c.10.19(a). This regulation, therefore, prevents compliance with this sub-criterion, despite the reference in Article 11.
- (b) Articles 57 and 118 of SUDEBAN Resolution 083.18 contemplate the duty to submit SARs in all cases in which the CDD measures could not be complied with. Article 65 of SUDEASEG Resolution SAA-8-004-2021 requires reporting only when there are indications of the falsity of the data provided

when practicing CDD, once the contract is signed. Article 50 of SUNAVAL Resolution 209 requires reporting suspicions that the customer provided false information during the CDD to the person responsible for compliance, although the text of the provision does not expressly refer to the duty to report. Tourism service providers are not required to submit SARs in the event that the CDD is unable to comply with the relevant CDD measures.

Criterion 10.20 – There are no provisions implementing this criterion.

Weighting and conclusion

The LOCDOFT establishes general CDD measures applicable to all sectors of reporting entities, such as the obligation to identify the customer, their trust representative and their beneficial owner. Nevertheless, the assessment team identified shortcomings in the way in which these obligations are established, especially in their regulatory measures on the identification of the beneficial owner of legal persons and arrangements. The supervisors of the banking, insurance, securities, non-bank payment service providers and tourism service providers sectors have issued administrative instruments that develop several specific CDD measures; however, the fact that a series of requirements are not based on a regulation with the force of Law, affects the rating of this recommendation. In any event, the subsidiary regulation would be incomplete, since there are significant shortcomings that affect the specific requirements relative to obtaining information on the business relationship, specific CDD measures for the beneficiaries of life insurance policies, the action to be taken when CDD cannot be completed satisfactorily and the prohibition of tipping-off. **R.10 is rated Partially Compliant.**

Recommendation 11 – Record-keeping

The Bolivarian Republic of Venezuela was rated PC with respect to the record-keeping requirements in its 2009 MER due to the fact that the assessment team was unable to verify compliance with these in the securities sector, in addition to difficulties experienced by the authorities to access to records, and because, in the case of wire transfers, record keeping was only required for those equal to or exceeding \$10,000. These deficiencies were corrected through inspections of the securities sector, the results of which were reported to the FATF, the development of a mechanism for monitoring the responses to requests for information from the authorities, and the approval of the LOCDOFT.

Criterion 11.1 – Article 10 of the LOCDOFT requires reporting entities to keep records on transactions for at least five (5) years after they have been completed. This provision does not distinguish between national or international transactions and, therefore, the assessment team interprets that both types are covered. Article 69 of SUDEBAN Resolution 083.18 and Articles 8 and 84 of SUDEASEG Resolution SAA-8-004-2021 extend the record retention period to ten (10) years.

Criterion 11.2 – Article 10 of the LOCDOFT requires reporting entities to keep records obtained through CDD measures, account files and commercial correspondence, as well as the results of the analysis conducted, for at least five years after the end of the business relationship or after the date of the occasional transaction. Moreover, Article 69 of SUDEBAN Resolution 083.18 extends the record-keeping period to 10 years for customer identification documents and documents that prove a transaction. Neither the LOCDOFT nor Resolution 083.18 require keeping a record of the results of the analysis conducted.

Criterion 11.3 – SUDEBAN Circular SIB-DSB-UNIF-20549 establishes that banking institutions should keep records that allow reconstructing transactions, banking, financial, commercial, mercantile and business transactions, including the code or reference of the operation, the amount and the type of currency, both national and international, and that they should provide the necessary evidence that could

be used in an administrative and/or criminal investigation, as well as in a trial related to illicit activities. There are no provisions implementing this criterion for the other sectors.

Criterion 11.4 - Supervisors may have their reporting entities provide, within the term defined by them, any type of information required by themselves or by law enforcement authorities based on Article 171.19 of the LISB; Articles 108 and 109 of SUDEASEG Resolution SAA-8-004-2021; Article 98.20 and 98.21 of the LMV; Article 78 of SUNAVAL Resolution 074

Weighting and conclusion

The Bolivarian Republic of Venezuela has provisions regarding the maintenance of necessary records on transactions and records obtained through CDD measures; however, it has deficiencies related to the preservation of sufficient records to reconstruct transactions. **R.11 is rated Largely Compliant.**

Recommendation 12 - Politically exposed persons (PEP)

The Bolivarian Republic of Venezuela was rated NC with respect to PEP requirements in its 2009 MER. These requirements were addressed through the approval of the LOCDOFT. In February 2012, the FATF extended the requirements to national PEPs and PEPs of international organisations, in accordance with Article 52 of the Merida Convention.

At present, the definition of PEP in Article 4.19 of the LOCDOFT does not distinguish between those that are national and foreign and, therefore, is equally applicable to both, but covers the types of public positions that should be considered as PEP in accordance with the FATF's definition. The definition states that PEPs are also the "closest relatives" (e.g., parents, siblings, spouses, children, or in-laws of the PEP) and the "circle of associates" of a PEP, although the latter term is not defined. The definition of PEP does not cover those from international organisations. In addition, there are some FIs that are not designated as reporting entities by the LOCDOFT and that, consequently, they are not required to apply measures, as indicated in the preamble to the analysis of R.10. These general findings are taken into account throughout the analysis of this Recommendation.

Criterion 12.1 – In relation to foreign PEPs, the general deficiency identified in R.10 affects compliance with this criterion. Regarding the sub-criteria:

- (a) Article 18 of the LOCDOFT requires reporting entities to implement management systems with respect to PEPs. Article 82 of SUDEBAN Resolution 083.18, Section II of SUDEBAN Circular SIB-DSB-OPCLC-00161,⁸⁴ Article 56 of SUNAVAL Resolution 074 require banking and securities sector institutions to implement systems to determine if a customer is a PEP. Moreover, Article 18 of the LOCDOFT does not require that these systems be used to determine if the beneficial owner of the customer is a PEP; this deficiency is replicated in the coercive means approved by the supervisors, except in the sector supervised by the SUNAVAL; in the latter case, Article 56 of Resolution 074 requires securities sector institutions to determine if the beneficial owner of the customer is a PEP.
- (b) Article 18 of the LOCDOFT requires reporting entities that their managers approve the establishment of the business relationship with the PEP. Article 43 of SUDEBAN Resolution 083.18 establishes that PEPs are high-risk customers. Article 84.6 of the same resolution requires the institutions of the banking sector to obtain approval from senior management before establishing business relationships

⁸⁴ Circular SIB-DSB-OPCLC-00161 of 14 January 2022 - Recommendations for the management of the ML/TF/PF risk derived from PEPs.

in accordance with the customer risk level. Considering that PEPs are high-risk customers, Article 84.6 is applicable to them. Section II of SUDEBAN Circular SIB-DSB-OPCLC-00161 refers to this in the same terms. Likewise, Article 64 of SUDEASEG Resolution SAA-8-004-2021 and Article 56 of SUNAVAL Resolution 074 require that entities in the insurance and securities sector obtain approval from the board of directors before establishing or continuing business relationships with a PEP. The other FIs are not subject to provisions implementing this sub-criterion.

- (c) Article 52 of SUDEASEG Resolution SAA-8-004-2021 requires the insurance sector to obtain a statement of the origin of funds from the customer, which, in the opinion of the assessment team, is applicable to the customer identified as PEP; however, there are no provisions that clearly and directly require determining the origin of the wealth and the origin of the funds of the beneficial owners identified as PEPs. Section II of Circular SIB-DSB-OPCLC-00161 of SUDEBAN and Article 56 of SUNAVAL Resolution 074 require the banking and securities sectors to take reasonable measures to determine the origin of PEPs' funds, although it does not clearly and expressly establish that they should do the same with respect to beneficial owners that are PEPs. The other FIs are also not subject to provisions implementing this sub-criterion.
- (d) Section II of SUDEBAN Circular SIB-DSB-OPCLC-00161, Article 64 of the SUDEASEG Resolution SAA-8-004-2021, and Article 56 of SUNAVAL Resolution 074 require that entities in the banking, insurance and securities sectors conduct permanent monitoring of the business relationship with a PEP. The other FIs are not subject to provisions implementing this sub-criterion.

Criterion 12.2 – With the exception of SUDEBAN resolutions, there are no provisions implementing this criterion with respect to the PEPs of international organisations. Although the provisions that apply CDD measures to foreign PEPs apply equally to domestic PEPs, the deficiencies identified in R.10 affect compliance with this criterion. Regarding the sub-criteria:

- (a) Article 18 of the LOCDOFT requires the FIs provided for in the LOCDOFT to adopt measures to determine if a customer is a national PEP, but it does not require to determine if a beneficial owner is a PEP. Section I.2 of SUDEBAN Circular SIB-DSB-OPCLC-00161 establishes that those applicable to national and foreign PEPs are equally applicable to PEPs from an international organisation in the banking sector, so that the provisions of Section II requiring reasonable steps to be taken to determine whether a customer is a PEP are equally applicable to domestic PEPs and those originating from an international organisation, but do not require determining whether a customer's beneficial owner is a PEP. The other FI sectors are not subject to provisions implementing this criterion.
- (b) Article 18 requires CDD measures to be applied to domestic PEPs regardless of their level of risk. Articles 82 and 83 of SUDEBAN Resolution 083.18 replicate the provision of Article 18 of the LOCDOFT. However, there are limitations to apply the measures required in sub-criteria 12.1(c) and (d) as indicated in the analysis of the previous criterion, and the FIs not provided for in the LOCDOFT are not subject to these measures.

Criterion 12.3 – Based on Article 4.19 of the LOCDOFT, the country considers that the members of a family or close associate of a PEP are also PEPs; therefore, the provisions of Article 18 of the LOCDOFT are also applicable to them. However, the deficiencies identified in the previous criteria impact compliance with this criterion.

Criterion 12.4 – Article 64 of SUDEASEG Resolution SAA-8-004-2021 establishes that entities in the insurance sector should identify the beneficial owner of a life insurance policy, although it does not refer to the fact that said identification should be specifically addressed to determine if the beneficiary or beneficial owner of the insurance policy is a PEP. In any case, the identification of the beneficial owner of

the insurance policy should be done before it is paid. This article does not require entities in the insurance sector to inform senior management before proceeding with the payment of the policy when they identify greater risks, so that more in-depth assessments of the entire business relationship with the policyholder can be conducted and the preparation of a SAR is considered. The assessment team considers that the deficiencies of this article are important and that the criterion has not been met.

Weighting and conclusion

The Bolivarian Republic of Venezuela has moderate deficiencies regarding the application of CDD measures to national and foreign PEPs and their relatives. Additionally, it does not implement R.12 with respect to PEPs of international organisations. These limitations weaken the capacity of the legal framework of the Bolivarian Republic of Venezuela to mitigate ML/TF risks related to PEPs, especially when considering that corruption is one of the greatest ML threats in the country and that several high-profile corruption cases have been identified in recent years in the country, as explained in Chapter 1⁸⁵ of this report. **R.12 is rated Partially Compliant.**

Recommendation 13 - Correspondent banking

The Bolivarian Republic of Venezuela was rated NC with respect to correspondent banking requirements in its 2009 MER. These requirements were addressed through SUDEBAN Resolution 119-10, which was abrogated by the current Resolution 083.18.

Criterion 13.1

- (a) – (c) Article 85 of Resolution 083.18 require the entities of the banking sector to gather sufficient information about the respondent institution to understand its activity and determine its reputation and the quality of the supervision to which it is subject, evaluate its AML/CFT controls and obtain senior management approval before establishing new correspondent relationships. There are no regulations for the case of relationships similar to correspondent relationships in the rest of the FIs.
- (d) In the case of the banking sector, section 1 of Circular SIB-DSB-UNIF-12800 of 2/08/2018 establishes the need for contractual documents to include the responsibilities they incur. There are no regulations for the case of relationships similar to correspondent relationships in the rest of the FIs.

Criterion 13.2 – Section 5 of Circular SIB-DSB-UNIF-12800 of 2/08/2018 includes the need for reporting entities to implement enhanced due diligence measures when they identify high risks; for example, in the case of the use of payment transfer accounts in other places, for which it is necessary to verify whether the financial institution is capable of providing truthful and timely information about its customers when required. There are no regulations for the case of relationships similar to correspondent relationships in the rest of the FIs.

Criterion 13.3 – According to section 8 of Circular SIB-DSB-UNIF-12800 of 2/08/2018 FIs should be prohibited from operating with shell banks, but they are not required to satisfy themselves that respondent financial institutions do not allow their accounts to be used by shell banks.

⁸⁵ In particular, see [subsection 1.1.2](#) and the first paragraph of [section 1.4](#).

Weighting and conclusion

The Bolivarian Republic of Venezuela includes some of the requirements in its regulations in relation to cross-border correspondent banking for the banking sector, and there is no regulation for similar relationships in other financial sectors, although, given the materiality of the rest of the sectors, such absence is considered less relevant. **R.13 is rated Largely Compliant.**

Recommendation 14 - Money or value transfer services (MVTS)

The Bolivarian Republic of Venezuela was rated PC with respect to MVTS requirements in its 2009 MER because there were deficiencies in the customer information obtained through these services, especially those under USD 10,000.00, and because money remitters had not generated SARs. These deficiencies were corrected through inspections of MVTS focused on compliance with CDD obligations and with the presentation of SARs to the UNIF by these services.

Criterion 14.1 – Article 13 of the LISB and Articles 4-9 of SUDEBAN Resolution 037.13⁸⁶ require “exchanges” to obtain authorization to conduct exchange transactions linked to electronic assignments⁸⁷ and other foreign exchange transactions. Article 14 of the LISB establishes that “border exchange operators” are also subject to authorization, but there is no operational framework for the granting of such authorizations. According to Articles 4 and 8-15 of SUDEBAN Resolution 01.21, the banking sector financial technology institutions that offer “mobile payment services”⁸⁸ should also obtain authorization to operate. Articles 2.4, 17 and 23 of Resolution 18-12-01⁸⁹ of the CBV and Section II of the CBV Circular of 18 February 2019 prompts the “Non-Bank Payment Service Providers” (PSP) to obtain authorization to operate. There are no provisions regulating the licensing, registration or authorization to offer MVTS by banking or other non-banking institutions.

Criterion 14.2 – There are no provisions, actions or mechanisms that implement this criterion. However, in practice, the SUDEBAN has detected entities that conduct operations reserved to banking sector institutions without being licensed.

Criterion 14.3 – Article 8 of the LOCDOFT empowers the SUDEBAN to supervise, in AML/CFT matters, MVTS offered by exchanges, border exchange operators, banking sector financial technology institutions and banks that offer mobile payment services; this same article empowers the CBV to supervise the PSPs in the same sense. There are no provisions on the supervision of MVTS offered by other non-bank institutions.

Criteria 14.4 and 14.5 – There are no provisions implementing these criteria.

⁸⁶ Resolution 037.13 – Rules Governing the Organization, Operation and Cessation of Activities of Exchanges.

⁸⁷ Based on Article 23 of SUDEBAN Resolution 037.13, an exchange operation linked to the electronic assignment service is understood as the delivery or shipment of bolivars to or from abroad through an exchange affiliated with a central electronic information, transfer and compensation system that works internationally.

⁸⁸ The resolution defines mobile payment as the payment of purchases in national currency by users through a telephone or other mobile device; may permit the transfer of funds to third parties, charged to users’ bank accounts or credit cards at a banking institution.

⁸⁹ Resolution 18-12-01 - General Rules on Payment Systems and Non-Bank Payment Service Providers Operating in the Country.

Weighting and conclusion

The Bolivarian Republic of Venezuela has moderate deficiencies related to licencing MVTS, identifying MVTS that operate without license and monitoring that MVTS comply with their AML/CTF obligations and have major shortcomings in relation to the implementation of measures applicable to MVTS agents. Nevertheless, the severity of the shortcomings associated with the agencies is lessened by the fact that their use in the country is significantly reduced. At the time of the on-site visit, the country had only nine exchange bureaux (which provide foreign exchange and remittance services), while most foreign exchange and remittance activities were carried out by the 32 banking entities in the country, which do not use agencies. **R.14 is rated Partially Compliant.**

Recommendation 15 - New technologies

The Bolivarian Republic of Venezuela was rated PC with respect to the requirements related to new technologies in the 2009 MER, since it had not developed the regulation in relation to remote banking and there was no regulation for the rest of the financial sectors, which was resolved mainly through a new regulation applicable to the banking, stock market and insurance sectors, where measures were introduced to deal with the possible risks derived from new products and services and from new technologies or businesses that are not offered face-to-face at the bank. R.15 was modified in 2019 to include virtual assets service providers (VASPs) as reporting entities, which had not been assessed previously.

For the rating of criteria 15.1 and 15.2, the assessment team has taken into consideration that there are no measures related to new technologies applicable to a series of FIs, including cooperatives, savings banks, non-bank payment services providers and other MVTS.

Regarding c.15.3 to c.15.11, VASPs are not designated as reporting entities by the LOCDOFT directly, since such law is prior to their existence, but they are regulated by SUNACRIP Resolution 44-2021, to the extent that the SUNACRIP was designated as its supervisory agency by Decree 3656 on the Adjustment of the UNIF.

Criterion 15.1 – The country has not assessed the ML/TF risks of new technologies. Moreover, Article 19.13 of SUDEBAN Resolution 083.18, Article 17 of SUDEBAN Resolution 001.21, Article 11 of SUDEASEG Resolution SAA-8-004-2021, Article 69 of SUNAVAL Resolution 209, Articles 33 and 71 of SUNACRIP Resolution 44-2021 and Article 26 of MINTUR Resolution 020, require institutions in the banking, securities, insurance, VASP and tourism service providers sectors to identify and assess the ML/TF risks that may arise with respect to the development of new products and new business practices.

Criterion 15.2

- (a) Article 19.13 of SUDEBAN Resolution 083.18 and Article 33 of SUNACRIP Resolution 44-2021 require institutions in the banking and VASPs sectors to assess the ML/TF risks of new products, practices and technologies before launching them. Article 25.13 of SUDEASEG Resolution SAA-8-004-2021 and Articles 14 and 20.18 of SUNAVAL Resolution 209 establish analogous provisions for the insurance and securities sectors, except that they do not establish the risk assessment of new technologies before their launch. The ITFB and tourism service providers sectors are not subject to provisions that meet this criterion.
- (b) The provisions referred to in the previous sub-criterion also require the respective reporting entities to take measures to manage and mitigate the risks.

Criterion 15.3

- (a) The Bolivarian Republic of Venezuela has a Prevention Unit for ML/TF/PF within the SUNACRIP, which completed its first risk assessment on the matter on 22 April 2021. The document prepared, based on the FATF risk methodology, focuses its analysis on threats and vulnerabilities. In terms of threats, the analysis focuses on information from international sources, but lacks a transposition and analysis exercise in the context of the country with the information available in it. In addition, there does not seem to be an analysis by type of product/type of institution included in it, nor a risk analysis regarding the use of virtual assets outside the regulated sector.
- (b) The Bolivarian Republic of Venezuela has a VA and VASP regulatory framework established prior to the preparation of the risk analysis. The risk analysis conducted establishes some guidelines for action in order to implement a risk-based approach, although a risk-based strategy has not yet been developed based on the findings obtained.
- (c) Articles 30 and 35 of SUNACRIP Resolution 44-2021 require VASPs to assess their risks annually, which should consider all relevant risk factors to determine the level of risk and should document such assessments and keep them accessible to the SUNACRIP so that it can review them when deemed appropriate. Articles 6, 13, 32 and 35 of the same resolution establish that VASPs should establish policies, regulations and procedures related to ML/TF/PF risk management approved by the senior management, monitor controls to improve them, and adopt enhanced due diligence when high risks are detected, based on their institutional assessments.

Criterion 15.4

- (a) All VASPs and other reporting entities required by VA regulations should have the respective authorizations or licenses granted by the SUNACRIP to operate, offer products and provide services to third parties involving VAs, in or from the Bolivarian Republic of Venezuela in accordance with Article 2 of Resolution 44-2021 and Articles 29-30 of the Decree creating the Integral System of Cryptoassets.
- (b) Article 21 of the LOCDOFT⁹⁰ requires the SUNACRIP to take measures to prevent natural or legal persons linked to organized crime or TF from holding interest in VASPs. However, this provision does not include criminals or their associates from being the beneficial owner of a VASP or holding a management function in a VASP. Article 89 of Resolution 044-2021 requires VASPs to submit to the SUNACRIP the identification information of the natural and legal persons that are their shareholders, as well as the shareholding composition of the legal persons that are holders of shares representing their corporate capital, but no requirements are established to prevent criminals or their associates from being the beneficial owners of a share. The “General Conditions for the Operation of Exchanges in the Integral System of Cryptoassets” of February 2019 established the requirements that a VASP should meet to obtain an operating license, including detailed information on shareholders; however, this document does not specify if and how this information is used to prevent criminals or their associates from owning, being beneficial owners of, or having a controlling or significant interest in, or holding a management role in, a VASP. In relation to employees, Article 63 of such resolution states that VASPs should establish a policy to identify the customer and verify his information, which serves to prevent criminals from performing an administrative function in VASPs.

⁹⁰ This article is applicable to the SUNACRIP based on Article 10.5 of Decree 3656.

Criterion 15.5 – Article 42 of the Decree creating the Integral System of Cryptoassets establishes that a fine from 100 to 300 sovereign cryptoassets should be imposed for those who operate or conduct any type of activity related to the creation, issuance, organisation, operation and use of VAs without proper authorization. According to the information provided, at present a Petro would be equivalent to USD 50, so in this case the sanctions could be considered to be proportionate. In practice, the SUNACRIP has identified three cases in which legal persons provided VA services without authorization through the monitoring of online advertising, social networks and online markets. These companies were subjected to the following measures, respectively: inspections, administrative investigations, forfeiture of computer equipment, order to cease operations, definitive prohibition of acting as VASPs in or from the assessed country and referral of the case to the Attorney General’s Office in case of falsification of licenses of operation.

Criterion 15.6

- (a) Article 11 of the Decree creating the Integral System of Cryptoassets empowers the SUNACRIP to regulate and supervise all entities that participate in the Integral System of Cryptoassets, including VASPs. Article 108 of Resolution 44-2021 establishes specific powers of supervision in matters of ML/TF prevention and control. Based on this power, the SUNACRIP issued an internal guideline of 3 August 2020, which establishes a minimum annual supervision of reporting entities of an ordinary nature, establishing the possibility of performing additional risk-based inspections of greater intensity, for which general RBA parameters are considered, although the detail of these guidelines is limited. On the other hand, no criteria are established to conduct the review of VASPs’ risk profile assessment, in accordance with the criteria of R.26.
- (b) Chapter IV of the Decree creating the Integral System of Cryptoassets establishes the SUNACRIP’s inspection procedure, which, despite having been defined to examine compliance with the obligations established in such Decree, the assessment team interprets that it is the same the SUNACRIP should use when supervising compliance with AML/CFT obligations. Article 100 of Resolution 44-2021 allows the SUNACRIP to request VASPs to submit information. Finally, the SUNACRIP has the power to impose disciplinary and financial sanctions, including the power to restrict or suspend the license or registration of VASPs, although the sanctions provided for cases where VASPs fail to comply with their AML/CFT obligations are limited to those contained in the LOCDOFT, which does not cover all cases.

Criterion 15.7 – The Bolivarian Republic of Venezuela has provided information that demonstrates that the SUNACRIP prepares guidelines for VASPs to apply measures to combat ML/TF and detect and report suspicious activities. Additionally, feedback is provided after on-site and off-site inspections, whose results are communicated through inspection reports.

Criterion 15.8 – The country does not ensure that there is a range of sanctions available to deal with VASPs that do not meet the AML/CFT requirements. The Decree creating the National System of Cryptoassets does not include specific sanctions for non-compliance with AML/CFT obligations, specifically in relation to R.6 and 9-21, so sanctions established in the LOCDOFT are implemented; therefore, the deficiencies identified in R.35 may be generally applied.

Criterion 15.9 – The Bolivarian Republic of Venezuela includes preventive measures applicable to VASPs in SUNACRIP Resolution 044-2021, which are analysed in the following table:

Table 2. Provisions of Resolution 044-2021 that implement criterion 15.9

Criterion	Article	Deficiencies identified
15.9(a)	Article 40	No deficiencies identified in relation to the threshold established in the sub-criterion.
10.1	Article 39	No deficiencies identified
10.2	Articles 40 and 41.	No deficiencies identified
10.3	Articles 40, 48, 50 and 54	Virtual accounts and wallets intended for the payment of the payroll of workers from the public and private sectors are exempt from verification, as long as the data are officially provided by the respective employers and retired persons and pensioners, opened by mandate of the State competent agency that provides these benefits
10.4	Articles 49	The provision does not establish how the trust representative is to be identified or how to conduct the verification.
10.5	Article 40	The provision is only applicable to identify the beneficial owner of legal persons.
10.6	Article 40	No deficiencies identified
10.7(a)	Article 40	No deficiencies identified
10.7(b)	Article 46	No deficiencies identified
10.8	Article 40	No deficiencies identified
10.9	Article 50	This provision does not cover legal arrangements and, regarding legal persons, it does not include the duty to collect information on their legal form.
10.10	-	There are no provisions implementing this requirement in the VASP sector
10.11	-	There are no provisions implementing this requirement in the VASP sector.
10.12-10.13	Not applicable	-
10.14 and 10.15	Article 54	The c.10.14.(c) does not include provisions implementing it.
10.16	Article 46	The provision does not establish the duty to apply CDD measures to existing customers based on materiality and risk; however, VASPs are required to maintain up-to-date information on each customer and to conduct an assessment of their risks every 12 months.
10.17	Articles 35, 45 and 47.	No deficiencies identified
10.18	Articles 35 and 47.	Article 35 of the resolution allows VASPs to apply simplified measures when they identify low risks, although Article 45 orders the application of standard due diligence measures in low-risk scenarios, which is contradictory.
10.19(a)	Articles 35 and 104.	Article 104 prohibits the suspension of relations with the customer without prior judicial authorization.
10.19(b)	Article 44	No deficiencies identified
10.20	Article 46.5	No deficiencies identified
11.1-11.4	Articles 61 and 90.2	No deficiencies identified
12.1(a)	Article 74	The LOCDOFT's definition of PEP is not consistent with that of the FATF. In addition, the LOCDOFT and Resolution 044-2021 do not establish specific measures for foreign PEPs; consequently, the obligation of Article 74 of the Resolution is applicable to national and foreign PEPs according to their risk level.
12.1(b)	-	There are no provisions implementing this requirement in the VASP sector.
12.1(c)-(d)	Article 75	No deficiencies identified
12.2	Article 74	There are no provisions implementing this requirement with respect to PEPs that have been entrusted with a prominent role by an international organisation.
12.3	Article 75	No deficiencies identified
12.4	Not applicable	-
13.1-13.3	-	There are no provisions implementing these requirements in the VASP sector.
14.1-14-3	See c.15.4	The analyses of c.15.4, 15.5 and 15.6 are applicable to the assessment of compliance with these criteria in the VASP sector.
14.4 and 14.5	-	There are no provisions implementing these requirements in the VASP sector.

Criterion	Article	Deficiencies identified
15.9(b)(i) and (ii) (including c.16.1-16.8 and c.16.13-16.15)	Article 41	The provision does not require that VA transfer information be accurate or be made available to competent authorities when required. On the other hand, the resolution does not establish provisions applicable to VA transfers for an amount less than EUR 1,000. In addition, there are no specific requirements to process multiple wire transfers from a single originator grouped into a single file or one transfer if information is missing. There are also no provisions implementing c.16.13 and 16.15 in the VASP sector.
15.9(b)(iii) (including 16.9-16.12 and c.16.16-16.18)	-Articles 42 in relation to c.16.9 -Article 61 in relation to c.16.10 -Article 70 in relation to c.16.11 and 16.13 -Articles 41 and 43 in relation to c.16.18	The c.16.9 is implemented through Article 42 of the Resolution without deficiencies. Regarding c.16.10, there is no explicit requirement for intermediary institutions to keep records for at least five (5) years when there are technical limitations that prevent the information required on a cross-border transfer from remaining with a related domestic wire transfer, but they should comply with the general record-keeping requirement of 5 years established in accordance with Article 61. Both c.16.11 and c.16.13 are implemented through Article 70 without deficiencies. There are no provisions implementing c.16.12, 16.5, 16.16 and 16.17 in the VASP sector. Criterion c.16.18 is implemented through Articles 41 and 43 without deficiencies.
15.9(b)(iv)	-	There are no provisions implementing this requirement in the VASP sector.
17.1-17-3	-	There are no provisions implementing this requirement in the VASP sector.
18.1(a)	Articles 6 and 15	No deficiencies identified
18.1(b)	Articles 63 and 64.	These provisions do not explicitly state how high standards are guaranteed in the hiring of employees.
18.1(c)	Article 65	No deficiencies identified
18.1(d)	Article 82	No deficiencies identified
18.2	-	The above regulations are not applicable to financial groups.
18.3	Article 107	In general, there are no measures to ensure that majority-owned foreign branches and subsidiaries apply ML/TF measures in the terms of the country of origin; however, Article 107 establishes that exchanges and VASPs domiciled abroad, with transactions in or from the territory of the Bolivarian Republic of Venezuela, should apply the control mechanisms of the SUNACRIP, adding those established by their country of origin in whatever results stricter.
19.1	Article 37	No deficiencies identified
19.2-19.3	-	There are no provisions that establish the possibility of adopting proportionate countermeasures or measures so that the institutions are aware that there is concern regarding weaknesses in the systems of other countries.
20.1	Articles 44 and 79	Reporting entities should report when they suspect or have reasonable grounds to suspect that the transactions are related to ML/TF/PF, but the provision does not specifically refer to the funds coming from a criminal activity.
20.2	Articles 11, 44 and 91	No deficiencies identified
21.1-21.2	Articles 92 and 104	No deficiencies identified

Criterion 15.10 – In relation to c.6.5(d), Articles 7 and 8 of Resolution 122 establish that the ONCDOFT should communicate the designations made in accordance with UNSCR 1267 to the supervisors and these to their respective reporting entities, including VASPs. The ONCDOFT should do the same in relation to the designations made in accordance with UNSCR 1373 based on Article 9 of Resolution 158. These provisions, however, do not ensure that these communications will take place immediately after designations are approved. There are no provisions implementing c.7.2(d) in the VASP sector. On the other hand, the country does not have mechanisms to communicate removal from lists and unfreezing orders to VASPs (c.6.6(g) and c.7.4(d)). According to Articles 31.20, 41 and 43 of SUNACRIP Resolution 044-2021, VASPs should inform the UNIF of the frozen funds and VA, as well as the actions conducted in compliance with the UNSCRs; however, these provisions do not specifically refer to

attempted failed transactions. Finally, the SUNACRIP is empowered to monitor compliance with the provisions of Resolution 044-2021 regarding the freezing of funds or other assets in the context of VA transfers, in accordance with its Articles 31.20, 41, 43, 80, 81 and 108, and Article 10 of the Decree creating the Integral System of Cryptoassets; however, this supervision does not extend to other obligations or circumstances and it was not evidenced that failure to comply with the obligation to freeze funds or other assets involved in a VA transfer is subject to sanctions, which constitute important deficiencies in the VASP sector. (c.7.3).

Criterion 15.11 – Article 4 of the LOCDOFT includes a definition of assets that does not exclude VAs; therefore, in terms of freezing and forfeiture, the analysis of R.38 applies. Regarding supervisory cooperation, Article 20.3 of the Decree creating the System of Cryptoassets gives the SUNACRIP generic competence in terms of international cooperation, but it is limited, since its exclusive purpose is the processing before international organisations of what is necessary to obtain permits, licenses and steps to achieve the goals of said superintendency.

Weighting and conclusion

The Bolivarian Republic of Venezuela does not identify and assess the ML/TF risks that arise with the development of new products and business practices, but it establishes this obligation for reporting entities. Regarding VASPs, the Bolivarian Republic of Venezuela has an extensive regulation on the matter, with some deficiencies, highlighting the lack of proportionate and dissuasive sanctions for the entire range of preventive obligations present in this recommendation. The identification of significant deficiencies in the risk assessment of new technologies (15.1) and virtual assets (15.3), together with the lack of proportional and dissuasive sanctions (15.8) have been considered relevant for the assessment of this Recommendation. **R.15 is rated Partially Compliant.**

Recommendation 16 - Wire transfers

The Bolivarian Republic of Venezuela was rated NC with respect to the requirements on wire transfers in the 2009 MER. The lack of implementation of the requirements was addressed through SUDEBAN Resolution 119-10, which was abrogated by the current Resolution 083.18. The current framework that regulates the wire transfers made by banks and exchanges is Circular SIB-DSB-UNIF-19610 of 2018⁹¹. According to the information provided, no other financial institution is authorized to make wire transfers.

Criterion 16.1 - Numeral 1 of SUDEBAN Circular SIB-DSB-UNIF-19610 establishes that banks should ensure that all cross-border wire transfers, regardless of their value, are always accompanied by (a) the following information from the originator: (i) the originator's name, (ii) the transaction reference number, and (iii) the originator's address, the customer identification number, and date and place of birth. Likewise, transfers should be accompanied by (b) the following information about the beneficiary: (i) name of the beneficiary and the (ii) account number of the beneficiary. Regarding the accuracy of the information, the findings of criteria 10.2(c) and 10.3 are equally applicable here.

Criterion 16.2 – Circular SIB-DSB-UNIF-19610 (first bullet of the paragraph following numeral 2) establishes that, when several individual cross-border wire transfers from a single originator are grouped in a single processing file by batches for transmission to various beneficiaries, this file should contain the required and accurate information about the originator and complete information about the beneficiary, in such a way that the origin and destination of the funds transferred can be traced. The circular also requires banks to include the transaction reference number in cross-border wire transfers.

⁹¹ Circular SIB-DSB-UNIF-19610 – Guidelines related to Domestic and Cross-Border Wire Transfers

Criteria 16.3 and 16.4 – The penultimate paragraph of Circular SIB-DSB-UNIF-19610 establishes that its provisions should be applied regardless of the type of currency and value of the transaction; therefore, the country has not established a minimum threshold for the requirements of criterion 16.1. These criteria are not applicable.

Criterion 16.5 – For domestic wire transfers, numeral 1 of Circular SIB-DSB-UNIF-19610 requires banks acting as the originating financial institution to ensure that the information accompanying the wire transfer includes information about the originator as indicated for cross-border wire transfers.

Criterion 16.6 – As indicated in the previous criterion, numeral 1 of Circular SIB-DSB-UNIF-19610 is applicable to both domestic and cross-border transfers, so that the required information accompanies national transfers in the same way provided for cross-border transfers. In any case, the investigative authorities are empowered to access the information that is necessary to be used in their investigations.

Criterion 16.7 – The assessment team considers that the provisions of the LOCDOFT and SUDEBAN Resolution 083.18 referred to in the analysis of c.11.1 are applicable to this criterion. The penultimate paragraph of Circular SIB-DSB-UNIF-19610 establishes that the information referred to in c.16.1 should be kept in physical and digital form for at least 10 years from the moment the transaction occurs, so that it is available to the UNIF, the Attorney General's Office, the auxiliary criminal investigation agencies, the courts of justice and other authorities empowered to access it.

Criterion 16.8 – SUDEBAN Circular No. SIB-DSB-UNIF-19610 (second bullet of the paragraph following numeral 2) provides that a bank cannot send or receive electronic transfers if it does not have the information referred to in the previous criteria.

Criterion 16.9 - In the case of cross-border wire transfers, Circular SIB-DSB-UNIF-19610 (third bullet of the paragraph following numeral 2) establishes that an intermediary bank should ensure that all the information of the originator and the beneficiary accompanying the wire transfer is kept with it.

Criterion 16.10 – Circular SIB-DSB-UNIF-19610 (second bullet of the paragraph following numeral 2) provides that banks cannot process wire transfers that are not accompanied by the information about the originator and beneficiary. Consequently, if technical limitations exist that prevent the required information about the originator or beneficiary accompanying the cross-border wire transfer from remaining with a related domestic wire transfer, the latter could not be processed and, therefore, the intermediary bank should not maintain a record with all the information received from the originating financial institution or from another intermediary financial institution. Therefore, this criterion is not applicable.

Criterion 16.11 - Circular SIB-DSB-UNIF-19610 (fourth bullet of the paragraph following numeral 2) establishes that intermediary banks should take reasonable measures, which correspond to direct processing to identify cross-border wire transfers that lack the required information about the originator or the beneficiary.

Criterion 16.12 – Circular SIB-DSB-UNIF-19610 (fifth bullet of the paragraph following numeral 2) establishes that banks should have risk-based policies and procedures to determine: (a) when to execute, reject or suspend a wire transfer that lacks the required information about the originator or the beneficiary; and (b) the appropriate follow-up action.

Criterion 16.13 – There are no provisions implementing this criterion.

Criterion 16.14 – Although numeral 2 of Circular SIB-DSB-UNIF-19610 establishes the types of information about the beneficiary of a transfer that a beneficiary bank should receive, it does not require verifying the identity of the beneficiary if it has not been previously verified. On the other hand, the provisions on record keeping referred to in c.16.7 are equally applicable to this criterion.

Criterion 16.15 – The provision referred to in c.16.12 is equally applicable to this criterion.

Criterion 16.16 – Exchanges, when making electronic orders, should comply with the same provisions referred to in the previous criteria; however, Circular SIB-DSB-UNIF-19610 does not require them to comply with all the relevant requirements of R.16 in the countries in which they operate, either directly or through their agents.

Criterion 16.17

(a) Article 13 of the LOCDOFT requires exchanges to submit SARs. The assessment team interprets that exchanges should take into account all the information, both the originator's as well as the beneficiary's, in the context of a wire transfer, to determine if they should present a SAR to the UNIF. However, the analysis of c.20.1 indicates that Article 13 of the LOCDOFT establishes an explicit limitation consisting of not compelling the reporting of suspicions related to offences committed by persons who act independently of a criminal organisation or a legal person.

(b) There are no provisions that require exchanges to file an SAR in the country affected by a suspicious wire transfer and to provide the relevant information about the transaction to their FIU.

Criterion 16.18 – Circular SIB-DSB-UNIF-19610 (sixth bullet of the paragraph following numeral 2) establishes that banks and exchanges should ensure, in the context of processing wire transfers, that they conduct freezing actions and abide by the prohibitions on conducting transactions with persons and entities designated under the obligations stipulated in the relevant UNSCRs in relation to the prevention and suppression of terrorism and terrorist financing, such as UNSCRs 1267, 1373, 1718 and 2231 and its successor resolutions. However, as explained in the analysis of R.6, the country does not have a provision included in a legal standard that exempts Article 155 of the Constitution, which protects the right to property and its free availability, which is why this provision of the circular has no basis in the primary law. Likewise, the analysis of R.7 indicates that the country does not have a legal framework to implement the UNSCR related to the PF (with the exception of some administrative provisions of the SUNACRIP, whose applicability also presents deficiencies) so the reference to UNSCRs 1718 and 2231 are also groundless. The assessment team considers that these deficiencies are important and, therefore, that the criterion is not met.

Weighting and conclusion

The Bolivarian Republic of Venezuela has a legal framework that ensures that banks that act as originating or intermediary institutions obtain, transmit and keep information on originators and beneficiaries of domestic and cross-border wire transfers; however, it presents deficiencies related to the obligations applicable to banks that act as intermediary institutions, the obligation to submit SARs from exchanges that make wire transfers and the application of freezing actions when complying with the UNSCR against TF and PF. **R.16 is rated Partially Compliant.**

Recommendation 17 - Reliance on third parties

The Bolivarian Republic of Venezuela was rated NC with respect to reliance on third-party requirements in its 2009 MER. The lack of implementation of the requirements was addressed through SUDEBAN Resolution 119-10, which was abrogated by the current Resolution 083.18.

Criterion 17.1

(a) Article 56 of SUDEBAN Resolution 083.18 and Article 48 (final part) of SUNAVAL Resolution 209 allow institutions in the banking and securities sector to delegate to third parties⁹² the customer identification and the understanding of the nature of the commercial activity, excluding beneficial owner identification or the establishment of commercial relationships. Said articles do not establish that these third parties should be other FIs or DNFBPs or that the institution that delegates to the third party is ultimately responsible for adopting CDD measures. However, they do ensure that institutions in the banking and securities sector obtain the information acquired by the third party immediately upon request. Moreover, Article 57 (final paragraph) of SUDEASEG Resolution SAA-8-004-2021 prohibits institutions in the insurance sector from delegating to third parties the gathering of elements (a)-(c) of the CDD measures under R.10. The other FIs are not subject to provisions on this matter, so the assessment team interprets that, in the absence of an express prohibition, FIs other than the banking and securities sector can also delegate CDD measures to third parties without there being specific provisions establishing any limit.

(b) and (c) There are no provisions implementing these sub-criteria.

Criterion 17.2 and 17.3 – There are no provisions implementing these criteria.

Criterion 17.3 – The criterion refers specifically to cases where financial institutions delegate to third parties that are part of the same financial group, and the supporting documentation submitted does not make reference to this.

Weighting and conclusion

The Bolivarian Republic of Venezuela presents important deficiencies related to the obligations applicable to FIs that may rely on third parties to obtain elements (a)-(c) of the CDD measures of R.10. **R.17 is rated Partially Compliant.**

Recommendation 18 - Internal controls and foreign branches and subsidiaries

The Bolivarian Republic of Venezuela was rated LC with respect to the requirements on AML/CFT programs but was rated PC with respect to the application of AML/CFT measures to branches and subsidiaries majority owned by FIs located abroad. This last rating was due to the fact that the members of a financial group were not required to apply the most stringent measures between two national AML/CFT systems and there were no subsidiary regulations applicable to branches and subsidiaries located abroad, nor a legal framework to implement the requirements in the securities sector. These

⁹² Article 56 of SUDEBAN Resolution 083.18 uses the term “intermediaries,” which is defined in Article 5.n. of the same resolution, but it does not specify whether these third parties are other FIs or DNFBPs. Circular SIB-DSB-OPCLC-00157 of 14 January 2022 on Recommendations for Risk Management of ML, TF and FPWMD derived from outsourcing (reliance on third parties) indicates that third parties should be service providers authorized by the respective bodies, but it does not clarify or limit that these third parties are other FIs or DNFBPs.

deficiencies were addressed through the approval of the LOCDOFT and SUNAVAL Resolution 110 of 2011, as well as through the execution of inspections.

For the assessment of this Recommendation, the assessment team takes into account that the LOCDOFT does not cover the following group of FIs as reporting entities and, therefore, they are not required to apply internal controls: cooperatives, savings banks⁹³, non-bank payment services providers and other MVTs.

Criterion 18.1 – The Bolivarian Republic of Venezuela has a regulatory framework that establishes the bases for the establishment of programs against ML/TF/PF, although said obligations are not accompanied by the corresponding sanction for non-compliance, which affects the rating.

- (a) Articles 7-14 of SUDEBAN Resolution 083.18, Articles 6-8 and 20 of SUDEASEG Resolution SAA-8-004-2021, Articles 6, 16, 18, 22, 29, 41 and 42 of SUNAVAL Resolution 209, and Article 5 of MINTUR Resolution 020 require institutions in the banking, insurance, securities and tourism service providers sectors to implement AML/CFT programs according to ML/TF risks and the size of the business that include elements that organize the management of compliance with AML/CFT obligations, including the appointment of a compliance officer at the management level. It should be noted that Articles 26 and 27 of Resolution 083.18 allow institutions in the banking sector not to appoint a compliance officer if they have fewer than 30 employees, and those institutions that have fewer than 60 employees can also request this exception to the SUDEBAN. On the other hand, Articles 9.8, 9.9, 19.3 and 20 of SUDEBAN Resolution 001.21 require banking sector financial technology institutions that offer mobile payment services to have an AML/CFT program and elements that organize TF compliance management, but do not include the appointment of a management-level official.
- (b) Article 71 of SUDEBAN Resolution 083.18, Article 63 of SUNAVAL Resolution 209, Article 67 of SUDEASEG Resolution SAA-8-004-2021 and Article 28 of MINTUR Resolution 020 require institutions in the banking, securities and tourism service provision sectors to have an employee knowledge policy; however, these provisions do not ensure high standards in the hiring of employees. Banking sector financial technology institutions that offer mobile payment services are not required to meet this sub-criterion.
- (c) – Articles 74 and 75 of SUDEBAN Resolution 083.18; Articles 38 and 39 of SUDEASEG Resolution SAA-8-004-2021; Articles 32 and 33 of SUNAVAL Resolution 209; and Articles 29 and 30 of MINTUR Resolution 020 require institutions in the banking, insurance, securities and tourism service provision sectors to conduct annual training programs for their employees. Banking sector financial technology institutions that offer mobile payment services are not required to meet this sub-criterion.
- (d) – Articles 95-103 of SUDEBAN Resolution 083.18, Articles 85-92 of SUDEASEG Resolution SAA-8-004-2021, Article 73 of SUNAVAL Resolution 209, and Articles 42-45 of MINTUR Resolution 020 require institutions in the banking, insurance, securities and tourism service provision sectors to have an independent audit function to evaluate their systems. Banking sector financial technology institutions that offer mobile payment services are not required to meet this sub-criterion.

Criterion 18.2 – The Venezuelan authorities indicated that the Law on the National Financial System, the LISB and the LAA prohibit the formation of financial groups. In analysing this legislation, the assessment

⁹³ At the time of the on-site visit, the country was working on the development of AML/CFT regulations for savings banks, although said regulations should be proportionate to the risks of the sector once they are analysed.

team discovered that Art. 7 of the Law on the National Financial System prohibits financial groups from (i) forming financial groups with companies in other sectors of the national economy or (ii) with companies associated with international financial groups, in both cases, for purposes other than those provided in the definitions set forth in this law. These purposes are not expressly defined in the law.

In addition, the assessment team identified provisions that seem to permit the formation of financial groups in the banking sector. Art. 93 of the LISB establishes that the SUDEBAN can authorise the use of the title "financial group or consortium" and Art. 171, number 20, sub-paragraph "a" of the same law, provides that the SUDEBAN can establish rules for the consolidation of financial statements, which is an accounting technique applied in the context of corporate groups. The second paragraph of Art. 37 of the LISB establishes an express prohibition against the formation of financial groups, but this seems to be contradicted by the next paragraph that states that the SUDEBAN can determine the existence of a financial group, understanding that the word "determine" means "decide on" or "establish".

Although it does not seem that there are provisions on financial groups beyond those referenced above, the assessment team considers that there is no absolute prohibition against creating such groups; therefore, this criterion is applicable to the assessed country. Based on the foregoing, the assessment team did not find any provisions to compel the financial groups that may be created, to adopt AML/CFT programmes, in such a manner that these are not subject to programmes that establish the measures provided in c.18.1 nor those refer to in sub-criteria (a)-(c) of this criterion.

Criterion 18.3 – Article 20 of the LOCDOFT establishes that all reporting entities should ensure that the provisions related to the prevention and control of ML/TF included in the Law are applied to branches and subsidiaries located abroad and that, when foreign laws do not allow the implementation and application of control and prevention measures, inform the main office of the reporting entities and apply the highest standard. The insurance regulations also specifically include this requirement (Article 106 of SUDEASEG Resolution SAA-8-004-2021), but not the sectoral regulations of the rest of the financial sectors. The coverage of Article 20 of the LOCDOFT could be considered sufficient for all sectors, although not all the obligations are contained in said Law, nor are there any sanctions in case of non-compliance.

Weighting and conclusion

The Bolivarian Republic of Venezuela has a regulatory framework that establishes the bases for the establishment of programs against ML/TF/PF, although these obligations are not accompanied by the corresponding sanction for non-compliance. It also establishes that all provisions on the matter should be applied to branches and subsidiaries abroad, with the exceptions described in c.18.3. However, beyond this reference, the Bolivarian Republic of Venezuela does not contemplate measures at the group level.
R.18 is rated Partially Compliant.

Recommendation 19 – Higher-risk countries

The Bolivarian Republic of Venezuela was rated PC with respect to the requirements on higher-risk countries because reporting entities did not have policies and procedures to ensure compliance with applicable regulations. This deficiency was addressed through the approval of the LOCDOFT, which complemented the existing resolutions of the supervisors, and the execution of inspections focused on the compliance with the obligations on countries of greater risk.

For the assessment of this Recommendation, the assessment team takes into account that the LOCDOFT does not designate cooperatives and savings banks⁹⁴ as reporting entities.

Criterion 19.1 – Articles 43.5.a. and 46 of SUDEBAN Resolution 083.18, Articles 14.4.a. and 18 of SUDEASEG Resolution SAA-8-004- 2021, Articles 12.3.a. and 44 of SUNAVAL Resolution 209 require the institutions of the banking, insurance and securities sectors to consider that the relationships that involve jurisdictions with respect to which the FATF calls are higher risk and they should apply enhanced CDD measures; but it does not set forth that these should be proportionate to the risks.

Criterion 19.2 and 19.3 – There are no provisions implementing these criteria.

Weighting and conclusion

The Bolivarian Republic of Venezuela requires financial institutions to apply greater due diligence to business relationships and transactions with natural and legal persons from countries for which the FATF has called in this regard, but it has significant deficiencies regarding the measures applicable to the highest risk countries. In particular, the country maintains relations with the Islamic Republic of Iran, which has been identified as a high-risk jurisdiction with respect to which the FATF calls for the application of countermeasures; in this sense, the Bolivarian Republic of Venezuela does not have an adequate legal framework to apply countermeasures that are proportionate to the risks in relation to this jurisdiction. **R.19 is rated Partially Compliant.**

Recommendation 20 - Reporting of suspicious transactions

The Bolivarian Republic of Venezuela was rated PC rating in relation to suspicious transaction reporting requirements in its 2009 MER because there was no clarity as to which authority was empowered to receive reports, the reporting obligation was limited to the banking sector and there was no obligation to report transactions related to TF. These deficiencies were addressed through the approval of the LOCDOFT and coercive means applicable to various FI and DNFBP sectors.

Criterion 20.1 – Article 13 of the LOCDOFT requires all reporting entities to submit Suspicious Activity Reports (SARs) to the UNIF. Reporting entities are required to submit SARs when there is suspicion that the funds involved are related to ML, TF or any other organized crime offence. According to Articles 4.9 and 27 of the LOCDOFT, the term “organized crime offences” refers to offences provided for in the LOCDOFT and the CP whenever they are committed by three or more persons or a single person acting as an agency of a legal person. Therefore, Article 13 of the LOCDOFT establishes an explicit limitation consisting of not compelling the reporting of suspicions related to offences committed by persons who act independently of a criminal organisation or a legal person.

Regarding the promptness with which SARs should be submitted, Article 13 of the LOCDOFT does not refer to this requirement. The coercive means applicable to some sectors of reporting entities such as the SUDEBAN, the SUDEASEG, the SUNAVAL, the SAREN, the CNC, the SUNACRIP and the MINTUR stipulate terms that vary between two (2) and thirty (30) days to submit the reports. Likewise, Circular UNIF-DIF-DAE-00028 of the UNIF causes confusion regarding the term to report, since it indicates that all reporting entities are required to submit SARs “*within thirty (30) continuous days after the date on which the activity that gave rise to said process was detected,*” which is not in harmony with the other terms referred to by the supervisors.

⁹⁴ At the time of the on-site visit, the country was working on the development of AML/CFT regulations for savings banks, although the inclusion of said regulations should be proportionate to the risks of the sector once they are analysed.

Criterion 20.2 – In accordance with Article 4.2 and Article 13 of the LOCDOFT, reporting entities should report suspicious activities to the UNIF and, according to its definition, suspicious activities include attempted transactions regardless of their amount.

Weighting and conclusion

There is legislation that requires reporting entities (including financial institutions) to file SARs to the UNIF; however, the timeliness of these reports is affected by the lack of standardization of the legislation in the various laws, such as the SUNACRIP, the SUNAVAL, the LOCDOFT, the SUDEBAN, to stipulate a reasonable reporting period. **R.20 is rated Partially Compliant.**

Recommendation 21 - Tipping-off and confidentiality

The Bolivarian Republic of Venezuela was rated PC in relation to the tipping-off and confidentiality requirements in its 2009 MER due to the lack of a provision that clearly exempts FIs, their directors, officials and employees from criminal and civil liability for submitting SARs to the UNIF and because there was no regulation prohibiting directors, officers and employees of a FI from disclosing that a SAR has been submitted. These deficiencies were addressed through the provisions of the LOCDOFT approved in 2012.

Criterion 21.1 – Article 13 of the LOCDOFT establishes that the submission of SARs to the UNIF does not entail criminal, civil or administrative liability against the reporting entity and its employees or the person who signs it. Article 113 of SUDEBAN Resolution 083.18, Article 99 of Resolution SAA-8-004-2021 and Article 46 of MINTUR Resolution 020 establish the same protection. With the exception of Article 113 of Resolution 083.18, these laws and resolutions do not refer to the protection being applicable only if the report has been made in good faith.

Criterion 21.2 – Article 14 of the LOCDOFT establishes that the reporting entities and their employees should not disclose to the customer, user or third parties that they have reported information to the UNIF, nor that any suspicious transaction related to said information is being reviewed. Article 126 of SUDEBAN Resolution 083.18 and Article 99 of SUDEASEG Resolution SAA-8-004-2021 establish the same duty. On the other hand, when analysing whether there are provisions prohibiting the exchange of information under R.18, the assessment team considers that confidentiality measures are not currently an obstacle to applying R.18.

Weighting and conclusion

The Bolivarian Republic of Venezuela protects FIs, their employees or whoever signs a SAR against criminal and civil liability for violation of any restriction on tipping off, although this protection is too broad and may be extended to cases in which the report has not been made in good faith. **R.21 is rated Largely Compliant.**

Recommendation 22 - DNFBPs: Customer due diligence

The Bolivarian Republic of Venezuela was rated NC with respect to the CDD requirements applicable to DNFBPs in its 2009 MER as it was not possible to verify that they were subject to AML/CFT measures. These deficiencies were addressed through the approval of the LOCDOFT and coercive means applicable to casinos and notaries.

Criterion 22.1

- (a) Casinos should apply CDD measures to any person who conducts a transaction whose value is greater than five thousand US dollars (USD 5,000.00), according to Article 59 of the Law on Supervision of Casinos, Bingos and Slot Machines (LCC), which does not meet the threshold established in this sub-criterion. With respect to the criteria of R.10, criteria 10.1, 10.3, 10.5 are fulfilled in accordance with Articles 11 and 16 of the LOCDOFT, and Articles 30-33 of Resolution DE-19-01 of the CNC, taking into account that the deficiencies already indicated in Recommendation 10 affect compliance with this sub-criterion. Criteria 10.2 (d), 10.2(e), 10.6, 10.7 (a) and 10.7 (b) and 10.14 to 10.20 are not met.
- (b) The real estate agent sector is not provided for in the LOCDOFT.
- (c) Article 9.10.c. of the LOCDOFT establishes that dealers in precious metals and stones are reporting entities. There is no threshold at which the sector of dealers in precious metals and stones should apply the requirements of R.10, so, by interpretation, they should apply them to all transactions. Beyond the LOCDOFT, there are no subsidiary regulations in this regard so, in practice, dealers in precious metals and stones are not subject to specific AML/CFT measures; consequently, there are no provisions that subject this sector to the requirements of criteria 10.2(d), 10.2(e), 10.4, 10.6 to 10.11 and 10.14 to 10.20.
- (d)
- (i) Articles 9.8 and 9.9 of the LOCDOFT establish that lawyers, notaries and accountants are reporting entities.
 - (ii) The activities subject to AML/CFT measures carried out by notaries are limited to the purchase and sale of real estate, the incorporation of legal persons and arrangements, and the purchase and sale of commercial entities, in accordance with Article 75.1 and 75.3 of the LRN, while lawyers and accountants should apply AML/CFT measures when they are involved in all the activities listed in sub-criterion 22.1(d), according to Article 9.9 of the LOCDOFT.
 - (iii) Criteria 10.1, 10.3, 10.5 are met for lawyers, notaries and accountants, according to Articles 11 and 16 of the LOCDOFT, Article 107 of the LRN, and Articles 26 and 29 of SAREN Resolution 008 of 2019, although with the same accuracy as in Recommendation 10.
 - (iv) Criteria 10.4, 10.6, 10.17 and 10.18 are met in the case of notaries, based on Articles 26, 30 and 31 of SAREN Resolution 008 of 2019, but there are no provisions that demonstrate compliance with these criteria in the case of lawyers and accountants.
 - (v) Sub-criteria 10.7(a) and (b) are partly met for the notaries sector because there is no follow-up to ensure that the transactions are consistent with the information that the institution has of the customer, nor there is a mechanism in place to ensure that CDD information is kept up to date, as deduced from Articles 26, 27 and 28 of SAREN Resolution 008 of 2019. Criterion 10.7 is not met in relation to lawyers and accountants.
 - (vi) There are no provisions requiring lawyers, notaries and accountants to meet criteria 10.2(d), 10.2(e), 10.8 to 10.11, 10.14 to 10.16, 10.19 and 10.20.
- (e)
- (i) Lawyers, accountants and any other person can act as *a formation agent of legal persons* to the extent that they provide **assistance** to comply with the procedures established for this purpose; in any case, the **preparation of the articles of incorporation** is an activity specific to notaries.
 - (ii) *Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons* is an activity that is not restricted to any specific professional activity and could be exercised by any person, as well as *providing a registered address, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.*

- (iii) *Acting as (or arranging for another person to act as) trustee of an express trust* is reserved for institutions in the banking and insurance sector authorized for this purpose under the Law on Trusts.
- (iv) *Acting as (or arranging for another person to act as) the equivalent of a trustee for other forms of legal arrangements other than a trust* could be exercised by any person.
- (v) The activities referred to in paragraphs (ii) and (iv) above are not regulated by the LOCDFT, and the persons or professionals who are willing to conduct or actually conduct transactions related to these activities are not required to apply preventive measures.
- (vi) In the case of trust services provided by institutions in the banking and insurance sectors, the analysis of compliance with R.10 is applicable here.

Criterion 22.2 – The Bolivarian Republic of Venezuela complies with c.11.1 in relation to DNFBPs included in the LOCDFT. Criterion 11.2 is met in the part that requires the retention of records for a period of 5 years. There are no provisions that require DNFBPs to comply with the requirements of criteria 11.3 and 11.4.

Criterion 22.3 – The definition of domestic and foreign PEPs provided for in the Venezuelan law is not consistent with the FATF definition, while that of PEPs from an international organisation is not fully present. DNFBPs (with the exception of notaries that do not have management), are required to comply with sub-criterion 12.1(b), but do not have duties that reflect sub-criteria 12.1(a), (c) and (d). They are also not required to meet criteria 12.2-12.4. These findings are based on Article 18 of the LOCDFT and Article 32 of SAREN Resolution 008 of 2019.

Criterion 22.4 – The Bolivarian Republic of Venezuela does not provide information that demonstrates that the reporting entities described in criterion 22.1 meet the requirements of new technologies contained in c.15.1 and c.15.2. According to Article 2 of SUNACRIP Resolution 044-2021, the assessment team interprets that DNFBPs that conduct any of the activities of a VASP are subject to the provisions of said resolution; therefore, the findings presented in the analysis of c.15.3-c.15.11 are equally valid for this assessment criterion.

Criterion 22.5 – There are no provisions that require DNFBPs to comply with the requirements of criteria 17.1 to 17.3.

Weighting and conclusion

The Bolivarian Republic of Venezuela has not included real estate agents among the DNFBP sectors subject to AML/CFT measures, which is an important deficiency considering that real estate services constitute an important part of the economy. Trust and company service providers, except in the case of FIs in the banking and insurance sector when acting as trustees of a trust, are not reporting entities under the Venezuelan regulation. In the case of the rest of DNFBPs, basic requirements regarding record keeping, measures applicable to PEPs and CDD are established in the LOCDFT (with the exceptions contained in c.22.1). The Bolivarian Republic of Venezuela presents moderate deficiencies in relation to the implementation of the requirements of R.15 in the DNFBP sectors. On the other hand, it does not have provisions implementing the obligations related to reliance on third parties of R.17. Because the legislation is only developed for the case of notaries and casinos, the legal framework implementing CDD measures is insufficient. **R.22 is rated Partially Compliant.**

Recommendation 23 - DNFBPs: Other measures

The Bolivarian Republic of Venezuela was rated NC with respect to other preventive measures applicable to DNFBPs in its 2009 MER under the same circumstances expressed in the introduction to the analysis of R.22.

Criterion 23.1 – The obligation to report suspicious transactions is established in Article 13 of the LOCDOFT, and the obligation covers suspicions that the funds are related to ML, TF and organized crime offences without reference to a minimum amount. The text of this provision creates the effect of not compelling the reporting of suspicions related to offences committed by persons acting independently of a criminal organisation or legal person. On the other hand, said precept does not establish that the report should be carried out promptly, with the exception of the sector of notaries, which, according to Article 46 of SAREN Resolution 008 of 2019 should report their suspicions within a maximum of five days, and of casinos, which by virtue of Article 48 of Administrative Resolution DE-19-01 of the CNC, should do it within the two business days following the date on which the transaction was performed by the parties. Regarding criterion 20.2, DNFBPs are not required to report transaction attempts. Those who provide trust and corporate services in the manner described in the analysis of sub-criterion 22.1(e) are subject to the obligation established in Article 13 of the LOCDOFT.

Criterion 23.2 - Articles 7, 15, 33, and 35 of SAREN Resolution 008 of 2019 meet the requirements of sub-criteria (a), (b) and (c) of criterion 18.1, but do not cover sub-criterion (d) related to notaries. For the rest of the reporting entities, there are no provisions that meet criterion 18.1.

The Bolivarian Republic of Venezuela does not provide documentation that justifies that international groups comply with the terms of c.18.2. Regarding criterion 18.3, Article 20 of the LOCDOFT states that all reporting entities, including DNFBPs, should ensure that the provisions related to ML/TF prevention and control established in the Law are applied to branches and subsidiaries located abroad, and that, when foreign laws do not allow the implementation and application of control and prevention measures, this is informed to the main office of the reporting entities and that the highest standard is applied. However, there are no sanctions related to said obligation, nor do the measures included in the Law cover all the obligations.

Criterion 23.3. – Regarding criterion 19.1, Venezuela does not have measures requiring DNFBPs to apply enhanced due diligence, which is proportionate to the risks, to commercial relationships and transactions with natural and legal persons from countries for which the FATF has made a call in this regard. Regarding criterion 19.2, the Bolivarian Republic of Venezuela has not established countermeasures applicable to the case in which the FATF has made a call in this regard and regardless of whether the FATF has made a call. In relation to criterion 19.3, supervisors are limited to obtain information on higher-risk countries, territories or areas associated to ML, TF or drug trafficking.

Criterion 23.4 – Article 13 of the LOCDOFT establishes that the referral of SARs to the UNIF does not entail criminal, civil or administrative liability against the reporting entity and its employees or for the person who signs it. Article 46 of Resolution DE-19-01 of the CNC and Article 44 of SAREN Resolution 008 establish the same protection. These provisions do not refer to the protection being applicable only if the report has been made in good faith. Article 14 of the LOCDOFT establishes that reporting entities and their employees should not reveal to the customer, user or third parties that they have reported information to the UNIF, nor that any suspicious transaction related to said information is being revised.

Weighting and conclusion

Overall, the Bolivarian Republic of Venezuela has the basic requirements established in the LOCDOFT for the measures contained in R.23, although they do not include all the assumptions and no documentation is provided that justifies that trust and company service providers are reporting entities. **R.23 is rated Partially Compliant.**

Recommendation 24 - Transparency and beneficial ownership of legal persons

The Bolivarian Republic of Venezuela was rated NC in relation to the requirements on transparency of legal persons in its 2009 MER due to the fact that there was no system to identify the beneficial owner of commercial companies or a public registry that maintained information on ownership and control of registered commercial companies. These deficiencies began to be addressed through the automation of the SAREN, which, by 2014, was near completion.

The analysis of R.24 focuses on commercial companies or corporations as far as they are relevant according to the number of companies that are active and the profit-generating activities that they carry out. On the other hand, when considering the number of NPOs and cooperatives in the country, their contribution to GDP and the types of activities they engage in, these are not relevant in the country's context. Section 1.4.5 of Chapter 1 of the MER provides more information on this.

Criterion 24.1 Article 200 of the CDC establishes that commercial companies are those whose purpose is to take one or more acts of commerce, and Article 201 of the CDC establishes that companies are commercial legal persons that may take the form of general partnerships, limited partnerships, public limited companies and limited liability companies. Their basic characteristics and incorporation process are established in Articles 201-336 of the CDC, these articles and the provisions of Resolution 019.⁹⁵

The collection and registration of beneficial ownership information is conducted only by the reporting entities, but the provisions in place present several deficiencies, which are described in the analysis of criteria 10.5, 10.10 and 22.1.

The mechanisms that identify and describe these types of commercial legal persons are publicly available by virtue of the publication of the above-mentioned regulations in the Official Gazette of the Bolivarian Republic of Venezuela.

Criterion 24.2 – The country has not evaluated the ML/TF risks associated with commercial companies created in the country.

Criterion 24.3 - Articles 213, 214 and 215 of the CDC and Article 52 of the LRN require the administrators of public limited companies, limited partnerships by shares and limited liability companies to register the name of the company, proof of its incorporation, form and legal status, address and basic powers of regulation; however, they do not require the registration of a list of directors in the Commercial Court. This information is publicly available according to Article 63 of the LRN. Article 212 establishes that the Commercial Registry should record an extract of the articles of incorporation of general partnerships and limited partnerships, but it does not cover the other types of information referred to in this criterion, and there are no provisions ensuring the publication of basic information on these two types of companies.

Criterion 24.4 –The Bolivarian Republic of Venezuela affirms that, in practice, commercial companies maintain the information referred to in criterion 24.3 through copies of their articles of incorporation;

⁹⁵ MPPRIJP Resolution 019 - Manual that Establishes the Unique and Mandatory Requirements for the Processing of Legal Acts or Transactions in the Main Registries, Commercial Registries, Public Registries and Notaries Offices.

however, there are no legal provisions establishing this requirement. Moreover, Article 260 of the CDC requires public limited companies and limited partnerships by shares to keep a register of their shareholders that indicates the number of shares held by each one; however, this article does not require corporations and joint-stock companies to include in the shareholders' book the category of the shares or the nature of the associated voting rights. Regarding limited liability companies, Article 328 requires them to keep a book of partners in which their names are recorded; although this provision does not require the membership book to indicate the extent of the voting rights of the members of a limited liability company, Article 333 provides that each partner will have the right to one vote for each share that belongs to them. There are no provisions that require keeping information on shareholders or members within the country, in a place notified to the commercial registry. The assessment team did not identify similar basic and member information provisions applicable to limited partnerships.

Criterion 24.5 – There is no legal basis in the LRN or in the LOCDOFT that establishes that the basic information of companies should be registered in a commercial registry and that the information of commercial companies is accurate and updated in a timely manner by the Commercial Registry and by said companies.

Criterion 24.6 – Article 16 of the LOCDOFT establishes the duty of the reporting entities to identify the beneficial owner. Competent authorities could use this provision to obtain information on the beneficial owner in accordance with the mechanism described in sub-criterion 24.6(c)(i), but the deficiencies identified in c.10.5 and 22.1 affect compliance with this criterion. There are no provisions implementing elements (ii), (iii) and (iv) of sub-criterion 24.6(c) or that ensure that this information is available for a given place in the country. The country does not have provisions that, in an alternative or complementary way, implement the mechanisms described in sub-criteria 24.6(a) and (b).

Criterion 24.7 – It is not possible to determine whether the beneficial ownership information is accurate and as up to date as possible.

Criterion 24.8 – There is no legal basis ensuring that commercial companies should cooperate with competent authorities to determine who is the beneficial owner through any of the methods proposed in this criterion.

Criterion 24.9 – There is no legal basis that requires commercial companies, authorities, administrators, liquidators and other persons involved in the dissolution of the company to keep records for five (5) years from the date on which the company is dissolved, ceases to exist or ceases to be a customer of the professional intermediary or financial institution.

Criterion 24.10 - Art. 52 of SAREN Resolution No. 008 provides that the TSJ, the AGO, criminal investigative agencies and the SAREN department with functions related to AML/CFT, can request from Registry Offices and Notaries Public, any type of information that they may have in their possession and that they should provide it within a period not exceeding eight working days, which would include basic information and information on the beneficial owner of legal persons; however, as indicated in the previous criteria, the basic information recorded in the Public Registry through the Registry Offices is incomplete, while, in the case of notaries, the LOCDOFT and SAREN Resolution No. 008 do not define what should be understood by “beneficial owner” and what information should be obtained on same.

Criterion 24.11 – There is no evidence that there is a prohibition in the country for legal persons to issue bearer shares or bearer share certificates. The Bolivarian Republic of Venezuela confirms that Article 292 of the CDC, which authorizes the issuance of bearer shares by commercial companies, is applicable in the country.

Criterion 24.12 – The legal basis provided does not show that the content required in this criterion is met.

Criterion 24.13 – The legal basis provided does not show that there are sanctions for non-compliance with the obligations to which legal persons or commercial companies are subject. It is impossible to determine that the sanctions are proportionate and dissuasive.

Criterion 24.14 – The legal basis provided does not show that the country has a legal framework to provide immediate international cooperation in relation to basic information and information on the beneficial owner under the definitions contained in Recommendations 37 and 40.

Criterion 24.15 – The legal basis provided (Article 5 of the LOCDOFT) and Article 52 of the Securities PLC Resolution) does not evidence that the country should monitor the quality of assistance received from other nations in response to requests for basic information and information on the beneficial owner or requests for assistance in locating beneficial owners residing abroad.

Weighting and conclusion

The Bolivarian Republic of Venezuela does not comply with the fundamental requirements of the Recommendation regarding basic information and information on the beneficial owners; in addition, it presents deficiencies in relation to some complementary aspects of the Recommendation: sanctions, monitoring of the assistance received and lack of controls on the transfers of shares of corporations not listed on the stock exchange. **R.24 is rated Non-Compliant.**

Recommendation 25 - Transparency and beneficial ownership of legal arrangements

The Bolivarian Republic of Venezuela was rated PC in relation to the requirements on information and control of legal arrangements in its MER of 2009 due to the lack of a registry of all existing trusts in the country, lack of effectiveness of the applicable legislation, deficiencies in the authorities' capacity to access information on trusts created abroad and beneficiaries of trusts created abroad and who are customers of a branch/subsidiary of a Venezuelan financial institution located abroad. Most of these deficiencies were addressed through coercive means applicable to the institutions of the banking and insurance sectors, pending review of the possibility that the authorities could obtain information in cases of customers of branches and subsidiaries in countries other than Venezuela.

Criterion 25.1 – According to Article 12 of the Law on Trusts, only banking institutions and insurance companies incorporated in the country to which the National Executive grants authorization by Resolution of the Ministry of Finance or Development can be trustees. In relation to the banking activity:

- (a) This sub-criterion is met in relation to banking institutions in accordance with Article 89.1 of SUDEBAN Resolution 083.18.
- (b) This sub-criterion is met in relation to banking institutions in accordance with Article 89.2 of SUDEBAN Resolution 083.18.
- (c) In accordance with c.11.1, this sub-criterion is met for banking and insurance activities.

In relation to the insurance activity, there was no evidence that there is a legal basis for compliance with sub-criterion (a) and (b).

Criterion 25.2 – The legal basis provided does not show that the content required in this criterion is met.

Criterion 25.3 – There is no evidence that there is a legal basis that refers to the fact that the country should take measures to ensure that trustees disclose their status to FIs and DNFBNs when they establish a business relationship or conduct an occasional transaction that exceeds the set threshold.

Criterion 25.4 – In principle, it does not appear that there are legal provisions that prevent reporting entities that operate as Trust Institutions (trustees) from providing information to competent authorities. The legislation is not clear in indicating that the information provided includes information on the beneficial owner and assets that are in their possession or are managed by the trust. It is inferred that banking institutions and insurance companies have information on beneficial owners and assets that are held or managed by the trust. There is no legal basis to determine that the Trust Institutions are empowered to provide information on beneficial owners and assets that are in their possession or are managed by the trust to other FIs and DNFBNs upon request.

Criterion 25.5 – There is a legal basis for competent authorities to request general information (see the analysis of [R.31](#)). However, competent authorities do not seem to have all the necessary powers to obtain from Trust Institutions and other parties (particularly, the detailed information held by financial institutions and DNFBNs) timely access to information on the beneficial owner, the residence of the trustee and the assets held by other FIs or DNFBNs.

Criterion 25.6 – The country does not have specific legislative measures in place to provide immediate international cooperation in relation to information on trusts and other legal arrangements. Revise R. 37 and 40.

Criterion 25.7 – According to Article 31 of the Law on Trusts, administrators of banks and insurance companies, are likely to face a prison sentence of one to five years for non-compliance with the obligations established for trustees in Article 14 of the same law. It is impossible to determine that the sanction is proportionate to the magnitude of the breach committed or proportionate to other offences in the same category of offences, nor can it be determined that the penalty is dissuasive.

Criterion 25.8 – Although the legislation contemplates sanctions for other types of non-compliance, there is no evidence that there are proportionate and dissuasive sanctions for Trust Institutions for failure to provide information indicated in criterion 25.1 to competent authorities.

Weighting and conclusion

With regard to reporting entities by virtue of the LOCDOT in its Articles 10 to 17, there is no evidence that proportionate and dissuasive administrative sanctions are applied in case of non-compliance with due diligence obligations (which include cooperation with competent authorities). In most of the criteria, the legal powers related to general information are related, but the specific criteria for trustees and other parties (in particular, the detailed information held by financial institutions and DNFBNs) were not demonstrated. **R.25 is rated Non-Compliant.**

Recommendation 26 - Regulation and supervision of financial institutions

The Bolivarian Republic of Venezuela was rated PC in relation to the requirements on regulation and supervision of FIs in its 2009 MER. This was because the SUDEBAN had little operational capacity to conduct on-site inspections, which was overcome by making changes to its structure, increasing its staff, and other measures. The legal framework has changed since the 3rd Round of Mutual Evaluations and, consequently, this analysis focuses on the LOCDOT of 2012, the LISB of 2014, the LBCV, the LAA and the LMV, the latter three approved in 2015, and the supervisors' respective coercive means.

Criterion 26.1 – Articles 7.1, 7.2, 7.3, 7.4 and 7.12 of the LOCDOFT establish the SUDEBAN, the SUDEASEG, the SUNAVAL, the MINTUR and the CBV as the supervisors of FIs. Articles 8.2, 8.3, 8.5 and 8.11 of the LOCDOFT empowers them to regulate and supervise their respective FIs. A more detailed analysis of each supervisor is presented below:

- (a) *SUDEBAN*: In accordance with Article 3 of the LISB, the SUDEBAN performs these functions with respect to FIs that take deposits and other repayable funds from the public and loans, issue and administer methods of payment, undertake financial guarantees and exchange currency, but it does not cover financial leasing and factoring activities, nor are these FIs under the jurisdiction of another supervisor.
- (b) *SUDEASEG*: Articles 1-3 of the LAA establish that the SUDEASEG supervises any relationship or transaction related to insurance and reinsurance contracts.
- (c) *SUNAVAL*: The SUNAVAL is in charge of supervising the trading of transferable securities, the custody, administration of liquid securities and the administration of cash on behalf of third parties and participation in securities issuances and the provision of financial services related to those issuances, in accordance with Articles 4, 32 and 33 of the LMV. It is also empowered to supervise the financial instruments derived from indices that are authorized for placement on the securities market, in accordance with Article 3.2 of the LMV. Likewise, according to Articles 46 and 50 of the LMV, it has authority over the issuance, trading, brokerage, custody and settlement of derivative instruments, such as options and futures.⁹⁶ In accordance with Article 3.3 of the LMV, it supervises brokerage companies and universal brokerage houses that are authorized to carry out management of third-party securities portfolios. The SUNAVAL is also empowered to supervise and control the proper functioning of collective investment entities and their management companies incorporated in the securities market in accordance with the LMV and the Law on Collective Investment Undertakings.
- (d) *CBV*: Article 61 of the LBCV designates the CBV as supervisor of the general activity of payment systems and Non-Bank Payment Service Providers (PSP) (which involves the processing and execution of fund and/or securities transfer orders). When assessing this provision together with Articles 7.3, 8.3, 9.10.f of the LOCDOFT, the assessment team interprets that the CBV is the supervisor of PSPs in AML/CFT matters, which was confirmed through conversations with the Venezuelan authorities. Despite this, Article 26 of SUDEBAN Resolution 01.21 establishes that PSPs are also subject to SUDEBAN's AML/CFT supervision, which entails regulatory confusion regarding the scope of competence of these supervisors.
- (e) *MINTUR*: The MINTUR supervises the currency exchange activity when it is conducted by hotels, companies and authorized tourism centres. Although MINTUR Resolution 020-2021 states among its legal foundations that “tourist service providers” are DNFBPs, the currency exchange activity is typical of an FI according to the FATF Glossary, and, therefore, the considerations made in this Recommendation are applicable to this activity. However, there is no tourist service provider in the country that conducts the foreign exchange activity.
- (f) *UNIF*: With respect to the UNIF, Article 4.11 and 4.12 of Decree 3656, establishes that the UNIF is empowered to regulate, inspect and supervise the reporting entities defined in the LOCDOFT; however, this entails two deficiencies. The first is that the LOCDOFT does not empower the UNIF to

⁹⁶ The Venezuelan authorities reported that there is currently no derivatives segment (options and futures) in the securities market due to its low level of development.

supervise. Since Decree 3656 is a lower-ranking regulation, it cannot grant more powers than the LOCDOFT. Second, if such a provision were valid, the UNIF would become a supervisor superior and parallel to the others, because it could exercise the regulation and supervision functions over all reporting entities, contradicting the laws of the other sectoral supervisors that establish their respective areas of competence.

- (g) Cooperatives that conduct financial activities and savings banks have not been designated as reporting entities and do not have AML/CFT supervisors.

Criterion 26.2 – The Bolivarian Republic of Venezuela has provisions that require banking, insurance and securities institutions to obtain authorization to operate, in accordance with Articles 3 and 7 of the LISB, Articles 1 and 3 of the LAA and Article 4 of the LMV. The “Manual of Rules and Procedures on Authorizations for Supervised Entities and Issuance of Decisions” establishes the procedures to be followed by the SUDEBAN to authorize the operation of a wide range of institutions within the banking sector. Articles 8 to 10 of SUNAVAL⁹⁷ Resolution 224 establish the requirements that public securities brokers should meet to receive an authorization to operate.

Articles 3 and 7 of the LISB also establish that exchanges and border exchange operators should be subject to authorization, as well as natural and legal persons that provide their auxiliary financial services, which are “non-banking institutions” according to Articles 13, 14 and 15 of the LISB. SUDEBAN Resolutions 050.12⁹⁸, 037.13⁹⁹ and 001.21¹⁰⁰ establish the operating authorization procedures for representative offices of foreign banking institutions, exchanges and banking sector financial technology institutions, respectively. Likewise, Sections II and II of the CBV Circular of 18 February 2019 establish the requirements that should be met by those who request authorization to operate payment systems or establish a PSP.

The assessment team did not obtain information on how the country grants operating authorization to cooperatives that offer financial services to their members or to savings banks.

Regarding the existence of measures that prevent the establishment of shell banks, the assessment team interprets that Articles 17, 22, 25, 30, second paragraph, 67, 68 and 234 of the LISB prevent their operation because they require that the head and senior management of a bank should be within the territory of the Bolivarian Republic of Venezuela and assume that it should have offices in the country.

Criterion 26.3 – Article 21 of the LOCDOFT establishes that supervisors should adopt measures that prevent natural or legal persons linked to organized crime and TF provided for in the LOCDOFT or activities related to them from participating in the capital of the reporting entities. The obligation provided for in Article 21 does not include measures aimed at preventing criminals or their associates from being the beneficial owner of a significant or controlling interest in an FI. Regarding the laws and the specific coercive means of supervisors:

- (a) *SUDEBAN*:

- (i) Article 19.1 of the LISB establishes that someone who has been convicted of drug trafficking, ML and TF cannot be a *shareholder or promoter of the establishment of a banking institution*.

⁹⁷ Resolution 224 - Rules Regarding the Authorization and Registration of Public Brokers and Investment Advisors

⁹⁸ Resolution 050.12 - Rules for the Authorization and Operation of Representations of Foreign Banking Institutions in the Country.

⁹⁹ Resolution 037.13 - Rules Governing the Organization, Operation and Cessation of Activities of Exchanges.

¹⁰⁰ Resolution 001.21 - Rules that Regulate the Banking Sector Financial Technology Services (FinTech).

- (ii) Article 19.8 of the LISB prevents persons who have been found administratively responsible for acts that have merited a sanction or have been criminally convicted of a punishable act related to the financial activity from being *shareholders or promoters*.
 - (iii) Article 31.9 of the LISB establishes that persons who incur in the same circumstance as that provided for in Article 19.8 of the same law cannot be *directors* of a bank.
 - (iv) Article 7 of SUDEBAN¹⁰¹ Resolution 099.12 establishes the requirements that should be met by natural and legal persons appointed to hold a *management position* in a bank that is already operating. This resolution does not include applicable prohibitions to shareholders, the beneficial owner and the managers to determine if they are criminals or if they are associated with them.
 - (v) Article 6 of Resolution 037.13 establishes the requirements that should be met by the organizers, shareholders and the board of directors of an exchange. The resolution prohibits those who have been convicted in administrative or criminal proceedings for acts related to financial activities from being organizers of an exchange; there are no prohibitions similar or related to ML/TF and predicate offences applicable to the shareholders and managers of an exchange.
 - (vi) Articles 9 to 12 of Resolution 001.21, applicable to banking sector financial technology institutions, are expressed in the same terms as Resolution 037.13.
- (b) *SUDEASEG*: Article 19.4.a. and Article 20.4.a. of the LAA establish knowledge and repute requirements that should be met by the members of the board of directors of insurance and reinsurance companies. Article 21.3, 21.4, 21.5 and 21.6 of the LAA prevents a person who has been criminally convicted of offences against property, corruption, financial offences from being a promoter, shareholder, president, director, administrator, insurance intermediary of an insurance or reinsurance company for a period of ten years counted from the time the sentence has been served or commuted; it also prevents whoever is responsible for the application of prudential measures, the intervention or liquidation of a company from holding such positions for a period of ten years counted from the date such measures have been taken.¹⁰²
- (c) *SUNAVAL*: Article 9.7 of SUNAVAL Resolution 224 establishes that the natural or legal person interested in obtaining authorization to operate as public securities brokers should submit documents that demonstrate that they are not and have not been involved in serious or repeated conduct to the detriment of individuals, institutions or the confidence of the general public. Articles 8 to 10 of the resolution establish a wide range of requirements to operate as a public securities broker, including the presentation of identification of its shareholders and the members of the board of directors of the broker when it is a legal person. Article 19.5 and 19.9 of the same resolution establishes that a person who has been convicted of offences against property, public trust or the treasury, or who has been involved in ML, cannot be a public securities broker.
- (d) *CBV*: The penultimate paragraph of Section I of the CBV Circular of 18 February 2019 sets forth that legal persons domiciled in the country should submit a sworn statement signed by each of the applicant's shareholders, stating that they are not involved in any of the assumptions of incompatibility established for the exercise of the banking, financial, capital market or insurance activities determined in the current legal system and, in the event that the shareholding composition includes legal persons, the applicant should attach a sworn statement of each one of their

¹⁰¹ Resolution 099.12 - Regulations that Allow Determining Compliance with the Moral and Ethical Quality Requirements Demanded for the Exercise of the Banking Activity.

¹⁰² Article 2.2.4 of SUDEASEG Resolution 002 establishes that any person who has not been involved in serious conduct and other circumstances that are not current, as far as the law refers the reader to the previous Law on insurances, can be the promoter of the establishment, or the shareholder, director and administrator, of an insurer or reinsurer.

shareholders. There is no similar provision in Section II of the Circular related to those requesting authorization to function as PSP.

- (e) *MINTUR*: The assessment team did not obtain information indicating that the MINTUR has measures in place to prevent criminals or their associates from having, or being the beneficial owner of, a significant or controlling interest or from controlling or holding a managerial position in hotels, companies and tourism centres authorized to conduct foreign exchange transactions.

Although most of the laws and resolutions referred to in the preceding paragraphs set forth prohibitions that prevent criminals and their associates from owning financial institutions or holding managerial positions in them, they do not provide express and specific measures to determine whether criminals or their associates are seeking to obtain, or be the beneficial owner of, a significant or controlling interest or are seeking to control or hold a management position in a bank (e.g., through background checks or conducting investigations and inquiries to determine whether people are fit and proper).

Criterion 26.4 – In accordance with the legislation of the Bolivarian Republic of Venezuela, the banking, insurance and securities sectors are regulated and supervised in AML/CFT matters in accordance with the LISB, LAA, LMV and the AML/CFT resolutions issued by the SUDEBAN, the SUDEASEG and the SUNAVAL. There are no provisions that subject financial groups to consolidated AML/CFT supervision. The other FIs supervised by the SUDEBAN, including exchanges authorized to conduct money transfers, are subject to the same AML/CFT regulations and supervision. Savings banks and cooperatives are not subject to AML/CFT regulation and supervision.

Criteria 26.5 and 26.6 – The provisions of the LOCDOFT, the LISB, the LAA, Resolution 083.18 and Resolution SAA-8-004-2021 referred to by the country do not implement these criteria.

Weighting and conclusion

The Bolivarian Republic of Venezuela has supervisors responsible for regulating and supervising compliance with the AML/CFT obligations of most financial institutions. On the other hand, the assessment team considers that there are moderate deficiencies in terms of the provisions that regulate the entry to the market of financial institutions and important deficiencies in relation to the application of a risk-based approach to their supervision and monitoring. **R.26 is rated Partially Compliant.**

Recommendation 27 - Powers of supervisors

The Bolivarian Republic of Venezuela was rated LC in relation to the requirements on powers of supervisors in its 2009 MER due to the lack of sanctions for non-compliance with AML/CFT obligations, which was addressed through the approval of the LOCDOFT.

Criterion 27.1 – Article 8.2, 8.3, 8.4, 8.5, 8.10 and 8.11 of the LOCDOFT empowers the SUDEBAN, the SUDEASEG, the SUNAVAL, the MINTUR and the CBV to supervise the AML/CFT requirements of their respective sectors of reporting entities. This provision is supplemented by Article 6.1 of the LAA. The UNIF does not have a clear legal framework to supervise, while some FI sectors are not subject to AML/CFT supervision (see 26.1, sections f and g).

Criterion 27.2 – Article 8.5 of the LOCDOFT empowers supervisors to inspect. As noted above, there are some FI sectors that are not covered by the legislation, which affects compliance with this criterion.

Criterion 27.3 – Article 8.6 of the LOCDOFT empowers supervisors to request any information from their respective reporting entities which, in the opinion of the assessment team, includes information

relevant to the monitoring of compliance with AML/CFT requirements. As noted above, there are several FI sectors that are not covered by the legislation, which affects compliance with this criterion.

Criterion 27.4 – The supervisors listed in Article 7 of the LOCDOFT are authorized to impose sanctions based on Articles 10 to 19 of the LOCDOFT. Said sanctions consist of fines whose dissuasive effect cannot be evaluated as they are assessed in tax units, whose value was not defined by the Bolivarian Republic of Venezuela, in addition to the fact that their value is relative due to hyperinflation. In any case, the sanctioning regime is not proportionate, since it penalizes all violations of AML/CFT obligations with a fine instead of considering a range of sanctions that gradually addresses the seriousness of the breaches; likewise, the aforementioned provisions do not cover a complete range of sanctions applicable to non-compliance with the obligations established in R.6 and R.8 to R.23.

Weighting and conclusion

The framework presented by the Bolivarian Republic of Venezuela does not make it clear that supervisors have the power to supervise or monitor and demand the production of information for monitoring, although Article 8.5 of the LOCDOFT establishes a supervision and inspection control clause. Supervisors are empowered to impose ML/TF sanctions, but there is no information showing that they can withdraw, restrict or suspend the license of the financial institution. **R.27 is rated Partially Compliant.**

Recommendation 28 - Regulation and supervision of DNFBPs

The Bolivarian Republic of Venezuela was rated NC in relation to the DNFBP regulation and supervision requirements in its 2009 MER, because there was no designated authority to regulate and supervise them. In 2014, the country began the regulation and supervision of casinos and notaries, but the deficiency had not been addressed in relation to the remaining DNFBP sectors.

Criterion 28.1

- (a) *License*: Casinos should have a license to operate, according to Article 14 of the LCC.
- (b) *Ownership and control*:
 - (i) Article 15 of the CNC establishes that the participation of foreign capital will not exceed in any case eighty percent (80%) of the capital of the casinos.
 - (ii) Article 21 of the LCC establishes that moral solvency is an essential condition to be a manager or member of the board of directors of a casino.
 - (iii) Article 22 of the CNC establishes six conditions that prevent people from being shareholders, directors or administrators of a casino, among which are: having a criminal record, those who have document protests and those who have civil and criminal liability for mismanagement in their capacity as directors, administrators or managers of a legal person or a company holding a license. However, the country does not specify the legal or regulatory measures through which the CNC verifies these conditions.
 - (iv) The country did not provide information on legal and regulatory measures that prevent criminals and their associates from being beneficial owners or operators of casinos.
- (c) *Regulation and supervision*: Casinos are subject to AML/CFT regulation and supervision in accordance with Articles 7.11, 8.2 and 8.3 of the LOCDOFT.

Criterion 28.2 – The country has designated several AML/CFT supervisors for DNFBPs in Article 7 of the LOCDOFT.

Pursuant to the aforementioned article, the SAREN supervises *notaries*. Likewise, Article 111 of the LRN attributes the supervision of this sector to the SAREN. In contrast, there are no provisions establishing an AML/CFT supervisor for *real estate agents, lawyers and accountants*.

The case of *dealers in precious metals and stones* deserves special attention insofar as Venezuelan legislation focuses on their mining exploitation and leaves outside the scope of the Organic Law that Reserves for the State the Exploration and Exploitation of Gold and other Strategic Minerals (LEOME) the commercialization of gold jewellery and precious stones for personal use, according to its Articles 6 and 32. Due to the exclusion of the trade in jewellery for personal use from the LEOME, this activity is not controlled by the Ministry of People's Power with jurisdiction over oil and mining, but the agents involved in mining are. This part of Venezuelan legislation becomes more complex when considering that mining exploitation should involve the State, whether it conducts the activity directly or together with legal persons and forms of association.

According to Article 31 of the LEOME, Article 1 of the CBV Resolution 21-01-04 and Article 3 of the CBV Resolution 16-04-02, these legal persons and forms of association should sell the minerals they obtain from the extractive activity to the CBV and, only in the event that the latter declines the offer, they may market it outside Venezuela. The marketing activities conducted by the CBV are not considered as such by law, in accordance with Article 11 of the LEOME.

Based on this configuration of the system of exploitation and trade of precious metals and stones, this activity is not subject to supervision nor is the Ministry of People's Power with authority over oil and mining empowered to supervise it in AML/CFT matters.

Banks and insurance companies that operate as *trust institutions* are supervised by the SUDEBAN and the SUDEASEG, while notaries that conduct activities as company agents would be supervised by the SAREN, but *corporate services* provided by any person would not be subject to AML/CFT supervision.

On the other hand, there are several “supervisory agencies or bodies” established in the LOCDOFT that do not seem to be related to the reporting entities established in the same law (Article 7 of the LOCDOFT); therefore, it is not clear which are the reporting entities sectors that fall under their supervision. These supervisors are:

- a) The Ministry of People's Power with competence in matters of internal relations and justice, through its competent bodies.
- b) The Integrated National Service of Customs and Tax Administration.
- c) The Ministry of People's Power with authority over oil and mining, through its competent bodies, according to the explanation given above.
- d) The Ministry of People's Power with authority over electrical energy.
- e) The Ministry of People's Power with authority over planning and finance, through its competent bodies.
- f) The Ministry of People's Power with authority over science and technology.
- g) The Ministry of People's Power with authority over industries.
- h) The Ministry of People's Power with authority over trade.
- i) The National Electoral Council.

The LOCDOFT also mentions that any other State bodies that are designated by law or decree should be considered “supervisory agencies or bodies,” but the country has not indicated whether this has been applied.

Criterion 28.3 – Considering that monitoring consists of conducting activities or processes to observe the behaviour of the supervised entities (for example, changes in the risk profile of the DNFBP), the

Bolivarian Republic of Venezuela has not provided information on the provisions that supervisors may use for this purpose.

Criterion 28.4

- (a) The supervisors referred to in criterion 28.2 are empowered to supervise compliance with AML/CFT obligations in accordance with Article 8.2 and 8.3 of the LOCDOFT. These supervisors also have the power to require the production of information, in accordance with Article 8.6 of the LOCDOFT.
- (b) Article 21 of the LOCDOFT requires supervisors to adopt measures that prevent natural or legal persons linked to organized crime and TF provided for in this Law or to activities related to them from participating in the capital of the reporting entities. However, there are no provisions that define what should be understood by persons ‘linked’ to offences. Likewise, this obligation does not include measures aimed at preventing criminals or their associates from being the beneficial owner of a significant or controlling interest in a DNFBP.
- (c) The analysis of criterion 27.4 is applicable to this sub-criterion.

Criterion 28.5 (Not Met)

- (a) DNFBP supervisors do not have provisions or procedures to determine the frequency and intensity of the AML/CFT supervision of DNFBPs based on their understanding of ML/TF risks, taking into account the characteristics of the DNFBPs, in particular their diversity and quantity.
- (b) Articles 24 and 25 of SAREN Resolution 008 establish that this supervisor organizes inspections of notaries offices taking into account their ML/TF risk profile. This sub-criterion is not met in the case of the other DNFBP supervisors.

Weighting and conclusion

The Bolivarian Republic of Venezuela has a legal framework for the regulation and supervision of casinos and notaries, although there are some deficiencies related to the granting of licenses or permits to conduct their activities and risk-based supervision. As for the rest of the DNFBPs, there is no legal framework for their regulation and supervision that meets the requirements of this Recommendation. **R.28 is rated Partially Compliant.**

Recommendation 29 - Financial Intelligence Units

The Bolivarian Republic of Venezuela was rated PC in relation to the FIU requirements in its 2009 MER due to the lack of independence and autonomy of the UNIF, the fact that the information of the UNIF was kept on servers that were not of their property and the limited added value of their analysis for law enforcement authorities. These deficiencies were addressed through the LOCDOFT, the allocation of additional budgetary and human resources for the UNIF, and the increase in the number of analyses conducted by the UNIF.

Criterion 29.1 – According to Articles 4.2, 13, 25.1 and 25.6 of the LOCDOFT and Articles 2 and 4 of the Decree on the Adjustment of the UNIF, the National Financial Intelligence Unit (UNIF) is the national centre for receiving, processing and analysing the suspicious activity reports (SARs) submitted by the different reporting entities designated by the LOCDOFT in order to disseminate to the Attorney General’s Office information that may evidence the possible commission of punishable acts and the identification of the perpetrators and participants involved in ML/TF.

Criterion 29.2 – The FIU is the central agency for receiving disclosures submitted by reporting entities.

- (a) Articles 13 and 25.1 of the LOCDOFT empower the UNIF to receive SARs, with the limitations explained in the analysis of R.20 and R.23.
- (b) Article 17 of the LOCDOFT empowers the UNIF to receive reports of cash transactions.

Criterion 29.3 - (Met).

- (a) Pursuant to Article 25.2 of the LOCDOFT, the UNIF has the capacity to obtain and use additional information from reporting entities, as necessary to conduct the analysis properly.
- (b) The UNIF has access to financial, administrative and public order information, necessary to carry out its functions of analysing and adding value to the SARs that are analysed through periodic reports sent by the reporting entities. The UNIF can access said information through the Central Risk Information System (SICRI), the National Registry of Requests to the UNIF, the EGMONT network of which the Bolivarian Republic of Venezuela is a part, INTERPOL, the Office of Foreign Assets of the Treasury of the United States of America (OFAC), open sources on the Internet and the following public entities; SAIME, SAREN, IVSS, NEC, SENIAT, NPS, and INT that, according to Article 3 of Decree on the Adjustment of the UNIF, are required to collaborate with the UNIF.

Criterion 29.4

- (a) Pursuant to Article 25.2 and 25.3 of the LOCDOFT, Article 4.3 and 4.4 and Part V.2 of UNIF's Manual of Rules and Procedures of the Financial Intelligence Directorate, the UNIF is empowered to carry out operational analysis using available information and can obtain additional information in order to identify specific targets and follow the trail of activities or transactions and determine the links between those targets and possible proceeds of crime, ML and TF.
- (b) In accordance with Article 4.3 of the Presidential Decree No. 3.656 on the Adjustment of the UNIF, Article 25.3 of the LOCDOFT and Part V.4 of the Manual of Rules and Procedures of UNIF's Directorate of Financial Intelligence, this authority performs strategic analyses.

Criterion 29.5 – Pursuant to Article 25.7 of the LOCDOFT, the UNIF has, among its duties, the submission of reports to the Attorney General's Office, spontaneously and upon request, that contain indications on the commission of a punishable act. The Attorney General's Office is the only competent authority that receive intelligence reports from the UNIF. The assessment team verified that the UNIF uses Active Directory Access Control, encrypted emails and the Egmont Secure Web as specific, safe and secure channels to communicate information and the results of its analysis to competent authorities.

Criterion 29.6 – The FIU should protect information, which means that it should:

- (a) Pursuant to Article 5 of the Decree on the Adjustment of the UNIF, Article 4 of UNIF's Internal Rules of Procedure and the Confidentiality Statement, the UNIF has the Financial Intelligence Manual, the Information Management Manual, the Security Manual and the Internal Rules of Procedure, which detail policies and legal provisions that govern the security and confidentiality of information that comes to the knowledge of its employees and include provisions on the handling, storage, disclosure and protection of, or access to, the information stored by the UNIF within its systems. Similarly, the Decree on the Adjustment of the UNIF includes provisions on the confidentiality and reserved nature of the information available to UNIF employees.

- (b) According to part IV of the UNIF Security Manual and Article 4 of UNIF's Internal Rules of Procedure, the UNIF has policies on the procedure to be followed for hiring UNIF officials, which include details on the recruitment and selection of human talent and provisions to verify the background of officials and contractors before recruitment and continuously, as well as policies for the management of information that is available to the UNIF personnel, and the Confidentiality Statement to which personnel are subject before assuming their responsibilities as UNIF officials.
- (c) In accordance with Part IV of the UNIF Security Manual and Article 4 of UNIF's Internal Rules of Procedure, the UNIF manuals and regulations include provisions related to access to facilities and information, including information technology systems. The director of the UNIF has the authority to assign the levels of access to the facilities and technological systems by way of instructions to the Information Technology and Communications Division, in charge of granting access.

Criterion 29.7

- (a) According to Article 24 of the LOCDOFT, the UNIF is a decentralized agency with budgetary, administrative and financial management capacity, hierarchically dependent on the Ministry of People's Power with competence in matters of planning and finance. In accordance with Articles 24 and 25 of the LOCDOFT and Article 4 of Decree 3.656, the UNIF has the authority and capacity to perform its functions, including the autonomous decision to analyse, request and/or communicate or disclose specific information related to ML/TF and PF. According to Arts. 1 and 6 of Presidential Decree No. 3656, the Director General of the UNIF should be appointed by the Ministry of People's Power for Economy and Finance, in practice however, this appointment has been made by the President of the Republic, as shown in Decree No. 4024 dated November 15, 2019. This finding, in addition to demonstrating non-compliance with Presidential Decree No. 3656, creates doubt as to whether or not the UNIF makes decisions independently, in terms of analysing, requesting and/or communicating or disclosing.
- (b) According to Article 4.5 of the Decree on the Adjustment of the UNIF, there are legal provisions that allow the UNIF to exchange information with a foreign counterpart related to ML, TF and other transnational organized offences. The UNIF can also subscribe to conventions and memoranda of understanding where necessary.
- (c) According to Article 24 of the LOCDOFT, the role of the UNIF is sufficiently clear within the law, although there is a conflict between Article 1 of the Law on the Adjustment of the UNIF and Article 24 of the LOCDOFT in relation to whether the UNIF depends on the Ministry of People's Power in matters of Economy and Finance or the Ministry of People's Power in matters of Planning and Finance; however, at present, both ministries have been succeeded by the Ministry of People's Power for Economy, Finance and Foreign Trade. The legislation sufficiently empowers the UNIF to act and its responsibilities are different from those of the ministry to which it belongs.
- (d) The UNIF obtains and utilises budgetary and human resources to perform its functions independently and regularly; however, based on the comments made in c.29.7(a), the assessment team has doubts about whether the UNIF uses its resources entirely without political or government influence or interference. The assessment team did not find any evidence that the UNIF is the subject of influence or interference by the FI or DNFBP sectors.

Criterion 29.8 - The UNIF has been a member of the Egmont Group since 28 May 1999, but officially started operating within the Group on 13 November 2001.

Weighting and conclusion

The Republic of Venezuela has established the UNIF as the central agency for receiving SARs; nevertheless, it is unable to receive a wide range of SARs based on how the FIs' and DNFBPs' reporting obligation was established according to the analysis of R.20 and 23. Furthermore, the UNIF has a legal framework that guarantees its access to various sources of information, to also produce operational and strategic analyses and disseminate the results of same to the AGO, in addition to which it has procedures to safeguard the information in its custody. **Recommendation 29 is rated Partially Compliant.**

Recommendation 30 - Responsibilities of law enforcement and investigative authorities

The Bolivarian Republic of Venezuela was rated PC in relation to the requirements on the responsibilities of law enforcement and investigative authorities in its 2009 MER. This was because police investigations and investigative bodies focused solely on drug offences. The deficiencies were addressed through reforms to the institutional framework of the Attorney General's Office, which improved the capacity and specialization of this entity in terms of ML and TF investigation.

Criterion 30.1 -

- a) The **Attorney General's Office** is responsible for directing the investigation of punishable acts, in accordance with Article 111 of the COPP, as supplemented by Article 34 of the LOSP. Article 16.3 of the LOMP adds that the Attorney General's Office has the power to order and supervise these investigations and to conduct investigative activities in order to demonstrate the perpetration of punishable acts. Article 26 of the LOCDOFT provides that the following authorities are empowered to conduct criminal investigations under the direction of the Attorney General's Office: CICPC, FANB, NBP and the State Intelligence Security agencies.
- b) Article 35 of the LOSP establishes that it corresponds to the **CICPC** to define and execute police scientific investigation plans and report these to the Attorney General's Office and conduct any act that the latter adds to such plans.
- c) It is worth highlighting two additional elements of Venezuelan legislation that contribute to offences being properly investigated and that are provided for in Articles 3-7, 23 and 24, among others, of the LOSP:
 - i. The country has defined the **Investigative Police Service** as the set of actions conducted by the bodies and entities with authority over matters of criminal and police investigation, in order to, among other things, contribute to the determination of the commission of offences.
 - ii. The country also has the **Integrated Investigative Police System**, which is an instance of articulation of bodies that conduct criminal and police investigation and that collaborate with each other to provide the investigative police service. The system is directed by the Ministry of People's Power with jurisdiction over citizen security, which is also a member of the system together with the CICPC, the competent police forces for the exercise of criminal investigation, the **FANB as a special criminal investigation support entity** (according to Article 24), the Forensic Medicine and Science Service and the criminal investigation support agencies (established in Article 25), among others.

Criterion 30.2 – Article 35 of the LOSP empowers the CICPC to conduct investigative actions in broad terms, which, according to the assessment team's interpretation, includes financial investigations and parallel financial investigations. Said article also empowers the Attorney General's Office to require the

CICPC to add new investigative actions when supervising the progress of its investigations, which implies the possibility of requiring it to investigate ML or TF in the context of an investigation on predicate offences, without prejudice to the power of the Attorney General's Office to investigate these offences by themselves according to Article 16.3 of the LOMP.

Moreover, Article 223 of the COPP empowers the Attorney General's Office to conduct expert reports or order them to be conducted by other entities. The Attorney General's Office performs expert reports limited to the accounting area through its "Accounting Expertise and Appraisals Division," in accordance with the third paragraph of Resolution 571 issued by this same entity. The assessment team interprets that these provisions, together with Article 16.3 of the LOMP and Article 111.3 of the COPP, empower the Attorney General's Office to investigate ML or TF based on the results of the accounting reports.

Considering Article 60 of the COPP and Articles 3 and 73 of the LOCDOFT, investigations of ML or TF can be conducted by the authorities referred to in c.30.1 regardless of where the predicate offence occurred.

Criterion 30.3 – The SNB and the SEB have the responsibility to identify assets that are subject, or could be subject, to forfeiture, or that are presumed proceeds of crime in accordance with Article 3.9 of Decree 8103 and Article 9 of Decree 592, respectively. The country does not have designated authorities to track these assets. Article 204 (second paragraph) of the COPP authorizes the Attorney General's Office to request the judge to order the seizure of securities, bonds and amounts of money available in bank accounts or in safe deposit boxes. Article 56 of the LOCDOFT authorizes the judge to freeze bank accounts at the request of the Attorney General's Office when these are linked to organized crime offences. Likewise, Article 518 of the COPP establishes that the provisions of the Code of Civil Procedure on the application of preventive measures related to the seizure of movable and immovable property (seizure of movable property, seizure of certain property and prohibition of alienating and encumbering real estate) are applicable to criminal procedural matters, which, therefore, can be requested by the Attorney General's Office.

Criterion 30.4 - The Bolivarian Republic of Venezuela does not empower authorities other than law enforcement authorities to conduct financial investigations of predicate offences.

Criterion 30.5 - Articles 2, 3, 4, 7.3, 7.4, 7.7, 7.8, 11, 12, 13, 15 of Decree 1444¹⁰³ establish that the National Agency Against Corruption is responsible for investigating corruption offences, including with the cooperation of other authorities and with financial intelligence units to investigate ML linked to corruption offences.

The National Anti-Corruption Agency does not have responsibilities related to the identification and tracking of assets, but it can request the judge, through the Attorney General's Office, to conduct seizures and freezing of accounts, in accordance with Article 18 of Decree 1444. Although the same article mentions that you can request other preventive measures, these are not specified in the decree. The assessment team considers that the absence of powers to identify and trace assets linked to corruption and ML/TF is a significant deficiency, due to the fact that corruption offences are one of the greatest threats in the country and because of the large number of multiple cases of corruption that have been identified in the evaluation period (see analysis of I.R.7).

¹⁰³ Decree 1444 – Decree with Rank, Value and Force of Law of the National Anti-Corruption Agency.

The Attorney General's Office is also responsible for investigating corruption offences in accordance with the articles referred to in c.30.1 and applying the measures of seizure and embargo in accordance with the provisions indicated in c. 30.3.

Weighting and conclusion

The Bolivarian Republic of Venezuela has a legal framework that designates authorities responsible for the investigation of ML, TF and predicate offences, in particular to investigate ML/TF derived from corruption offences; however, the country has deficiencies related to the capacity to identify and track assets that should be subject to forfeiture. The assessment team considers that this deficiency becomes important in the case of ML/TF derived from corruption according to the risks and the context of the country. **R.30 is rated Largely Compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

The Bolivarian Republic of Venezuela was rated C in relation to the requirements on the powers of law enforcement and investigative authorities in its 2009 MER.

Criterion 31.1

- (a) The assessment team interprets that requiring the production of records held by reporting entities and other natural or legal persons is a specific responsibility of the Attorney General's Office, in accordance with Articles 5 and 16.3 of the LOMP and Article 111 of the COPP; consequently, the CICPC accesses this information through and under the direction of the Attorney General's Office in accordance with Article 16.5 of the LOMP and Articles 34 and 35 of the LOSP. The SUNAD and the NBP request the production of records through the Attorney General's Office in accordance with Article 5 of the LOD and Article 11 of the LOSPCPN, respectively, which establish a framework for inter-institutional cooperation. Likewise, supervisors can order the production of reports and documents required by other authorities in accordance with Article 171.19 of the LISB; Articles 108 and 109 of SUDEASEG Resolution SAA-8-004-2021; Article 98.20 and 98.21 of the LMV; Article 78 of SUNAVAL Resolution 074; Article 40 of SAREN Resolution 008; and Article 3.12 of the Administrative Resolution SNAT/0016 of SENIAT.
- (b) Articles 41, 45, 50.1, 51.3 of the LOSP allow the CICPC to search for people in the context of investigations for ML, associated predicate offences and TF. Article 196 of the COPP empowers the Attorney General's Office and the criminal investigation police agencies to search premises by court order.
- (c) The investigative authorities take statements from witnesses based on Articles 208 and 222 of the COPP.
- (d) Article 61 of the COPP empowers the Attorney General's Office, through the investigative police bodies, to seize and obtain evidence.

Criterion 31.2

- (a) Articles 70 and 71 of the LOCDOFT empower specialized state security agencies to conduct undercover operations.

- (b) Articles 205 and 206 of the COPP and Articles 64 and 65 of the LOCDOFT authorize the Attorney General's Office and the criminal investigation police bodies, respectively, to intercept communications.
- (c) There are no provisions regarding access to computer systems.
- (d) Article 66 of the LOCDOFT authorizes the Attorney General's Office, through specialized State security agencies, to conduct controlled deliveries.

Criterion 31.3 - (Met).

- (a) Article 291 of the COPP establishes a mechanism to timely identify if a natural or legal person has or controls accounts.
- (b) Article 291 of the COPP uses sufficiently broad language to ensure that competent authorities identify assets without prior notice to the owner.

Criterion 31.4 – Article 291 of the COPP and Article 25.7 of the LOCDOFT authorize the Attorney General's Office to request information held by the UNIF.

Weighting and conclusion

The Bolivarian Republic of Venezuela has a legal framework to apply investigative techniques, mechanisms to identify those who control accounts and owners of assets, even without prior notice, as well as to request information from the FIU in order to use it in investigations of ML, predicate offences and TF; however, the country does not have provisions that authorize competent authorities to access computer systems. **R.31 is rated Largely Compliant.**

Recommendation 32 - Cash Couriers

The Bolivarian Republic of Venezuela was rated NC in relation to requirements applicable to cash couriers in its 2009 MER. This was due to the failure to implement an effective declaration system for cross-border transportation of currency and bearer negotiable instruments; an issue that began to be addressed towards the end of the 3rd Round of Mutual Evaluations. Nevertheless, requirements such as the availability for the UNIF of the information arising from these processes, the possibility of sharing information with authorities from other countries, among others, were not covered. R.32 establishes new requirements regarding the declaration systems and the measures ensuring the safe use of information collected through the declaration or disclosure system.

Criterion 32.1 – Article 22 of the LOCDOFT and section I of Circular SNAT/INA/2014-006925 establish a written declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments (BNIs). Since these provisions establish that the declaration should be made without distinguishing whether this activity is conducted by travellers or through mail or cargo, the assessment team interprets that they are applicable to all these modes of transportation.

Article 122 of the LBCV, Article 5 of the Exchange Agreement No. 1 of the MPPEFC and the CBV and Articles 1 and 2 of the CBV Resolution 05-11-01 establish a specific system for private sector entities to declare the import or export of metallic currency, bank notes and bearer bank checks in foreign currency.

Criterion 32.2 – Article 22 of the LOCDOFT and section I of Circular SNAT/INA/2014-006925 require all persons making a physical cross-border transportation of currency or bearer negotiable instruments for a value equal to or exceeding USD 10,000.00 to submit a truthful declaration to the designated competent authorities.

Article 122 of the LBCV, Article 5 of the Exchange Agreement No. 1 of the MPPEFC and the CBV and Articles 1 and 2 of the CBV Resolution 05-11-01 also require that the statement be made in writing when the value of the import or export of metallic currency, bank notes and bank checks is equal to or exceeding USD 10,000.00.

Criterion 32.3 – No disclosure system is implemented by the country, and therefore this criterion is not applicable to the assessed country.

Criterion 32.4 - Art. 36 of the Law on Smuggling also applies to circumstances where currency or BNIs are being transferred as merchandise or assets. In this regard, the SENIAT can withhold the currency or BNI in the case of a false declaration or the failure to declare so that the AGO could make enquiries.

Criterion 32.5 – Article 177 of the LOA sets out proportionate and dissuasive sanctions applicable to individuals that provide false declarations or revelations related to the cross-border transportation of currency and BNI; however, this Article is applicable only when these are being transported as cargo or commodity and does not cover the scenario where they are transported by travellers entering or leaving the country by airports, seaports or land border points.

Criterion 32.6 – There are no mechanisms allowing or requiring the SENIAT to make the information obtained through the declaration process available to the UNIF through a system to notify about suspicious cross-border transportation incidents or by making declaration/disclosure information directly available to the UNIF.

Criterion 32.7 – Article 4.44 of the Decree with Rank, Value and Force of Law of the SENIAT provides for the execution of agreements and cooperation service agreements with public and private institutions. However, there is no evidence of a similar regulation involving the SAIME and other agencies, nor has the SENIAT demonstrated that it has entered into agreements with the SAIME and the GNB on the incoming and outgoing cross-border transportation of currency and bearer negotiable instruments.

Criterion 32.8 -

(a) and (b) Art. 36 of the Law on Smuggling allows for the seizure or withholding of cash or BNIs for a reasonable period (3days) by the SENIAT, but it does not cover the seizure those goods to obtain evidence of ML, TF and other predicate offences.

Criterion 32.9 – In accordance with Article 5.17 of the LOA, the SENIAT can execute agreements for the exchange of information, cooperation and mutual assistance with the customs authorities from other countries or with international agencies to prevent, prosecute and suppress smuggling and other customs offences. However, there are no provisions, mechanisms or actions ensuring that the declaration system allows for international cooperation and assistance, in accordance with Recommendations 36 to 40.

Criterion 32.10 - Articles 48, 49 and 50 of the LOA ensure that the information collected through the declaration system is securely stored and cannot be modified; however, the Bolivarian Republic of Venezuela does not provide information on how it ensures the proper use of information. Neither there is information on how trade payments between countries for goods and services, or freedom of capital movements are affected.

Criterion 32.11 - Articles 7 and 25 set forth provisions for simple smuggling, which may be punishable by a sentence of 4 to 8 years' imprisonment and the accessory penalty of forfeiture in relation to natural or legal persons conducting the physical cross-border transportation of currency or BNIs that are related to ML/TF or predicate offences. However, these provisions do not impose sanctions related to the physical cross-border transportation of currency or BNIs that are related to TF, ML or a broader range of predicate offences.

Weighting and conclusion

The Bolivarian Republic of Venezuela has legislation that requires any person entering or leaving the country to report foreign currency or BNIs at the border. There is no system of proportionate and dissuasive sanctions for persons breaching the legislation. Competent authorities are empowered to restrain currency and BNIs in case of smuggling; however, this legal provision does not extend to the movement of currency and BNIs in cases of ML/TF and predicate offences other than smuggling. **R.32 is rated Partially Compliant.**

Recommendation 33 - Statistics

The Bolivarian Republic of Venezuela was rated NC with respect to statistics requirements in its 2009 MER because, with the exception of the UNIF, the authorities did not maintain comprehensive statistics; information on investigations, convictions, and forfeitures was incomplete, and statistics on international cooperation were scarce. Throughout the follow-up process of the 3rd Round of Mutual Evaluations, the country developed capacities to produce statistics on all required matters, in such a way that the deficiencies were largely overcome.

Criterion 33.1

- (a) Article 25.4 of the LOCDOFT attributes to the UNIF the responsibility to prepare and maintain the records and statistics necessary for the development of its functions, which, in the opinion of the assessment team, includes suspicious transaction reports received and communicated. In practice, the UNIF maintains statistics by sector of reporting entity, nationality of the person reported and economic activity involved (see Tables 3.6 to 3.8 in the body of the report), although the assessment team considers that these are not complete enough to determine the efficiency of their analytical products.
- (b) Law enforcement authorities have statistics on ML/TF investigations, prosecutions and convictions; however, the assessment team identified discrepancies between the data maintained by the Attorney General's Office, the auxiliary criminal investigation agencies, and the TSJ. On the other hand, the SUNACRIP maintains statistical information on its actions related to criminal investigations of alleged criminal acts involving the Integral System of Cryptoassets.
- (c) The SEB, the SNB and the SENIAT maintain, respectively, statistics on frozen, seized, confiscated and forfeited assets (see Tables 3.17 to 3.20 in the body of the report), although the assessment team noted difficulties in separating the data of confiscations from those of forfeitures; likewise, the statistics on forfeitures related to organized crime are not broken down by type of offence and the current number of drug seizures per case and per year cannot be determined. Statistics generation systems, in general, are ineffective.
- (d) The Attorney General's Office, the UNIF, the TSJ and the INTERPOL National Central Bureau keep statistics on MLA and other international requests for cooperation made and received, although the

assessment team observed that the authorities were unable to generate statistics on extraditions and do not keep a statistical record of the reminders sent and that it is a practice that should be incorporated into its procedures.

Weighting and conclusion

The authorities maintain statistics related to SARs, ML/TF investigations, prosecutions and convictions, frozen, seized and forfeited assets and international cooperation, but these are not complete in all cases. **Recommendation 33 is rated Partially Compliant.**

Recommendation 34 - Guidance and feedback

The Bolivarian Republic of Venezuela was rated LC in relation to the requirements on guidance and feedback in its 2009 MER, the only deficiency being the lack of provision of feedback to DNFBPs by the UNIF.

Criterion 34.1 – Article 8.10 of the LOCDOFT orders AML/CFT supervisors to prepare instructions that help reporting entities to detect patterns and suspicious activities.

The Bolivarian Republic of Venezuela provided information on the feedback conducted by the UNIF, especially regarding SARs and risk typologies, which is sent by the competent bodies and published on their website, as well as by the SUDEASEG, the SUDEBAN, the SUNAVAL in relation to the ML/TF obligations of the reporting entities under their supervision. The Bolivarian Republic of Venezuela did not provide documentation that demonstrates that the rest of the authorities or supervisors provide guidance and feedback in accordance with the provisions of this criterion.

Weighting and conclusion

The Bolivarian Republic of Venezuela gives some feedback to the reporting entities, but the evidence provided is not considered sufficient. **R.34 is rated Partially Compliant.**

Recommendation 35 - Sanctions

In the last EM of 2009, the recommendation regarding sanctions was rated LC, due to the lack of a chapter on sanctions for reporting entities, specifically aimed at the prevention of ML/TF.

Criterion 35.1 – The sanctioning regime for non-compliance with ML/TF requirements is contained in the LOCDOFT, but there are no sanctions for all the obligations included in Recommendations 6 and 8 to 23. Specifically, the Bolivarian Republic of Venezuela establishes the possibility of applying administrative sanctions for failure to comply with the obligations to keep records (Article 10), identify customers (Article 11), report suspicious activities (Article 13), disclose (Article 14), identify third parties involved (Article 16) and procedures in relation to business and transactions with countries and territories at risk (Article 19). For these cases, the sanction ranges between 300 and 5,000 tax units. According to Administrative Resolution SNAT/2022/000023, the tax unit is set at 0.40 bolivars, so the sanctions range between VES 120 and VES 2,000. Taking into account that the current equivalence with the USD is VES 5.50, and despite the volatility of the bolivar, it is considered that these amounts are not proportionate nor dissuasive, not even in the context of the Bolivarian Republic of Venezuela: in the case of the infractions contained in the Banking Sector Institutions Law, they are established based on a percentage of the corporate capital; the new Customs Law, for example, sets sanctions based on the official exchange rate of the currency with the highest value published by the CBV, which avoids volatility. Beyond these

infractions, the rest of the obligations do not entail any administrative sanction by the LOCDOFT. The SUDEBAN, the SUDEASEG and the SUNAVAL, however, may sanction in accordance with their generic regulations any non-compliance with the regulations emanating from these, whose amounts are considered low by the assessment team, but have a higher proportionality than that of the LOCDOFT:- SUDEBAN: based on Article 202.1 of the LISB, it can impose sanctions between 0.2% and 2% of its corporate capital; - SUNAVAL: based on Article 128.4 of the LMV, it can impose sanctions of between 5,001 and 10,000 tax units.- SUDEASEG, based on Articles 154.1, 156 and 173 of the LAA, it can impose sanctions between 2,000 and 42,000 tax units and the temporary closure of operations.

Beyond the civil sanction for NPOs that we have referred to in R.8, no information is provided that demonstrates that civil or criminal sanctions can be imposed on natural or legal persons covered in Recommendations 6 and 8 to 23.

Criterion 35.2 – The Bolivarian Republic of Venezuela does not specifically contemplate administrative sanctions for non-compliance with the requirements set out in R.6, and R.8 to 23 for its directors and managers. If sanctions are established for them in the insurance field for refusal to provide information to the SUDEASEG, when they falsify the truth of the facts, refuse to provide information and when they do not comply or fail to comply with measures issued by the SUDEASEG (Articles 167, 170, 171 and 173 of the LAA), they may be imposed an administrative sanction of between 200 and 12,000 tax units and they may be banned from exercising the insurance or reinsurance activity.

The LOCDOFT only includes sanctions in the criminal field for directors and employees of the reporting entities who, due to imprudence, incompetence, or negligence, favour or contribute to the commission of the ML/TF offence, without having taken part in it, with prison sentences of three to six years. Civil sanctions are not established for any of the reporting entities.

Weighting and conclusion

Although the Venezuelan regulatory framework establishes some sanctions, these are not included for all the cases listed in Recommendation 35 and, if listed, they are not considered proportionate or dissuasive. **R.35 is rated Partially Compliant.**

Recommendation 36 - International instruments

The Bolivarian Republic of Venezuela was rated C in relation to the requirements on signing of international conventions but was rated PC in relation to the implementation of the UNSCRs focused on the suppression of TF, since it did not have a system to this end. The deficiency was addressed through the issuance of administrative resolutions related to the preventive freezing of funds and the designation of natural and legal persons who commit or attempt to commit terrorist acts and their financing.

Criterion 36.1 – The Bolivarian Republic of Venezuela has signed and ratified the Vienna Convention, the Palermo Convention, the Merida Convention and the Convention for the Suppression of the Financing of Terrorism, according to the Official Gazette No. 34.741 of 21 June 1991, Official Gazette No. 37.357 of 4 January 2002, the Official Gazette No. 38.192 of 23 May 2005 and the Official Gazette No. 37.727 of 8 July 2003.

Criterion 36.2 – The Bolivarian Republic of Venezuela has signed the agreements referred to in Criterion 36.1 and has issued ratifying laws for the four conventions. Reference is made to these ratifying laws in the analysis of criterion 36.1. These laws approve all the provisions of the conventions at the national level, in such a manner that they form an integral part of the internal legal system, have status of law and can be applied directly. In addition to the foregoing, the AT is of the view that the following provisions

are relevant for the fulfilment of the criterion in question: Art. 271 of the Constitution, Arts. 1, 2, 3, 7, 67 of the Organic Drug Law; Arts. 30, 31, 32, 35, 45, 54, 57, 66, 69, 74, 78, 85, 89 of the LOCDOFT; Arts. 2, 3, 21, 43, 45, 47, 49, 52 to 59, 60 to 62, 67, 68, 73, 79, 83, 87, 94 to 96 of the Anti-Corruption Law; Arts. 3, 4, 6, 33, 74, 80, 83, 84, 215, 246, 470 of the Criminal Code, Arts. 38, 40, 50 to 54, 111 and 185, 122, 194, 204 to 207, 242, 268, 269, 286, 291, 294, 376 to 381 and 488 of the Organic Criminal Procedural Code and Arts. 9, 84 and 93 to 111 of the Organic Law of the Comptroller General. Apart from that, the Bolivarian Republic of Venezuela has signed several agreements on the matter. However, the shortcomings identified in R.3 and 5 affect the level of fulfilment of this criterion.

Weighting and conclusion

The Bolivarian Republic of Venezuela presents minor deficiencies in relation to this Recommendation, where the shortcomings identified in R.3 and 5 affect the level of fulfilment of this criterion.

Recommendation 36 is rated Largely Compliant.

Recommendation 37 – Mutual legal assistance

The Bolivarian Republic of Venezuela was rated LC in relation to the Mutual Legal Assistance (MLA) requirements in its 2009 MER. This was due to difficulties in identifying assets, which was a consequence of the lack of computerized databases; likewise, in the 2009 MER, the effectiveness of the cooperation measures established in the legislation could not be assessed due to the lack of statistics.

Criterion 37.1 – Articles 111.17 and 185 of the COPP allow the Attorney General’s Office to provide or require MLA in a broad manner based on the international agreements signed by the country in relation to any offence¹⁰⁴. Articles 27 and 74-80 of the LOCDOFT establish the legal basis to provide MLA¹⁰⁵ broadly in relation to ML, TF and other organized crime offences, whether provided for in the LOCDOFT or in the CP. Despite the foregoing, none of the provisions cited establishes conditions or procedures that allow this assistance to be provided quickly.

Criterion 37.2 – The Attorney General’s Office is the central authority for the transmission and execution of MLA requests, in accordance with Article 111.7 of the COPP; Article 16.7 and 16.13 of the LOMP; and Article 77 of the LOCDOFT. To conduct its functions in this matter, the Attorney General’s Office should establish coordination with the MPPRE. The Attorney General’s Office and the MPPRE do not have processes to prioritize and timely answer MLA requests. There is no evidence that the Attorney General’s Office or the MPPRE maintain a system to manage requests and monitor their progress.

Criteria 37.3 – Article 185 of the COPP, Article 81 of the LOCDOFT and the agreements signed by the country do not establish prohibitions or unreasonable or undue restrictive conditions to provide MLA.

Criterion 37.4

(a) Article 185 of the COPP and the agreements signed by the country that include provisions on MLA do not restrict the provision of MLA for the sole reason that the offence is also considered to involve tax issues.

¹⁰⁴ These conventions include the Vienna Convention, the Palermo Convention, the Inter-American Convention on Mutual Assistance in Criminal Matters, the United Nations Convention against Corruption, the Inter-American Convention against Corruption, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials, and the Inter-American Convention against Terrorism, among others.

¹⁰⁵ The LOCDOFT refers to MLA as “mutual legal assistance.”

- (b) In addition to the aforementioned provisions, Article 291 of the COPP empowers the Attorney General's Office to request information from any person or public official. There are also provisions that allow the request of information from companies and public or private organisations that offer services related to telecommunications, banking or financial services; however, according to the analysis of Criterion 9.1, some FI and DNFBP sectors are not exempt from applying secrecy requirements in order to provide information to competent authorities. This deficiency hampers the Attorney General's Office's capacity to obtain information that is requested in the context of an MLA.

Criterion 37.5 – Authorities are not subject to provisions on maintaining the confidentiality of MLA requests they receive.

Criterion 37.6 – The Bolivarian Republic of Venezuela does not require dual criminality to provide MLA, but if the MLA request requires coercive actions, Articles 86 to 88 of the LOCDOFT establish that double criminality is a condition to provide assistance.

Criterion 37.7 – The legislation does not require the Attorney General's Office to examine whether the Bolivarian Republic of Venezuela and the requesting state place the offence within the same category of offence or name the offence using the same terminology. Double criminality is only reviewed in the case indicated in the previous criterion.

Criterion 37.8

- (a) The Bolivarian Republic of Venezuela has the legal framework to allow the investigative powers and techniques available to national competent authorities to be used in response to MLA requests for the production, search and seizure of information, documents or evidence, including financial records of financial institutions or other natural or legal persons, and the taking of testimonial statements; however, the scope of these powers is limited since Article 291 of the COPP only requires public and private entities that offer telecommunications, banking or financial services, but does not include DNFBPs. Likewise, according to the analysis of Criterion 9.1, some FI and DNFBP sectors are not exempt from applying secrecy requirements in order to provide information to competent authorities; this deficiency hampers the capacity of the Attorney General's Office to obtain information that is requested in the context of an MLA.
- (b) The Bolivarian Republic of Venezuela has at its disposal several specialized departments such as the Directorate of Criminal Laboratories, the Financial Analysis Division, and access to the National Crime Laboratories of the Bolivarian National Guard; however, there is no evidence of other techniques that can be used to investigate requests through MLA. The LOCDOFT creates specific measures which can be used by competent authorities through the Attorney General's Office or upon request of a control judge, such as interception or telephone recordings, supervised delivery, prior authorization, and undercover operations agents.

Weighting and conclusion

The Bolivarian Republic has a legal basis to provide a wide range of MLA and such legal basis does not establish any unreasonable condition to provide cooperation; however, in addition to the fact that there are no provisions ensuring that cooperation is provided promptly, the deficiencies identified on provisions related to the secrecy of financial institutions could affect cooperation. Likewise, the AGO and the MPPRE do not have processes to prioritize and answer MLA requests in a timely manner and do not have

a system to manage such requests; there are also no provisions ensuring the confidentiality of the information. **Recommendation 37 is rated Partially Compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

The Bolivarian Republic of Venezuela was rated PC in relation to the freezing and forfeiture requirements in the context of MLA in its 2009 MER. This was due to deficiencies related to the identification of assets, lack of agreements to share assets and the impossibility of ascertaining the effectiveness of the cooperation measures included in the legislation, which were addressed through the creation of a management service of seized and forfeited assets, the automation of notaries offices and public registries, and the creation of a vehicle registry that captures information on forfeited assets.

Criterion 38.1 – In relation to the powers to take action in response to requests from foreign countries:

- (a) The authorities are not empowered to identify, freeze, seize or confiscate laundered assets from ML, predicate offences and TF.
- (b) – (d) Articles 86 and 87 of the LOCDOFT empower the authorities to identify, seize and confiscate the proceeds of and instruments used or intended to be used in ML, predicate offences and TF. These provisions do not authorize the freezing of these assets.
- (e) Article 86.1 of the LOCDOFT provides for the forfeiture and confiscation of property of equivalent value, but includes no provisions regarding their identification, freezing or seizure.

The above provisions do not establish responsibilities for competent authorities to act promptly.

Criterion 38.2 – There are no provisions empowering competent authorities to assist requests for cooperation made under non-conviction-based forfeiture proceedings.

Criterion 38.3

- (a) The Bolivarian Republic of Venezuela can conduct seizures and forfeitures based on a request for reciprocal legal assistance, in accordance with Articles 87 and 88 of the LOCDOFT. The ONCDOFT is empowered, among other things, to coordinate, together with the MPPRE, agreements, treaties and other international cooperation instruments, which strengthen the efforts of the Venezuelan State in matters related to the issue in question. However, there are currently no agreements signed with other countries to coordinate seizure and forfeiture actions.
- (b) Articles 54 and 89 of the LOCDOFT empower the SEB to manage and, where necessary, dispose of frozen, seized or forfeited assets based on an MLA request. Resolution SEB-ONCDOFT-001-2019 regulates the procedures for the administration and disposal of seized, forfeited or confiscated assets related to the offences established in the LOCDOFT, which are applicable to cases of MLA based on Article 89 of the LOCDOFT. There are no analogous provisions applicable to the SNB.

Criterion 38.4. –Article 89.2 (second paragraph) of the LOCDOFT establishes that the Venezuelan State will sign agreements to share forfeited assets with other countries.

Weighting and conclusion

The Bolivarian Republic of Venezuela has mechanisms to take action in response to freezing and forfeiture requests by foreign countries and provisions to share forfeited assets with other countries. However, the assessment team identifies moderate deficiencies in terms of providing assistance to requests for cooperation formulated on the basis of non-conviction-based forfeiture procedures, the existence of agreements to coordinate seizure and forfeiture actions with other countries, and the establishment of mechanisms to manage frozen, seized or forfeited assets. **R.38 is rated Partially Compliant.**

Recommendation 39 – Extradition

The Bolivarian Republic of Venezuela was rated LC in relation to the extradition requirements in its 2009 MER, and the prohibition to extradite nationals or foreigners whose conviction could exceed thirty years in prison was identified as a deficiency.

Criterion 39.1 (Mostly Met).

- (a) Article 271 establishes the extradition of foreigners in connection with organized crime. Based on Articles 4.9 and 27 of the LOCDOFT, ML and TF are considered organized crime offences and, therefore, are extraditable.
- (b) Articles 382 to 390 of the COPP establish processes for the execution of extradition requests; however, the country does not have provisions establishing a case management system, procedures to prioritize extradition requests where appropriate, or procedures to ensure that extradition requests in relation to ML/TF are answered without undue delay.
- (c) Article 6 of the CP and the international treaties and agreements on extradition that the country has signed¹⁰⁶ establish reasonable conditions to deny the execution of extradition requests.

Criterion 39.2 – Article 69 of the Constitution prohibits the extradition of nationals. Article 6 of the CP establishes that non-extradited nationals should be prosecuted in the country at the request of the aggrieved party or the Attorney General’s Office if the offence is punishable according to the Venezuelan law.

Criterion 39.3 – Article 6 (second paragraph) of the CP requires dual criminality to award an extradition request but does not require that the requesting and requested countries place the offence within the same category of offence or name the offence using the same terminology, so that the act will be prosecuted as long as both countries criminalize the underlying conduct of the offence.

Criterion 39.4 – Article 387 of the COPP establishes that, if the extradition request made by a foreign government is presented without the required judicial documentation, but with the offer to produce it later, and with the request that while it is being produced, the accused be apprehended, the control court, at the request of the Attorney General’s Office, may order, depending on the seriousness, urgency and nature of the case, the apprehension of the accused.

¹⁰⁶ Code of Private International Law (Bustamante Code); Inter-American Convention on Extradition; Agreement on Extradition (Bolivarian Congress of Caracas) signed by Ecuador, Bolivia, Peru, Colombia and Venezuela; Vienna Convention; Palermo Convention; Inter-American Convention against Corruption; Mérida Convention.

Weighting and conclusion

The Bolivarian Republic of Venezuela complies with most of the extradition requirements reflected in R.39, presenting minor deficiencies consisting of the absence of a case management system, procedures to prioritize extradition requests when appropriate, or procedures to ensure that extradition requests in relation to ML/TF are answered without undue delay. **R.39 is rated Largely Compliant.**

Recommendation 40 - Other forms of international cooperation

The Bolivarian Republic of Venezuela was rated C with respect to the requirements on other forms of international cooperation in its 2009 MER.

Criterion 40.1 – In accordance with Articles 5, 6.3, 6.6 and 27 of the LOCDOFT, the ONCDOFT is responsible for exchanging information related to ML, TF and organized crime; however, the aforementioned provisions do not allow the recipients of this information to be the competent authorities of other countries, but only international organisations and networks.

Moreover, Article 25.5 of the LOCDOFT, Article 4.5 of Decree 3656 and the chapter on International Financial Information Management, procedure B, paragraph 5, of UNIF’s “Manual of Rules and Procedures of the Directorate of Agreements and Financial Information Management” establish powers and procedures for the UNIF to immediately exchange information on ML, TF and organized crime with foreign counterparts.

When analysing the above provisions based on Articles 4.9 and 27 of the LOCDOFT, the assessment team deduces that the ONCDOFT and the UNIF can provide cooperation on organized crime offences provided for in the LOCDOFT and the offences of the CP that are committed by a criminal organisation, but they are not empowered to provide cooperation if the offences provided for in the CP are committed by an individual acting independently, which limits the range of circumstances in which these authorities can provide other forms of international cooperation.

There are no provisions empowering law enforcement authorities, supervisors and customs to provide international cooperation other than MLA. There are also no provisions that allow exchanges of information to be made quickly and spontaneously.

Criterion 40.2

- (a) According to the analysis of c.40.1 and R. 37, only the ONCDOFT and the UNIF have a legal basis to provide cooperation on ML, TF and organized crime offences, with the respective limitations indicated.
- (b) The ONCDOFT and the UNIF have no impediments to use the most efficient means to cooperate.
- (c) The UNIF is a member of the Egmont Group and, by virtue of this, it can exchange financial information with other FIUs through the group’s secure network. There are no other mechanisms or channels available to the UNIF to cooperate with other foreign competent authorities. The Bolivarian Republic of Venezuela did not provide information on secure mechanisms or channels that can be used by other authorities.
- (d) Law enforcement authorities, customs and supervisors do not have clear processes for prioritization and timely execution of requests for international cooperation other than MLA. In the case of the

UNIF, its “Financial Information Management Manual” establishes clear processes for prioritizing and timely executing requests in its chapter on “International Financial Information Requirements.”

(e) There are no provisions implementing this sub-criterion.

Criterion 40.3 – The Bolivarian Republic of Venezuela did not provide information on agreements signed between law enforcement authorities, supervisors, and customs with a wide range of foreign counterparts. The UNIF, on the other hand, is part of the Egmont network, which allows it to collaborate with a wide range of foreign FIUs.

Criterion 40.4 – The UNIF should provide timely feedback to the FIUs that have provided assistance based on clause 19 of the Egmont Group’s “Principles for the Exchange of Information between FIUs.” The assessment team did not identify provisions that prohibit the other competent authorities from providing feedback, although they do not have a legal basis to provide other forms of cooperation as explained in c.40.1.

Criterion 40.5 – The UNIF is not subject to prohibitions or restrictive or improper conditions to exchange information with other FIUs based on clause 24 of the “Principles for the Exchange of Information between FIUs” of the Egmont Group. The other competent authorities do not have a framework to provide international cooperation other than MLA, as explained in c.40.1.

Criterion 40.6 – The UNIF should ensure that the information exchanged by competent authorities is used only for the purposes, and by the authorities, for which the information was obtained or provided, unless prior authorization is granted by the requested competent authority based on clause 32 of the “Principles for the Exchange of Information between FIUs” of the Egmont Group; however, the UNIF did not provide information on the specific controls and safeguards that implement this criterion. The rest of the competent authorities do not have a framework to provide international cooperation other than MLA, as explained in c.40.1.

Criterion 40.7 – The UNIF should comply with the clauses of the “Principles for the Exchange of Information between FIUs” of the Egmont Group on confidentiality but did not provide information on the specific measures used to implement it. The rest of the competent authorities do not have a framework to provide international cooperation other than MLA, as explained in c.40.1.

Criterion 40.8 - There are no provisions implementing this criterion.

Criterion 40.9 - Article 25.5 of the LOCDOFT, Article 4.5 of Decree 3656 empower the UNIF to cooperate on ML, TF and organized crime offences; however, the deficiency described in the third paragraph of the analysis of c.40.1 impacts compliance with this criterion.

Criterion 40.10 – The UNIF should provide timely feedback to the FIUs that have provided assistance based on clause 19 of the “Principles for the Exchange of Information between FIUs” of the Egmont Group.

Criterion 40.11 – The UNIF can exchange information obtained and any other information that it is entitled to obtain with foreign counterparts, directly or indirectly at the national level. The law does not limit the way in which the information can be used, according to Article 25.1, 25.2 and 25.5 of the LOCDOFT and Article 4.1, 4.2 and 4.5 of Decree 3656.

Criterion 40.12 – The legal framework presented refers exclusively to the possibility of the SUDEBAN to sign cooperation agreements with other banking superintendencies and related entities from other

countries in order to strengthen consolidated supervision (Article 171.18 of the LISB). The reference is limited and does not refer in any case to the exchange of supervisory information on ML/TF matters. No information is provided in relation to the rest of the financial supervisors.

Criterion 40.13 – The legal framework presented refers exclusively to the possibility of the SUDEBAN to sign cooperation agreements with other banking superintendencies and related entities from other countries in order to strengthen consolidated supervision (Article 171.18 of the LISB). The reference is limited and does not ensure that information obtained at the national level can be exchanged with foreign counterparts, including that held by financial institutions, in a manner proportionate to their needs. No information is provided in relation to the rest of the financial supervisors.

Criterion 40.14 – The Bolivarian Republic of Venezuela did not provide information related to this criterion.

Criterion 40.15 – The Bolivarian Republic of Venezuela did not provide information on legal or existing provisions in cooperation agreements that establish that financial supervisors can conduct investigations on behalf of their foreign counterparts or to authorize or facilitate the capacity of foreign counterparts to conduct inquiries themselves in the Bolivarian Republic of Venezuela.

Criterion 40.16 – The legal framework presented by the Bolivarian Republic of Venezuela is not consistent with what is required by the criterion.

Criterion 40.17 – The legal framework presented by the Bolivarian Republic of Venezuela is not consistent with what is required by the criterion.

Criterion 40.18 – The Bolivarian Republic of Venezuela did not provide information on a legal framework or agreements that authorize the Attorney General’s Office and the police to conduct investigations and obtain information on behalf of foreign counterparts. However, the Bolivarian Republic of Venezuela, as a member of INTERPOL, cooperates with its foreign counterparts through this platform, observing the restrictions established by this international organisation on the use of information.

Criterion 40.19 – Article 78 of the LOCDOFT authorizes criminal investigation bodies to form joint teams, although these could only operate to conduct financial investigations. This provision does not require the Venezuelan authorities to establish bilateral or multilateral agreements to enable the conduct of such joint investigations, but only “links” with other countries or international organisations.

Criterion 40.20 – There are no provisions implementing this criterion.

Weighting and conclusion

The Bolivarian Republic of Venezuela has significant deficiencies related to the general principles that should govern the forms of international cooperation other than MLA; in the same sense, it also has deficiencies related to the exchange of information between FIUs, financial supervisors, law enforcement authorities and cooperation between authorities that are not counterparts. **R.40 is rated Partially Compliant.**

Summary of Technical Compliance - Key Deficiencies

Table 3. Compliance with FATF Recommendations

Recommendation	Rating	Underlying rating factor(s)
1. Assessing risks & applying an RBA	PC	<ul style="list-style-type: none"> • The NRA has deficiencies related to the identification, analysis and assessment of ML/TF risks and is not updated as part of a formal exercise. • The strategy “Great Mission Quadrants of Peace” is not based, where relevant, on an ML/TF NRA. • The country has deficiencies related to the obligations of FIs and DNFBPs regarding the assessment and mitigation of their risks at the institutional level.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • The country does not have AML/CFT policies at the national level that take into account the risks identified in the 2015-2020 NRA. • Competent authorities do not have mechanisms to cooperate and establish coordination to combat PF. • Competent authorities do not cooperate or establish coordination to ensure the compatibility of the AML/CFT requirements with the protection and privacy of personal data.
3. ML offence	LC	<ul style="list-style-type: none"> • There are deficiencies in the provisions that allow the intention to commit TF to be deduced from objective factual circumstances. • Legal persons that are owned by the State cannot be sanctioned in accordance with the LOCDOFT.
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The implementation of confiscations and forfeitures related to ML is limited by Article 116 of the Constitution • The range of property and assets subject to forfeiture is limited. • Measures aimed at identifying, tracing and seize property or assets subject to forfeiture, to investigate offences and protect the rights of bona fide third parties are limited.
5. TF offence	PC	<ul style="list-style-type: none"> • The criminal type of TF does not fully implement the International Convention for the Suppression of the Financing of Terrorism. • The country has not criminalized the financing of the travel of individuals who have terrorist purposes. • The TF offence does not extend to the case where the funds or other assets have not been used to “attempt” a terrorist act. • There are deficiencies in the provisions that allow the intention to commit TF to be deduced from objective factual circumstances. • Legal persons that are owned by the State cannot be sanctioned in accordance with the LOCDOFT.
6. TFS related to terrorism and TF	NC	<ul style="list-style-type: none"> • The instruments intended to implement the UNSCRs against TF exclude UNSCRs 1988, 1989, 2253 and their other successor resolutions. • The country has two resolutions aimed at implementing UNSCR 1373, both of which contain conflicting provisions and there is no legal basis to determine which of the two is valid to implement UNSCR 1373. • The duty to freeze funds or other assets or the power to require them to be frozen should be established in a law and not in lower-ranking regulations, such as those intended to implement the UNSCRs based on the protection that Article 115 of the Constitution provides the right to property and to dispose of assets.
7. TFS related to proliferation	NC	<ul style="list-style-type: none"> • The country does not have a legal framework to implement R.7.
8. NPOs	NC	<ul style="list-style-type: none"> • The NRA does not identify which subgroup of NPOs falls under the FATF definition of NPOs, nor has it identified the characteristics and types of NPOs that, by virtue of their activities or characteristics, are likely to be at risk of TF abuse. • The country does not implement ongoing outreach activities to NPOs regarding TF nor does it supervise or monitor NPOs with an RBA. • Measures to collect information on NPOs and investigate them and the capacity to respond to international requests for information about an NPO are limited.
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> • The relevant legislative framework does not cover some FIs of low materiality and there are no provisions allowing FIs that are part of a financial group to share with third parties as required by R.17. •
10. CDD	PC	<ul style="list-style-type: none"> • There are deficiencies in the general CDD measures applicable to all sectors of reporting entities, such as the obligation to identify the customer, their trust representative and their beneficial owner and the duty to determine the destination of the transactions. • Several CDD requirements established in coercive means are not based on a regulation with the force of Law, in accordance with what is contained in paragraphs 1 and 2 of the “Legal Bases of the Requirements for FIs, DNFBPs and VASPs.”
11. Record-keeping	LC	<ul style="list-style-type: none"> • There are deficiencies related to the retention of records that are sufficient to reconstruct transactions.
12. PEP	PC	<ul style="list-style-type: none"> • Specific measures applicable to foreign PEPs, other than those required by R.10, are limited. • Except for the banking sector, there are no measures applicable to those who have been entrusted with a prominent

Recommendation	Rating	Underlying rating factor(s)
		<ul style="list-style-type: none"> role by an international organisation.
13. Correspondent banking	LC	<ul style="list-style-type: none"> The relevant legal framework covers most of the requirements in relation to the banking sector, but there is no regulation for similar relationships in other financial sectors, although the materiality of such sectors is low.
14. Money or value transfer services	PC	<ul style="list-style-type: none"> The country does not take action to identify individuals or legal persons that provide money or value transfer services without a license or without being registered and apply proportionate and dissuasive sanctions. The country does not require money or value transfer services providers that use agents to include them in their AML/CFT programs and to monitor them to ensure that they comply with these programs.
15. New technologies	PC	<ul style="list-style-type: none"> The Bolivarian Republic of Venezuela does not identify and assess the ML/TF risks that arise with the development of new products and business practices. The ML/TF risks assessment of the VASP sector focuses on information obtained from international sources, but a transposition and analysis exercise is not carried out in the context of the country, in addition to not including an analysis by type of product /types of institution, nor a risk analysis regarding the use of virtual assets outside the regulated sector. The VASP sanctioning regime does not cover the full range of AML/CFT obligations provided for in R.15.
16. Wire transfers	PC	<ul style="list-style-type: none"> There are deficiencies related to the obligations applicable to banks that function as intermediary institutions, the duty of exchanges that make wire transfers to submit SARs, and the application of freezing measures when complying with the UNSCR against TF and PF.
17. Reliance on third parties	PC	<ul style="list-style-type: none"> The provisions that authorize the banking and insurance sectors to delegate CDD measures to third parties do not establish that those third parties should be other FIs or DNFBPs or that the final responsibility for CDD measures belongs to the delegating institution. The other FI sectors are not subject to provisions on this matter, so the assessment team interprets that, in the absence of an express prohibition, FIs other than the banking and securities sector can delegate CDD measures to third parties without there being specific provisions that set limits.
18. Internal controls and foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> The policies, procedures and internal controls established by AML/CFT supervisors are limited. Article 7 of the Law of the National Financial System allows the formation of financial groups as long as they meet the purposes defined in it, but the legal framework does not establish measures that reflect the requirements of c.18.1 and 18.2.
19. Higher-risk countries	PC	<ul style="list-style-type: none"> The country has not established a framework to apply proportionate countermeasures in the cases required in Criterion 19.3; consequently, the country does not have an adequate legal framework to apply countermeasures in relation to the Islamic Republic of Iran, which is a country with which it maintains commercial relations. There are no measures to ensure that financial institutions are aware of concerns about weaknesses in the AML/CFT systems of other countries.
20. Reporting of suspicious transactions	PC	<ul style="list-style-type: none"> Article 13 of the LOCDOFT establishes an explicit limitation consisting of not compelling the reporting of suspicions related to offences committed by people who act independently of a criminal organisation or a legal person. There are conflicting provisions regarding the promptness with which SARs should be filed by FIs.
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> The relevant laws, resolutions do not refer to the protection being applicable only if the report has been made in good faith.
22. DNFBPs: CDD	PC	<ul style="list-style-type: none"> The DNFBP sectors are required to apply the CDD measures of R.10 partially. The real estate agent sector is not incorporated as a regulated sector. There are no provisions that require DNFBPs to comply with the requirements of criteria 11.3 and 11.4. The deficiencies identified in R.12 affect compliance with this Recommendation. DNFBPs are not required to comply with the requirements of new technologies included in c.15.1 and c.15.2; in turn, the findings of c.15.3-c.15.11 are equally valid for this Recommendation. There are no provisions that require DNFBPs to comply with the requirements of criteria 17.1 to 17.3.
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> Article 13 of the LOCDOFT establishes an explicit limitation consisting of not compelling the reporting of suspicions related to offences committed by people who act independently of a criminal organisation or a legal person. With the exception of notaries, casinos, the other DNFBP sectors are not required to promptly submit SARs. DNFBPs are not required to report transaction attempts. There is no adequate legal framework to implement c.18.2 and 18.3 and R.19 in the DNFBP sectors.
24. Transparency and beneficial ownership of legal persons	NC	<ul style="list-style-type: none"> There are no established processes to obtain and register information on the beneficial owner of companies and NPOs. The country did not provide information on the measures applicable to cooperatives. The country has not evaluated the ML/TF risks associated with all types of legal persons created in the country. The assessment team did not obtain relevant information on the legal framework related to the collection and maintenance of basic information and information on the beneficial owner of legal persons.
25. Transparency and beneficial ownership of legal arrangements	NC	<ul style="list-style-type: none"> The Law on Trusts does not cover all the requirements related to transparency and beneficial ownership of legal arrangements.
26. Regulation and supervision of FIs	PC	<ul style="list-style-type: none"> There are supervisors that do not have a specific sector of reporting entities assigned. The country does not have provisions that prevent or block the operation of shell banks.

Recommendation	Rating	Underlying rating factor(s)
		<ul style="list-style-type: none"> • There are no measures that adequately ensure the supervision and monitoring of FIs with an RBA.
27. Powers of supervisors	PC	<ul style="list-style-type: none"> • The UNIF, among a broad group of supervisors, does not have a clear legal framework to supervise. • The sanctioning regime is not proportionate, since it penalizes all violations of AML/CFT obligations with a fine instead of establishing a range of sanctions that gradually addresses the seriousness of the breaches. • The available sanctions do not cover a complete range of sanctions applicable to non-compliance with the obligations established in R.6 and R.8 to R.23.
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> • The measures applicable to other DNFBPs other than casinos are limited because not all DNFBP sectors are subject to AML/CFT measures, as is the case with real estate agents which do not have adequate measures in place to prevent criminals and their associates from controlling or owning of a DNFBP or an appropriate sanctioning framework. • The supervision of DNFBPs is not conducted in a risk-sensitive manner,
29. Financial intelligence units	PC	<ul style="list-style-type: none"> • There is ambiguity between whether the hiring process for the General Director of the UNIF falls to the Minister with authority over the matter or to the President of the Republic, which affects the perception of operational and strategic independence of the person who holds the position of General Director, who could be subject to undue political influence.
30. Responsibilities of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • The country has deficiencies related to the capacity to identify and trace assets that should be subject to forfeiture.
31. Powers of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • The country does not have provisions that authorize competent authorities to access computer systems.
32. Cash couriers	PC	<ul style="list-style-type: none"> • There is no system of proportionate and dissuasive sanctions for people who contravene the legislation. • There are no provisions that restrict the movement of cash and bearer negotiable instruments in cases of ML/TF and the rest of the predicate offences other than smuggling.
33. Statistics	PC	<ul style="list-style-type: none"> • Statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems are not complete.
34. Guidance and feedback	PC	<ul style="list-style-type: none"> • Supervisors do not provide guidelines to help FIs and DNFBPs in the application of national AML/CFT measures to combat ML/TF.
35. Sanctions	PC	<ul style="list-style-type: none"> • Although the Venezuelan regulatory framework establishes some sanctions, these are not included for all the cases listed in Recommendation 35 and, if listed, they are not considered proportionate or dissuasive.
36. International instruments	LC	<ul style="list-style-type: none"> • The deficiencies identified in criteria 3.1 and 5.1. have an impact on compliance with criterion 36.2.
37. MLA	PC	<ul style="list-style-type: none"> • The laws restrict assistance to cases involving ML, TF and organized crime and do not include a broader range of predicate offences. • Dual criminality is a requirement if the MLA request requires coercive measures related to organized crime and TF.
38. MLA: freezing and confiscation	PC	<ul style="list-style-type: none"> • There are deficiencies in terms of providing assistance to requests for cooperation formulated on the basis of non-conviction-based forfeiture procedures, the existence of agreements to coordinate seizure and forfeiture actions with other countries, and the establishment of mechanisms to manage frozen, seized or forfeited assets.
39. Extradition	LC	<ul style="list-style-type: none"> • There is no procedures or case management system to prioritize extradition requests when appropriate or procedures to ensure that extradition requests in relation to ML/TF are answered without undue delay.
40. Other forms of international cooperation	PC	<ul style="list-style-type: none"> • There are deficiencies related to the general principles that should govern the forms of international cooperation other than MLA. • Likewise, there are deficiencies related to the exchange of information between FIUs, financial supervisors, law enforcement authorities and cooperation between authorities that are not counterparts.

*Glossary of Acronyms*¹⁰⁷

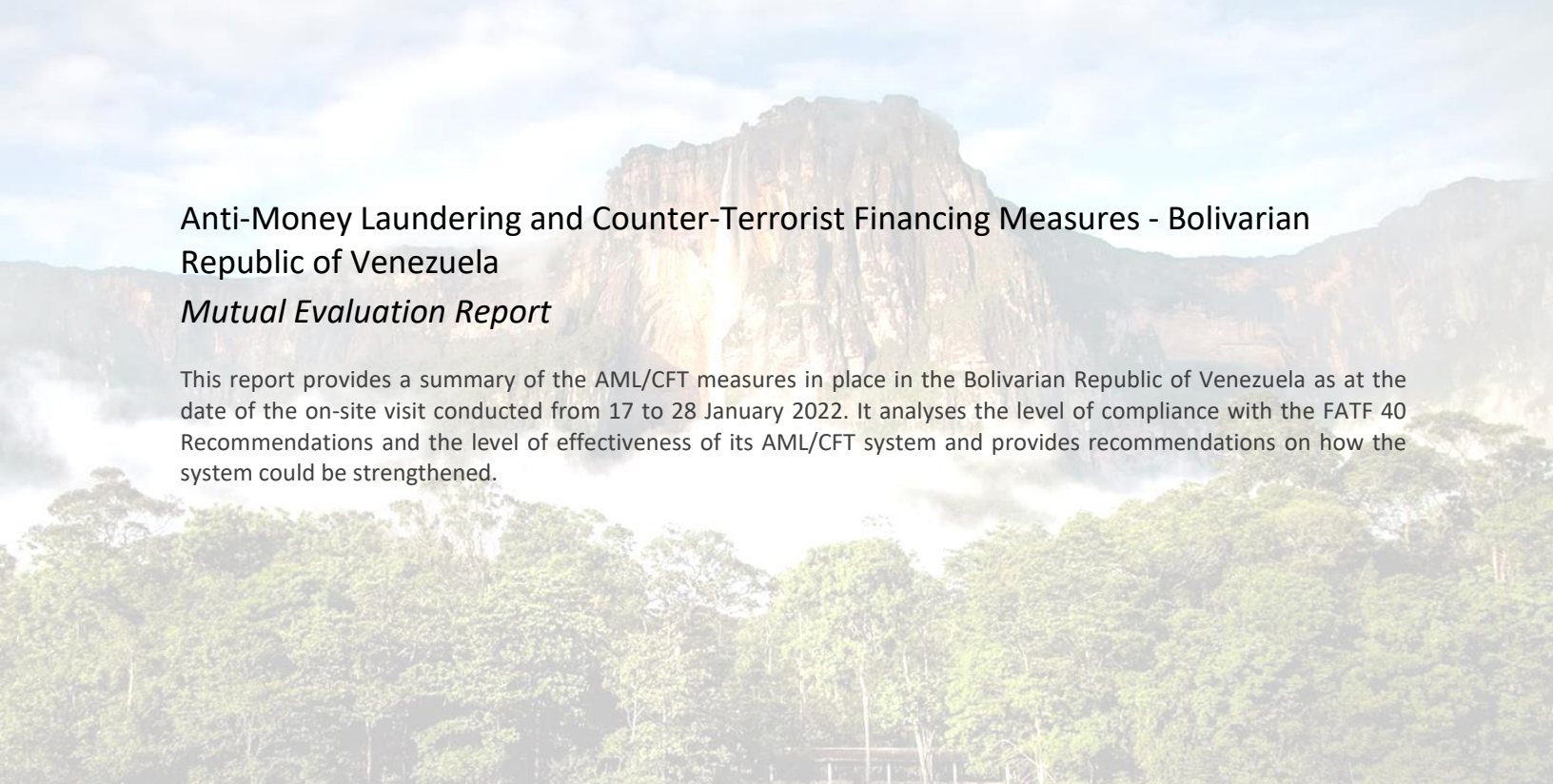
Acronym	Definition
ACL	Anti-corruption Law
AGO	Attorney General's Office
CBV	Central Bank of Venezuela
CC	Civil Code
CDC	Code of Commerce
CICPC	Scientific, Criminal, and Forensic Investigations Corps
CNC	National Commission of Casinos, Bingos and Slot Machines
Constitution	Constitution of the Bolivarian Republic of Venezuela of 1999
COPP	Organic Code of Criminal Procedure
CP	Criminal Code
CPC	Code of Civil Procedure
FANB	National Bolivarian Armed Forces
INTT	National Institute of Land Transport
ITFB	Banking Sector Financial Technology Institutions
IVSS	Venezuelan Institute of Social Security
LAA	Decree with Rank, Value and Force of Law on Insurance Activities
LBCV	Central Bank of Venezuela Law
LCC	Law on Supervision of Casinos, Bingos and Slot Machines
LEOME	Organic Law that Reserves for the State the Exploration and Exploitation of Gold and other Strategic Minerals
LMV	Stock Market Law
LOCDOFT	Organic Law against Organized Crime and Terrorist Financing
LOMP	Attorney General Organic Law
LOSP	Organic Law of the Investigative Police, Scientific, Criminal, and Forensic Investigations Corps and the National Service of Medicine and Forensic Sciences
LOSPCPN	Organic Law of the Police Service and National Police Corps
LRN	Decree with Rank, Value and Force of Law of Registries and Notaries
MPPEFC	Ministry of People's Power for Economy, Finance and Foreign Trade
MPPPF	Ministry of People's Power for Planning and Finance ¹⁰⁸
MPPRE	Ministry of People's Power for Foreign Affairs
MPPRIJP	Ministry of People's Power for Internal Affairs, Justice and Peace
NBP	National Bolivarian Police Corps
NEC	National Electoral Council
NPS	National Procurement Service
OCL	Organic Customs Law
ONCDOFT	National Office against Organized Crime and Terrorist Financing
PDVSA	Petróleos de Venezuela, S.A.
REGONG	Registry of Non-domiciled NGOs

¹⁰⁷ The acronyms already defined in the FATF 40 Recommendations are not included in this Glossary.

¹⁰⁸ At present, this ministry does not exist; it is mentioned due to its relevance in relation to the analysis of R.6.

RUSO	Unified Registry for Reporting Entities
SAIME	Administrative Service of Identification, Migration and Foreigners
SAR	Suspicious Activity Report
SAREN	Registries and Notaries Offices Autonomous Service
SEB	Specialized Service for the Administration and Disposal of Seized, Forfeited or Confiscated Assets
SENIAT	National Integrated Tax Administration Service
SNB	National Service for the Administration and Disposal of Seized, Forfeited or Confiscated Assets
SUDEASEG	Insurance Superintendency
SUDEBAN	Banking Superintendency
SUNACRIP	Superintendency of Cryptoassets and Related Activities
SUNAD	National Anti-Drug Superintendency
SUNAVAL	National Securities Superintendency
TSJ	Supreme Court of Justice

March 2023



**Anti-Money Laundering and Counter-Terrorist Financing Measures - Bolivarian
Republic of Venezuela**
Mutual Evaluation Report

This report provides a summary of the AML/CFT measures in place in the Bolivarian Republic of Venezuela as at the date of the on-site visit conducted from 17 to 28 January 2022. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of its AML/CFT system and provides recommendations on how the system could be strengthened.