



Mutual Evaluation Report

Anti-Money Laundering and Combating the Financing of Terrorism

September 2011

Republic of Mozambique

The Republic of Mozambique is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). This evaluation was conducted by the ESAAMLG and was approved as a 1st mutual evaluation by its Council of Ministers on 08 September 2011.

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ACRONYMS

AGO	Attorney General's Office
AML	Anti Money Laundering
AML/CFT	Anti Money Laundering/Combating the Financing of Terrorism
AML law	Law 7/2002 of 5 February
AML Regulations	Decree 34/2004 of 8 September
ASEL	Association of Portuguese-Speaking Insurance Supervisors
BoM	Bank of Mozambique
CDD	Customer due diligence
CFT	Combating the Financing of Terrorism
CISNA	Committee of Insurance, Securities & Non-bank financial Authorities of the SADC
DNFBP	Designated Non-Financial Businesses and Professions
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GCCC	<i>Gabinete Central Combate à Corrupção –Central Cabinet for Combating Corruption</i>
GCPCD	Central Cabinet for Prevention and Fight against Drug
GiFIM	<i>Gabinete de Informação Financeira de Moçambique,</i>
IAIS	International Association of Insurance Supervisors
IGS	<i>Inspecção Geral de Seguros, General Inspectorate of Insurance</i>
IOSCO	International Organisation of Securities Commissions
Merida Convention	UN Convention against Corruption
ML	Money Laundering
MMOU	Multilateral Memorandum of Understanding
MoFAC	Ministry of Foreign Affairs and Cooperation
MoJ	Ministry of Justice
MOU	Memorandum of Understanding

NPO	Non-profit Organisation
OAM	<i>Ordem dos Advogados de Moçambique</i> - Mozambican Bar Association
Palermo Convention	UN Convention against Transnational Organised Crime, 2000
PEP	Politically Exposed Person
PIC	<i>Polícia de Investigação Criminal</i> - Criminal Investigation Police
PPS	Public Prosecution Service
PRM	<i>Polícia da República de Moçambique</i> - Police of the Republic of Mozambique
RILO	World Customs Organisation Regional Intelligence Liaison Offices
SADC	Southern Africa Development Community
SARPPCO	Southern African Regional Police Chiefs Co-operation Organisation
SISE	State Intelligence Service
STR	Suspicious Transaction Report
TF	Terrorist Financing
TF Convention	International Convention for the Suppression of the Financing of Terrorism, 1999
UN	United Nations
UNSCR	United Nations Security Council Resolution
Vienna Convention	UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988
WCO	World Customs Organisation

PREFACE

Information and Methodology Used For The Evaluation of the Republic of Mozambique

The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Republic of Mozambique was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004¹. The evaluation was based on the laws, regulations and other materials supplied by the Republic of Mozambique, and information obtained by the evaluation team during its on-site visit to the Republic of Mozambique from 14-27 September 2009, and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Mozambican government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the mutual evaluation report.

The evaluation was conducted by an assessment team, which consisted of members of the ESAAMLG Secretariat and ESAAMLG experts in criminal law, law enforcement and regulatory issues: Mrs. Yotsna Lalji-Venketasawmy, Legal Adviser and Mr. Phineas R. Moloto, Financial Expert, from the ESAAMLG Secretariat, Ms. Susan Mangori, Chief Prosecution Counsel, Botswana (law enforcement expert), Mr. James O. Manyonge, Legal Officer, Central Bank of Kenya (financial expert), Mr. Eric Lokolong, Senior Compliance Officer (Capital Markets Authority, Uganda (financial expert) and Mr. Pieter Smit, Senior Manager, Financial Intelligence Centre, South Africa (legal expert). Mr. Bernardo Mota, from the Brazilian FIU (FIU expert) also participated in the mutual evaluation. The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in the Republic of Mozambique as at the date of the on-site visit and within three months thereafter. It describes and analyses those measures, sets out Mozambique's levels of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

The ESAAMLG Secretariat and the evaluation team would like to express their gratitude to the authorities in the Republic of Mozambique for their hospitality and cooperation throughout the evaluation mission.

¹ As updated in February 2009

EXECUTIVE SUMMARY

A. *Background Information*

1. This report provides a summary of the AML/CFT measures in place in the Republic of Mozambique as at the date of the on-site visit (14 to 27 September 2009) or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Mozambique's levels of compliance with the FATF 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations)."
2. The AML system in the Republic of Mozambique is still in an early development stage and much work needs to be done with regard to the implementation of the AML/CFT system, capacity building and awareness raising within the reporting community and the general public.
3. Law 7/2002 of 5 February is the primary enactment which supports the AML legal framework in Mozambique. AML Regulations, Decree 37 /2004 of 8 September, have also been issued for implementing Law 7/2002. Terrorist financing is not criminalised in Mozambique.
4. The major profit generating crimes include corruption, car theft, drug trafficking, human trafficking and illicit trade in precious minerals. While Law 7/2002 provides for a reporting regime, suspicious transaction reporting was found to be relatively low and there had been no prosecution for the money laundering offence at the time of the onsite visit.
5. The threat of domestic and international terrorism is low in Mozambique.

B *Legal Systems and Related Institutional Measures*

6. The ML offence is criminalised under Law 7/2002 (the AML law) in a manner that is broadly consistent with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 United Nations Convention against Transnational Organised Crime (Palermo Convention). However, the range of predicate offences does not cover all serious offences in the Mozambican criminal law nor does it include a range of offences in each category of the designated categories of offences. Participation in an organised criminal group and racketeering, terrorist financing, trafficking in human beings and migrant smuggling, sexual exploitation, illicit trafficking in stolen and other goods, counterfeiting of currency, counterfeiting and piracy of products, environmental crime, murder, grievous bodily injury, forgery, piracy and insider trading and market manipulation are the uncovered categories of the designated offences. It is also not clear whether predicate offences for money laundering extend to conduct that occurred in another country.
7. There is a broad range of ancillary offences to the money laundering offences. The Mozambican Penal Code provides for conspiracy, attempt, support and facilitation and counselling to commit a crime. Complicity in the commission of a crime and accessories to a crime are both criminalised under the Penal Code.

8. While liability for money laundering applies to both natural and legal persons, it did not appear that the range of civil or administrative sanctions which could be applied to legal persons was sufficiently broad to be effective, proportionate and dissuasive
9. While the Mozambican authorities are to be commended for the introduction of a money laundering offence which is based on the provisions of the Palermo Convention, it appears that there is a lack of experience among practitioners in the application of the legal provisions in Mozambican law relating to money laundering as a result of the fact that these provisions are not yet used widely. As a result certain uncertainties as to the interpretation of the legal provisions and their practical application remain which, in turn, impact on the effective use of these provisions.
10. At the time of the onsite visit, TF was not criminalised in Mozambique and there was also no freezing mechanism in place for the purposes of the UNSCR 1267 and 1373.
11. Criminal forfeiture is provided under Law 7/2002. Proceeds of the offences listed under the AML law and objects used or intended to be used in the commission of offences may be forfeited. Likewise, property transformed or converted into other property which has been incorporated into lawfully acquired property may be forfeited. However, the scope of property that may be subject to confiscation is undermined as all the designated categories of offences are not covered under Law 7/2002. There is also a number of other laws which contain provisions relating to the forfeiture of assets. Law 6/2004 (dealing with corruption) provides for the forfeiture of assets and funds that have been illicitly added to one's assets while Law 3/97 (dealing with drug trafficking) provides for the forfeiture of all compensation attributed, promised or granted to agents or third parties who have committed offences.
12. Provisional measures to prevent dealing in property pending an investigation or court proceedings are not available. Police investigators have adequate powers to access information that may assist in the tracing of property that may be subject to forfeiture. While the forfeiture regime recognises the rights of bona fide third parties, there are no provisions detailing how these rights are to be protected. Further, there are no procedures laid down to enable bona fide third parties to participate in court proceedings in order to protect their interests. It was not possible to obtain an accurate picture of the effectiveness of these measures as there was no indication that these forfeiture provisions have been applied in practice.
13. Law 14/2007 of 27 June provides for the establishment of an administrative financial intelligence unit known as *Gabinete de Informação Financeira de Moçambique* (GFIM). The FIU was not operational at the time of the onsite visit. The director of the GFIM was appointed in September 2008 and the following preparatory works were underway at the time of the onsite visit: definition of staff qualification and remuneration, development of internal regulation, recruitment and training of technical staff and development of an AML Supervision Manual for reporting entities.
14. The Mozambican Police is responsible for the investigation of criminal offences in Mozambique. The Criminal Investigation Police (PIC) is specifically mandated under Law 7/2002 to investigate money laundering cases. The Organised Crime and

Economic Fraud section within the PIC investigates ML offences. The Police in Mozambique have a broad range of investigative powers under Law 7/2002 and may compel the production of, search persons or premises and seize and obtain relevant documents or information held by financial institutions or other persons. However, these powers are limited to the ML offences and the predicate offences listed under Law 7/2002. Further, the effectiveness of these powers could not be assessed as only one money laundering investigation had been initiated at the time of the onsite visit.

15. The requirements under SR IX had not been implemented at the time of the onsite visit.

C *Preventive Measures – Financial Institutions*

16. AML preventative measures in Mozambique have been implemented through the application of Law 7/2002 and Decree 37/2004. In general, there is a scope issue in that a limited number of financial institutions (as defined by the FATF) are not subject to the AML requirements under the Law 7/2002. Further, to the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF.
17. Financial institutions covered by Law 7/2002 are required to identify and verify the identity of their clients or their legal representatives when entering into business relations or when undertaking occasional transactions where the amount singly or combined is equal to or greater than the sum of USD 3,416. The obligation for the identification and verification of identity under Law 7/2002 is subject to some exemptions which have not been justified by a demonstrated low risk for ML/TF. The AML Law and Regulations set out further details on the CDD documentation that must be obtained by financial institutions. There is however, no specific requirement in law or regulation for financial institutions to identify or verify the identity of beneficial owners (as defined by the FATF). There are no requirements to undertake CDD measures where there is a suspicion of ML or TF. There is also no requirement for financial institutions to terminate the business relationship where the financial institution is unable to comply with CDD measures and to consider making a suspicious transaction report. The AML framework does not require financial institutions to perform enhanced due diligence measures for higher risk categories of customer, business relationship or transaction or to apply CDD requirements to existing customers.
18. There are no requirements relating to PEPs, correspondent banking relationships and misuse of technological developments in ML or TF schemes.
19. The laws and regulatory framework in Mozambique do not expressly prohibit financial institutions from relying on intermediaries or other third parties to perform some of the elements of the CDD process or to introduced business. In practice, some financial institutions in Mozambique do rely on intermediaries or other third parties to person some of the elements of the CDD process. However, there is no requirement for financial institutions to follow the requirements under Recommendation 9.

20. The duty of confidentiality that applies to financial institutions is overridden by Law 7/2002 to the extent that the disclosure is made in good faith and for the purposes of complying with Law 7/2002. However, the confidentiality rules that apply to financial institutions do not provide for exceptions that would allow these financial institutions to exchange information or collaborate with the FIU which is established under Law 14/2007. It is further noted that the exception to the applicable confidentiality rules that enables the sharing of information between financial institutions for the purposes of Recommendations 7, 9 or Special Recommendation VII can only be done with the consent of the client.
21. The AML law and regulations set out record keeping requirements for financial institutions. Pursuant to these requirements, financial institutions must keep client identification records for a period of 15 years. They must also keep identification reference files on clients which must be updated annually or whenever a change occurs. The record keeping requirements in Mozambique, however, fall short of the standards as there are no requirements for financial institutions to keep records for a longer period if required by a competent authority. Further, the nature and extent of information to be kept do not appear to be adequate to allow for the reconstruction of individual transactions as there are no requirements for financial institutions to record the nature and date of transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction. Moreover, there is no obligation for financial institutions to maintain records of account files and business correspondence for a period of at least five years following the termination of an account or business relationship.
22. The requirements under SR VII have not been implemented in Mozambique.
23. There are no requirements for financial institutions to: (a) pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose; (b) set forth their findings in writing, after they examine as far as possible the background and purpose of such transactions; and (c) keep such records available for competent authorities and auditors for at least five years.
24. Financial institutions in Mozambique conduct transactions and establish business relationships with financial institutions in other countries. Despite this, the authorities in Mozambique have not adopted and implemented measures on how financial institutions should deal with transactions and business relationships involving countries which do not sufficiently apply the FATF Recommendations.
25. Suspicious transactions reporting obligations are created under the AML law and Law 14/2004. Under these two laws, reporting entities are required to submit STRs to three bodies: GIFiM, Attorney General's Office and supervisory bodies – in practice, Bank of Mozambique. The Money Laundering Regulations (Decree no. 37/2004) guides reporting entities on what constitutes grounds for filing an STR. Uncovered financial institutions and predicate offences to money laundering limit scope for reporting of suspicious transaction. It was not possible, however to gauge the effectiveness of the reporting system in the absence of relevant statistics.

26. The AML law provides protection to reporting entities for making an STR to a competent authority. However, directors, officers and employees (permanent and temporary) of reporting entities are not covered against any liability for making an STR in good faith. There is no specific prohibition from disclosing the fact that an STR or related information is being reported or provided to GIFiM, Supervisory Bodies and Attorney General's Office under the reporting regime in Mozambique. The only tipping-off prohibition is provided under Article 18 of Law 7/2002 where a reporting entity is not allowed to disclose any fact on information provided to a competent judicial authority to aid an investigation.
27. The authorities in Mozambique have not considered the feasibility and utility of implementing a system where financial institutions would report all transactions in currency above a fixed threshold to a national agency with a computerized data base.
28. The AML law requires all financial institutions with head offices in Mozambique including their subsidiaries, overseas branches and branches to establish a system of internal control such that they are able to comply with the obligations of the law at any time. This requirement is very general in nature and does not specifically address the obligation for financial institutions to communicate internal procedures, policies and controls to prevent ML and TF to employees, and the other obligations under Recommendation 15.
29. The AML law in Mozambique extends to branches and subsidiaries or any other form of commercial representation of Mozambican commercial companies that are situated abroad. However, at the time of the onsite visit, financial institutions in Mozambique did not have branches or subsidiaries abroad.
30. The BOM and the IGS are mandated to carry out the supervision of financial entities falling within their respective supervisory purview in the context of the prevention and deterrence of money laundering. Further, the IGS has express powers to issue technical and additional instructions for proper compliance with the law and other regulatory provisions including instructions relating to procedures to be observed by entities licensed to pursue the business of insurance and insurance mediation in respect of the prevention and deterrence of money laundering transactions, in the terms of the applicable legislation. The BoM had conducted four AML onsite inspections in 2006 and there had been no further on-site inspections. The IGS had not undertaken any on-site inspection for ensuring that financial institutions falling under its supervisory purview were complying with AML requirements.
31. The supervisory authorities have adequate powers to request information from financial institutions. These powers are not predicated on the need to require a court order, and appear to be couched in sufficiently large terms to request any document. However, it was not clear whether it would be mandatory for financial institutions to comply with such requests.
32. The BoM has a range enforcement powers which include, suspension of authorisation, power to require the financial institution to take corrective measures within such time limit as it may set and it can also recommend that the manager in charge of a financial

institution be replaced or removed. BoM has not used these enforcement measures against financial institutions or their senior managers for failure to comply with or properly implement requirements to combat money laundering. The effectiveness of these measures could therefore not be assessed.

33. The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team.
34. BoM and IGS do not have powers to impose sanctions for breaches of the AML obligations. Under the provisions of the AML law a judicial decision is required for the revocation or suspension of the authorisation to conduct business for three years (depending on the gravity of the offence) or for prohibiting individuals from holding administrative, leadership or management positions in financial entities.
35. The AML law prescribes the fines that are applicable to offenders for failure to comply with the AML obligations under the law. In addition to these fines, the court may in terms of the law impose the following additional measures: a) in case of a repeated offence by corporate entities-revocation or suspension of the authorisation to conduct business for three years, according to the gravity of the offence; b) in the case of individual responsibility-prohibition from holding administrative, leadership or management positions in financial entities, or acting as legal or voluntary representative, for a period of one to ten years. The supervisory authority is also required to give public notice of the judicial decision at the expense of the offender. The effectiveness of these sanctions, which appeared to be proportionate and dissuasive, could not be ascertained at the time of the evaluation as no sanctions had been imposed for failure to comply with national AML requirements.
36. At the time of the onsite visit there was no shell bank operating in Mozambique. The licensing regime for banks appeared to be robust enough to prevent the operation of shell banks in the country. There is however no requirement prohibiting financial institutions from permitting or entering into, or continuing, correspondent banking relationships with shell banks. There is also no requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
37. Prudentially regulated financial institutions are subject to strict licensing requirements. The “fit and proper” measures to prevent criminals or their associates from gaining control of institutions is fairly robust however, the requirements in Law 15/99 should be extended to cover beneficial owners as they are not currently covered. Money or value transfer services are provided by banks and Postal Office through postal orders. Independent money or value transfer companies are not allowed to render MVT services. The only way an independent money or value transfer company can provide such services is by having a relationship arrangement with a licensed bank through which a service provider can use its money transfer platform as part of a bank. Money Gram and Western Union have entered into relationship arrangements with licensed banks to provide money or value transfer services. However, there is no specific requirement for money or value transfer service providers to be registered and/or licensed by a competent authority.

D. Preventive Measures – Designated Non-Financial Businesses and Professions

38. The AML legal framework for DNFBP's in Mozambique is not comprehensively addressed as required by the FATF standards. Although real estate agents, dealers in precious metals and stones, lawyers and accountants operate in Mozambique, they are not subject to the AML law and regulations. Only casinos are covered under the AML regime. TCSPs do not operate in Mozambique.
39. The provisions of the AML law and regulations generally apply to casinos in the same way that they apply to financial institutions. Consequently, this common legal framework suffers from the same deficiencies as for financial institutions. The General Inspectorate of Gaming is responsible for monitoring and giving guidance to the casinos regarding compliance with the provisions of the AML law and regulations. Unfortunately, the supervisory powers of the General Inspectorate of Gaming could not be assessed as the gambling laws were not provided to the evaluation team.
40. Mozambique has not considered applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF.

E. Legal Persons and Arrangements & Non-Profit Organisations

41. The information as provided by the Mozambican authorities on legal persons could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with Recommendation 33.
42. There are no express trusts or other similar legal arrangements in Mozambique.
43. The NPO legal framework in Mozambique sets out separate regimes for regulation of domestic and foreign NPOs. Domestic NGOs are registered by a specialised directorate at the Ministry of Justice. The Directorate of Legal Affairs of the Ministry of Foreign Affairs and Cooperation is responsible for registration and accreditation of foreign NPOs in Mozambique. The Mozambican authorities have not conducted a risk assessment of the NPO sector regarding misuse of the sector for terrorist financing nor do they conducted periodic assessment to determine the sector's potential vulnerability to terrorist activities. Further, no outreach programmes have been undertaken in Mozambique's NPO sector to raise awareness about the vulnerabilities of the sector to terrorist abuse and terrorist financing risks and the measures that the sector can undertake to protect itself from such abuse.

F. National and International Co-operation

44. In 2003 the Minister of Finance established a National Task Force on ML and FT to advise on AML/CFT matters and on issues relating to the establishment of an FIU in Mozambique. The Task Force which is chaired by the Ministry of Finance comprises representatives from the Ministry of Justice, Ministry of Interior, Ministry of Foreign Affairs, the BSD of the Central Bank of Mozambique, the FIU, the IGS, the AGO and

the Anti Corruption Bureau. The Task Force fosters policy cooperation among the different stakeholders from both the financial and non-financial sectors.

45. At the time of the onsite visit, the FIU was not operational. There was therefore no mechanism in place to enable the FIU to cooperate and coordinate domestically with law enforcement and supervisory authorities concerning the development and implementation of policies and activities to combat ML and TF.
46. The law enforcement agencies collaborate with each other for operational matters. A memorandum of understanding was signed between customs and PIC in February 2008 and was implemented in 2009. The Ministry of Finance, Ministry of Justice and the Ministry of Interior meet on a quarterly basis at ministerial level. The PIC, Customs, Border police and Immigration have regular meetings especially at the ports of entry and exit in the country.
47. Mozambique does not have specific legislation on mutual legal assistance. The Mozambican authorities rely on bilateral and multilateral agreements with certain countries (such as the Community of Portuguese Speaking Countries, CPLP) for the legal authority to provide mutual legal assistance. However, Mozambique has a limited number of agreements in place in terms of which it can provide assistance and therefore would only be able to consider requests from a rather limited number of countries. Moreover the type of cooperation that can be afforded under these agreements is limited to the specific areas of cooperation contained in each agreement. Typically the agreements only provide for matters such as extradition or technical assistance such as training. These agreements do not generally provide for assistance in areas such as the production, search and seizure of information, documents, or evidence from financial institutions, the taking of evidence or statements from persons, providing originals or copies of relevant documents and records and evidentiary items or the identification, freezing, seizure, or confiscation of laundered assets.
48. Mozambique provides mutual legal assistance on the basis of agreements which contain the principle of dual criminality. In applying the principle of dual criminality to mutual legal assistance requests, Mozambique follows a strict approach to the way in which the criminal conduct in question is described in the respective countries. A request for mutual legal assistance will not be executed if there are technical differences in the descriptions or classifications of the offence in question.
49. Mozambique is unable to provide mutual legal assistance in relation to terrorist financing in light of the fact that the Mozambican authorities provide mutual legal assistance under agreements which contain the principle of dual criminality, and that Mozambique has not yet criminalised terrorist financing.
50. In the absence of a law on mutual legal assistance the ability to provide assistance in relation to the identification, freezing, seizure, or confiscation of property would depend on the contents of the agreement which is used as the basis for the request. Mozambique does not seem to have the necessary mechanism in place to execute requests for the identification, freezing, seizure, or confiscation of property.

51. Mozambique relies on individual bilateral and multilateral agreements for the legal basis to execute extradition requests on a case-by-case basis. In applying the principle of dual criminality to extradition requests, Mozambique follows a strict approach to the way in which the criminal conduct in question is described in the respective countries. A request for extradition will not be executed if there are technical differences in the descriptions or classifications of the offence in question.
52. Since Mozambique relies on individual bilateral and multilateral agreements as the basis for executing extradition requests, the offences which are considered to be extraditable would have to be specified in the particular agreement which is used as the basis for the request. While money laundering is therefore, in principle, an extraditable offence, it would have to be specified as such in the particular agreement which is used as the basis for the request. As far as could be established none of the extradition agreements to which Mozambique is a party contain money laundering as an extraditable offence.
53. The FIU was not able to provide a wide range of international cooperation since the GIFiM was not operational at the time of the on-site visit. The police, customs and supervisory authorities are able to provide a wide range of international cooperation to their foreign counterparts. However, no statistics were available to evaluate whether the authorities in Mozambique are able to exchange information in a rapid, constructive and effective manner.

G. Other Issues

54. Most of the relevant government agencies expressed concern about the lack of qualified and skilled human resources, funding and other technical resources to meet their requirements.
55. The authorities in Mozambique should develop mechanisms to record and maintain comprehensive statistics on money laundering investigations, prosecutions and convictions, mutual legal assistance and extradition matters so as to be able to assess the effectiveness of the AML/CFT systems and procedures.

H Priorities for recommended plan of action

56. In the short term, the priority for the Mozambican authorities should be to-
 - Criminalise terrorist financing in Mozambique;
 - take steps to enhance the human and other technical capacity of the FIU to enable it to perform its functions;
 - strengthen the preventative measures under the AML law and Regulations to meet the FATF standards;

- build the technical AML/CFT capacity of law enforcement agencies, the regulators, the public prosecutors and the judiciary; and
- extend the scope of the application of the AML regime to the other categories of DNFBPs operating in Mozambique and engage more aggressively with the non-bank financial services and the DNFBP sectors to encourage and assist compliance with AML/CFT requirements.

MUTUAL EVALUATION REPORT

1. GENERAL

1.1 General information on Mozambique

1. Mozambique is located in the southern part of Africa and has a total area of 801, 509 km². It shares its territorial borders with Tanzania (North), Zambia, Malawi Zimbabwe (East), Swaziland and South Africa (South East/South). In the West, Mozambique borders the Indian Ocean. The Mozambican territory is divided into 11 Provinces, namely, Niassa, Cabo Delgado, Nampula, Zambézia, Tete, Manica, Sofala, Inhambane, Gaza, Maputo and the City of Maputo (the City of Maputo holds the status of a Province), and 128 Districts. The Country has also 43 Municipalities, of which 23 are Cities and the remaining 20 are Towns. Mozambique has a population of 21,669,278 (2009 estimate) and 68 per cent of the population live in rural areas and 32 per cent in urban areas. The official language is Portuguese and Metical (Mt) is the National currency.

Economy

2. Mozambique is a post conflict country which fought a civil war for 16 years. The war ended after a General Peace Agreement was signed in 1992. It is one of the poorest countries in the world: the country ranked 172 out of 177 countries in UNDP's Human Development Report (2007/2008).
3. Notwithstanding this background, by mid-1990s Mozambique intensified its economic reforms aimed at growing the economy. This made Mozambique one of the few countries in Africa that consistently registered high average economic growth rate of more than 8 percent in the last 15 years.
4. Per capita GDP is USD 422,8 (2007 data). Major exports are natural resources ,minerals, such as, coal, natural gas, hydropower, titanium, tantalite, , and gemstones, cashew nuts, and seafood. The major export partners of Mozambique are Italy 19.4%, Belgium 18.4%, Spain 12.5%, South Africa 12.3%, UK 7.3%, China 4.1% whilst the major import partners are South Africa 36.7%, Australia 8.5% and China 4.6% (2007)²
5. Contribution to Gross Domestic Product (GDP) by sector is made up of agriculture (23 percent), industry (31 percent) and services (46 percent). Although agriculture remains the lowest contributor to GDP, the sector accounts for more than 75 percent of employment in Mozambique. According to the World Bank, unemployment in Mozambique stood at 21 percent in 2008.

System of Government

6. Mozambique became independent from Portugal on 25 June 1975. Its first Constitution under a single party system and popular Assembly was then

² Source: Bank of Mozambique and CIA World Fact Sheet

approved and Maputo city was designated as the capital of Mozambique. In 1990, the mono party system was changed into a multi-party regime and a new Constitution was adopted. With a view to accommodate new developments, the 1990 Constitution was updated in 2004.

7. The four main organs of the Republic are the President of the Republic, the Parliament, the Government and the Courts. The Constitution enshrines the principle of separation between these powers.
8. The President of the Republic is the Head of State and of Government. The Council of Ministers is composed of the President, the Prime Minister and the other ministers. The President and members of the Assembly of the Republic are elected by direct universal suffrage and secret ballot for a period of five years.
9. Maputo is the business centre and capital of Mozambique. The port of Beira serves the landlocked Zambia and Zimbabwe. At regional level, Mozambique is one of the fourteen members of the Southern African Development Community³.
10. Although there is a growing penetration of financial institutions in the financial sector of Mozambique, the sector remains largely underdeveloped with a large number of the population preferring to conduct their transactions with cash. There is a growing presence of subsidiaries of foreign banks.

Judiciary and legal system

11. Mozambique has a civil law system based on the Roman-German Law. The Constitution is the supreme law and legislative acts consist of laws and decree-laws⁴. Regulatory acts of Government take the form of Decrees whereas notices are acts of the Governor of the Bank of Mozambique.
12. The Court system in Mozambique includes three different categories of courts: the Constitutional Council, the Administrative Court (*tribunais administrativos*) and the judicial courts⁵. The Organic Law of the Judicial Courts establishes three main layers of judicial courts: the Supreme Court, provincial and district courts. The Supreme Court is the highest body within the hierarchy of courts of justice and has both original and appellate jurisdictions. The other courts of justice have common jurisdiction in civil and criminal matters and have jurisdiction over all areas not assigned to other jurisdictional orders. The Administrative Court is the highest body in the hierarchy of administrative, customs and fiscal courts. It controls the legality of administrative acts and the application of rules and regulations

³ Member states of the SADC are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

⁴ Article 143 (3) of the Constitution provides that Decree-laws are legislative acts passed by the Council of Ministers pursuant to authorisation from the Assembly of the Republic.

⁵ Art. 223(1) of the Constitution refers.

issued by the Public administration and scrutinises the legality of public expenditure and the enforcement of liability for financial infractions. The Constitutional Council has (*Conselho Constitucional*) has special jurisdiction to administer justice over matters of a legal-constitutional nature. In addition to these courts, there are community courts applying traditional and religious customary law.

Transparency, good governance, ethics and measures against corruption

13. Transparency International's Corruption Perception Index 2009 ranks Mozambique 130 out of 180 countries which indicates that corruption is an issue of concern. The 2009 Ibrahim Index of African Governance ranks Mozambique 26 out of 53 countries. According to the African Peer Review Mechanism (APRM) Country Report for Mozambique (June 2009), the administration of justice faces many challenges. The APRM found that the judicial system was weak, and the police did not have adequate resources to investigate crime. Further, due to corruption in the judicial sector cases were taking long to be resolved.
14. Anti-corruption efforts are high on the Government's agenda. Mozambique passed anti-corruption legislation in 2004 (Law 6/2004 of 17 June). The object of the law is to strengthen the legal framework in force against corruption offences and applies to leaders, officials or employees of the State or of local municipalities, public enterprises, private enterprises in which the State has holdings or companies holding concessions for public services.
15. The law also establishes a Central Office for the Combat of Corruption (*Gabinete Central Combate à Corrupção*) within the Attorney General's office. The Central Office for the Combat of Corruption (the GCCC) has the statutory mandate to conduct inquiries and investigate complaints where there is evidence of corruption offences. From January to December 2008, the GCCC had received 430 corruption complaints out of which 27 cases have been prosecuted and 8 cases are awaiting trial. As at December 2008, 59 convictions (including trials pending from previous years) had been secured.
16. Further, with a view to contributing to strengthening Good Governance and Integrity related processes, in April 2006, the Government of Mozambique approved an Anti Corruption Strategy (ACS), for the period 2006-2010⁶ as a political tool for combating corruption. It aims at improving the provision of public services to citizens through a decentralized, transparent and participative public sector which is effective in preventing and combating corruption.
17. A National Action Plan for Combating Corruption was also approved in 2007, which is focused in five key essential sectors: Ministry of Interior,

⁶ Republic of Mozambique (2006). Anti Corruption Strategy (2006-2010). Maputo: Public Service National Authority /Documentation and Information Centre Mozambique.

Ministry of Justice, Ministry of Finance, Ministry of Health and Ministry of Education. Apart from these sectors, anti corruption plans were also prepared at all Ministries and Provincial Governments.

18. Nevertheless, the fight against corruption remains an important challenge that requires more effort from the Government.
19. Mozambique is a member of the United Nations, the African Union, the Eastern and Southern Africa Anti-Money Laundering Group, the Southern Africa Development Community (SADC), the Commonwealth and the Islamic Organization.

1.2 General Situation of Money Laundering and Financing of Terrorism

20. Mozambique shares vast and inadequately controlled borders with Malawi, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. This situation presents major challenges in detecting and combating cross-border crimes. Bordering the Indian Ocean, Mozambique is exposed to criminal activities seeking access to its mainland provinces. By and large, Mozambique is a transit country for illegal activities destined for its neighbouring countries.
21. There is a general consensus amongst the law enforcement agencies in Mozambique that the following are major predicate crimes to money laundering: corruption, human trafficking, car theft and smuggling, robbery, cash smuggling, illicit trade in precious metals and stones, customs fraud, goods smuggling. Most of the illegal activities have manifestations of organised crime, especially of transnational in nature.
22. Mozambique is a source of and, to a much lesser extent, a destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation; the use of forced and bonded child labourers is common practice in Mozambique's rural areas; women and girls are trafficked from rural to urban areas of Mozambique, as well as to South Africa, for domestic servitude and commercial sexual exploitation; young men and boys are trafficked to South Africa for farm work and mining.
23. From discussions held with the law enforcement authorities, it would appear that Mozambique is a transit point for South Asian hashish and heroin, and South American cocaine destined for the European and South African markets. It is a producer of cannabis (for local consumption) and methaqualone (for export to South Africa).
24. The greatest impediment to detecting and combating these illegal activities is lack of financial, human and technical resources to match up the sophistication of the criminals.
25. The authorities informed the assessors that while efforts are ongoing to prosecute the perpetrators of the criminal acts, no money laundering prosecutions have been initiated.

26. There are no reported activities related to the financing of terrorism in Mozambique. The authorities indicated that the known risk of terrorist financing is very low in Mozambique.

1.3 Overview of the Financial Sector and DNFBP Sector

Overview of financial sector

27. The development of broad-based financial sector in Mozambique was boosted in the mid-1990s by government's financial sector reforms to privatise and diversify the sector. As a result, the financial sector in Mozambique is dominated by privately-owned and subsidiaries of foreign financial institutions. It is worth noting that Mozambique's financial sector is largely at an early stage of development.
28. The financial sector in Mozambique is dominated by the commercial banking sector with almost all major banks being majority-foreign owned, either by Portuguese or other African banks. Banks account for almost all the financial sector's assets, and the three largest banks account for 85 percent of the total assets. As a result of government initiatives, including, the lowering of start-up capital and other costs, the number of micro finance institutions have expanded from 19 in 2003 to 87 in 2008. Like the commercial banking sector, the microfinance sector is highly concentrated with four microfinance institutions controlling 60 percent of the loan portfolio.
29. The economic reforms of the early 1990s enabled private insurers, including foreign-owned insurers especially from South Africa, Portugal, Nigeria and Malawi to enter the insurance sector in Mozambique. The insurance sector is small and is made up of 5 private and one state-owned company. The sector is licensed to trade in life and non-life products. Main insurance market players are insurers, insurer's brokers and insurer's agents. The insurance regulator- the General Inspectorate of Insurance - was established in 2003. However, it is not yet fully operational to supervise the conduct of the sector.
30. The pension sector comprises mainly of the state-run system, although there are few small private corporate pension funds.
31. The Mozambique Stock Exchange (MSE) - *Bolsa de Valores de Moçambique*- is established by Decree 48/98 of 22 September. It enjoys financial and administrative autonomy and is responsible for establishing the conditions that are needed for trading in marketable securities on the Exchange, including providing the IT infrastructure for the Exchange.
32. Mozambique Stock Exchange (MSE) is managed by a Board, comprising four members nominated by the Minister of Finance. The stock market in Mozambique is still developing and consists of 13 listed securities. There are 2 and 8 companies trading in equities and bonds respectively. All financial intermediaries come via banks operating in Mozambique and

should be approved by the Minister, who is advised by the Supervision Department of the Bank of Mozambique. One independent broker and 8 banks were licensed to trade at the time of the onsite visit. MSE receives funding from the Ministry of Finance and levies payable.

33. MSE is supervised by BoM who also sets up the licence and trading fees for the market as well licenses the financial intermediaries (mostly banks).
34. There are 18 bureaux de change concentrated in Maputo. The Bank of Mozambique is responsible for registration, licensing and supervision of bureaux de change.
35. The financial sector is regulated and supervised by two independent institutions, namely the Bank of Mozambique for all credit and financial institutions, the stock exchange and the capital market, and the General Inspectorate of Insurance for insurance entities and pension fund management activity. With respect to the balance of risk of money laundering and terrorist financing, the team concluded that the potential risk was higher in the banking sector than the other sectors. The banking sector is largest and appears to be more international in its outlook. The customer bases in the insurance and investment sector are mostly domestic.
36. Access to financial services is low and fragmented with just over 10 percent of the adult population having a savings account and less than 6 percent having access to credit from a registered financial institution⁷.

Table A. Structure of Financial Sector as at September 2009

Type of financial institution	Number of Institutions	Total assets (Mt)
Commercial banks	14	110 876 836
Credit Unions	6	977,221,000
Credit and Saving Organisations	8	Not available
Micro banks	2	Not available
Microfinance Institutions (non-deposit taking)	87	Not available
Investment companies	1	Not available
Finance Leasing Companies	1	43,969,000
Securities Brokers	1	Not available
Foreign Exchange Bureaus	23	122,110,435
Life Insurance companies	3	Not available

Table B. Financial Activity by Type of Financial Institution

Financial Activity by Type of Financial Institution			
Type of Financial institutions (see the glossary of the FATF 40 Recommendations)	Type of Financial Institution that performs this activity	AML/CFT Requirement	AML/CFT Supervisor/

⁷ IMF Country Report No.10/12, January 2010

			Regulator
Acceptance of deposits and other repayable funds from the public	Banks	Yes	BoM
	Micro Banks		
	Financial Leasing Companies		
	Credit Cooperatives		
	Factoring Companies		
	Investment Companies		
	Electronic Currency Institutions		
Lending	Banks	Yes	BoM
	Micro banks	Yes	
	Credit cooperatives	Yes	
	Money Lenders	No	
	Electronic currency institutions	Yes	
Financial leasing	Financial leasing companies	Yes	BoM
	Banks		
Transfer of money or value	Banks	Yes	BoM
	Postal service		
Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	Banks	Yes	BoM
	Electronic currency institutions		BoM
	Credit cards issuers or managers		BoM
	Postal services		Not designate
Financial guarantees and commitments	Banks		BoM
	Insurance Companies		IGS
Trading in Money market instruments (cheques, bills, CDs, derivatives etc.)	Banks	Yes	BoM
Trading in Foreign exchange	Banks	Yes	BoM
Trading in Exchange, interest rate and index instruments	Banks	Yes	BoM
Trading in Transferable securities	Financial brokerage companies	Yes	BoM
	Brokering firms		
Trading in Commodities	N/A		
Participation in securities issues and the provision of financial services related to such issues	Banks	Yes	BoM
Individual and collective portfolio management	Financial brokerage companies	Yes	BoM
	Brokering firms		
	Banks	yes	
Safekeeping and administration of cash or liquid securities on behalf of other persons	Financial brokerage companies	Yes	BoM
	Brokering firms		
	Banks	Yes	
Otherwise investing, administering or	Investment fund managers	Yes	BoM

managing funds or money on behalf of other persons	Banks	Yes	BOM
Underwriting and placement of life insurance and other investment related insurance	Insurance companies	Yes	IGS
	Insurance brokers	Covered under the Decree but not the law	
Money and currency changing	Banks	yes	BoM
	Foreign Exchange Bureaux		

Overview of the DNFBP Sector

37. Except for Trust and Company Service Providers all the other types of DNFBPs are present in Mozambique. The legal AML framework only applies to casinos and does not cover the other categories of DNFBPs.

Casinos

38. As at the time of onsite, there were 3 casinos and a newly licensed one. The ownership structure indicates one each for foreign and local. Two casinos are hybrid of the two.
39. The Gaming Board licenses, registers and supervises casinos in Mozambique. All casinos must have their headquarters in Mozambique. Casino operations are present in Maputo City, Namaacha (border with Swaziland) and Pemba (northern part of Mozambique). The new casino is licensed to operate in Nampula Province.

Dealers in precious stones and metals

40. This sector is very small in Mozambique. There are only few mines operating in Mozambique. Licensing and registration of trading licenses of mineral products is done by the National Directorate of Mines within the Ministry of Mineral Resources. The Ministry of Trade issues permit for exporting of precious stones and metals. Mozambique is a transit country for smuggling of precious stones and metals especially from/to the minerals-rich neighbouring countries.

Accountants and Audit firms

41. In 2005 auditors in Mozambique formed a self-regulatory organisation. Only Accountants who are trained in auditing can join. Accountants working at private accounting firms are admitted as associate members. There are efforts to set up separate organisations for auditors and accountants.

Lawyers

42. The legal profession is regulated by the Mozambican Bar Association, and its disciplinary entity, the Legal Council (*Conselho Jurisdicional*). The objective of the Legal Council is to guarantee that lawyers confirm with codes of conduct, and to implement disciplinary proceedings against those

who violate these rules. The Bar Association has an Ethics Commission which oversees the upholding of lawyers ethics.

43. There are about 600 lawyers in Mozambique, of which more than 75 percent are based in Maputo. Before practice, all lawyers are registered with the Mozambican Bar Association. Most lawyers do private practice and also work in government departments as civil servants. Lawyers offer legal services in criminal, civil, commercial to individuals and companies.
44. Table C below summarises the types of DNFBPs operating in the country, the AML regime to which they are subject and the regulator responsible for overseeing each type of DNFBP.

Table C: *Structure and Size of the DNFBP Sector as at September 2009*

Sector	Size of Sector	AML/CFT requirements in Domestic Law and AML/CFT Oversight exercised by	Licensing/ Registration Authority
Casinos (including internet casinos)	4 approved but 1 was not yet operational	General Inspectorate of Gaming	General Inspectorate of Gaming
Real Estate Agents	Not available	No	None
Trading Licenses of precious metals, precious and semi-precious stones	360	Decree 16/2005, 24th July	Ministry of Mineral Resources
Legal professionals	600 Advocates	No	Mozambique Bar Association
Accountants	Not available	No	Ministry of Finance
Trust and company Service Providers	N/A	N/A	N/A
Other (please specify)	N/A	N/A	N/A

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

Note: - *The assessment team could not verify the information as provided by the Mozambican authorities as the relevant laws have not been provided to the assessment team.*

Legal persons

45. The following types of legal persons may be established under the provisions of the Mozambican Commercial Code:
- (a) Trading companies
 - (b) Civil society in commercial form
 - (c) Associations, foundations and cooperatives
 - (d) The representations of national and foreign entities.

Legal arrangements

46. The law in Mozambique does not recognise the legal concept of trusts.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

47. Mozambique is a founding member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG). By being a member, Mozambique committed itself to implement anti-money laundering and countering the financing of terrorism programmes that meet international standards as required by the ESAAMLG Memorandum of Understanding.
48. Mozambique has an AML/CFT Multi-Disciplinary National Task Force to coordinate efforts and promote cooperation amongst law enforcement agencies. The National Task Force meets regularly to discuss policy and operational issues in order to give government AML/CFT direction. Mozambique is finalizing an AML/CFT National Strategy to guide government programmes.
49. At the time of the onsite visit, Mozambique was reviewing its AML and other applicable legal measures covering the financial and other economic sectors, implementing institutions and international cooperation instruments. The main purpose of the review is to ensure that all the national laws and regulations dealing with AML and other related matters are harmonized to improve effectiveness across the many institutions of government.
50. At present, Mozambique has criminalized money laundering under Law 7/2002. There is no CFT legislation in place and consultations within government have already started to work towards criminalizing terrorist financing in Mozambique.

b. The institutional framework for combating money laundering and terrorist financing

Ministries

Ministry of finance

51. Under the terms of its Organic-Law the Ministry of Finance is responsible for defining and executing the State's financial policy. It is also the

responsibility of the Ministry to exercise financial control to ensure strict observance of the State's financial discipline through the conduct of inspections, audits, inquiries and investigations of State bodies and other public and private entities. The Ministry also chairs the AML Task Force.

Ministry of Justice

52. Presidential Decree 5/95 defines the objectives and functions of the Ministry of Justice (MoJ). The MoJ is responsible for the administration of justice and is a coordinator of all legal matters concerning the Government. The Ministry is also responsible for the drafting of laws, decrees and diplomas. The assessment team was advised that the MoJ was currently working on amendments to the AML law with technical assistance from the World Bank.

Ministry of interior

53. The Mozambican Police Force is under the control of the Ministry of Interior.

Ministry of Foreign Affairs

54. The Ministry of Justice participates in the United Nations and international decision making fora and facilitates mutual legal assistance and extradition. It is the central authority for the purposes of the Merida and Palermo Conventions.

Ministry responsible for law relating to legal persons and arrangements

55. The Ministry of Justice has notary and registry offices throughout the country for registering legal entities. The management of these offices fall under the National Directorate of Registry and Notaries.

AML Task Force

56. Mozambique has established a National AML Task Force which is chaired by the Ministry of Finance. The Task Force is comprised of representatives from the Ministry of Justice, the Ministry of Interior, the Central Bank and the AG's Office. The responsibility of the Task Force is to advise the Government on AML/CFT matters.

Criminal justice and operational agencies

The Financial Intelligence Unit

57. The Mozambican Financial Intelligence Unit, known as the *Gabinete de Informação Financeira de Moçambique*, (GIFiM) was established in 2007 by Law 14/2007 of 27 June. The functions of the FIU are to collect, centralize, analyze, and disseminate to the competent authorities information on money laundering activities and related crimes. As a the date of the onsite visit the FIU was not operational.

Law enforcement agencies including police and other relevant investigative bodies

58. The Police of the Republic of Mozambique (*Polícia da República de Moçambique-PRM*) is established under the provisions of Law n° 19/92 of December 31st and is divided into three main branches: the main police force, the Criminal Investigation Police and the special forces. The PRM is under the control of the Ministry of Interior and is headed by a Commander General who is supported by a Vice-Commander General). Each province in the country has a head office that supervises police activities and represents the Ministry of Interior.
59. The Criminal Investigation Police (*Polícia de Investigação Criminal-PIC*) performs its duties in conjunction with the judiciary. Its role is to investigate criminal offences under the supervision of the Attorney General's Office. PIC which has the exclusive responsibility to investigate all criminal offences, including money laundering and terrorism, is divided into four departments including the Instruction and Investigation Department. This Department comprises the organised crime brigade, responsible for investigating money laundering and terrorism.
60. The Central Office for the Combat of Corruption was created in terms of Law 6/2004 and falls within the Attorney-General's Office. Its functions include the investigation of corruption offences and cases of money laundering associated with corruption.

Prosecution authorities including specialised confiscation agencies

61. The Public Prosecution Service (PPS) is defined under Article 234 of the Constitution. It falls under the Attorney Generals' Office (AGO) which is headed by the Attorney General. The functions of the PPS are set out under Article 236 of the Constitution and includes representing the State and defending such interests as determined by law, controlling the legality and duration of detentions, conducting the institution of criminal proceedings and exercising penal authority.
62. Under the provisions of Article 237 of the Constitution, the AGO is the highest office of the PPS. The AGO is also involved in the implementation of the AML legislation. Under Article 16 of Law 7/2002 (AML Law), financial entities are required to report to the AGO all operations in respect of which they have information about facts evidencing the commission of crimes under the AML law.

The Mozambican Revenue Authority

63. The Mozambican Revenue Authority is the tax and customs authority. The Customs authorities in Mozambique play an important role in border (land, sea and air) control, regarding the movement of goods, including goods carried in or out by travellers, through the post office and by courier services. They are responsible for investigating violations of customs regulations and customs offences are prosecuted in the Fiscal courts. If in the course of their duties they come across a suspicion that a person has committed a criminal offence they make preliminary inquiries and then hand over the case to the PIC for further investigation. The customs work

along the National Directorate of Immigration for controlling the movement of people across the border.

State Intelligence Service

64. The State Intelligence Service (SISE) was established under Law 20/91 of 23 August with the mandate to gather, research, centralise and coordinate intelligence information pertaining to offences against the State. These offences include, terrorism, espionage, sabotage and other offences as defined under Law 19/1991 of 16 August. The SISE shares intelligence information on ML with the FIU and the PIC. The SISE also shares information with the AG's Office, the Ministry of Interior and the Central Bank.

Central Cabinet for Prevention and Fight against Drug

65. The Central Cabinet for Prevention and Fight against Drug (GCPCD) is established under Decree 41/1997 of 18 November. The main objective of the GCPCD is to centralise the information to facilitate the investigation of illicit traffic of narcotics, psychotropic or precursors substances and to collaborate with the investigatory authorities.

Financial sector bodies

Bank of Mozambique

66. The Bank of Mozambique (BoM) which was established under the Organic Law 1/1992 of 3 January is the Central Bank of the Country. Pursuant to Article 3 (2) (d) of the Organic Law BoM has the power to discipline banking activity in Mozambique. Article 37 of the Organic Law further provides that all credit institutions and such other credit institutions as are determined by law except for insurance companies are subject to the supervision of BoM. By way of Article 4(1) of Decree 48/98 of 22 September, BoM is also responsible for supervising the securities market. Under the provisions of Article 4(a) of the AML regulations, BoM is responsible for carrying out the AML supervision of financial entities, including banks, the stock exchange and brokering firms, which fall within its supervisory scope.

General Inspectorate of Insurance (IGS)

67. The IGS is established under Decree 42/99 of 20 July- which also approves its Charter. According to the provisions of the Charter, the IGS is a corporate person governed by public law. It is administratively autonomous and exercises its functions under the supervision of the Minister of Planning and Finance. The IGS is, subject to the law and regulations, responsible for supervising and inspecting the activities of insurance, reinsurance, insurance mediation and pension funds.
68. Pursuant to the provisions of Article 4(b) of Decree 37/2004, the IGS is responsible for carrying out the supervision of insurance entities and

insurance intermediaries for the purposes of preventing and deterring money laundering.

Bankers' Association

69. The Bankers' Association was formed in 2000 as a voluntary body to facilitate interaction with the Bank of Mozambique. The Association of Banks has 12 members.

DNFBPs and other matters

General Inspectorate of Gambling

70. Under Article 69 of Decree 53/96 of December 3, in addition to providing technical advice to the Minister of Planning and Finance, the General Inspectorate of Gambling is also responsible for the licensing, supervision and inspection of the entire process and operations concerning gambling activities in Mozambique. Further, under Article 4(c) of Decree 37/2004 of September 8 the General Inspectorate of Gambling is responsible for the AML supervision of casinos and other entities that carry any business related to gambling or games of chance and social amusement.

Ministry of Mineral Resources

71. Presidential Decree 20/2005 of March 31 defines the objectives and functions of the Ministry of Mineral Resources (MIREM). The MIREM is responsible for inventory of mineral resources of the national territory and its exclusive economic zone. The Ministry is also responsible for promotion and monitoring of geological exploration activities and rational utilization of mineral resources. The Ministry is responsible too for promotion and monitoring of exploration, production, separation and processing of crude oil and natural gas, as well as control of the carriage to its delivery in the export or supply points for sale in the country.
72. and is responsible for licensing mining titles (Trading License of mineral products, Reconnaissance License, Exploration License, Mining Concession, Mining Certificate and Mining Pass) under the Mining Law- Law 14/2002 of 26 June.

Mozambican Bar Association (Ordem des Advogados de Moçambique)

73. The Mozambican Bar Association is set up under Law 7/1994 of 14 September. The assessment team was advised that a new law was approved in July 2009 but was not published as at the time of the onsite visit. All practising advocates (and some prosecutors from the AGO) are members of the Association. Membership of the Association is compulsory for all advocates in private practice.

Registry for companies and other legal persons, and for legal arrangements (if applicable)

74. The Registry of Legal Entities which falls under the Ministry of Justice is established under Decree-Law 01/2006 of May and is responsible for the registration of all legal entities in Mozambique.

Mechanisms relating to non-profit organisations

75. Domestic NPOs are registered by a specialised directorate at the Ministry of Justice. The Directorate of Legal Affairs of the Ministry of Foreign Affairs and Cooperation is responsible for registration and accreditation of foreign NPOs in Mozambique.

c. Approach concerning risk

76. Mozambique has not adopted a risk based approach to combating money laundering and terrorist financing. However, the authorities in Mozambique have indicated that they have started an AML/CFT national risk assessment exercise which will be completed by the end of 2009.

77. An AML/CFT assessment was undertaken jointly by World Bank and IMF as part of the Financial Sector Assessment Programme in 2003. The main findings of AML/CFT assessment include, to:-

- criminalise of terrorist financing
- amend AML law to provide for:
 - i. authority to investigate property subject to freezing, seizing and confiscation;
 - ii. protection of the right of bona fide third parties who possess property subject to confiscation; and
 - iii. sharing between countries of confiscated property.
- establish an FIU, consistent with international standards
- enter into international agreements to share information and provide mutual legal assistance, including authority to freeze and seize assets subject to forfeiture
- amend laws (Constitution if needed) to authorise extradition of individuals involved in ML and/or FT and have authority to enter into asset sharing arrangements with other countries.
- set out requirements under the AML Law for:
 - i. the designation of an AML/CFT compliance officer at management level;
 - ii. adequate screening procedures to ensure high standards when hiring employees; and
 - iii. foreign branches and subsidiaries to observe appropriate AML/CFT standards.
- implement provision of AML law on reporting and disclosure of information consistent with international standards;
- require detailed, comprehensive, mandatory and enforceable customer identification requirements, applicable to all financial institutions (FIs);

- issue guidelines to strengthen AML and CFT control by FIs, including due diligence for all higher risk clients and identification of beneficial owners of legal entities. Additional training in AML and CFT is needed for supervisors and staff of FIs.
 - describe what constitutes a suspicious transaction.
 - issue guidelines to assist FIs in detecting patterns of suspicious financial activities and sanction system for non-reporting.
 - require FIs to maintain records on customer transactions, account files and business correspondence for at least five years.
78. Following the FSAP assessment, the Mozambican authorities have taken a number of measures to implement the recommendations of the FSAP report. Anti-Money Laundering Regulations (Decree 37/2004 of 8 September) were issued under the AML Law of 2002 to require financial institutions to put into place AML preventative measures and Law 14/2007 of 27 June was enacted to provide for the establishment of a Financial Intelligence Unit. The provisions contained under these enactments are analysed and discussed in detail under sections 2.5 and 3 of the report. Some of the outstanding recommendations include the criminalisation of terrorist financing and the amendment of the legal framework governing extradition.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1 & 2)

2.1.1 Description and Analysis

Recommendation 1

Legal framework

79. Law no. 7/2002, of 5 February ("Law 7/2002"), is the primary legislative measure to address money laundering activities in Mozambique. Money laundering is criminalised in Article 4 of Law 7/2002. Article 4 creates the money laundering offence. Articles 5 to 9 provide for measures associated with the confiscation and forfeiture of the proceeds of crime, while Articles 10, 13, 14, 15, 16 and 17 provide for the control mechanisms and the regime to applying the sanction. Decree 37/2004, of 8 September, approves the Regulation of Law 7/2002, of 5 February.
80. Law no. 3/97, of 13 March ("Law 3/97"), sets out the legal system applicable to the illicit traffic and consumption of narcotic drugs and psychotropic substances, precursors and prepared or other substances of similar effect and establishes the Central Office for Combating and Preventing Drugs. This Law transferred norms and principles of the international public Law into the Domestic Law, in order to implement the provisions of the 1988 United Nations Convention on Illicit Traffic of Narcotic Drugs and Psychotropic Substances and improve legal instruments for combating the illicit traffic and consumption of drugs in accordance with no. 1 of art. 179 of the Constitution of the Republic of Mozambique

Criminalisation of Money laundering (c.1.1)

81. Mozambique has criminalised money laundering through Article 4 of Law 7/2002. The criminalization of money laundering was done taking as a basis articles 6-(1) of the Palermo Convention and Article 3 of Vienna Convention.
82. The money laundering offence of Article 4 covers the following actions:
- the conversion, transfer or aiding of property or proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of their action,
 - the concealment or disguising of the true nature and source of such property, and
 - the acquiring, receiving, using, holding, storing or keeping property or proceeds.

83. In addition to article 4 of Law 7/2002 a money laundering offence is also contained in article 41 of Law 3/97. Law 3/97 establishes the legal framework concerning the trafficking and consumption of drugs, psychotropic substances, precursors and mixtures or other substances of similar effects. Article 41 of this law covers the following actions:
- conversion, transfer, aiding or facilitating the conversion operation or transfer of goods or products derived from drug trafficking offences under this law, with the objective to hide the illicit origin or aiding a person involved in the offences in this law to escape the juridical consequences of their action,
 - hiding the true nature, origin, location, disposition, movement, properties of goods or products drug trafficking offences under this law, and
 - acquiring or receiving, using, stopping, conserving or keeping goods or products drug trafficking offences under this law.
84. These provisions are in line with the physical elements of the money laundering offences described in the Palermo and Vienna Conventions.

Property (c 1.2)

85. Article 3 of Law 7/2002 defines 'money, property or proceeds derived from unlawful activities' in relatively wide terms namely " holdings, shares, stocks, assets of any kind, objects, claims, profits, interest, moveable or immovable property, other values or any wealth or legal instruments evidencing such rights or assets. Neither the definition article nor Article 4 of Law 7/2002 sets a threshold or prescribes a limit concerning the value of the property concerned. Hence the money laundering offence of Article 4 of Law 7/2000 extends to any type of property, regardless of its value.

Conviction for predicate offence (1.2.1)

86. Article 4 of Law 7/2002 is silent on the evidence that would be required to prove that the property in question is the proceeds of crime. At face value Law 7/2002 does not seem to contain a legal requirement that proving that property is the proceeds of crime must be done by reference to a previous conviction of a predicate crime. However, no money laundering prosecutions under Article 4 of Law 7/2002 had been finalised at the time of the on-site visit, hence it was not possible to determine how this provision would be applied in practice. Given the lack of experience in the application of Article 4 of Law 7/2002, the Mozambican authorities seemed somewhat tentative about indicating what type of evidence would satisfy a trial court of the fact that the property in question is the proceeds of crime. The authorities did indicate, however, that they believe that a history of previous offences would be used, as a matter of practice, to indicate that property is the proceeds of crime. An investigation would therefore first focus on the predicate crime and once a conviction is obtained for that

predicate crime, the evidence of that conviction would be used in the course of the money laundering prosecution.

Scope of Predicate offences (c. 1.3)

87. Article 4 of Law 7/2002 provides a list of predicate crimes to the money laundering offence. These are articles 33, 35 and 37 of Law 3/97, which contain offences relating to the trafficking and consumption of narcotic drugs and psychotropic substances as well as the following:

- Theft;
- Robbery;
- Fraud;
- Manufacture, Fabrication, importation and exportation and trading, commerce of arms and explosives;
- Terrorism;
- Extortion;
- Corruption;
- Embezzlement;
- Peculation;
- Smuggling and evasion embezzlement of customs duties.

88. The list of predicate offences contained in Article 4 of Law 7/2002 is rather limited and does not cover all serious offences in Mozambican criminal law, nor does it include a range of offences in each of the designated categories of offences.

Extraterritorially committed predicate offences (c.1.5)

89. Article 4 of Law 7/2002 provides in paragraph 2 that the money laundering offence applies also where the elements of the offence were committed outside the country. Article 26 of Law 7/2002 deals with matters of jurisdiction and provides that the provisions of Chapter VI (General Provisions) apply, among others, to actions which took place outside Mozambique, when their objective is the commission of offences provided for in Law 7/2002 in Mozambique. This seems to indicate that the money laundering offence of Article 4 of Law 7/2002 applies in instances where the elements of conversion, transfer, hiding etc. of proceeds from predicate offences that had been committed in Mozambique, takes place outside Mozambique.

90. Neither the definition of “money, property or proceeds derived from unlawful activities” nor of “criminal activity” provides any indication that these terms would include proceeds of criminal activities which occurred outside of Mozambique.

91. It is not clear from these provisions whether the money laundering offence of Article 4 of Law 7/2002 would also apply to cases where the predicate offence had been committed outside Mozambique and the elements of conversion, transfer, hiding etc. of the proceeds from that predicate offence had taken place in Mozambique. Moreover the range of predicate offences is very narrow as discussed in paragraphs 23 and 24 above with the result that this requirement would not be met in relation to a large number of predicate offences which may occur outside Mozambique.

Self laundering (c. 1.6)

92. The provisions of Article 4 of Law 7/2002 apply to “any person” which indicates that the money laundering offence would apply also to the perpetrator of the predicate offence. This interpretation was confirmed in discussions with the Mozambican authorities.

Ancillary offences (c. 1.7)

93. The Mozambican Penal Code provides for a number of ancillary offences namely conspiracy, attempt, support, facilitation and counselling to commit a crime. The Penal Code also criminalizes complicity in the commission of a crime and accessories to a crime.

Additional elements (c.1.8)

94. As indicated above under c.1.5 it is unclear whether the money laundering offence of Article 4 of Law 7/2002 applies to proceeds generated by a predicate offence which was committed outside of Mozambique.

Recommendation 2

Liability of natural persons (c. 2.1)

95. Article 4 of Law 7/2002 applies to “any person” which clearly applies to natural persons. Article 32 of Law 7/2002 provides that negligence would suffice as a form of *mens rea* for the offences in Law 7/2002, hence the offence would also apply to a person who intentionally (knowingly) engage in the actions referred to in Article 4.

The mental element of the ML offence (c.2.2)

96. The intentional element may be determined by reference to objective factual circumstances. This, as had been confirmed by the Mozambican authorities during the on-site visit, is a general principle applied commonly by prosecutors and judicial officers in criminal matters.

Liability of legal person (c.2.3& 2.4)

97. In the Mozambican Legal System there is no criminal responsibility for legal persons. This is due to the fact that the Mozambican Legal System, as a fundamental principle, only applies criminal liability to natural persons. As a result the very concept of criminal liability for legal persons is

unknown in the Mozambican legal System. The Mozambican authorities confirmed during the on-site visit that there is no avenue by which a legal person can be subjected to criminal prosecution in the Mozambican law. Instead of holding legal persons criminally liable, they may be subjected to administrative penalties such as the revocation or suspension of the authorisation to do business.

Sanctions for ML (c.2.5)

98. The sanction for the contravention of Article 4 of Law 7/2002 by a natural person is 8 to 12 years' imprisonment. The administrative sanctions which may apply to legal persons relate to the revocation or suspension of the authorisation to do business. It does not appear that the range of civil or administrative sanctions which may be applied to legal persons is sufficiently broad to be effective, proportionate and dissuasive.

Statistics (applying recommendation 32)

99. There have been no convictions for money laundering under the laws of Mozambique. At the time of the on-site visit only one money laundering case had been initiated under Article 4 of Law 7/2002. This matter was not yet finalized at the time of the onsite visit. It is clear therefore that the money laundering offence has not yet been implemented effectively.
100. While the Mozambican authorities are to be commended for the introduction of a money laundering offence which is based on the provisions of the Palermo Convention, it appears that there is a lack of experience among practitioners in the application of the legal provisions in Mozambican law relating to money laundering as a result of the fact that these provisions are not yet used widely. As a result certain uncertainties as to the interpretation of the legal provisions and their practical application remain which, in turn, impact on the effective use of these provisions.

2.1.2 Recommendations and Comments

101. The Mozambican authorities should, as a matter of priority, take the necessary steps to extend the range of predicate offences so that it covers all serious offences in Mozambican criminal law and includes a range of offences in each of the designated categories of offences.
102. In addition the Mozambican authorities should give priority to the investigation and prosecution of the money laundering offences. The Mozambican authorities should develop policies for the application by their prosecuting authorities of the provisions of Law 7/2002 criminalising money laundering. These should address matters such as the approach to be followed to proving that property is the proceeds of crime (which should avoid relying on a prior conviction for a predicate offence), the applicability of the money laundering offence to foreign predicate offences and the application of the money laundering offence to situations of self-

laundering. These policies should also form the basis for training material etc. that should be developed and provided to the competent authorities involved in the prosecution of criminal offences. In addition to developing policies and providing training, the Mozambican authorities should actively pursue the usage of the money laundering offence and the practical application of the provisions of Law 7/2002 in order to build the necessary expertise and experience and to provide legal certainty in relation to matters that are currently unclear concerning the interpretation of these provisions.

2.1.3 Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	PC	<ul style="list-style-type: none"> • It is not clear whether it is necessary that a person be convicted of a predicate offence when proving that property is the proceeds of crime. • The range of predicate offences does not cover all serious offences in Mozambican criminal law, nor does it include a range of offences in each of the designated categories of offences. • It is not clear whether predicate offences for money laundering extend to conduct that occurred in another country and this would not be possible for uncovered predicate offences. • The provisions criminalising money laundering have not yet been implemented effectively.
R.2	PC	<ul style="list-style-type: none"> • It does not appear that the range of civil or administrative sanctions which may be applied to legal persons is sufficiently broad to be effective, proportionate and dissuasive. • The provisions criminalising money laundering have not yet been implemented effectively.

2.2 Criminalisation of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

Criminalisation of financing of terrorism (c.II.1)

103. Terrorist financing has not been criminalized in Mozambican law; hence it is not possible to carry out any analysis of the criminalization of terrorist financing.

2.2.2 Recommendations and Comments

104. The Mozambican authorities should as a matter of priority take the necessary steps to criminalise terrorist financing in accordance with the requirements of SR.II.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	NC	Terrorist financing has not been criminalised in the Mozambican law.

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

Legal framework

Laws 3/97, dated 13 March; 7/2002, dated 5 February; Law 6/2004 dated 17 June and Law 6/2008, dated 9 July

2.3.1 Description and Analysis

Confiscation of property related to ML, TF or other predicate offences including property of corresponding value (c.3.1)

105. Article 5 of Law 7/2002 provides that objects used, or intended to be used, in the commission of any of the offences covered by this Law shall be forfeited to the State. The offences covered by Law 7/2002 are listed in Article 4 of the Law. These are:
 - Articles 33, 35 and 37 of Law nr. 3/1997 which contain offences relating to the trafficking and consumption of narcotic drugs and psychotropic substances;
 - Theft;
 - Robbery;
 - Fraud;
 - Manufacture, importation and exportation and trading of arms and explosives;
 - Terrorism;
 - Extortion;
 - Corruption;
 - Embezzlement;
 - Smuggling and evasion of customs duties.
106. Article 6 of Law 7/2002 provides that rewards, benefits or rights attributed, (in other words compensation) promised or given to the perpetrators of offences covered by this Law shall be declared forfeited to the State. The same article also provides that objects, property, values, rights and benefits that have been acquired by means of offences (in other words proceeds of offences) shall be forfeited to the State. Article 6 of Law 7/2002 also provides for the substitution of a payment of the value of property to the State if the property cannot be forfeited.
107. There are also a number of other laws which contain provisions relating to the forfeiture of assets. Article 11 of Law 6/2004, dated 17 June, on corruption provides for the forfeiture of assets and funds that have been illicitly added to one's assets. Article 50 of Law 3/97, dated 13 March, on drug trafficking provides that all items that have been used, or intended to

be used, in offences under this Law shall be forfeiture to the State. Article 51 of this Law provides that all compensation attributed, promised or granted to agents or third parties who have committed offences under this Law shall be forfeited to the State.

108. There is no indication that the provisions of Law 7/2002, or of the other laws referred to above, have been applied in practice as yet. Furthermore, Law 7/2002 does not contain any provisions relating to the procedure to be followed when the forfeiture of property under Articles 5 or 6 is sought. It is therefore not possible to determine how effective these provisions would be in practice, and what approach a court would follow in interpreting these provisions.

Confiscation of property derived from proceeds of crime (c.3.1.1 applying c.3.1)

109. Article 8 of Law 7/2002 provides that articles 5 and 6 of the Law also apply to claims, profits, interest and other benefits obtained with the property. Article 6 (forfeiture of proceeds) of Law 7/2002 also provides expressly for the forfeiture of property held by third parties.

Provisional measures to prevent dealing in property subject to confiscation and Ex-parte application for provisional measures (c.3.2 & 3.3)

110. Law 7/2002 does not contain any measures to freeze or otherwise restrain property that may be forfeited as instrumentalities or proceeds of criminal activities, pending an investigation or court proceedings.

Identification and tracing of property subject to confiscation (c.3.4)

111. Police investigators have adequate powers to access information that may assist in the tracing of property that may be subject to forfeiture. Article 40 of Law 7/2002 provides for a police investigator to obtain the authority from a court-

- to inspect accounts and banking details,
- to access records of information on the client, legal representative or person on whose behalf the client acts,
- to access computer systems where the accounts have been kept, and
- to access agreements or contracts as well as their respective records referring to the contractual relationship under investigation.

Protection of bona fide third parties (c.3.5)

112. Paragraph 2 of Article 6 (forfeiture of proceeds of crime) provides expressly that forfeiture shall take place without prejudice to the rights of third parties in good faith. Article 51 of Law 3/1997 (drug trafficking) contains a similar caveat excluding prejudice against the rights of bona fide third parties. There are, however, no provisions detailing how the rights of third bona fide parties are to be protected, nor any procedures laid down by

means of which *bona fide* third parties can participate in court proceedings in order to ensure the protection of their interests.

Power to void actions (c.3.6)

113. Article 7 of Law 7/2002 provides that property transformed or converted into other property and property which has been incorporated into lawfully acquired property shall likewise be declared forfeited to the State. The Mozambican legislation does not clearly provide for the voiding of contractual or other actions in the course of forfeiture proceedings. Article 7 of Law 7/2002 provides that property transformed or converted into other property and property which has been incorporated into lawfully acquired property shall likewise be declared forfeited to the State. This would allow a court to forfeit property representing illegally acquired property instead of voiding the contractual or other action by means of which the illegally acquired property had been transformed into other property.

Statistics (applying recommendation 32)

114. There are no statistics concerning the application of Articles 5 and 6 of Law 7/2002, nor of the application of Articles 50 and 51 of Law 3/1997.

2.3.2 Recommendations and Comments

115. The Mozambican authorities should, as a matter of priority, provide for provisional measures, such as the freezing of property, to prevent any dealing, transfer or disposal of property that may be subject to confiscation, pending an investigation or court proceedings. The Mozambican authorities should also ensure that these provisional measures allow for the initial application to freeze or seize property subject to confiscation to be made *ex-parte* or without prior notice.
116. The Mozambican authorities should, as a matter of priority, expand the range of offences in respect of which the forfeiture of instrumentalities can be obtained so that it covers all serious offences in Mozambican criminal law and includes a range of offences in each of the designated categories of offences.
117. The Mozambican authorities should also provide clearer provisions in law for the protection for the rights of *bona fide* third parties and for the authority to take steps to prevent or void contractual or other actions.
118. The Mozambican authorities should take steps to implement the provisions of Articles 5 and 6 of Law 7/2002 in practice.

2.3.3 Compliance with Recommendations 3

	Rating	Summary of factors underlying rating
R.3	PC	The range of predicate offences does not cover all serious offences in Mozambican criminal law, nor does it include a range of offences in each

		<p>of the designated categories of offences.</p> <p>There are no provisional measures to freeze or otherwise restrain property that may be forfeited as instrumentalities or proceeds of criminal activities, pending an investigation or court proceedings.</p> <p>There are, however, no provisions detailing how the rights of third <i>bona fide</i> parties are to be protected.</p> <p>There are no clear provisions for the voiding of contractual or other actions in the course of forfeiture proceedings.</p> <p>There is no effective implementation of the forfeiture provisions.</p>
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2.4 Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

Legal framework

119. Mozambique has not yet introduced measures to implement the freezing of terrorist funds or assets under any of the UNSCRs. Mozambique has also not introduced any measures for the confiscation of terrorist funds or assets under the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism ("SFT Convention"). Hence, an analysis of measures to freeze and confiscate terrorist funds or assets cannot be undertaken.

2.4.2 Recommendations and Comments

120. The Mozambican authorities should take the necessary steps in accordance with SR.III to introduce measures for the freezing of terrorist funds and assets so as to enable them to implement S/Res/1267 and S/Res/1373.
121. The Mozambican authorities should take the necessary steps in accordance with SR.III to introduce measures for the confiscation of terrorist funds and assets so as to enable them to implement the SFT Convention.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	NC	No measures to implement the freezing and confiscation of terrorist funds and assets.

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26)

2.5.1 Description and Analysis

122. Mozambique has an administrative financial intelligence unit (FIU) known as *Gabinete de Informação Financeira de Moçambique* (GIFiM) established in 2007 under Law 14/2007 of 27 June. The GIFiM is a national governmental body, administratively autonomous. The FIU reports directly to the Council

of Ministers, which approves the organizational structure and oversees the operations of the FIU as set out in Decree 62/2007 of 4 December.

123. In terms of Article 5 of Law 14/2007 of June 27, there is a Coordination Council chaired by the Prime-Minister to, inter alia, propose to the Council of Ministers policy and strategies of the GIFiM. The Council comprises the Minister of Finance, the Minister of Interior, the Minister of Justice, the Attorney General and the Governor of the Central Bank of Mozambique. The Coordination Council of the GIFiM meets once every year and may convene an extraordinary meeting when a need arises. The Director and Deputy Director, who together manage the daily affairs of the GIFiM, are members of the Coordination Council.
124. For the purposes of institutional coordination, the Minister of Finance establishes the link between the Coordination Council and the Directorate of the FIU under item 2 of Article 5 of Decree 62/2007.

Establishment of FIU as National centre (c.26.1)

125. Article 1 establishes the financial intelligence unit of Mozambique which is known as the GIFiM. As at the date of the onsite visit, there was no operational FIU in Mozambique. The authorities were targeting mid-2010 to commence the operations of the GIFiM. Pursuant to Article 2 of Law 14/2007 of 27 June the GIFiM is set up as a national centre *“to collect, centralize, analyse and disseminate to relevant agencies intelligence with respect to economic and financial operations likely to underpin money laundering and other related crimes.”*
126. Since terrorist financing had not been criminalized under Mozambican law at the time of the assessment mission, GIFiM holds no powers to collect, to centralize, to analyze, and to disseminate to the competent authorities information on terrorist financing.
127. In terms of Article 18 of Decree 37/2004 and Article 16 of Law 7/2002, the financial institutions must simultaneously communicate the STRs to the Attorney General’s Office and their respective supervisory authorities. In practice, financial institutions sent reports to the Attorney General’s Office and the Bank of Mozambique. The authorities and the private sector informed the assessors that the GIFiM will be the only competent authority to which STRs from reporting entities will be sent despite the provisions of the AML Law and its Decree.

Guidelines to financial institutions on reporting STR (c.26.2)

128. There is no guidance on the manner and form of reporting suspicious transactions for reporting entities to submit STRs to the GIFiM. The authorities informed the assessors that guidance on the manner, form and procedure of reporting suspicious transactions to the GIFiM will be set out in Procedures Manuals which are still in preparation and expected to be issued by October 2010. In addition, the authorities informed the assessors

that sector-specific suspicious transaction reporting forms will be developed as required under Article 8 of Decree 62/2007 of December 4.

129. During the onsite visit, the authorities informed the assessors that in accordance with Articles 16 & 23 of Law 7/2002 of February 5 reporting entities submit STRs to the Attorney General's Office for analysis and investigation and Supervisory Authorities (specifically the Bank of Mozambique) for centralisation. However, there were no manner and form of reporting suspicious transactions in place. The financial institutions interviewed informed assessors that they developed their own templates to submit STRs to the Bank of Mozambique.

Access to information on timely basis by FIU (c.26.3)

130. Articles 3 of Law 14/2007 of June 27 and 4 of Decree 62/2007 of December 4 provide legal bases for both public and private entities to cooperate when requested by the GIFiM when performing its functions.
131. The fact that the GIFiM was not operational prevented the assessors from examining this structure's real access to pertinent information on a timely basis. The network of correspondents had not been set in place at the time of the mission. The authorities informed the assessors that since the GIFiM was not yet operational, they were still working on developing mechanisms such as memoranda of understanding in order to facilitate timely access to information held by domestic competent authorities.

Additional information from reporting parties (c.26.4)

132. Article 3 of Law 14/2007 of June 27 and Article 4 of Decree 62/2007 of December 4 set out the provisions for the GIFiM to directly request additional information from reporting entities to clarify any matters not covered in reports received.
133. Specifically, Article 3 of Law 14/2007 states that: "Public and private institutions should render collaboration to as requested by GIFiM, within the framework of their functions".
134. Moreover, item (a) of Article 2(2) of Law 14/2007 of June 27 vests the FIU with powers to request additional information from reporting entities, including information that aims at identifying possible goods or valuables to be frozen, forfeited or confiscated in favour of the State.
135. No requests for additional information have been made to reporting entities.

Dissemination of information (c.26.5)

136. In terms of Article 2(1) of Law 14/2007, the GIFiM is authorised to disseminate to competent entities intelligence with respect to economic and financial operations likely to underpin money laundering and other related crimes. However, there is no expressed definition of what "competent entities" are. The Bank of Mozambique and the Attorney General's Office indicated that they do disseminate some of the intelligence received from

the reporting entities to the Criminal Investigation Police and the Public Prosecutor's Office for investigation and prosecutions, respectively. However, there were no statistics made available to the assessors.

137. Since terrorist financing had not been criminalized under Mozambican law at the time of the assessment mission, GIFiM cannot disseminate information on terrorist financing to the competent authorities.

Operational independence (c.26.6)

138. Article 1 of Law 14/2007 of June 27 provides for operational independence and autonomy of the GIFiM protected by the Council of Ministers. The Coordination Council supervises the functions of the GIFiM, and also acts as a link between the Council of Ministers and the management of the GIFiM.
139. The Director of the GIFiM prepares the strategy, plan and budget of the GIFiM for approval by the Council, which in turn will submit to the Council of Ministers on behalf of the GIFiM. The daily management of the GIFiM resides in the Office of the Director of the GIFiM.
140. The Director and Deputy Director of the GIFiM are nominated by the Council for appointment by the Prime Minister of Mozambique. However, there are no expressed tenure of office and conditions under which the Director and the Deputy Director of the GIFiM can be removed from Office. In addition, it was not clear to the assessors what role will the Coordination Council play with regards to the dissemination of intelligence reports to competent entities.⁸
141. The assessors were informed by the authorities that the Director and the Deputy Director of the GIFiM are appointed into and removed from office just as any other head of a government entity in Mozambique. The lack of expressed clarity regarding the tenure of office and conditions under which the Director and the Deputy Director of the GIFiM may be removed from office appears to have a potentially negative effect on the operational independence and autonomy of the GIFiM.
142. The absence of expressed powers of the Director of the GIFiM to appoint and remove staff from the GIFiM appears to have a potential to compromise operational independence of the Director to appoint qualified personnel with professional integrity.⁹
143. In addition, although the FIU was established in 2007, the director was only appointed in September 2008. At the time of the mission, the FIU was still

⁸ The authorities explained to the assessors that it is a common practice in Mozambique as all senior officials appointed to head government institutions have no prescribed tenure of office. Further, they explained that dismissals are done in good faith and could be linked to incompetence or low performance.

⁹ The powers of the Director of the GIFiM to appoint and remove staff from the GIFiM are provided for under Article 7(2)(e) and further in Article 8(1)(p) of Decree no 62/2007.

on its way to operate and the following preparatory activities are underway:

- Design of staff qualification;
- Definition of the Professional careers;
- Definition of the staff remuneration;;
- Design of the internal regulation;
- Recruitment and training of the technical staff (analyst and IT personnel);
- Elaboration of the procedures Manual for the institutions subject to supervision; and
- Elaboration of the Terms of Reference for the launching of the bids for the supply of furniture and equipment (cabling, IT equipment, software, electronic security, etc).

144. In the absence of a fully functioning GIFiM, the mission was unable to actually assess its operational independence and autonomy.

Protection of information held by FIU (c.26.7)

145. In terms of Article 9 of Law 14/2007 of June 27 confidentiality of information held by the GIFiM covers management and staff of the GIFiM, including those who provide services to the GIFiM, not to divulge any information exposed to them during the course of performing their duties at the GIFiM. Any violation will attract disciplinary and/or criminal sanctions.¹⁰ However, Law 14/2007 does not create an offence for failure to comply with protection of information requirements set out in Article 9.
146. At the time of the onsite, the authorities indicated that physical structures, including offices and IT infrastructure, to prevent unauthorized access were nearing completion.

Publication of annual reports (c.26.8)

147. Articles 2 & 12 of Law 14/2007 of 27 June makes provision for the GIFiM to produce periodic reports relating to its efforts to fight money laundering and other related crimes and annual reports on money laundering typologies for submission to the Council of Ministers. No periodic and/or annual reports had been produced at the time of the onsite visit.

Membership of Egmont Group (c.26.9) & Egmont principles of exchange of information among FIUs (c.26.10)

148. Although Article 2 of Law 14/2007 of 27 June sets out the possibility of exchanging information with other financial intelligence units in other

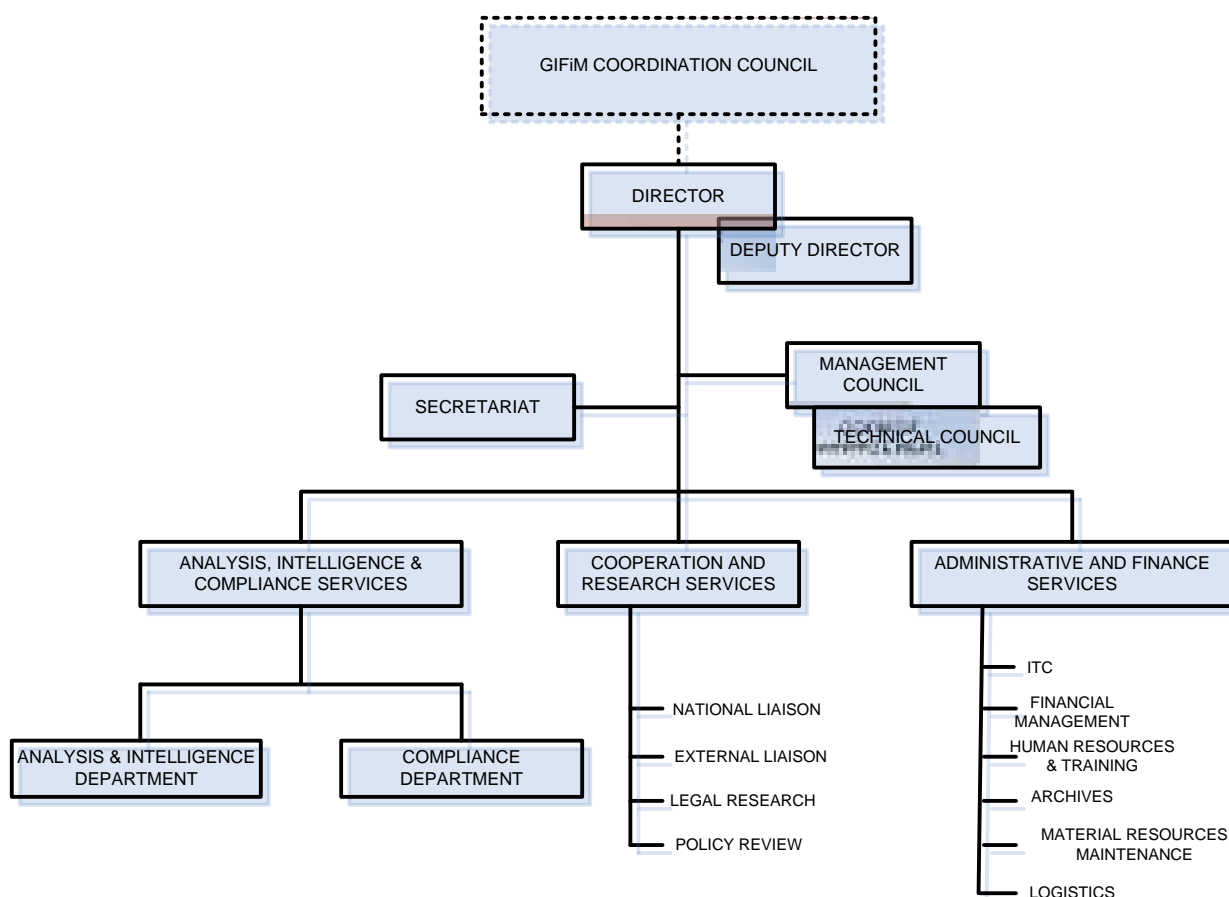
¹⁰ The staff members of the FIU have disciplinary and criminal liability for failure to observe the confidentiality provision in terms of Article 9(3) of Law 14/2007. It is a contravention for failure to comply with this provision. The FIU can use the provisions in the Penal Code and other statutes applicable to public servants. Further, Article 7(h) of Law 14/2007 gives the Director of the FIU to administer disciplinary measures on the staff of the FIU.

countries, the GIFiM has not yet considered membership application to the Egmont Group as well as meeting the requirements of the *Principles of the Egmont Group on Exchange of Information*.

Recommendation 30

Structure, funding, staffing and other resources (c. 30.1)

149. The Office of the Director reports directly to the GIFiM Coordination Council, which acts as a link between the GIFiM and the Council of Ministers. Analysis, Intelligence and Compliance Services and Cooperation and Research Services are the two core Divisions of the GIFiM responsible for receipt, analysis, dissemination of information as well as ensuring compliance with the provision of Laws 7/2002 and 14/2007. Administrative and Finance Services offers administrative support to GIFiM core Divisions. The organizational structure of the GIFiM is shown below:



The staffing profile of the GIFiM is set out in Articles 15, 16, 17 and 18 of Decree 62/2007 of 4 December. The staff categories are:

- Directors and Heads.
- Senior Staff.
- Medium Staff.

- Junior Staff.
 - Support Staff.
150. As at the date of the onsite, the Director of the GIFiM was the only appointed staff. The GIFiM is finalizing recruitment procedures and manuals to appoint personnel. Most of personnel will be recruited from the institutions of higher learning and the civil service.
151. The budget of the GIFiM is managed by the Ministry of Finance. The authorities indicated that the GIFiM will manage its own resources once all systems have been put in place.

Integrity and confidentiality standards (c.30.2)

152. Although staff of the GIFiM will be required to keep confidentiality, there is no similar requirement for staff to maintain high professional standards. Article 8 of Law 14/2007 requires the Director and the Deputy Director of the GIFiM to declare their assets and incomes. There is no similar requirement to all staff of the GIFiM.
153. The authorities indicated that as a government agency, all employees assuming duties at the GIFiM will be vetted by the Criminal Investigation Police and the Security Intelligence Agencies. According to Article 19 Decree 62/2007, the staff is governed by the General Statute of Civil Servants, the Organic Statute of GIFiM established by the same Decree, and other laws applicable to civil servants in Mozambique.

Training (c.30.3)

154. The authorities informed the assessors that staff training will commence as soon as staff is recruited and will be done both locally and internationally, especially with those FIUs which the GIFiM has already signed technical assistance MoU. The authorities indicated that they would welcome relevant training from other countries and institutions in order to fully capacitate the GIFiM.

Recommendation 32

155. Since GIFiM was not operational at the time of the onsite mission, it was not possible for the assessors to examine the training and competence of the future members.

Statistics and effectiveness

156. Since the GIFiM is not yet operational, there were no statistics available at the time of the onsite visit.

2.5.2 Recommendations and Comments

157. In finalizing the review of the AML and other applicable laws, authorities in Mozambique should ensure that the revised laws meet AML and CFT standards, including criminalizing the financing of terrorism. This will

ensure that the GIFiM is able to receive STRs on money laundering and terrorist financing for analysis and dissemination to relevant authorities.

158. The authorities in Mozambique should finalise preparations on the setting up of the GIFiM so that the FIU can begin its operations within a reasonable timeframe. For this to happen, the authorities should finalise the Procedures Manuals and Internal Regulations and draw up a budget that clearly sets out human, technical and financial requirements of the GIFiM.
159. The authorities should develop guidance systems and processes indicating to the reporting entities the manner, form and procedures of submitting STRs to the GIFiM. In particular, the authorities should take into account the diversity of the reporting entities and accordingly develop sector-specific STR reporting processes.
160. The GIFiM should develop platforms to facilitate timely access to information held by law enforcement agencies to carry out its functions effectively. In addition to the ongoing efforts to sign MoU with different domestic law enforcement agencies for information sharing and cooperation, the GIFiM should also consider working arrangements to have points of contact to alleviate bottlenecks that may arise due to the manual record-keeping systems in most of government agencies.
161. As a matter of urgency the GIFiM, in consultation with supervisory/regulatory authorities in Mozambique, should conduct awareness raising programmes to sensitise not only the reporting entities but also the members of the public. The GIFiM may consider a phase-in approach by, inter alia, targeting the financial institutions that account for a large market share of the financial sector in Mozambique such as the banking sector.
162. In order to ensure operational independence and autonomy of the GIFiM, the authorities should expeditiously clarify the tenure of office and the conditions under which the Director and the Deputy Director of the GIFiM can be removed from office. In addition, the authorities should give express powers to the Director of the GIFiM to appoint staff of high integrity and professional standard.
163. The GIFiM should clearly identify training needs and develop training programmes that will enable the staff to function competently once appointed.
164. To ensure overall integrity and confidentiality of the information held by the GIFiM, the authorities should set out an obligation for all staff of the GIFiM to declare their assets and income on regular basis, not just for the Director and Deputy Director as is currently the requirement.
165. As a matter of urgency, the authorities should clearly define the relevant agencies to which the GIFiM can disseminate financial disclosures.
166. When fully operational, the GIFiM should consider applying for membership of the Egmont Group of Financial Intelligence Units. The

GIFiM should put in place measures that will enable it to produce periodic reports outlining efforts to combat money laundering and terrorist financing. In addition, the GIFiM should produce annual report.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	NC	<ul style="list-style-type: none"> • There is no operational FIU. • Terrorist financing is not criminalised. • The GIFiM has not yet issued guidance on the manner of reporting STRs to all reporting entities. • There is no adequate staff appointed. • The integrity and confidentiality requirements in place are inadequate. • No effective awareness raising programmes on AML/CTF issues. • Effectiveness could not be assessed as the FIU was not yet operational.

2.6 Law enforcement, prosecution and other competent authorities – the frame work for the investigation and prosecution of offences, and for confiscation and freezing (R.27 & 28)

2.6.1 Description and Analysis

Recommendation 27

Designation of authorities ML/FT Investigations (c.27.1)

167. The Mozambican Police, which derives its authority from Decree/Law 35007 of 13 October 1945 (as amended by Decree 17076 of 20 March 1959), is the designated authority for investigating criminal offences in Mozambique. The Police Service is headed by a Commander-General and falls directly under the Ministry of Interior. Of the five Directorates comprising the Mozambican Police, the Criminal Investigation Police (the PIC) is specifically mandated to investigate money laundering cases as set out in Article 38 of the Money Laundering Law 7/2002. The Organised Crime and Economic Fraud Section within the Instruction and Criminal Investigation Department of the PIC specifically investigates ML offences.
168. In matters of criminal investigations, PIC operates under the direction of the Public Prosecution Service, which falls under the Attorney General.
169. At the time of the onsite mission, 2 ML cases were being investigated while one reported case was still under instruction.
170. Cases of corruption are investigated by the Central Office for the Combat of Corruption in Mozambique, which is established within the Attorney General's Office by Article 19 of Law 6/2004.

171. Although terrorist financing is not criminalised in Mozambique, the authorities indicated that such cases are investigated by the PIC in its functions of combating terrorism in general in the country. The PIC officials indicated that they receive UNSCR 1267 List through the Interpol and the Ministry of Foreign Affairs. The list is disseminated to all border posts. However, there are distribution problems of the UNSCR 1267 List to the PIC Offices in the provinces and districts.

Ability to postpone/waive arrest of suspects or seizure of property (c.27.2)

172. PIC in Mozambique has the ability to postpone or waive arrest of suspects or seizure of property involved in criminal offences. The decision to arrest a suspect is made by the examining magistrate upon the request of the police. It is at the discretion of the investigating police officer to decide when he must seek the authority of the examining magistrate to arrest. Once an order for arrest has been issued, the police have 34 days to close the investigation. The authorities cited several cases, including successful tracing of illegal cross-border cash courier operations with neighbouring countries, where these powers were used. As at the date of the onsite, no arrest of suspects or seizure of property for purposes of ML or TF was waived or postponed in Mozambique

Additional element-Ability to use special investigative techniques (c.27.3)

173. Article 40 of Law 7/2002 makes provisions for law enforcement authorities to seek judicial authority to use special investigative techniques where there is prima facie evidence of a commission of an offence. However, the use of special investigative techniques authorised by the Law is limited to the following:
- a) Inspection of the account and banking details of the perpetrator of the criminal act foreseen in this Law;
 - b) The placement of device to monitor telephone communications or fax correspondence;
 - c) Access to computer systems where the accounts have been kept;
 - d) Access to the records of information on the client, legal representative or person in whose name and on whose behalf he acts, established in the terms of this law;
 - e) Access to agreements or contracts made by public (notarial) deed, as well as their respective records referring to the contractual relationship under investigation.
174. The use of the special investigative techniques is limited to cases where there is prima facie evidence of the commission of the offence by the suspect. The examining magistrate must be convinced before he grants the order for the use of such special investigative techniques.

Additional element- Specialised investigation groups and conducting multi-national cooperative investigations (c.27.5)

175. Law enforcement authorities in Mozambique have standing task force groups for complex criminal operations and those formed whenever a need arises. The authorities cited cases where such groups were established on criminal offences relating to cyber crimes, trafficking of drugs and persons and smuggling of currency and cars. The agencies of the Ministries of Justice and Interior have a standing committee which meets on quarterly basis to exchange information and form joint operations.
176. In regional terms, law enforcement agencies participate in joint investigation task forces under the scope of the Southern Africa Regional Police Chiefs Cooperation Organization (SARPCCO).
177. At international level, Mozambique Police Service is a member of the International Criminal Police Commission (Interpol). In addition, the authorities cited specialised investigation group formed with Brazil and Portugal on cases of drugs and contraband smuggling.

Additional element- review of ML and FT trends by law enforcement authorities (c. 27.6)

178. No review of ML and TF trends was undertaken by law enforcement authorities in Mozambique. The authorities indicated that this will be done by the national FIU once operational. However, the Drugs Bureau indicated that they do conduct typologies related to drug offences and shares the information with relevant law enforcement agencies.

Recommendation 28

Ability to compel production of and searches for documents and information (c.28.1)

179. Pursuant to Article 17 of Law 7/2002, the PIC has powers to seek judicial authority to compel production of documents held by financial entities. In addition, the Central Office for the Combat of Corruption is authorised in terms of Article 19(2)(c) of Law 6/2004 to compel production of documents during the course of an investigation on corruption related to ML cases.

The competent authorities are also empowered to search persons or premises, seize or obtain any transaction, records, identification data account files, business correspondence, and any other relevant documents in the custody of the person, business or financial institution as per article 40 of Law 7/2002. However all these provisions are limited to the ML and the predicate offences listed in Law 7/2002 but not to financing of terrorism as it is not yet criminalized in Mozambique. The authority to search premises has to be obtained on application by the members of PIC who hold the rank of Inspector and above. They have to make an application to the Criminal Investigation Court or the trial court for an order to obtain the relevant documents. The application has to be supported by their National or provincial director in terms of article 40(2). In court the application is presented on their behalf by the prosecutors or Attorney General. Once the

order has been granted the relevant authority can proceed to conduct the search in the company of an officer from the Attorney-General's office.

Power to take witnesses' statement (c.28.2)

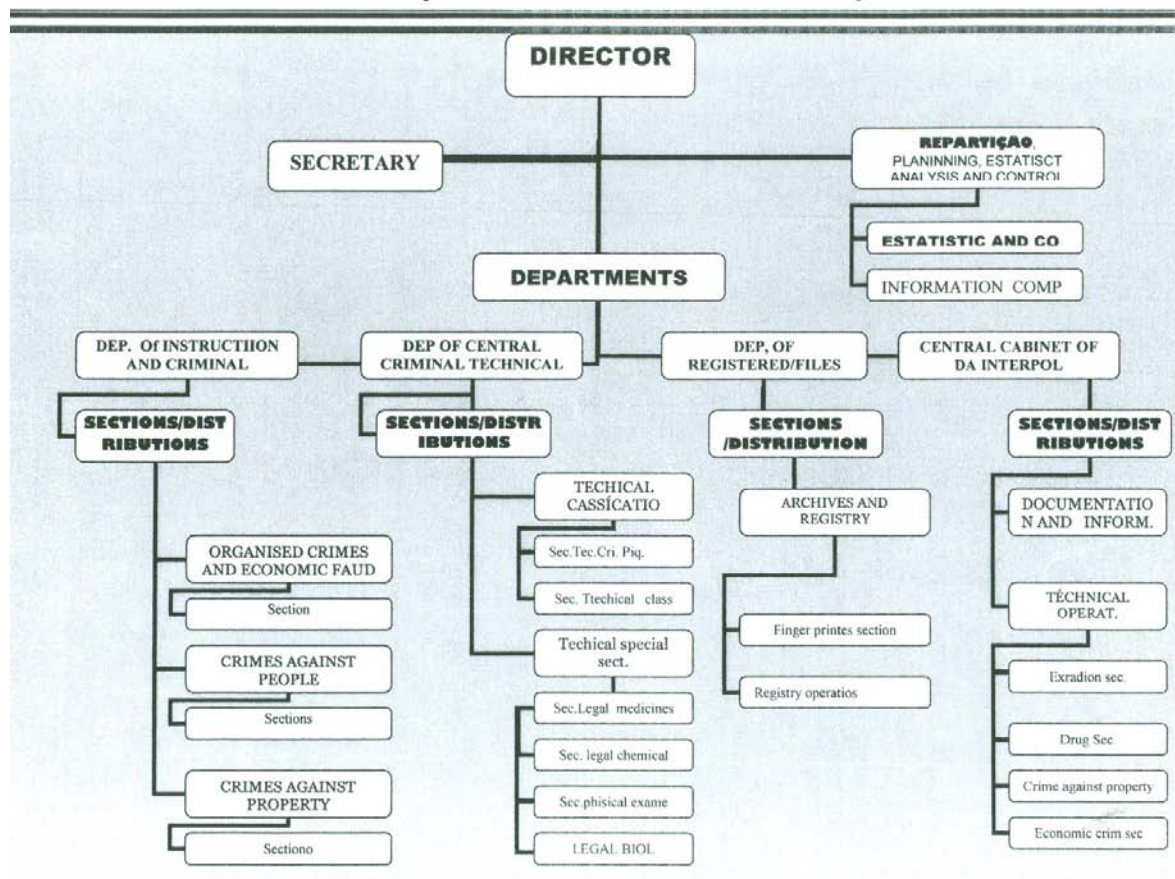
180. The Mozambique laws authorize all competent authorities involved in the investigation of criminal offences to record statements from witnesses. The authorities indicated that it is an offence to refuse to give a statement to law enforcement officers when one is so required. However the assessors could not verify the information provided by the authorities as the relevant legislation was not made available to the assessors.
181. The authorities further indicated that there were problems with witness protection system especially in an event of a subpoena and this jeopardizes their investigations.

Recommendation 30

Structure, funding, staffing and other resources of law enforcement and other AML/CFT investigative and prosecutorial agencies (c.30.1)

182. The Criminal Investigation Police is established under the Police Service within the Ministry of Interior. The PIC is headed by a National Director/Inspector General. It is divided into four functional departments, namely: Instruction and Criminal, Central Criminal Technical (Laboratory), Registered Files (Archives and Filing) and Interpol Coordination (information exchange and cooperation). The PIC has offices at Provincial and District levels, headed by Provincial Director and Heads of Brigades respectively.
183. The National Director of the PIC reports directly to the Commander-General of Police and the Attorney General's Office on administrative and operational functions respectively.
184. All the Directorates of Mozambique Police, including the PIC, receive their funding from the Ministry of Interior. Overall, the PIC has limited human, financial and technical resources to effectively investigate predicate offences and ML cases.
185. The Attorney General's Office, the Central Office for the Combat of Corruption and the Customs Department indicated that they have similar resources constraints as PIC.
186. The organisational structure of the PIC is shown below:

ORGÂNICA DA DIRECÇÃO NACIONAL DE INVESTIGAÇÃO CRIMINAL



Integrity of competent authorities (c.30.2)

187. In general, the Police Service in Mozambique is governed by the Police Code of Conduct and the Civil Service Rules which prohibit unauthorised disclosure of information. The authorities raised a potential integrity concern due to the general low level of remuneration packages within the Police, including the PIC. The authorities cited an example of reported cases of low levels of petty corruption at the municipal and traffic police units. There are no known cases within the PIC where integrity was compromised.

Training for competent authorities (c.30.3)

188. The percentages of trained officers on ML/FT issues in the competent authorities is very low and the one consistent and outstanding need that came up in our discussions is the need to have relevant training conducted in both private and public sector. The statistics provided by the authorities during the onsite show that only 60 out of 1752 customs officers have been trained on ML and a further 100 have been trained on drug related ML. In the PIC only 5% of the officers have received training on ML issues. There seems to be a certain relaxed attitude in general premised on the feeling that ML and even FT is not an issue in the country. Some authorities do not consider Mozambique as being vulnerable to ML. Training on the use of computers to track proceeds or movement of cash is needed as there in a

significant amount of cyber crime going on. Limited resources have made it impossible to have this training done

Additional element –Special training for judges (c.30.4)

189. No special training or educational programmes have been provided for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism.¹¹

Statistics (applying R.32)

190. The authorities did not provide full statistic on ML cases reported, investigated, or collaborated on with other jurisdictions. However during the onsite customs reported that an aeroplane that had been used to smuggle cigarettes into the country which they had seized had finally been forfeited to the state by the court.

2.6.2 Recommendations and Comments

191. Mozambique has taken steps to establish effective law enforcement and other prosecution institutions to investigate and prosecute predicate offences and money laundering cases. It is however recommended that the authorities be provided with sufficient human, financial and technical resources to enable them to effectively deal with predicate offences and money laundering cases.
192. There is a very low level of training and awareness among the officers of law enforcement agencies responsible for investigation and prosecution of money laundering cases and other predicate offences. The authorities should ensure that the officers involved in money laundering and other predicate offences are adequately trained on an ongoing basis.
193. Authorities in Mozambique do not keep comprehensive statistics on investigations and prosecution of money laundering and other predicate offences thereby making it difficult to assess effectiveness. It is recommended that authorities should develop systems to ensure that comprehensive statistics in this regard is kept in such a way that effectiveness and trend analysis can be easily reviewed.
194. While there has been investigation and prosecution of predicate offences, this is not the case for money laundering. Authorities should ensure that money laundering investigations and prosecutions are effectively pursued.
195. Terrorist financing is not yet a criminal offence in Mozambique and law enforcement agencies pursue financing of terrorism cases under general terrorism charges. It is recommended that Mozambique should

¹¹ However, during discussions held with the authorities in the margin of the April 2011 Task Meeting of ESAAMLG the assessors were advised that training for the judges and the prosecutors have been planned and a first workshop is scheduled to start in June 2011.

expeditiously criminalise terrorist financing in accordance with the relevant international convention and standards. In addition, the authorities should strengthen institutional capacity to effectively counter terrorist financing.

2.6.3 Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	PC	<ul style="list-style-type: none"> • No money laundering investigation and prosecution • Terrorist financing not criminalised. • Overall effectiveness could not be assessed
R.28	PC	<ul style="list-style-type: none"> • Terrorist financing not criminalised • Overall effectiveness of money laundering investigations and prosecutions could not be assessed.

2.7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

196. The requirements under SR IX have not been implemented in Mozambique. Under Law 3/96 Mozambique had a declaration system in place which obligated all persons coming into or leaving the country with cash or traveller's cheques above \$5000.00 US (five thousand dollars) to declare to the customs officers at the port of entry or departure. However this declaration system did not cover bearer negotiable instruments. During the on site visit the assessors were advised by the Mozambican authorities that Law 3/96 had been repealed and replaced by Law 11/2009.¹²

2.7.2 Recommendations and Comments

197. The authorities in the Republic of Mozambique should as soon as possible develop the appropriate legal framework to implement the requirements under SR IX.

2.7.3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	NC	<ul style="list-style-type: none"> • The requirements under SR IX have not been implemented in Mozambique.

¹² In terms of s8 of the Foreign Exchange Law No.11/2009, there is a requirement for the declaration of currency and other means of payment when entering and leaving Mozambique. The authorities informed the assessors that there is a declaration form for travelers to declare currency or other means of payment in excess of \$5000.00 to a competent authority at the entry and exit points. However, the authorities have not put in place effective implementation measures to ensure that travelers comply with the declaration system.

3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

Customer Due Diligence & Record Keeping

3.1 Risk of money laundering or terrorist financing

198. The legal and regulatory framework in Mozambique does not provide for a risk-based approach to AML/CFT. The authorities in Mozambique are in the process of completing their national risk assessment exercise of money laundering and terrorist financing. As at the date of the onsite visit, all financial institutions were subject to the same obligations under the AML Act. The reporting persons are required to apply the AML/CFT measures in their entirety and are not permitted to adopt any simplified measures with respect to areas that they deem to be of little or low risk. It is to be noted that contrary to the standards, the AML law exempts some financial institutions from applying the AML measures with respect to some types of transactions provided that the requirements set out under the law are met. These exemptions have not been justified based on demonstrated low risk for ML/TF.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Legal framework

199. The primary AML obligations that apply to financial institutions are set out in Law 7/2002 of 5 February ('the AML law') and its respective regulation - Decree 37/2004 of 8 September ('the AML Regulations').
200. The following financial institutions are subject to the requirements of Law 7/2002:
- Credit institutions¹³
 - Finance companies¹⁴
 - Insurance companies conducting life insurance business
 - Finance leasing companies
 - Pension fund managers
 - Stock exchanges

¹³ The term "Credit institutions" is defined under Article 3 of Law 15/99 as amended by Law 9/2004 and includes, banks, credit cooperatives; factoring companies, investment companies, micro-banks, electronic currency institutions.

¹⁴ The term "Finance companies" is defined under Article 5 of Law 15/99 as amended by Law 9/2004 and includes finance brokerage companies, brokering firms; investment fund managers, credit card issuers or managers

- Loan companies
- Foreign exchange bureaux
- Companies that issue and manage payment instruments and
- Individual and collective portfolio companies

Scope Issue

201. Insurance intermediaries are not subject to the AML Law 7/2002 of 5 February and this exclusion creates a scope issue. Since they are not covered under Law 7/2002, they are not subject to the obligation to verify the identity, record keeping requirements and reporting requirements under the AML Law 7/2002. While it is noted that “insurance intermediaries” and moneylenders are subject to the AML Decree 37/2004, the assessment team was of the view that Decree 37/2004, being a subsidiary legislation, could not extend the scope of application of Law 7/2002. These gaps in the scope of the AML obligations affect the ratings relative to some of the Recommendations discussed in Section 3 of this report.
202. To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF. This affects the ratings relative to the Recommendations discussed in section 3 of this report.

Recommendation 5

Prohibition of anonymous accounts (c.5.1)

203. There is no express provision in the Mozambican legislation that prohibits financial institutions to keep anonymous accounts or accounts in fictitious names.
204. However, under article 10(1) of Law 7 of 2002 financial entities are required to identify and verify the identity of their clients or their legal representatives when entering into business relations, especially when opening deposit or savings accounts, or when offering safe custody facilities or securities investment advices or when issuing insurance policies or managing pension plans. As a result of this provision, the Mozambican authorities advised that financial entities could not open anonymous accounts or accounts in fictitious names.
205. There are no provisions governing numbered accounts.
206. Meetings with banking institutions further indicated that there are no anonymous or numbered accounts and no accounts are kept in fictitious names.

When CDD is required (c. 5.2)

207. Under Article 10(1) of Law 7/2002, financial institutions must identify and verify the identity of *their clients or their legal representatives* when entering

into business relations, especially when opening deposit or savings accounts, or when offering safe custody facilities or securities investment advices or when issuing insurance policies or managing pension plans.

208. Additionally, in accordance with Article 10(2) of Law 7/2002, the verification and identification of the identity of the client must also be undertaken when undertaking occasional transactions where the amount, singly or combined, is equal to or greater than the sum of four hundred and forty-one minimum wages, which is approximately equivalent to USD 3,416¹⁵. This threshold is much lower than the designated threshold of USD/€ 15,000 under the FATF standards.
209. Article 9 of Decree 37/2004 reiterates the requirements under Article 10 of Law 7/2002 and further requires the verification of identity of clients during the operation of bank accounts, conducting insurance and insurance mediation activities and the performance of any foreign exchange operation.
210. The requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers fall short of the standard. It is to be noted that for cross border wire transfers the interpretative note to SRVII prescribes a *de minimus* threshold of EUR 1,000. The threshold under the AML law is much higher than what is prescribed in the standard.
211. Furthermore, there is a duty of verification and diligence under Article 11 of Decree 37/2004 according to which financial institutions must carry out a check to confirm the particulars and address provided by their clients and their legal representatives whenever there are grounds to suspect that a crime of money laundering has been committed and where doubt exists about the authenticity of the documents presented or the truth of statements made by the client. This requirement fall short of the standards as the requirement to undertake the verification of identity does not arise where there is a suspicion of terrorist financing.

Identification of customers (c.5.3)

212. Article 10(1) of Law 7/2002 of 5 February imposes the obligation on financial entities to identify clients, when entering into business relations by *“means of a valid document with proof of identification and photo therein.* Paragraphs (2) and (3) of Article 10 of Law 7/2002 impose a similar obligation whenever financial institutions perform occasional transactions in which identification as required under Article 10(1) has not been undertaken.
213. Article 8(1) of Decree 37/2004 further lays down that for the purposes of Article 10(1) of Law 7/2002, valid corroborative documents for the identification of individual clients must-
 - have been issued by the competent authority

¹⁵ Using BoM USD exchange rate of 18 November 2010.

- have a photograph of the holder affixed therein; and
 - be valid.
214. Article 8(2) of Decree 37/2004 further provides that for Mozambican nationals the National Identity Card may be used for the verification of identity and as proof of the residential address. In the absence of the National Identity Card, the receipt of an application for one may be used together with personal record book or a full birth certificate. For non-residents Mozambicans and foreign nationals the passport must be used. Non-resident foreigners the DIRE (that is, Documentation for Foreign Residents) must be used.
215. Pursuant to the provisions of Article 10 (5) of Law 7/2002 and Article 8(4) of Decree 37/2004, the identity and address of corporate persons must be verified by means of the presentation of the original articles of association or a certified copy thereof; and the original valid business licence issued by the competent authority or a certified copy thereof.
216. Further under Articles 9 and 10 of Decree 37/2004 financial institutions are required to open an identification reference file for the client or their legal representatives which must contain the following particulars-

	<i>Individual persons - Art.10(1) of Decree 37/04</i>	<i>Corporate persons - Art.10(2) of Decree 37/04</i>
a	Full name as it appears on their identification document	Firm name or corporate name as it appears in its registration or deed of incorporation
b	Filiations	Head office (province, district , city, street and number, telephone and facsimile numbers)
c	Place of birth and nationality	Unique Taxpayer Identification Number - NUIT
d	Date of birth	Code of the Classification of Economic Activities and of the economic group where applicable
e	Sex	The names of persons with powers of representation, to whom the requirements of paragraph 1 of this article shall be applicable
f	Marital status and marital property regime	Principal purpose
g	Full address (province, district,	The names of persons with powers of

	street and number and telephone and facsimile numbers), where applicable	representation to whom the requirements of paragraph 1 of this article shall be applicable	
h	Occupation and employer, where applicable	The specification of the powers of representation to which the preceding paragraph refers, and such powers shall be duly confirmed by means of authentic or certified documents that mention them, or in cases where it is not legally possible to obtain such documents, by means of legally binding private documents with the same general meaning	
i	Type, number, place and date of issue of the identification document	<i>Companies and other corporate persons in the process of being established - Art.10(3) of Decree 37/04</i>	
j	Unique Taxpayer Identification Number- NUIT	a	Full identification of the founding shareholders and other persons responsible for the company or other corporate person being established, to whom the requirements of paragraph 1 of this article shall be applicable
k	Indication that the particulars mentioned in a, b, c, d ,e, f, and i have been checked against the respective document	b	A statement of undertaking to hand over within 60 days, the deed of incorporation and a document confirming registration with the competent body.
<i>Projects and special committees- Art. 10(4) of Decree 37/04</i>		Full identification of the persons responsible for the project, to whom the requirements of paragraph 1 of this article shall likewise be applicable.	

Identification of legal persons and other arrangements (c.5.4)

217. Pursuant to Articles 9 and 10 of Decree 37/2004 financial entities are subject to a general duty of identification and must keep a reference file for the client *or* their legal representatives. With respect to customers who are legal persons or legal arrangements, sub-paragraphs (f) and (g) of Article 10(2) of Decree 37/2004 impose the obligation on financial institutions to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person.

218. As discussed above, pursuant to Article 10(5) of Law 7/2002, financial entities must identify corporate persons by means of the presentation of the original or certified copy of the articles of association. Paragraph (8) of Article 10 further requires the verification of the address of the head office by the articles of association or the operating licence of the company or enterprise. Moreover, paragraph (9) of Article 10 of Law 7/2002 also requires the identification of the members of the board of the company or their legal representatives. Pursuant to the provisions of Articles 9 and 10(2)(a) of Decree 37/2004 the financial institution must keep the a reference file on the client containing the firm's name or corporate name as it appears in its registration or deed or incorporation.

Identification of beneficial owners (c. 5.5, 5.5.1& 5.5.2)

219. There is no requirement for financial institutions to identify the beneficial owner as defined by the FATF and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that that the financial institution is satisfied that it knows who the beneficial owner is.
220. For customers that are natural persons, there is no requirement for financial institutions to determine whether the customer is acting on behalf of another person.
221. For customers that are legal persons or legal arrangements, there is no requirement for financial institutions to take reasonable measures to understand the ownership and control structure of the customer; and to determine the natural persons that ultimately own or control the customer.

Information on purpose and nature of business relationship (c. 5.6)

222. There is no requirement for financial institutions to obtain information on the purpose and intended nature of the business relationship.

Ongoing due diligence on Business relationship (c. 5.7, 5.7.1 & 5.7.2)

223. Under Article 13(1) of Decree 37/2004, financial entities must establish the profiles of each of their regular clients by means of monitoring the evolution of the operations that such clients perform. Article 13(2) of Decree 37/2004 further provides that financial entities must collect data on the background for their clients and the pattern of their income earning activities. These documents must be maintained in line with the requirements of Article 15 of Law 7/2002.
224. Articles 10 and 13 of Decree 37/2004 require financial entities to keep identification reference files for the client or their legal representatives which must be updated annually or whenever a change occurs.

Enhanced due diligence for higher risk customers (c.5.8)

225. There are no requirements for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.

226. During the onsite visit, it was noted that some of the banks, particularly those with large foreign shareholding apply enhanced due diligence measures as these are required under the group AML/CFT standards.

Application of simplified/reduced CDD measures (c.5.9-5.12)

227. Although the standards do not allow exemptions, it was noted that the obligation for the identification and verification of identity under Article 10 of Law 7/2002 is subject to some exceptions which are set out in Article 11 of Law 7 of 2002. The exceptions relate to-

- Insurance or pension fund contracts, where the annual amounts of the premium or contributions to be paid are lower than the sum of twenty three minimum wages, or in the case of a one-off premium or contribution, where this amount is equal to or lower than sixty-seven minimum wages.
- Insurance contracts that guarantee the payment of income from employment or from the professional activities of the insured person, provided that the said contracts do not contain a surrender clause and cannot be used as collateral for loans;
- Insurance contracts, life insurance operations and pension plans, on condition that the payment of the premium or contribution is to be made by debiting a cheque account opened in the name of the insured with a credit institution subject to the obligation foreseen in article 10.

Timing of verification of identity (c.5.13)

228. According to Article 10 of Law 7/2002, the verification process must be undertaken by financial entities when entering into business relations with clients. This requirement also applies to occasional clients where the amount singly or combined, is equal to or greater than the sum of four hundred and forty-one minimum wages, that is approximately USD 3,416.

Verification of identity after establishment of business relationship (c. 5.14)

229. There is no provision that permits the verification of identification after the relationship has been commenced.

Failure to complete CDD (c.5.15)

230. Article 14 of Law 7/2002 states that “financial entities must refuse to perform any operation for those clients who fail to produce their identification in terms of the Law”.
231. Further, Article 12 of Decree 37/2004 provides that failure by clients or their legal representatives to provide the required identification or if there are any variances between the data provided and the true data constitute grounds for financial institutions to refuse the establishment of the relationship or the performance of the transaction.

232. These two provisions are limited to failure to provide identification data and do not cover the other CDD measures namely, verification of the beneficial owner and information on the purpose and intended nature of the business relationship.
233. There is no requirement for financial institutions to consider making a suspicious transaction report where the financial institution is unable to comply with the required CDD measures under criteria 5.3 to 5.6.
234. One of the banking institutions which met the assessment team indicated that all transactions on accounts with incomplete CDD are blocked.

Termination of business relationship (c.5.16)

235. There is no requirement for financial institutions, when criteria 5.2 (e) or 5.17 apply and the financial institution is unable to comply with the required CDD measures, to terminate the business relationship and to consider making a suspicious transaction report.

CDD requirements for existing customers (c. 5.17)

236. There is no requirement for financial institutions to apply CDD Requirements to existing customers and to conduct due diligence on such existing relationships at appropriate times.

CDD requirements for existing anonymous customers (c.5.18)

237. Financial institutions are not required to perform CDD measures on existing customers to whom criterion 5.1 applies.

Recommendation 6

238. There are no requirements for financial institutions to identify politically exposed persons (PEPs) or take other such measures as indicated under Recommendation 6.

Additional element –Ratification of Merida Convention (c.6.6)

239. Mozambique is a signatory to the Merida Convention and the African Union Anti-Corruption convention.

Recommendation 7

240. There are no requirements for financial institutions to take such measures as set out in Recommendation 7.

Recommendation 8

241. There are no requirements for financial institutions to take such measures as set out in Recommendation 8.

3.2.2 Recommendations and Comments

242. Mozambique has taken some substantial measures to address the FATF requirements related to Recommendation 5. Mozambican authorities are recommended to take the following measures to enhance the existing CDD measures-

General

- To adopt preventative measures to combat TF and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations.

Recommendation 5

- Apply CDD requirements to financial institutions that are not currently covered under Law 7/2002.
- AML/CFT provisions governing numbered accounts should be introduced in the AML law.
- Financial institutions should be required to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances required under the FATF standards.
- Terrorist financing should be criminalised as a matter of priority and the requirement to undertake the verification of identity where there is a suspicion of terrorist financing must be established.
- Review the provisions of the exemptions of full CDD requirements under Law 7/2002 to ensure that situations where the application of simplified or reduced due diligence would be more appropriate are addressed.
- Establish the requirement for financial institutions to identify the beneficial owner as defined by the FATF and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.
- For all customers, establish the requirement for financial institutions to determine whether the customer is acting on behalf of another person.
- For customers that are legal persons or legal arrangements, establish the requirement for financial institutions to take reasonable measures to understand the ownership and control structure of the customer; and to determine the natural persons who ultimately own or control the customer.
- Establish the requirement for financial institutions to obtain information on the purpose and intended nature of the business relationship.
- Establish the requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.
- Review the AML law and regulations to ensure that where financial institutions are not able to comply with the CDD measures described in criterion 5.15 (other than the verification of identity) they should not be permitted to open the customer account, commence business relations or perform the transaction.

- Establish the requirement for financial institutions to consider making a suspicious transaction report where the financial institution is unable to comply with the required CDD measures under criteria 5.3 to 5.6.
- Establish the requirement for financial institutions, when criteria 5.2 (e) or 5.17 apply and the financial institution is unable to comply with the required CDD measures, to terminate the business relationship and to consider making a suspicious transaction report.
- Establish the requirement for financial institutions to apply CDD Requirements to existing customers and to conduct due diligence on such existing relationships at appropriate times.
- Establish the requirement for financial institutions to perform CDD measures on existing customers to whom criterion 5.1 applies.

Recommendation 6

- Introduce enforceable requirements for financial institutions to identify PEPs and take such other CDD measures as required under Recommendation 6.

Recommendation 7

- Introduce enforceable requirements in relation to cross border correspondent banking and other similar relationships as required under Recommendation 7.

Recommendation 8

- Introduce enforceable requirements needed to prevent misuse of technological developments in ML or TF schemes and such other measures as required under Recommendation 8.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	NC	<ul style="list-style-type: none"> • There are no provisions governing numbered accounts. • The requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers fall short of the standard. • The requirement to undertake the CDD measures does not arise where there is a suspicion of terrorist financing. • The exemptions under Law 7/2002 are not allowed under the FATF standards and may in practice reduce the overall effectiveness of the provisions of the AML law and regulations. • There is no requirement for financial institutions to identify the beneficial owner as defined by the FATF and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that that the financial institution is satisfied that it knows who the

		<p>beneficial owner is.</p> <ul style="list-style-type: none"> • For all customers, there is no requirement for financial institutions to determine whether the customer is acting on behalf of another person. • For customers that are legal persons or legal arrangements, there is no requirement for financial institutions to take reasonable measures to understand the ownership and control structure of the customer; and to determine the natural persons who ultimately own or control the customer. • There is no requirement for financial institutions to obtain information on the purpose and intended nature of the business relationship. • There are no requirements for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. • Where financial institutions are unable to comply with criteria 5.3 to 5.6 (other than the verification of identity), there is no requirement to prohibit financial institutions to open the account, commence business relations or perform the transaction. • There is no requirement for financial institutions to consider making a suspicious transaction report where the financial institution is unable to comply with the required CDD measures under criteria 5.3 to 5.6. • There is no requirement for financial institutions, when criteria 5.2 (e) or 5.17 apply and the financial institution is unable to comply with the required CDD measures, to terminate the business relationship and to consider making a suspicious transaction report. • There is no requirement for financial institutions to apply CDD Requirements to existing customers and to conduct due diligence on such existing relationships at appropriate times. • Financial institutions are not required to perform CDD measures on existing customers to whom criterion 5.1 applies. • Uncovered financial institutions are not subject to the CDD obligations under Law 7/2002.
R.6	NC	<ul style="list-style-type: none"> • There are no requirements for financial institutions to identify politically exposed persons (PEPs) or take other such measures as indicated under Recommendation 6.
R.7	NC	<ul style="list-style-type: none"> • There are no requirements for financial institutions to take such measures as set out in Recommendation 7.
R.8	NC	<ul style="list-style-type: none"> • There are no requirements for financial institutions to take such measures as set out in Recommendation 8.

3.3 Third parties and introduced business (R.9)

3.3.1 Description and Analysis

Legal framework

243. The laws and regulatory frameworks in the Mozambique do not expressly prohibit financial entities from relying on intermediaries or other third parties to perform some of the elements of the CDD process or to introduced business. In practice, one of the banks indicated that they do rely on other institutions within the same group to perform some aspects of the CDD measures. The bank would conduct its own independent CDD only if it was dissatisfied with the CDD of the group introducer. Moreover, the assessment team was also informed that in correspondent banking relationships the bank relied on the CDD performed by the respondent bank.
244. While it would seem that some financial institutions are relying on intermediaries or other third parties to perform some of the elements of the CDD process, there is no requirement for financial institutions relying upon the third party to immediately obtain from the third party the necessary information concerning certain elements of the CDD process and to follow the other requirements under Recommendation 9.

3.3.2 Recommendations and Comments

245. Mozambican authorities are recommended to introduce enforceable requirements to require financial institutions that rely on other third parties to perform some of the elements of the CDD process ,to immediately obtain from the third party the necessary information concerning certain elements of the CDD process and to follow the other requirements under Recommendation 9.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	NC	There is no requirement for reporting persons relying upon a third party to immediately obtain from the third party the necessary information concerning certain elements of the CDD process and to follow the other requirements under Recommendation 9.

3.4 Financial institution secrecy or confidentiality (R.4)

3.4.1 Description and Analysis

Inhibition of implementation of FATF Recommendations (c. 4.1)

Duty of confidentiality

BOM

246. Pursuant to the provisions of Article 74 of Law 1/92, anyone assigned to the BoM activities, even on an occasional basis, is subject to the requirement of professional secrecy.
247. Further under the provisions of Article 56(1) of Law 15/99, persons who exercise or have exercised functions in the BoM and those who render or have rendered services to it on a permanent or occasional basis are subject to a duty of confidentiality with respect to information gained in the course of their functions or services. Article 56(2) of Law 15/99 further provides that information may be disclosed with written authorisation transmitted by the interested party to the BoM or in the terms laid down on the criminal law and rules of criminal procedure.
248. Credit institutions and finance companies or supervisory bodies of credit institutions and finance companies are subject to a duty of confidentiality under Article 48 of Law 15/99 (as amended by Law 9/2004). Article 48(2) of Law 15/99 provides that *"in particular, names of clients, deposit accounts and the movement thereof and other financial transactions are subject to the duty of confidentiality"*. The duty of confidentiality is waived in the circumstances provided under Article 49 of Law 15/1999. The relevant provisions of Article 49 of Law 15/1999 read as follows:
- "1 Facts or particulars relating to client relations with the institution can be disclosed when the client gives written authorisation to the institution.*
 - 2 Outside the case provided for in the preceding paragraph, facts and particulars covered by the duty of confidentiality can be disclosed only:*
 - a) To the Bank of Mozambique, within the scope of its powers and responsibilities*
 - b) in the terms established in the criminal law and criminal procedure;*
 - c) when some other legal provision expressly limits the duty of confidentiality;*
 - d) to the Deposit Guarantee Fund, within the scope of its powers and responsibilities;*
 - e) when there is a judicial order, signed by a judge."*
249. It is to be noted that Article 102 of Law 15/99 provides that the provision of article 290 of the Penal Code is applicable to breaches of the professional secrecy rules established in this law.

IGS

250. Pursuant to the provision of Article 51 of Decree 41/2003¹⁶ the officials of General Inspectorate of Insurance (IGS) and employees of entities subject to its supervision are subject to a duty of confidentiality in respect of facts that have come to their knowledge exclusively in the performance of their

¹⁶ Decree 41/2003 of 10 December approves the Regulations of Law 3/2003 of 21 January which determines the conditions for the taking up and pursuit of the business of insurance and insurance mediation.

functions. An exception to this duty of confidentiality, set out under Article 51(2) of Decree 41/2003, enables the General Inspectorate of Insurance to exchange information necessary to the supervision of the business of insurance and insurance mediation with other supervisory authorities on the basis of reciprocity of treatment.

251. Further, Article 41(2)(j) of Decree 41/2003 sets out a requirement for insurance brokers to respect the confidentiality of any information in respect of customers, save that which is strictly in the interests of negotiation, maintenance or renewal of the insurance contract.
252. Pursuant to Article 6(1) of Decree 48/1998 of 22 September, financial intermediaries are subject to professional secrecy as regards everything relating to operations performed and services provided to their customers, as well as any facts or information pertaining to such customers or to third parties, where the knowledge thereof is obtained in the course of these activities. Article 6(2) of Decree 48/1998 which sets out the circumstances where the duty of professional secrecy can be waived reads as follows:

"2 The duty established in the preceding paragraph shall cease when:

- a) The intermediary and the persons referred to in paragraph 1 have to supply information or other items to the Bank of Mozambique or to the stock exchange, pursuant to the powers and jurisdiction of these authorities, in the cases and on the terms expressly provided for in these Regulations or in especially applicable legislation;*
- b) There is any legal provision in place that removes the duty;*
- c) The disclosure of the information or the supply of the items in question has been authorised in writing by the person to whom they pertain."*

Cooperation between financial entities and judicial authorities

253. The duty of confidentiality that applies to financial entities is overridden by Article 21 of Law 7/2002 to extent that the disclosure is made in good faith and for the purposes of complying with Law 7/2002. Article 21 reads as follows:

"The information provided by financial entities for the purposes of compliance with this Law must be given in good faith and its provision shall not constitute a breach of bank or professional secrecy, nor shall it result in responsibility of any legal nature being incurred by the person providing it, except where the contrary results from this."

254. It is to be noted that under Article 17 of Law 7/2002, financial entities have a statutory duty to collaborate with the competent judicial authorities when so requested, furnishing them with information about certain operations carried out by their clients or documents related to their banking operations, property, deposits or any other values in their custody.

255. However, as discussed in section 3.2.1 of this report there are uncovered financial institutions, namely insurance intermediaries that fall outside the safe harbour protection conferred by Article 21 of Law 7/2002.

Cooperation between financial entities and the supervisory authorities

256. The confidentiality rules allow financial intermediaries, credit institutions and finance companies to provide information to the Bank of Mozambique.
257. However, the situation is not very clear with respect to insurance entities. It is to be noted that under Article 50 of Decree 41/2003, entities under the supervision of the IGS must furnish the latter with such information as it requests for fulfilment of its powers and duties, in the terms and within the time limits established for this purpose. However, the confidentiality rules under Article 51 of Decree 41/2003 appear to be very restrictive. The current exception to these rules does not allow the entities under the supervision of the IGS to provide information to the latter.

Cooperation between supervisory authorities

258. Pursuant to the provisions of Article 57 of Law 15/99, the confidentiality provisions under Article 56 of Law 15/99 do not preclude the BoM from exchanging information with supervisory authorities of other states as regards information necessary for the supervision of credit institutions and finance companies with head offices in Mozambique and equivalent institutions with head offices in those other states.
259. Pursuant to the provision of Article 51(2) of Decree 41/2003, the IGS can exchange information necessary to the supervision of the business of insurance and insurance mediation with other supervisory authorities on the basis of reciprocity of treatment.

Cooperation between supervisory authorities and the judicial authorities

260. Pursuant to the provisions of Article 56(2) of Law 15/1999, the duty of confidentiality that applies to the Bank of Mozambique may be waived in the terms laid down in criminal law and rules of criminal procedures.
261. There are no exceptions to the duty of confidentiality of the IGS under Article 51 of Decree 41/2003 to provide information where there is a judicial order.

Cooperation between the supervisory authorities and the Attorney General's office

262. Article 20 of Law 7/2002 provides that supervisors of financial entities must inform the Attorney General's Office when it becomes aware of facts providing sufficient evidence of the commission of any crimes foreseen under Law 7/2002. However, it is to be noted that the respective confidentiality rules that apply to the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to disclose information to the AG's office as required under Law 7/2002.

Cooperation between supervisory authorities and the FIU

263. Under Article 3 of Law 14/2007, public institutions have the duty to collaborate with the FIU. However, the respective confidentiality rules that apply to the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to exchange information or otherwise collaborate with the FIU.

Cooperation between financial entities and the FIU

264. Under Article 3 of Law 14/2007, private institutions have the duty to collaborate with the FIU. However, the respective confidentiality rules that apply to credit institutions, finance companies, financial intermediaries and insurance entities do not provide for exceptions that would allow these financial entities to exchange information or otherwise collaborate with the FIU.

Cooperation between financial entities

265. Information may be shared between financial institutions where this is required by Rec. 7, 9 or SR VII where such disclosure is authorised in writing by the person to whom they pertain.

3.4.2 Recommendations and Comments

266. Mozambican authorities are recommended to-
- clarify the provisions of Article 51 of Decree 41/2003 to enable entities under the supervision of the IGS to furnish information to the latter.
 - amend the provisions of Article 51 of Decree 41/2003 to enable the IGS to share information or otherwise collaborate with judicial authorities, the AG's office and the FIU.
 - amend the provisions of Article 56 of Law 15/1999 to ensure that appropriate exceptions to the existing confidentiality rules that applies to the Bank of Mozambique are introduced to enable the latter to share information or otherwise collaborate with other supervisors, whether domestically or internationally, the AG's office and the FIU.
 - amend the respective confidentiality rules that apply to credit institutions, finance companies, financial intermediaries and insurance entities to provide for exceptions that would allow these financial entities to exchange information or otherwise collaborate with the FIU.
 - establish exceptions to the applicable confidentiality rules that would enable the sharing of information (without the consent of the client) between financial institutions where this is required by Rec. 7, 9 or SR VII.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
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R.4	NC	<ul style="list-style-type: none"> • There are uncovered financial institutions that fall outside the scope of the safe harbour protection conferred by Article 21 of Law 7/2002. • The current exception to the confidentiality rules does not allow the entities under the supervision of the IGS to provide information to the latter. • The duty of confidentiality that applies to the Bank of Mozambique does not provide an exception that would enable cooperation between the Bank of Mozambique and other supervisory authorities. • There are no exceptions to the duty of confidentiality of the IGS under Article 51 of Decree 41/2003 to enable the latter to provide information where there is a judicial order or to otherwise collaborate with judicial authorities. • The respective confidentiality rules that apply to the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to disclose information to the AG's office as required under Article 20 of Law 7/2002. • The respective confidentiality rules that apply to the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to exchange information or otherwise collaborate with the FIU. • The respective confidentiality rules that apply to credit institutions, finance companies, financial intermediaries and insurance entities do not provide for exceptions that would allow these financial entities to exchange information or otherwise collaborate with the FIU. • The exception to the applicable confidentiality rules that enables the sharing of information between financial institutions where this is required by Rec. 7, 9 or SR VII is limited and can only be done with the consent of the client.
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3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1 Description and Analysis

Recommendation 10

Record keeping and reconstruction of transaction records (c. 10.1 & 10.1.1)

267. Article 13(2) of Decree 37/2004, further requires financial institutions to keep records of client profiles that contain their background and pattern of their income-generating transactions for the specified period of 15 years in line with Article 15 of Law 7/2002.
268. However, there is no requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority.
269. Financial institutions that fail to comply with record keeping obligations are liable to punishment by a fine of the sum from four hundred and sixty-one

to five hundred and thirty-eight minimum wages. In terms of US dollars the fine would be between approximately 44,000 and 50,000.

270. The nature and extent of the information required to be kept do not appear adequate to allow for the reconstruction of individual transactions. There is no requirement for financial institutions to record the nature and date of the transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction. Further, the adoption of thresholds on occasional transactions and those relating to gaming activities is undermining the requirements for financial institutions to keep records regardless of value. This will in turn make investigations requiring information that can be generated through transactions below the threshold difficult to undertake by competent authorities.

Record keeping for identification data (c. 10.2)

271. Financial institutions are required under Article 15(1) of Law 7/2002 to keep records on client identification for a period of fifteen (15) years from the date of termination of a transaction or business relationship. The nature of client identification records to be kept is set out in Article 10 of Decree 37/04. These are discussed in detail under criterion 5.3 in section 3 of this report. Financial institutions are further required under Article 10 of Decree no. 37/2004 to have identification reference file on clients or persons acting on behalf of others. Financial institutions are required to maintain the identification reference file annually or whenever a change occurs. These records are required to be kept for 15 years.
272. There is however no requirement to maintain records of account files and business correspondence for a period of at least five years following the termination of an account or business relationship.
273. There is no requirement for financial institutions to maintain records longer if requested by a competent authority in specific cases and upon proper authority.

Availability of records to competent authorities (c. 10.3)

274. In terms of Article 17 of Law 7/2002 financial institutions are required to ensure that all customer and transaction records and information are provided to domestic competent judicial authority upon appropriate request. There is no time frame which is specified for financial institutions to make available all customer and transaction records and information on timely basis.

Special recommendation VII

275. Law 2/2008 establishes the National System of Payments which is managed by the Bank of Mozambique to facilitate inter-bank settlement of transactions. The authorities are still working on mechanisms to implement National Payment System in the financial sector of Mozambique. For settlement of cross-border wire transfers, the authorities rely on the

financial sector to comply with wire transfer requirements of the SWIFT system.

Originator information for wire transfers (c. VII.1)

276. Financial institutions are required by Article 10 (1) & (2) to identify customers when conducting occasional transaction and/or entering into a business relationship. For business relationships identification should be done by means of valid document with proof of identity and a photograph. For occasional transaction, whether as single or combined transaction, when is equal to or greater than the sum of four hundred and forty one (441) minimum wages financial institutions are required to establish the identity of the client. However, there is no specific requirement for ordering financial institution to obtain the originator's account number or a unique reference number if no account number exists.

Inclusion of originator information in cross border wire transfers (c. VII.2)

277. Financial institutions engaging in cross border wire transfers of EUR1000 or more are not required to include all originator information in the message or payment form accompanying the wire transfer. In practice, only banks have a daily cross-border wire transfer limit of USD 5000 whereby customers are required to submit full KYC information before a transaction can be processed. Banks have implemented a system to monitor smurfing of transactions by customers intending to circumvent the daily limit using different branches of the same bank.

Inclusion of originator information in domestic wire transfers (c.VII.3)

278. There is no requirement for financial institutions conducting domestic wire transfers to include originator's account number or a unique identifier within the message or payment form.

Originator information through payment chain (c. VII.4 & VII.4.1)

279. In terms of Article 13(2) of Money Laundering Regulation financial institutions are required to keep all records of business transactions and relationships. However, there is no specific requirement for each intermediary and beneficiary financial institution to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer.

Risk based procedures for wire transfers that do not contain originator information (c. VII.5)

280. The authorities have not implemented requirements for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

Monitoring of compliance with SR VII (c. VII.6)

281. Pursuant to Article 38 of Law no. 1/92 Organic Law of the Bank of Mozambique the Bank has power to carry out inspections of operations of all financial institutions regulated by it. Specifically, powers of supervisory authorities on financial institutions to comply with AML obligations are set out in Article 4 of Decree no. 37/2004 Money Laundering Regulations. However, there are no rules and regulations used by Bank of Mozambique to effectively monitor compliance with AML requirements for purposes of wire transfer transactions.
282. In practice, banks interviewed indicated that they have put in place internal AML/CFT control measures to ensure that all transactions, including cross-border transactions, are scrutinised and suspected transactions are identified and reported to Bank of Mozambique and Attorney General's Office.
283. There are no rules and regulations to monitor compliance by financial institutions against terrorist financing

Sanctions (c. VII.7)

284. Since there are no specific obligations for financial institutions when engaging in wire transfers, there can be no sanctions in this regard.

Incoming cross border wire transfers (c. VII.8)

285. There is no requirement for financial institutions to include full and accurate originator information on all incoming cross-border wire transfers, including those below EUR/USD 1000.

Outgoing wire transfers of less than EUR/USD 1,000 (c. VII.9)

286. The authorities do not require financial institutions to include full and accurate originator information on all outgoing cross-border wire transfers below EUR/USD 1000.

3.5.2 Recommendations and Comments

287. Mozambique has put in record keeping requirements that oblige financial institutions to keep records. However, the authorities should amend the AML law or the Regulations to ensure that financial institutions fully implement record keeping requirements consistent with the criteria under FATF Recommendation 10. In particular, the authorities should require financial institutions to ensure that all customer and transaction records and information are kept in such a manner that such records would be available on timely basis to domestic competent authorities upon appropriate authority.
288. Additionally, the authorities should consider strengthening Article 15 of Law on 7/2002 to specifically allow for instances where financial institutions may be requested to keep records beyond the required period of 15 years.

289. To allow the reconstruction of individual transactions, authorities in Mozambique should further strengthen the record keeping obligations to allow for the reconstruction of transactions by establishing a requirement for financial institutions to record the nature and date of the transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction.
290. The authorities should further establish an obligation for financial institutions to maintain records of account files and business correspondence for a period of at least five years following the termination of an account or business relationship.
291. Authorities should create obligations that would require financial institutions to keep records related to terrorist financing in a manner consistent with FATF Standards.
292. Mozambique has a law that regulates National Payment System under the supervision of the Bank of Mozambique for domestic transactions and relies on the SWIFT messaging system for cross-border wire transfer. The Authorities have not yet adequately implemented wire transfer requirements consistent with the FATF standards. It is recommended that financial institutions in Mozambique should be required to comply with wire transfer obligations as set out in the FATF Special Recommendation VII.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	NC	<ul style="list-style-type: none"> • The nature and extent of the information required to be kept do not appear adequate to allow for the reconstruction of individual transactions as there are no requirements for financial institutions to record the nature and date of the transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction. • There is however no requirement to maintain records of account files and business correspondence for a period of at least five years following the termination of an account or business relationship. • There is no requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority. • There is no time frame which is specified to ensure that financial institutions make available all customer and transaction records and information on a timely basis. • There is no requirement for records of transactions related to terrorist financing activities to be maintained.
SR.VII	NC	The requirements under SR VII have not been implemented.

Unusual and Suspicious Transactions

3.6 Monitoring of transactions and relationships (R.11 & 21)

3.6.1 Description and Analysis

Legal framework

Recommendation 11

Special attention to complex, unusual large transactions (c. 11.1)

293. There is no obligation for financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.
294. Article 13 of Law 7/2002 which sets out grounds of suspicion provides:
- “(1) Transactions that, by their nature, complexity, size, unusual character, or that appear to lack economic justification or lawful purpose in relation to the client’s professional activity, and are capable of falling within the legal classification of crimes foreseen in articles 33, 35 and 37 of Law 3/97 of 13 March, as well as the provisions of article 4 of this Law, constitute objective criteria for grounds of suspicion that the source is criminal activity.”
2. Once the circumstances described in paragraph 1 have been detected, the financial entities shall endeavour to obtain information from the client about the source and destination of the funds, as well as the purpose of the transaction and the identity of the beneficiary.”
295. It is to be noted that, Article 4 of Instruction 2/SBM/2002¹⁷ issued by the Bank of Mozambique contains a provision that expressly require financial institutions to pay special attention to the complexity of the amounts and all transactions apparently suspicious. The assessment team observed that only the banking sector have put measures in place to monitor complex, unusual large transactions.

Examination of complex & unusual transactions (c.11.2)

296. Once unusual and complex transactions are detected, financial institutions are required under Article 15 of Law on Money Laundering and Article 16 of Money Laundering Regulations to obtain information from the client about the source and destination of the funds as well as the purpose of the transaction and the identity of the beneficiary. However, neither Law on Money Laundering nor its Regulations provide for financial institutions to set forth their findings after examination of complex and large transactions in writing.

¹⁷ It is to be noted that Instruction 2/SBM/2002 does not constitute “other enforceable means” as defined by the FATF standards.

Record keeping of findings of examination (c.11.3)

297. Although Article 15 of Law on Money Laundering provides for record keeping for a period of 15 years, there can be no reports of findings on examination of complex and large transactions to be kept since there is no obligation for financial institutions to produce reports on findings.
298. As a practice, some of the banks keep written reports of examination of complex, unusual large transactions.

Recommendation 21

299. There is no requirement for financial institutions to give special attention to business relationships with persons, including legal persons and other financial institutions, from or in countries which do not or insufficiently apply the FATF Recommendations or to take other such measures as required under Recommendation 21.

3.6.2 Recommendations and Comments

Recommendation 11

300. The authorities are required to introduce an obligation for-
- financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.
 - financial institutions to set forth their findings in writing, after they examine as far as possible the background and purpose of such transactions;
 - financial institutions to keep such records available for competent authorities and auditors for at least five years.
301. Financial institutions in Mozambique conduct transactions and establish business relationships with financial institutions in other countries. Despite this, the authorities in Mozambique have not adopted and implemented measures on how financial institutions should deal with transactions and business relationships involving countries which do not sufficiently apply the FATF Recommendations. It is recommended that authorities in Mozambique should require financial institutions to implement such measures in a manner consistent with the FATF Recommendation 21.

3.6.3 Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	NC	<ul style="list-style-type: none">• There is no obligation for financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.• There is no requirement for financial institutions to set forth their

		findings in writing, after examining as far as possible the background and purpose of such transactions; <ul style="list-style-type: none"> • There is no requirement for financial institutions to make such findings available to assist competent authorities and auditors.
R.21	NC	There is no requirement for financial institutions to give special attention to business relationships with persons, including legal persons and other financial institutions, from or in countries which do not or insufficiently apply the FATF Recommendations or to take other such measures as required under Recommendation 21.

3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)

3.7.1 Description and Analysis

Legal framework

302. Reporting obligations are set out in Article 16 of Law 7/2002 and its Decree 37/2004 as well as Law 14/2007¹⁸. Uncovered financial institutions and predicate offences to money laundering limit scope for reporting of suspicious transaction.

Recommendation 13

Requirement to make STRs on ML & TF to FIU (c.13.1 & IV.1)

303. Mozambique has an STR reporting regime in terms of Article 16 of Law 7/2002, Article 17 of Decree 37/4 and Article 11 of Law 14/2007 which require financial institutions to report suspicious transactions related to proceeds of crime. The reporting regime does not create an offence for failure to report and, as a result, there are no sanctions applicable to financial institutions for non-compliance. As discussed under criterion 26.1, financial institutions are required to submit STRs to the FIU, the Attorney General's Office and the supervisory bodies.
304. Representatives from the private sector interviewed confirmed dual reporting of STRs to Attorney General's Office and Bank of Mozambique, and indicated that this was not a concern to them. They however expressed concern in an event where they would still be required to send STRs to the GIFiM, while still doing the same to the Office of the Attorney General and the Bank of Mozambique. They expressed preference to file STRs only to the GIFiM once it operational.
305. Grounds for submission of an STR are laid out in Article 14 of Decree no. 37/2004 as follows:

¹⁸ There is no law or regulation that requires reporting entities to file STRs related to financing of terrorism.

Cash transactions:

- The use of amounts in cash equal to or greater than four hundred and forty-one minimum wages, in preference to other means of payment.
- A high number of deposits or withdrawals of small amounts in cash, the daily total of which is equal to or greater than four hundred and forty-one minimum wages.
- A substantial increase in the balance of accounts without apparent cause, as a result of deposits in cash, in particular where these are subsequently transferred within 30 days to an account and or a geographical location not normally associated with the transactions of the client.
- The exchange of small denomination banknotes for high denomination banknotes of the same or a different currency.
- The settlement of financial applications in cash.

Bank Deposits:

- The deposit of counterfeit banknotes.
- Opening company accounts with incomplete documents, making credits, followed by the intention to make debits.
- Accounts of employees of financial entities that receive transfers or deposits considered unusual, either because of their frequency or their large amounts or source.
- Movement of an account characterised by a large number of deposits of small amounts and a small number of withdrawals of huge amounts.
- The maintenance of a number of accounts inconsistent with the client's activity.
- Personal or corporate accounts, the operation of which involves huge amounts of money and bears no relation to the business of the account holder.
- Debits of sums equal to or greater than four hundred and forty-one minimum wages from accounts until then inactive or from an account that has just received a transfer from abroad.
- A large number of entities crediting the same account for no apparent reason.

Other Suspicious Operations:

- Management of assets where the origin of the funds is not clear.
- Increased use of safe deposits.

- Use of letters of credit and other similar payment instruments to transfer funds between countries with which the client has no business dealings.
 - Frequent payments by cheques of third parties endorsed over to the client.
 - Over-invoicing and under-invoicing in import and export operations.
 - Smuggling of goods or misappropriation of customs duties.
 - Systematic use of the Single Simplified Document (DUS).
306. AML regulatory framework in Mozambique does not create an offence for failure to report suspicious transaction reports.

STRs related to Terrorism and its financing (c. 13.2)

307. Article 4 of Law 7/2002 lists terrorism as a predicate offence to money laundering. Financing of terrorism is not criminalised in Mozambique. Consequently, there is no obligation to make an STR to funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisation or those who finance terrorism.

Attempted transactions & reporting threshold for STRs (c. 13.3)

308. There is no monetary threshold as a condition to file an STR. Therefore STRs must be filed irrespective of the amount of the transaction.
309. Reporting entities are required to report suspicious transaction that by their nature, complexity, size, unusual character or, appear to lack economic justification or lawful purpose in relation to client's professional activity for money laundering purposes. Reporting entities are not obliged to file an STR on a basis of attempted transaction.

Making of ML& TF STRs regardless of possible involvement in tax matters (c.13.4 & IV.2)

310. The obligation to file reports on grounds of suspicion under Law 7/2002 is understood to be broad enough as not to restrict reporting of a suspicious transaction report to competent authorities on the basis that it could be related to tax matters.

Additional element –reporting of all criminal acts (c. 13.5)

311. In terms of Article 13 of Law 7/2002 any transaction that constitutes objective criteria for grounds of suspicion that the source is criminal activity should be reported to competent authorities.

Recommendation 14

Protection for making STRs (c. 14.1)

312. Article 21 of Law 7/2002 provides protection to reporting entities for making an STR to a competent authority. It states that *“The information provided by financial entities for purposes of compliance with this Law must be in good faith and its provision shall not constitute a breach of bank or professional secrecy, nor shall it result in responsibility of any legal nature being incurred by the person providing it, except where the contrary results from this”*.
313. However, directors, officers and employees (permanent and temporary) of reporting entities are not covered against any liability for making an STR in good faith.

Prohibition against tipping-off (c. 14.2)

314. There is no specific prohibition from disclosing the fact that an STR or related information is being reported or provided to GIFiM, Supervisory Bodies and Attorney General’s Office under Law 7/2002, Decree no. 37/2004 and Law 14/2007.
315. The only tipping-off prohibition is provided under Article 18 of Law 7/2002 where a reporting entity is not allowed to disclose any fact on information provided to a competent judicial authority to aid an investigation .
316. Where a breach occurs, Article 18(2) requires a legal representative of a reporting entity to institute disciplinary proceedings immediately and should dismiss the perpetrator if found guilty. Law 7/2002 does not give reporting entities leeway to explore other sanctions.

Additional element –confidentiality of reporting staff (c. 14.3)

317. There is no law or regulation or any other measure to ensure that the names and personal details of staff of financial institutions that make an STR are kept confidential by the FIU.

Recommendation 19

Consideration of reporting of currency transactions above a threshold (c. 19.1)

318. Mozambique has not considered the feasibility and utility of implementing a system where financial institutions would report all transactions in currency above a fixed threshold to a national agency with a computerized data base.

Recommendation 25

Establishment of guidelines for financial institutions (c. 25.1)

319. In order to provide guidelines to financial institutions for purposes of detecting illicit transactions and money laundering, the Bank of Mozambique issued the following:
- Circular no. 02/SBM/02 – Prevention of Illicit Transactions.

- Circular no. 02/DSB/97 – Prevention of Banking and Financial Fraud.
 - Notice no. 11/GGBM/99 – financial institutions internal controls
320. Put together the guidelines contain elements of CDD process, record retention, appointment of compliance officer, the detection of unusual and suspicious transactions and the reporting obligations which financial institutions should implement pursuant to the provisions of Law 7/2002 and Regulations Decree no. 37/2004.
321. These guidelines were only issued to banks and not to all reporting entities under the AML law and do not cover a description of ML and FT techniques and methods and any additional measures that these institutions and DNFBP could take to ensure their AML/CFT measures are effective.

Feedback to financial institutions (c. 25.2)

322. As competent authorities for receipt and analysis of STRs from banks, Attorney General's Office and the Bank of Mozambique provide limited feedback in the form of acknowledgement of receipt to banks. This is so because only banks do report suspicious transactions in Mozambique.
323. There is no adequate and appropriate feedback given to reporting entities and the authorities do not have regard to the *"FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons"*.

3.7.2 Recommendations and Comments

Recommendation 13

324. The regulatory framework in Mozambique is based on STR reporting regime. However, not all financial institutions and minimum predicate offences are covered for reporting where grounds for money laundering exist. The authorities should amend the law to cover those reporting entities and predicate offences to money laundering not included in a manner consistent with the FATF requirements unless if the authorities can demonstrate that there is low ML/TF risk in a particular sector to apply reporting requirements.
325. The authorities should create an obligation to reporting entities to submit STRs where there are reasonable grounds that funds raise a suspicion or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisation or those who finance terrorism.
326. For purposes of effective STR reporting process especially in the early stages of AML/CFT development in Mozambique, the authorities should require reporting entities to file STRs only to GIFiM as the national FIU. For purposes of working together, the authorities through GIFiM should consider an arrangement which would facilitate information sharing and cooperation in a proper and secured manner with other domestic

stakeholders such as Bank of Mozambique, Attorney General's Office, Criminal Investigation Police, Customs and Anti-Corruption Commission.

- 327. There are no sanctions for failure to file suspicious transaction reports to the FIU, the Attorney General's Office and the supervisory bodies in the AML framework of Mozambique. The authorities should amend the law to stipulate proportionate, dissuasive and effective sanctions for failure to comply with reporting obligations.
- 328. The authorities have not undertaken AML/CFT awareness programmes to reporting entities and the public. Consequently, there is a very low level of awareness among reporting entities regarding ML/TF in Mozambique. To rectify this, the authorities should expeditiously develop and implement effective AML/CFT awareness raising programmes for reporting entities and the general public.

Recommendation 14

- 329. Legal immunity for making an STR is only applicable to financial institutions. This is insufficient as it does not protect directors, officers and employees (permanent and temporary) from both criminal and civil liability for breach of any restriction pursuant to reporting obligations.
- 330. The authorities should prohibit tipping-off when there is a fact that an STR or related information is being reported or provided to the FIU against financial institutions and their directors, officers and employees (permanent and temporary). The current tipping off provision is only applicable where an investigation is underway.
- 331. The authorities should amend AML law or regulations or create an enforceable means to ensure that the names and personal details of staff of financial institutions that make an STR are kept confidential by the FIU.

Recommendation 19

- 332. It is recommended that the authorities in Mozambique should consider the feasibility and utility of implementing a system where financial institutions would report all transactions in currency above a fixed threshold to a national agency with a computerized data base.

Recommendation 25

- 333. The guidelines issued by Bank of Mozambique are targeted mainly at banks, leaving other financial institutions appropriate and proper guidelines to implement counter-measures against money laundering. It is recommended that authorities in Mozambique should expand the scope of issuing guidelines as a matter of urgency by targeting all reporting entities. At minimum, the guidelines should cover description of ML and TF techniques and methods and other areas the authorities see fit to raise compliance level.
- 334. Authorities in Mozambique should develop and implement appropriate and effective measures to ensure that all reporting entities filing STRs

receive adequate feedback. Such feedback should be guided by the “*The FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons*”.

335. Mozambique has not criminalised financing of terrorism. Consequently, there are reporting entities are not required to file STRs related to financing of terrorism. It is recommended that the authorities in Mozambique should take immediate steps to create reporting obligations against terrorist financing.

3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	NC	<ul style="list-style-type: none"> • There are uncovered financial institutions and not all predicate offences are covered as required by the FATF Standards. • Reporting entities not required to file STRs on terrorist financing. • There is low level of AML/CFT awareness among reporting entities. • No sanctions for failure to report • Attempted transactions and those with tax issues not covered. • Effectiveness of the AML system could not be assessed.
R.14	NC	<ul style="list-style-type: none"> • There is no tipping off prohibition on STRs. • Directors, officers and employees (permanent and temporary) are not protected from liability by AML regulatory framework in Mozambique.
R.19	NC	The authorities have not considered the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerised data base.
R.25	NC	<ul style="list-style-type: none"> • Inadequate guidelines issued by supervisory bodies. • The nature and extent of feedback given to reporting entities are inadequate.
SR.IV	NC	There is no legal obligation for reporting entities to file STRs related to terrorist financing.

Internal controls and other measures

3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

3.8.1 Description and Analysis

Recommendation 15

Establish and maintain internal controls to prevent ML& TF (c. 15.1, 15.1.1 & 15.1.2)

336. Article 22 of Law 7/2002 requires all financial institutions with head offices in the Mozambican territory including their subsidiaries, overseas branches and branches to establish a system of internal control such that they are able to comply with the obligations of the law at any time. No further guidance has been provided on what these measures should entail, although Article 26 of Decree 37/04 requires each supervisory authority to issue instructions, to entities falling under their respective supervisory purview, for the purpose of establishing technical and functional mechanisms and means for the prevention and deterrence of ML and to give effect to the provisions of Article 22 of Law 7/2002.
337. Article 4(2) of Decree 41/2003 requires entities licensed to conduct the business of insurance and insurance mediation to adopt, in particular, organisational and internal control measures that allow the verification of money laundering transactions in terms of the applicable legislation.
338. No further guidance has been issued on what these internal control measures should entail. Further, in practice it did not appear to the Evaluation Team that insurance entities were complying with this requirement or that this requirement was being enforced by the regulator.
339. There is also no requirement for financial institutions to communicate internal procedures, policies and controls to prevent ML and TF to employees.
340. There is no requirement in Mozambique for financial institutions to develop appropriate compliance arrangements including the designation of an AML/CFT compliance officer at management level.

Independent audit for internal controls to prevent ML & TF (c. 15.2)

341. Whereas the Evaluation Team was informed that in practice, banks have independent audit functions which also cover anti-money laundering compliance functions, there is however no requirement for financial institutions to maintain an adequately resourced and independent audit function to test compliance with internal procedures, policies and controls to prevent ML and TF.

Ongoing employee training on AML/CFT matters (c. 15.3)

342. Article 24 of Law 7 of 2002 of 5 February requires all financial institutions to provide suitable training to their employees and officials with a view to ensuring compliance with the obligations and duties imposed by that law. There is however no requirement for ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends.
343. From the sample of institutions that were visited in the banking sector, the Evaluation Team was able to establish that AML training for employees was being conducted to some extent. The scope of the training however did not cover new developments, including information on current ML and FT techniques, methods and trends... Money laundering training for

employees in the insurance and other areas of the financial sector was however very minimal if not, non-existent.

Employee screening procedures (c. 15.4)

344. There is no requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees. In practice, out of prudence, banks screen their employees prior to them being hired. The Evaluation Team was informed that the screening procedures involve conducting psychometric tests; checking the criminal records; checking against the “bad list” issued by the Central Bank and referencing with the previous employer.

Additional element – independence of compliance officer (c. 15.5)

345. The general perception of the Evaluation Team was that compliance officers in banks are generally able to act independently.

Recommendation 22

346. Article 2(2) of Law 7/2002 provides that the law also extends to the branches, overseas branches and subsidiaries or any other form of commercial representation of Mozambican commercial companies that are situated abroad. Further Article 5 of Decree 37/04 requires Supervisory Authorities to carry out supervision of branches, overseas branches, subsidiaries or any other form of representation abroad of Mozambican financial entities.
347. However, as at the time of the onsite visit, financial institutions in Mozambique did not have branches or subsidiaries abroad. This recommendation was therefore not applicable.

3.8.2 Recommendations and Comments

348. To adopt preventative measures to combat TF and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations.

Recommendation 15

349. The requirements under Law 7/2002 pertaining to internal control and training should extend to Uncovered Financial Institutions.
350. The requirements under Law 7/2002 and Decree 37/04 should be reviewed to specify that financial institutions must establish and maintain internal procedures, policies and controls to prevent ML and TF that cover CDD, record retention, the detection of unusual and suspicious transactions, and the reporting obligations. There should also be a specific requirement for financial institutions to communicate these internal procedures, policies and controls to employees.
351. There should be specific requirements for financial institutions to-
- develop appropriate compliance arrangements including the designation of an AML/CFT compliance officer at management level;

- to maintain an adequately resourced and independent audit function to test compliance with internal procedures, policies and controls to prevent ML and TF
- establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends. The ongoing training requirement should ensure that there is a clear explanation of all aspects of AML/CFT laws and obligations and that it covers requirements concerning CDD and suspicious transaction reporting
- put in place screening procedures to ensure high standard when hiring employees.

Recommendation 22

It is recommended that Mozambican authorities should review the existing provisions of Law 7/2002 to introduce specific requirements in relation to foreign branches and subsidiaries to ensure that they apply AML/CFT measures consistent with the FATF Recommendations and apply the higher of either domestic or Mozambican standards and inform the home supervisor if they are unable to do so. These requirements should also extend to the Uncovered Financial Institutions.

3.8.3 Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	NC	<ul style="list-style-type: none"> • The requirement to establish internal procedures, policies and controls to prevent ML is couched in general terms and does not expressly cover CDD, record retention, the detection of unusual and suspicious transactions, and the reporting obligations. • To the extent that TF is not criminalized in Mozambique, the preventative measures are not designed to combat TF. • There is no requirement for financial institutions to communicate internal procedures, policies and controls to prevent ML and TF to employees. • There is no requirement for financial institutions to develop appropriate compliance arrangements including the designation of an AML/CFT compliance officer at management level. • There is no requirement for financial institutions to maintain an adequately resourced and independent audit function to test compliance with internal procedures, policies and controls to prevent ML and TF • There is no requirement for financial institutions to establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends. • There is no requirement for financial institutions to put in place screening procedures to ensure high standard when hiring

		employees.
R.22	N/A	<ul style="list-style-type: none"> Financial Institutions in Mozambique do not have foreign branches or subsidiaries.

3.9 Shell banks (R.18)

3.9.1 Description and Analysis

Prohibition of establishment of shell banks (c. 18.1)

352. The Authorities indicated that there are no shell banks operating in Mozambique and they would not authorize shell banks to operate in Mozambique. Mozambican licensing requirements effectively prevent the establishment of shell banks.
353. Banks must be authorized by the Bank of Mozambique and the licensing procedures are set out under Law 15/99 (as amended by Law 9/204) and Decree 56/2004. Pursuant to article 14(1) of Law 15/99, the application particulars must include programme of activities, geographical distribution, organizational structure and human, technical and material resources to be used. In addition, the application must identify the founding shareholders and specify the capital subscribed by each of them together with a declaration that the funds to be used and mobilized are not from an illicit or criminal source. Under Article 7 of Decree 56/2004, a bank can only begin its activities after the Bank of Mozambique has inspected the premises where the institution will operate to assess the suitability for the activity proposed.
354. The Bank of Mozambique indicated that it rejected one application weaknesses were found in the calibre of the applicants. With respect to another application, further information was sought from the home regulator of the applicant. The application was granted after the applicant cleared all outstanding issues with the home regulator.
355. It is to be noted that in accordance with Article 16 of Law 15/99 an authorization lapses if the institution is not incorporated within 3 months of the date of the authorization or if it does not commence business within a period of 12 months. In exceptional circumstances, if the institution submits a fully reasoned request, the Bank of Mozambique may grant a single extension of the time limit for commencing business for a further period of 6 months.

Prohibition of correspondent banking with shell banks (c. 18.2)

356. There is no requirement in Mozambique prohibiting financial institutions from entering into or continuing correspondent banking relationships with shell banks.

Requirement to satisfy respondent financial institutions prohibit the use of accounts by shell banks (c. 18.3)

357. There is no requirement in Mozambique for financial institutions to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks.

3.9.2 Recommendations and Comments

358. The licensing regime for banks in Mozambique appears to be robust enough to prevent the operations of shell banks in the country. The Authorities should however consider the following:

- Introducing a requirement prohibiting financial institutions from permitting or entering into, or continuing, correspondent banking relationships with shell banks.
- Requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks

3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	PC	<ul style="list-style-type: none"> • There is no requirement in Mozambique prohibiting financial institutions from entering into or continuing correspondent banking relationships with shell banks. • There is no requirement in Mozambique for financial institutions to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks.

Regulation, supervision, guidance, monitoring and sanctions

- 3.10 **The supervisory and oversight system - competent authorities and SROs**
Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)

3.10.1 Description and Analysis

Recommendation 23

Regulation and supervision of financial institutions (c. 23.1)

359. Article 4 of Law Decree 37/04 empowers the BoM and the IGS to carry out supervision of financial entities falling within their respective supervisory purview in the context of the prevention and deterrence of money laundering. There is however no designated AML supervisor for the postal services.
360. Further, Article 49(2)(e) of Decree 41/2003 gives express powers to the IGS to issue technical and additional instructions for proper compliance with the law and other regulatory provisions including instructions relating to

procedures to be observed by entities licensed to pursue the business of insurance and insurance mediation in respect of the prevention and deterrence of money laundering transactions, in the terms of the applicable legislation.

- 361. Onsite supervisions by the financial regulators are covered under criterion 29.1. Sanctions are covered under Recommendation 17.
- 362. Insurance intermediaries are however not subject to the AML Law 7/2002 of 5 February and this exclusion creates a scope issue. Since they are not covered under Law 7/2002, they are not subject to the obligation to verify the identity, record keeping requirements and reporting requirements under the AML Law 7/2002. While it is noted that “insurance intermediaries” are subject to the AML Decree 37/2004, the assessment team was of the view that Decree 37/2004, being a subsidiary legislation, could not extend the scope of application of Law 7/2002. These gaps in the scope of the AML obligations affect the ratings relative to some of the Recommendations discussed under the section of this report. The ratings are also affected as terrorist financing is not criminalised in Mozambique.

Designation of competent authority (c. 23.2)

- 363. Pursuant to Article 4 of Decree 37/04 the BoM and the IGS are required to carry out the supervision of financial entities for the purposes of the prevention and deterrence of money laundering.
- 364. Article 4 of Decree 37/04 extends the supervisory purview of the Bank of Mozambique beyond its supervisory scope as laid down in its Organic Law. The Evaluation Team is of the view that the designation of BoM for AML supervision through the Decree (a legal instrument lower than a Law in the hierarchy of legal instruments) may be subject to legal challenge in the courts and should instead be laid down in the Law.

Recommendation 30

Structure, funding, staffing and other resources of AML/CFT supervisors (c. 30.1)

Bank of Mozambique (BoM)

- 365. The operational independence of the BoM is set out in Article 1 of Chapter 1 of the Organic Law of the Bank of Mozambique (Law1/92) which grants BoM financial and administrative autonomy. Article 61 of Law 1/92 further stipulates that BoM shall be governed by its own legislation and rules in all matters concerning the organization of the budget, the performance of its services, the payment of its expenditure and the submission, inspection and assessment of its accounts. BoM is self funded and derives its funds from the application of its profits from its operations. Annually, the Bank must prepare an operating budget which must be submitted to the Minister of Finance¹⁹.

¹⁹ Article 262 of Law 1/92

366. The Board of the Bank is composed of seven members: the Governor and the Deputy Governor who are appointed and dismissed by the President of the Republic in accordance with the Constitution, and five directors who are appointed by the Prime Minister. They can only be dismissed for a just cause.²⁰ Article 51 of Law 1/92 lays down conflict of interest rules that must be observed by the members of the Board of the BoM.
367. BoM carries out its banking supervision function through its Banking Supervision Department (the BSD). The BSD has a staff of 50 technical professionals - 7 are in licensing, 6 are dedicated to the functions of regulations, 7 dedicated to financial corporations and 24 devoted to prudential supervision (on-site and off-site supervision).
368. Given the range of financial institutions that fall under the AML supervision of BoM the evaluation team was the view that the BoM was not adequately staffed to undertake its AML supervisory functions.

General Inspectorate of Insurance (IGS)

369. Article 1 of Chapter 1 of the Charter of the General Inspectorate of Insurance (Decree 42/99 of 20 July) establishes the IGS as a corporate person with administrative autonomy. The IGS functions under the supervision of the Ministry of Planning and Finance. Its purpose is to supervise and inspect, according to the law and regulations, the activities of insurance, reinsurance, insurance mediation and pension funds.
370. According to the Internal Regulations of the General Inspectorate of Insurance (Ministerial Diploma 129/99) the IGS comprises the following: management board, Inspection and Audit Department; Research and Licensing Department; Legal and Litigation Department, Administration and Finance Division and a Secretariat. The IGS is headed by an Inspector General of Insurance assisted by a Deputy Inspector General. The Inspection and Audit Department is responsible for the onsite and offsite supervision of licensed entities. At the time of the on-site visit, it had 5 staff member whom were carrying out inspections for prudential purposes.
371. The IGS is funded by a percentage, as determined by the Minister of Planning and Finance, of fines and fees paid by entities subject to its supervision. The remuneration of the personnel of IGS is that applicable to the public service, and is paid from the State budget.
372. The IGS has expressed the wish for more funding and for more staff members.

Integrity of AML/CFT supervisors (c. 30.2)

373. Staff member of BoM are subject to professional secrecy under Article 74 of Law 1/92. Article 78 of Law 1/92 provides that members of the board of directors and Bank staff shall not accept directly or indirectly, any

²⁰ Article 45 of Law 1/92

commissions or gifts for the provision of services, whether for themselves or for their spouses, ascendants, descendants and other relatives to the first degree. In addition, staff members of the BSD have a Code of Conduct. The authorities have not provided further details on the Code of Conduct.

374. In accordance with the provisions of Article 15 of Decree 42/99, IGS personnel are governed by the rules applicable to public servants. Public servants are governed by a Public Service Regulations that contain provisions relating to ethics and confidentiality

Training for staff of AML/CFT supervisors (c. 30.3)

375. Employees of the Bank of Mozambique in the BSD have received general and specific AML training. Two staff members have attended the World Bank/ESAAMLG Training Workshop for Mutual Evaluators. The IMF also provided training on AML onsite supervision in 2006. The BSD is planning to send around 9 staff members on attachment with other banking regulators in the region for AML/CFT onsite inspection training.
376. The IGS staff members have received limited AML training and the IGS has expressed the wish for AML training for its staff.

Recommendation 29

Power for supervisors to monitor AML/CFT requirement (c. 29.1)

377. Article 23 of Law 7/2002 requires the supervisory authority to centralise all information provided by financial institutions and conduct internal audits in order to ensure effectiveness of measures set down in this Law.
378. Further, Article 4(a) of Decree 37/2004 requires BoM to carry out the supervision of the following financial entities in the context of the prevention and deterrence of money laundering: (a) banks and micro banks, finance leasing companies, credit cooperatives, factoring companies, investment companies, stock exchange, electronic currency institutions, offices that issue and manage payment instruments, companies that issue or manage credit cards, brokering firms, investment fund managers, property management companies, risk capital companies, group purchase managers, foreign exchange bureaux, discount houses, individuals or corporate persons who perform credit functions and any other entities that may, through a legal instrument, come under the supervision of the BoM.
379. It is to be noted however that, Article 4 of Decree 37/04 extends the supervisory purview of the Bank of Mozambique beyond its supervisory scope as laid down in its Organic Law. The Evaluation Team is of the view that the powers of BoM for AML supervision through the Decree (a legal instrument lower than a Law in the hierarchy of legal instruments) may be subject to legal challenge in the courts and should instead be laid down in the Law.

380. Article 4(b) of Decree 37/2004 requires the IGS to carry out the supervision of the following financial entities in the context of the prevention and deterrence of money laundering: entities qualified to carry out insurance business; insurance intermediaries and any other entities that may, through a legal instrument, come under the supervision of the IGS.
381. Insurance intermediaries are however not subject to the AML Law 7/2002 and are therefore not subject to the obligation to verify the identity, record keeping requirements and reporting requirements under the AML Law 7/2002. While it is noted that “insurance intermediaries” are subject to the AML Decree 37/2004, the assessment team was of the view that Decree 37/2004, being a subsidiary legislation, could not extend the scope of application of Law 7/2002.
382. Under Article 5 of that law, these powers are extended to the branches, overseas branches, subsidiaries or other form of representation abroad of such entities.

Authority to conduct AML/CFT inspections by supervisors (c. 29.2)

383. The supervisory powers of the BoM are derived from Article 38 of Law 1/92 and Article 74 of Law 15/99. Article 38 of Law 1/92 provides that the BoM shall have the power to carry out inspections of the establishments of financial institutions that are subject to its supervision in accordance with the law. While Article 74(1) and (3) of Law 15/99 read together provide that financial institutions shall allow the BoM to inspect their establishments and examine their records onsite to verify, *inter alia*, their compliance with the legal and regulatory rules that discipline their activity, their administrative organisation and the efficacy of their internal control mechanisms.
384. Article 101 of Law 15/99 provides that obstructing or refusing to allow the BoM to conduct an inspection is an offence punishable in terms of Article 186²¹ of the Penal Code.

²¹ The unofficial translation of Article 186 of the Criminal Code, reads as follows: He who, using violence or threats, objects to the public authority exercising its functions, or their respective warrants them to fulfill, whether it takes place immediately the opposition against the same authority, whether it takes place against any of his subordinates or agents, known as such and exercise their functions for the execution of the laws and said warrants shall be damned: 1. - Imprisonment up to two years and fined up to two years if the opposition has produced effect, impeding that exercise or performance, and has been done with weapons or for more than two people; 2. - Imprisonment up to two years and a fine of up to six months if the circumstances specified in paragraph .1 of this article the opposition has been done without weapons or for less than three people; 3. - Imprisonment up to one year in all other cases. § Single - If the means employed for the resistance, or the subject of a criminal offense, the penalty that applies more severe than those established herein shall be generally observed for the accumulation of crimes.

385. The IGS derives its supervisory powers from Article 5(2)(j) of Decree 42/99 which provides that the IGS may inspect or audit, whenever it deems appropriate, undertakings subject to its supervision, request information and documents and conduct investigations and examinations of any entity at any place, in the context of performing its functions.
386. The BoM had conducted four AML onsite inspections in 2006 and there had been no further on-site inspections. The IGS had not undertaken any on-site inspection for ensuring that financial institutions falling under its supervisory purview were complying with AML requirements.

Power for supervisors to compel production of records (c. 29.3 & 29.3.1)

387. Pursuant to the provisions of Article 74 of Law 15/99, the BoM may request any information it considers necessary for the verification of their degree of liquidity and solvency, risk that face, compliance with laws and regulations governing its activities, its administrative organization and the effectiveness of their internal controls.
388. As discussed above the IGS may under the provisions of Article 5(2)(j) of Decree 42/99 request information and documents in the context of performing its functions. Additionally, under the provisions of Article 6 of Decree 42/99, the IGS may request information that it deems relevant from any individuals or corporate persons that pursue activities that fall under the supervision of the IGS.
389. The exercise of the above powers to request information are not predicated on the need to require a court order, and appear to be couched in sufficiently large terms to request any document. However, it was not clear whether it was mandatory for financial institutions to comply with such requests.

Powers of enforcement & sanction (c. 29.4)

390. Pursuant to the provisions of Article 17(3) of Law 15/99 BoM may order the preventive suspension of the authorisation where there is a well founded fear of disturbance of the money, financial or foreign exchange markets, serious damage to the confidence in the financial system or continued practice of serious irregularities.
391. Under the terms of Article 73 of Law 15/99, where the conditions under which the activity of a credit institution or finance company is run do not comply with rules of sound and prudent management, then the BoM has the power to require the financial institution to take corrective measures within such time limit as it may set and it can also recommend that the manager in charge of a financial institution be replaced or removed.
392. Under Article 38 of Law 7/2002 BoM has the exclusive responsibility for investigating the contraventions foreseen in articles 10, 12, 14, 15, 16, 17 and 18 of Law 7/2002.

393. BoM has not used these enforcement measures against financial institutions or their senior managers for failure to comply with or properly implement requirements to combat money laundering. The effectiveness of these measures could therefore not be assessed.
394. The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team.
395. BoM and IGS do not have powers to impose sanctions for breaches of Law 7/2002 and Decree 37/04. Under the provisions of Article 35(3) of Law 7/2002 a judicial decision is required for the revocation or suspension of the authorisation to conduct business for three years (depending on the gravity of the offence) or for prohibiting individuals from holding administrative, leadership or management positions in financial entities. These are discussed further under criterion 17.1.

Recommendation 17

Availability of effective, proportionate & dissuasive sanctions (c. 17.1)

396. Article 34 of Law 7/2002 prescribes the fines that are applicable to offenders for failure to comply with the AML obligations under Law 7/2002. These are summarised in the table below.

Breach of Law 7/2002	Applicable fine
Art. 10 –Obligation to identify and verify the identity of clients	One hundred and fifty minimum wages – equivalent to approx. USD 14,000)
Art. 14-requirement to refuse to perform operations with respect to persons who do not provide identification	
Art. 19(1)-Duty to refrain from executing operations pending decision from AGO	
Art. 22(1) failure to establish internal controls to comply with the obligations under Law 7/2002	
Art.12 –special obligation of diligence	From three hundred and seven to eight hundred and eighty five minimum wages equivalent to approx. USD 45,000 to 84,000
Art.15-Record keeping	From four hundred and sixty one to five hundred and thirty eight minimum wages equivalent to approx. USD 44,000 to 53,000

Art. 18(2)-Duty of professional secrecy	Seventy six minimum wages equivalent to approx. USD 7,000
Art.19(1)-Duty to refrain from executing transactions pending decision from AGO	From five hundred and thirty eight to six hundred and fifteen minimum wages equivalent to approx. USD 51,000 to 58,000.

397. In addition to these fines, the court may in terms of Article 35 of Law 7/2002 impose the following additional measures-
- In case of a repeated offence by corporate entities-revocation or suspension of the authorisation to conduct business for three years, according to the gravity of the offence;
 - In the case of individual responsibility-prohibition from holding administrative, leadership or management positions in financial entities, or acting as legal or voluntary representative, for a period of one to ten years.
398. The supervisory authority is also required to give public notice of the judicial decision at the expense of the offender.
399. The effectiveness of the sanctions described above, which appeared to be proportionate and dissuasive, could not be ascertained at the time of the evaluation as no sanctions had been imposed for failure to comply with national AML requirements.

Designation of authority to impose sanctions (c. 17.2)

400. In accordance with the provisions of Article 39 of Law 7/2002 and Article 23(2) of Decree 37/04, after the completion of an investigation by the relevant investigatory body the case must be referred to the Provincial and Maputo City Judicial Courts for decision.
401. However, the procedures that must be followed for the investigation of breaches of AML requirements imposed on financial institutions under the law and regulations are not clear. This may seriously undermine the application of sanctions by the courts.
402. Article 38 of Law 7/2002 specifies that the BoM is exclusively responsible for investigating the contraventions foreseen in articles 10, 12, 14, 15, 16, 17 and 18. The Ministry of Finance is responsible for investigating the contravention foreseen in Article 19 and the investigation of the other offences fall within the jurisdiction of the PIC.
403. It was not clear to the evaluation team why the IGS was excluded from the provisions of Article 38.
404. Articles 20 of Decree 37/04 provides that financial entities that violate their duties foreseen in Law 7/2002 and the regulations shall be subject to the contravention proceedings set out in this chapter. Article 21(1) of Decree 37/04 further provides that the authorities indicated in Article 38 of Law 7/2002 shall have the competence to investigate cases of contravention for

the *commission of acts of money laundering*. Unfortunately, the Decree does not define the term “*commission of acts of money laundering*”.

- 405. It was not clear to the Evaluation team whether the procedures under Article 21 of Decree 37/04 will apply to violations of the AML requirements by the financial entities as there is no authority to support that these violations would be tantamount to the “commission of acts on money laundering”.
- 406. No sanctions have been applied therefore the effectiveness of these provisions could not be determined at the time of the evaluation.

Ability to sanction directors and senior management of financial institutions (c. 17.3)

- 407. Under Article 27 of Law 7/2002, financial entities and individuals who hold offices in the management of corporate bodies, their members, and individuals performing and acting as legal or voluntary representatives who contravene the requirements of the obligation to collaborate under Article 17 of the law are responsible for the commission of the offences.
- 408. Article 29 of Law 7/2002 also provides that the responsibility incurred by financial entities as corporate entities shall not exclude the personal responsibility of individuals who act as members of their management bodies or who act as directors, heads or managers of the financial entities.
- 409. Further, as discussed under criterion 17.2 above, the court may under Article 35 of Law 7/2002 apply additional sanctions to corporate entities and individuals.

Range of sanctions – broad and proportionate (c. 17.4)

- 410. The range of sanctions that can be imposed by the courts are described above and appear to be relatively broad and proportionate to the severity of a situation.

Prevention of criminals from controlling institutions and fit and proper criteria (c. 23.3 & 23.3.1)

Bank of Mozambique

- 411. Article 37 (2) (c) of the Organic law of the Bank of Mozambique (Law No. 1/92 of 3 January) sets out the requirement for the BoM to assess the suitability of shareholders of credit institutions when such shareholders represent more than 10 % of the share capital of the institution, evaluate the technical and professional capacity of their general managers or directors, and establish the mandatory requirements for the performance of these functions.
- 412. Further, Article 14 of Law 15/99 deals with the application process for banks and other financial institutions falling under the supervisory purview of the Bank of Mozambique. Amongst the documents that must be submitted when applying for registration of a credit institution or finance company

Article 14(1)(e) of Law 15/99 requires the identification of the founding shareholders and a declaration that the funds to be used and mobilised are not from an illicit or criminal source. Pursuant to Article 15(2)(g) of Law 15/99 the BoM may withhold its authorisation for a licence where there are well founded doubts or reasonable suspicion about the fitness, experience or competence of the applicants or the illicitness of the origin or source of the funds being allocated to the business.

413. In accordance with Article 65 of Law 15/99, any change in the shareholding of a licensee considered as a qualifying holding is subject to the prior approval of the BoM. Article 2(k) of Law 15/99 defines a qualifying holding as a direct or indirect holding in a company which represents not less than 10% of the capital or of the voting rights of that company. Further, Article 65A(3)(c) of Law 15/99 provides that the BoM shall not grant request for the change in the shareholding of the licensee where it has well founded doubts about the lawfulness of the origin of funds used to acquire the holding or about the true identity of the owner of such funds.
414. Articles 19 and 20 of Law 15/99 BoM prescribe the requirements relating to the fitness and properness of office holders of banks and other financial institutions. Article 19 (4) sets out the circumstances regarding lack of fitness and these include insolvency, convictions for fraudulent bankruptcy, negligence, theft, forgery, fraud, extortion, money laundering, other crimes of an economic nature.
415. Article 19 (1) of law 15/99 stipulates that the provisions of that law with regard to office holders in corporate bodies shall extend with necessary changes to holders of relevant management positions in the terms defined by the Bank of Mozambique. Article 28 on the other hand requires managers of overseas branches or representative offices to be subject to all the fit and proper requirements that the law prescribes for members of the board of directors of credit institutions and finance companies whose head office is in Mozambique.

General Inspectorate of Insurance

416. The licensing regime for insurance business in Mozambique is laid down in Law 3/2003 of 21 January (authorities in Mozambique please provide a copy of Law 3/2003). Decree 41/23 approves the regulations of Law 3/2003 and sets out further requirements for the conduct of insurance business in Mozambique.
417. Article 1 of Decree 41/2003 sets out the procedure for the licensing insurance companies in Mozambique. In support of the application, amongst other documents, the following must be submitted:-
 - Personal identification of the founder shareholders, specifying the respective holding of each one and indicating the origin of the funds
 - Where the founding shareholders are individuals, a criminal record certificate must also be submitted. In case of corporate shareholders, a

criminal record certificate must be submitted for the respective administrators, directors and managers.

- A sworn statement from each of the founding shareholders with qualifying shareholdings, certifying that at no time have they or any of the commercial companies under their control or of which they were administrators, directors or managers as the case may be, been declared insolvent or bankrupt and that they have always practised sound and prudent management in these same companies.

418. The term “sound and prudent management” is defined under Article 4 of Decree 41/2003 and means the absence of a number of conditions, including, justified doubts as to lawfulness of the provenance of the funds used in the acquisition of the holding or of the true identity of the owner of such funds. It is to be noted that an application for a licence to conduct insurance business may be refused where guarantees of adequate sound and prudent management are found to be lacking (Article 6(4) of Decree 41/2003).
419. Article 19(2)(a) and (b) of Law 3/2003 and Decree 41/2003 set out the requirement for the members of the supervisory body and the board of the general meeting of insurance entities to satisfy the integrity test. Amongst other requirements, the person in question must not have been convicted of indicted for a number of crimes including, robbery, theft, breach of trust, issuing cheques without funds, fraud, forgery, embezzlement, bribery and corruption.
420. Any change in the shareholding structure of a licensed entity must obtain the prior approval of the Minister of Planning and Finance who approves such changes on the advice of the IGS if it is deemed that adequate conditions exist to guarantee the sound and prudent management of the licensed entity (Article 11(2) of Decree 41/2003).
421. Article 19(2)(b) of Law 3/2003 read in conjunction with Article 5 of Decree 41/2003 set out the requirement for professional experience.
422. Insurance brokers are also subject to similar fit and proper requirements pursuant to Article 39 of Decree 41/2003.
423. It is to be noted however, that there is no measure in place for preventing criminals or their associates from holding or being the beneficial owner of a significant or controlling interest in a financial institution.

Licensing or registration of Value Transfer Services (c. 23.5)

424. Money/value transfer services are provided by banks and the Post Office. Money transfer operators such as Western Union and MoneyGram are only provided through banks. Independent standalone money transfer operators are not allowed. In the informal sector, the means of money transfer is mostly by carrying cash by hand (personally or through an agent such as a friend, a relative or a taxi driver). The informal remittance sector is unregulated.

425. Pursuant to the provisions of Article 7(2) of Law 15/99 only credit institutions and finance companies can perform payment operations on a professional basis in Mozambique. The term “payment operations” is not defined under the Law but according to the BoM the term includes money transfer services.
426. The incorporation of credit institutions and finance companies must be authorised by the Governor of the Bank of Mozambique as required under Article 13 of Law 15/99. The conduct of financial activities regulated under Law 15/99 without authorisation is an offence punishable by a fine of at least 10 million Meticaís under Article 106(a) of Law 15/99.
427. In accordance with the provisions of section 5(h), a foreign exchange bureau is a finance company and must, as required under Article 13 of Law 15/99, obtain the authorisation of the Governor of the Bank of Mozambique for incorporation.

Licensing of other financial institutions (c. 23.7)

428. The other financial institutions that operate in Mozambique are required to be licensed under Law 15/99 by the BoM.

Application of prudential regulations to AML/CFT (c. 23.4)

429. Mozambique underwent a full assessment of the BCP as part of the joint IMF/World Bank Financial Sector Assessment Programme. The onsite mission took place in February 2009 and the mission found that compliance had significantly improved although some important areas require strengthening²². Although there are some deficiencies regarding Mozambique’s compliance with the BCPs it appeared to the assessment team that the regulatory and supervisory measures that apply for prudential purposes and which are relevant to money laundering apply in a similar manner for AML purposes.
430. Mozambique is neither a member of the IAIS nor of the IOSCO and as such is not bound to adhere to the IOSCO Principles for Securities Regulations or the IAIS Insurance Core Principles. On this basis, it appeared to the assessment team that the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering could not apply in a similar manner for AML purposes.

Monitoring and supervision of Value Transfer Services (c. 23.6)

431. Credit and finance institutions are subject to the requirements of the AML law and regulations. While the BoM is responsible for the AML supervision. However, at the time of the onsite visit, the BoM was not undertaking onsite inspections and offsite monitoring for ensuring that the credit institutions and the finance companies are complying with the AML law. The Evaluation Team was advised that four onsite AML inspections (2

²² IMF Country Report No. 10/12, January 2010

banks and 2 exchange bureaus) had been conducted in 2006 by BoM with technical assistance from the IMF.

432. Pursuant to Article 4(d) of Decree 37/04, it would appear that the Post Office falls under the supervision of the BoM for AML purposes in respect of its banking activities. No AML supervision is being undertaken by BoM with respect to the Post Office.

AML/CFT supervision of other financial institutions (c. 23.7)

433. Except for insurance intermediaries all other financial institutions that are operating in Mozambique are subject to Law 7/2002 and are required to be supervised by BoM for AML/CFT purposes. There is however no effective AML supervision of other financial institutions in practice.

Statistics (applying Recommendation 32.2d)

434. Other than the four onsite inspections that were conducted in 2006 by BoM, there are no statistics on onsite inspections and sanctions were available as AML inspections had not been carried out and no sanction had been applied.
435. No formal request for assistance was made or received by the financial regulators in relation to AML/CFT.

Recommendation 25

Guidelines for financial institutions (applying c.25.1)

436. Article 26 of Decree 37/04 provides that in order to give effect to the provisions of Article 22 of Law 7/2002, each supervisory authority must issue instructions to the entities under its supervision for the purpose of establishing technical and functional mechanisms and means for the prevention and deterrence of money laundering. As at the date of the assessment, neither the BoM nor the IGS had established any such guidelines.
437. However, it was noted that by virtue of its powers under Article 37(2) of Law 1/92, the BoM had issued Circular No.001/DSB/2003 (dated 21 August 2003) requiring financial institutions under its supervision to-
- (a) report suspicious operations simultaneously to the Public Prosecution Service and to BoM and
 - (b) establish a unit or appoint an individual for the internal and external coordination of all matters relating to ML and to communicate the details of such arrangements to the BSD of the BoM.
438. No other guidelines had been issued to give assistance on issues covered under the relevant FAFT recommendations, including: (a) description of ML and FT techniques and methods and (ii) any additional measures that financial institutions could take to ensure that their National AML/CFT measures are effective.

3.10.2 Recommendations and Comments

General

439. Overall the supervisory framework should be extended to insurance intermediaries which are currently not covered under the AML law. Further, preventative measures to combat TF should be adopted and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations.

Recommendation 23

440. It is recommended that Law 7/2002 should be amended to provide for the designation of BoM as the AML supervision for financial institutions falling under its supervisory purview.
441. The authorities in Mozambique should designate an AML supervisory body for postal services.
442. The “fit and proper” measures to prevent criminals or their associates from gaining control of institutions is fairly robust however, the requirements in Law 15/99 should be extended to cover beneficial owners as they are not currently covered.
443. Authorities in Mozambique should ensure that the regulatory and supervisory measures for financial institutions subject to the IOSCO Principles for Securities Regulations or the IAIS Insurance Core Principles that apply for prudential purposes and which are also relevant to money laundering should also apply in a similar manner for AML purposes.
444. The BoM and IGS should put in place appropriate measures to ensure that other financial institutions are effectively regulated and supervised for AML/CFT purposes.
445. The BoM should put into place appropriate measures to ensure that natural and legal persons providing money or value transfer service or a money or currency changing service are subject to an effective system for monitoring and ensuring compliance with national AML/CFT requirements.

Recommendation 29

446. BoM and IGS should develop and implement an on-site inspection programme, including the review the policies, procedures, books, records and sample testing, to ensure that financial institutions comply with AML/CFT requirements.
447. The relevant laws should be amended to enhance the power of the BoM and IGS to compel production of or obtain access to all records, documents or information relevant to monitoring compliance.
448. The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team.

Recommendation 17

449. The procedures, set out under Article 21 of Decree 37/04, that must be followed for the investigation of breaches of AML requirements imposed on financial institutions under the law and regulations must be clarified.

Recommendation 30

450. The Mozambican authorities should ensure that BoM and IGS are adequately funded and staffed to undertake the AML/CFT supervision of financial institutions. Ongoing AML/CFT training should also be enhanced.

Recommendation 32

451. The BoM and IGS must put into place appropriate measures that would enable them to maintain comprehensive statistics on: (a) onsite inspections that they will be conducting and sanctions applied, and (b) formal requests for assistance made or received by supervisors relating to or including AML/CFT, including whether the request was granted or refused.

Recommendation 25

452. The BoM and IGS must issue guidelines to give assistance to financial institutions to comply and implement with their respective AML/CFT requirements. At a minimum, the guidelines should give assistance on issues covered under the relevant FAFT recommendations, including: (i) a description of ML and FT techniques and methods and (ii) any additional measures that financial institutions could take to ensure that their National AML/CFT measures are effective.

3.10.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	PC	<ul style="list-style-type: none"> To the extent that TF is not criminalized in Mozambique, the preventative measures are not designed to combat TF The procedures that must be followed for the investigation of breaches of AML requirements imposed on financial institutions under the law and regulations are not clear. This may seriously undermine the application of sanctions by the courts. Insurance intermediaries are not covered under Law 7/2002. The effectiveness of the regime for sanctions could not be assessed as no sanctions had been applied at the time of the assessment.
R.23	NC	<ul style="list-style-type: none"> To the extent that TF is not criminalized in Mozambique, the preventative measures are not designed to combat TF Insurance intermediaries are not covered under Law 7/2002. There is no designated AML supervisor for the postal services. There are no measures in place for preventing criminals or their associates from holding or being the beneficial owner of a

		<p>significant or controlling interest in a financial institution.</p> <ul style="list-style-type: none"> • There are some deficiencies regarding Mozambique's compliance with the BCPs and it did not appear the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering could apply in a similar manner for AML purposes for financial institutions that are subject to the IOSCO Principles for Securities Regulations or the IAIS Insurance Core Principles. • Natural and legal persons providing money or value transfer service or a money or currency changing service are not subject to an effective system for monitoring and ensuring compliance with national AML/CFT requirements. • There is no effective AML supervision of other financial institutions.
R.25	NC	No guidelines have been issued to assist financial institutions to implement and comply with their respective AML/CFT requirements.
R.29	NC	<ul style="list-style-type: none"> • To the extent that TF is not criminalized in Mozambique, the preventative measures are not designed to combat TF • Insurance intermediaries are not covered under Law 7/2002. • The scope of AML/CFT onsite inspections could not be determined as financial supervisors had not put into place any such programmes. • It is not clear whether it is mandatory for financial institutions to comply with such requests for information from the BoM and the IGS. • The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team. • The investigative powers of BoM under Decree 37/04 are not clear. • The overall effectiveness of the AML supervisory regime could not be determined as the financial supervisors were not undertaking the AML/CFT supervision of financial institutions.

3.11 Money or value transfer services (SR.VI)

3.11.1 Description and Analysis (summary)

Designation of registration or licensing authority (c. VI.1)

453. Money or value transfer services are provided by banks and Postal Office through the Postal Savings Bank in the form of postal orders. The Postal Savings Bank is a micro-bank licensed under Article 4 of Decree 57/2004. Independent money or value transfer companies are not allowed to render MVT services. The only way an independent money or value transfer company can provide such services is by having a relationship arrangement with a licensed bank through which a service provider can use its money transfer platform as part of a bank. Money Gram and Western Union have entered into relationship arrangements with licensed banks to provide

money or value transfer services. In terms of Article 13 of Law 15/99 Credit Institutions and Finance Companies as amended by Law 9/2004 banks must obtain licence to conduct business operations from Bank of Mozambique.

454. However, there is no specific requirement for money or value transfer service providers to be registered and/or licensed by a competent authority.
455. The authorities indicated that all remittances were conducted using the formal banking system and that they were not aware of any informal means of money or value transfer services in Mozambique.

Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23 & SRI-IX) (c. VI.2)

456. Money laundering and terrorist financing findings made in sections 3.2-3.10 is applicable to SRVI.2 with regards to MVT services licensed as banks and the postal services.

Monitoring of value transfer service operators (c. VI.3)

457. In general, Bank of Mozambique monitors compliance with money laundering obligations through inspections conducted at banks. Banks interviewed indicated that Bank of Mozambique inspects transactions with large value, foreign destination and KYC information on occasional transactions.
458. Money or value transfer services by Postal Office are not monitored for compliance with applicable FATF Recommendations. **Further information on mobile operators and informal money or value transfers.**

List of agents of value transfer service operators (c. VI.4)

459. The authorities do not require licensed or registered MVT service operators to maintain a current list of its agents which must be made available to a designated competent authority.

Sanctions (applying c.17.1-17.4- c. VI.5)

460. Sanctions discussed under FATF Recommendation 17 in this report apply to MVT services provided through licensed banks. Postal Office is not subjected to AML obligations, and therefore there are no sanctions applicable to it.

Additional element- applying Best Practices Paper for SR VI (c. VI.6)

461. Mozambique does not apply Best Practice Paper MVT services as required:
- There is no specific requirement to license or register all MVT service operators with a competent authority, i.e. Bank of Mozambique.
 - There is no requirement to maintain a list of agents.
 - Bank of Mozambique has not developed a system to enforce compliance with money laundering obligations.

- MVT service providers are not subjected to CFT obligations.

3.11.2 Recommendations and Comments

462. The authorities in Mozambique should do the following to comply with the requirements under SRVI:

- All independent MVT should be licensed and/or registered by a competent authority.
- The authorities should consider applying the Best Practice Paper on SRVI.
- The authorities should subject all MVT service operators to AML/CFT obligations and put in place effective measures to monitor compliance.
- The authorities should require licensed or registered MVT service providers to maintain a current list of its agents which must be available to a designated competent authority, i.e. Bank of Mozambique.
- Ensure that sanctions for non-compliance under FATF Recommendation 17 are applicable to independent MVT service operators.

3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	NC	<ul style="list-style-type: none"> • There is no specific requirement for MVT service providers to be licensed or registered. • MVT service providers are not required to maintain a current list of agents. • MVT service providers are not adequately monitored for compliance with FATF Recommendations. • Sanctions have not been applied and effectiveness could not be determined.

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1 Customer due diligence and record-keeping (R.12) (Applying R.5, 6, and 8 to 11)

4.1.1 Description and Analysis

Legal framework

463. The AML legal framework for DNFBP's in Mozambique is not comprehensively addressed as required by the FATF standards. Only casinos are covered under Law 7 / 2002 and Decree 37/2004. Although real

estate agents, dealers in precious metals and stones, lawyers and accountants operate in Mozambique, they are not subject to the AML law and regulations. TCSPs do not operate in Mozambique.

464. The provisions of Law 7/2002 and Decree 37/2004 generally apply to casinos in the same way that they apply to financial institutions. Consequently, this common legal framework suffers from the same deficiencies as for financial institutions. These are extensively discussed under section 3 of this report.

Applying Recommendation 5

465. Pursuant to the provisions of Article 10(6) of Law 7/2002, casinos are required to identify clients who buy, bring with them or exchange chips or currency of an amount equal to or greater than the value of four hundred and forty one minimum wages, that is approximately USD 3,416. This threshold is higher than what is required under the standard.

Applying Recommendation 6

466. In Mozambique there are no legal provisions or practical measures to ensure that casinos conduct due diligence on PEPs with whom business is conducted, in the same regard there is no senior management approval for dealings with PEPs, efforts are not made to establish their source of funds and neither is enhanced due diligence conducted in the event that one becomes a PEP.
467. The authorities in Mozambique have indicated that Law 8/94 of September 14, on the access restrictions, determines in number 2 paragraphs d) and e) of Article 39, the ban on entry to casinos, among others, to members of Parliament, members of Government, Secretaries of State, public employees who are cashiers, treasurers, heads of tax offices, entities that we believe may be politically exposed. Therefore, the Law has chosen to deny the entry to these entities as a whole to prevent these people from being in an exposed situation. However, the assessment could not verify this information as a copy of Law 8/94 was not made available to the mission.

Applying Recommendations 8 & 9

468. As indicated under section 3, there are no requirements regarding the measures required under Recommendations 8 & 9.

Applying Recommendation 10

469. Only casinos are subject to record keeping requirements under Law 7/2002 and Decree no. 37/2004. The same deficiencies identified for financial institutions apply.

Applying Recommendation 11

470. The same deficiencies identified for financial institutions apply.

4.1.2 Recommendations and Comments

471. Mozambican authorities should expand the scope of application of the AML regime to cover real estate agents, dealers in precious metals and stones, lawyers and accountants as required under the FATF Standards.
472. The prescribed amount for disclosure for casinos as required by Law 7 / 2002 and Decree 37 / 2004 of 441 minimum wages should be amended to comply with the USD 3000 threshold requirement to meet the FATF requirement.
473. Shortcomings identified in section 3 of this report regarding recommendations 5, 6, and 8 to 11 should be remedied as recommended.
474. TF must be criminalised as a matter of urgency.
475. The authorities in Mozambique should undertake appropriate and timely AML/CFT outreach educational programmes in the DNFBP sector.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	NC	<ul style="list-style-type: none">• AML requirements under the AML law and regulations do not extend to real estate agents, dealers in precious metals and stones, lawyers and accountants although they operate in Mozambique.• The same deficiencies that have been identified in the CDD provisions under recommendation 5 also apply to casinos.• The threshold requirement for casinos under Rec. 12.1 (a) is not met.• There are no specific requirements in relation to the CDD measures under recommendations 6, 8 & 9.• The same deficiencies that have been identified in the CDD provisions under recommendations 10 & 11 also apply to casinos.• Casinos have not implemented the AML requirements under Law 7/2002 and Decree 37/2004.• TF is not criminalised in Mozambique

4.2 Suspicious transaction reporting (R.16)

(Applying R.13 to 15 & 21)

4.2.1 Description and Analysis

Legal framework

Requirement to make STRs on ML and TF to FIU - Applying Recommendation 13

- 476. Only casinos are subject to reporting requirements under Articles 2 & 16 of Law 7/2002. The same deficiencies that apply to financial institutions also apply to casinos.²³
- 477. The uncovered DNFBPs such as lawyers, accountants, real estate agents and dealers in precious stones and metals are not subject to reporting requirements.

Protection for making STRs - Applying Recommendation 14

- 478. Articles 18 and 21 of Law 7/2002 apply to casinos. The same deficiencies that apply to financial institutions under Recommendation 14 also apply to casinos.
- 479. The other categories of DNFBPs are not subject to the AML law and regulations.

Establish and maintain internal controls to prevent ML and TF - Applying Recommendation 15

- 480. Casinos are subject to the same internal control requirements as financial institutions. Consequently the same deficiencies that have been identified under Rec. 15 for financial institutions also apply to the casinos.
- 481. The other categories of DNFBPs are not subject to the requirements of the AML law and regulations.
- 482. From the meetings held onsite, it did not appear that casinos have implemented the AML requirements under Law 7/2002 and Decree 37/2004.

Special attention to countries not sufficiently applying FATF Recommendations – Applying Recommendation 21

- 483. The same deficiencies that have been identified under Rec. 21 for financial institutions also apply to the casinos.
- 484. The other categories of DNFBPs are not subject to the requirements of the AML law and regulations.

4.2.2 Recommendations and Comments

- 485. Mozambican authorities should expand the scope of application of the AML regime to cover real estate agents, dealers in precious metals and stones, lawyers and accountants as required under the FATF Standards.
- 486. Shortcomings identified in section 3 of this report regarding Recommendations 13 to 15 & 21 should be remedied as recommended.
- 487. TF must be criminalised as a matter of urgency.
- 488. The authorities in Mozambique should undertake appropriate and timely AML/CFT outreach educational programmes in the DNFBP sector.

²³ No STRs have been made by the Casinos.

4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	NC	<ul style="list-style-type: none">• AML regime does not extend to real estate agents, dealers in precious metals and stones, lawyers and accountants although they operate in Mozambique.• The same deficiencies that have been identified in the CDD provisions under recommendations 13 to 15 and 21 also apply to casinos.• Casinos have not implemented the AML requirements under Law 7/2002 and Decree 37/2004.• To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF.

4.3 Regulation, supervision and monitoring (R.24-25)

4.3.1 Description and Analysis

Legal framework

With regard to casinos, the following laws and regulations are applicable:

- Law No 7 / 2002 of February 5 - Law on anti-money laundering
- Decree No 37/2004 of September 8 - AML Regulation
- Law No 8 / 94 of September 14 - Law of Gambling
- Decree No 53/96 of December 3 - Regulation of
- Decree No 19/97 of July 15 - Introduces some changes

Note:- *These enactments were not made available to the assessment team.*

Recommendation 24

Regulation and supervision of casinos (c.24.1, 24.1.1, 24.1.2 & 24.1.3)

489. Casinos are subject to the same AML regime as financial institutions. The General Inspectorate of Gaming is responsible for monitoring and giving guidance to the casinos regarding compliance with the provisions of the AML law and regulations.
490. The supervisory powers of the General Inspectorate of Gaming could not be assessed as the Gambling laws were not provided to the evaluation team.
491. The Gaming Board of Mozambique licenses and supervises the activities of casinos with respect to AML issues as provided by Article 4(c) of Decree 37/2004. However the powers to impose sanctions for non compliance don't lie with the Gaming Board, sanctions for breach of the AML law can only be initiated and imposed by the Director of Public Prosecutions.

492. Decree No 53/96 provides for the licensing of Casinos. At the onsite visit, information was not availed on how the Gaming Board could deter criminals from being beneficial owners of casinos.

493. With respect to establishment of SROs to oversee the activities of DNFBPs, the Mozambican bar association and institute of auditors do exist, however these oversight bodies only carry out supervision of the professional functions of their members and not on AML / CFT matters.

NOTE:- The following laws have not been provided and it is difficult to appreciate the contents below as provided in the mutual evaluation questionnaire.

- Law No 8 / 94 of September 14 - Law of Gambling
- Decree No 53/96 of December 3 - Regulation of Casinos
- Decree No 19/97 of July 15 - Introduces some changes

494. It follows from the single paragraph of Article 69 of Decree 53/96 of December 3 that in addition to the performance of their duties to provide technical advice to the Minister of Planning and Finance, lies with the General Inspectorate of Gambling to promote the creation of the conditions and appropriate institutional environment and necessary to ensure the smooth and proper operation of the casino venues in the country, and should also ensure that guidance, licensing, supervision and inspection of the entire process and operations concerning the exploration and practice of gambling and other related activities and/or complementary.

495. Therefore, the whole business of gambling in Mozambique is subject to monitoring, supervision, inspection and auditing of IGJ. Furthermore, Decree 37/2004 of September 8 states in point c) of Article 4 that the supervision of financial entities in the prevention and fight against money laundering is conducted by the Inspectorate General of Gambling for casinos.

496. Regarding the suitability of the shareholders, directors, managers and other leaders of casinos, Decree 53/96 of December 3, in Article 18, states that candidates will be eligible for winning the tender open for the development and operation of casinos and their activities that, while meeting the requirements in the tender notice and offered the best technical and financial proposal, demonstrate acceptable reliability and evidence to satisfy a specified period and timing, all the conditions explicitly laid down. There is no, however, clarity regarding the prohibition and mechanisms of assessment of suitability. Surely this matter will be safeguarded in the new Law of Gambling approved in June this year by the Parliament, a subject that deserved special attention in its production, if not, also indicate the number that has not been published.

497. Decree 37/2004 of September 8, provides that the supervision of financial entities in the prevention and fighting money laundering is carried out,

among other institutions, by the General Inspectorate of Gambling, as stipulated by point c) of Article 4. The IGJ works in coordination with other institutions of the State, that is all rules and legal provisions in anti money laundering law, concerning the activity in gambling in the country are taken into consideration by the supervisory institution according to which provides in Articles 2 and 4 of Decree 37/2004, of September 8.

498. With exception of casinos, all other areas, i.e. estate agents, dealers in precious metals, precious stones, lawyers, notaries, other independent legal professionals, accountants and service providers, are subject to supervision in the regulation to be produced by FIU under point a) of paragraph 3 of Article 11 of Decree 62/2007 of December 4 (Status of Organic FIU). Although we note that provisions of law seeking to impose regulatory and supervisory powers should ideally be in the principle law and not the regulations. The business of operating gambling, followed by casinos, is licensed by the Government with advice and technical assistance IGJ, in line with what is available in the Article 27 and 28 of Law 8 / 94 of September 14, which empower the IGJ to act in accordance with the purpose to which it refers.
499. The law on money laundering is applicable to Casinos. The Evaluation Team was however informed by the Authorities that in internet casinos do not operate in Mozambique. Article 2 (c) of the Regulations on Money Laundering establishes the Gaming Board as the Supervisory/Regulatory Authority for Casinos for purposes of AML/CFT regulation.
500. The licensing regime for Casinos is contained in Decree 53 of 1996. Casinos are licensed by the Gaming Board. In the course of its licensing procedure the authorities undertake a background check of the applicant with the Criminal Investigations Police (CPI) however they do not look at the ultimate beneficial holding.

Monitoring (c.24.2 & 24.2.1)

501. Real estate agents, dealers in precious metals and precious stones, lawyers, notaries and accountants are not subject to AML/CFT requirements and are consequently not subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. Mozambican authorities have not undertaken a national assessment of the risk posed by the DNFBP sector.

Recommendation 25

Guidelines for DNFBPs (applying R.25.1)

502. No guidelines have been issued to assist casinos in implementing and complying with their respective AML/CFT requirements.

503. Real estate agents, dealers in precious metals and precious stones, lawyers, notaries and accountants are not subject to the AML regime.

4.3.2 Recommendations and Comments

504. The information as provided by the Mozambican authorities in the mutual evaluation questionnaire could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with the essential criteria 24.1 under Recommendation 24. It is recommended that the Mozambican authorities should adopt measures in line with the requirements under Recommendation 24.1.
505. We note that only Casinos fall in the regulated ambit of DNFBPs in Mozambique, real estate dealers, dealers in precious metals and stones and not covered. Accountants are also not covered by the Law, this causes major shortcomings for which we make the following recommendations in addition to the earlier stated recommendations on DNFBPs:
- The supervisory bodies for DNFBPs such as dealers in precious metals and stones, real estate, lawyers and accountants should issue guidelines on mechanisms to address AML /CFT matters.
 - There is need for the supervisory authorities of DNFBPs to put in place training and awareness campaigns to appreciate the threats posed by ML/ TF.
 - Mechanisms for feedback should also be put in place so as to create a two way communication channel.

4.3.3 Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	NC	<ul style="list-style-type: none"> • To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF. • In the absence of the relevant laws and regulations, compliance with essential criteria 24.1 could not be demonstrated. • Other categories of DNFBPs are not covered under the AML Regime
R.25	NC	<ul style="list-style-type: none"> • No guidelines have been established to help casinos to implement and comply with their AML requirements. • Real estate agents, dealers in precious metals and precious stones, lawyers, notaries and accountants are not subject to the AML regime. • TF is not criminalised in Mozambique.

4.4 Other non-financial businesses and professions Modern secure transaction techniques (R.20)

4.4.1 Description and Analysis

Other vulnerable DNFBPs (c. 20.1)

506. Mozambique has not considered applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF.

Modernisation of conduct of Financial Transactions (c. 20.2)

507. Mozambique has taken some measures to encourage the development and use of modern techniques for conducting financial transactions. Although cheques and electronic fund transfers are the main means of payment in Mozambique, cash still accounts for a significant portion of payment transactions. Mozambique introduced the government electronic funds transfer system in 2004 and promulgated the National Payment System Act in October 2007 which strengthened the legal basis for the payment system. A real-time system used by Government for payments, including salaries for the civil service was also introduced. While debit cards are being used, the fees charged for ATM cash withdrawals across the banks are high.

4.4.2 Recommendations and Comments

508. It is recommended that the authorities in Mozambique should consider applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF.
509. Mozambique should take additional measures to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering, including reducing the reliance on cash by encouraging the use of debit and credit cards.

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	LC	<ul style="list-style-type: none">Mozambique has not considered applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF.

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

Note: The information below as provided by the Mozambican authorities has not been verified by the assessment team as the following laws and regulations were not made available to the assessment team.

Decree Law no. 2/2005 of December 27 (Commercial Code of Mozambique)

Decree Law no. 1/ 2006 of May 03 (regulation of registration of legal entities)

Decree no. 1/2002- establishing the register of legal entities.

5.1.1 Description and Analysis

Legal framework

- 510. Law No. 8 / 91 of July 18 - Sets the right to free association. The non-profit organizations can set up according to constitutional principles, moral, social and economic of the country, under Article 1 of Law No. 8 / 91.
- 511. Article 4 of Law No. 8 / 91 sets up requirements for acquisition of legal personality by the non-profit associations. The recognition of non-profit associations is made by the Government or his representative in the action association area, according to Article 5 of Law No. 8 / 91. The registration of non-profit associations is made in the current Register of Legal Entities, under Article 6 of Law No. 8 / 91.
- 512. Article 11 of Law No. 8 / 91 sets up requirements for acquisition of the declaration of public utility. The Cabinet is the authority to grant the declaration of public utility (Article 12 of Law No. 8 / 91).
- 513. Decree-Law No. 21/91 of October 3 - delegates to the Minister of Justice the power to make the legal recognition of non-profit associations. The Minister of Justice is the entity responsible for the specific recognition of non-profit organizations nationwide (Article 1 of Decree-Law No. 21/91).
- 514. The Provincial Governor is the entity responsible for the specific recognition of non-profit associations of provincial scope (Article 2 of Decree-Law No. 21/91).
- 515. The Minister of Justice is the entity that regulates the procedure for registration of non-profit associations (Article 3 of Decree-Law No. 21/91).
- 516. Decree No. 37/2000 of October 17- Establishes requirements and procedures for the declaration of public utility. Article 2 of Decree No. 37/2000 establishes requirements for declaration of public utility. The Minister of Justice is the authority to issue the declaration of public utility and its publication (Article 3, Decree No. 37/200).

517. Article 4 of Decree No. 37/2000 establishes the procedures for obtaining the declaration of public utility.
518. Decree-Law No -2/2005 of December 27 - Approves the commercial code in force in Mozambique.
519. Law No. 1 / 2009 of April 24 - Amendment to some articles of the commercial code.
520. Decree-Law No. 1 / 2006 of May 3 - Creates the Registry of Legal Entities and adopts its Regulation. In light of Decree-Law No. 1 / 2006 and under Article 2 of that law includes the Register of Entities:
- a) The trading companies;
 - b) The civil society in commercial form;
 - c) Associations, foundations, trade and cooperatives;
 - d) The representations of national and foreign entities;
 - e) Other entities to it, subject by law;
 - f) The facts subject to it, for the entities mentioned in the preceding paragraphs.
521. The legal requirements that must be met for the opening of the entities described in a), b) of the aforementioned Article 2, are covered in the commercial code in force in country, particularly in the articles 90, 91, 92, 93, 94, 95, 96, 97, from how requirements are to set up a commercial corporation.
522. The conclusion of a contract social pact among the members of society who wish to be a corporation. Yet, this contract shall be established by a written document signed by all partners, with signature recognized in person and should be concluded by public deed in the case entering into real estate, as Article 90 regulates the Commercial Code.
523. minimum number of shareholders in a corporation is two, unless the law allows a higher number or requires that the corporation is constituted by a partner, these are the terms of Article 91 of Commercial Code.
524. On the social contract, its content must contain:
- a) The identification of members and that of their representation in the act;
 - b) The type of corporation;
 - c) The name of the corporation
 - d) The purpose of the corporation;
 - e) The registered office;
 - f) The duration;

- g) The capital of the corporation with an indication the method and timing for their execution;
 - h) The holdings of the capital subscribed by each, the nature of the entry of each, as well as payments by each party;
 - i) The composition of the administration and supervision of the corporation where this last must exist;
 - j) Description of the goods and their respective values, entry consisting wholly or partly in kind;
 - l) The date of conclusion of the social contract under Article 93 of the Commercial Code provides that its object must be entered in order to know which of the activities the corporation proposes to pursue and which constitute it.
525. It is prohibited in the name of the object of the corporation; the use of expressions that are being pursued especially by just might be covered by corporate authorizations.
526. With regard to office, in accordance with Article 94 of Commercial Code, the head office must be in place specifically defined. The contract of corporation may authorize the administration, with or without consent of others, to relocate its head office within the national territory.
527. The forms of representation, pursuant to Article 94 of the Commercial Code:
- The corporation may establish branches, agencies, delegations or other forms of local representation in the national territory or abroad.
 - The establishment of branches, agencies or other local offices of representation depends on deliberations of the members.
 - The creation, modification and closing of permanent representations of corporation as well as the name, powers and departure of their functions are subject facts.
528. As the duration of the corporation, Article 96 of Commercial Code advocates that:
- The corporation lasts in principle, indefinitely.
 - If the duration has been fixed in the corporation contract can only be extended by resolution to be taken before this period expired; after that fact, the extension can only be decided by agreement unless provision to the contrary.
529. With regards to the assets of the corporation under Article 97 of Commercial Code the amount of capital should only be expressed in national currency. Any change in the social pact is subject to registration under Article 3 of Regulation of Registration of Legal Entities establishing that are Subject to registration:

- The act of incorporation, including the statutes, as amended;
- The name and registered office;
- The resolution of the acquisition and disposition of property to members or associates and the evaluation report which it was based;
- The unification, division and transfer of shares of corporation shares, as well as the social parts of investor members in the capitalist society of capital and labour;
- The promise of transfer or taxation of shares in the corporation of capital and labour and capital shares of corporation shares, and the covenants of preference, if it is agreed give it real effectiveness and an obligation rather than that provision in the last will, the testator has been equally effective;
- The transfer of shares from shareholders of corporation of industry capital and labour, the establishment of royalties of enjoyment or warranty about them and their transmission, modification and extinction, and the attachment of the right to profits and the share of settlement;
- The creation and transfer of usufruct, pledge, attachment, seizure and inventory of shares or rights over them and any acts or measures affecting the free provision;
- The removal and exclusion of members of corporation of capital and labour, and the extinction of the death of a partner for social and admission of new members;
- The entry, exclusion and removal of members of the consortium;
- The redemption of shares and the exclusion and removal of members of limited liability corporation:
- The resolution of redemption of shares;
- The issuance of bonds, notes or writings of general obligation on corporation or individuals, and its ordinary and extraordinary depreciation.
- The appointment, termination of office by any cause other than the passage of time, as well as the change of office of members of the administrative and enforcement and prosecutors;
- The limits on the powers of administrators and liquidators;
- The change in headquarters and the opening and closing of branches and other forms of representation;
- Processing, extension, fusion, transformation and dissolution, and the increase and reduction of capital or reintegration;

- The appointment and termination of service prior to the closing procedure of settlement, the liquidators, as well as acts of modification of legal or contractual powers of liquidators;
 - The extinction by the closure of settlement;
 - The suspension of the activity and its resumption;
 - The project and offer for sale of shares and their cancellation;
 - Any other facts relating to the law states that companies subject to registration.
530. Any information on the registration of legal entities is public and may be subject to consultation by any interested party. This is the public nature of the registration stated in point a) of Article 1 of Regulation of Registration of Legal Entities.
531. With the computerization of the Commercial Register on a national level it is possible to check the registration of a corporation in each province of Mozambique; there is also a central unit of the database where information is archived. That is why below we provide a statistical with paragraph - total commercial corporations registered from 2006 to 2009.
532. Law No. 6 / 2008 of July 9 – sets out the applicable regime for preventing and combating trafficking in persons, especially women and children, including the criminalization of trafficking and related activities and protection of victims complainants and witnesses.
533. Article 10 of Law No. 6 / 2008 sets out the type of crime and punishment or applicable punishment.
534. The Government is the authority to prevent and combat trafficking in persons (Article 27 of Law No. 6 / 2008).
535. The government is the entity responsible for making the training of agents to prevent and combat trafficking (Article 28 of Law No. 6 / 2008).

Measures to prevent unlawful use of legal persons (c. 33.1)

536. Under the records central system, we have the Decree No. 5 / 95 (functions of the Ministry of Justice). One of the functions of the Ministry of Justice is to ensure the registration of documents required by law to activities of corporate persons and corporation.
537. Ministerial Diploma No. 31/92, which empowers the Commercial Registry, now Register of Legal Entities for the registration of associations (NPOs) established under Law No. 8 / 91.
538. Recently, we had the Decree No. 1 / 2002 establishing the Register of Legal Entities. Paragraph 2, point a) introduces the registration procedure, b) the computerized system of registration; c) implements the concept of a single registration d) the quick and easy access to secure and updated information and e) organization of efficient registration.

Access to information on beneficial owners of legal persons (c. 33.2)

539. The authorities in Mozambique have indicated that any information on the register of legal entities is public and may be subject to consultation by any interested party. However, information collected by the Registry of Legal entities does not capture the FATF's concept of beneficial ownership/control.

Prevention of misuse of bearer shares (c. 33.3)

540. The authorities have indicated that there are no bearer shares in Mozambique since 1991.

5.1.2 Recommendations and Comments

541. The information as provided by the Mozambican authorities in the mutual evaluation questionnaire could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with the essential criteria under Recommendation 33.
542. It is recommended that the Mozambican authorities should adopt measures in line with the requirements under Recommendation 33.

5.1.3 Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	NC	In the absence of the relevant laws and regulations, compliance with the essential criteria under Recommendation 33 could not be demonstrated.

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

543. There are no express trusts or other similar legal arrangements in Mozambique.

5.2.2 Recommendations and Comments

N/A

5.2.3 Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	N/A	There are no trusts or other similar legal arrangements recognised under the Mozambican legal system.

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

Legal framework

544. The NPO legal framework in Mozambique sets out separate regimes for regulation of domestic and foreign NPOs. Law No 8/91 of July 18, Decree 55/98 of 13 October and Decree 21/91 of 13 October define the legal framework governing activities of the NPO sector in Mozambique. Decree 55/98 of 13 October exclusively covers foreign NPOs activities. Decree 21/91 of 13 October regulates the implementation of Law No.8/91 of July 18.

Overview of the sector

545. In terms of Article 1 of Decree 55/98 of 13 October, Non-Governmental Organisations in Mozambique refers to *“not-for-profit corporate persons governed by private law, which are involved specifically in emergency, rehabilitation or development programmes. They may be associations or foundations or other forms of corporate persons of a similar nature pursuing objectives of cooperation for social and economic development”*. Article 3 of Decree 55/98 of 13 October requires NGOs to devote their activities to provide assistance to the population in order to foster national unity and greater socio-economic upliftment of the societies in which they serve.

Review of adequacy of laws and regulations of NPOs (c. VIII.1)

546. In Mozambique NGOs registered largely either as associations or foundations by separate central registration authorities. Domestic NGOs are registered by a specialised directorate at the Ministry of Justice. The Directorate of Legal Affairs of the Ministry of Foreign Affairs and Cooperation is responsible for registration and accreditation of foreign NPOs in Mozambique. Article 4 of Decree 55/98 of 13 October requires the Ministry to consult with other government authorities before granting or refusing approval of an application made by a foreign NPO.
547. In terms of Article 9 of Law 8 /91 of 18 July allows domestic NPOs to join foreign NPOs or other similar bodies. As at the time of onsite, there were 260 foreign NPOs registered in Mozambique. No statistics on domestic NPOs was provided by the authorities at the time of the onsite.
548. The authorities informed the assessors that each registration directorate in both Ministries has a central database containing all the information on NPOs falling under its authority. However, these databases are not electronically linked to each other for ease of access to information held by them and to enable them to effectively process information requests from other law enforcement agencies. The assessors were informed that access is through sending request to each other and that responses are done within a reasonable time.
549. Registration of NPOs is done at three levels in Mozambique. NPOs whose activities cover the whole country are registered by the national Ministry of

Justice and Ministry of Foreign Affairs and Cooperation as per the legal framework in Mozambique. The provincial and district administrations register NPOs whose activities are confined to a particular province and district respectively. The assessors were informed that while the provincial and district centres are allowed to carry out registration, the ultimate decision for approval of license application resides with the national Ministries. All the information collected during the registration process at provincial and district levels are sent to the databases of the national Ministries for centralisation.

550. Article 5(1) to (3) of 13 October states that before authorisation of an NPO to commence operations, the requesting foreign NPO requires shall make an application by means of a letter accompanied by the following documents:
- a) Authentic copy of the article of association, which demonstrate the legal existence of the organisation in its country of origin.
 - b) Proposed general programme of activities that the organisation intends to carry out in Mozambique.
 - c) Description of the organisation's background and operational experience.
 - d) Staff that the organisation proposes to employ.
 - e) Information demonstrating the organisation's capacity and the availability of financial resources required to carry out NPO operations in Mozambique.
 - f) A letter of request to operate an NPO in Mozambique showing the name of the NGO and its domicile or head office.
551. In terms of Article 6(2) of 55/98 of 13 October foreign NPOs are granted permission to operate in Mozambique for a period of two years and renewal is subject to meeting terms and conditions laid down by the relevant Ministries. In addition, the authorities informed the assessors that the Ministries normally seek the opinion of the province or district in which the NPO operates before a license is granted or denied.
552. The authorities informed the assessors that the legal framework governing the NPO sector in Mozambique is under review for consistency with the relevant international requirements and other national laws.

Protecting the NPO sector from terrorist financing through outreach and effective oversight (c. VIII.2)

553. The authorities informed the assessors that the only seminar organised for the NPO sector was to encourage the sector to comply with financial laws and regulations in Mozambique. No effective outreach to the NPO sector with a view to protect the sector from terrorist financing was conducted by the authorities in Mozambique.
554. The authorities informed the assessors that staffs of foreign NPOs, including the Board of Trustees, are screened by conducting background checks from the country of origin. By contrast, there are no such screening requirements for the domestic NPOs.

555. The assessors were informed by the authorities that although no risk assessment has been conducted in Mozambique, the foreign NPOs are perceived to have a higher terrorist financing risk than the domestic NPOs. As a result, foreign NPOs are better supervised than the domestic NPOs.
556. The authorities informed the assessors that the Ministry of Finance checks compliance with the necessary financial regulation statutes under which foreign NPOs are authorised to operate. Any identified breach is reported to the Ministry of Foreign Affairs and Cooperation to request an explanation from the foreign NPO concerned and specify corrective measures to be taken. Failure to do this would result in the cancellation of the license of the affected NPO. The authorities informed the assessors that in 2007 the Minister of Foreign Affairs and Cooperation revoked a license of an NPO for failure to implement corrective measures.
557. The ongoing review of laws governing the NPO sector in Mozambique is intended to strengthen the capacity of the authorities to protect the sector from terrorist financing through effective outreach programmes and oversight measures.

Diversion of funds for terrorists purposes (c. VIII.3)

558. There has been no risk assessment or inspections conducted by the relevant authorities to determine financial inflows for purposes of terrorist financing in the NPO sector in Mozambique.
559. Authorities in Mozambique have not taken steps to promote effective supervision or monitoring of those NPOs which account significant portion of the financial resources and substantial share of the sector's international activities. However, authorities have visited some of the projects sites around the country and sought the opinion of the provinces and districts in which those projects are being implemented to ensure that funds are used for promotion of the objectives of the affected NPO. No anomalies were found relating to diversion of funds for terrorist financing.
560. In pursuance of Article 8 of Decree 55/98 of 13 October all foreign NPOs are required to submit annual activity reports in accordance with the procedures to be laid down by the Minister of Foreign Affairs and Cooperation. Article 14 of Law 8/91 requires domestic NPOs to send reports and accounts for the last financial year to the Ministry of Finance and the Administrative Court on annual basis.
561. The authorities informed the assessors that the Ministry of Finance in Mozambique is the responsible authority to conduct financial audits on foreign NPOs. The authorities indicated that audits of the finances of foreign NPOs are not done on regular basis but only when a suspicion arises. Furthermore, there is no requirement for foreign NPOs to submit regular audited financial reports to the relevant authorities.
562. It was not clear to the assessors whether or not the information gathered during the audits is shared with other law enforcement agencies.

563. Although authorities receive UNSCR 1373 and 1267 on terrorist financing, the Lists are not circulated or shared with the NPO sector despite the fact that the assessors were informed by the authorities that the Ministry of Foreign Affairs and Cooperation is the recipient of the Lists and shares them with the Ministry of Justice.
564. The authorities informed the assessors that the ongoing review of the NPO legal framework is to effectively address the current deficiencies on detection and combating of diversion of funds for terrorist financing purposes.

Powers to investigate and sanction (c. VIII.4, VIII.4.1, VIII.4.2 & VIII.4.3)

565. Decree 55/98 of 13 October does not have provision for powers to investigate and gather information on foreign NPOs suspected of being used for purposes of terrorist financing. Furthermore, there is no requirement and mechanism to ensure consultation amongst domestic competencies for purposes of conducting investigations and prosecutions to detect and combat terrorist financing in the NPO sector.
566. There are no sanctions for foreign NPOs that fail to comply with the provisions of Decree 55/98 of 13 October by the authorities in Mozambique.
567. The authorities in Mozambique have not ensured effective domestic cooperation, coordination and sharing of information to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs of potential terrorist financing concern.
568. The absence of provisions in the NPO sector laws and regulations in Mozambique to submit audited financial records, coupled with the lack of a requirement on the manner and time in which foreign NPOs should keep and maintain records, will make full access of information on the administration and management of NPOs difficult to obtain in any course of inspection and investigation, including for purposes of domestic coordination and cooperation among the relevant competent authorities.
569. The authorities have no mechanism for the prompt sharing of information among all relevant competent authorities in order to take preventative measures or investigative action when there is suspicion or reasonable ground that an NPO is being exploited for terrorist financing purposes or is a front organisation for terrorist fundraising.
570. The assessors were informed by the authorities in Mozambique that they are under-resourced and lack expertise to conduct inspections and investigations on those NPOs suspected of posing a risk of being abused by terrorist organisations/persons or actively supporting terrorist activity.

Domestic and international cooperation (c. VIII.5)

571. The assessors were informed by the authorities in Mozambique that the central authority responsible for requests on information relating to NPOs is the Consular and Judicial Affairs Directorate of the Ministry of Foreign

Affairs and Cooperation. However, there are no clearly defined points of contact and procedures regarding the manner in which international requests on an NPO suspected of being involved in terrorist financing activities will be dealt with.

572. The assessors were not provided with cases to demonstrate how the Consular and Judicial Affairs Directorate handles international requests, including the number of international requests made and requested in the last four years. As a result, the assessors could not assess the effectiveness of the Ministry of Foreign Affairs and Cooperation regarding the handling of international requests relating to the NPO sector.

5.3.2 Recommendations and Comments

573. In reviewing the laws and regulations governing the NPO sector , the authorities in Mozambique should ensure that the review adequately meet international standards especially with respect to developing systematic programmes that promote effective registration, transparency, accountability, integrity, public confidence and monitoring of the sector in order to ensure protection from misuse for financing of terrorism activities.
574. In order for the review process to effectively address the existing deficiencies, the authorities in Mozambique should determine the nature and extent of the sector's vulnerability to misuse by terrorist organisations and persons by conducting NPO sector risk assessment. This would ensure that resources are better allocated to where they are best needed to prevent and protect the sector from misuse for terrorist financing activities.
575. The competent authorities responsible for ensuring compliance with the registration and operations of the NPO sector in accordance with the relevant laws and regulations should be given the necessary powers to allow for inspections, supervision and monitoring of the NPO sector in Mozambique.
576. The authorities should provide adequate resources to strengthen the capacity of the competent authorities responsible for compliance by the NPO sector with the relevant laws and regulations. Specifically, the authorities should bear in mind the urgent need to capacitate the Directorates of Legal Affairs and the Consular Affairs (Ministry of Foreign Affairs and Cooperation) and the Registration Office (Ministry of Justice, and other relevant government agencies playing a role in ensuring that the NPO sector in Mozambique is not misused for terrorist financing activities.
577. The authorities in Mozambique should have effective mechanism that allows for preventative and investigative measures for NPOs suspected of either being exploited by or actively supporting terrorist financing activities or organisations. This should include having powers to have full access to administration and management details of NPOs, including financial and programmatic information, may be obtained during the course of an investigation.

578. The absence of sanctions for failure to comply with the relevant laws and regulations defining the NPO sector legal framework is a cause for concern in Mozambique. Accordingly, authorities in Mozambique should put in place effective, proportionate and dissuasive sanctions for failure to comply with the applicable NPO sector laws and regulations.
579. The authorities in Mozambique should establish effective channels of communication to disseminate UNSC 1267 and 1373 Lists and receive consequent responses to ensure that the NPO sector does not become a conduit for terrorist financing activities and promote international cooperation.
580. The NPO sector laws and regulations should set up a requirement for the NPOs to keep and maintain, for a minimum period of five years, and make available to appropriate to competent authorities records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the NPO.
581. Authorities in Mozambique should develop and implement a clearly defined formal mechanism to ensure effective domestic cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs of potential terrorist financing.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	NC	<ul style="list-style-type: none"> • The authorities have not conducted risk assessment of the NPO sector regarding misuse of the sector for terrorist financing. • Periodic assessment has not been undertaken to determine the sector's potential vulnerability to terrorist activities. • No outreach programmes have been undertaken in Mozambique's NPO sector to raise awareness about the vulnerabilities of the sector to terrorist abuse and terrorist financing risks and the measures that the sector can undertake to protect itself from such abuse. • No sanctions for failure to comply with applicable NPO sector laws and regulations. • There is no requirement for NPOs to keep and maintain records, for a minimum period of five years, and make the records available to appropriate authorities as well as detailed records of domestic and international financial flows. • The authorities have no effective mechanism in place that allow for prompt investigative or preventative action against such NPOs that are suspected of either being exploited or actively

		supporting terrorist activity or terrorist organisation. <ul style="list-style-type: none"> • Inadequate allocation of resources to competent authorities dealing with the NPO sector.
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6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and coordination (R.31 & R.32)

6.1.1 Description and Analysis

Mechanism for domestic cooperation and coordination in AML/CFT (c. 31.1)

Policy cooperation

582. In 2003 the Minister of Finance established a National Task Force on ML and FT to advise on AML/CFT matters and on issues relating to the establishment of an FIU in Mozambique. The membership of the Task Force comprises representatives from the Ministry of Justice, Ministry of Interior, Ministry of Foreign Affairs, the BSD of the Central Bank of Mozambique, the FIU, the IGS, the AGO and the Anti Corruption Bureau. The Task Force is chaired by the Ministry of Finance. The achievements of the Task Force include the AML law and regulations, and the law establishing the FIU.
583. The Task Force is also responsible for advising the government on the need to review the AML law. With technical assistance from the World Bank, the Ministry of Justice is spearheading the review of the AML law. Members of the Task Force have already made proposals for amendments in their respective areas. The Task Force fosters policy cooperation among the different stakeholders from both the financial and non-financial sectors. The authorities informed us that the ongoing review of the AML law will also include the policy formulation with respect to the drafting of the CFT legislation.

Operational cooperation

584. At the time of the onsite visit, the FIU was not operational. There was therefore no mechanism in place to enable the FIU to cooperate and coordinate domestically with law enforcement and supervisory authorities concerning the development and implementation of policies and activities to combat ML and TF.
585. The law enforcement agencies collaborate with each other for operational matters. A memorandum of understanding was signed between customs and PIC in February 2008 and was implemented in 2009. The Ministry of Finance, Ministry of Justice and the Ministry of Interior meet on a quarterly basis. The Ministries of Finance, Interior and Justice meet quarterly at ministerial level. The PIC, Customs, Border police and Immigration have regular meetings especially at the ports of entry and exit in the country. We were informed by the authorities that Immigration also participates in cross-border operations undertaken by the police.

586. Further, to facilitate information exchange, the PIC officers are seconded for a period of one year on rotational basis to other law enforcement agencies. The authorities cited the example of two PIC officers seconded to the Drugs Bureau as focal points for drug offences related investigations.

Additional element –mechanisms for consultation between competent authorities (c. 31.2)

587. The authorities in Mozambique have indicated that there are no mechanisms in place to consult with the financial sector and other sectors (including the DNFBP). However, they intend to consult with all stakeholders on the proposed changes to the AML law. No specific time frame had been earmarked for such consultation at the time of the onsite visit.

Recommendation 32 (criterion 32.1 only)

588. Mozambique has not reviewed the effectiveness of its systems for combating money laundering on a regular basis. Terrorist financing is not criminalised in Mozambique.

6.1.2 Recommendations and Comments

589. It is recommended that the FIU should actively engage with law enforcement and supervisory authorities and put into place appropriate mechanisms to ensure effective operational cooperation and where appropriate, coordination with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.
590. The authorities in Mozambique should consider putting into place appropriate mechanisms for consultation with competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures.

6.1.3 Compliance with Recommendation 31 & 32 (criterion 32.1 only)

	Rating	Summary of factors underlying rating
R.31	PC	<ul style="list-style-type: none"> There is no mechanism in place to enable the FIU to cooperate and coordinate domestically with law enforcement and supervisory authorities concerning the development and implementation of policies and activities to combat ML. TF is not criminalised in Mozambique.
R.32	NC	<ul style="list-style-type: none"> Mozambique has not undertaken the review of the effectiveness of its systems for combating ML on a regular basis. TF is not criminalised in Mozambique.

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

Legal framework

Ratification of AML related UN Conventions (c. 35.1)

- 591. Mozambique ratified the Palermo Convention on Transnational Organized Crime and its Additional Protocols through Council of Ministers Resolutions' no. 86 to 89/2002, of 11 December 2002.
- 592. Mozambique ratified the Vienna Convention through Council of Ministers' Resolution 11/96, of 4 May 1996.

Ratification of CFT related UN Conventions (c.I.1)

- 593. Mozambique ratified the SFT Convention through Council of Ministers' Resolution nr 79/2002 of 2 October 2002.

Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19- c. 35.1)

- 594. Mozambique has not yet implemented measures to fully give effect to the Vienna Convention, in particular in relation to matters such as mutual legal assistance and extradition relating to money laundering.

Implementation of SFT Convention (Articles 2-18, c 35.1 & c. I.1)

- 595. Mozambique has not yet implemented the SFT Convention in that it has not yet criminalised terrorist financing.

Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34- c. 35.1)

- 596. While Mozambique has based its provisions to criminalise money laundering on the Palermo Convention, it has not yet implemented measures to fully give effect to the this Convention, in particular in relation to matters such as the establishing of a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions relating to customer identification, record-keeping and the reporting of suspicious transactions, implementing measures to detect and monitor the movement of cash and appropriate negotiable instruments across borders and mutual legal assistance and extradition relating to money laundering.

Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2)

- 597. Mozambique has not yet implemented the UNSCRs relating to terrorist financing.

Additional element- ratification or implementation of other relevant international conventions (c. 35.2)

- 598. Mozambique ratified the United Nations Convention against Corruption through the Council of Ministers' Resolution no. 31/2006, of December 26.

6.2.2 Recommendations and Comments

599. The Mozambican authorities should, as a matter of priority, take the necessary steps to implement the provisions of the SFT Convention and the UNSCRs relating to terrorist financing by introducing measures to criminalise terrorist financing and provide for the freezing and forfeiture of terrorist-related funds.
600. The Mozambican authorities should also take the necessary steps to implement the provisions of the Vienna and Palermo Conventions by introducing measures to bring its implementation of the measures relating to mutual legal assistance and extradition, as well as customer due diligence, record keeping and reporting of suspicious transactions in line with the international standards.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	PC	<ul style="list-style-type: none">• Mozambique has not yet implemented measures to fully give effect to the Vienna and Palermo Conventions.
SR.I	NC	<ul style="list-style-type: none">• Mozambique has not yet implemented the SFT or the UNSCRs relating to terrorist financing.

6.3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

Legal framework

601. Mozambique does not have specific legislation on mutual legal assistance.

Recommendation 36

Widest possible range of mutual assistance (c. 36.1)

602. The Mozambican authorities indicated that they seek to rely on bilateral and multilateral agreements with certain countries (such as the Community of Portuguese Speaking Countries, CPLP) for the legal authority to provide mutual legal assistance. However, Mozambique has a limited number of agreements in place in terms of which it can provide assistance and therefore would only be able to consider requests from a rather limited number of countries.
603. Moreover the type of cooperation that can be afforded under these agreements is limited to the specific areas of cooperation contained in each agreement. Typically the agreements only provide for matters such as extradition or technical assistance such as training. These agreements do not generally provide for assistance in areas such as the production, search and seizure of information, documents, or evidence from financial

institutions, the taking of evidence or statements from persons, providing originals or copies of relevant documents and records and evidentiary items or the identification, freezing, seizure, or confiscation of laundered assets.

Provision of assistance in timely, constructive and effective manner (c. 36.1.1)

604. Requests for information must be submitted in the form of a Note Verbale using diplomatic channels and involving the relevant embassy of the requesting state. The request will then be passed on to the competent authority depending on the nature of the request.
605. The Mozambican authorities were unable to provide any statistics on the numbers of requests or the turn-around times for responding to requests. It appears from the absence of information on the processing of requests as well as the from the process used for receiving requests for assistance that requests are not likely to be executed in timely or effective manner.

No unreasonable or unduly restrictive conditions on mutual assistance (c. 36.2)

606. In the absence of a law on mutual legal assistance Mozambique can only rely on specific bilateral and multilateral agreements with specific jurisdictions and is therefore bound by the conditions contained in those agreements which include issues such as reciprocity and dual criminality.

Efficiency of process (c. 36.3)

607. The use of diplomatic channels which necessarily implies the involvement of Embassies and the Ministry of Foreign Affairs as intermediaries between the authorities of the requesting state and the Ministry of Justice and the competent authorities in Mozambique makes for a long chain of intermediate parties which are involved in the execution of requests. Mozambique has not formally appointed a Central Authority for mutual legal assistance.

Provision of assistance regardless of possible involvement of fiscal matters (c. 36.4)

608. In the absence of a law on mutual legal assistance the execution of a request which may involve fiscal matters would depend on the provisions of the underlying agreement which is used as the basis for making the request. Since the agreements in question do not specifically deal with the execution of requests involving fiscal matters, it seems unlikely that assistance will be provided in case which involves fiscal matters.

Provision of assistance regardless of existence of secrecy and confidentiality laws (c. 36.5)

609. In the absence of a law on mutual legal assistance the execution of a request which requires the overriding of secrecy or confidentiality obligations would depend on the provisions of the underlying agreement which is used as the basis for making the request. Since the agreements in question do not specifically deal with the issue of secrecy or confidentiality obligations,

it seems unlikely that assistance will be provided in cases where the information sought is the subject of a secrecy or confidentiality obligation.

Availability of powers of competent authorities (applying R28, c.36.6)

610. The ability to make use of the powers of competent authorities would be restricted to the type of assistance that is provided for in the particular agreement which is used as the basis for making the request. In light of the limited range of mutual legal assistance provided for in the agreements in question and the fact that there is not consistency in the types of assistance covered by the different agreements, the ability to make use of the powers of the competent authorities in Mozambique would be significantly curtailed.

Avoiding conflicts of jurisdiction (c. 36.7)

611. In the absence of a law on mutual legal assistance the Mozambican authorities would not be able to make arrangements with requesting states to determine the best venue for the prosecution of defendants.

Additional element –Availability of powers of competent authorities required under R28 –(c. 36.8)

612. The use of diplomatic channels for making requests would preclude the possibility of entertaining direct requests from foreign judicial or law enforcement authorities to domestic counterparts in Mozambique. As indicated above the ability to make use of the powers of competent authorities is also limited by the limited range of mutual legal assistance provided for in the agreements in question.

International cooperation under SR V (applying c.36.1-36.6 in R.36, c. V.1)

613. Mozambique is unable to provide mutual legal assistance in relation to terrorist financing in light of the fact that the Mozambican authorities seek to provide mutual legal assistance under agreements which contain the principle of dual criminality, and that Mozambique has not yet criminalised terrorist financing.

Recommendation 37

Dual criminality and mutual assistance (c. 37.1 & 37.2)

614. Mozambique seeks to provide mutual legal assistance on the basis of agreements which contain the principle of dual criminality.
615. In applying the principle of dual criminality to mutual legal assistance requests, Mozambique follows a strict approach to the way in which the criminal conduct in question is described in the respective countries. A request for mutual legal assistance will not be executed if there are technical differences in the descriptions or classifications of the offence in question.

International co-operation under SRV (applying c. 37.1-37.2 in R37, cV.2)

616. Mozambique is unable to provide mutual legal assistance in relation to terrorist financing in light of the fact that the Mozambican authorities seek to provide mutual legal assistance under agreements which contain the principle of dual criminality, and that Mozambique has not yet criminalised terrorist financing.

Recommendation 38

617. In the absence of a law on mutual legal assistance the ability to provide assistance in relation to the identification, freezing, seizure, or confiscation of property would depend on the contents of the agreement which is used as the basis for the request. The Mozambican authorities were unable to indicate whether this is provided for in any agreement which is currently in place. Mozambique, therefore, does not seem to have the necessary mechanism in place to execute requests for the identification, freezing, seizure, or confiscation of property.

International cooperation under SR V (applying c. 38.1-38.3 in R.38, c.V.3)

618. Mozambique is unable to provide mutual legal assistance in relation to terrorist financing in light of the fact that the Mozambican authorities seek to provide mutual legal assistance under agreements which contain the principle of dual criminality, and that Mozambique has not yet criminalised terrorist financing.

Statistics (applying R32)

619. The Mozambican authorities could not provide any statistics on relating to the receipt or execution of requests for mutual legal assistance.

6.3.2 Recommendations and Comments

620. The Mozambican authorities should consider as a matter of priority the development of a law on mutual legal assistance which would be of general applications to requests for mutual legal assistance and which meets the requirements of the international standards in this regard.
621. The Mozambican authorities should also as a matter of priority criminalise terrorist financing in order to enable them, among others, to consider requests for mutual legal assistance in matters related to terror financing.
622. The Mozambican authorities should consider nominating a Central Authority to receive, channel, monitor and respond to requests for mutual legal assistance. The Mozambican authorities should also consider developing a more efficient process for the consideration and execution of requests for mutual legal assistance.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	NC	<ul style="list-style-type: none"> Mozambique does not have a general legal instrument to provide for the possible range of mutual legal assistance.

		<ul style="list-style-type: none"> • Mutual legal assistance is subject to restrictive conditions. • The process for the execution of requests is unduly complex and inefficient. • In the absence of a general legal instrument, assistance cannot be provided in relation to requests involving fiscal matters. • There is limited scope for the use of the powers of competent authorities. • In the absence of a general legal instrument, there is limited scope for arrangements to avoid conflicts of jurisdiction. • There is no indication of effectiveness in the execution of mutual legal assistance requests.
R.37	NC	<ul style="list-style-type: none"> • Dual criminality is required for mutual legal assistance. • A strict interpretation of dual criminality is applied.
R.38	NC	<ul style="list-style-type: none"> • In the absence of a general legal instrument, assistance cannot be provided in relation to requests relating to the identification, freezing, seizure, or confiscation of property.
SR.V	NC	<ul style="list-style-type: none"> • In the absence the criminalisation of terrorist financing, assistance cannot be provided in relation to requests relating to terrorist financing.

6.4 Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

Legal framework

623. Mozambique relies on individual bilateral and multilateral agreements for the legal basis to execute extradition requests on a case-by-case basis.

Dual criminality and mutual assistance (c. 37.1 & 37.2)

624. In applying the principle of dual criminality to extradition requests, Mozambique follows a strict approach to the way in which the criminal conduct in question is described in the respective countries. A request for extradition will not be executed if there are technical differences in the descriptions or classifications of the offence in question.

Money laundering as extraditable offence (c. 39.1)

625. Since Mozambique relies on individual bilateral and multilateral agreements as the basis for executing extradition requests, the offences which are considered to be extraditable would have to be specified in the particular agreement which is used as the basis for the request. While money laundering is therefore, in principle, an extraditable offence, it would have to be specified as such in the particular agreement which is used as the basis for the request. As far as could be established none of the extradition agreements to which Mozambique contain money laundering as an extraditable offence.

Extradition of nationals (c. 39.2)

626. According to paragraph 4 of article 67 of the Republic of Mozambique Constitution, a Mozambican citizen cannot be expelled or extradited from Mozambique.
627. In lieu of extradition the Mozambican courts have jurisdiction to try the person for the offence committed in the requesting state. However in applying this principle, Mozambique applies the principle of dual criminality and follows a strict approach in this regard. The person's criminal behaviour in the requesting state must be formally described in the same manner as in a Mozambican Law. The trial court in Mozambique must consider the description of the alleged offence without applying analogical extensive interpretation.

Cooperation for prosecution of nationals (applying c. 39.2(b), c. 39.3)

628. The Mozambican authorities were unable to provide an indication of the type of cooperation that can be offered to assist the requesting state concerning the evidentiary requirements for a trial of a Mozambican national who is not extradited.

Efficiency of extradition process (c. 39.4)

629. The Ministry of Justice has been nominated as the Central Authority for extradition requests. However, requests for extradition must be submitted in the form of a Note Verbale using diplomatic channels and involving the relevant embassy of the requesting state. The request will then be passed on to the Ministry of Justice to facilitate the execution of the request.

Additional element – existence of simplified procedures relating to extradition (c. 39.5)

630. No possibility of following a simplified extradition procedure exists since the request has to be executed in the terms provided for in the particular agreement which is used as the basis for the extradition request.

Additional element under SR V (applying c. 39.5 in R 39, c. V.8)

631. Extradition in respect of terrorist financing cannot be provided since terrorist financing is not criminalised in Mozambique.

Statistics (applying R32)

632. The Mozambican authorities were unable to provide any statistics on the numbers of requests or the turn-around times for responding to requests. It appears from the absence of information on the processing of requests as well as the from the process used for receiving requests for assistance that requests are not likely to be executed in timely or effective manner.

6.4.2 Recommendations and Comments

633. The Mozambican should consider as a matter of priority taking the necessary steps to develop a legal instrument that will make money laundering an extraditable offence irrespective of whether it is mentioned in an extradition agreement.

634. The Mozambican authorities should also as a matter of priority criminalise terrorist financing in order to enable them, among others, to treat terrorist financing as an extraditable offence.
635. The Mozambican authorities should consider taking the necessary steps to relax the application of the principle of dual criminality.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	NC	<ul style="list-style-type: none"> • Money laundering as extraditable offence is dependent on individual treaties. • In the case of prosecuting Mozambican nationals in lieu of extradition a strict approach to dual criminality is applied. • The process for communicating extradition requests to the Central Authority is through the Ministry of Foreign Affairs is inefficient. • There is no demonstration of effectiveness in the execution of extradition requests.
R.37	NC	A strict interpretation of dual criminality is applied.
SR.V	NC	In the absence the criminalisation of terrorist financing, assistance cannot be provided in relation to requests relating to terrorist financing.

6.5 Other Forms of International Co-operation (R.40 & SR.V)

6.5.1 Description and Analysis

Widest range of international cooperation (c. 40.1)

FIU to FIU cooperation

636. The GIFiM has no range of international cooperation since the FIU was not operational at the time of the on-site visit.

Police to police cooperation

637. Mozambique Criminal Investigation Police cooperates with its 6 neighbours and other countries through Interpol which is one of its four operational units. Interpol is responsible for processing the request for assistance from other countries and those going to other countries. There is also cooperation between Mozambique and other SADC member countries in respect of the SARPCCO Protocol relating to police to police cooperation. The cooperation also enables PIC to hold joint investigations with other police forces in the SADC region.
638. The authorities informed the assessment team during the onsite that the PIC conducts joint and bilateral operations with its neighbours. They provided statistics on operations conducted jointly with Lesotho, South

Africa and Swaziland in the last four years. The objectives of the joint operations were, to arrest offenders, recover stolen motor vehicles, recover illicit drugs, recover illegal firearms and to control the movement of cross boarder criminal activities. The table below provides details of the joint operation undertaken with respect to stolen vehicles:

Palanca Negara Operation			
Country	Vehicle Impounded	Motor Vehicles positive stolen in South Africa	Motor Vehicles stolen in other countries
Lesotho	32	28	Botswana (1) Mozambique (1)
Mozambique	90	83	Mozambique (2) Zimbabwe & (1) Swaziland (1)
South Africa	30	30	
Swaziland	42	24	Swaziland (2)

639. The Republic of Mozambique is a party to the following agreements/ protocols and multilateral instruments to fight against crime.

Agreements/protocols multilateral instruments

	Title	Institution/ organization	Date
			Signature/ adhesion
1	Community agreement for the development of Southern Africa	SADC	17/09/1992
2	SADC protocol for fighting against illicit drugs	SADC	24/08/1996
3	Agreement for cooperation and mutual assistance to fight against crime	SADC	01/10/1997
4	Protocol for cooperation in the fields of politics, defence and security	SADC	14/08/2001
5	Protocol for the control of weapons, munitions and other connected materials	SADC	14/08/2001
6	Package for mutual defence	SADC	26/08/2003
7	Protocol of SADC for the facilitation of the movement of the people	SADC	17/08/2005
8	Agreement for the establishment of the SADC	SADC	

	brigade in the African force in a state of alert		17/08/2007
9	Declaration of Bamako related to the common African position for proliferation, circulation and illicit traffic of small weapons	African Union	01/12/2000
10	United nations action program for prevention and fight against illicit commerce of small weapons	United nations	20/07/2001
11	United nations convention against transnational organized crime	United nations	December 2002
12	United nations protocol against the illicit manufacture of small weapons and other connected material, supplementing the united nations convention against transnational organized crime	United nations	December 2002
13	Cooperation protocol between the Portuguese African countries in what concerns to public security	Mozambique/CPLP	09/04/2008
14	Cooperation accord in public security between the Mozambican ministry of home affairs and the ministry of home affairs of the United Republic of Tanzania	Mozambique/ Tanzania	17/11/1982
15	Accord for mutual cooperation and assistance in what concerns to fight against crime between the government of the republic of Mozambique and the government of the Republic of South Africa	Mozambique/ South Africa	Agust1995
16	Cooperation accord in issues related to internal security between the ministry of home affairs of Mozambique and the internal administration ministry of Portugal	Mozambique/ Portugal	12/09/1995
17	Accord for the maintenance of the law and order between the government of the Republic of Mozambique and the government of the United States of America	Mozambique/ USA	28/09/2001
18	Protocol of intentions between the government of the Republic of Mozambique and the government of the Federative Republic of Brazil for technical cooperation, educational cooperation, scientific and technological in the areas of public security	Mozambique/ Brazil	20/06/2001
19	Agreement of cooperation in security and public order between the governments of the Republic of Mozambique and the Democratic Republic of East-Timor	Mozambique/ East-Timor	19/09/2003
20	General Accord of cooperation in issues related to security and public order between the government of The Republic Mozambique and the government of the Republic Angola	Mozambique/ Angola	13/11/2003
21	Cooperation accord in issues related to security and public order between the government of the Republic of Mozambique and the government of the Republic of Mauritius	Mozambique/ Mauritius	26/05/2004

22	Accord of cooperation between the government of the Republic of Mozambique and the government of the Republic of Mauritius in the areas of prevention and fight against the traffic of drugs and of psychotropic substances	Mozambique/ Mauritius	26/05/2004
23	Complementary adjustment of the general cooperation accord between the government of Mozambique and the government of the Federative Republic of Brazil in the area of public order.	Mozambique/ Brazil	31/08/2004
24	Cooperation accord between the government of the Republic of Mozambique and the government of the Federative Republic of Brazil about fight against production, consume and illicit traffic of drugs, psychotropic substances and for the struggle against activities and transition of fraudulent finances	Mozambique/ Brazil	31/08/2004
25	Cooperation accord between the Republic of Mozambique and the Arab Republic of Egypt in the areas of Security and public order	Mozambique/ Egypt	13/12/2006
26	Protocol of Cooperation between the police sciences academy of Mozambique and the police Academy of Egypt	Mozambique/ Egypt	13/12/2006
27	International accord between the government of the Republic of Mozambique and the government of the Republic of South Africa for the establishment of control posts in the borders between Mozambique and South Africa	Mozambique/ South Africa	18/09/2007

Supervisor to supervisor cooperation

BoM

640. Pursuant to the provisions of Article 57 of Law 15/99, BoM may exchange information with supervisory authorities of other states for supervisory purposes. Information exchanged in the context of Article 57 of Law 15/99 subjects all the parties involved to a duty of confidentiality (Art. 57(3) of Law 15/99).
641. BoM has entered into memoranda of understanding with the central banks of Portugal, Mauritius, Venezuela and Zimbabwe to facilitate the exchange of information and to provide other assistance. All information exchanged under the MOU is subject to the condition of confidentiality.
642. BoM is also able to cooperate with the central banks of the SADC member countries, namely, Angola, Botswana, D.R Congo, Lesotho, Malawi, Mauritius, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, under the Committee of Central Bank Governors, which was set up in 1995 to promote and achieve closer cooperation in a number of areas, including banking supervision and money laundering.

643. BoM has not received any ML related queries thus far.

IGS

644. Pursuant to the provisions of Article 51(2) of Decree 41/2003, the IGS may exchange information with other insurance supervisory authorities on a reciprocal basis. The IGS has entered into an MOU with the Financial Services Board in South Africa.

645. The IGS is a signatory of the CISNA MMOU which facilitates mutual assistance and exchange of information between SADC member countries. The IGS is also able to cooperate with the Insurance Supervisors of Portuguese –Speaking countries. Mozambique is a member of ASEL. ASEL brings together insurance supervisors from jurisdictions that have Portuguese as their official language. In addition to Mozambique, the other members are: Angola, Brazil, Cape Verde, East Timor, Guinea-Bissau, Macau, Portugal and São Tomé & Príncipe.

Other agencies (customs, immigration)

Customs to customs

646. Mozambique is a member of the World Customs Organisation. It cooperates with other customs organisations through the Regional Intelligence Liaison Offices (RILO) network which has been set up by the WCO to, inter alia, encourage information exchange, organise and support regional intelligence- based operations; facilitate mutual assistance and cooperation with other enforcement agencies, and promote and maintain regional cooperation between Customs and between Customs and other law enforcement agencies and organisations. The RILO network comprises 11 offices covering the WCO's six regions. Mozambique is a member of the WCO East and Southern Africa RILO. The other members are: Angola, Botswana, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

647. The aim of this mechanism is to enhance the effectiveness of global information and intelligence exchange and to strengthen cooperation between all Customs services tasked with combating transnational crime. The exchange of information and intelligence takes place via the Customs Enforcement Network (CEN), a WCO global data information-gathering and communication system for intelligence purposes. Amongst the information that it captures, the CEN is a database of Customs seizures and offences and communication network to facilitate international exchanges and contacts.

Rapid, constructive, and effective assistance (c. 40.1.1)

FIU

648. Law 14/2007 gives authority to the GIFiM to share information with foreign financial intelligence units by its own initiative or by their requests. However, since GIFiM is not yet operational, such information sharing has not yet occurred. In addition, Article 7 of the Law 14/2007 gives powers to the Director of GIFiM to enter into information exchange mechanisms such as Memoranda of Understanding with foreign counterparts when necessary.

Other competent authorities

649. No statistics were provided to enable the assessment team to evaluate whether the authorities in Mozambique are able to exchange information in a rapid, constructive and effective manner.

Clear and effective gateways for exchange of information (c. 40.2)

FIU

650. There is no clear and effective mechanism to facilitate exchanges of information between counterparts given that the GIFiM is not yet operational.

Police, customs and financial supervisors

651. Please refer to write up under criterion 40.1.

Spontaneous exchange of information (c. 40.3)

652. Although Law 14/2007 makes provision for the GIFiM to share information with foreign financial intelligence units both by its own initiative and by their requests, this has not happened as the GIFiM is not yet operational.
653. Police and customs are able to provide information both spontaneously and upon request on all transnational crimes.
654. Under Article 57 of Law 15/99, BoM may exchange information with its foreign counterparts in relation to information necessary for the supervision of credit institutions and finance companies. Under Article 51(2) of Decree 41/2003, IGS may exchange information with foreign counterparts in relation to information pertaining to the supervision of business of insurance and insurance mediation. It did not appear that the scope of these legal provisions would exclude ML and other predicate offences as both BoM and IGS have the responsibility for AML supervision.

Making inquiries on behalf of foreign counterparts (c. 40.4)

655. This is only possible where there are bilateral agreements, MOUs or regional agreements with the requesting country.

FIU authorised to make inquiries on behalf of foreign counterparts (c. 40.4.1)

656. Since the GIFiM is not yet operational and not receiving enquiries, there has been no inquiries made on behalf of foreign counterparts.

Conducting of investigations on behalf of foreign counterparts (c. 40.5)

657. The Mozambique law does not make specific provision for the law enforcement authorities to carry out investigations on behalf of foreign counterparts. However in practice the authorities actually investigate cases and seize property at the request of foreign counterparts.

No unreasonable or unduly restrictive conditions on exchange of information (c. 40.6)

658. There is no legal or other requirement imposing any unduly restrictive conditions for the exchange of information on the part of the GIFiM and the other competent authorities.

Provision of assistance regardless of possible involvement of fiscal matters (c.40.7)

659. The authorities in Mozambique have indicated that requests for cooperation are not refused solely because the requests involve fiscal matters. In addition, the law in Mozambique does not contain any provisions that would require the authorities to refuse to cooperate for this sole reason.

Provision of assistance regardless of existence of secrecy and confidentiality laws (c. 40.8)

660. No legal provision addressing this issue for the GIFiM.
661. Notwithstanding the respective statutory duty of confidentiality of BoM and IGS they may exchange information with foreign counterparts in the circumstances provided under the law.

Safeguards in use of exchanged information (c.40.9)

662. Mozambique does not have any laws or guidelines to ensure that the competent authorities who receive information from cooperating entities use it only for the authorised purpose for which it was requested. There is also no provision for how the information received is stored by the receiving entity.
663. The mission was informed that information is exchanged subject to confidentiality requirements and is exclusively to be used for authorized purposes. The information must be sent by secure and legal means of communication. The competent authority is required to maintain secrecy regarding all requests for cooperation, their content, and the documentary evidence provided. The authorities confirmed that this rule for legal cooperation also applies to other forms of cooperation. There is no specific legal provision related to the GIFiM.

Statistics (applying R.32)

664. Except for the police, no other statistics on international cooperation were provided by the authorities.

6.5.2 Recommendations and Comments

Recommendation 40

665. It is recommended that the authorities consider the following:
- take such measures as are necessary to ensure that the FIU is made operational at the earliest.
 - Once the FIU becomes operational, the authorities in Mozambique should ensure that there are effective mechanisms to enable the GIFiM to provide the widest range of cooperation to foreign counterparts.
 - Developing an efficient system of keeping records of requests for international cooperation, action taken and the time taken to respond to such requests
 - Establish safeguards to maintain the confidentiality and use of information received and imparted through international cooperation.

Special Recommendation V

666. It is recommended that the authorities in Mozambique should criminalise terrorist financing as a matter of urgency and ensure that the requirements under Recommendation 40 also apply to the obligations under Special Recommendation V.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.5 underlying overall rating
R.40	PC	<ul style="list-style-type: none">• There is no operational FIU in Mozambique to carry out international cooperation requests from counterparts in foreign jurisdictions.• It was not possible for the assessment team to evaluate whether the authorities in Mozambique are able to exchange information in a rapid, constructive and effective manner as no statistics were made available.• Mozambique does not have any laws or guidelines to ensure that the competent authorities who receive information from cooperating entities use it only for the authorised purpose for which it was requested.• There is also no provision regarding how the information received is stored by the receiving entity.• The overall effectiveness of the mechanisms in place could not be assessed in the absence of relevant statistics.
SR.V	NC	<ul style="list-style-type: none">• As TF is not yet criminalised in Mozambique there is serious doubt on whether the requirements under Recommendation 40 would apply to the obligations under SR V.

7. OTHER ISSUES

7.1 Resources and statistics

667. The text of the description, analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report, that is, section 2, parts of sections 3 and 4 and in section 6. There is a single rating for each of these Recommendations, even though the recommendations are addressed in several sections.

	Rating	Summary of factors relevant to Recommendations 30 and 32 and underlying overall rating
R.30	PC	<ul style="list-style-type: none">• The FIU is not yet operational and as such no staff member has been appointed other than the Director.• Only few officers in PIC and Customs have been trained in ML and TF issues.• BOM & IGS are not adequately staffed to undertake their AML/CFT supervisory function.• IGS staff members have received limited AML/CFT training.
R.32	NC	<ul style="list-style-type: none">• Mozambique has not reviewed the effectiveness of its systems of combating ML & TF regularly.• Competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness of systems for combating ML & TF. No mechanism in place for keeping annual statistics on-<ul style="list-style-type: none">- STRs received by the AG- Breakdown of STR analysed and disseminated- ML investigations, prosecutions and convictions- Mutual legal assistance and other requests for cooperation- On-site examinations conducted by supervisors relating to AML and on any sanctions applied- Formal requests for assistance made or received by supervisors relating to AML/CFT

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

Table 2: Recommended Action Plan to improve the AML/CFT system

Table 3: Authorities' Response to the Evaluation (if necessary)

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

Forty Recommendations	Rating	Summary of factors underlying rating ²⁴
Legal systems		
1. ML offence	PC	<ul style="list-style-type: none"> • It is not clear whether it is necessary that a person be convicted of a predicate offence when proving that property is the proceeds of crime. • The range of predicate offences does not cover all serious offences in Mozambican criminal law, nor does it include a range of offences in each of the designated categories of offences. • It is not clear whether predicate offences for money laundering extend to conduct that occurred in another country and this would not be possible for uncovered predicate offences. • The provisions criminalising money laundering have not yet been implemented effectively.
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> • It does not appear that the range of civil or administrative sanctions which may be applied to legal persons is sufficiently broad to be effective, proportionate and dissuasive. • The provisions criminalising money laundering have not yet been implemented effectively.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The range of predicate offences does not cover all serious offences in Mozambican criminal law, nor does it include a range of offences in each of the designated categories of offences. • There are no provisional measures to

²⁴ These factors are only required to be set out when the rating is less than Compliant.

		<p>freeze or otherwise restrain property that may be forfeited as instrumentalities or proceeds of criminal activities, pending an investigation or court proceedings.</p> <ul style="list-style-type: none"> • There are, however, no provisions detailing how the rights of third <i>bona fide</i> parties are to be protected. • There are no clear provisions for the voiding of contractual or other actions in the course of forfeiture proceedings. • There is no effective implementation of the forfeiture provisions.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	NC	<ul style="list-style-type: none"> • There are uncovered financial institutions that fall outside the scope of the safe harbour protection conferred by Article 21 of Law 7/2002. • The current exception to the confidentiality rules does not allow the entities under the supervision of the IGS to provide information to the latter. • The duty of confidentiality that applies to the Bank of Mozambique does not provide an exception that would enable cooperation between the Bank of Mozambique and other supervisory authorities. • There are no exceptions to the duty of confidentiality of the IGS under Article 51 of Decree 41/2003 to enable the latter to provide information where there is a judicial order or to otherwise collaborate with judicial authorities. • The respective confidentiality rules that apply the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to disclose information to the AG's office as required under Article 20 of Law 7/2002. • The respective confidentiality rules

		<p>that apply to the Bank of Mozambique and the IGS do not provide for exceptions that would allow the Bank of Mozambique or the IGS to exchange information or otherwise collaborate with the FIU.</p> <ul style="list-style-type: none"> • The respective confidentiality rules that apply to credit institutions, finance companies, financial intermediaries and insurance entities do not provide for exceptions that would allow these financial entities to exchange information or otherwise collaborate with the FIU. • The exception to the applicable confidentiality rules that enables the sharing of information between financial institutions where this is required by Rec. 7, 9 or SR VII is limited and can only be done with the consent of the client.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • There are no provisions governing numbered accounts. • There is no requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances required under the FATF standards. • The requirement to undertake the CDD measures does not arise where there is a suspicion of terrorist financing. • The exemptions under Law 7/2002 are not allowed under the standards and may in practice reduce the overall effectiveness of the provisions of the AML law and regulations. • There is no requirement for financial institutions to identify the beneficial owner as defined by the FATF and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that that the financial institution is satisfied that it knows who the

		<p>beneficial owner is.</p> <ul style="list-style-type: none"> • For all customers, there is no requirement for financial institutions to determine whether the customer is acting on behalf of another person. • For customers that are legal persons or legal arrangements, there is no requirement for financial institutions to take reasonable measures to understand the ownership and control structure of the customer; and to determine the natural persons who ultimately own or control the customer. • There is no requirement for financial institutions to obtain information on the purpose and intended nature of the business relationship. • There are no requirements for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. • Where financial institutions are unable to comply with criteria 5.3 to 5.6 (other than the verification of identity), there is no requirement to prohibit financial institutions to open the account, commence business relations or perform the transaction. • There is no requirement for financial institutions to consider making a suspicious transaction report where the financial institution is unable to comply with the required CDD measures under criteria 5.3 to 5.6. • There is no requirement for financial institutions, when criteria 5.2 (e) or 5.17 apply and the financial institution is unable to comply with the required CDD measures, to terminate the business relationship and to consider making a suspicious transaction report. • There is no requirement for financial institutions to apply CDD
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		<p>Requirements to existing customers and to conduct due diligence on such existing relationships at appropriate times.</p> <ul style="list-style-type: none"> • Financial institutions are not required to perform CDD measures on existing customers to whom criterion 5.1 applies. • Uncovered financial institutions are not subject to the CDD obligations under Law 7/2002.
6. Politically exposed persons	NC	There are no requirements for financial institutions to identify politically exposed persons (PEPs) or take other such measures as indicated under Recommendation 6.
7. Correspondent banking	NC	There are no requirements for financial institutions to take such measures as set out in Recommendation 7.
8. New technologies & non face-to-face business	NC	There are no requirements for financial institutions to take such measures as set out in Recommendation 8.
9. Third parties and introducers	NC	There is no requirement for reporting persons relying upon a third party to immediately obtain from the third party the necessary information concerning certain elements of the CDD process and to follow the other requirements under Recommendation 9.
10. Record keeping	NC	<ul style="list-style-type: none"> • The nature and extent of the information required to be kept do not appear adequate to allow for the reconstruction of individual transactions as there are no requirements for financial institutions to record the nature and date of the transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction. • There is however no requirement to maintain records of account files and business correspondence for a period of at least five years following the termination of an account or business relationship.

		<ul style="list-style-type: none"> • There is no requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority. • There is no time frame which is specified to ensure that financial institutions make available all customer and transaction records and information on a timely basis. <p>There is no requirement for records of transactions related to terrorist financing activities to be maintained.</p>
11. Unusual transactions	NC	<ul style="list-style-type: none"> • There is no obligation for financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. • There is no requirement for financial institutions to set forth their findings in writing, after examining as far as possible the background and purpose of such transactions; • There is no requirement for financial institutions to make such findings available to assist competent authorities and auditors.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • AML requirements under the AML law and regulations do not extend to real estate agents, dealers in precious metals and stones, lawyers and accountants although they operate in Mozambique. • The same deficiencies that have been identified in the CDD provisions under recommendation 5 also apply to casinos. • The threshold requirement for casinos under Rec. 12.1 (a) is not met. • There are no specific requirements in relation to the CDD measures under recommendations 6, 8 & 9. • The same deficiencies that have been identified in the CDD provisions under recommendations 10 & 11 also

		<p>apply to casinos.</p> <ul style="list-style-type: none"> • Casinos have not implemented the AML requirements under Law 7/2002 and Decree 37/2004. • TF is not criminalised in Mozambique
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • There are uncovered financial institutions and not all predicate offences are covered as required by the FATF Standards. • Reporting entities not required to file STRs on terrorist financing. • There is low level of AML/CFT awareness among reporting entities. • No sanctions for failure to report • Attempted transactions and those with tax issues not covered. • Effectiveness of the AML system could not be assessed.
14. Protection & no tipping-off	NC	<ul style="list-style-type: none"> • There is no tipping off prohibition on STRs. • Directors, officers and employees (permanent and temporary) are not protected from liability by AML regulatory framework in Mozambique.
15. Internal controls, compliance & audit	NC	<ul style="list-style-type: none"> • The requirement to establish internal procedures, policies and controls to prevent ML is couched in general terms and does not expressly cover CDD, record retention, the detection of unusual and suspicious transactions, and the reporting obligations. • To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF. • There is no requirement for financial institutions to communicate internal procedures, policies and controls to prevent ML and TF to employees. • There is no requirement for financial institutions to develop appropriate compliance arrangements including the designation of an AML/CFT

		<p>compliance officer at management level.</p> <ul style="list-style-type: none"> • There is no requirement for financial institutions to maintain an adequately resourced and independent audit function to test compliance with internal procedures, policies and controls to prevent ML and TF • There is no requirement for financial institutions to establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends. • There is no requirement for financial institutions to put in place screening procedures to ensure high standard when hiring employees.
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • AML regime does not extend to real estate agents, dealers in precious metals and stones, lawyers and accountants although they operate in Mozambique. • The same deficiencies that have been identified in the CDD provisions under recommendations 13 to 15 and 21 also apply to casinos. • Casinos have not implemented the AML requirements under Law 7/2002 and Decree 37/2004. • To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF.
17. Sanctions	PC	<ul style="list-style-type: none"> • To the extent that TF is not criminalized in Mozambique, the preventative measures are not designed to combat TF. • The procedures that must be followed for the investigation of breaches of AML requirements imposed on financial institutions under the law and regulations are

		<p>not clear. This may seriously undermine the application of sanctions by the courts.</p> <ul style="list-style-type: none"> • Insurance intermediaries are not covered under Law 7/2002. • The effectiveness of the regime for sanctions could not be assessed as no sanctions had been applied at the time of the assessment.
18. Shell banks	PC	<ul style="list-style-type: none"> • There is no requirement in Mozambique prohibiting financial institutions from entering into or continuing correspondent banking relationships with shell banks. • There is no requirement in Mozambique for financial institutions to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks.
19. Other forms of reporting	NC	The authorities have not considered the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerised data base.
20. Other NFBP & secure transaction techniques	LC	Mozambique has not considered applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF.
21. Special attention for higher risk countries	NC	There is no requirement for financial institutions to give special attention to business relationships with persons, including legal persons and other financial institutions, from or in countries which do not or insufficiently apply the FATF Recommendations or to take other such measures as required under Recommendation 21.
22. Foreign branches & subsidiaries	N/A	At the time of the onsite visit financial institutions in Mozambique do not have foreign branches or subsidiaries.
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • To the extent that TF is not criminalized in Mozambique, the

		<p>preventative measures are not designed to combat TF.</p> <ul style="list-style-type: none"> • Insurance intermediaries are not covered under Law 7/2002. • There is no designated AML supervisor for the postal services. • There are no measures in place for preventing criminals or their associates from holding or being the beneficial owner of a significant or controlling interest in a financial institution. • There are some deficiencies regarding Mozambique's compliance with the BCPs and it did not appear the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering could apply in a similar manner for AML purposes for financial institutions that are subject to the IOSCO Principles for Securities Regulations or the IAIS Insurance Core Principles. • Natural and legal persons providing money or value transfer service or a money or currency changing service are not subject to an effective system for monitoring and ensuring compliance with national AML/CFT requirements. • There is no effective AML supervision of other financial institutions.
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • To the extent that TF is not criminalized in Mozambique, the preventative measures that are in place are not designed to combat TF. • In the absence of the relevant laws and regulations, compliance with essential criteria 24.1 could not be demonstrated. • Other categories of DNFBPs are not covered under the AML Regime

25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> • Inadequate guidelines issued by supervisory bodies. • No guidelines have been issued to assist financial institutions to implement and comply with their respective AML/CFT requirements. • The nature and extent of feedback given to reporting entities are inadequate. • No guidelines have been established to help casinos to implement and comply with their AML requirements. • Real estate agents, dealers in precious metals and precious stones, lawyers, notaries and accountants are not subject to the AML regime. • TF is not criminalised in Mozambique.
Institutional and other measures		
26. The FIU	NC	<ul style="list-style-type: none"> • There is no operational FIU. • Terrorist financing is not criminalised. • The GIFiM has not yet issued guidance on the manner of reporting STRs to all reporting entities. • There is no adequate staff appointed. • The integrity and confidentiality requirements in place are inadequate. • No effective awareness raising programmes on AML/CTF issues. • Effectiveness could not be assessed as the FIU was not yet operational.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • No money laundering investigation and prosecution • Terrorist financing not criminalised. • Overall effectiveness could not be assessed
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • Terrorist financing not criminalised • Overall effectiveness of money laundering investigations and prosecutions could not be assessed.
29. Supervisors	NC	<ul style="list-style-type: none"> • To the extent that TF is not

		<p>criminalized in Mozambique, the preventative measures are not designed to combat TF.</p> <ul style="list-style-type: none"> • Insurance intermediaries are not covered under Law 7/2002. • The scope of AML/CFT onsite inspections could not be determined as financial supervisors had not put into place any such programmes. • It is not clear whether it is mandatory for financial institutions to comply with requests for information from the BoM and the IGS. • The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team. • The investigative powers of BoM under Decree 37/04 are not clear. • The overall effectiveness of the AML supervisory regime could not be determined as the financial supervisors were not undertaking the AML/CFT supervision of financial institutions.
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> • The FIU is not yet operational and as such no staff member has been appointed other than the Director. • Only few officers in PIC and Customs have been trained in ML and TF issues. • BOM & IGS are not adequately staffed to undertake their AML/CFT supervisory function. • IGS staff members have received limited AML/CFT training.
31. National co-operation	PC	<ul style="list-style-type: none"> • There is no mechanism in place to enable the FIU to cooperate and coordinate domestically with law enforcement and supervisory authorities concerning the development and implementation of policies and activities to combat ML. • TF is not criminalised in Mozambique.
32. Statistics	NC	<ul style="list-style-type: none"> • Mozambique has not reviewed the

		<p>effectiveness of its systems of combating ML & TF regularly.</p> <ul style="list-style-type: none"> Competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness of systems for combating ML & TF. No mechanism in place for keeping annual statistics on- <ul style="list-style-type: none"> STRs received by the AG Breakdown of STR analysed and disseminated ML investigations, prosecutions and convictions Mutual legal assistance and other requests for cooperation On-site examinations conducted by supervisors relating to AML and on any sanctions applied Formal requests for assistance made or received by supervisors relating to AML/CFT
33. Legal persons – beneficial owners	NC	The information as provided by the Mozambican authorities in the mutual evaluation questionnaire could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with the essential criteria under Recommendation 33.
34. Legal arrangements – beneficial owners	N/A	There are no trusts or other similar legal arrangements recognised under the Mozambican legal system.
International Co-operation		
35. Conventions	PC	Mozambique has not yet implemented measures to fully give effect to the Vienna and Palermo Conventions.
36. Mutual legal assistance (MLA)	NC	<ul style="list-style-type: none"> Mozambique does not have a general legal instrument to provide for the possible range of mutual legal assistance. Mutual legal assistance is subject to restrictive conditions. The process for the execution of

		<p>requests is unduly complex and inefficient.</p> <ul style="list-style-type: none"> • In the absence of a general legal instrument, assistance cannot be provided in relation to requests involving fiscal matters. • There is limited scope for the use of the powers of competent authorities. • In the absence of a general legal instrument, there is limited scope for arrangements to avoid conflicts of jurisdiction. <p>There is no indication of effectiveness in the execution of mutual legal assistance requests.</p>
37. Dual criminality	NC	<ul style="list-style-type: none"> • Dual criminality is required for mutual legal assistance. • A strict interpretation of dual criminality is applied.
38. MLA on confiscation and freezing	NC	<p>In the absence of a general legal instrument, assistance cannot be provided in relation to requests relating to the identification, freezing, seizure, or confiscation of property.</p>
39. Extradition	NC	<ul style="list-style-type: none"> • Money laundering as extraditable offence is dependent on individual treaties. • In the case of prosecuting Mozambican nationals in lieu of extradition a strict approach to dual criminality is applied. • The process for communicating extradition requests to the Central Authority is through the Ministry of Foreign Affairs is inefficient. • There is no demonstration of effectiveness in the execution of extradition requests.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> • There is no operational FIU in Mozambique to carry out international cooperation requests from counterparts in foreign jurisdictions. • It was not possible for the assessment team to evaluate whether the authorities in Mozambique are able

		<p>to exchange information in a rapid, constructive and effective manner as no statistics were made available.</p> <ul style="list-style-type: none"> • Mozambique does not have any laws or guidelines to ensure that the competent authorities who receive information from cooperating entities use it only for the authorised purpose for which it was requested. • There is also no provision regarding how the information received is stored by the receiving entity. • The overall effectiveness of the mechanisms in place could not be assessed in the absence of relevant statistics.
Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	NC	Mozambique has not yet implemented the SFT or the UNSCRs relating to terrorist financing.
SR.II Criminalise terrorist financing	NC	Terrorist financing has not been criminalised in the Mozambican law.
SR.III Freeze and confiscate terrorist assets	NC	No measures to implement the freezing and confiscation of terrorist funds and assets.
SR.IV Suspicious transaction reporting	NC	There is no legal obligation for reporting entities to file STRs related to terrorist financing.
SR.V International co-operation	NC	<ul style="list-style-type: none"> • In the absence the criminalisation of terrorist financing, assistance cannot be provided in relation to requests relating to terrorist financing. • As TF is not yet criminalised in Mozambique there is serious doubt on whether the requirements under Recommendation 40 would apply to the obligations under SR V.
SR VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> • There is no specific requirement for MVT service providers to be licensed or registered. • MVT service providers are not required to maintain a current list of

		<p>agents.</p> <ul style="list-style-type: none"> • MVT service providers are not adequately monitored for compliance with FATF Recommendations. • Sanctions have not been applied and effectiveness could not be determined.
SR VII Wire transfer rules	NC	The requirements under SR VII have not been implemented.
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> • The authorities have not conducted risk assessment of the NPO sector regarding misuse of the sector for terrorist financing. • Periodic assessment has not been undertaken to determine the sector's potential vulnerability to terrorist activities. • No outreach programmes have been undertaken in Mozambique's NPO sector to raise awareness about the vulnerabilities of the sector to terrorist abuse and terrorist financing risks and the measures that the sector can undertake to protect itself from such abuse. • No sanctions for failure to comply with applicable NPO sector laws and regulations. • There is no requirement for NPOs to keep and maintain records, for a minimum period of five years, and make the records available to appropriate authorities as well as detailed records of domestic and international financial flows. • The authorities have no effective mechanism in place that allow for prompt investigative or preventative action against such NPOs that are suspected of either being exploited or actively supporting terrorist activity or terrorist organisation.

		<ul style="list-style-type: none"> • Inadequate allocation of resources to competent authorities dealing with the NPO sector.
SR.IX Cross Border Declaration & Disclosure	NC	The requirements under SR.IX have not been implemented in Mozambique.

Table 2: Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • The Mozambican authorities should, as a matter of priority, take the necessary steps to extend the range of predicate offences so that it covers all serious offences in Mozambican criminal law and includes a range of offences in each of the designated categories of offences. • In addition the Mozambican authorities should give priority to the investigation and prosecution of the money laundering offences. The Mozambican authorities should develop policies for the application by their prosecuting authorities of the provisions of Law 7/2002 criminalising money laundering. These should address matters such as the approach to be followed to proving that property is the proceeds of crime (which should avoid relying on a prior conviction for a predicate offence), the applicability of the money laundering offence to foreign predicate offences and the application of the money laundering offence to situations of self-laundering. These policies should also form the basis for training material etc. that should be developed and provided to the competent authorities involved in the prosecution of criminal offences. In addition to developing policies and providing training, the Mozambican authorities should actively pursue the usage of the money laundering offence and the practical application of the provisions of Law 7/2002 in order to build the necessary expertise and experience and to provide legal certainty in relation to matters that are currently unclear concerning the interpretation of these

	provisions.
2.2 Criminalisation of Terrorist Financing (SR.II)	The Mozambican authorities should as a matter of priority take the necessary steps to criminalise terrorist financing in accordance with the requirements of SR.II.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • The Mozambican authorities should, as a matter of priority, provide for provisional measures, such as the freezing of property, to prevent any dealing, transfer or disposal of property that may be subject to confiscation, pending an investigation or court proceedings. The Mozambican authorities should also ensure that these provisional measures allow for the initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice. • The Mozambican authorities should, as a matter of priority, expand the range of offences in respect of which the forfeiture of instrumentalities can be obtained so that it covers all serious offences in Mozambican criminal law and includes a range of offences in each of the designated categories of offences. • The Mozambican authorities should also provide clearer provisions in law for the protection for the rights of bona fide third parties and for the authority to take steps to prevent or void contractual or other actions. • The Mozambican authorities should take steps to implement the provisions of Articles 5 and 6 of Law 7/2002 in practice.
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • The Mozambican authorities should take the necessary steps in accordance with SRIII to introduce measures for the freezing of terrorist funds and assets so as to enable them to implement S/Res/1267 and S/Res/1373. • The Mozambican authorities should take the

	<p>necessary steps in accordance with SRIII to introduce measures for the confiscation of terrorist funds and assets so as to enable them to implement the SFT Convention.</p>
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<ul style="list-style-type: none"> • In finalizing the review of the AML and other applicable laws, authorities in Mozambique should ensure that the revised laws meet AML and CFT standards, including criminalizing the financing of terrorism. This will ensure that the GIFiM is able to receive STRs on money laundering and terrorist financing for analysis and dissemination to relevant authorities. • The authorities in Mozambique should finalise preparations on the setting up of the GIFiM so that the FIU can begin its operations within a reasonable timeframe. For this to happen, the authorities should finalise the Procedures Manuals and Internal Regulations and draw up a budget that clearly sets out human, technical and financial requirements of the GIFiM. • The authorities should develop guidance systems and processes indicating to the reporting entities the manner, form and procedures of submitting STRs to the GIFiM. In particular, the authorities should take into account the diversity of the reporting entities and accordingly develop sector-specific STR reporting processes. • The GIFiM should develop platforms to facilitate timely access to information held by law enforcement agencies to carry out its functions effectively. In addition to the ongoing efforts to sign MoU with different domestic law enforcement agencies for information sharing and cooperation, the GIFiM should also consider working arrangements to have points of contact to alleviate bottlenecks that may arise due to the manual record-keeping systems in most of government agencies.

	<ul style="list-style-type: none"> • As a matter of urgency the GIFiM, in consultation with supervisory/regulatory authorities in Mozambique, should conduct awareness raising programmes to sensitise not only the reporting entities but also the members of the public. The GIFiM may consider a phase-in approach by, inter alia, targeting the financial institutions that account for a large market share of the financial sector in Mozambique such as the banking sector. • In order to ensure operational independence and autonomy of the GIFiM, the authorities should expeditiously clarify the tenure of office and the conditions under which the Director and the Deputy Director of the GIFiM can be removed from office. In addition, the authorities should give express powers to the Director of the GIFiM to appoint staff of high integrity and professional standard. • The GIFiM should clearly identify training needs and develop training programmes that will enable the staff to function competently once appointed. • To ensure overall integrity and confidentiality of the information held by the GIFiM, the authorities should set out an obligation for all staff of the GIFiM to declare their assets and income on regular basis, not just for the Director and Deputy Director as is currently the requirement. • As a matter of urgency, the authorities should clearly define the relevant agencies to which the GIFiM can disseminate financial disclosures. • When fully operational, the GIFiM should consider applying for membership of the Egmont Group of Financial Intelligence Units. The GIFiM should put in place measures that will enable it to produce periodic reports outlining efforts to combat
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	<p>money laundering and terrorist financing. In addition, the GIFiM should produce annual report.</p>
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<ul style="list-style-type: none"> • Mozambique has taken steps to establish effective law enforcement and other prosecution institutions to investigate and prosecute predicate offences and money laundering cases. It is however recommended that the authorities be provided with sufficient human, financial and technical resources to enable them to effectively deal with predicate offences and money laundering cases. • There is a very low level of training and awareness among the officers of law enforcement agencies responsible for investigation and prosecution of money laundering cases and other predicate offences. The authorities should ensure that the officers involved in money laundering and other predicate offences are adequately trained on an ongoing basis. • Authorities in Mozambique do not keep comprehensive statistics on investigations and prosecution of money laundering and other predicate offences thereby making it difficult to assess effectiveness. It is recommended that authorities should develop systems to ensure that comprehensive statistics in this regard is kept in such a way that effectiveness and trend analysis can be easily reviewed. • While there has been investigation and prosecution of predicate offences, this is not the case for money laundering. Authorities should ensure that money laundering investigations and prosecutions are effectively pursued. • Terrorist financing is not yet a criminal offence in Mozambique and law enforcement agencies pursue financing of terrorism cases under general terrorism

	charges. It is recommended that Mozambique should expeditiously criminalise terrorist financing in accordance with the relevant international convention and standards. In addition, the authorities should strengthen institutional capacity to effectively counter terrorist financing
2.7 Cross Border Declaration & Disclosure	The authorities in the Republic of Mozambique should as soon as possible develop the appropriate legal framework to implement the requirements under SR IX.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>Mozambique has taken some substantial measures to address the FATF requirements related to Recommendation 5. Mozambican authorities are recommended to take the following measures to enhance the existing CDD measures-</p> <p>General</p> <ul style="list-style-type: none"> • To adopt preventative measures to combat TF and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations. <p><i>Recommendation 5</i></p> <ul style="list-style-type: none"> • Apply CDD requirements to financial institutions that are not currently covered under Law7/2002. • AML/CFT provisions governing numbered accounts should be introduced in the AML law. • Financial institutions should be required to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances required under the FATF standards.

	<ul style="list-style-type: none"> • Terrorist financing should be criminalised as a matter of priority and the requirement to undertake the verification of identity where there is a suspicion of terrorist financing must be established. • Review the provisions of the exemptions of full CDD requirements under Law 7/2002 to ensure that situations where the application of simplified or reduced due diligence would be more appropriate are addressed. • Establish the requirement for financial institutions to identify the beneficial owner as defined by the FATF and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that that the financial institution is satisfied that it knows who the beneficial owner is. • For all customers, establish the requirement for financial institutions to determine whether the customer is acting on behalf of another person. • For customers that are legal persons or legal arrangements, establish the requirement for financial institutions to take reasonable measures to understand the ownership and control structure of the customer; and to determine the natural persons who ultimately own or control the customer. • Establish the requirement for financial institutions to obtain information on the purpose and intended nature of the business relationship. • Establish the requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. • Review the AML law and regulations to ensure that where financial institutions are
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	<p>not able to comply with the CDD measures described in criterion 5.15 (other than the verification of identity) they should not be permitted to open the customer account, commence business relations or perform the transaction.</p> <ul style="list-style-type: none"> • Establish the requirement for financial institutions to consider making a suspicious transaction report where the financial institution is unable to comply with the required CDD measures under criteria 5.3 to 5.6. • Establish the requirement for financial institutions, when criteria 5.2 (e) or 5.17 apply and the financial institution is unable to comply with the required CDD measures, to terminate the business relationship and to consider making a suspicious transaction report. • Establish the requirement for financial institutions to apply CDD Requirements to existing customers and to conduct due diligence on such existing relationships at appropriate times. • Establish the requirement for financial institutions to perform CDD measures on existing customers to whom criterion 5.1 applies. <p><i>Recommendation 6</i></p> <ul style="list-style-type: none"> • Introduce enforceable requirements for financial institutions to identify PEPs and take such other CDD measures as required under Recommendation 6. <p><i>Recommendation 7</i></p> <ul style="list-style-type: none"> • Introduce enforceable requirements in relation to cross border correspondent banking and other similar relationships as required under Recommendation 7. <p><i>Recommendation 8</i></p>
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	<ul style="list-style-type: none"> • Introduce enforceable requirements needed to prevent misuse of technological developments in ML or TF schemes and such other measures as required under Recommendation 8.
3.3 Third parties and introduced business (R.9)	<p>Mozambican authorities are recommended to introduce enforceable requirements to require financial institutions that rely on other third parties to perform some of the elements of the CDD process to immediately obtain from the third party the necessary information concerning certain elements of the CDD process and to follow the other requirements under Recommendation 9.</p>
3.4 Financial institution secrecy or confidentiality (R.4)	<p>Mozambican authorities are recommended to-</p> <ul style="list-style-type: none"> • clarify the provisions of Article 51 of Decree 41/2003 to enable entities under the supervision of the IGS to furnish information to the latter. • amend the provisions of Article 51 of Decree 41/2003 to enable the IGS to share information or otherwise collaborate with judicial authorities, the AG's office and the FIU. • amend the provisions of Article 56 of Law 15/1999 to ensure that appropriate exceptions to the existing confidentiality rules that applies to the Bank of Mozambique are introduced to enable the latter to share information or otherwise collaborate with other supervisors, whether domestically or internationally, the AG's office and the FIU. • amend the respective confidentiality rules that apply to credit institutions, finance companies, financial intermediaries and insurance entities to provide for exceptions that would allow these financial entities to exchange information or otherwise collaborate with the FIU.

	<ul style="list-style-type: none"> • establish exceptions to the applicable confidentiality rules that would enable the sharing of information (without the consent of the client) between financial institutions where this is required by Rec. 7, 9 or SR VII.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> • Mozambique has put in record keeping requirements that oblige financial institutions to keep records. However, the authorities should amend the AML law or the Regulations to ensure that financial institutions fully implement record keeping requirements consistent with the criteria under FATF Recommendation 10. In particular, the authorities should require financial institutions to ensure that all customer and transaction records and information are kept in such a manner that such records would be available on timely basis to domestic competent authorities upon appropriate authority. • Additionally, the authorities should consider strengthening Article 15 of Law on 7/2002 to specifically allow for instances where financial institutions may be requested to keep records beyond the required period of 15 years. • To allow the reconstruction of individual transactions, authorities in Mozambique should further strengthen the record keeping obligations to allow for the reconstruction of transactions by establishing a requirement for financial institutions to record the nature and date of the transactions, the type and amount of currency involved and the type and identifying number of any account involved in the transaction. • The authorities should further establish on obligation for financial institutions to maintain records of account files and business correspondence for a period of at least five years following the termination of

	<p>an account or business relationship.</p> <ul style="list-style-type: none"> • Authorities should create obligations that would require financial institutions to keep records related to terrorist financing in a manner consistent with FATF Standards. • It is recommended that financial institutions in Mozambique should be required comply with wire transfer obligations as set out in the FATF Special Recommendation VII.
3.6 Monitoring of transactions and relationships (R.11 & 21)	<p><i>Recommendation 11</i></p> <ul style="list-style-type: none"> • The authorities are required to introduce an obligation for- • financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. • financial institutions to set forth their findings in writing, after they examine as far as possible the background and purpose of such transactions; • financial institutions to keep such records available for competent authorities and auditors for at least five years. <p><i>Recommendation 21</i></p> <ul style="list-style-type: none"> • Financial institutions in Mozambique conduct transactions and establish business relationships with financial institutions in other countries. Despite this, the authorities in Mozambique have not adopted and implemented measures on how financial institutions should deal with transactions and business relationships involving countries which do not sufficiently apply the FATF Recommendations. It is recommended that authorities in Mozambique should require financial institutions to implement such measures in a manner consistent with

	the FATF Recommendation 21.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<p><i>Recommendation 13</i></p> <ul style="list-style-type: none"> • The regulatory framework in Mozambique is based on STR reporting regime. However, not all financial institutions and minimum predicate offences are covered for reporting where grounds for money laundering exist. The authorities should amend the law to cover those reporting entities and predicate offences to money laundering not included in a manner consistent with the FATF requirements unless if the authorities can demonstrate that there is low ML/TF risk in a particular sector to apply reporting requirements. • The authorities should create an obligation to reporting entities to submit STRs where there are reasonable grounds that funds raise a suspicion or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisation or those who finance terrorism. • For purposes of effective STR reporting process especially in the early stages of AML/CFT development in Mozambique, the authorities should require reporting entities to file STRs only to GIFiM as the national FIU. For purposes of working together, the authorities through GIFiM should consider an arrangement which would facilitate information sharing and cooperation in a proper and secured manner with other domestic stakeholders such as Bank of Mozambique, Attorney General's Office, Criminal Investigation Police, Customs and Anti-Corruption Commission. • There are no sanctions for failure to file suspicious transaction reports to the FIU, the Attorney General's Office and the supervisory bodies in the AML framework of Mozambique.. The authorities should amend the law to stipulate proportionate, dissuasive and effective sanctions for failure

	<p>to comply with reporting obligations.</p> <ul style="list-style-type: none"> • The authorities have not undertaken AML/CFT awareness programmes to reporting entities and the public. Consequently, there is a very low level of awareness among reporting entities regarding ML/TF in Mozambique. To rectify this, the authorities should expeditiously develop and implement effective AML/CFT awareness raising programmes for reporting entities and the general public. <p><i>Recommendation 14</i></p> <ul style="list-style-type: none"> • Legal immunity for making an STR is only applicable to financial institutions. This is insufficient as it does not protect directors, officers and employees (permanent and temporary) from both criminal and civil liability for breach of any restriction pursuant to reporting obligations. • The authorities should prohibit tipping-off when there is a fact that an STR or related information is being reported or provided to the FIU against financial institutions and their directors, officers and employees (permanent and temporary). The current tipping off provision is only applicable where an investigation is underway. • The authorities should amend AML law or regulations or create an enforceable means to ensure that the names and personal details of staff of financial institutions that make an STR are kept confidential by the FIU. <p><i>Recommendation 19</i></p> <ul style="list-style-type: none"> • It is recommended that the authorities in Mozambique should consider the feasibility and utility of implementing a system where financial institutions would report all transactions in currency above a fixed threshold to a national agency with a computerized data base. <p><i>Recommendation 25</i></p> <ul style="list-style-type: none"> • The guidelines issued by Bank of
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	<p>Mozambique are targeted mainly at banks, leaving other financial institutions appropriate and proper guidelines to implement counter-measures against money laundering. It is recommended that authorities in Mozambique should expand the scope of issuing guidelines as a matter of urgency by targeting all reporting entities. At minimum, the guidelines should cover description of ML and TF techniques and methods and other areas the authorities see fit to raise compliance level.</p> <ul style="list-style-type: none"> • Authorities in Mozambique should develop and implement appropriate and effective measures to ensure that all reporting entities filing STRs receive adequate feedback. Such feedback should be guided by the “The FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons”. • Mozambique has not criminalised financing of terrorism. Consequently, there are reporting entities are not required to file STRs related to financing of terrorism. It is recommended that the authorities in Mozambique should take immediate steps to create reporting obligations against terrorist financing.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<ul style="list-style-type: none"> • To adopt preventative measures to combat TF and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations. <p><i>Recommendation 15</i></p> <ul style="list-style-type: none"> • The requirements under Law 7/2002 pertaining to internal control and training should extend to Uncovered Financial Institutions. • The requirements under Law 7/2002 and Decree 37/04 should be reviewed to specify that financial institutions must establish and maintain internal procedures, policies and controls to prevent ML and TF that cover CDD, record retention, the detection of unusual and suspicious transactions, and the

	<p>reporting obligations. There should also be a specific requirement for financial institutions to communicate these internal procedures, policies and controls to employees.</p> <ul style="list-style-type: none"> • There should be specific requirements for financial institutions to- <ul style="list-style-type: none"> - develop appropriate compliance arrangements including the designation of an AML/CFT compliance officer at management level; - to maintain an adequately resourced and independent audit function to test compliance with internal procedures, policies and controls to prevent ML and TF - establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends. The ongoing training requirement should ensure that there is a clear explanation of all aspects of AML/CFT laws and obligations and that it covers requirements concerning CDD and suspicious transaction reporting - put in place screening procedures to ensure high standard when hiring employees. <p><i>Recommendation 22</i></p> <ul style="list-style-type: none"> • It is recommended that Mozambican authorities should review the existing provisions of Law 7/2002 to introduce specific requirements in relation to foreign branches and subsidiaries to ensure that they apply AML/CFT measures consistent with the FATF Recommendations and apply the higher of either domestic or Mozambican standards and inform the home supervisor if they are unable to do so. These requirements should also extend to
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	the Uncovered Financial Institutions.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • The licensing regime for banks in Mozambique appears to be robust enough to prevent the operations of shell banks in the country. The Authorities should however consider the following: <ul style="list-style-type: none"> - Introducing a requirement prohibiting financial institutions from permitting or entering into, or continuing, correspondent banking relationships with shell banks. - Requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	<p><i>General</i></p> <ul style="list-style-type: none"> • Overall the supervisory framework should be extended to insurance intermediaries which are currently not covered under the AML law. Further, preventative measures to combat TF must be adopted and terrorism financing should be criminalized in line with the FATF 40+9 Recommendations. <p><i>Recommendation 23</i></p> <ul style="list-style-type: none"> • It is recommended that Law 7/2002 should be amended to provide for the designation of BoM as the AML supervision for financial institutions falling under its supervisory purview. • The authorities in Mozambique should designate an AML supervisory body for postal services. • The “fit and proper” measures to prevent criminals or their associates from gaining control of institutions is fairly robust however, the requirements in Law 15/99 should be extended to cover beneficial owners as they are not currently covered. • Authorities in Mozambique should ensure that the regulatory and supervisory measures for financial institutions subject to the IOSCO Principles for Securities

	<p>Regulations or the IAIS Insurance Core Principles that apply for prudential purposes and which are also relevant to money laundering should also apply in a similar manner for AML purposes.</p> <ul style="list-style-type: none"> • The BoM and IGS should put in place appropriate measures to ensure that other financial institutions are effectively regulated and supervised for AML/CFT purposes. • The BoM should put into place appropriate measures to ensure that natural and legal persons providing money or value transfer service or a money or currency changing service are subject to an effective system for monitoring and ensuring compliance with national AML/CFT requirements. <p><i>Recommendation 29</i></p> <ul style="list-style-type: none"> • BoM and IGS should develop and implement an on-site inspection programme, including the review the policies, procedures, books, records and sample testing, to ensure that financial institutions comply with AML/CFT requirements. • The relevant laws should be amended to enhance the power of the BoM and IGS to compel production of or obtain access to all records, documents or information relevant to monitoring compliance. • The enforcement powers of the IGS with respect to AML matters were not clear to the evaluation team. <p><i>Recommendation 17</i></p> <ul style="list-style-type: none"> • The procedures, set out under Article 21 of Decree 37/04, that must be followed for the investigation of breaches of AML requirements imposed on financial institutions under the law and regulations must be clarified. <p><i>Recommendation 25</i></p> <ul style="list-style-type: none"> • The BoM and IGS must issue guidelines to
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	<p>give assistance to financial institutions to comply and implement with their respective AML/CFT requirements. At a minimum, the guidelines should give assistance on issues covered under the relevant FAFT recommendations, including: (i) a description of ML and FT techniques and methods and (ii) any additional measures that financial institutions could take to ensure that their National AML/CFT measures are effective.</p>
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • Mozambique should do the following to comply with the requirements under SRVI: <ul style="list-style-type: none"> - All independent MVT should be licensed and/or registered by a competent authority. - The authorities should consider applying the Best Practice Paper on SRVI. - The authorities should subject all MVT service operators to AML/CFT obligations and put in place effective measures to monitor compliance. - The authorities should require licensed or registered MVT service providers to maintain a current list of their agents which must be available to a designated competent authority, i.e. Bank of Mozambique. - Ensure that sanctions for non-compliance under FATF Recommendation 17 are applicable to independent MVT service operators.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • Mozambican authorities should expand the scope of application of the AML regime to cover real estate agents, dealers in precious metals and stones, lawyers and accountants as required under the FATF Standards. • The prescribed amount for disclosure for casinos as required by Law 7 / 2002 and Decree 37 / 2004 of 441 minimum wages should be amended to comply with the USD

	<p>3000 threshold requirement to meet the FATF requirement.</p> <ul style="list-style-type: none"> • Shortcomings identified in section 3 of this report regarding recommendations 5, 6, and 8 to 11 should be remedied as recommended. • TF must be criminalised as a matter of urgency. • The authorities in Mozambique should undertake appropriate and timely AML/CFT outreach educational programmes in the DNFBP sector.
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Mozambican authorities should expand the scope of application of the AML regime to cover real estate agents, dealers in precious metals and stones, lawyers and accountants as required under the FATF Standards. • Shortcomings identified in section 3 of this report regarding Recommendations 13 to 15 & 21 should be remedied as recommended. • TF must be criminalised as a matter of urgency. • The authorities in Mozambique should undertake appropriate and timely AML/CFT outreach educational programmes in the DNFBP sector
4.3 Regulation, supervision and monitoring (R.24-25)	<ul style="list-style-type: none"> • The information as provided by the Mozambican authorities in the mutual evaluation questionnaire could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with the essential criteria 24.1 under Recommendation 24. It is recommended that the Mozambican authorities should adopt measures in line with the requirements under Recommendation 24.1. • It was noted that only Casinos fall in the regulated ambit of DNFBPs in Mozambique, real estate dealers, dealers in precious metals

	<p>and stones and not covered. Accountants are also not covered by the Law, this causes major shortcomings for which we make the following recommendations in addition to the earlier stated recommendations on DNFBPs:</p> <ul style="list-style-type: none"> • The supervisory bodies for DNFBPs such as dealers in precious metals and stones, real estate, lawyers and accountants should issue guidelines on mechanisms to address AML/CFT matters. • There is need for the supervisory authorities of DNFBPs to put in place training and awareness campaigns to appreciate the threats posed by ML/ TF. • Mechanisms for feedback should also be put in place so as to create a two way communication channel.
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • It is recommended that the authorities in Mozambique should consider applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non financial businesses and professions other than DNFBP that are at risk of being misused for ML or TF. • Mozambique should take additional measures to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering, including reducing the reliance on cash by encouraging the use of debit and credit cards.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<p>The information as provided by the Mozambican authorities in the mutual evaluation questionnaire could not be verified as the relevant laws and regulations were not made available to the assessment team. That being so, the Mozambican authorities could not demonstrate compliance with the essential</p>

	<p>criteria under Recommendation 33.</p> <p>It is recommended that the Mozambican authorities should adopt measures in line with the requirements under Recommendation 33.</p>
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	N/A
5.3 Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • In reviewing the laws and regulations governing the NPO sector, the authorities in Mozambique should ensure that the review adequately meet international standards especially with respect to developing systematic programmes that promote effective registration, transparency, accountability, integrity, public confidence and monitoring of the sector in order to ensure protection from misuse for financing of terrorism activities. • In order for the review process to effectively address the existing deficiencies, the authorities in Mozambique should determine the nature and extent of the sector's vulnerability to misuse by terrorist organisations and persons by conducting NPO sector risk assessment. This would ensure that resources are better allocated to where they are best needed to prevent and protect the sector from misuse for terrorist financing activities. • The competent authorities responsible for ensuring compliance with the registration and operations of the NPO sector in accordance with the relevant laws and regulations should be given the necessary powers to allow for inspections, supervision and monitoring of the NPO sector in Mozambique. • The authorities should provide adequate resources to strengthen the capacity of the competent authorities responsible for compliance by the NPO sector with the relevant laws and regulations. Specifically, the authorities should bear in mind the urgent need to capacitate the Directorates of

	<p>Legal Affairs and the Consular Affairs (Ministry of Foreign Affairs and Cooperation) and the Registration Office (Ministry of Justice, and other relevant government agencies playing a role in ensuring that the NPO sector in Mozambique is not misused for terrorist financing activities.</p> <ul style="list-style-type: none"> • The authorities in Mozambique should have effective mechanism that allows for preventative and investigative measures for NPOs suspected of either being exploited by or actively supporting terrorist financing activities or organisations. This should include having powers to have full access to administration and management details of NPOs, including financial and programmatic information, may be obtained during the course of an investigation. • The absence of sanctions for failure to comply with the relevant laws and regulations defining the NPO sector legal framework is a cause for concern in Mozambique. Accordingly, authorities in Mozambique should put in place effective, proportionate and dissuasive sanctions for failure to comply with the applicable NPO sector laws and regulations. • The authorities in Mozambique should establish effective channels of communication to disseminate UNSC 1267 and 1373 Lists and receive consequent responses to ensure that the NPO sector does not become a conduit for terrorist financing activities and promote international cooperation. • The NPO sector laws and regulations should set up a requirement for the NPOs to keep and maintain, for a minimum period of five years, and make available to appropriate to competent authorities records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with
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	<p>the purpose and objectives of the NPO.</p> <ul style="list-style-type: none"> • Authorities in Mozambique should develop and implement a clearly defined formal mechanism to ensure effective domestic cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs of potential terrorist financing.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • It is recommended that the FIU should actively engage with law enforcement and supervisory authorities and put into place appropriate mechanisms to ensure effective operational cooperation and where appropriate, coordination with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing. • The authorities in Mozambique should consider putting into place appropriate mechanisms for consultation with competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • The Mozambican authorities should, as a matter of priority, take the necessary steps to implement the provisions of the SFT Convention and the UNSCRs relating to terrorist financing by introducing measures to criminalise terrorist financing and provide for the freezing and forfeiture of terrorist-related funds. • The Mozambican authorities should also take the necessary steps to implement the provisions of the Vienna and Palermo Conventions by introducing measures to bring its implementation of the measures relating to mutual legal assistance and extradition, as well as customer due

	diligence, record keeping and reporting of suspicious transactions in line with the international standards.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	<ul style="list-style-type: none"> • The Mozambican authorities should consider as a matter of priority the development of a law on mutual legal assistance which would be of general applications to requests for mutual legal assistance and which meets the requirements of the international standards in this regard. • The Mozambican authorities should also as a matter of priority criminalise terrorist financing in order to enable them, among others, to consider requests for mutual legal assistance in matters related to terror financing. • The Mozambican authorities should consider nominating a Central Authority to receive, channel, monitor and respond to requests for mutual legal assistance. The Mozambican authorities should also consider developing a more efficient process for the consideration and execution of requests for mutual legal assistance.
6.4 Extradition (R.39, 37 & SR.V)	<ul style="list-style-type: none"> • The Mozambican should consider as a matter of priority taking the necessary steps to develop a legal instrument that will make money laundering an extraditable offence irrespective of whether it is mentioned in an extradition agreement. • The Mozambican authorities should also as a matter of priority criminalise terrorist financing in order to enable them, among others, to treat terrorist financing as an extraditable offence. • The Mozambican authorities should consider taking the necessary steps to relax the application of the principle of dual criminality.
6.5 Other Forms of Co-operation (R.40 & SR.V)	<p><u>Recommendation 40</u></p> <ul style="list-style-type: none"> • It is recommended that the authorities

	<p>consider the following:</p> <ul style="list-style-type: none"> - take such measures as are necessary to ensure that the FIU is made operational at the earliest. - Once the FIU becomes operational, the authorities in Mozambique should ensure that there are effective mechanisms to enable the GIFiM to provide the widest range of cooperation to foreign counterparts. - Developing an efficient system of keeping records of requests for international cooperation, action taken and the time taken to respond to such requests - Establish safeguards to maintain the confidentiality and use of information received and imparted through international cooperation. <p><u>Special Recommendation V</u></p> <ul style="list-style-type: none"> • It is recommended that the authorities in Mozambique should criminalise terrorist financing as a matter of urgency and ensure that the requirements under Recommendation 40 also apply to the obligations under Special Recommendation V.
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	<p><u>Recommendation 30</u></p> <p>It is recommended that:-</p> <ul style="list-style-type: none"> • The FIU should become operational as soon as possible and should be adequately staffed to carry out its functions. • Officers in PIC and Customs must be trained in ML and TF issues. • The Mozambican authorities should ensure that BoM and IGS are adequately funded and staffed to undertake the AML/CFT supervision of financial institutions. Ongoing AML/CFT training of the staff members of the supervisory authorities should also be enhanced. <p><u>Recommendation 32</u></p> <ul style="list-style-type: none"> • Mozambique must undertake the effectiveness of its systems of combating ML & TF regularly.

	<ul style="list-style-type: none"> • Competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness of systems for combating ML & TF. • Authorities in Mozambique should put in place mechanisms for keeping annual statistics on- <ul style="list-style-type: none"> - STRs received by the AG - Breakdown of STR analysed and disseminated - ML investigations, prosecutions and convictions - Mutual legal assistance and other requests for cooperation • The BoM and IGS must put into place appropriate measures that would enable them to maintain comprehensive statistics on: (a) onsite inspections that they will be conducting and sanctions applied, and (b) formal requests for assistance made or received by supervisors relating to or including AML/CFT, including whether the request was granted or refused.
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

Table 3: Authorities' Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country Comments

ANNEXES

Annex 1: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

- 1 Anti Corruption Bureau
- 2 Attorney General's Office
- 3 Bank of Mozambique
- 4 Central Bureau for Combating Drugs
- 5 Criminal Investigation Police
- 6 Gaming Board
- 7 GiFim- Mozambique FIU
- 8 Insurance General Inspectorate
- 9 Ministry of Foreign Affairs and Cooperation
- 10 Ministry of Justice
- 11 Ministry of Mineral Resources
- 12 Mozambique Intelligence Services
- 13 Mozambique Post Office
- 14 Mozambique Revenue Authority (customs)
- 15 Mozambique Stock Exchange
- 16 National Directorate of Immigration
- 17 National Directorate of Registry and Notary
- 18 National Institute of Social Security
- 19 National Task Force on AML
- 20 Banco Commercial e de Investimentos
- 21 Banco Internacional de Moçambique
- 22 Casino Polana
- 23 EMOSE (Insurance company)
- 24 Mozambique Association of Auditors and Accountants
- 25 Mozambique Association of Foreign Exchange Bureaus
- 26 Mozambique Association of Microfinance Institutions
- 27 Mozambique Banking Association
- 28 Mozambique Bar Association

Annex 2: Copies of key laws, regulations and other measures

Annex 2a: AML Law

Law 7/2002 of 5 February Law on Money Laundering

As it has become necessary to legislate on money laundering, under the provisions of article 135 (1) of the Constitution, the Assembly of the Republic determines:

CHAPTER I General provisions

Article 1 Purpose

The purpose of this Law is to establish the legal regime for the prevention and restriction of the use of the financial system for the purposes of laundering money, property, proceeds or rights derived from criminal activities defined in the terms of this Law.

Article 2 Scope of application

1. This diploma applies to credit institutions, finance companies, insurance companies, casinos, finance leasing companies, pension fund managers, stock exchanges, loan companies, foreign exchange bureaux, companies that issue and manage payment instruments, and individual and collective portfolio management companies that have their head offices in Mozambican territory, as well as their overseas branches, branches, subsidiaries or any other form of commercial representation, and other institutions susceptible to the commission of acts of money laundering.
2. This Law likewise extends to the branches, overseas branches and subsidiaries or any other form of commercial representation of Mozambican commercial companies that are situated abroad.
3. The insurance companies mentioned in paragraph 1 of this article are those conducting life insurance business.
4. The provisions of this Law are also applicable to entities that operate public postal services if they provide financial services.
5. For the purposes stated in this Law, the abovementioned institutions are designated financial entities.

Article 3 Definitions

In the terms of this Law:

- a) money, property or proceeds derived from unlawful activities – means holdings, shares, stocks, assets of any kind, objects, claims, profits, interest, moveable or immovable property, other values or any wealth or legal instruments evidencing such rights or assets, and /or bringing benefits that have been incorporated in unlawfully acquired property;
- b) criminal activity – means any of the offences defined in the terms of articles 33, 35 and 37 of Law 3/97 of 13 March, and those classified in this Law;
- c) supervisory authority – means the national authority entrusted by law or by any other regulatory document to supervise financial entities;
- d) competent judicial authority – means the court of criminal investigation or trial court;
- e) credit institutions – means financial institutions.

CHAPTER II
Classification of criminal activities
Article 4
Classification

1. A person who, in respect of money, property, proceeds or rights derived from the commission of any form of the offences contained in articles 33, 35 and 37 of Law 3/97 of 13 March and from the crimes of theft, robbery, fraud, manufacturing, importing, exporting and trading in arms and explosives, terrorism, extortion, corruption, embezzlement, smuggling and diversion of rights:
 - a) converts or transfers or aids or facilitates any operation to convert or transfer such property or proceeds, in whole or in part, directly or indirectly, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of their action, shall be punished by imprisonment for a term of eight to twelve years;
 - b) Conceals or disguises the true nature and source of such property, proceeds or rights related thereto, shall be punished by imprisonment for a term of two to eight years;
 - c) Acquires or receives them in whatever manner, or uses, holds, stores or keeps them, shall be punished by imprisonment.
2. The punishment of the crimes foreseen in the preceding paragraph shall take place even where the facts of which they consist were committed outside the country.

CHAPTER III
Forfeiture of objects, rewards, property, values or rights

Article 5
Forfeiture of objects

1. Objects that have served or were intended for use in the commission of any of the offences foreseen in this Law or that have been produced for such purpose shall be forfeited in favour of the State.
2. The provision of the preceding paragraph shall be applied even where no specific person may be punished for the act.

Article 6
Forfeiture of rewards, property, values or rights

1. All rewards, benefits or rights attributed, promised or given to the perpetrators of offences foreseen in this Law, intended for them or for third parties, shall be declared forfeited to the State.
2. Objects, property, values, rights and benefits that have been acquired by means of offences by their perpetrators for themselves or for third parties shall likewise be declared forfeited to the State, without prejudice to the rights of third parties in good faith.
3. When the rewards, objects, property, values, rights or benefits cannot be appropriated in kind, their forfeiture shall be substituted by the payment of their value to the State.

Article 7
Transformed, converted or incorporated proceeds, property, rights or benefits

1. When the rewards, objects, property, values, rights or benefits referred to in article 5 have been transformed or converted into other property, this shall likewise be declared forfeited to the State.
2. When the rewards, objects, property, values, rights or benefits referred to in the preceding paragraph have been incorporated into lawfully acquired property, this shall likewise be declared forfeited to the State, but only to the value attributed to the items that were incorporated.

Article 8
Profits, credits and other benefits

The measures established in articles 5, 6 and 7 shall further apply to claims, profits, interest and other benefits obtained with the property mentioned therein.

Article 9
Destination of property forfeited to the State

1. The proceeds of the sale of property declared forfeited to the State in terms of the provisions of the preceding paragraphs shall be applied as follows:
 - a) To support actions, measures, means of combating and programmes for the prevention of illegal drug use and trafficking;

- b) To the Ministry of Health, for the purpose of ensuring resources for consultations, treatment and social rehabilitation of drug addicts;
 - c) To the Ministry of Justice, with a view to establishing measures for the treatment and social rehabilitation of drug addicted prisoners while serving their sentence;
 - d) To the coffers of the courts, in the terms of legislation applicable to the application of the proceeds of the sale of property seized in criminal cases;
 - e) To entities involved directly in combating money laundering.
2. The amounts to be allocated to the entities mentioned in sub-paragraphs a), b), c) and e) of the preceding paragraph shall not be greater than the budget set for the Central Office for the Combat and Prevention of Drugs. Where any surplus remains, this shall constitute revenue of the State.
3. The alienation of property, objects, vehicles and values stated in this Law shall follow the rules governing the sale of property seized in criminal proceedings and other legislation.
4. Property, objects or instruments declared forfeited to the State that could, by reason of their nature or characteristics, be used in the commission of other offences, shall not be alienated and shall be destroyed, where it is shown that they have no criminological, scientific or didactic interest.
5. In the absence of international conventions, property, values or proceeds seized at the request of a foreign authority, as well as funds obtained from their sale, shall be divided equally between the requesting State and the requested State.
6. The government shall issue regulations on the percentages for each of the institutions mentioned in this article in a specific legal instrument.

CHAPTER IV
Obligations of financial entities
Article 10
Obligation to identify

1. Financial entities shall require identification of their clients or their legal representatives, by means of a valid document with proof of identity and a photograph therein, when entering into business relations, especially when opening deposit or savings accounts, or when offering safe custody facilities or securities investment services or when issuing insurance policies or managing pension plans.
2. The identity of clients shall likewise be checked whenever financial entities perform occasional transactions in which identification has not been done as foreseen in the preceding paragraph and where the amount, singly or combined, is equal to or greater than the sum of four hundred and forty-one minimum wages.
3. Where the total amount is not known at the start of the operation, the financial institution shall proceed with identification as soon as this amount becomes known and confirms that it reaches the threshold mentioned in the preceding paragraph.

4. Financial entities shall likewise identify the legal representatives of their clients in the terms of paragraph 1.
5. Where the clients are corporate persons, the identification shall be done by means of the presentation of the original or a certified photocopy of the articles of association and a valid operating licence issued by the competent authority.
6. In the case of casinos, such institutions shall identify clients who buy, bring with them or exchange chips or currency of an amount equal to or greater than the value established in subparagraph 2 of this article.
7. The address of clients shall be verified by means of an official document, which in the case of individuals may be their identity card or other document designated as official by the Council of Ministers for this purpose.
8. In the case of head offices of corporate persons, the address shall be verified by means of the articles of association of the company or by the operating licence of the company or enterprise.
9. In the case stated in the preceding paragraph, the members of the board of management or administration of the company or their legal representatives shall also be identified.

Article 11

Exceptions

1. The provisions contained in article 10 of this Law shall not apply in the following cases:
 - a) insurance or pension fund contracts, where the annual amounts of the premiums or contributions to be paid are lower than the sum of twenty-three minimum wages or, in the case of a one-off premium or contribution, where this amount is equal to or lower than sixty-seven minimum wages;
 - b) Insurance contracts that guarantee the payment of income from employment or from the professional activities of the insured person, provided that the said contracts do not contain a surrender clause and cannot be used as collateral for loans;
 - c) Insurance contracts, life insurance operations and pension plans, on condition that the payment of the premium or contribution is to be made by debiting a cheque account opened in the name of the insured with a credit institution subject to the obligation foreseen in article 10.
2. Whenever the annual premiums or contributions exceed the values established in subparagraph a) of the preceding paragraph, the financial institution shall be obliged to proceed with the identification foreseen in the abovementioned article.

Article 12

Special obligation of diligence

Financial entities shall endeavour to obtain information on the true identity of the person on behalf of and in the name of whom the client acts, through the client as well as through the beneficiaries of a life insurance operation or a pension fund, whenever there are

grounds to suspect that the amounts recorded are derived from criminal activities referred to in this Law, even where the amounts of the transaction are lower than the values established in articles 10 (2) and 11 (a) of this Law.

Article 13

Grounds for suspicion

1. Transactions that, by their nature, complexity, size, unusual character, or that appear to lack economic justification or lawful purpose in relation to the client's professional activity, and are capable of falling within the legal classification of crimes foreseen in articles 33, 35 and 37 of Law 3/97 of 13 March, as well as the provisions of article 4 of this Law, constitute objective criteria for grounds of suspicion that the source is criminal activity.
2. Once the circumstances described in paragraph 1 have been detected, the financial entities shall endeavour to obtain information from the client about the source and destination of the funds, as well as the purpose of the transaction and the identity of the beneficiary.

Article 14

Refusal to perform operations

Financial entities shall refuse to perform any operations with respect to persons who do not provide their identification or the identification of the person on whose behalf and in whose name in fact they are acting, in the terms of this Law.

Article 15

Preservation of documents

1. The financial entities covered by this Law shall be obliged to preserve client identification documents for a period of fifteen years from the date of closure of the client accounts or the cessation of a contractual relationship between the contracting parties.
2. The preservation of client registration documents shall likewise be mandatory in the terms of paragraph 1, for clients whose operations are those mentioned in article 10 (2).
3. The characteristics of suspect operations shall be recorded in writing and kept by the financial entities in the manner foreseen in paragraph 1 of this article and, whenever the operations exceed the amount foreseen in article 10 (2), the financial entities shall obtain written information from the client about the source and destination of the funds, as well as the identity of the beneficiary and justification of the operation in question.
4. Financial entities shall ensure that the operations defined in the preceding paragraph be applied to branches, subsidiaries or any other form of commercial representation situated in Mozambican territory whose head offices are abroad.

Article 16
Reporting of certain operations

Financial entities shall, on the basis of good faith, report in writing to the Attorney General's Office all operations in respect of which there are grounds to suspect the commission of one of the crimes foreseen in articles 33, 35 and 37 of Law 3/97 of 13 March and in article 4 of this Law, or when they have information about facts evidencing the commission of crimes foreseen in this Law.

Article 17
Obligation to collaborate

1. Financial entities shall also collaborate with the competent judicial authorities when so requested, furnishing them with information about certain operations carried out by their clients or documents related to their banking operations, property, deposits or any other values in their custody.
2. Requests for collaboration from the judicial authorities shall be made on the basis of criminal proceedings under way, which are properly individualised and sufficiently specific.
3. The information or documents obtained pursuant to the provision of paragraph 2 of this article shall be used only in the investigation and punishment of the crimes foreseen in articles 33, 35 and 37 of Law 3/97 of 13 March as well as in article 4 of this Law.

Article 18
Duty of professional secrecy

1. Office holders in the management bodies of corporate persons, managers, agents or any other person performing functions in the service of financial entities are prohibited from disclosing to the client or to any third person the declaration of specific information in the terms of article 17(1) and (2) of this Law, as well as information that a criminal investigation is under way.
2. As soon as the legal representative of financial entities becomes aware of a fact or facts against persons who breach the provision of the preceding paragraph, he shall immediately order the institution of disciplinary proceedings, and consequent dismissal in proven cases.

Article 19
Duty to refrain from acting

1. Whenever there are grounds to suspect that a certain operation constitutes a crime under the provisions of this Law or is likely to constitute such a crime, the financial entity shall, in addition to the duty by which it is bound under the provisions of article 10 (1) and (2) of this Law, refrain from executing any operations related to the request from the client and await the decision given in writing by the Attorney General's Office in the terms of following paragraphs, which authority may order the suspension of such operations, provided that the time limits established in this article shall be adhered to strictly, with no extensions.
2. The decision of the Attorney General's Office on the performance of the operation or operations shall be confirmed by the court of criminal investigation within a

maximum of 48 hours from the time of receipt of the communication from the Attorney General's Office, after which time the financial entity shall perform the operation.

3. The Attorney General's Office shall acknowledge receipt of the declaration mentioned in article 16 made by the financial entity immediately upon receipt of the same and shall take a decision on it within 24 hours.

Article 20

Special duty of the supervisory authority

1. The authority supervising activities of financial entities shall inform the Attorney General's Office whenever it becomes aware, inside or outside the scope of its inspection activities, of facts providing sufficient evidence of the commission of any crimes foreseen in this Law.
2. The use of information obtained by virtue of compliance with the provision of the preceding paragraph of this article shall be prohibited for purposes other than those established in this Law.

Article 21

Exclusion of responsibility

The information provided by financial entities for the purposes of compliance with this Law must be given in good faith and its provision shall not constitute a breach of bank or professional secrecy, nor shall it result in responsibility of any legal nature being incurred by the person providing it, except where the contrary results from this.

(Translator's note: The most logical interpretation of this last phrase is that responsibility is not excluded where information is not provided in good faith and for the purposes of compliance with this law.)

CHAPTER V

Control mechanisms

Article 22

Means of control

All financial entities with head offices in Mozambican territory, including their subsidiaries, overseas branches and branches, shall establish a system of internal organisation such that they are able, at any time, to comply with the obligations stated in this Law.

Article 23

Centralisation of information

The supervisory authority shall centralise all the information provided by financial entities, as well as conduct internal audits aimed at ensuring the effectiveness of the measures set down in this Law.

Article 24

Training

All financial entities shall provide suitable training to their employees and officials with a view to ensuring compliance with the obligations and duties imposed by this Law.

CHAPTER VI
Regime governing sanctions
Section I
General provisions

Article 25
Applicable law

The offences contemplated in this Law shall be subject, respectively, to the regime of contraventions and additional measures, and to the regime of civil liability, where such is the case, with the exception of penalties specifically foreseen in the penal legislation.

Article 26
Spatial application

Whatever the nationality of the perpetrator of the offence, the provisions of this chapter shall apply to:

- a) facts occurring in Mozambican territory;
- b) facts occurring in foreign territory, where those responsible are legal persons whose head offices are in Mozambican territory and are acting under any form of commercial representation abroad, as well as individuals holding office in the administration, control or management bodies, or those acting as voluntary or legal representatives of corporate entities;
- c) facts committed by employees and other staff who perform functions under the authority of legal persons mentioned in the preceding paragraph, providing services on a casual or permanent basis, who are located in Mozambican territory;
- d) facts committed on board Mozambican ships or aircraft or aircraft registered under Mozambican law, save for contrary international treaties or conventions;
- e) facts committed by stateless persons, when they have normal residence in Mozambican territory;
- f) facts committed outside Mozambican territory, when their objective is the commission in national territory of crimes foreseen in this Law.

Article 27
Responsibility

- 1. The following are responsible for the commission of the offences to which this chapter refers:
 - a) Financial entities;
 - b) Individuals who hold offices in the management bodies of corporate entities, their members, and individuals performing and acting as legal or voluntary representatives who contravene the provision of article 17 (1) of this Law.
- 2. Employees and other staff of financial entities shall be answerable in the terms of the Penal Code, as shall those who perform acts contrary to the provisions established in articles 17 (3) and 20 (2) of this Law.

3. Persons who contravene the provisions of article 17 (1) of this Law shall be answerable in the terms of article 287 of the Penal Code.
4. Financial entities may refuse to provide the collaboration requested in the terms of article 17(1) when the request does not conditions prescribed in paragraphs 2 and 3 of the said article.

Article 28
Responsibility of financial entities

1. Financial entities shall be answerable for the offences committed by members of their corporate bodies and by office holders in their administration, control or management bodies in the context of their functions, as well as for offences committed by their representatives in acts performed in their name and interest.
2. The effects of the provision of the preceding paragraph shall not be nullified by a declaration of legal nullity or invalidity of any acts performed by the persons indicated above upon which the legal relationship between the performer of the act and the financial institution is based.

Article 29
Individual responsibility

The responsibility incurred by financial entities as corporate entities shall not exclude the personal responsibility of individuals who act as members of their management bodies or who act as directors, heads or managers of the financial entities.

Article 30
Discharge of duty omitted

The punishment of a person responsible for a duty that has been omitted in the terms of this Law shall not imply release from the performance of such omitted duty, save where the duty cannot be performed.

Article 31
Obstruction of justice

1. Anyone who, through the use of force, intimidation, promise or gift:
 - a) Induces a third person to give false testimony or interferes in the production of evidence in an investigation or in any other stage of proceedings in respect of crimes foreseen in this Law, shall be sentenced to imprisonment for a term of two to eight years;
 - b) Interferes with the activity of the authorities in an investigation or in any stage of proceedings, shall be sentenced to imprisonment for a term of two to eight years.
2. The authorities shall take appropriate measures for the effective protection of witnesses, their relatives or close friends from possible retaliation or intimidation.

Article 32
Negligence

1. Negligence shall be punishable in the terms of this Law.
2. The crimes foreseen in this Law committed in the form of negligence shall be punished by imprisonment and fine.

Article 33

Limitation

1. The term of limitation of prosecution for a contravention shall be five years from the date of its commission.
2. The term of limitation of sentences for contraventions shall be five years from the date when the judgement becomes *res judicata*.

Section II

Fines and additional measures

Article 34

Fines

Offenders shall be subject to punishment by fine in the terms indicated below:

- a) failure to discharge obligations to identify the client, to refuse to perform operations and to create mechanisms of control, in the terms established in articles 10, 14, 19 (1) and 22 (1) of this Law, to the sum of one hundred and fifty minimum wages;
- b) failure by casinos to identify clients who act in the terms defined in article 10 (2), to the sum of from two hundred and thirty to three hundred and seven minimum wages;
- c) failure to discharge the special obligation of diligence prescribed in article 12, to the sum of from three hundred and seven to three hundred and eighty-five minimum wages;
- d) failure to discharge the obligation foreseen in article 15, to the sum of from four hundred and sixty-one to five hundred and thirty-eight minimum wages;
- e) breach of the provision of article 18 (2), to the sum of seventy-six minimum wages;
- f) breach of the provision of article 19 (1), to the sum of from five hundred and thirty-eight to six hundred and fifteen minimum wages.

Article 35

Additional measures

1. Fines to be levied shall be accompanied by the additional measures described below and in the following cases:
 - a) In the case of a repeated offence by corporate entities - revocation or suspension of the authorisation to conduct business for three years, according to the gravity of the offence;
 - b) In the case of individual responsibility - prohibition from holding administrative, leadership or management positions in financial entities, or acting as a legal or voluntary representative, for a period of one to ten years.

2. After a judicial decision on the application of additional measures has become *res judicata*, the supervisory authority shall give public notice of the decision, at the expense of the offender.
3. All measures foreseen in this article shall require a judicial decision.
4. The additional measure applied in the terms of subparagraph a) of this article shall be subject to obligatory appeal by the Attorney General's Office.

Article 36
Joint and several liability

1. Financial entities shall be jointly and severally liable for the payment of fines, legal levies, costs and other charges for which their directors, managers and employees become liable for the commission of offences of which they may be convicted in the terms of this Law.
2. All office holders in administrative bodies² of financial entities who have not opposed the commission of any offence foreseen in this Law, while being apprised of such commission and being able to oppose it, shall be individually and subsidiarily responsible for the payment of fines and other procedural costs to which the persons mentioned in the preceding paragraph have been sentenced, even where the financial institution had been dissolved or had gone into liquidation on the date when the acts were committed.

(Translator's note: *órgãos de administração* – translated here as administrative bodies, these are usually the board of directors.)

Section III
Fines
Article 37
Proceeds of fines

The proceeds of the fines applicable in the terms of this Law shall revert to the State, observing the following distribution:

- a) 40% for the State Budget;
- b) 30% for the Central Bank;
- c) 30% for the general coffers of the courts.

Section IV
Process
Article 38
Authority to conduct investigation

1. Investigation of the contraventions foreseen in articles 10, 12, 14, 15, 16, 17 and 18 shall be the exclusive responsibility of the banking supervisory authority.
2. Investigation of the contravention foreseen in article 19 shall be the exclusive responsibility of the Ministry of Finance, and the particular institution shall be indicated within fifteen days of this Law coming into force.

3. Investigation of the remaining offences relating to the criminal activities specified in Chapter V, as well as those that are crimes classified in the criminal law, shall be the exclusive responsibility of the Criminal Investigation Police.

Article 39
Jurisdiction

The Provincial Courts and the Maputo City Court shall take judicial cognisance of the offences foreseen in this Law, as well as the crimes classified herein.

CHAPTER VII
Special investigation techniques
Article 40
Special investigation techniques

1. The judicial authorities shall authorise the performance of the following acts, through criminal proceedings under investigation that show sufficient evidence of the crimes established in this Law:
 - a) Inspection of the accounts and banking details of the perpetrator of the criminal act foreseen in this Law;
 - b) The placement of devices to monitor telephone communications or fax correspondence;
 - c) Access to computer systems where the accounts have been kept;
 - d) Access to the records of information on the client, legal representative or person in whose name and on whose behalf he acts, established in the terms of this Law;
 - e) Access to agreements or contracts made by public [notarial] deed, as well as their respective records referring to the contractual relationship under investigation.
2. Inspectors of the Criminal Investigation Police, with confirmation in writing from the National or Provincial Director of that institution, shall apply to the criminal investigation court or trial court for [authority to take] the above-listed measures.
3. Applications shall be denied where the respective criminal action is not clearly individualised, specifying the constituent facts of the crime, which is imputable to the perpetrator or perpetrators.
4. The courts shall determine the duration of the measure mentioned in subparagraph 1 (b), taking into consideration the seriousness of the facts, provided that the duration shall not exceed one year.
5. An official document shall be drawn up from the monitoring and recording, in which the relevant parts of the monitoring shall be summarised and the judicial authority shall decide on the material considered relevant to the case and order the destruction of the parts that are of no interest, in particular, the recording media.
6. Faxed correspondence shall be photocopied and attached to the respective case file.

CHAPTER VIII
Final provisions
Article 41
Implementing regulations

The Council of Ministers shall have the competency to issue regulations on this Law, on matters shown to be necessary and opportune, within 120 days of the date of publication hereof.

Article 42
Inapplicability of a penal rule

The provisions of article 289 (1) of the Penal Code shall not apply to cases wherein the legal representatives of the clients of financial entities are attorneys at law or attorneys of record, when they act in the terms of this Law.

Article 43
Entry into force

This law shall enter into force on the date of publication hereof.

Approved by the Assembly of the Republic on the 17th of December 2001.
The Speaker of the Assembly of the Republic, Eduardo Joaquim Mulémbwè

Promulgated on the 5th of November 2002
Let it be published
The President of the Republic, Joaquim Alberto Chissano

Annex 2b: AML Regulations
Decree 37/2004 of 8 September

Regulations of Law 7/2002 of 5 February
Money Laundering Regulations

CHAPTER I
General provisions

Article 1
Purpose

The purpose of these regulations is to establish the rules by which the entities foreseen in Law 7/2002 of 5 February shall be governed in the fulfilment of the obligations foreseen therein, in the context of the prevention and deterrence of money laundering.

Article 2
Scope of application

1. All entities that are under any duties in the terms of Law 7/2002 of 5 February, in the context of the prevention and deterrence of money laundering, shall be subject to the provisions of these regulations.
2. The following entities in particular shall be bound by the duties imposed on financial entities in the terms of the abovementioned law:
 - a) Banks and micro-banks;
 - b) Finance leasing companies;
 - c) Credit cooperatives;
 - d) Factoring companies;
 - e) Investment companies;
 - f) Stock exchange;
 - g) Electronic currency institutions;
 - h) Offices that issue and manage payment instruments;
 - i) Companies that issue or manage credit cards;
 - j) Brokering firms and financial brokerage companies;
 - k) Investment fund managers;
 - l) Property management companies;
 - m) Risk capital companies;
 - n) Group purchase managers;
 - o) Foreign exchange bureaux;
 - p) Discount houses;
 - q) Individual or corporate persons who perform credit functions;
 - r) Entities operating public postal services, when they provide financial services;
 - s) Entities qualified to carry out insurance business;
 - t) Insurance intermediaries;
 - u) Casinos;
 - v) Other entities that carry out business related to gambling or games of chance and to social amusement;

- w) Branches, overseas branches, subsidiaries or any other form of representation of Mozambican financial entities located abroad;
- x) Any other entities that may, through a legal instrument, come under the supervision of the Bank of Mozambique, the General Inspectorate of Insurance or the General Inspectorate of Gaming.

CHAPTER II

Financial entities and supervisory authorities

Article 3

Supervisory regime

The provisions of these regulations and of other applicable legislation shall govern the supervision of financial entities, in the context of the prevention and deterrence of money laundering.

Article 4

Linkage of financial entities to the supervisory authorities

The following supervisory authorities shall carry out the supervision of financial entities, in the context of the prevention and deterrence of money laundering:

- a) The Bank of Mozambique, in respect of the entities mentioned in article 2 (2) (a) to (q) and the applicable part of 2 (2)(z) of these regulations¹;
- b) The General Inspectorate of Insurance, in respect of the entities mentioned in article 2 (2) (s), (t) and the applicable part of 2 (2)(z) of these regulations ¹;
- c) The General Inspectorate of Gaming, in respect of the entities mentioned in article 2 (2) (u), (v) and the applicable part of 2 (2)(z) of these regulations ¹;
- d) Supervision of the entities mentioned in article 2 (2) (r) shall be carried out by the authorities indicated in these regulations, according to the type of activity that each supervisory authority handles.

(Translator's note: to make sense, the reference to article 2(2)(z) should probably be a reference to 2(2)(x).)

Article 5

Supervision of representatives located abroad of Mozambican entities

The authorities indicated in articles 4 and 6 of these regulations shall carry out the supervision of branches, overseas branches, subsidiaries or any other form of representation abroad of Mozambican financial entities, according to the legal classification of the principal institution.

Article 6

Supervision of other entities

In the context of the prevention and deterrence of money laundering, the supervision of financial entities not foreseen in the preceding articles shall be carried out by an entity to be defined by the minister who oversees the financial area.

Article 7

Internal organisation of financial entities

Each financial entity shall adopt organisational measures that ensure internal and external coordination in the handling of all matters related to money laundering, with a view to the most effective implementation of measures for the prevention of the use of the financial system for the purposes of money laundering.

CHAPTER III

Duty to identify and of diligence

Article 8

Corroborative documents

1. For the purposes of the provision of article 10 (1) of Law 7/2002 of 5 February, valid corroborative documents for the identification of individual persons or representatives of corporate persons shall be those possessing all of the following requisites:
 - a) Have been issued by the competent entity;
 - b) Have a photograph of the holder affixed therein;
 - c) Be within the period of validity inscribed therein.
2. The following shall be considered official documents for the purposes of identification and of the provision of article 10 (7) of Law 7/2002 of 5 February:
 - a) For Mozambican nationals, their identity card or, in its absence, the receipt of an application for one, provided that, in the latter case, this is accompanied by their personal record book or a full birth certificate;
 - b) For non-resident Mozambican and foreign nationals, a passport;
 - c) For resident foreigners, their DIRE.
3. Without prejudice to the provisions of the preceding paragraph, certificates issued by the administrative authorities in the area of residence shall be considered valid documents for the purpose of verifying the domicile of individual and corporate persons.
4. The identity and address of clients who are corporate persons shall be verified by means of:
 - a) The presentation of the original of their articles of association or a certified photocopy thereof;
 - b) The presentation of the original of a valid business licence issued by the competent authority or a certified copy thereof;
 - c) Identification of office holders in the administrative or management bodies of the company;
 - d) Personal identification of their legal representatives.

Article 9

Acts subject to the duty of identification

Without prejudice to the exceptions established in article 11 of Law 7/2002 of 5 February, the establishment of any business relationship or transaction with financial entities shall be subject in general to the duty of identification foreseen in the said law, especially in the following cases:

- a) Opening and operation of bank accounts;
- b) Provision of safe custody services;
- c) The provision of securities investment services;
- d) Conducting insurance and insurance mediation activities;
- e) Pension plan management;
- f) Performance of occasional transactions equal in value to or greater than four hundred and forty minimum wages;
- g) Performance of any transaction relating to casinos, games of chance or gambling or to social amusement, equal in value to or greater than four hundred and forty-one minimum wages;
- h) Performance of any foreign exchange operation.

Article 10

Identification reference file

For the purposes of the provision of the preceding article, whenever business relations are established for the first time, the financial entity shall open an identification reference file for the client or their legal representatives, which shall be updated annually or whenever a change occurs and shall contain the following particulars:

- 1. Individual persons:
 - a) The full name as it appears on their identification document;
 - b) Filiation;
 - c) Place of birth and nationality;
 - d) Date of birth;
 - e) Sex;
 - f) Marital status and marital property regime;
 - g) Full address (province, district, street and number and telephone and facsimile numbers), where applicable;
 - h) Occupation and employer, where applicable;

- i) Type, number, place and date of issue of the identification document;
 - j) Unique Taxpayer Identification Number – NUIT;
 - k) Indication that the particulars mentioned in subparagraphs a), b), c), d), e), f) and i) have been checked against the respective document.
2. Corporate persons:
- a) Firm name or corporate name as it appears in its registration or deed of incorporation;
 - b) Head office (province, district, city, street and number, telephone and facsimile numbers);
 - c) Unique Taxpayer Identification Number – NUIT;
 - d) Code of the Classification of Economic Activities (CAE) and of the economic group, where applicable;
 - e) Principal purpose;
 - f) The names of persons with powers of representation, to whom the requirements of paragraph 1 of this article shall be applicable;
 - g) The specification of the powers of representation to which the preceding paragraph refers, and such powers shall be duly confirmed by means of authentic or certified documents that mention them or, in cases where it is not legally possible to obtain such documents, by means of legally binding private documents with the same general meaning.
3. Companies and other corporate persons in the process of being established:
- a) Full identification of the founding shareholders and other persons responsible for the company or other corporate person being established, to whom the requirements of paragraph 1 of this article shall be applicable;
 - b) A statement of undertaking to hand over, within 60 days, the deed of incorporation and a document confirming registration with the competent body.
4. Projects and special committees: full identification of the persons responsible for the project, to whom the requirements of paragraph 1 of this article shall likewise be applicable.

Article 11

Duty of verification and diligence

1. Financial entities shall be bound to carry out a check to confirm the particulars of identification and address provided by clients and their legal representatives whenever there are grounds to suspect that a crime of money laundering has been committed and where doubt exists about the authenticity of the documents presented or the truth of statements made by the client.

2. The check mentioned in the preceding paragraph shall include the performance of the following necessary steps, among others:
 - a) Confirmation of domicile at the addresses indicated, which confirmation may be done by going to the place or by means of a declaration issued by the employer, in the case of an employee, or by any other competent entity;
 - b) Confirmation by the issuing entity of the authenticity of documents shown, in case of doubt;
 - c) Confirmation of the legitimacy of the possession of funds presented, as well as of sources of income;
 - d) Confirmation of the final beneficiaries of the operations performed.

Article 12

Absence or inexactness of identification

Failure by clients or their legal representatives to provide the identification required in the terms of this chapter, as well as variance between the data provided and the true data are grounds for refusal to perform the acts foreseen in article 9 of these regulations.

Article 13

Duty to establish client profiles

1. Financial entities shall establish profiles in respect of their regular clients by means of monitoring the evolution of the operations that such clients perform.
2. For the purposes of the provision of the preceding paragraph, financial entities shall collect data on the background of their clients and the pattern of their income-earning activities, as well as observing the obligation to preserve documents foreseen in article 15 of Law 7/2002 of 5 February.

CHAPTER IV

Suspect operations

Article 14

Grounds for suspicion

For the purposes of the provision of article 13 (1) of Law 7/2002 of 5 February, the following, among others, shall constitute sufficient cause to suspect the use of the financial entity for money laundering:

1. In relation to cash transactions:
 - a) The use of amounts in cash equal to or greater than four hundred and forty-one minimum wages, in preference to other means of payment;
 - b) A high number of deposits or withdrawals of small amounts in cash, the daily total of which is equal to or greater than four hundred and forty-one minimum wages;

- c) A substantial increase in the balance of accounts without apparent cause, as a result of deposits in cash, in particular where these are subsequently transferred within 30 days to an account and or a geographical location not normally associated with the transactions of the client;
 - d) The exchange of small denomination banknotes for high denomination banknotes of the same or a different currency;
 - e) The settlement of financial applications in cash.
2. In relation to bank deposits:
- a) The deposit of counterfeit banknotes;
 - b) Opening company accounts with incomplete documents, making credits, followed by the intention to make debits;
 - c) Accounts of employees of financial entities that receive transfers or deposits considered unusual, either because of their frequency or their large amounts or source;
 - d) Movement of an account characterised by a large number of deposits of small amounts and a small number of withdrawals of huge amounts;
 - e) The maintenance of a number of accounts inconsistent with the client's activity;
 - f) Personal or corporate accounts, the operation of which involves huge amounts of money and bears no relation to the business of the account holder;
 - g) Debits of sums equal to or greater than four hundred and forty-one minimum wages from accounts until then inactive or from an account that has just received a transfer from abroad;
 - h) A large number of entities crediting the same account for no apparent reason.
3. Other operations:
- a) Management of assets where the origin of the funds is not clear;
 - b) Increased use of safe deposits;
 - c) Use of letters of credit and other similar payment instruments to transfer funds between countries with which the client has no business dealings;
 - d) Frequent payments by cheques of third parties endorsed over to the client;
 - e) Over-invoicing and under-invoicing in import and export operations;
 - f) Smuggling of goods or misappropriation of customs duties;
 - g) Systematic use of the Single Simplified Document (DUS).

Article 15

Criteria for evaluation of grounds for suspicion

In gauging the degree of suspicion, the concrete circumstances of the operation shall be taken into account, in the light of the standard of care that an average person would use to analyse a similar situation.

Article 16

Request for clarification

1. Where there are grounds for suspicion, in the terms of Law 7/2002 of 5 February and of these regulations, of the intention to use or the actual use of a financial entity for acts of money laundering, the financial entity shall request the client to give clarification of the operation in question, seeking specifically to obtain information on the source and destination of the suspect funds, the purposes of the transaction and the identity of the beneficiary.
2. In the case of the financial entity foreseen in article 2 (2) (f) of these regulations, such entity shall make known the financial entity that performed the operations on behalf of a client, for the purposes of the preceding paragraph.

Article 17

Notification to the Department of Public Prosecution

1. Financial entities shall, on the basis of good faith, notify the Department of Public Prosecution of all operations in respect of which there are grounds to suspect that they constitute acts of money laundering in the terms foreseen in Law 7/2002 of 5 February.
2. The supervisory authority shall notify the Department of Public Prosecution whenever knowledge of facts evidencing the commission of acts of money laundering is obtained during its normal supervisory activity.
3. The provision in paragraphs 1 and 2 of this article shall be without prejudice to the duty of any entity to report criminal offences in the general terms of criminal law, when there are grounds to suspect acts of money laundering.
4. The notification referred to in the preceding paragraphs shall be done in writing, according to the rules foreseen in the Law on Criminal Procedure.
5. Without prejudice to the provisions in articles 18 and 19 of these regulations, the procedures simultaneous and subsequent to notification of the Department of Public Prosecution shall be those contained in article 19 and other applicable provisions of Law 7/2002 of 5 February.

(Translator's note: this institution is called the Ministério Público, which falls under and is sometimes translated as the Office of the Attorney General. Being, in fact, wider than just the prosecution service, the Ministério Público is also sometimes called Department of Justice.)

Article 18

Reporting to the supervisory authorities

For the purposes of the provision of article 23 of Law 7/2002 of 5 February, financial entities shall, at the same time as notifying the Department of Public Prosecution, as foreseen in the preceding article, report the fact to the supervisory authority to which they are linked, by delivering complete copies of the notification and of the documents on which it is based.

Article 19

Informing financial entities

In cases where the supervisory authority notifies the Department of Public Prosecution, pursuant to article 20 (1) of Law 7/2002 of 5 February, in conjunction with article 17 (2) of these regulations, the supervisory authority shall simultaneously report the fact to the financial entity where the suspect operations occurred, for the purposes of the provision of article 19 (1) of the same law, with regard the to operations under way.

CHAPTER V

Contravention proceedings

Article 20

Those subject to contravention proceedings

All financial entities that violate their duties foreseen in Law 7/2002 of 5 February and these regulations shall be subject to the contravention proceedings foreseen in this chapter.

Article 21

Investigation of contravention cases

1. The authorities indicated in article 38 of Law 7/2002 of 5 February shall have competence to investigate cases of contravention for the commission of acts of money laundering, in the terms set out in the said law.
2. In the course of their inquiries or investigation, the authorities mentioned in article 38 (1) and (2) may request full collaboration or other assistance they deem necessary from the police authorities and any other public services or authorities, in order to achieve the objective of the case.
3. Where the investigation uncovers evidence of an offence, a charge shall be drawn up and the accused shall be notified of the charge and given 10 days to present a defence in writing should he so desire.
4. The notification shall be served in person or by registered letter with advice of receipt, and when the accused is not found or refuses to receive the notification or is not known at his address, the rules of citation by public notice shall be followed.

Article 22

Seizure of documents and values

1. When necessary to the inquiry or investigation of the case, the investigating entity may, in the exercise of its legal competence of supervision, proceed with the seizure of documents or values that are the object of the investigation.
2. The values seized shall be deposited at a banking institution other than the accused, when this is a bank or credit cooperative, to the order of the investigating entity, in order to guarantee payment of the fine and legal costs.

Article 23

Completion of the investigation and referral to the court

1. The investigating entity shall have a period of 20 working days to complete its investigation of the case and produce the respective report, which shall contain a description of the facts, the grounds of law and a proposal on the decision to be taken.
2. Once the report mentioned in the preceding paragraph has been produced, the case shall be referred to the Provincial and Maputo City Judicial Courts for decision, pursuant to the provision of article 39 of Law 7/2002 of 5 February.
3. The referral of the case to the court mentioned in the preceding paragraph shall take place within a maximum of five working days from the end of the period set in paragraph 1 of this article.

Article 24

Decisions on contravention proceedings

The courts shall take decisions on contravention proceedings, in the terms of criminal law and other applicable legislation.

CHAPTER VI

Miscellaneous provisions

Article 26

Investigations by supervisory authorities

In order to give effect to the provisions of article 22 of Law 7/2002 of 5 February, each supervisory authority shall issue instructions to the entities under its supervision for the purpose of establishing technical and functional mechanisms and means for the prevention and deterrence of money laundering, taking account of the specific characteristics of the branch of activity in which they work.

Article 27

Distribution of the proceeds of property forfeited to the State

1. The proceeds of the sale of property declared forfeited to the State shall be distributed to the institutions mentioned in article 9 (1) of Law 7/2002 of 5 February, observing the threshold set in article 9 (2) of the same law and according to the following percentages:
 - a) 10% to entities that promote actions, measures, means of deterring and programmes for the prevention of illegal drug consumption and trafficking;
 - b) 10% to the Ministry of Health;
 - c) 10% to the Ministry of Justice;
 - d) 10 % to the Department of Public Prosecution;

- e) 60% to other organisations directly involved in the deterrence of money laundering.
- 2. The proceeds of the sale of property declared forfeited to the State shall benefit the Court Treasury, in the terms of the criminal procedures law, in addition to the entities mentioned in the preceding paragraph.
- 3. The minister in charge of finances shall have competence to distribute the percentage mentioned in subparagraph e) of the preceding paragraph on a case-by-case basis.
- 4. In the cases mentioned in article 9 (5) of Law 7/2002 of 5 February, the share of the property, values or proceeds seized allotted to the Mozambican State shall revert to the public treasury.
- 5. Property forfeited to the State that is not alienated or destroyed and that has criminological, scientific or didactic interest shall be directed to entities related to these fields.

Article 28

Destination of monetary values

For the purposes of article 5 (1) of Law 7/2002 of 5 February, monetary values deposited in the bank accounts or safes of other entities and intended for use in the commission of offences foreseen in the said law and these regulations shall revert in total to the public treasury.

Article 29

Transitory provision

The financial entities mentioned in article 2 of Law 7/2002 of 5 February shall have a time limit of three months from the date of entry into force of this decree to adjust their internal and external procedures to those established in these regulations.

Annex 2c: Law that establishes the Mozambican FIU

Law no. 14/2007 of June, 27

With approval of the Law 3/97 of March 13th, that establishes the applicable juridical regime for the traffic and consumption of drugs and psychotropic substances, prepared precursors or other substances of similar effects, Mozambique began the combat against money laundering.

Being necessary to establish complementary mechanisms of prevention and combat against money laundering, cover by the determination in the no. 1 of the Article 179 of the Constitution, the Assembly of Republic determines:

Article 1

Creation, extent and nature

1. The Cabinet of Financial Information of Mozambique is created briefly designated by GIFiM.
2. GIFiM is an organ of the State, of national extent, endowed with administrative autonomy and it works under protection of Council of Ministers.

ARTICLE 2

Functions

1. Are functions of GIFiM to collect, centralize, analyze and diffuse to the competent entities information related to financial economic operations susceptible of acts of money laundering and other related crimes.
2. For the exercise of their functions, the GIFiM in accordance with regulated norms is authorized:
 - a) to request information to the entities referred in article 11 of the present Law, including the one that seek to identify possible goods or value to be frozen or declared lost in favour of the State;
 - b) to exchange information with their foreign congeners, by own initiative or at request of these.
3. The request referred in the paragraph a) of the previous number has for objective to contribute in the analysis of the communications received previously, as well as to answer the received request of foreign congeners.
4. Constitute functions of the GIFiM in the extent of prevention and combat against the crimes foreseen in the present Law:
 - a) to accomplish studies on the techniques used in its undertaking;
 - b) to accomplish and to collaborate in formation actions;
 - c) to collaborate, with the several supervision authorities in control of the execution of the pertinent legislation;

- d) to emit information and opinions to be requested by the competent entities.

ARTICLE 3

Duty of collaboration

The public and private institutions should render the collaboration to request them in the extent of their attributions.

ARTICLE 4

Suspension of operations

Having enough indications to conclude the presence of an activity of money laundering or other related crimes, the GIFiM should propose to the public prosecution service the suspension of the operations in cause and the exercise of competent penal action.

ARTICLE 5

Council of Coordination

1. The institutional coordination in the domain of the present Law is assured by Council of Coordination of GIFiM.
2. Are members of Council of Coordination:
 - a) the First Minister, that presides it;
 - b) the Minister of Finances;
 - c) the Minister of Interior;
 - d) the Minister of Justice
 - e) the General Attorney;
 - f) the Government of the Bank of Mozambique.
3. The Director and Assistant Director of GIFiM participate in the sessions of Council of Coordination.
4. In function of the agenda matters, the Council of Coordination can invite other entities.
5. Competes especially to the Council of Coordination:
 - a) to propose, to Council of Ministers, the politics and strategies of GIFiM;
 - b) to appreciate the proposals of plan and budget of GIFiM before its submission to Council of Ministers;
 - c) to appreciate and to approve the management account;
 - d) to propose the nomination of Director and Assistant Director of GIFiM;

e) to appreciate the annual report of GIFiM before its submission to Council of Ministers.

6. The Council of Coordination of GIFiM meets, ordinarily, once a year and extraordinarily, whenever summoned by the respective president.

ARTICLE 6

Direction

The GIFiM is driven by a Director, cooperated by a Assistant Director, both named by the First Minister under proposal of Council of Coordination.

ARTICLE 7

Competences

1. To Director of GIFiM competes in general, to guide and to coordinate the GIFiM.
2. Competes, especially to Director of GIFiM:
 - a) to represent GIFiM;
 - b) to emit and send directives, rulings and circulars
 - c) to propose alterations to the organic structure and operation of GIFiM;
 - d) to approve the norms of internal procedure;
 - e) to practice all acts related to nomination, promotion, reform, discharge, dismissal and expulsion of personnel's of GIFiM when this competence is not by law attributed to other organ;
 - f) to put personal in the several operation areas;
 - g) to check ownership to the employees of GIFiM;
 - h) to exercise discipline inside of the limits of law;
 - i) To elaborate annual plan and budget of GIFiM;
 - j) To celebrate understanding memos with foreign congeners, whenever such is shown necessary to assure the change of information and experiences;
 - k) To present management accounts to the Administrative tribunal;
 - l) To exercise other competences to be checked by law.
3. To the assistant Director competes, in general to cooperate with Director and to substitute him in his absences and impediments, being able to delegate in the competences referred in the previous number.

ARTICLE 8

Special Owe

The Director and assistant Director of GIFiM should present a declaration of his patrimony, goods incomes, in the terms of the article 4 of the Law 6/2004, of June 17th.

ARTICLE 9 **Confidentiality**

1. Without damage of the determination in the present Law, the direction members and other employee of GIFiM are prohibited of revealing any information related with suspicious operations of the crimes referred in the present Law, that have knowledge because of the functions or that can harm preventive action and combat of the same ones, in the national and international extents.
2. The prohibition referred in the previous number is extensive to all those that, by any title, render services to GIFiM.
3. The inobservance of the determination in previous numbers is susceptible to disciplinary/criminal responsibility according to the applicable legislation.

ARTICLE 10 **Incompatibilities**

The functions of Director, Assistant Director and any employee of GIFiM are incompatible with the exercise of:

- a) Governmental positions;
- b) Paid Activities, with exception of cultural character, investigation or teaching;
- c) Businesses Management, own or of third;
- d) Manager Positions, leads or any function, in a financial entity, as well as in activity or profession no financial designated.

ARTICLE 11 **Communication of suspicious operations**

1. All of entities that be forced to communicate operations susceptible to crimes cover by specific legislation referred in the present Law, owe immediately, to inform the GIFiM, without damage of the obligations face to the public prosecution service and the respective supervision entities.
2. The communication referred in this article is done in the terms to be regulated.

ARTICLE 12 **Reports**

1. GIFiM should produce an annual report to be submitted to Council of Ministers, containing the evaluation of the received communications and analyzed as well as of the tendencies of crimes foreseen in the present Law.
2. The report referred in the previous number is deposited in the Assembly of Republic by Council of Ministers.

ARTICLE 13

Regulation

1. Competes to Council of Ministers to regulate in the period of sixty counted days starting from the date of the present Law, the structure, organization and operation of GIFiM.
2. Safe into to that, by Law is of competence of other entities and an organ, the internal regulations of GIFiM, is approved by Director of GIFiM.

ARTICLE 14

Beginning of Activities

Competes to Council of Ministers to create the necessary conditions for the beginning of activities of GIFiM, in the maximum period of 180 days after the entrance in vigor of the present Law.

ARTICLE 15

Entrance in Vigor

The present Law takes effect in the date of its publication.

Approved by the Assembly of Republic on May 10th, 2007

The President of Assembly of Republic, *Eduardo Joaquim Mulémbwè*

Promulgated on June 13th, 2007

Be published.

The President, ARMANDO EMÍLIO GUEBUZA

Annex 3: List of all laws, regulations and other material received

1. Constitution of the Republic of Mozambique
2. Law 8/91 of 18 July (Associations Law)
3. Law 19/91 of 16 August (Law against Safety of State)
4. Law 1/92 of 3 January (Organic Law of the Bank of Mozambique)
5. Law 3/93 of 24 June (Investment Law)
6. Law 5/93 of 28 December (Law on Immigration)
7. Law 9/94 of September 14 (Gaming legislation)
8. Law 3/96 of 4 January (Foreign Exchange- repealed by Law 11/2009)
9. Law 3/97 of 13 March (Drug legislation)
10. Law 5/98 of 15 June (Law on Cheques)
11. Law 15/99 of 01 November as amended by Law 9/2004 of 21 July
12. Law 7/2002 of 5 February (AML Legislation)
13. Law 06/2004 of 17 June (Anti-Corruption Legislation)
14. Law 4/2007 of 7 February (Law on Social Protection)
15. Law 14/2007 of June 27 (FIU Legislation)
16. Ministerial Diploma 206/98 of 25 November (Customs Clearance Regulations)
17. Ministerial Diploma No. 129/99 of 15 December (Internal Regulations of the General Inspectorate of Insurance)
18. Ministerial Diploma 134/2000 of 27 September (Organic Statute of the Ministry of Planning and Finance)
19. Decree 21/91 of 3 October (Non-profit Associations)
20. Decree 5/95 of 01 November (objectives and functions of the Ministry of Justice)
21. Decree 36/96 of 6 August (Regulations on Representative Offices of Foreign Offices)
22. Decree 48/98 of 22 September
23. Decree 49/98 of 22 September (Establishes the Stock Exchange and its Internal Regulations)
24. Decree 55/98 of 13 October (Foreign NGOs)

25. Decree 40/99 (Organic Statute of the General Inspectorate of Finance)
26. Decree 42/99 of 20 July (Establishes the General Inspectorate of Insurance)
27. Decree 54/99 of 8 September (Regulations on the creation and functioning of Investment Funds)
28. Decree 62/99 of 21 September (the Industrial Free Zone Regulations)
29. Decree 38/2000 of 17 October (Immigration Regulation)
30. Decree 48/2001 of 21 December (Regulations on the activity of external auditors of Credit Institutions and Finance Companies)
31. Decree 6/2004 of 1 April 2004 (Stamp Duty Code)
32. Decree 37/2004 (AML Regulations)
33. Decree 56/2004 of 10 December (Regulations on the Law of Credit Institutions and Finance Companies)
34. Personal Income Tax Code
35. Decree no.57/2004 of 10 September (Microfinance regulations)
36. Ordinance no.41/97
37. Notice 1/GGBM/99
38. Notice 1/GGBM/2005 (Foreign Exchange)
39. Notice 2/GGBM/2006 (Foreign Exchange)
40. Circular Letter 02/DSB/97 (Prevention of Bank and Financial Fraud)