

Mutual Evaluation Report

Anti-Money Laundering and Combating the Financing of Terrorism

September 2014

The Republic of Rwanda

The Republic of Rwanda (Rwanda) is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). This mutual evaluation of Rwanda was conducted by the International Monetary Fund and was adopted as an ESAAMLG first mutual evaluation report of Rwanda on AML/CFT using the 2003 FATF Standards by its 28th Task Force of Senior Officials which met in Luanda, Angola from the 31st of August to 4th of September, 2014 and approved by the Council of Ministers which met in Luanda on the 5th of September, 2014.

RWANDA

DETAILED ASSESSMENT REPORT ON
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF
TERRORISM

SEPTEMBER 2014



LEGAL DEPARTMENT

Contents	Page
ACRONYMS	8
PREFACE	10
EXECUTIVE SUMMARY	11
1. GENERAL	15
1.1. General Information on Rwanda	15
1.2. General Situation of Money Laundering and Financing of Terrorism	20
1.3. Overview of the Financial Sector	21
1.4. Overview of the DNFBP Sector	27
1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements	29
1.6. Overview of strategy to prevent money laundering and terrorist financing	29
2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES	33
2.1. Criminalization of Money Laundering (R.1 and 2)	33
2.1.1 Description and Analysis	33
2.1.2 Recommendations and Comments	44
2.1.3 Compliance with Recommendations 1 and 2	45
2.2. Criminalization of Terrorist Financing (SR.II)	45
2.2.1 Description and Analysis	45
2.2.2 Recommendations and Comments	50
2.2.3 Compliance with Special Recommendation II	51
2.3. Confiscation, freezing and seizing of proceeds of crime (R.3)	52
2.3.1 Description and Analysis	52
2.3.2 Recommendations and Comments	56
2.3.3 Compliance with Recommendation 3	57
2.4. Freezing of funds used for terrorist financing (SR.III)	57
2.4.1 Description and Analysis	57
2.4.2 Recommendations and Comments	58
2.4.3 Compliance with Special Recommendation III	60
2.5. The Financial Intelligence Unit and its Functions (R.26)	60
2.5.1 Description and Analysis	60
2.5.2 Recommendations and Comments	69
2.5.3 Compliance with Recommendation 26	70
2.6. Law enforcement, prosecution and other competent authorities— the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27 and 28)	71
2.6.1 Description and Analysis	71
2.6.2 Recommendations and Comments	79
2.6.3 Compliance with Recommendations 27 and 28	79
2.7. Cross-Border Declaration or Disclosure (SR.IX)	80
2.7.1 Description and Analysis	80
2.7.2 Recommendations and Comments	82
2.7.3 Compliance with Special Recommendation IX	84
3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS	85
3.1. Risk of money laundering or terrorist financing	85
3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)	85

3.2.1	Description and Analysis.....	85
3.2.3	Recommendations and Comments	102
3.2.3	Compliance with Recommendations 5 to 8.....	105
3.3.	Third Parties and Introduced Business (R.9).....	108
3.3.1	Description and Analysis.....	108
3.3.2	Recommendations and Comments	109
3.3.3	Compliance with Recommendation 9	111
3.4.	Financial Institution Secrecy or Confidentiality (R.4)	111
3.4.1	Description and Analysis.....	111
3.4.2	Recommendations and Comments	115
3.4.3	Compliance with Recommendation 4	115
3.5.	Record keeping and wire transfer rules (R.10 and SR.VII).....	116
3.5.1	Description and Analysis.....	116
3.5.2	Recommendations and Comments	120
3.5.3	Compliance with Recommendation 10 and Special Recommendation VII ..	122
3.6.	Monitoring of Transactions and Relationships (R.11 and 21).....	123
3.6.1	Description and Analysis.....	123
3.6.2	Recommendations and Comments:	125
3.6.3	Compliance with Recommendations 11 and 21	127
3.7.	Suspicious Transaction Reports and Other Reporting (R.13–14, 19, 25 and	
SR.IV)	128	
3.7.1	Description and Analysis.....	128
3.7.2	Recommendations and Comments:	132
3.7.3	Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and	
SR.IV	132	
3.8.	Internal Controls, Compliance, Audit, and Foreign Branches (R.15 and 22)	133
3.8.1	Description and Analysis.....	134
3.8.2	Recommendations and Comments:	136
3.8.3	Compliance with Recommendations 15 and 22	137
3.9.	Shell Banks (R.18)	138
3.9.1	Description and Analysis.....	138
3.9.2	Recommendations and Comments	139
3.9.3	Compliance with Recommendation 18	139
3.10.	The Supervisory and Oversight System—Competent Authorities and	
	Self-Regulatory Organizations (SROs). Role, Functions, Duties, and Powers	
	(Including Sanctions) (R. 23, 29, 17, and 25)	140
3.10.1	Description and Analysis.....	140
3.10.2	Compliance with Recommendations	161
3.10.3	Compliance with Recommendations 17, 23, 25, and 29	162
3.11.	Money or Value Transfer Services (SR.VI)	163
3.11.1	Description and Analysis (summary)	163
3.11.2	Recommendations and Comments	166
3.11.3	Compliance with Special Recommendation VI	166
4.	PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND	
	PROFESSIONS	167
4.1.	Customer Due Diligence and Record-keeping (R.12).....	167
4.1.1	Description and Analysis.....	167
4.1.2	Recommendations and Comments	172
4.1.3	Compliance with Recommendation 12	173
4.2.	Suspicious Transaction Reporting (R.16)	174

4.2.1	Description and Analysis.....	174
4.2.2	Recommendations and Comments	178
4.2.3.	Compliance with Recommendation 16	179
4.3.	Regulation, Supervision, and Monitoring (R.24-25).....	179
4.3.1	Description and Analysis.....	179
4.3.2	Recommendations and Comments	183
4.3.3	Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBP)	184
4.4.	Other Non-Financial Businesses and Professions—Modern, Secure Transaction Techniques (R.20).....	184
4.4.1	Description and Analysis.....	184
4.4.2	Recommendations and Comments	185
4.4.3	Compliance with Recommendation 20	186
5.	LEGAL PERSONS AND ARRANGEMENTS AND NONPROFIT ORGANIZATIONS .	186
5.1.	Legal Persons—Access to Beneficial Ownership and Control Information (R.33) .	186
5.1.1	Description and Analysis.....	186
5.1.2	Recommendations and Comments	194
5.1.3	Compliance with Recommendations 33.....	194
5.2.	Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)	194
5.2.1	Description and Analysis.....	194
5.2.2	Recommendations and Comments	195
5.2.3	Compliance with Recommendations 34.....	196
5.3.	Nonprofit Organizations (SR.VIII)	196
5.3.1	Description and Analysis.....	196
5.3.2	Recommendations and Comments	202
5.3.3	Compliance with Special Recommendation VIII.....	202
6.	NATIONAL AND INTERNATIONAL COOPERATION	203
6.1.	National Cooperation and Coordination (R.31 and R.32).....	203
6.1.1	Description and Analysis.....	203
6.1.2	Recommendations and Comments	205
6.1.3	Compliance with Recommendation 31	206
6.2.	The Conventions and UN Special Resolutions (R.35 and SR.I)	207
6.2.1	Description and Analysis.....	207
6.2.2	Recommendations and Comments	208
6.2.3	Compliance with Recommendation 35 and Special Recommendation I.....	208
6.3.	Mutual Legal Assistance (MLA) (R.36–38, SR.V).....	208
6.3.1	Description and Analysis.....	208
6.3.2	Recommendations and Comments	217
6.3.3	Compliance with Recommendations 36 to 38 and SR.V	217
6.4.	Extradition (R.37, 39, SR.V).....	218
6.4.1	Description and Analysis.....	218
6.4.2	Recommendations and Comments	222
6.4.3	Compliance with Recommendations 37 and 39, and SR.V.....	223
6.5.	Other Forms of International Cooperation (R.40 and SR.V)	224
6.5.1	Description and Analysis.....	224
6.5.2	Recommendations and Comments	229
6.5.3	Compliance with Recommendation 40 and Special Recommendation V	230
7.	OTHER ISSUES	232

7.1.	Resources and Statistics	232
7.2.	Recommendations and Comments	232
7.3.	Other relevant AML/CFT Measures or Issues	233
7.4.	General Framework for AML/CFT System (see also section 1.1).....	234

Tables

1. Banking Indicators for the Three Years Preceding the Assessment	22
2. Microfinance indicators (in RF billion)	23
3. Indicators for the insurance sector provided by the authorities	24
4. Activities that Constitute Predicate Offenses to Money Laundering	36
5. Powers to Monitor and Supervise Reporting Entities.	143
6. Financial/Prudential onsite inspections conducted by the BNR (2009–2011)	148
7. Staffing and Budgetary Resources at the BNR	149
8. Staffing and Budgetary Resources at the CMA	150
9. Licensing Requirements Covered Under Relevant Sector Law	153
10. Registered NGOs in Rwanda	188
11. Ratings of Compliance with FATF Recommendations	235
12. Recommended Action Plan to Improve the AML/CFT System	261

Figures

1. BNR Organizational Chart	141
2. CMA Organizational Chart	149

Statistical Tables

1. Structure of Financial Sector	25
2. Financial Activity by Type of Financial Institution	26
3. Number of Investigations, Prosecutions, and Sanctions for the Predicate Offenses	41
4. Number of reports received by the FIU	68
5. Licensing Activities	158
6. Statistics were provided with respect to companies only	187

Annexes

1. Authorities' Response to the Assessment	292
2. List of Bodies Met During the On-site Visit	293
3. List of All Laws, Regulations, and Other Material Received	295
4. Copies of Key Laws, Regulations, and Other Measures	299

ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BNR	Rwanda Central Bank (Banque Nationale du Rwanda)
CDD	Customer Due Diligence
CPC	Criminal Procedure Code
CSP	Company Service Provider
DNFBP	Designated Non-Financial Businesses and Professions
DRC	Democratic Republic of Congo
EAC	Eastern African Community
EAPCCO	Eastern Africa Police Chiefs Cooperation Organization
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
FT	Financing of Terrorism
LEG	Legal Department of the IMF
MFA	Ministry of Foreign Affairs
ML	Money Laundering
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NPO	Nonprofit Organization
NPPA	National Public Prosecutor Authority
PEP	Politically Exposed Person
RNP	Rwanda National Police

RGB	Rwanda Governance Board
SRO	Self-Regulatory Organization
STR	Suspicious Transaction Report
UN	United Nations
UNSCR	United Nations Security Council Resolution

PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Rwanda is 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 Assessment Methodology 2004, as updated. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from June 4 to 14, 2012, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector.

The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF). The evaluation team consisted of Nadine Schwarz (LEG, team leader), Francisco Figueroa, Carolina Claver, and Chady El Khoury (all LEG). The assessors reviewed the institutional framework; the relevant AML/CFT Laws, regulations, guidelines and other requirements; and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in Rwanda at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Rwanda'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 report was produced by the IMF as part of the Financial Sector Assessment Program (FSAP) of Rwanda. It was presented to the ESAAMLG Task Force of Senior Officials Meeting in Luanda, Angola, September 1–5, 2014 and endorsed by this organization on its plenary meeting of September 3, 2014.

The assessors would like to express their gratitude to the Rwandan authorities for their cooperation throughout the assessment mission.

EXECUTIVE SUMMARY

Key Findings

1. **Rwanda has taken considerable steps over the last years to establish a national AML/CFT framework.** It enacted, in 2008, the law on prevention and penalizing the crime of money laundering and financing terrorism (Law No. 47/2008 of 09/09/2008, the AML/CFT Law), which sets out the main AML/CFT legal framework, and, in 2011, established a financial intelligence unit (FIU), which became operational shortly before this assessment. The AML/CFT framework remains, however, unfamiliar to most of the relevant authorities and reporting entities, and more efforts should be devoted to raising awareness to the prevention and detection of money laundering and terrorist financing.

2. **Rwanda's financial sector is small and mainly dominated by banks.** The Rwandan authorities have made great progress in modernizing the financial sector, and aim at making it more attractive to foreign investors. While the risks of money laundering and terrorist financing do not appear to be particularly significant in Rwanda, further action should nevertheless be taken to bolster the legal framework, improve its implementation, strengthen overall supervision of reporting entities within the financial sector, and mitigate the potential domestic and cross-border risks.

Legal Systems and Related Institutional Measures

3. **Money laundering is criminalized in a way that largely meets the standard, but its wording is somewhat ambiguous.** According to the authorities, a prior conviction for the predicate offense is necessary to secure a conviction for money laundering, although this is not specifically required in the law.

4. **Rwanda's framework for seizing and confiscating the proceeds of crime is, for the most part, sound.** It enables the authorities to seize and confiscate all the property subject to confiscation under the standard, and, in this sense, provides the authorities with the necessary tools to remove property from the criminals' hands. This framework has, however, not been used in practice. In addition, the rights of bona fide third parties are not sufficiently protected in the case of seizure.

5. **Through recent amendments to the Penal Code, Rwanda has enhanced its legal framework to fight against terrorism and its financing.** Terrorist financing is criminalized as an

autonomous offense, but this offense does not cover the provision and collection of funds from individual terrorists and terrorist organizations. In addition, there are no measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the relevant United Nations Security Council Resolutions (UNSCR), with the exception of a few letters sent by the Central Bank to banks to immediately freeze the accounts of individuals listed by the United States.

6. **Authorities competent in the analysis and investigation of money laundering, predicate crimes, and the financing of terrorism have been established, but their functions and operational independence need to be strengthened.** The FIU was established within the National Police, but its core functions and independence also need further strengthening. The relevant law enforcement agencies (LEAs) should be more proactive in tracing the illicit funds while investigating the predicate crimes to money laundering. In addition, the delineation of powers and roles between the FIU and the other LEAs should be clearer, with the FIU focusing on the analysis of suspicious transaction reports (STRs) and the other LEAs conducting financing investigations.

7. **A declaration system for cross-border transportation of cash and bearer negotiable instruments was introduced.** However, it is not fully in line with the standard and is not being implemented.

Preventive Measures—Financial Institutions

8. **The AML/CFT Law imposes basic identification, monitoring, and record keeping requirements on a number of financial institutions.** While these obligations constitute a sound basis for a preventive framework, they lack the necessary level of detail to be effective, notably with respect to the beneficial owner (i.e., the person who ultimately owns or controls the assets held or the customer), and do not address all the elements of an adequate customer due diligence (CDD) process. Similarly, while the law imposes a general obligation for financial institutions to develop and maintain internal controls to prevent money laundering and terrorist financing, it is not sufficiently clear to be implemented. The preventive measures apply to all “reporting entities,” which, in Rwanda, do not include insurance companies and intermediaries. There are no additional requirements with respect to cross-border banking and other similar relationships, and the measures in place to deal with non-face-to-face transactions and new technologies, record keeping, and wire transfers are weak.

9. **All financial institutions other than insurance companies and intermediaries are required to report to the FIU transactions that they suspect constitute or are linked to money laundering or terrorist financing.** They are not, however, required to report attempted transactions or transactions that appear to be linked or related to individual terrorists. In addition,

considering that the money laundering offense does not apply to all the designated predicate offenses, the scope of the reporting requirement is materially too narrow.

10. **Financial institutions are not subject to adequate, timely, and effective AML/CFT supervision.** While the two authorities responsible for prudential and market conduct supervision, namely the National Bank of Rwanda and the Capital Markets Authority, maintain that their functions include monitoring compliance with AML/CFT requirements and sanctioning non compliance, they have not conducted AML/CFT inspections, and could not establish the legal basis for conducting AML/CFT supervision.

Preventive Measures—Designated Non-Financial Businesses and Professions

11. **Most DNFBPs active in Rwanda are subject to the same AML/CFT preventive measures obligations as financial institutions, but do not appear to be implementing them.** The Law applies to all DNFBPs with the exception of casinos—the owners, directors, and managers of which are subject to the AML/CFT Law—but not to casinos as separate legal entities. Company formation services are provided by lawyers, accountants, and real estate agents who are all subject to the AML/CFT Law. While there appeared to be no trust-related services provided in Rwanda, a new law enabling the establishment of Rwandan trusts was expected to come into force and require trust-related services in the future.

Legal Persons and Arrangements and Nonprofit Organizations (NPOs)

12. **The authorities have made great progress in establishing a modern central registration system that captures basic information on companies and businesses created in the country.** The information is easily accessible by the authorities and the public at large, but it is not necessarily up to date and verified, and does not really seek to establish the beneficial ownership of legal entities incorporated in Rwanda. While law enforcement authorities may obtain additional information from the legal entities themselves, the latter have no obligation to maintain up-to-date information on their beneficial owners.

13. **Rwanda has strived to set a legal framework supporting the allocation and facilitation of local and international NPOs.** The norms ratified include the International Convention on Civil and Political Rights of December 16, 1966, the African Charter on Human and Peoples' Rights of June 27, 1981, and the Law N. 20/2000 of July 26, 2000 related to nonprofit making organizations. So far, 178 international non-governmental organizations (NGOs) have been registered and engage in a range of different domains of intervention such as health, education, social assistance, capacity building, microfinance, and sports.

National and International Cooperation

14. **There is no mechanism to ensure cooperation amongst the relevant authorities and coordination of the development and implementation of the AML/CFT framework.** In practice, bilateral communication takes place between some of the authorities, albeit sporadically.

15. **The legal framework, mutual legal assistance, and extradition allow for a broad range of measures to be taken on behalf of a foreign State, but apply to the fight against money laundering and terrorist financing only, and not to combating the predicate offenses.** Extradition may only be granted for persons who have been convicted of money laundering or terrorist financing, and not for persons charged of either of these offenses and pending trial. In addition, no mechanism is in place to ensure that Rwandan nationals (who may not be extradited) are prosecuted in Rwanda. In practice, the framework for international cooperation has rarely been put to the test, and a number of considerations with respect to its practical implementation remain unclear.

1. GENERAL

1.1. General Information on Rwanda

Geography and Demography

16. Rwanda is a landlocked country situated in central Africa. It is bordered by Uganda to the north, Tanzania to the east, Burundi to the south, and the Democratic Republic of Congo (DRC) to the west. Its total surface area is 26,338 square kilometers. Most of the country is savanna grassland, and its population predominantly rural. Vegetation ranges from dense equatorial forest in the northwest of the country to tropical savannah in the east. Altitude ranges from 1,000 to 4,500 meters above sea level.

17. The country has about 11,700,000 inhabitants, as of 2012, and the population is young and predominantly rural, with a density among the highest in Africa. The life expectancy is just above 58 years. Rwandans attained a high level of unity and reconciliation to the extent that they no longer consider the social and economic differences that catalyzed the 1994 genocide against Tutsis.

18. The country's principal language is Kinyarwanda, which is spoken all over the country. The official languages are Kinyarwanda, French, and English.

History

19. Rwanda became independent in 1962, after colonization by Germany (1899) and Belgium (1919). In 1961, its monarchical government was formally abolished by a referendum, and the first parliamentary elections were held. Political turmoil over the sharing of power and repeated explosions of ethnic violence have marked the country's history. These conflicts triggered the displacement of tens of thousands of Rwandese to neighboring countries from 1959 onward (1963 and 1973) and ultimately resulted, in the early 1990s, in a rebellion by the Rwandan Patriotic Front (RPF), and the 1994 Genocide. According to the authorities, the genocide claimed more than one million lives, and some two million people fled to neighboring countries, mostly to the DRC.

20. In July 1994, a transitional government of National Unity was formed and a National Assembly of the Transition was also established, comprising representatives of all the political parties in the government. A period of reconciliation and justice began, with the establishment of the International Criminal Tribunal for Rwanda (ICTR) and the reintroduction of "Gacaca," a traditional village court system. Following the installation of the new government in July 1994, more than 2.5 million exiles from previous conflicts returned to Rwanda.

21. Between 1997 and 2002, Rwanda pursued alleged genocidal forces in the DRC. Following an agreement with the DRC signed in Pretoria, South Africa, in July 2002, Rwandan troops were withdrawn and relations between Rwanda and the DRC were normalized. After the Reconciliation, refugees have returned, and most have resettled. Institutional changes aimed at rehabilitating and reconstructing the socio-economic settings and fostering the development agenda were made, such as the establishment of the National Police Force, the Human Rights Commission, the Gacaca courts, the Commission for National Unity and Reconciliation, the Demobilization and Reintegration Commission, the Gender Monitoring Observatory, the Office of the Auditor General, the Office of the Ombudsman, among others.

22. Rwanda is a member of several regional and international organizations. It is notably member of the United Nations, the African Union, the Francophonie, the Common Market for Eastern and Southern Africa, the International Conference for the Great Lakes Region, the East African Community, and the Commonwealth of Nations.

23. Rwanda has made significant progress in many areas but more needs to be done to meet all of the Millennium Development Goals (MDGs),¹ including halving its poverty by 2015.²

Economy

24. Rwanda's economy suffered heavily during the 1994 genocide, with widespread loss of life, failure to maintain the infrastructure, looting, and neglect of important cash crops. This caused a large drop in GDP and destroyed the country's ability to attract private and external investment. The economy has since strengthened, with per capita GDP (PPP) estimated at \$1,284 in 2011, compared with \$416 in 1994.³ Rwanda is a country of various natural resources, and the economy is improving from its previous status whereby it depended mostly on subsistence agriculture by local farmers using simple tools. Real GDP growth remained strong in 2012, largely driven by the service and industry sectors. Agriculture grew by a moderate 3.0 percent during the first three quarters of 2012 due to unfavorable weather conditions. The diversification of markets for tea and minerals, particularly coltan, boosted the export sector, which increased by 24.8 percent in 2012.⁴

¹<http://www.ipu.org/wmn-e/classif.htm>.

²According to the authorities, Rwanda ranked first among 48 African countries that have registered substantial progress in achieving the Millennium Development Goals as stated in ONE's 2013 continent data report.

³IMF economic outlook 2012

⁴Rwanda, in 2013 African Economic Outlook (African Development Bank, the OECD Development Centre and the United Nations Development Programme)

25. Rwanda has achieved high growth and macroeconomic stability over the last decade, but poverty remains high. Growth has averaged about 8 percent a year and is projected to be in the range of 7.5–8 percent for 2012 and 2013. Inflation, though volatile, is now in low single digits, and international reserves are at comfortable levels. Recovery has resumed, while inflation remains subdued in 2010.

26. Rwanda's resilience to external shocks has also improved further—thanks to prudent policies, substantial debt relief, and heavy reliance on concessional borrowing. However, poverty remains high, with 57 percent of the population living below the national poverty line in 2006. After a large increase in 2009–2010, donor flows are expected to return to trend levels, but decline gradually over the medium term.⁵

27. Rwanda remains highly dependent on grants from its Development Partners. About 40 percent of the budget is financed by grants, adding up to 11.0 percent of GDP in 2010–2011. This could easily turn into vulnerability if donors were to reduce their foreign assistance to Rwanda in the context of the fiscal consolidation exercises being implemented by many of them, including in connection to the sovereign debt crisis in the Euro zone. At the same time, revenues are still among the lowest in the East African Region.⁶

Government and Political System

28. The current Constitution was adopted by referendum in June 2003, and prescribes a multi-party system of government, based on universal principles, rule of law, democracy, and elections. In accordance with the Constitution, the legislative power is vested in Parliament, which consists of two chambers: the Chamber of Deputies (with 80 seats for 53 members elected by popular vote, 24 women elected by local bodies, 3 selected by youth and disability organizations) and the Senate (with 26 seats, 12 of which are elected by local councils, 8 appointed by the President, 4 by a political organizations forum, and 2 represent institutions of higher learning).⁷

29. The President of Rwanda is the head of State, and has broad powers, including creating policy in conjunction with the Cabinet, exercising the prerogative of mercy, commanding the armed forces, negotiating and ratifying treaties, signing presidential orders, and declaring war or a state of emergency. The President is elected by popular vote every seven years, and appoints

⁵IMF staff report on Rwanda: 2010 Article IV Consultation and First Review Under the Policy Support Instrument—Staff Report

⁶<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/RWANDAEXTN/0,,menuPK:368714~pagePK:141132~piPK:141107~theSitePK:368651,00.html>

⁷<http://www.rwandahope.com/constitution.pdf>

the Prime Minister and, upon proposal of the latter, all other members of Cabinet. At the time of the assessment, the incumbent President was Paul Kagame, who took office in 2000.

30. The Constitution also establishes, among other institutions aimed at fostering the socio-economic agenda of the country, the office of the Ombudsman, one of whose duties is to prevent and fight corruption and other related offenses in public and private administration. All public officials (including the President of the Republic) are required by the Constitution to declare their wealth to the Ombudsman on an annual basis.

Legal System

31. The system of law of Rwanda is based on the Belgian and German civil law system and has integrated certain aspects of customary law. Parliament deliberates on and passes laws. It legislates and oversees executive action in accordance with the procedure determined by the Constitution. The courts were completely restructured in 2004, resulting in the replacement of substantially unqualified judges by newly qualified judges. At the time of the assessment, those judges had gained practical experience in several areas of law, but not in fighting money laundering and terrorist financing.

The Judiciary

32. The judicial branch hierarchy is as follows: the Supreme Court, High Courts, Intermediate Courts, Primary Court, and mediation committees. The new Constitution in Rwanda also ushered in reforms in the judiciary, such as new legislation, establishing new courts, procedures, structures, and standards, including academic and professional qualifications, as well as regulatory and administrative frameworks. As mentioned above, Gacaca courts were reinstated in 2001 to try cases related to the 1994 Genocide. Gacaca courts were a form of transitional justice aimed at promoting community healing by making the punishment of perpetrators faster and less expensive to the State. They exacted various penalties including compensation, and emphasized confession and forgiveness as a way to heal the wounds. The Gacaca court system ended shortly after the assessors' onsite visit to Rwanda.

The Supreme Court

33. The Supreme Court is the highest court in the country. The decisions of the Supreme Court are not be subject to appeal save in terms of petitions for the exercise of the prerogative of mercy or revision of a judicial decision. Its decisions are binding on all parties concerned whether such are organs of the State, public officials, civilians, military, judicial officers, or private individuals.

The High Court

34. The High Court has jurisdiction to try in the first instance certain serious offenses committed in Rwanda as well as some offenses committed outside Rwanda as specified by the law. There is one High Court with four Chambers, one of which deals with international and cross-border crimes.

Intermediate and Primary Courts

35. There are 12 Intermediate Courts, and 60 Primary Courts in the country.

Specialized Courts including Gacaca Courts and Military Courts⁸

- Gacaca Courts: from 2001 to 2012, the Gacaca Courts were responsible for the trial and judgment of cases against persons accused of the crime of genocide and crimes against humanity, which were committed between October 1, 1990 and December 31, 1994 with the exception of cases whose jurisdiction is vested in other courts.
- Military courts comprise the Military Tribunal and the Military High Court. The Military Court tries in the first instance all offenses committed by military personnel, irrespective of their rank. The Military High Court shall try in the first instance all offenses that constitute a threat to national security and murder committed by soldiers, irrespective of rank. The Military High Court is an appellate court in respect of decisions rendered by the Military Tribunal.

Transparency, good governance, measures to combat corruption

36. The World Bank Worldwide Governance Indicators show that there have been great achievements in the areas of control of corruption and rule of law, as both have experienced a steady increase during the last 10 years. The improvement in the control of corruption is substantiated by transparency indentation where the country is currently ranked forty-ninth out of 183 jurisdictions, whereas six years earlier it was ranked eighty-third out of 158.

37. The Rwandan Law No. 23/2003 of August 7, 2003 on the Prevention, Suppression, and Punishment of Corruption and Related Offences imposes fines and imprisonment on those convicted of corruption. The law was modified and complemented by Law No. 17/2005 of August 18, 2005, which established the Office of the Ombudsman, whose responsibilities, among others, are to list and publish the names of persons convicted for corruption and related offenses.

⁸ Shortly after the onsite mission, the commercial tribunal and commercial high court were established by the Organic Law No 06/2012/OL of September 14, 2012, determining the organization, functioning, and jurisdictions of commercial courts.

1.2. General Situation of Money Laundering and Financing of Terrorism

38. The mainly rural nature of Rwanda's economy seems to offer limited opportunities for crime that could generate substantial proceeds. Although the authorities did not provide estimates of the relative volumes of predicate crimes in the country, they mentioned that the amounts generated by crime are relatively low across the range of predicates. In addition, the government has implemented effective anti-crime and, more specifically, anti-corruption policies, such that major proceeds-generating crimes appear to be controlled in Rwanda.

39. According to the authorities, proceeds of foreign crimes are not generally found in Rwanda. Due to ongoing threats from rebels located in the DRC, Rwanda maintains a relatively large and standing army and domestic police force on the border. The authorities claim that these forces make the country's borders relatively secure against unlawful entry and smuggling, and that this, combined with foreign exchange controls and a small financial sector, greatly reduce the attractiveness of Rwanda as a place to launder the proceeds of foreign crimes.

40. The assessment team found no evidence that money laundering was a significant problem in Rwanda, but nevertheless considers that the risk of criminal proceeds—generated both in Rwanda and in neighboring countries—being laundered in Rwanda, while relatively small, is not negligible either. Domestic crimes, such as trafficking in narcotics and corruption, embezzlement of public funds, and illicit trafficking in goods and merchandise generate criminal proceeds, but because the authorities' action focuses only on the predicate crimes, the laundering activities that resulted from these crimes have not been investigated and sanctioned.

41. Similarly, assessors found no evidence that terrorist financing was a major concern in Rwanda. However, the authorities have investigated one case of terrorist financing, the results of which were not disclosed to the team. In this regard, the authorities are strongly recommended to conduct a national risk assessment, which should take into account all available information, including, but not limited to, press reports, law enforcement information, and intelligence assessments.

42. In March 2009, Rwanda passed the law on the "Prevention and Suppression of Money Laundering and Financing of Terrorism." This law establishes a legislative framework that meets the main obligations of the FATF standard, but lacks the necessary level of detail. At the time of the assessment, this legislation was still in the process of being implemented and key action elements such as the establishment of an FIU had only recently been undertaken. Awareness of the money laundering and terrorist risks and of the requirements of the AML/CFT Law was relatively low, both within the relevant competent authorities, and across the range of reporting entities. As a result, no cases of potential money laundering had been brought before the courts.

43. One case of potential terrorist financing has been investigated and it was pending before the High Court at the time of the assessment.

1.3. Overview of the Financial Sector

44. The Rwandan financial sector is small and dominated by eight commercial banks.⁹ Rwanda's 2011 FSAP notes that Rwanda was little affected by the global financial crisis, but, like its neighbors in East Africa, it is in the process of transitioning towards a more modern, competitive, open, and inclusive financial system. Following the 2005 FSAP, significant progress has been made in restructuring and modernizing the financial sectors and its legislative and regulatory framework in the context of an extensive Financial Sector Development Plan. The 2011 FSAP also notes that both the government and the Rwandan Central Bank (Banque National du Rwanda, BNR) have shown determined leadership over several years in pursuing the necessary reforms. These reforms have helped to improve the structure and operation of the banking sector, as well as the insurance and pensions sectors; to modernize the system infrastructure (monetary operations, payments systems, land and mortgage registration, insolvency, and creditor rights); and to strengthen the framework for monitoring and mitigating systemic risk. However, continued efforts are required in following up and transiting to the next generation of reforms. At the same time, the financial sector faces new challenges and changes affecting financial development and stability going forward. These reflect the authorities' stated priorities to achieve visible progress in improving access to financial services and in the provision of long-term financing to the economy. Rwanda also faces an ambitious agenda with its commitment as a member of the Eastern African Community (EAC) to further regional economic, financial, and monetary integration, with the ultimate objective of establishing a monetary union.¹⁰ The financial sector has deepened over the last decade with the ratio of private sector credit to GDP increasing six-fold to 12 percent of GDP.¹¹ Among the EAC, Rwanda has the lowest financial market depth as measured by either the ratio of private sector credit to GDP or bank deposits to GDP. Survey results also show that some 80 percent of the population, mostly in the rural areas,

⁹ Although no figures were provided on the size of the various sectors, Rwanda's 2011 FSAP established that, as of September 30, 2010, the financial system was dominated by the eight commercial banks, which held a total of RF 644 billion.

¹⁰ Rwanda—Financial System Stability Assessment, August 2011, IMF Country Report No 11/244.

¹¹ IMF STAFF REPORT ON RWANDA: 2010 ARTICLE IV CONSULTATION AND FIRST REVIEW UNDER THE POLICY SUPPORT INSTRUMENT-STAFF REPORT.

does not have formal access to financial products. The authorities are taking steps to improve access to finance, and have recently granted licenses to some 400 Savings and Credit Cooperatives (SACCOs) to operate as deposit-taking institutions, with a view to granting them lending licenses as well.¹² According to the FSAP, as of September 2010, total assets of the banking sector accounted for about RF 644 billion or 60 percent of total assets in the financial system. Although the largest number of financial institutions are composed of microfinance institutions (MFIs) and Old SACCOs and Umurenge SACCOs (109 and 416 institutions, respectively), there was no financial information available supporting the total assets within the Umurenge SACCOs. Total assets for the MFIs and Old SACCOs accounted for another eight percent of total assets in the financial system. Against this background, and considering that data was not available, the assessment focused on the banking sector as the most significant sector.

Banking and nonbanking institutions

45. The financial services sector is small in Rwanda. Therefore, although the banking sector dominates the financial services sector and controls over 73 percent of the total financial sector assets, Rwanda still has a rather shallow banking sector with a ratio of bank assets to GDP of only 19.7 percent. At the time of the assessment, Rwanda had nine commercial banks, one development bank that merged with the mortgage financing bank in 2011, three microfinance banks, and one cooperative bank. The following table, provided by the authorities, includes the banking indicators for the three years preceding the assessment:

Table 1. Banking Indicators for the Three Years Preceding the Assessment

Indicators	December 2009	December 2010	December 2011
Solvency ratio (total capital)	21.0	24.4	27.2
NPLs/Gross loans	11.9	10.8	8.0
NPLs Net / Gross loans	10.0	9.3	7.0
Return on average assets	1.0	2.0	2.2
Return on average equity	5.5	11.2	10.6
Cost of deposits	2.3	2.7	2.4
Liquid assets/total deposits	68.1	58.2	45.3

¹² These findings are based on the 2011 FSAP. According to the authorities, a second survey conducted in 2012 indicated that the percentage of adult population having access to formal financial services has increased from 21.1 percent in 2008 to 42 percent in 2012, while the percentage of adult population informally served has increased from 26.4 percent in 2008 to 29.8 percent in 2012.

Forex capital	exposure/core	0.9	5.0	6.6
---------------	---------------	-----	-----	-----

Microfinance Institutions (MFIs)

46. In December 2011, total assets of the microfinance sector increased by 12 percent, and gross loans and deposits increased by 17 percent and 4 percent, respectively. In 2011, two MFIs were upgraded to microfinance banks. MFIs serve 8 percent of depositors and 90 percent of borrowers.

Table 2. Microfinance indicators (in RF billion)

Indicators	December 2010	December 2011
Total assets	43	48.2
Gross loans	32.3	37.8
Non-performing loans	3.6	4.2
Deposits	23	24
Equity	14.9	15.3
NPL rate	11%	11.3%
Liquidity ratio	55.5%	56.9%
Capital adequacy ratio (solvency)	34.5%	31.7%

Money transfer services

47. Money transfer services are allowed to operate through licensed banks (as is the case for MoneyGram and Western Union) or independently. At the time of the assessment, 14 money transfer service providers were authorized to operate independently.

Foreign Exchange (Forex) Dealers

48. As of June 2012, there were 97 forex bureaus in the system.

Securities

49. As of June 2012, there were seven securities intermediaries members of Rwanda's Stock Exchange. The CMA has licensed eight securities intermediaries who are operational in Rwanda.

Insurance

50. The insurance sector is quite small. At the time of the assessment, two insurance companies were providing life insurance.

51. There were also eight insurers (six private and two public), five insurance brokers, and 102 insurance agents. According to the authorities, insurance penetration was about 2.3 percent, and the insurance sector performance had been improving progressively over the previous years. Total assets increased, as well as the gross premiums and profits.

Table 3. Indicators for the insurance sector provided by the authorities (in RF billions)

Indicators	Dec. 2010	Dec. 2011
Total assets	128.2	143.7
Total capital	85	94.9
Total gross premiums	50	60.2
Underwriting profit	7.1	11.9
Total net profit	16	21.4
Claims ratio in per cent	44	41.9
Combined ratio in per cent	81	78
Current ratio (per cent)	272	242.9
Return on equity ratio (ROE) in per cent	17	18.5
Return on assets ratio (ROA) in per cent	11	11.8

Overview of the financial sector

Statistical Table 1. Structure of Financial Sector

	Number of Institutions	Total Assets (\$ million)	Authorized/ Registered and Supervised by:
Commercial banks	9		RDB/BNR
Mortgage banks			
Investment companies			
Collective investment associations			
Life insurance companies and occupational pension funds	2		RDB/BNR
Company pension funds	1		BNR
Insurance brokers	5		BNR
E-Money			
Savings institutions	416		RCA/BNR
Foreign exchange	97		RDB/BNR
Money transmitters			
Leasing and factoring			
Credit cards etc.			
Postal services			

52. According to the authorities, commercial banks, mortgage banks, life insurance companies, and investment companies established in Rwanda did not have branches or subsidiaries abroad.

53. The following table sets out the types of financial institutions that can engage in the financial activities that are within the definition of “financial institutions” in the FATF 40+9.

Statistical Table 2. Financial Activity by Type of Financial Institution

Type of financial activity (See glossary of the 40 Recommendations)	Type of financial institution that performs this activity	AML/CFT regulator and supervisor
1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banks	1. BNR
2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	1. Banks 2. Credit card companies 3. Factoring and finance/consumer credit	1. and 2. BNR
3. Financial leasing (other than financial leasing arrangements in relation to consumer products)	1. Banks 2. Leasing companies	1. and 2. BNR
4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g., alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	1. Banks 2. Money remitters	1. and 2. BNR
5. Issuing and managing means of payment (e.g., credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, and electronic money)	1. Banks 2. Credit cards companies 3. Electronic money institutions	1. to 3. BNR.
6. Financial guarantees and commitments	1. Banks	1. BNR
7. Trading in: (a) money market instruments (cheques, bills, CDs, and derivatives etc.); (b) foreign exchange;	1. Banks (for a to c) 2. Investment companies (for a) 3. Brokers (for d)	1. BNR 2. CMA 3. CMA

(c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	(e) does not apply in Rwanda	
8. Participation in securities issues and the provision of financial services related to such issues	1. Banks 2. Investment companies	1. BNR 2. CMA
9. Individual and collective portfolio management	1. Banks 2. Investment companies and Investment associations	1. BNR 2. CMA
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banks 2. Investment companies and Investment management companies.	1. BNR 2. CMA
11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Banks	1. BNR
12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	1. Life insurance companies 2. Lateral pension funds 3. Life insurance agents and brokers	1. to 3. BNR
13. Money and currency changing	1. Banks 2. Foreign exchange offices	1. and 2. BNR

1.4. Overview of the DNFBP Sector

54. Under Article 3 of the AML/CFT Law, the following categories of DNFBPs are included as reporting entities: members of the private legal practice when they represent or assist their

clients outside of a judicial in specific circumstances;¹³ auditors;¹⁴ real estate agents; traders in items of significant value, such as works of art (i.e., paintings, masks as well as precious stones and metals); and owners, directors and managers of casinos and gambling halls, including national lotteries.

55. In May 2011, the FIU was designated as the authority “required to check if the reporting entities which are not under any supervisory body, fulfill the obligations set out in the AML/CFT Law” (Article 13 of the Presidential Order No. 27/01 of May 30, 2011). Since then, all the categories of DNFBPs as designated under the AML/CFT Law fall under the supervision of the FIU. However, as of the mission date, the FIU had not started monitoring or supervising the DNFBPs’ implementation of their AML/CFT obligations.

Dealers in precious metals and dealers in precious stones

56. Rwanda produces some precious stones, such as coltan, wolfram, and castrate, among others. However, no estimates were provided on the size of this production. The country produces no precious metals or gems, and there did not appear to be a significant retail jewelry sector.

Lawyers and Notaries

57. The legal profession in Rwanda consists of lawyers and notaries. Advocates primarily advise on litigation and do not typically serve in an investment advisory capacity or otherwise act as financial intermediaries for clients. Notaries are state employees and are based at district and sector levels; their activities are generally restricted to matters regarding legal documentation and do not include acting as financial intermediaries. As of the mission date, there were 738 lawyers and 479 public notaries.

Accountants

58. As of the mission date, there were 289 registered Certified Public Accountants (CPAs), 124 registered Certified Accounting Technicians (CATs), 36 Practitioners, and 32 Audit Firms. The Rwandan accounting sector is very small and is primarily limited to providing accounting services.

Casinos, real estate agents, or trust and company service providers (CSPs)

¹³a) Buying and selling of properties, trading companies or businesses; b) handling of money, securities and other assets belonging to clients; c) opening and management of current savings or securities accounts; d) formation, management or directing of companies, trusts or other similar ventures or the execution of any other financial transactions.

¹⁴The authorities informed that the terms “auditors and accountants” are interchangeable under the AML/CFT Law.

59. The country's first (and only) casino has recently become operational. Real estate agents are organized in associations and registered by the Rwanda Development Board (RDB). As of the mission date, there were four real estate companies. There are no trust and CSPs operating in Rwanda, but company formation services are typically rendered by lawyers, real estate agents, or accountants.

1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements

60. Rwanda has a central registration system in place, which provides basic information on companies at the time of their incorporation but does not include information on the beneficial ownership of companies. Additional information on companies and on other types of legal persons that may be established under Rwandan law (namely cooperatives and NGOs) may be obtained by law enforcement authorities from the legal entity itself, but, due to the lack of relevant requirements in law, there is no guarantee that that information will be up to date and will pertain to the legal entity's beneficial ownership.

1.6. Overview of strategy to prevent money laundering and terrorist financing

AML/CFT Strategies and Priorities

61. The Rwandan authorities, in particular the BNR and the FIU, are very engaged in safeguarding the reputation of the financial system and protecting the system from potential money laundering and terrorist financing risks. Nevertheless, there is no AML/CFT strategy or priorities in Rwanda that would identify specific objectives or measures that the Government of Rwanda anticipates taking to combat money laundering and terrorist financing.

Institutional Framework for Combating Money Laundering and Terrorist Financing

(i) Committees, Ministries, or other bodies to coordinate AML/CFT action

62. AML/CFT Advisory Board—FIU: There is no national committee or policy council responsible for establishing and coordinating a comprehensive action plan or strategy addressing major AML/CFT initiatives to counter financial crime, which involves all stakeholders in Rwanda. The intention, however, is for the newly established FIU to take the lead in the country's AML/CFT strategy. The FIU is located at the central bank premises, but is part of the Rwanda National Police. It is organized into two administrative areas, namely the Advisory Board and the Management. The FIU Advisory Board is comprised of a Chairperson (i.e., the Governor of the BNR), a Vice Chairperson, five other members, and the Director of the FIU. These individuals

are appointed by a Prime Minister's Order upon request from the Minister in charge of Internal Security. The FIU Advisory Board is responsible for advising the FIU in the following issues:

- Proposing measures aimed at enabling the FIU to fulfill its mission;
- Updating the legislation relating to the fight against money laundering and financing of terrorism;
- Establishing internal rules and regulations of the FIU;
- Proposing agreements with other FIUs;
- Monitoring and evaluating achievements in the FIU in order to assess the adequacy of existing measures or to modify them wherever necessary; and
- Giving a quarterly (or at any time deemed necessary) report to the Minister in charge of Internal Security.

63. Ministry of the Internal Security: The Ministry is composed of two independent entities, namely the Rwanda National Police and the Rwanda Correctional Service. Economic and financial crimes are investigated by the Crime Investigation Department (CID); money laundering and terrorist financing cases are investigated by the FIU, while terrorist acts are investigated by the Anti Terrorist Unit. All three agencies are part of the National Police.

64. Ministry of Justice: The Ministry is responsible for legislation and liaises with other government departments and relevant parties when drafting legislation. It is also responsible of monitoring the public notaries.

65. Ministry of Trade and Industry (MINICOM): The Ministry is responsible for licensing and regulating those forms of gambling in Rwanda that are made lawful by way of Law No. 58/2011 governing the gaming activities. Under the gaming law, lottery, casinos, gaming machines, sport books, an internet gaming are regulated gambling activities.

66. Ministry of Foreign Affairs (MFA) and Cooperation: The Ministry is responsible for making arrangements for the negotiation and signature of conventions and agreements as well as for contributing to their implementation, and for the transmission of the UNSCR lists to the Ministry of Justice that forwards them to the National Police.

(ii) Law enforcement, criminal justice, and operational agencies

67. National Public Prosecutor Authority (NPPA): The NPPA is responsible for the prosecution of criminal offenses committed in Rwanda. The prosecution service has its

headquarters in Kigali and is represented at 12 intermediate levels and 60 primary levels. A specialized unit at headquarters is in charge of investigating and prosecuting economic and financial crimes, including money laundering and other related offenses. The Prosecutor General is assisted by his deputy, 16 public prosecutors with national competence, and 5 inspectors. There are 72 public prosecutors at the intermediary levels and 60 prosecutors at primary levels. NPPA has the Economic and Financial Department responsible for ML cases.

68. National Police of Rwanda: The Rwanda National Police is responsible for the maintenance of law and order and public security. It has monopoly over preliminary investigations. The Judicial Police conducts investigations under the supervision of the NPPA. The Rwanda National Police is organized at a national level, and is headed by an Inspector General. The total force numbers between 8,000 and 10,000 police officers.¹⁵

69. Rwanda Revenue Authority (RRA): The RRA was established pursuant to Law No. 08/2009 of 27/04/2009. It participates in setting taxes and is responsible for collecting, controlling, and managing taxes. The Investigation Department at the RRA is responsible for the conduct of investigations into tax evasion and tax fraud cases. It has judicial powers to investigate these cases in cooperation with the customs agents present at the border entry and exit points.

70. Rwanda Governance Board (RGB): The role of the RGB is to promote good governance principles in the political, public, corporate, and non-governmental domains. It holds the commercial register for legal persons and is responsible for registering and monitoring local non-governmental and religious organizations.

71. FIU: As mentioned above, the Rwandan FIU is a law enforcement (police) unit. It was established pursuant to Presidential Order No. 27/01 of May 30, 2011 adopted by the cabinet meeting of January 19, 2011, and became operational shortly before this assessment. The FIU is also the regulator and designated competent supervisory authority, pursuant to Presidential Order No. 27/2011, with respect to compliance with all AML/CFT obligations for all DNFBPs without an established supervisory authority (in Rwanda, these include lawyers, notaries, accountants, real estate agents, dealers in precious metals and stones, currency transporters, casino owners, directors and managers, travel agencies, and nongovernmental organizations).

(iii) Financial Sector and DNFBP Bodies

72. Rwanda National Bank (BNR): The BNR is the prudential regulator of banks, microfinance, insurance companies and agents, pension plans, *bureaux de change*, and payment

¹⁵ The number of police officers was increased significantly after this assessment and, as of August 2014, was between 8,000 and 10,000.

system/services providers. It was not, however, designated to supervise these persons and entities for AML/CFT purposes. The BNR also houses the FIU.

73. Capital Markets Authority (CMA): The CMA, established in June 2011, is the regulator of brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

74. Kigali Bar Association (KBA): Practicing professionals such as advocates (lawyers who are members of the Bar Association and qualified to practice law) and accountants are also subject to oversight by its self-regulatory organizations—the KBA.

75. Institute of Chartered Public Accountants of Rwanda (ICPAR): Accounting professionals are also subject to oversight by ICPAR, but this oversight does not include AML/CFT-related issues.

76. Real Estate Agents: There is no self-regulatory organization for real estate agents.

77. Company service providers: Company services may be provided by lawyers, accountants, and real estate agents.

Approach Concerning Risk

78. Rwanda has not adopted an overall risk-based approach in its AML/CFT framework, and the authorities have not conducted an overall assessment of the potential ML and TF risks that exist in Rwanda. The current AML/CFT legal and supervisory framework has, therefore, been developed without considering Rwanda's money laundering and terrorist financing risks.

79. Both the BNR and the CMA were at a very early stage of implementation of AML/CFT matters at the time of the onsite visit. There were some AML/CFT Regulations drafted, but these were not shared with the mission to determine the scope of the regulations and whether they were drafted in line with a risk-based approach.

Progress since the previous AML/CFT assessment

80. Rwanda underwent an assessment of its AML/CFT framework by the World Bank in 2005, but the authorities did not agree to the publication of the detailed assessment report. Since 2005, Rwanda took significant steps to enhance its AML/CFT framework, notably by enacting, in 2008, the Prevention and Penalizing the Crime of Money Laundering and Financing Terrorism Law No. 4/2008 (the AML/CFT Law), and, in 2011, by establishing an FIU through Presidential Order No. 27/01 of May 2011.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

81. Rwanda's AML/CFT framework is based on the law No 47/ 2008 of 09/09/2008, on prevention and penalizing the crime of money laundering and the financing of terrorism (hereinafter the AML/CFT Law), the Organic Law No 01/2012/OL of 02/05/2012 instituting the Penal Code (hereinafter the PC), and the Law No 45/2008 of 09/09/2008 on Counter Terrorism (hereinafter the CT law).

82. The legal framework criminalizes money laundering and terrorist financing, establishes the provisional measures that may be taken, allows for confiscation, and sets a basic framework for international cooperation in the fight against both money laundering and terrorist financing.

83. The current PC came into force in June 2012. It repealed the pre-existing Decree-Law No 21/77 of August 18, 1977 instituting the Penal Code, as well as "any prior legal provision" that contradicts its content (Article 765). However, an offense committed prior to the publication of the PC in the Official Gazette (i.e., prior to June 14, 2012) is punishable under the original law unless the PC provides for lesser penalties. Pursuant to Article 5 of the PC, when several laws punish the same offense, the specific law takes precedence over the general law, unless the law provides otherwise.

84. Money laundering is currently criminalized in very similar terms under both the PC and the AML/CFT Law. The Preamble of the new PC refers to specific Articles of the AML/CFT Law (namely articles 4, 48–53, 57–59, and 61) as having been "reviewed." According to the authorities, this should be understood as "repealed" and also means that all the articles of the AML/CFT Law that are not specifically listed in the Preamble are still in force.

85. To date, money laundering has not been sanctioned by the courts. There is therefore no experience in the implementation of the money laundering offense and no case law that would establish the courts' understanding of the AML legal framework. One case of terrorist financing has been investigated and prosecuted, but as an ancillary offense to terrorism under the CT law rather than as an autonomous offense under the AML/CFT Law.

2.1. Criminalization of Money Laundering (R.1 and 2)

2.1.1 Description and Analysis

Legal Framework:

86. The AML/CFT Law and the PC.

Criminalization of Money Laundering (c. 1.1 – Physical and Material Elements of the Offense):

87. Rwanda defined money laundering in Articles 652 of the PC and Article 2 of the AML/CFT Law, and set out the relevant sanctions in Articles 654 and following of the PC. The definition of money laundering (i.e., the list of activities that constitute money laundering) is very similar in both texts, with only minor discrepancies in the wording that do not affect the substance of the offense.¹⁶ According to the Constitution,¹⁷ the provision of the PC prevails over the AML/CFT Law.

88. Article 652 defines money laundering as “one or several of the following acts committed deliberately:

- the conversion, transfer or handling of property whose author knows that they are derived from a misdemeanor or a felony, or from an act of participation in such offences, for the purpose of concealing or disguising the illicit origin of the property or of;
- assisting any person involved in the commission of such an offence to escape justice;
- the concealment or disguise of the true nature, origin, location, disposition, donation, rights with respect to or ownership of property, knowing that such a property is derived from felony or misdemeanor crimes or from an act of participation in such offences;
- acquisition, possession or use of property, knowing, at the time of receipt, that such a property is derived from felony or misdemeanor crimes or from an act of participation in such offences;
- participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counseling the commission of any of the acts set forth in accordance with this Article.”

89. Article 652 also provides that money laundering is committed “even if the original acts leading to the acquisition, disposition or transfer of the property to be laundered or the protection of the offender are carried out in the territory of a third State.”

90. The sanctions for money laundering are set out in Article 654 of the PC (and in the AML/CFT Law), as described under Recommendation 2 below.

¹⁶According to Article 93 paragraph 7 of the Constitution, the organic law prevails over an ordinary law.

¹⁷According to Article 93 paragraph 7 of the Constitution, the organic law prevails over an ordinary law.

91. Both in the PC and in the AML/CFT Law, the money laundering offense is drafted in terms that are very similar to those of the relevant articles of the Vienna and Palermo Conventions (to which Rwanda is a party). It covers all the elements set forth in Articles 3(1) (b) of the Vienna Convention and 6(1) of the Palermo Convention, except the concealment and disguise of the movement of property (although this could be covered, in practice, by other elements of the offense).

The Laundered Property (c. 1.2):

92. The term “property” is defined, in line with the standard, under Article 2.9 of the AML/CFT Law as “an asset of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, as well as legal documents or instruments evidencing the existence of a right to, or interest in an asset.” The term “proceed” is defined in Article 2.8 of the AML/CFT Law as “property which directly or indirectly is derived from the offence.”

Proving Property is the Proceeds of Crime (c. 1.2.1):

93. Neither the PC nor the AML/CFT Law addresses the need—or not—to obtain a prior conviction to secure a conviction for money laundering. Considering that no money laundering charges have been brought before the Rwandan courts, there is no case law that would clarify the type or the level of proof that would be required. According to the representatives of the NPPA, Article 119¹⁸ of the Law on evidences provides that prosecutors have the power to provide evidence by any means; however, it would, in their opinion, be very difficult in most cases to convict someone based on factual, objective circumstances: they affirmed that prosecutors and judges would not be satisfied that the property is proceeds of crime unless there is a conviction for the predicate crime.

The Scope of the Predicate Offenses (c. 1.3):

94. The PC adopts an all crimes approach to money laundering by referring, in the offense, to property “derived from a misdemeanor or a felony.” This provision of the PC prevails over the AML/CFT Law, however, that defines money laundering in terms similar to those used in the PC, also specifies that, for the purposes of the implementation of the law, “money or property is illicit” when it is derived from the commission of any of the offenses specifically listed in its Article 5. According to the authorities, because Article 5 is not mentioned in the Preamble to the PC as

¹⁸“Article 119: In criminal cases, evidence is based on all grounds, factual or legal provided that parties have been given a chance to be present for cross-examination. The courts rule on the validity of the prosecution or defense evidence.”

having been “reviewed,” it remains in force but the general provisions of the PC prevail since it is an organic law.

95. The table below indicates the activities that constitute predicate offenses to money laundering.

Table 4. Activities that Constitute Predicate Offenses to Money Laundering

Category of offense	Predicate Offense to ML	Criminalization in Rwanda	Relevant provision in the Penal Code
Participation in an organized criminal group and racketeering	Yes	Criminalization of criminal gangs only (not fully in line with the Palermo Convention)	Articles 681 to 683 of the PC
Terrorism, including terrorist financing	Terrorism and FT: Yes	Yes (see shortcomings of FT offense below)	Terrorism: Article 169, 488, and Articles 497 to 528 of the PC Terrorist financing: Article 653 of the PC.
Trafficking in human beings and migrant smuggling	Yes	Yes	Articles 250 to 256 of the PC.
Sexual exploitation, including sexual exploitation of children	Yes	Yes	Articles 190 and followings and article 206 of the PC.
Illicit trafficking in narcotic drugs and psychotropic substances	Yes	Yes	Articles 593 to 598 of the PC.
Illicit arms trafficking	Yes	Yes	Articles 670 to 680 of the PC.
Illicit trafficking in stolen and other goods	Yes	Yes	Article 326 of the PC.
Corruption and bribery	Yes	Yes	Articles 633 to 651 of the PC.

Fraud	Yes	Yes	Articles 310, 318-320 and 333-335 of the PC.
Counterfeiting currency	Yes	Yes	Articles 601 to 604 of the PC.
Counterfeiting and piracy of products	Yes	Yes	Article 382 of the PC.
Environmental crime	Yes	Yes	Articles 389-437 of the PC.
Murder, grievous bodily injury	Yes	Yes	Murder: Article 140 of the PC. Grievous Bodily Injury: Article 149 of the PC.
Kidnapping, illegal restraint and hostage-taking	Hostage taking: Yes Kidnapping and illegal restraint: Yes	Yes	Kidnapping: Articles 273 and 274 of the PC. Hostage taking: 508 of the PC.
Robbery or theft	Theft with the use of violence: Yes Theft without the use of violence: No	Yes	Articles 292 and 304 of the PC.
Smuggling	Yes	Yes	Article 369 of the PC
Extortion	Extortion with the use of violence: Yes Extortion without the use of violence: No	Yes	Article 299 of the PC.
Forgery	Yes	Yes	Article 382 of the PC
Piracy	Yes	Yes	Article 519
Insider trading and market manipulation	Offense on the stock market or irregular public issue of shares: Yes	Yes	Article 355 of the PC.

Threshold Approach for Predicate Offenses (c. 1.4):

96. The PC adopts an all crimes approach to money laundering by referring, in the offense, to property “derived from a misdemeanor or a felony” This meets the threshold, since according to Articles 22 and 23 of the PC, a felony is an offense punishable under the law by a main penalty of

an imprisonment of more than five years, and the misdemeanor is the offense punishable under the law by a main penalty of an imprisonment of six months to five years.

Extraterritorially Committed Predicate Offenses (c. 1.5):

97. The last paragraph of Article 652 of the PC criminalizing ML indicates that “ML is committed even if the original acts leading to the acquisition, disposition or transfer of the property to be laundered or the protection of the offender, are carried out on the territory of a third State.” The text is limitative because it does not extend to all the paragraphs under the Article, but according to the authorities, is to be interpreted in a broad way (in particular the reference to “acts leading to (...) the protection of the offender”) and applies to all the activities that may constitute ML.

Laundering One’s Own Illicit Funds (c. 1.6):

98. The AML/CFT Law and the PC make no distinction between self-laundering and third party laundering. According to the authorities, no fundamental principle of the law would prohibit them from prosecuting and convicting the person who committed both the predicate and the ML offenses. In the absence of case law, however, it is unclear whether prosecutors and judges will apply the ML offense to the perpetrator of the predicate offense.¹⁹

Ancillary Offenses (c. 1.7):

99. Article 652.d of the PC provides that the participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counseling the commission of any of the acts set forth in the definition of money laundering also constitute the money laundering offense.

Additional Element—If an act overseas which do not constitute an offense overseas, but would be a predicate offense if occurred domestically, lead to an offense of ML (c. 1.8):

100. As mentioned above under criterion 1.5, Article 652 of the PC and Article 2 paragraph 1 (last sentence) of the AML/CFT Law provide that the ML offense may also be committed in instances when the “original acts” are committed abroad. The wording of both laws is broad and does not require criminalization in the third country as a condition for its application; it therefore meets this additional element.

Liability of Natural Persons (c. 2.1):

¹⁹According to the authorities, following the assessment, one person was convicted for self-laundering.

101. The money laundering offense applies to those who intentionally engage in one (or more) of the money laundering activities listed above, knowing that such a property is derived from a felony or misdemeanor or from an act of participation in such offenses (Article 652 of the PC).

The Mental Element of the ML Offense (c. 2.2):

102. The authorities explained that for Article 652 of the PC to apply, prosecutors would have to establish that the perpetrator knew that the property is derived from a felony or a misdemeanor or from an act of participation in such offenses. This would mean that prosecutors would have to establish that he or she had general knowledge of the underlying criminal source of the property. In the absence of case law, the authorities were of the view that judges would not be satisfied that the perpetrator knew that the property was illicit unless a prior conviction for the predicate crime proves his or her knowledge. Objective factual circumstances would most probably not be enough to secure a conviction for money laundering.

Liability of Legal Persons (c. 2.3):

103. The PC recognizes the principle of criminal liability of legal persons for several offenses, including money laundering (Article 656).

Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings (c. 2.4):

104. According to Articles 131,132, and 138 of the criminal procedure code (CPC), liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Sanctions for ML (c. 2.5):

105. The sanctions for money laundering are set out in the PC and are generally consistent with the sanctions applicable to other economic crimes under Rwandan law. In the absence of aggravated circumstances, any natural person who commits money laundering or is an accomplice is liable to a term of imprisonment of more than five years to seven years and a fine of two to five times the value of the amount of the laundered sums. The AML/CFT Law provided for a more dissuasive sanction (imprisonment from five to ten years and of up to ten times the amount of the laundered sums) in its Article 48, but this provision, together with other penalties laid out in the AML/CFT Law, are no longer in force since the entry in force of the 2012 PC.²⁰

106. In aggravated circumstances (Article 657 of the PC) the sanction available may be doubled. The aggravated circumstances are met if the ML offense was committed repeatedly, in the course of employment, or within the framework of an organized criminal conspiracy, or if the

²⁰All the penalties were lowered as a general policy under the new penal code.

predicate offense is punishable by a term of imprisonment higher than the one for money laundering offense.

107. Pursuant to Article 656: “Public or private companies, enterprises, organizations or associations with legal personality which commit an offence of money laundering or financing of terrorism, through their representatives, shall be liable to a fine equal to twice the fine applicable to individuals, without prejudice to the liability for complicity of its representatives. The legal entity, depending on the gravity of the events, may also be sentenced to:

- prohibition from direct or indirect involvement in specific professional activities;
- suspension for not less than five (5) years; and
- dissolution when established as a criminal organization.

The court’s decision should be published in newspapers and through other means used by the media.”

108. Article 32 and following of the PC provide sanctions against legal persons. “Penalties applicable to State institutions, public or private companies, enterprises, associations or organizations with legal personality shall be the following: dissolution; fine; temporary prohibition or for a long time from carrying out one or several professional or social activities; temporary prohibition or for a long time from carrying out one or several activities in a specific zone; permanent closure of the enterprises in which criminal acts were committed or which were used to commit such acts; exclusion from public procurement, on a permanent basis or for a period not exceeding five (5) years; prohibition to issue a check, a credit card or a negotiable instrument; confiscation of the object which was used in or intended for use in committing the offence or was the product of the offence; placement under judicial supervision; and publication of the decision by any media.” Article 656 of the PC prevails in the cases of money laundering and the financing of terrorism.

Statistics (R.32):

109. The authorities’ experience in investigating, prosecuting, and sanctioning money laundering is scant: One case of alleged money laundering has been disclosed by the FIU to the NPPA and was under investigation at the time of the assessment. No money laundering cases were prosecuted and brought before the courts. The authorities provided the following statistics related to the number of investigations, prosecutions, and sanctions for the predicate offenses:

Statistical Table 3. Number of Investigations, Prosecutions, and Sanctions for the Predicate Offenses

OFFENSES	Received case files (from the police)	Cases handled by prosecutors	
		Submitted cases (to court)	Closed cases
Terrorism	8	3	1
Corruption and related offences	209	116	19
Embezzlement of public funds	150	73	11
Illicit trafficking in narcotics	3500	2285	251
Illicit trafficking in weapons			
Illicit trafficking in goods and merchandise	111	48	8
Trafficking in illegal labor			
Trafficking human being	2	0	0
Exploitation of prostitution			
Illicit use of hormonal, anti-hormonal, beta adrenergic or production stimulating substances on animals or illegal trade in such substances			
Illicit trafficking in human organs and tissues			
Offence related to the stock market or irregular public issue of shares			
Financial fraud	525	192	30
Hostage-taking			
Theft or extortion with use of violence or threats			
Fraudulent bankruptcy			

OFFENSES	Number of verdicts	Number of accused	Number of acquittals	Penalties [by years of imprisonment]				Fine	Suspension of sentence
]0-1[[1-5]]5-10[[10-15]		
Terrorism									
Corruption	153	229	64	7	134	5	7	1	11
Embezzlement of public funds	169	254	85	7	101	15	22	0	24
Illicit trafficking in narcotics	2001	2349	106	1012	997	14	0	156	64
Illicit trafficking in weapons									
Illicit trafficking	59	67	0	45	10	0	0	6	4
Trafficking in illegal labor									
Trafficking in human beings									
Exploitation of prostitution									
Illicit use of hormonal, anti-hormonal, beta adrenergic or stimulating substances on animals or illegal trade in such substances									
Illicit trafficking in human organs and tissues									
Offence related to the stock market or irregular public issue of shares									
Financial fraud	188	252	45	46	150	0	0	9	2
Hostage taking									
Theft or extortion with use of violence or threats									
Fraudulent bankruptcy									

110. Although they do not hold specific statistics in this respect, the authorities mentioned that, in their recollection, the amounts involved in these crimes were, in most instances, small.

Implementation and Effectiveness:

111. The authorities mentioned that the most frequently investigated proceeds generating crime in Rwanda are, by far, illicit drug trafficking, followed by corruption (most tender offering and embezzlement of public funds), traffic of coltan from the area bordering Congo, and fraud. The LEAs conduct investigations into and prosecute these (and other) predicate crimes without tracing the funds.

112. As mentioned above, the ML offense has never been applied. However, in light of the number of asset generating crimes perpetrated in Rwanda, the risk of money laundering is not negligible. The money laundering offense in Rwanda covers most of the elements set forth in the Vienna and Palermo Conventions and should have been sufficient to enable the authorities to prosecute and sanction money laundering to a larger extent.

113. The fact that the authorities consider that a prior conviction for the predicate crime is necessary to prove that property is the proceeds of crime has the potential to raise a practical obstacle that needs to be overcome by the prosecution before any money laundering charges may be brought before the court.

114. Another difficulty arises from the fact that, in their investigations into predicate crimes, the authorities do not seem to focus sufficiently on the proceeds of crime: in a few instances, they identified cash or deposits on bank accounts, but did not seek to trace the other types of assets. Thus, these other assets (for example real estate, stocks, or cars) are not being identified on a regular basis, traced and confiscated, and ultimately remain in most of the cases in the hands of criminals.²¹

115. Overall, LEAs and the judiciary lack not only experience, but also expertise in handling money laundering cases, and the legal framework for money laundering, although broadly in line with the requirements of the standard, is not implemented effectively.

²¹According to the authorities, in one case of illicit enrichment, the seizure and confiscation were conducted on cars, house, and plots.

2.1.2 *Recommendations and Comments*

116. In order to comply fully with Recommendations 1 and 2, the authorities are recommended to do the following:

Recommendation 1:

- Ensure that the concealment or disguise of the movement of property knowing that such property is derived from an offense also constitutes money laundering;
- Clarify that prior conviction for the predicate offense is not a necessity to secure a money laundering conviction (i.e., when proving that property is the proceeds of crime).

Recommendation 2:

- Ensure that, in practice, intention can effectively be inferred from objective factual circumstances;
- Ensure that criminal sanctions do not preclude the possibility of parallel civil or administrative proceedings if such proceedings are available.

2.1.3 Compliance with Recommendations 1 and 2

	Rating	Summary of factors underlying rating ²²
R.1	LC	<ul style="list-style-type: none">• Lack of clarity as to whether prior conviction for the predicate offense is required to prove that property is the proceeds of crime, and authorities are of the view that it is a necessary requirement.• ML offense does not cover the concealment or disguise of the movement of property.• Lack of effectiveness of the money laundering offense.
R.2	PC	<ul style="list-style-type: none">• Lack of clarity as to whether the intentional element of the offense can be inferred from objective factual circumstances, and authorities are of the view that it cannot.• Lack of sanctions and effective implementation of the money laundering offense.

2.2. Criminalization of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

Legal Framework:

²²These factors are only required to be set out when the rating is less than Compliant.

117. Chapter IV of the PC of 2012 sets out a number of terrorism offenses, including an autonomous offense of FT. Previously these terrorism offenses, including the FT offense, were criminalized in the Law n° 45/2008 of 09/09/2008 on counter terrorism (hereafter the CT law). The Preamble of the new PC mentions, however, a “review” of Articles 75 to 86 to 92, and 96 to 103 of the CT Law. As mentioned under Recommendation 1, the authorities maintain that this means that the articles listed have been repealed by the provisions of the PC but that all other provisions of the CT law are still valid.

118. Rwanda ratified the International Convention for the Suppression of the Financing of Terrorism (“ICSFT Convention”) on May 13, 2002. It is party to seven of the nine protocols and conventions listed in the Annex of the ICSFT Convention, namely:

- Convention for the Suppression of Unlawful Seizure of Aircraft (Ratification: May 17, 1971);
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratification: November 3, 1987);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations (Signature: October 15, 1974; Ratification: November 29, 1977);
- International Convention against the Taking of Hostages (Accession: May 13, 2002);
- Convention on the Physical Protection of Nuclear Material (Ratification: June 28, 2002);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratification: May 16, 2002); and
- International Convention for the Suppression of Terrorist Bombings (Accession: May 13, 2002).

Criminalization of Financing of Terrorism (c. II.1):

119. Article 653 of the PC defines the FT offense as “an act of financing a terrorism enterprise by an individual by providing, collecting, or managing funds, assets, or any goods or by providing advice to that effect, with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially, in order to commit any of [the] terrorism acts.” Article 3 of the CT law provides that “an act considered as terrorism shall mean an act committed or a threat to commit an act in the interest of an

individual, a group or a terrorist organization.” Article 2 of the same law defines “**terrorism**” as “to commit or threaten to commit acts aimed at leading State organs into changing their functioning through taking hostages of one or more persons, killing, injuring or threatening the population by use of any means that may kill or injure a person; to commit or threaten to commit an act referred to under paragraph 1 of this article on political, religious or any ideological grounds. “**Terrorist**” is defined under Article 7 of the CT Law as “a person, a group of persons or an organization that: 1° commits or attempts to commit acts mentioned in Article 2 of this Law; 2° participates or has participated in the commission, planning or aiding the commission of an act of terrorism whether before or after the act, knowingly and deliberately or interfered with investigations.” Finally, the terrorist organization under Article 9 of the CT law is defined as “membership of an organization: the fact for a person who is in an organization or a group of terrorists or starting to fulfill the requirements for adhering to that organization or group knowing its intentions.”

120. The terrorist financing offense extend to terrorist acts, but the provisions are not broad enough to include the financing of terrorist organizations and the individual terrorist, and not specific enough to establish whether they cover the direct and indirect provision and the collection of funds. According to the authorities, the provision includes both direct and indirect provision and collection; however, there are no precedents to support that view. Furthermore, the terrorist act is not clearly defined to include all the elements of Article 2.1.b. of the FT Convention, notably the additional acts²³ to the one defined in the treaties listed in the annex of the Convention. Finally, Rwanda is party to only seven out of the nine conventions and protocols listed in the Annex of the ICSFT Convention.

Definition of funds:

121. Article 653 of the PC refers to “funds,” “assets,” and “any goods,” but the law only defines “funds” in Article 15 of the CT law on supporting terrorist acts as (i) funds or any other property used to support terrorism including the property of an organization operating or prohibited from operating; (ii) outcomes of a terrorist act; and (iii) outcomes of an act carried out with an intention to commit terrorism in accordance with provisions of international conventions Rwanda ratified relating to suppression of terrorism.” The term “property” is explained in the AML/CFT Law in a way which is in line with the standard (see write-up for Recommendation

²³Other acts intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

1 for more detail). Article 653 of the PC and the definition of funds in the CT law are sufficiently broad to cover legitimate and illegitimate sources.

Attempt and ancillary offenses:

122. The complicity in an FT offense is criminalized and sanctioned under Article 655 of the PC. The attempt to commit the terrorist financing offense is criminalized under Article 27 of the PC, and the direction of others to commit and the contribution to the commission of the terrorist financing offense are covered by Articles 97 to 99 of the PC.

Predicate Offense for Money Laundering (c. II.2):

123. Terrorism and FT are predicate offenses to money laundering.

Jurisdiction for Terrorist Financing Offense (c. II.3):

124. As mentioned under Criterion 1.5, Article 16 of the PC addresses the extraterritorial jurisdiction for several offenses, including terrorism. This provision does not, however, extend to the financing of terrorism. Therefore, TF offenses do not apply when the person alleged to have committed the offense(s) is in a different country from the one in which the terrorist(s) organization(s) is located or the terrorist act(s) occurred or will occur.

The Mental Element of the TF Offense (applying c. 2.2 in R.2):

125. Article 653 of the PC provides that “an offence of financing of terrorism means an act of financing a terrorism enterprise by an individual by providing, collecting or managing funds, assets or any goods or by providing advice to that effect, with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially in order to commit any of [the] terrorism acts.”

126. The authorities did not clarify how knowledge would be established in this case.

Liability of Legal Persons (applying c. 2.3 and c. 2.4 in R.2):

127. Legal persons may be held criminally liable for the FT offense in application of Article 656 of the Penal Code. Furthermore, and according to Articles 131, 132, and 138 of the CPC, liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Sanctions for FT (applying c. 2.5 in R.2):

128. Pursuant to Article 652.2 of the PC: “any person, who commits terrorism financing, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine, in Rwandan francs, of two (2) to five (5) times the amount of his/her financial assistance.” In aggravated circumstances the sanctions available may be doubled (Article 657 of the PC). This is the case if the FT offense has been committed repeatedly, in the course of employment, or within the framework of an organized criminal conspiracy; or if the principal offense²⁴ is punishable by a term of imprisonment higher than the one for FT offense.

129. Article 521 of the PC adds that “any person who donates or receives financial support or any other assets, he/she believes or has reason to believe that they can be used for terrorist purpose, shall be liable to a term of imprisonment of ten (10) years to fifteen (15) years. Any person who incites another person to donate or receive financial support or any other assets, he/she believes or has reason to believe that they can be used for terrorist purpose shall be liable to a term of imprisonment of fifteen (15) years to twenty (20) years.” And Article 522 provides that “any person who knowingly makes an agreement or has an interest in it in order to acquire funds or any other assets, or enables a person to acquire money or support, having reason to believe that they can be used for terrorist purpose, shall be liable to a term of imprisonment of fifteen (15) years to twenty (20) years.”

130. Furthermore and according to Articles 131, 132, and 138 of the CPC, liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Statistics (R.32):

²⁴According to the authorities, principal offense in the case of FT is considered as any act, means, or helping in order to facilitate terrorism activities.

131. There were no FT convictions in Rwanda at the time of the on-site mission. Rwanda had investigated one case of conspiracy to commit an act of terrorism, resulting in the prosecution of one individual. The case was still pending before the high court at the time of the assessment. According to the authorities, it relates to activities in the border region with the Democratic Republic of Congo.

Implementation and Effectiveness:

132. The terrorist financing offense addresses several elements of the FATF standard and covers in particular the provision and collection of funds for the purpose of committing a terrorist act. The CT law also defines “funds” in a way that is fully in line with the standard. The Rwandan legal framework nevertheless falls short of the FATF standard, notably because it fails to criminalize the collection or provision of funds by a terrorist organization or individual terrorists. This notably means that the authorities can only bring TF charges if they can establish a link with a specific terrorist act, which is too limitative. In addition, the CT law and the PC criminalize some but not all the terrorist acts offenses listed in the annex of the ICSFT.

133. The authorities mentioned that, in one case, they suspected some individuals of financing a terrorist group in the border area with DRC. However, it was not clear what measures were taken to investigate and sanction these activities.

134. The LEAs have a relatively low level of understanding of the FT techniques and trends and are not using investigative techniques to trace funds and other assets that may finance terrorism. Furthermore, while one investigation has been undertaken in the terrorism case mentioned above, no sanctions have been imposed in application of the terrorist financing offenses. Instead, the NPPA prosecuted the offender for conspiracy of committing a terrorist act.

135. In light of the above, the effectiveness of the FT offense has not been established.

2.2.2 Recommendations and Comments

136. The authorities are recommended to do the following:

- Criminalize the provision and collection of funds to individual terrorists and to terrorist organizations;

- Ratify and implement the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988; and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988;
- Ensure that, in practice, intention can be inferred from objective factual circumstances;
- Review the approach taken in applying the FT provisions to ensure that the legal framework in place is used more effectively.

2.2.3 *Compliance with Special Recommendation II*

	Rating	Summary of factors underlying rating
SR.II	NC	<ul style="list-style-type: none"> • The provision and collection of funds to individual terrorists and to terrorist organizations are not criminalized. • The direct and indirect collection and provision of funds is not covered under the FT offense. • Funding of terrorist acts is limited to acts defined in the treaties to which Rwanda is party, and therefore not all financing of terrorist acts are covered in the FT offense. • Lack of clarity as to whether the intentional element of the offense of FT can be inferred from objective factual circumstances. • Lack of effectiveness of the FT offense.

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

2.3.1 *Description and Analysis*

Legal Framework:

137. The relevant legal provisions are the following:

- Freezing: Article 55 of the AML/CFT Law.
- Seizing: Article 56 of the AML/CFT Law, and Articles 67 to 73 of the CPC.
- Confiscation: Articles 51–53 of the PC.

Confiscation of Property related to ML, FT or other predicate offenses including property of corresponding value (c. 3.1):

Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1):

138. Article 2.2 of the AML/CFT Law defines confiscation as the “permanent deprivation of property by a definitive decision of a competent tribunal which transfers to the State the ownership of this property and any related title to property.”

139. Article 51 of the PC (which repealed Articles 57 to 59 of the AML/CFT Law) enables the confiscation of proceeds from instrumentalities used in or intended to be used in the commission of an ML, FT, or predicate offense. It also allows for the confiscation of property of equivalent value. Proceeds are defined in the AML/CFT as including property that is derived both directly and indirectly from the commission of an offense. According to the authorities, this is not limited to assets held by the criminal defendant but extends to those held by third parties as well.

140. The CT law calls for the confiscation of the property of an accused of an offense of aiding terrorist acts (Article 35 of the CT law²⁵). It does not extend, however, as it is required by the standard, to funds and property, proceeds of the terrorist financing offense,

²⁵Article 35 of the CT law: The court that tried an accused on an offense of aiding terrorist acts shall issue a deed of confiscation of the property of the accused. The English translation is inaccurate in the sense that it erroneously refers to “accused” whereas the original Kinyarwanda version as well as its French translation refer to the convicted person and therefore raise no potential issue of due process.

as well as funds and property that are derived from the proceeds, if they are used or intended to be used to commit the terrorist financing offense.

141. Article 51 of the PC allows for the confiscation of instrumentalities used or intended to be used in the commission of the offense and for property of corresponding value.”²⁶ This provision of the PC complements the AML/CFT Law and the CT law in that it enables the authorities to confiscate the instrumentalities used in, or intended for use in the commission of the offenses in general. In addition, it provides for the possibility to confiscate funds and property of equivalent value when the assets to be confiscated cannot be produced.

Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):

142. “Freezing” is defined in Article 2.5 of the AML/CFT Law as a “measure which consists of the temporary delay of the execution of a transaction, the prohibition or restriction of the transfer, the conversion, the transformation, the movement of property on the basis of a decision or a directive issued by a competent authority.”

143. Pursuant to Article 25 of the AML/CFT Law, the FIU may pronounce, due to the gravity of a transaction or the urgency to confront it, the freezing of the property or the transactions for a period that cannot exceed 48 hours and shall immediately communicate its decision to the reporting entity. During this time, the FIU should refer the case to the NPPA if the reasons on the basis of a presumption of money laundering are conclusive and, or in the case to the contrary, lift the freezing order and immediately inform the reporting entity.

144. According to Article 56 of the same law, the NPPA or a competent court may seize the funds and the property that are related to offenses under this law. If the proceeds of the crime cannot be raised from the properties of the suspects, the NPPA or the competent court may seize other assets that are in the property of the suspects up to the amount of the alleged proceeds of the offenses.

²⁶Article 51 of the PC states, “when a felony or a misdemeanour is committed, the special confiscation of items constituting the object of the offence, items which were used or intended to be used to commit the offence or were the proceeds, shall be an additional [sanction] to the main penalty when such items belong to the convict. If the items referred to under Paragraph One of this Article do not belong to the convict, and if the offence committed is a petty offence, the confiscation shall be ordered only in cases provided for by law. If the confiscation of such items is impossible, the confiscation shall be extended to other items of the property of the convict proportionately to the value of the items to be confiscated.”

145. In addition, property can be seized by LEAs in accordance with Article 30 of the CPC (see the write-up under Criterion 28.1 below). This article could be used to seize proceeds of predicate offenses.

Ex Parte Application for Provisional Measures (c. 3.3):

146. The laws do not establish how provisional measures should be taken and practice is scarce. According to the authorities, the FIU issued a freezing order in one instance, and this was done ex-parte and without prior notice to avoid the risk of assets being removed before the implementation of the order. But once the decision had been issued, the FIU, as it is required by the law, referred the case to the NPPA, which ordered the seizure of the assets in order to continue the investigation.

Identification and Tracing of Property subject to Confiscation (c. 3.4):

147. The FIU uses its investigative powers to trace and identify the proceeds of crimes. Discussions with the representatives of the FIU and LEAs suggested, however, that in the rare instances where they investigated money laundering, they pursued only funds (either in cash or deposited on bank accounts) and none of the other types of assets covered in the legal definition of “funds.”

148. Information and documents covered by legal privilege may, however, not be accessed by investigative authorities, which could constitute a severe obstacle in tracing proceeds of crime. Further information on this point is provided under Recommendation 28 below.

Protection of Bona Fide Third Parties (c. 3.5):

149. Neither the PC nor the AML/CFT Law enables bona fide third parties to ensure that their rights are not prejudiced during the pre-confiscation stage (namely when provisional measures are taken) and when confiscation is ordered. According to the authorities, bona fide third parties can nevertheless seize the civil judge (“*action recoursoire*”).

Power to Void Actions (c. 3.6):

150. Under Article 60 of the AML/CFT Law, “any act carried out in return of payment or at no charge *inter vivos* or *causa mortis* whose purpose shall be to withdraw assets from confiscation measures under this Law shall be null and void. In case of the annulment of a contract in return of payment, the price is delivered to the purchaser only if it was actually paid.” There is no equivalent provision with respect to predicate offenses including terrorist financing.

Statistics (R.32):

151. As mentioned above, the FIU ordered the freeze of an account in the context of a money laundering investigation in one instance only. No other provisional measures were taken and no funds have been confiscated on the basis of the AML/CFT Law. Similarly, the authorities have not made use of provisional and confiscation measures of funds and assets suspected of being linked to terrorist financing. No information was provided on the number of provisional measures and confiscation orders that have been taken or issued on the basis of the predicate offenses.

Additional Elements (Rec.3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):

152. There are no provisions for these additional elements in Rwanda due to its legal system.

Implementation and Effectiveness:

153. In the case of ML and FT offenses, the framework adequately provides for provisional measures and confiscation of all property subject to confiscation under the standard. Although it suffers from some minor deficiencies, overall, the legal framework for confiscation is sound. In the absence of convictions for ML or FT, however, the confiscation framework provided by the AML/CFT Law and the PC has never been used.

154. With the limited exceptions mentioned above, LEAs and the FIU do not make an effective use of their powers to identify and trace property that is, or may become, subject to confiscation. Freezing measures have been taken once by the FIU, but the authorities have very limited experience in seizure in the course of ML and FT investigations. Bona fide third parties may challenge a confiscation order, but have no possibility to ensure that their rights are not prejudiced by provisional measures.

155. LEAs are not effectively using the provisional measures against the proceeds of predicate offences and the instrumentalities used in and intended for the use on the commission of any ML, FT, or other predicate offenses, and property of corresponding value. They are not proactive in following the money in predicate crimes, ML, and FT cases, due to lack of capacity and training. No funds or assets have been confiscated in application of the AML/CFT Law and the PC.

2.3.2 Recommendations and Comments

156. In order to comply fully with Recommendation 3, the authorities are recommended to do the following:

- Ensure that bona fide third parties can defend their rights at all stages of the confiscation process;
- Effectively identify and trace property that is, or may become, subject to confiscation or is suspected of being the proceeds of crime; and

- Make effective use of the provisional and confiscation measures to fight ML, FT, and predicate crimes.

2.3.3 *Compliance with Recommendation 3*

	Rating	Summary of factors underlying rating
R.3	LC	<ul style="list-style-type: none"> • Rights of bona fide third parties not ensured in the criminal process. • Lack of effectiveness: no funds or assets have been confiscated in application of the AML/CFT Law and the PC; limited use of the provisional measures and powers to identify and trace the proceeds of crimes.

2.4. Freezing of funds used for terrorist financing (SR.III)

2.4.1 *Description and Analysis*

Legal Framework:

157. The AML/CFT Law sets out a basic mechanism to freeze terrorist assets and calls for implementing measures which, at the time of the assessment, had not been taken.

Cr. III.1–13: Mechanism for freezing of terrorist funds and assets:

158. Article 23 of the AML/CFT Law gives the FIU the mandate to establish a list of “natural and legal persons and organizations who shall be subject to restrictive measures as terrorists or linked to terrorist organizations or financing terrorism and terrorist organizations” in accordance with “the United Nations Resolutions for the prevention and suppression of the financing of terrorist acts.” According to the authorities, this refers to UNSCR 1373 (and its successor resolutions), and not to UNSCR 1267. The FIU must “set the list of persons, entities or organizations whose funds are frozen by financial organisms and other persons subject to this law

and submit it to the Prosecutor General” (Article 23.2). It must also ensure that the names figuring on the list are sufficiently detailed in order to allow an effective identification (Article 23.3).

159. At the time of the assessment, the FIU had not developed such a list and had not ordered the freezing of funds in application of the UNSCRs. There are no obligations on reporting entities to freeze the funds and assets of persons designated by the UNSC in the absence of an FIU order.

160. There is no mechanism to address freezing actions initiated by other countries, or by Rwanda itself. Similarly, there are no measures in place to ensure communication of freezing orders to all reporting entities and competent authorities and no guidance on freezing. There is no mechanism to consider de-listing and unfreezing requests, or for authorizing access to funds and other assets pursuant to UNSCR 1454 (2002).

Implementation and effectiveness:

161. The RNP receives the designations made in application of the UNSCRs through Interpol and sends them to the stations in charge of border control. Financial institutions and designated non-financial persons met by the mission have reported not having knowledge of the UNSCR lists with the names of persons whose funds should be frozen. The Central Bank sent a few letters to banks in 2011, in response to a diplomatic note from the United States, with instructions to immediately freeze the accounts of the persons listed in the note.

2.4.2 Recommendations and Comments

162. In conclusion, Rwanda did not implement the necessary measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. The authorities are therefore recommended to do the following:

- Put in place effective laws and procedures to freeze terrorist funds or other assets or persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 of 1999 and successor resolutions. Such freezing should take place without delay and without prior notice to the designated persons involved;

- Put in place effective laws and procedures to freeze terrorist funds or other assets of persons designated in the context on UNSCR 1373 of 2001. Such freezing should take place without delay and without prior notice to the designated persons involved;
- Develop effective laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions;
- Extend the freezing measures to all “funds and other property,” which would make it possible, pursuant to the aforementioned resolutions, to cover all financial assets and property of any kind, whether corporeal or incorporeal, movable or immovable, as well as legal documents or instruments of any kind evidencing title to or interest in such property;
- Provide a clear and rapid mechanism for distributing the UNSCR lists nationally to the financial institutions and other persons or entities that may be holding targeted funds or other assets;
- Provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or assets concerning their obligations in taking action under freezing mechanisms;
- Introduce effective and publicly known procedures for timely review of requests to delist designated persons and to unfreeze the funds or other property of persons or entities removed from the lists;
- Introduce effective and publicly known procedures for unfreezing as promptly as possible the funds or other property of persons or entities inadvertently affected by a freezing mechanism, upon verification that the person or entity is not a designated person;
- Introduce appropriate procedures for authorizing access to funds or other property frozen pursuant to Resolution S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses, and service charges, as well as extraordinary expenses;
- Introduce appropriate procedures allowing a person or entity whose funds or other property were frozen to challenge the measures, including with ultimate recourse to a court;

- Introduce a provision that would ensure protection for the rights of third parties acting in good faith; and
- Develop appropriate measures to effectively monitor the compliance with relevant legislation, rules, or regulations governing the obligations under SR.III and to impose civil, administrative, and criminal sanctions to failure to comply with such legislation, rules, or regulations.

2.4.3 *Compliance with Special Recommendation III*

	Rating	Summary of factors underlying rating
SR.III	NC	<ul style="list-style-type: none"> • Absence of measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. • Absence of measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use, in the financing of terrorism, terrorist acts, or terrorist organizations.

Authorities

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

2.5.1 *Description and Analysis*

Legal Framework:

163. Article 20 of the AML/CFT Law provides the legal basis for the establishment of the FIU. Further details are set out in the following texts:

- The Presidential Decree N.27/01 of 30/05/2011 determining the organization, functioning, and mission of the Financial Investigation Unit (hereinafter the FIU Presidential Decree) further defines the FIU's mission and organization;
- The FIU Presidential Order No.119/01 of 09/12/2011 amending the decree N.27/01 of 30/05/2011; and
- The Prime Minister's Order No.180/03 of 09/12/2011 appointing the members of the Advisory Board of the FIU.

Establishment of FIU as National Centre (c. 26.1):

164. Article 20 of the AML/CFT Law establishes the FIU as a law enforcement agency part of the National Police. A Presidential Order determining the organization, functioning, mission, and parent institution of the Unit was issued on May 30, 2011.

165. Article 5 of this Order provides that “[t]he Unit should have the main responsibilities of collecting, analyzing, disseminating the information to whom it may concern and investigating in view of combating money laundering and financing of terrorism in accordance with the [AML/CFT Law].” The FIU is the only national center in Rwanda with the mandate to perform these activities. At the time of the assessment, it had received some STRs from banks, two reports from open sources, and 112 declaration forms from the customs.

166. In addition to the functions traditionally assigned to an FIU, the Rwandan FIU has the ability to oppose the execution of operations and conduct criminal investigations into money laundering and terrorist financing cases. According to the Presidential Order, the FIU also has the responsibilities to do the following:

- Propose to the competent authorities modifications and amendments to laws and regulations related to the prevention and suppression of money laundering and financing of terrorism;
- Establish the list of indicators serving to recognize the suspicious transactions;
- Participate in the professional training of the reporting entities personnel;
- Propose measures aimed at reinforcing the fight against money laundering and financing of terrorism; and

- Coordinate activities of prevention carried out by all institutions in charge of the implementation of the AML/CFT Law.

167. According to the Presidential Decree, the FIU operates under the supervision of the ministry in charge of internal security. Its main bodies are the Advisory Board and the management.

168. The Advisory Board is chaired by the Governor of the BNR. Its members are appointed for a mandate of three years, which may be renewed, by a Prime Minister's Order upon request by the minister in charge of internal security. The Order also appoints the Chairperson and Vice Chairperson of the Board and determines its functioning. The Director of the FIU should be a member and Secretary of the Advisory Board. These members are seconded and continue to report to their superiors in their respective institutions. Its main responsibility is to advise on the following issues: (i) proposing measures aimed at enabling the FIU to fulfill its mission; (ii) updating the legislation relating to the fight against money laundering and financing of terrorism; (iii) establishing internal rules and regulations of the Unit; (iv) proposing agreements with foreign FIUs; (v) monitoring and evaluating achievements in the FIU in order to assess the adequacy of existing measures or to modify them wherever necessary; and (vi) giving a quarterly (or at any time deemed necessary) report to the minister in charge of internal security. The current members of the Advisory Board are the Governor of the BNR (Chairperson), the Prosecutor General (Deputy Chairperson), the head of the investigation department in the Rwanda Defense Forces, the Commissioner of Intelligence in RNP, the Commissioner General of Rwanda Revenue Authority, the Commissioner of Criminal Investigation in RNP, and the Chief of External Security in National Intelligence and Security Service.

169. The management of the FIU should be conducted by a director appointed by the appointing authority, namely the Inspector General of the RNP. The director is responsible of (i) ensuring the daily management of the Unit; (ii) ensuring that all rules and regulations relating to the discipline and the carrying out of activities and services are observed by the staff of the Unit; (iii) fulfilling the Unit's responsibilities; (iv) preparing and submitting to the Inspector General of Police the annual budget proposal of the Unit; (v) ensuring the relationship between the Unit and other competent authorities; (vi) submitting to the Inspector General of Police the annual report on the management of the Unit; and (vii) coordinating control activities and submission of a report to the Inspector General of Police.

170. The FIU became operational in December 2011 after the Prime Minister appointed the members of the Advisory Board by a decision dated December 9, 2011. Between then and the time of the assessment, the FIU had received six STRs from banks and disseminated one report to the NPPA. The other cases were deemed unsubstantiated and filed.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

171. Pursuant to article 12 of the FIU Presidential Order, the FIU must issue directives for the reporting entities concerning suspicious transaction reporting, as well as concerning other obligations, such as the identification of their customers, record-keeping, and other obligations that the Decree or the AML/CFT Law impose on reporting entities. At the time of the assessment, some directives that include reporting forms had been drafted by the FIU but had not been approved by its Advisory Board or published in the official Gazette.

Access to Information on Timely Basis by FIU (c. 26.3):

172. As part of the RNP, the FIU has the power to conduct investigations (Article 5 of the Presidential Decree) and can therefore collect administrative, financial, and law enforcement information on this basis. In particular, it has access to several databases, including the Rwanda Revenue Authority database, the Company Registration database, and the Motor Vehicle Registration database. Access to others that are not directly accessible by the police (for example information held by reporting entities) could be granted through an order from the prosecutor or through the use of investigative powers of the NNPA. The FIU therefore appears to have adequate access to information needed to properly undertake its functions.

Additional Information from Reporting Parties (c. 26.4):

173. Pursuant to Article 9 of the FIU Presidential Order, the FIU can request any reporting entity, in addition to filing STRs, to transmit, without charge, the information, documents, and registries necessary to exercise its functions. At the time of the assessment, the FIU had not made such a request when the information was relevant for the STR received.

Dissemination of Information (c. 26.5):

174. According to Article 5 of the Presidential Decree, the FIU is responsible for disseminating information “to whom it may concern.” Pursuant to Article 9 of the same decree, “the Unit should immediately investigate and transmit the report to the NPPA for prosecution and appropriate action whenever there is reasonable suspicion about the commission of the crime of money laundering and financing of terrorism. This report should be accompanied by all useful pieces of information, other than those contained in the STR.”

175. At the time of the assessment, the FIU had disseminated one case to the NPPA. This might be due to the fact that the threshold for dissemination (i.e., the presence of a suspicion about the commission of the crime) is too high when compared to the international standard.

Operational Independence (c. 26.6):

176. Article 25 of the Presidential Order No. 27/01 of 30/05/2011 states that the executive officers or employees of the FIU or any other person appointed to one of its posts should not, parallel to their responsibilities within the FIU, exercise other functions in a reporting entity or exercise an elected function or any other activity that could jeopardize the independence of their functions.

177. It is difficult to assess the independence and operational autonomy of the FIU, since it has only “investigated” six reported cases and disseminated one report to the NPPA. However, certain factors indicate that its independence and autonomy could be limited.

178. The Inspector General of the Police is responsible for appointing its director, who is responsible for managing the FIU’s operational resources. There are no clear rules for the designation and dismissal of the director and staff of the FIU. The officers at the RNP are obliged according to the Police Law to follow the instructions of the Inspector General. They can be moved to other departments of the RNP at any time. These elements jeopardize the confidentiality of information and ultimately the independence of the FIU.

179. The budget is not set regularly and was provided by the RNP since the creation of the FIU. The BNR provides the offices and office equipment.

180. Considering the composition of the Advisory Board of the FIU, it would seem difficult to envision real operational autonomy for the FIU, knowing the fact that the members are full-time officials of other agencies and that they can use their investigative powers and share information with their respective agencies. Furthermore, these members follow the instructions of their superiors and are obliged to share information inside their institutions when necessary. Because FIU staff members are also, and primarily, RNP staff, working at the FIU is seen as a professional development opportunity for many officials and is not necessarily associated with the operational needs of the FIU.

Protection of Information Held by FIU (c. 26.7):

181. Article 24 of the AML/CFT Law states that “the executive officers employers or agents of the [FIU] or any other person appointed to one of these posts must preserve the confidential character of the information obtained in the exercise of their official duties, as well as when they have ceased to exercise these duties. This information cannot be used for purposes other than the ones provided for by this Law and cannot be revealed unless there is a decision of the competent Court.”

182. The FIU is located in two separate spaces, namely the Central Bank office building and the RNP. Entry to and exit from these buildings are controlled by perimeter security guards who check the visitors' identification and reasons for entry. Access to the FIU's offices at the Central Bank can be gained from internal and external doorways once access to the general premises has been granted. While security for entrance into the Central Bank grounds is sufficient, there could be better arrangements in place for the FIU itself not to allow access to the Bank's staff to the FIU premises.

183. The storage, handling, and security of information in the FIU are rudimentary. STRs and additional information are filed in hard and soft copies on the personal computers of staff. There is no secure system or server for reporting and storing of the information. The STRs are sent by normal post, email without encryption, or reported verbally by phone to the director of the FIU.

Publication of Annual Reports (c. 26.8):

184. Among other responsibilities, the FIU's Advisory Board gives a quarterly (or at any time deemed necessary) report to the Minister in charge of internal security. At the time of the assessment, no report had been prepared. The Board met once after the designation of its members without taking major decisions.

185. In addition, the Director of the FIU submits to the Inspector General of Police reports on the management of the Unit. However, no report has been published to date. A draft report for the first year of operation was prepared and submitted to the assessment team, and was awaiting publication.

Membership in the Egmont Group and consideration of its principles (c. 26.9-c.26.10):

186. The FIU has contacted Egmont Group to begin the process of becoming a member. At the time of the assessment, it has not exchanged information with foreign FIUs. Thus, the question of considering the principles of the Egmont Group has not arisen in practice. The authorities indicated that membership in the Egmont Group will only be considered after Rwanda becomes a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

Adequacy of Resources—FIU (R. 30):

187. Human Resources: So far, the FIU has 12 investigators (all RNP staff) and 2 support staff. The investigators conduct file investigations when reports are received. There are no statutory provisions in the AML/CFT Law, or other statutes, which relate directly to recruitment, retention, and integrity standards for FIU personnel. However, the Police Law applies to FIU staff to the same extent as in other RNP divisions. Recruitment in the RNP, and hence in the FIU, includes background and academic record checks. Once recruited, individual staff members are bound by the professional standards set out in the Police Law relating to honesty and integrity, loyalty and good faith, and confidentiality.

188. Financial Resources: The budget is not set regularly and is temporarily provided by the RNP. The FIU has two premises, one provided by the Police and the other by the Central Bank. The staff is provided by the Police.

189. Technical Resources: The FIU lacks a number of tools necessary for it to effectively meet its obligations, including the following: (i) hardware and analytical software appropriate to the functions of an FIU; (ii) an electronic information and filing system; and (iii) a secure system of information storage to manage that system.

190. Training: Staff of the FIU received some training in 2011; however, few are relevant to AML/CFT. Some of the courses that were completed include the following:

- Two workshops organized by BNR on payment system—6 staff;
- RNP and BTC conducted one-month FIU courses on forensic accounting, money laundering, and financing terrorism—6 staff;
- Three-month advanced course in criminal investigation and crime scene management—6 staff;
- Criminal investigation short courses on forensic awareness—12 staff;
- Footwear recovery techniques course for one week—2 staff;
- Egmont Group meeting—Director and staff member; and
- Three-day pre-assessment workshop conducted by the IMF—Director and a staff member.

Statistics (R.32):

Statistical Table 4. Number of reports received by the FIU

STR received from banks	6
Declarations received from Kigali airport	116
Reports received from open sources	2
Cases disseminated to the NPPA	1

Implementation and Effectiveness:

191. The establishment of the FIU constitutes an important step forward in the implementation of the AML/CFT Law. Nevertheless, so far, implementation remains weak: The FIU became operational in 2011 and received limited number of STRs.²⁷ It disseminated one report to the NPPA, and the other reports were filed. It does not have appropriate power to access financial, administrative information.

192. The FIU sent some templates for the STR forms to banks operating in Rwanda, but not to nonbank FIs and DNFBPs. Additional guidance on the manner of reporting should also be sent to reporting entities.

193. The FIU employees from the Police are conducting police investigations instead of intelligence analysis. According to Recommendation 26, the FIU should be responsible for the analysis and dissemination of the financial information to LEAs for investigation or action when there are grounds to suspect ML or FT. The Rwandan FIU should therefore limit its work to the analysis phase. Conducting additional investigations in lieu of other police units could jeopardize the confidentiality of the information and lead to tipping off the reported person(s). Such investigations should only be conducted by LEAs once the FIU sends them the information.

194. The FIU should take a more proactive approach to the analysis of data by aiming to generate more intelligence and increase the number of reports disseminated to the NPPA. No objective criteria have yet been developed for the dissemination; this decision is taken based on judgment.

²⁷The authorities interpret the “collection” power of the FIU broadly to allow it to receive information from any source outside the reporting entities.

195. The effective conduct of core FIU functions under the standards is undermined by the variety of other functions and responsibilities, such as investigation powers and issuing of directives beyond the one determining the manner of reporting. These functions, while critical, have the effect of diverting limited staff resources away from the core FIU functions, namely the receipt, analysis, and dissemination of STRs. There are other elements that considerably limit the effectiveness Rwanda's FIU: the lack of analytical training for FIU staff and the reliance on investigative techniques; the paper-based system of information storage, which severely restricts cross-checking analysis between STRs and other information; and the fact that the FIU's staff may be posted in and out of the FIU, depending on the RNP's staffing needs, which affects the autonomy of the FIU and does not allow the retention of expertise of staff.

196. Certain factors also indicate that the independence and autonomy of the FIU could be limited. There are no clear rules for the designation and dismissal of the director and staff of the FIU—while the Presidential Order No. 27/2011 states that the director of the FIU is appointed and may be dismissed by the appointing authority in the RNP, it does not establish the qualifications required for the position and the conditions for dismissal of the director and staff of the FIU. The FIU's budget for the year had been provided by the RNP whose budget is set annually, but there were no plans for a sustainable budget for the FIU. The composition and responsibilities of the Advisory Board of the FIU²⁸ could jeopardize the confidentiality of the information. Additionally, there is no retention policy of its staff.

197. At the time of the assessment, the FIU had been operational for less than a year and had therefore not published an annual report, typologies, and trends or information regarding its activity.

198. Finally, Rwanda has not considered becoming an Egmont Group member by submitting an application and has not exchanged information with foreign FIUs.

2.5.2 *Recommendations and Comments*

199. The authorities are recommended to do the following:

²⁸The authorities mentioned that, since the assessment, the budget and office facilities continued to be provided to the FIU by the RNP and the BNR, respectively.

- Provide reporting entities with guidance on the manner of reporting, including comprehensive reporting forms for all reporting entities other than banks (which have already received a reporting form);
- Ensure that the FIU asks reporting entities for additional information when the information is correlated to received information;
- Ensure that the FIU strengthen the quality of its analysis of STRs and other information, in particular by undertaking more in-depth analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved inter alia by (i) conducting analysis of information instead of investigation; (ii) strengthening the technical tools available to the analysts; and (iii) increasing the number of analysts with financial background and raising their awareness;
- Ensure that the information held by the FIU is securely protected;
- Ensure the independence of the FIU by, among other things, (i) putting in place proper safeguards for the sharing of information with the Advisory Board; (ii) securing adequate financial, human, and technical resources to conduct its core functions; and (iii) securing the information held at its premises;
- Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing as well as information regarding its activities;
- Consider applying for Egmont Group membership; and
- Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, predicate offenses to money laundering, analysis techniques, and familiarization with money laundering and terrorist financing typologies and risks and vulnerabilities.

2.5.3 *Compliance with Recommendation 26*

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
--	--------	--

R.26	PC	<ul style="list-style-type: none"> • Lack of analysis of STRs and other information mostly due to performing investigations and lack of analytical tools and weak quality/quantity of reporting. • Lack of guidance on manner of reporting, including reporting forms for nonbank reporting entities. • No additional requests of information addressed to reporting entities. • Very low level of dissemination due to low level of STRs received. • No publication of annual reports containing information about its activities, statistics, and typologies. • Lack of sufficient operational independence and autonomy mainly due to the powers and responsibilities of the Advisory Board. • Information not securely protected. • Effectiveness was not established.
------	----	--

2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27 and 28)

2.6.1 *Description and Analysis*

Legal Framework:

200. The texts of law governing law enforcement action in Rwanda are Articles 160 and 161 of the Constitutions, the Criminal Procedure Code, the AML/CFT Law, the Anti-Corruption Law, and the Police Act of 2011.

Designation of Authorities ML/FT Investigations (c. 27.1):

National Public Prosecutor Authority (NPPA)—Economic and Financial Department:

201. The NPPA is responsible for the prosecution of criminal offenses committed in Rwanda. The prosecution service has a presence in the city of Kigali and at the intermediary and primary levels. The prosecutor general is assisted by his deputy, 16 public prosecutors with national competence, and 5 inspectors. There are 72 public prosecutors at the intermediate levels and 60 prosecutors at primary levels. A team of eight prosecutors and six inspectors is set up at the NPPA office in Kigali to investigate and prosecute economic crimes. The team is assisted by one prosecutor at each intermediate level of the prosecutions. Only a single case of money laundering had been disseminated to the NPPA at the time of the assessment, and was under review by the NPPA's Economic and Financial Department.

Rwanda National Police (RNP) – Economic and Financial Unit:

202. The RNP is responsible for the maintenance of law and order and public security. It has the monopoly of the preliminary investigations, which are conducted under the supervision of the NPPA. The RNP is organized at a national level and is headed by an inspector general. The total force numbers between 8,000 and 10,000 police officers.

203. The Economic and Financial Crime Unit of the RNP has four sections with competencies in investigating (i) corruption and embezzlement, (ii) bank/financial fraud and bankruptcy, (iii) forged or false documents, and (iv) cyber crimes. None of the sections are designated to conduct ML investigations.

Financial Investigation Unit (FIU):

204. As mentioned under Recommendation 26, the Rwandan FIU is a unit of the RNP. Pursuant to Article 5 of the Presidential Order No. 27/01, the FIU is responsible for the collection, analysis, dissemination, and investigation of information related to potential money laundering or terrorist financing activities.

205. Money laundering: the FIU is the only authority that is explicitly designated to investigate money laundering. Predicate offenses are investigated by the following authorities as described below:

- Economic and Financial Section of the RNP;²⁹

²⁹Corruption and embezzlement; bank, financial fraud and bankruptcy; forged or false documents, and cyber crimes

- Investigation Service of the Revenue Service,³⁰ and
- Ombudsman.³¹

206. In practice, the FIU conducts evidence-gathering through investigations.

207. As mentioned above, the FIU is also the designated authority to investigate terrorist financing. However, the Intelligence Department at the RNP, which is responsible for the investigation of terrorism cases, also investigates terrorist financing under the CT law. All cases are investigated under the supervision of and eventually prosecuted by the Economic and Financial Department of the NPPA.

RNP—Anti-Terrorist Unit:

208. The Anti-Terrorist Unit was created in 2004 and comprises 20 officers. Their mission is to detect, investigate, and prevent terrorism activities, both from domestic origin agitating against the ruling government and from foreign or international organizations. This also includes the financing of these activities. They focus especially on the border areas and the airport, and actively cooperate with other relevant law enforcement authorities, such as the Economic and Financial Unit and the customs. The unit also cooperates with the Ministry of Local Government and the Rwanda Governance Board in monitoring the non-profit organizations. They have conducted few investigations of terrorism cases.

The Ombudsman:

209. The Office of the Ombudsman was established by the Government of Rwanda in order to promote good governance and prevent and fight corruption and injustice. The Constitution of the Republic of Rwanda in its Article 182 as amended mandates the Office of the Ombudsman the mission of “preventing and fighting injustice, corruption and other related crimes and receiving true declaration of assets of the persons determined by law.” The Ombudsman may initiate a criminal investigation by referring indications

³⁰Tax evasion and fraud

³¹Corruption

of corruption including embezzlement to the police.³² Most of the corruption cases that generated substantial proceeds investigated by the Ombudsman were related to the offering of tenders.

210. The Ombudsman plays a specific role in the fight against corruption. It liaises between civilians and the Rwandan government and justice system. It does not target criminal proceeds as such, but has the powers to file a legal action for the recovery of such proceeds.

Revenue Service - Investigation Department:

211. The Investigation Department at the Revenue Service is competent for the conduct of investigations into tax evasion and tax fraud cases. It has judicial powers to investigate these cases in cooperation with the customs agents present at the border entry and exit points. The department has not investigated ML cases in relation to these predicate crimes.

Ability to Postpone/Waive Arrest of Suspects or Seizure of Property (c. 27.2):

212. There are no legislative measures that allow LEAs investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. According to the LEAs met during the mission, such practice is nevertheless used frequently during their investigations of ML and predicate crimes. Seizure and arrest orders can be obtained from the courts on the basis of Articles 30 and 33 of the CPC, and their execution deferred based on the appreciation of the judicial police or the prosecutor's office.

Additional Elements—Ability to Use Special Investigative Techniques (c. 27.3), and Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4):

213. Pursuant to Article 26 of the AML/CFT Law, the competent authorities may require, for a given period of time and in order to obtain evidence related to the ML/FT offenses, to (i) monitor bank accounts and other related matters; (ii) gain access to systems, networks, and computer servers; and (iii) monitor or listen through sound control unit of telephone, telefax, equipment of telecommunications or electronic transmissions; audio-visual recording of actions, behaviors or conversations; and communication of

³²According to law No. 76/2013 of 11/09/2013 determining the mission, powers, organization, and functioning of the Office of Ombudsman, the office has been provided the extended power of investigating corruption cases and related offenses (Article 13).

notarized private banking, financial, or commercial information documents. These acts can only be granted if there are strong grounds to suspect that the accounts, telephone lines, systems, or data-processing networks or documents are used or likely to be used in a money laundering or terrorist financing process.

214. These techniques are not yet used in practice due to lack of technical and human resources and training.

Additional Element—Specialized Investigation Groups and Conducting Multi-National Cooperative Investigations (c. 27.5):

215. To date, the authorities have not considered putting in place specialized investigation groups for conducting multi-national cooperative financial investigations.

216. On the national level, the cooperation between the different sections and departments of the RNP and other competent authorities takes place at the inspector general's level. The Rwanda Cooperative Agency (RCA) created by ministerial order No. 137/08II of 05/05/2011 provides the power to the agency to act as judicial police agent in financial investigations.

Additional Elements—Review of ML and FT Trends by Law Enforcement Authorities (c. 27.6):

217. Money laundering and terrorist financing methods, techniques, and trends are not reviewed by law enforcement authorities on a regular, interagency basis. No analysis or studies have been conducted or disseminated.

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

218. There is no specific provision that grants LEAs the power to compel the production of necessary documents and information. The CPC does, however, provide a list of powers that LEAs may use in the course of an investigation to search and seize the

documentation and other things under the possession of the suspect or any other person (Article 29³³ and Article 30³⁴ of the CPC, and Articles 28 to 32 of the Police Act of 28/20/2011). LEAs met during the assessment confirmed that these powers are used during the investigations to obtain financial records, mostly from banks. Such powers were never used to obtain financial information detained by lawyers and other professions. Pursuant to the law organizing the lawyers' professions (Articles 64 to 70) and the Bar Association's internal regulation (Article 101 to 103), lawyers are bound by strict confidentiality requirements, even when they prepare or carry out transactions for their clients concerning the financial activities listed under Recommendation 12. The lawyers' professional secrecy obligation is absolute: LEAs cannot obtain information detained by lawyers, not even on the basis of a court order.

219. All documents and information other than those held by lawyers can be obtained by using the powers of search or seizure after obtaining a warrant from a public prosecutor.

Power to Take Witnesses' Statement (c. 28.2):

220. Pursuant to Article 26 of the CPC, "[a] judicial police officer interrogates suspects and records their statements. The interrogation is conducted in a language the suspect comprehends. A Judicial police officer can as well interrogate any person presumed to have any detail to clarify, and compel him or her to give testimony, after oath, in the manner provided for by Article 56 of this law. He or she can also deny any person from moving away from a specified area until a statement has been taken note of and, if necessary, to compel him or her to remain there."

³³If a judicial police officer thinks that the nature of the evidence required is likely to be made up of papers and other documents and other things under the possession of the suspect or any other person, he or she can proceed to search where they are kept after obtaining a warrant from a public prosecutor. If the prosecutor grants a search warrant to an officer of a special profession, the search shall be conducted in the presence of the person under search or under the presence of his or her representative. If such a person is a member of a professional association, the search shall be conducted in the presence of a representative of the association.

³⁴A judicial police officer can seize property anywhere if it can be confiscated in accordance with the law, as well as any other property that can serve as evidence for the prosecution or defense. Seized property should be shown to the owner so that he or she can acknowledge it. A statement relating to the seizure should indicate the seized property and be signed by the person in possession and witnesses, if any. In case of absence or inability or refusal of the possessor to sign the statement of seizure, it shall be noted down in such a statement and the possessor shall be given a copy.

221. The FIU took witnesses' statements on this legal basis in several instances following the receipt of STRs from banks. The Intelligence Department of the NRP also heard several witnesses in alleged financing of terrorism cases (although these cases were prosecuted as conspiracy in committing terrorist acts).

Statistics (R.32):

222. Several agencies informed the assessment team that they did not conduct money laundering and/or financing of terrorism investigations. Some statistics were provided regarding the number of predicate crimes cases investigated by different LEAs. Please refer to statistics under Section 1 for more details about the predicate crimes.

Adequacy of resources—LEAs (R. 30):

Financial and Human Resources:

223. LEAs receive sufficient funding from the state budget, which has made it possible for them to improve their material and human resources considerably in recent years. According to the authorities, the NPPA has sufficient financial and human resources to perform its duties. There were few cases of corruption of LEAs during the recent years. However, these cases are limited due to the efficient zero tolerance policy adopted by the government.

Independence, Technical Resources and Training:

224. The RNP benefits from sufficient independence and resources to undertake its functions in an adequate manner. All RNP staff must undergo training in his/her field of work before starting his or her functions with a specific department. Continuous training programs are also conducted, including refreshers and newly introduced courses. These include basic training as well as specialized courses (e.g., anti-terrorism, road and safety, criminal investigations, etc.).

225. The number of prosecutors at the NPPA is also considered to be sufficient to ensure a normal functioning of the investigation and prosecution and an appropriate enforcement of the law. A typical feature of the Rwanda's prosecution framework is the fact that the minister of justice has the power of negative injunction (instructing the Public Prosecutor's Office not to investigate or prosecute). Although this power seems to be very rarely used, it raises an issue in terms of possible political interference in judicial matters.

226. Overall, the level of technical knowledge on AML/CFT issues is low: the training provided to LEAs' agents, including prosecutors, is not sufficient. There is a need for in-depth training on the scope of predicate offenses, money laundering, and terrorist financing trends and typologies; techniques to investigate and prosecute these offenses; as well as on techniques for tracing property that is the proceeds of crime or is linked to the financing of terrorism.

227. The assessment team was not given the opportunity to meet representatives from the judiciary and was not provided with information was on the judiciary's resources.

Implementation and effectiveness:

228. In addition to the core functions of an FIU, the Rwandan FIU was given the mandate to investigate money laundering and terrorist financing cases. At the time of the assessment, the FIU had investigated five cases of potential money laundering and disseminated one to the NPPA. One case of potential terrorist financing had been investigated by the RNP Anti-Terrorist Unit, prosecuted, and was pending before the courts. None of the other LEAs had investigated money laundering cases, although they mentioned that they often investigate predicate crimes that generate considerable amounts of proceeds.

229. While the AML/CFT Law allows for money laundering convictions based on the laundering of property generated by any criminal activity and does not require a conviction for the predicate crime, there seems to be little appreciation for the fact, in many instances, that money laundering is conducted by the perpetrator of the predicate crime.

230. It appears that the LEAs concentrate their investigations solely on the predicate crime and do not follow its proceeds to examine potential money laundering activity.

231. Further, in discussions with the RNP department involved in investigating the predicate crimes and the NPPA, it became clear that they are under the belief that money laundering cases could only be generated by STRs and investigated by the FIU and could not be the object of separate law enforcement actions. In practice, however, experience of other countries has shown that most money laundering cases are developed through the rigorous investigation of the predicate crimes and by following the proceeds generated from those crimes. More importantly, money laundering crimes must be proactively investigated, using such techniques as undercover operations and electronic surveillance.

232. The independence of the prosecution could be jeopardized by the Minister of Justice’s power of negative injunction (although required to be motivated by writing) over the Prosecutor General. Although all law enforcement entities have received training on money laundering typologies, they believe that Rwanda is not vulnerable to money laundering. In conclusion, it appears that the investigatory framework of Rwanda is not effective in the fight against money laundering and terrorist financing.

2.6.2 *Recommendations and Comments*

233. In order to comply fully with Recommendations 27 and 28, the authorities are recommended to do the following:

- Appoint and adequately resource dedicated financial investigators at the NPPA and RNP (other than the FIU) to deal with money laundering cases;
- Provide LEAs with adequate powers to compel the production of documents and information from lawyers;
- Investigate money laundering and/or terrorist financing offenses irrespective of whether the source of information emanates from the FIU or any other source;
- Provide the judiciary with more independence by limiting the power of the Minister of Justice to intervene in the decisions of the Prosecutor General; and
- Provide AML/CFT training to all LEAs and in particular to all dedicated financial crime investigators and prosecutors.

234. The authorities should also consider the following:

- Making a more frequent use of special investigative techniques, such as the monitoring of accounts and special investigative techniques to detect and investigate money laundering and its predicate crimes.

2.6.3 *Compliance with Recommendations 27 and 28*

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
--	--------	--

R.27	PC	<ul style="list-style-type: none"> • The various police units responsible for the investigation of the predicate crimes do not investigate ML-related activities; the FIU conducts some investigations into ML on the basis of STRs received, although it should focus on its analysis functions. • Effectiveness of the current investigation and prosecution framework was not established.
R.28	PC	<ul style="list-style-type: none"> • Lack of powers to compel production of documents and information from FIs and DNFBPs (documents can only be seized based on powers in CPC). • No legal power obtaining documents and information held by lawyers. • Effectiveness of powers for document production, search, and seizure was not established.

2.7. Cross-Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

Legal Framework:

235. The AML/CFT Law provides for a declaration system.

Declaration or disclosure system for cross-border transportation of cash (cr. IX. 1 to IX. 15):

236. Article 7 of the AML/CFT Law provides that any person who leaves or enters the Republic of Rwanda transporting cash or negotiable bills or exchange of an amount above the threshold set by the FIU without prior declaration (except for funds certified by a withdrawal slip issued by an accredited bank in Rwanda) commits an offense of money laundering. At the time of the assessment, the

threshold for declaration had not been set and the powers of customs to implement Article 7 had not been established, thus rendering the declaration system inoperable.

237. The AML/CFT Law and customs law do not provide clear powers for customs to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. Similarly, no provision enables the authorities to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found. Furthermore, there are no proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. Finally, there is no definition of bearer negotiable instruments.

Implementation and Effectiveness:

238. The FIU staff prepared a draft cross-border cash declaration directive, which is currently pending approval by its Advisory Board. The unit proposed a US\$10,000 threshold. Although the threshold has not been adopted and, as a result, the requirement in the law is not enforceable, the authorities informed the assessment team that two of its staff are present at Kigali airport and are asking passengers to declare the currency they carry based on the US\$10,000 threshold. This resulted in 121 declaration forms being sent to the FIU. They were later analyzed and filed. In less than a month (December 2011 to January 2012), the FIU staff recorded around RF 714 million at Kigali International Airport.

239. In addition, the legal assumption in Article 7 that those who omit to declare or to get a certificate from an accredited bank commit an ML offense is too stringent. The SR.IX requires a country to put in place a declaration system that requires all persons making a physical cross-border transportation of currency or bearer negotiable instruments (BNI) above the threshold to submit a truthful declaration to the designated authorities. The failure to declare or the discovery of a false declaration should not automatically lead to an ML offense. Instead and in accordance with SR.IX, competent authorities should have the authority to request and obtain further information from the carrier with regard to the origin and intended use of the currency of BNI, and, if necessary, seize the currency and BNI (without arresting the passenger) and refer the case to the FIU for further analysis.

240. Furthermore, the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda is not in line with the SR.IX requirements. The banks are not supposed to provide certificates that would allow “legitimizing” the source of the funds.

241. The obligation of declaration does not extend to transportation through cargo containers and the mail, and the term BNI is not defined and it was not possible to establish that it covers all the elements required by the standard.

242. Finally, competent authorities do not have the appropriate powers to implement the declaration system as required by the standard.

2.7.2 *Recommendations and Comments*

243. The authorities are recommended to do the following:

- Ensure that the proposed declaration system has the characteristics described under SR.IX;
- Remove the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda;
- Amend the requirements to extend to the shipment of currency and bearer negotiable instruments through cargo containers and the mail;
- Define the term “bearer negotiable instruments” to include monetary instruments in bearer form such as travelers cheques; negotiable instruments (including cheques, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such a form that title can pass upon delivery; and incomplete instruments (including cheques, promissory notes, and money orders) signed, but with the payee’s name omitted;
- Ensure that competent authorities have the powers to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF, the temporary restraint measures, and the adequate and uniform level of sanctions;

- Provide competent authorities with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found, where there is a suspicion of ML or TF, or where there is a false declaration; and
- Once this system is established, competent authorities should be provided with training on the best practices paper for 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"> • Declaration system is not yet in force and is not in line with the standard. • Exemption regarding the withdrawal of cash from banks could limit the effectiveness of the declaration system. • Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. • Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found. • Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. • The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. • Absence of clear definition of bearer negotiable instruments. • Lack of implementation of the system transportation of currency and bearer negotiable instruments across all border points. • Lack of training on the best practice of implementing the requirement of SR.IX. • Effectiveness of the declaration system has not been established.

3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS

Customer Due Diligence and Record Keeping

3.1. Risk of money laundering or terrorist financing

244. Rwanda has not conducted a systemic review of potential ML and TF risks affecting the Rwandan financial system and/or the reporting entities within the system that could serve as a basis for applying enhanced and/or reduced measures in its financial system. The AML/CFT Law imposes obligations on reporting entities and institutions to comply with the requirements with respect to prevention of money laundering and terrorist financing. There is an obligation to apply enhanced due diligence measures, but it is only applicable to politically exposed persons. As such, the existing AML/CFT legal and supervisory frameworks have been developed without considering ML/TF risk level.

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

3.2.1 *Description and Analysis*

Legal Framework:

245. The main relevant texts are the AML/CFT Law and the law 007/2007 (the Banking Law).³⁵ These two texts constitute primary legislation for the purposes of this assessment as they have been issued by a legislative body and impose mandatory requirements with sanctions for noncompliance.

246. The AML/CFT Law sets out basic customer identification, monitoring, and record keeping requirements applicable to “reporting entities.” However, the notion of reporting entities in the context of the Rwandan AML/CFT Law does not cover insurance companies and brokers/agents. As a result, these persons and entities are not subject to the AML/CFT preventive measures obligations. For purposes of this assessment, when the assessors make reference to the term “reporting entities,” particularly in their

³⁵None of the other relevant laws for the sectors covered by the AML/CFT framework (i.e., Law 52/2008 governing the organization of the insurance business, Law 40/2008 establishing the organization of microfinance activities, Law 01/2011 regulating the capital market in Rwanda, Law 11/2011 establishing the Capital Market Authority, and Law 03/2010 concerning Payment Systems) include AML/CFT-related preventive measures.

recommendations, they are referring to “all reporting entities” as defined by the FATF and not as defined by the Rwandan law. Article 3 of the AML/CFT Law states that the provisions of the law shall apply to “*any person or legal entity that, in the framework of its profession, conducts, controls or advises transactions involving deposits, exchanges, investments, conversions or any other capital movement or any other property,*” in particular the following:

- The National Bank of Rwanda;
- Banks and other financial institutions;
- A list of DNFBPs; and
- Travel agencies and non-government organizations.

247. As mentioned above, insurance companies and intermediaries do not conduct any of the activities listed under Article 3 of the AML/CFT Law. As a result, they are therefore not subject to the preventive measures.

248. The authorities indicated that the BNR was included as a reporting entity because it is allowed to open and keep accounts for the public. Pursuant to Article 50 of the Central Bank law, it “may, in accordance with laws in force and its general rules, open and keep current accounts for any public institution, State organ, other central banks, international organizations and diplomat missions.” They indicated further that diplomatic missions can benefit from the following services: (i) money deposit through cash or bank transfer, (ii) money withdrawal through cash or bank transfer, (iii) BNR checks and payment order books, (iv) online access to their account through BNR extranet, and (v) bank account statement. The same applies to public agencies. The authorities also mentioned that the general public may withdraw cash against checks issued by public agencies for services rendered or deposit fund to pay for tender documents relating to tenders from public institutions or to pay courts fees.

249. The financial system consists mainly of the following financial institutions: banks, non-banking financial institutions, insurance brokers/companies, SACCOs, and micro-credit institutions, securities brokers, pension funds, forex *bureaux*, and payment systems/service providers. Money or value transfer systems are licensed by the BNR; however, in the case of Western Union and MoneyGram, these operate through an agency relationship with banks licensed also by the BNR. As of the mission date, there were 14 money transfer services providers.

250. The AML/CFT preventive measures for financial sector entities are set out in Articles 9, 10, 13–17, and 19 of the AML/CFT Law, and address customer identification, reporting of suspicious transactions, recordkeeping, paying attention to complex, unusual transactions, and internal controls.

251. There are no sector-based regulations or other similar enforceable requirements issued by the competent supervisory authorities to complement the legal provisions applicable to all reporting entities with more specific measures and which impose additional mandatory requirements with sanctions for non-compliance.

252. Supervision of the financial sector is carried out by the BNR and the CMA. The BNR supervises the following institutions: banks, microfinance companies, savings and credit institutions, insurance companies and brokers, *bureaux de change*, pension funds, and payment systems/services providers (which includes money remitters). The CMA is the designated competent authority for the entities operating in the securities market (securities brokers, dealers, sponsors, investment advisers, investment managers, custodians, securities exchange, clearing houses, and credit rating agency). However, the AML/CFT Law does not designate or make any reference to the authorities responsible for AML/CFT supervision, and does not refer to any other specific laws. The sector-specific laws provide the legal framework for the BNR and the CMA with respect to prudential supervision, but do not address AML/CFT issues. In addition, although the authorities claim that they are responsible for conducting AML/CFT supervision, neither the BNR nor the CMA have conducted such supervision in practice.

Prohibition of Anonymous Accounts (c. 5.1):

253. Pursuant to Article 9(4) of the AML/CFT Law, financial institutions are prohibited from opening or maintaining anonymous or digitized accounts, as well as accounts with fictitious or incorrect names. However, in the Rwandan context, “financial institutions” do not include banks. According to the authorities, the obligation imposed by Article 9(4) applies equally to banks and to the rest of the financial institutions.

254. While in most cases the provisions of the AML/CFT Law explicitly refer to both banks and financial institutions, Article 9(4) only refers to “financial institutions,” and there are no other provisions in the law that prohibit banks from opening or maintaining anonymous or numbered accounts. Similarly, there is no prohibition on banks and other financial institutions to keep anonymous accounts or accounts in fictitious names.

255. Representatives of the private sector with whom the assessment team met, including banks, stated that they do not open or maintain any anonymous or numbered accounts or accounts in fictitious names. The BNR and CMA confirmed that, to their knowledge, no accounts are held in an anonymous way or under fictitious names. Nevertheless, the legal framework falls short of the standard.

When is CDD required (c. 5.2):

256. Pursuant to Article 10 of the AML/CFT Law, all reporting entities are required to identify their customers in the following cases:

- Prior to establishing a business relationship;
- When they execute occasional transactions exceeding the threshold set by the FIU;
- When they receive a wire transfer that does not contain full information about the originator;
- When there is suspicion of money laundering; and
- When they have doubts about the veracity or accuracy of the customers' previously obtained identification data.

257. The term "identification" as used in Article 10 of the AML/CFT Law includes verification, meaning the presentation, by the customer, of a formal document for the purpose of establishing the identity.

258. Article 2(4) of the AML/CFT Law defines the term "customer" as the natural or legal person that (i) opens a bank account or in the name of whom a bank account is opened, (ii) has the power to sign on that account, (iii) deposits, transfers, or receives money by using that account, and (iv) is authorized to conduct the transaction on that account. This definition is too narrow because it only refers to "bank accounts," and does not include "withdrawals" or any other services provided by financial institutions.

259. The FIU has not yet set forth the applicable threshold undertaking CDD for occasional transactions; the identification obligation therefore remains inapplicable.

260. In addition, Article 10 only requires reporting entities to undertake CDD when they receive a wire transfer that does not contain full information about the originator. This does not fully comply with criterion 5.2.c), which requires them to undertake CDD when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII. Similarly, there are no requirements for reporting entities to apply CDD measures when there is a suspicion of terrorist financing as requested under criterion 5.2.d). Therefore, Article 10 only partially meets the requirements of criterion 5.2.

Identification measures and verification sources (c. 5.3):

261. According to Article 10 of the AML/CFT Law, all reporting entities are obliged to identify both natural and corporate customers. There are no identification requirements with respect to legal arrangements. Institutions met during the assessment affirmed that they do not open accounts for (foreign) legal arrangements.

262. The identity of a natural person must be verified by the presentation of a valid official identification document including a photograph. The law also provides that an Order of the Minister of Justice will establish a list of the acceptable official identification documents, but as of the mission date, no such Order had been issued.

263. There is no implementing regulation that provides for specific guidance as to the basis (specific documents, data, or information) for identification and verification of the customer, both natural and legal persons.

264. In practice, the standard customer identification data that reporting entities request from natural persons is the Rwandan National Identification card (ID) (for national citizens) and a passport (for foreign customers). These two documents are considered valid official documents that serve for the purpose of identifying and verifying the identity of the customer. All citizens in Rwanda are issued a national ID at the age of sixteen. There is no legal requirement to update the national ID. The national ID is central to the process and is regarded by the financial sector as the primary official document for identification purposes. The authorities indicated that there has been no evidence of large-scale use of forged IDs or passports that might bring into question the validity of relying on these forms of identification. The national ID includes the following information: a unique ID number, name, sex, date of birth, place of birth (sector), place of issuance, and a signature of the holder. The ID has a unique bar code, which includes the date of birth as part of the personal identification number. It does not, however, include the address of the holder. In practice, reporting entities are not able to verify the physical address of the customer using reliable data because streets are not numbered or identified by names but by commonly known points of reference.

265. There is no requirement for physical presence during the account opening process. Customers are allowed to fill out an application online, take it to the embassy/consulate for authentication, and send it via courier or pouch to the financial institution. While most of the financial institutions indicated that, as a general policy, they open the account in the presence of the customer, accounts may also be opened electronically. (Refer to Recommendation 8 below for a detailed description and analysis of non-face-to-face measures.)

266. Pursuant to Article 10 of the AML/CFT Law, “legal persons must be identified with any valid document, in particular their registration certificate. Reporting entities shall take any reasonable measures to verify the identity of their members.” There is nothing defining what valid means, although the registration certificate is a particular example. However, it does not preclude the possibility of using a range of other authentic documents, which may not amount to the value of an adequate identification document. The registration certificate is issued by the Office of Registrar General and constitutes proof of incorporation. It includes the following information: (i) registered corporate name, (ii) legal form, (iii) date and place of incorporation, (iv) type of business, (v) address, and (vi) shareholders, directors, including the managing director, and provisions relating to the powers to bind the legal person. However, Article 10 falls short of the standard, which is not limited to applying reasonable measures. It should be imperative for reporting entities to use reliable, independent source documents, data, or information for the purpose of verifying the identity of the customer.

267. There is no specific indication or guidance as to the type of reasonable measures reporting entities should put in place in order to verify the identity of their members. Most reporting entities indicated that they identify the legal person through its Articles of Incorporation and the certificate of domestic company registration.

268. At the time of the assessment, there were no legal provisions specifically relating to trusts or similar legal arrangements in Rwanda.³⁶ While nothing precluded the financial sector from dealing with funds under a foreign trust, the assessors found no indication that such services were provided in Rwanda, and the authorities could not establish what type of due diligence financial institutions would need to apply if such services were rendered in practice.

Identification of Legal Persons or Other Arrangements (c. 5.4):

269. Pursuant to Article 10, paragraph 5 of the AML/CFT Law, any person known to act on behalf of a customer must present evidence to act on his/her behalf, as well as his/her identity card or an official identification document in conformity with paragraph 2 of the same article. There is no further indication as to which documents would be sufficient to demonstrate that any person purporting to act on behalf of the customer is so authorized. The authorities indicated that FIs always require a power of attorney or any other legal authorization when a person intends to act on behalf of the customer.

³⁶Since then, the authorities issued law No. 20/2013 of March 25, 2013, regulating the creation of trusts and trustees. Considering that the law came into force more than two months after the onsite assessment mission, it is not taken into account for the purpose of the current assessment.

270. As for the verification of the legal status of the legal person, financial institutions are required to obtain the certificate of registration, which serves as a proof of incorporation or similar evidence of establishment or existence of the legal person (i.e., address, name of directors, etc.). However, the requirement to obtain a copy of the certificate of registration does not provide necessary information on the provisions regulating the power to bind the legal person. Law No. 7/2009 (law relating to companies) under Article 187 requires the members of the Board of Directors to disclose to or cause it to be registered by the Registrar General within 30 days “any change of name, address or any other details about its members, to updated the information on new Board of Directors.”

271. In addition, reporting entities indicated that they request the national ID of all the shareholders and directors as well as Board’s resolutions authorizing the person to open the business relationship on behalf of the legal person. The authorities were unable to explain how changes regarding shareholders are informed and the frequency for this.

Identification of Beneficial Owners (c. 5.5, 5.5.1, and 5.5.2):

272. Article 10 of the AML/CFT Law states that *“any person known to act on behalf of a customer must present evidence to act on his/her behalf as well as his/her identity card or an official identification document in conformity with paragraph 2 of this Article.”*

273. According to Article 14 of the AML/CFT Law, *“whenever there is uncertainty as to whether the customer acts on his/her personal behalf, the bank or the financial institution shall by all means obtain information in order to establish the exact identity of the principal or the stakeholder on behalf of whom the customer acts. After verification, if the uncertainty persists on the identity of the “economic beneficiary,” the financial institutions shall make a report on a suspicious transaction and forward it to the Financial Investigation Unit.”* No information or guidance is provided to explain who should be considered to be “the principal or the stakeholder” and “the economic beneficiary.” It was therefore not established that this includes the natural person(s) on whose behalf a transaction is being conducted and those who ultimately own or control a customer (including natural persons with a controlling interest and those who comprise the mind and management of the company).

274. Proof of the ownership structure of corporate customers is provided by the registration certificate that reporting entities are required to obtain. However, this certificate does not necessary enable the reporting entity to understand the control structure of the customer and to identify the natural persons with a controlling interest and those who comprise the mind and management of the company.

275. In sum, the AML/CFT legal framework fails to provide a clear definition of beneficial owner and to establish how reporting entities should identify the beneficial owner in case of multi-layered transactions or complex ownership structures.

Information on Purpose and Nature of Business Relationship (c. 5.6):

276. Reporting entities are not required 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, and 5.7.2):

277. Reporting entities are not required to conduct ongoing due diligence on the business relationship.

278. Similarly, there is no requirement on reporting entities to ensure that documents, data, or information collected under the CDD process is kept up to date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

Risk—Enhanced Due Diligence for Higher-Risk Customers (c. 5.8):

279. The AML/CFT Law sets a standard due diligence process to be applied in most cases. There is no obligation to apply enhanced procedures with respect to high-risk customers other than politically exposed persons (which is described under Recommendation 6 below).

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9), and Risk—Simplification/Reduction of CDD Measures relating to overseas residents (c. 5.10), and Risk-Based Application of CDD to be Consistent with Guidelines (c. 5.12):

280. The Rwandan legislation does not address the application of simplified or reduced CDD measures by reporting entities.

Timing of Verification of Identity—General Rule (c. 5.13), and Timing of Verification of Identity—Treatment of Exceptional Circumstances (c. 5.14 and 5.14.1):

281. The AML/CFT Law does not provide for a delayed verification process. Article 10 requires both identification and verification to take place “prior to establishing a business relationship.”

Failure to Complete CDD before commencing the Business Relationship (c. 5.15), and Failure to Complete CDD after commencing the Business Relationship (c. 5.16):

282. While the AML/CFT Law sets out some basic identification requirements, it does not address the consequences of failure to complete the CDD.

283. The AML/CFT Law is equally silent on what actions a reporting entity should take in the event that it can no longer be satisfied that it knows the genuine identity of a customer for whom it has already opened an account.

284. The authorities indicated, and representatives from the private sector confirmed, that it is industry practice to refuse to conduct a transaction or to establish a business relationship if the customer fails to provide the required CDD information in a timely manner, and that no STR is filed.

Existing Customers—CDD Requirements (c. 5.17), and Existing Anonymous-account Customers – CDD Requirements (c. 5.18):

285. The AML/CFT Law does not address the situation of customers who opened accounts prior to its entry in force. There is therefore no requirement for reporting entities to apply CDD measures to customers with whom they entered into a business relationship prior to 2009 on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

Implementation and Effectiveness:

286. Overall, the level of implementation by reporting entities of the CDD measures is low. Amongst the range of reporting entities, only banks were aware of the CDD requirements and were implementing some of the basic CDD measures. The level of compliance within banks seems to be higher due to the fact that banks with foreign ownership are obliged to comply with their home country requirements and AML/CFT group policies that go beyond Rwanda's obligations.

287. There is not the same degree of comfort in the level of compliance with respect to other reporting entities operating in Rwanda: while they do apply customer identification procedures, securities and insurance brokers (the latter is not subject to the AML law), microfinance companies, exchange bureaus, and money remitters appear less familiar or less aware of the more detailed AML/CFT

requirements. Securities and insurance brokers have some understanding of the CDD requirements in general, but this is mainly due to prudential compliance under the sector-specific laws and not related to the requirements imposed by the AML/CFT Law.

288. CDD is conducted at the account opening or when the business relationship is established. All reporting entities claim that they rely on the national ID or passport for customers that are natural persons. In practice, however, the lack of legal basis, especially for some of the CDD obligations, could make it difficult for reporting entities to obtain sufficient information and supporting documentation to conduct the required due diligence.

289. In interviews with financial institutions, assessors were informed that some banks were in the process of enabling customers to open accounts remotely. In this regard, the bank's internal policy will require the customer to bring the application and other identification documents to his/her embassy, consulate, or a bank branch in the home country to authenticate the documents. Once authenticated, the documents will be forwarded to the reporting entity accepting the relationship.

290. There is low level of awareness among reporting entities as to what is required with respect to the identification of beneficial owners, and thus a very low level of compliance with their obligations in this respect. Meetings with reporting entities across sectors revealed that only one bank had a standardized form where the prospective customer should declare if he/she is the beneficial owner, and if such is the case, the customer should reveal his/her name. The other financial institutions (securities brokers, microfinance companies, insurance companies, pension funds, bureaux de change, payment systems/service providers, and securities firms) were not even aware of the requirements.

291. There is a lack of specific provision indicating the type of reasonable measures that reporting entities should put in place in order to verify the identity of legal persons. Financial institutions met indicated that Article 10 of the AML/CFT Law provides flexibility and allows them to ask for any valid document that was deemed reasonable for the purpose of verification, in particular their registration certificate. Overall, all financial institutions informed that for legal persons created in Rwanda they exclusively relied on the certificate of registration.

292. As for the verification of the legal status of foreign companies, financial institutions rely on original documents from the country of origin, without performing further verification. While this might be sufficient in cases where the legal person was incorporated in a country with a reliable system for identification and registration, it might be a problem when coming from a country with weak systems.

293. Reporting entities do not request information related to the purpose and intended nature of the business relationship or the source of wealth and source of funds.

294. Overall, no real ongoing due diligence is conducted. Foreign banks have monitoring systems in place; however, for the rest of the reporting entities, there was no monitoring taking place or when taking place, this was done manually, which represents a significant challenge for timely identification of potential unusual and/or suspicious transactions.

295. Only a few reporting entities (mainly banks) seem to be conducting ongoing due diligence on the business relationship. Due to the lack of specific requirements in the law, it is left up to each institution to determine the frequency for updating customer data.

296. The “high risk categories of customers” is an area of concern. Only a few banks indicated performing enhanced due diligence for certain categories of customers, but generally none of the reporting entities classifies customers based on risk. They therefore treat all their customers in the same way.

297. Another area of concern is the lack of clarity with respect to CDD and recordkeeping responsibilities between the banks and their agents (Western Union and MoneyGram as money remitters) because the assessors were not able to review the AML/CFT responsibilities for the principal and the agent. These two entities are not licensed by the BNR or registered as legal entities in Rwanda. The authorities were unable to explain what the arrangements in place are for customer identification and verification. Similarly, the assessment team was not provided with the opportunity to meet with money remitters, 14 registered as of the mission date, and was therefore unable to assess the level of compliance with the AML/CFT obligations. The BNR officials were not able to describe the CDD measures established by the money remitters to ensure compliance with the requirements of the AML/CFT Law. In addition, meetings with the BNR and banks revealed that there are inconsistent understandings as to which reporting entity (i.e., the bank or the money remitter) is in practice responsible for implementing the CDD measures and maintaining customer records. (Please see SR.VI for a detailed description regarding alternative remittances.)

298. While failure to complete the CDD process would prevent reporting entities from opening an account, establishing the business relationship, or performing the transaction, none of them would consider filing an STR.

299. Reporting entities also indicated that not all existing customers have undergone the CDD process.

300. In light of the preceding analysis on implementation, effectiveness has not been established.

Recommendation 6:

Legal Framework:

301. Article 16 of the AML/CFT Law imposes specific requirements on reporting entities dealing with a “political leader,” which is defined under Article 2(7) as “any person who is or has been entrusted with prominent public functions in the Republic of Rwanda or in other countries including his/her family members or other persons who are his/her close associates or have business or financial relationships with him or her.” The definition is in line with the definition of politically exposed persons (PEPs) provided in the FATF Glossary, and applies to both domestic and foreign PEPs.

Foreign PEPs—Requirement to Identify (c. 6.1):

302. Pursuant to Article 16 of the AML/CFT Law, reporting authorities, in addition to performing normal due diligence measures, are required³⁷ to have appropriate risk management systems to determine whether the customer is a political leader.

303. Article 2(4) of the AML/CFT Law provides a definition of the term “customer,” but falls short of including the potential customer or the beneficial owner. As such, Article 16 of the AML/CFT Law falls short of requiring reporting entities to have appropriate risk management systems to determine whether the potential customer or the beneficial owner is PEP.

Foreign PEPs—Risk Management (c. 6.2; 6.2.1):

304. Pursuant to Article 16(2) of the AML/CFT Law, reporting entities must obtain the approval of their senior management³⁸ before establishing a business relationship with a political leader. However, the AML/CFT Law is silent with respect to existing customers or beneficial owners who are found to be or become political leaders after the establishment of the business relationship.

³⁷While the English version refers to “FIs must be required,” the Kinyarwanda and French versions impose a direct obligation for FIs to have appropriate risk management systems to determine whether the customer is a political leader.

³⁸While the English version refers to “employer,” the authorities stated that the Kinyarwanda version refers to “senior management approval.”

Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3):

305. Article 16(3) of the AML/CFT Law requires reporting entities to take all reasonable measures to establish the customer's source of wealth and source of funds. However, these requirements do not extend to beneficial owner(s) identified as political leaders.

Foreign PEPs—Ongoing Monitoring (c. 6.4):

306. Article 16(4) requires reporting entities to conduct monitoring of the business relationship with political leaders. It does not, however, require them to conduct enhanced ongoing monitoring on the business relationship as required by the standard.

Domestic PEPs—Requirements (Additional Element c. 6.5):

307. The enhanced measures set out in the law apply to both domestic and foreign PEPs.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

308. The 2003 United Nations Convention against Corruption was signed by Rwanda in November 2004 and ratified in October 2006. It was promulgated by Presidential Order No. 56/01 of 27/12/2005.

Implementation and Effectiveness:

309. While a few banks have put in place enhanced due diligence measures in line with the AML/CFT Law, the rest of the financial institutions informed the assessors that they undertake the same type of CDD with respect to all their customers. In the absence of specific guidance as to what should be considered a prominent public function in Rwanda or in other countries, no common practice or procedure prevails across reporting entities. Against this background, reporting entities must make their own determination as to the individuals that qualify as political leaders. Considering that most institutions were unaware of the obligations in place, there is a clear need to enforce the requirement across the entire range of the financial sector. Going forward, it would be useful to provide reporting entities with examples of the prominent public functions that would fall under the definition of "political leader" (e.g., heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, and important political party officials).

310. Overall, there is insufficient awareness amongst reporting entities about the enhanced CDD measures that should be implemented with regard to PEPs and, consequently, a low level of implementation of the obligations in place. Effectiveness has therefore not been established with regard to the CDD measures for PEPs.

Cross Border Correspondent Accounts and Similar Relationships—Introduction:

311. The Rwandan legislation is silent with respect to establishing cross-border correspondent accounts and similar relationships.

Requirement to Obtain Information on Respondent Institution (c. 7.1), and Assessment of AML/CFT Controls in Respondent Institution (c. 7.2), and Approval of Establishing Correspondent Relationships (c. 7.3), and Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4), and Payable-Through Accounts (c. 7.5):

312. The existing legal framework does not provide measures for ensuring that reporting entities (i) gather sufficient information about a respondent institution, (ii) assess the respondent institution's AML/CFT controls and ascertain that they are adequate and effective, (iii) obtain approval from senior management before establishing new correspondent relationships, and (iv) document the respective AML/CFT responsibilities of each institution.

313. The authorities stated that cross-border correspondent relationships in Rwanda do not involve payable-through accounts. The same view was shared by the private sector representatives with whom the assessment team met.

Implementation and Effectiveness:

314. Cross-border correspondent relationships only apply to banks and securities brokers, which, in Rwanda, are mainly respondent institutions. Both banks and securities brokers indicated that their relationships are governed by a signed contract documenting the responsibilities of the respondent and the correspondent institution. Two foreign banks indicated that correspondent banking relationships are established at a group level. As for domestic banks and the securities brokers, it was not possible to ascertain whether their contracts with the correspondent institutions include AML/CFT measures in line with Recommendation 7. Although reporting entities indicated that they gathered information when establishing correspondent relationships, they could not establish whether the

process also included (i) assessing the reputation of the institution, (ii) assessing the quality of supervision, including whether it has been subject to enforcement action, and (iii) assessing the institution's AML/CFT controls.

315. Effectiveness was therefore not established.

Recommendation 8:

Misuse of New Technology for ML/FT (c. 8.1), and Risk of Non-Face-to-Face Business Relationships (c. 8.2 and 8.2.1):

316. There are no legal requirements to address the money laundering threats that may arise from new or developing technologies, and there is no physical presence requirement for customers opening accounts or otherwise establishing business relationships.

Implementation and Effectiveness:

317. Most banks indicated that as a general policy, potential customers must be physically present in order to open the account.

318. Unlike banks, securities brokers do not require physical presence for the account opening process. The authorities informed that a power of attorney or authorization from the customer is needed to complete the process. Reporting entities also indicated that they have a nominee procedure (nominee account) that allows them to sign the account opening form on behalf of the customer.

319. Investors in securities place their orders through a broker by telephone or in person. Trading on the Stock Exchange is conducted manually and brokers are allowed to accept cash. The authorities stated that brokers use their own discretion with regard to the acceptance of cash.

320. Mobile banking is available in Rwanda and allows customers to check the balance of their accounts as well as to send and receive electronic money (e-money) on their mobile phones. This service is conducted through and supported by a network of agents across the country. The service is SIM based. According to the telephone company visited during the assessment, there are more than 490,000 users across the country. However, no national figures were provided in this respect.

321. The role of the agent is to (i) register new customers, (ii) receive money from registered customers, and (iii) pay out money to customers. The service also includes "receiving international remittances." The telephone company visited indicated that its agents'

network comprised approximately 760 agents across the country. The agents purchase stock in the telephone company and sell mobile money to the users in return for cash. Agents are paid a commission per transaction. The company in question had reached US\$100 million in transactions since the service was launched and this service is steadily growing in the country. However, no national figures were provided in this respect.

322. Mobile banking is emerging as a viable approach to increasing financial inclusion in the country. However, there is still need for an appropriate regulatory environment for mobile banking, network operators, and the system. As of the mission date, the authorities had not assessed and addressed the ML threats that may arise from this new service. There was lack of appropriate measures in place to deal with non-face-to-face transactions or with new technologies, which posed the system to undue ML/FT risk. There was also no AML/CFT supervision taking place regarding the provision of mobile banking services. The authorities still had a central role to play in setting the appropriate regulatory and supervisory framework. Overall, effective implementation was not established.

3.2.3 Recommendations and Comments

323. The AML/CFT Law includes a number of basic CDD obligations, in particular the obligation to identify the customer. However, it fails to address all the elements required in the standard and, in a number of instances, is too general and lacks the necessary level of detail to be effective. Going forward, the requirements set forth under the AML/CFT Law should be better supported and complemented with sector-specific regulations and guidelines.

Recommendation 5:

324. In order to fully comply with Recommendations 5, 6, 7, and 8, the authorities are recommended to require in law or regulation all financial institutions (as defined in the FATF standard) to do the following:

- Refrain from establishing or keeping anonymous accounts or accounts in fictitious names;
- Undertake CDD measures in the following cases:
 - When carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII; and

- When there is a suspicion of terrorist financing (in addition to the suspicion of money laundering already included in the law), without exceptions and regardless of the amounts involved.
 - Establish the applicable threshold for undertaking CDD for occasional transactions;
 - Identify their customers and verify that customer's identity using reliable, independent source documents, data, or information (identification data);
 - Establish mechanisms for adequately verifying the power to bind the legal person or arrangement;
 - Identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner in line with the definition set forth under the standard, which should refer not only to the natural person(s) who ultimately owns or controls a customer and/or the persons on whose behalf a transaction is being conducted but also to the persons who exercise ultimate effective control over a legal person or arrangement, including those who comprise the mind and management of a company; and
 - Conduct ongoing due diligence on the business relationship, which should include the scrutiny of transactions undertaken throughout the course of the business relationship and monitoring of the business relationship to ensure that documents, data, or information collected under the CDD process are kept up to date.
325. The authorities are further recommended to require in law, regulation, or other enforceable means financial institutions (as defined in the FATF standard) to do the following:
- Obtain information on the purpose and intended nature of the business relationship;
 - Perform enhanced due diligence for higher risk categories of customers, business relationships, or transactions;
 - Refuse to open an account, establish a business relationship, or conduct the transaction; and consider making an STR when they are unable to comply with the CDD requirements;
 - Terminate the business relationship and consider filing an STR when they have doubts about the veracity or adequacy of previously obtained customer identification data;

- Apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and conduct due diligence on such existing relationships at appropriate times; and
- Perform CDD measures on existing customers who hold anonymous or accounts in fictitious names that predate the AML/CFT Law.

Recommendation 6:

326. The authorities are recommended to provide examples of the prominent public functions that would fall under the definition of “political leader” (e.g., heads of state or government; senior politicians; senior government, judicial, or military officials; senior executives of state owned corporations; and important political party officials).

327. The authorities are also recommended to require reporting entities to do the following:

- Put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner, is a PEP;
- Obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP;
- Establish the source of wealth and the source of funds of beneficial owners identified as PEPs; and
- Conduct enhanced monitoring on that relationship.

Recommendation 7:

328. With respect to cross-border correspondent relationships, require reporting entities to do the following:

- Gather sufficient information about the respondent institution to fully understand the nature of the respondent’s business and to determine its reputation and quality of supervision;
- Assess the respondent institution’s AML/CFT controls;

- Obtain approval from senior management before establishing correspondent relationship; and
- Document the respective obligations of each institution.

Recommendation 8:

329. Establish measures including policies and procedures designed to prevent and protect financial institutions (as defined by the FATF standard) from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non-face-to-face business relationships and transactions. Authorities are encouraged to consult the Risk Management Principles for Electronic Banking issued by the Basel Committee in July 2003.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • Banks are not prohibited from keeping anonymous accounts or accounts in fictitious names. • No requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII. • No requirement to undertake CDD measures when there is suspicion of terrorist financing. • No threshold set by the FIU for conducting CDD for occasional transactions and, as such, the identification obligation remains inapplicable.

		<ul style="list-style-type: none"> • No mechanisms in place for verifying the power to bind the legal person or arrangement. • No requirement to identify the customer and verify the customer's identity using reliable, independent source documents, data, or information. • No requirement to identify the beneficial owner in line with the standard. No requirement to understand the control structure of the customer and identify those natural persons who ultimately own or control the customer, including those with a controlling interest and those who comprise the mind and management of the company. • No requirement to undertake ongoing due diligence on the business relationship. • No requirement to ensure that documents, data, or information collected under the CDD process is kept up to date, particularly for higher risk categories of customers or business relationships. • No obligation to establish the purpose and intended nature of the business relationship. • No requirement to undertake enhanced CDD for high-risk customers, business relationships, or transactions. • No requirement to reject opening an account/commencing a business relationship/performing the transaction when unable to comply with the CDD measures and to consider making an STR. • No requirement to terminate the business relationship and consider filing an STR in the event that the financial institution can no longer
--	--	--

		<p>be satisfied that it knows the genuine identity of the customer for whom it has already opened an account.</p> <ul style="list-style-type: none"> • No requirement to apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and to conduct due diligence on such existing accounts at appropriate times. • No requirement to perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names. • Low level of implementation by all reporting entities. • The effectiveness of the CDD measures has not been demonstrated.
R.6	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • No requirement to obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • No requirement to take reasonable measures to establish the source of wealth and source of funds for the beneficial owners identified as PEPs. • No requirement to conduct enhanced monitoring on the relationship with PEPs. • Low level of implementation.

		<ul style="list-style-type: none"> • The effectiveness of the measures related to PEPs has not been demonstrated.
R.7	NC	<ul style="list-style-type: none"> • No measures in relation to cross-border correspondent banking or other similar relationships.
R.8	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement on reporting entities to do the following: • Have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. • Have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions. • Implement measures for managing the risks, including specific and effective CDD procedures that apply to non-face-to-face customers.

3.3. Third Parties and Introduced Business (R.9)

3.3.1 *Description and Analysis*

Legal Framework:

330. The AML/CFT Law and other relevant laws are silent with respect to the acceptance by financial institutions of intermediaries or third parties to perform some of the elements of the CDD process or to introduce business.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1), and Availability of Identification Data from Third Parties (c. 9.2), and Regulation and Supervision of Third Party (applying R. 23, 24, and 29, c. 9.3), and Adequacy of Application of FATF Recommendations (c. 9.4), and Ultimate Responsibility for CDD (c. 9.5)

331. There are no legal or regulatory requirements addressing the reliance by financial institutions on intermediaries or third parties to perform the CDD elements and to comply with the different requirements set out under this Recommendation.

Implementation and Effectiveness:

332. The understanding of the BNR, the CMA, and the reporting entities is that under the AML/CFT Law, the reporting entities are required to undertake their own due diligence process and may not rely on introducers, even from within the same group.

333. However, the absence of any prohibition in this regard could lead to different interpretations by reporting entities. According to the BNR, such reliance is not prevalent in the financial sector and the same view was shared by some representatives of banks. Nevertheless, it cannot be excluded that some financial institutions do rely on third parties to perform some elements of the CDD process without following the requirements envisaged under the standard. Meetings with representatives from the securities sector revealed that there is some reliance on intermediaries or third parties to perform some of the elements of the CDD process without following the requirements envisaged under the standard. In the absence of legal provisions, the existing implementation is not uniform across sectors and institutions, and raises concerns about the effectiveness of the regime.

3.3.2 Recommendations and Comments

334. In order to comply with Recommendation 9, the authorities are recommended to do the following:

- Regulate reliance on intermediaries or third parties to perform elements of the CDD process, and ensure the following:
 - CDD measures performed by the intermediary or third parties are those listed under Criteria 5.3 to 5.6 of the Methodology;
 - The information collected by the third party may be immediately available to reporting entities upon request without delay; and

- The reporting entities are required to satisfy themselves that the third party is regulated and supervised and to have measures in place to comply with CDD requirements in line with Recommendation 5.
- The ultimate responsibility for customer identification and verification remains with the reporting entities relying on the third party.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	NC	<ul style="list-style-type: none">• Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law.• No legal or regulatory provisions addressing reliance on third parties to perform elements of the CDD process or introduce business.

3.4. Financial Institution Secrecy or Confidentiality (R.4)

3.4.1 Description and Analysis

Legal Framework:

335. With the exception of a specific requirement in the securities sector, there are no banking secrecy or other confidentiality requirements in the financial sector. The following sector-specific laws ensure that the competent authorities have access to any relevant information, regardless of any contractual confidentiality requirements: Law 55/2007 governing the Central Bank of Rwanda (Central Bank Law), Law 007/2008 (Banking Law), Law 01/2011 (Law regulating the Capital Market in Rwanda), Law 11/2011 (Establishment of Capital Market Authority), Law 52/2008 governing the organization of insurance business, Law 40/2008 (Law establishing the organization of Microfinance activities), and Law 3/2010 (Law concerning Payment Systems).

Inhibition of Implementation of FATF Recommendations (c. 4.1):

336. Article 8 of the AML/CFT Law states that *“every reporting entity, control organ, or auditor must respect the conditions set forth by the law, notwithstanding any obligation of professional secrecy or restriction of divulgation of information imposed by any other law.”*

337. Confidentiality requirements in the banking and insurance sectors are purely contractual in nature: there are no banking secrecy or confidentiality provisions in the relevant laws. The sector-specific laws clearly specify (in addition to Article 8 of the AML/CFT Law) that the competent authority, in this case the BNR, must be granted access to all information it requires to perform its functions. Article 59 of the Banking Law states that no person may invoke professional secrecy as grounds for non-disclosure of information required by the Central Bank. Banks shall *be required to submit*³⁹ to the BNR any *“document, declaration and financial statement. They shall also be required to provide the BNR with any information, clarification, or explanation that it may request.”*

338. Article 54 of the Insurance Law grants the BNR the power to *“seek information and explanation from the officers, employees, agents and representatives of insurers and insurance intermediaries, whether in preparation for, during or after a compliance inspection.”*

339. Articles 40 and 41 of the Microfinance Law grant the BNR broad powers to supervise and to access information it requires to properly perform its functions.

340. Pursuant to Article 9 of the Payment Systems Law, the BNR may request at any time from the payment service providers any information, document, clarification, proof, and any other element it may require.

341. Participants in the securities sector may not disclose information restricted and related to the business or affairs of any person without the consent of the concerned person⁴⁰ (Article 49 of the Capital Markets Law). This restriction does not, however, preclude the

³⁹Although the English version of the law mentions that “banks shall be required to submit” the necessary information to the BNR, the French version states that banks are required to submit.

⁴⁰This prohibition does not apply to (i) the CMA, (ii) any body or agency in charge of administering a compensation scheme, (iii) the BNR, (iv) any member of the Independent Review Panel, (v) any person appointed or licensed to exercise any powers of investigation, (vi) any officer of any body or agency referred to under points (1) to (5) of Article 49. Paragraph 3 states that the same applies to “any person who obtained the information directly or indirectly from the persons mentioned in paragraph 2 of the same article. The article shall not preclude the disclosure of information for the purpose of enabling any public or other body to discharge its responsibilities as may be specified by the Authority’s regulations.”

disclosure of information on the following: (i) criminal proceedings, (ii) civil or disciplinary proceedings or proceedings before the Independent Review Panel, (iii) aiding or assisting the Authority to exercise any powers conferred to it by this Law, (iv) aiding or assisting a securities exchange, a clearing house, and a compensation scheme in accordance with such Law, (v) aiding and assisting the Central Bank of Rwanda to fulfill its mission, and (vi) aiding or assisting foreign agencies with a mission similar to that of the Authority (Article 50 of the same law).

342. As of the time of the assessment, LEAs could obtain all documents and information other than those held by lawyers by using their powers of search or seizure after obtaining a warrant from the public prosecutor. According to the authorities, there is, in practice, no impediment for LEAs to access information they require to properly perform their functions in combating ML or FT.

343. Financial secrecy does not constitute an impediment for the effective implementation of the FATF Recommendations.

Sharing of information between competent authorities:

344. Within the domestic context, the legal framework does not provide the BNR with the power to share information with other competent authorities in Rwanda. The authorities stated that although there is no legal provision in this regard, the BNR shares information in practice, but not for AML/CFT purposes, considering that it has not conducted AML/CFT supervision. Within the international context, the Central Bank Law does provide the BNR with the capacity to share information with its foreign counterparts, but this does not apply to AML/CFT.⁴¹

345. As for the securities sector, Article 3, section 3 of Law 11/2011 grants the CMA the power to cooperate and collaborate with other regulatory bodies in accordance with the provision of the law regulating the capital market in Rwanda. The CMA also has the legal powers to share information with other international competent authorities. Such powers are granted under articles 51, 52, 57, and 58 of the Capital Markets Law, and Article 3 paragraph 14 of Law 11/2011. Article 51 of Law Capital Markets Law provides for the possible assistance by the authority to other foreign regulatory authorities and sets forth the following. In addition, Article 52 of the same law further provides for the conditions to fulfill prior to the provision of assistance to foreign regulatory authorities. In this

⁴¹Article 72 of the Central Bank Law states that in the execution of its functions, the BNR shall be authorized to engage in cooperation relationship with foreign central banks, foreign supervisory authorities, foreign regulators, and international institutions. In addition to this, Article 58, section 3 of the Banking Law provides for consolidated supervision and grants the Central Bank the power to “*set out modalities of cooperation with the supervisory authority of the host country by means of a cooperative agreement.*”

regard, the Authority should among other issues consider the following: (i) whether the foreign regulatory authority is a legally recognized authority, (ii) whether the assistance sought would be used by the foreign regulatory authority in fulfilling its responsibilities, (iii) whether the foreign regulatory authority would provide comparable assistance to the Authority, (iv) whether the foreign regulatory authority would comply with any condition the Authority may impose on the transmission of such information, and (v) whether the foreign regulatory authority is able to keep the information provided confidential.

346. In practice, both the BNR and the CMA have signed Memorandums of Understanding (MOUs) both domestically⁴² and internationally,⁴³ but these do not cover AML/CFT issues. In addition, neither the BNR nor the CMA has been designated as an AML/CFT supervisor, which adversely affects their ability to share information for AML/CFT purposes.

Sharing of information between financial institutions:

347. According to the authorities, nothing prevents the sharing of information between financial institutions where this is required by R.7, R.9, or SR.VII. There is, however, no provision in the legal or regulatory framework related to cross-border correspondent relationships or intermediaries/introduced business. The authorities indicated that, despite the lack of legal requirements, both with respect to the sharing of information and the obligations related to R.7 and R.9, financial institutions do share information as required under R.4 through their respective associations (Banking/Insurance Associations). However, no information was provided as to how this is done in practice.

Implementation and Effectiveness:

348. There appear generally to be no restrictions to the access by the BNR and CMA to information held by institutions under their supervision. Discussions with financial institutions indicated that they consider that they have an obligation to submit whatever

⁴²Within the domestic sector, the following MOUs have been signed: (i) MOU between the BNR and the CMA on cooperation and information sharing, and (ii) MOU between the CMA and the Institute of Certified Public Accountants in Rwanda.

⁴³At regional level, the following MOUs have been signed: (i) MOU between the Central Bank of Nigeria and the National Bank of Rwanda on cross-border supervision and information sharing, (ii) MOU between the National Bank of Rwanda and the Bank of the Republic of Burundi, the Central Bank of Kenya, the Bank of Tanzania, and the Bank of Uganda on cooperation in supervision of financial institutions, and (iii) MOU between the CMA and the four East African Capital Market Regulators, “East Africa Securities Regulatory Authorities Association” on information sharing, capacity building, and enforcement. These MOUs broadly cover the exchange of information without any specific reference to AML/CFT issues.

information may be requested by the authorities, and that they are not inhibited from providing the information by any statutory provisions. However, the authorities could not demonstrate that, in practice, they have asked for and shared information on AML/CFT issues, at both domestic and international levels. In fact, the MOUs that have been signed do not address AML/CFT issues.

349. Despite the information provided by BNR and the CMA, financial institutions were not fully aware of the ability to share information with other financial institutions in matters related to cross-border relationships, intermediaries, or wire transfers.

3.4.2 *Recommendations and Comments*

350. The authorities are recommended to do the following:

- Ensure that the BNR is granted the power to exchange AML/CFT information with other domestic competent authorities.
- Ensure that competent authorities share information on AML/CFT-related issues at both domestic and international levels.
- Ensure that reporting entities are allowed to share information required under R.7, R.9, or SR.VII.

3.4.3 *Compliance with Recommendation 4*

	Rating	Summary of factors underlying rating
R.4	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • The mechanisms in place for exchanging and sharing information among competent authorities do not address AML/CFT matters. • Effectiveness was not established with respect to the sharing of information between competent authorities, at both domestic and international levels.

3.5. Record keeping and wire transfer rules (R.10 and SR.VII)

3.5.1 *Description and Analysis*

Legal Framework:

351. AML/CFT Law, Law 7/2008 (law concerning the organization of banking), Regulation 2/2010 governing Payment Services Providers.

Record-Keeping and Reconstruction of Transaction Records (c. 10.1 and 10.1.1):

352. Pursuant to Article 17(2) of the AML/CFT Law, reporting entities are required to maintain for at least ten years all necessary records on transactions at the national or international level.⁴⁴ In addition, Article 17(3) states that “*persons required to exercise due diligence shall maintain account books and business correspondence for a period of at least ten years after the end of the business relationship.*” The authorities stated that the term “account books” refers to “accounting records,” which include all the relevant information on the transactions performed by the customer (i.e., nature and date of transaction, type and amount of currency involved, type and identification number of any account involved in the transaction, etc.).

353. The record-keeping requirement for transaction records, a period of 10 years, seems overall sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. However, some other necessary components of transaction records (i.e., customers’ and beneficiary’s name, address, or other identifying information normally recorded by the financial institution) are not properly maintained and, as such, the shortcomings identified under Rec.5, in particular with respect to obtaining adequate customers’ and beneficial owner’s identification documents (identification data), coupled with the challenges in verifying the physical address of the customer, affect the effective implementation of the record-keeping requirements.

Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):

⁴⁴While the English version of the law refers to “*reporting authorities*,” the French and Kinyarwanda texts refer to “*reporting entities*.” According to the authorities, the English wording is erroneous, and the obligation is clearly on the reporting entities—not on the authorities—as indicated in the French and Kinyarwanda versions.

354. Article 17(1) of the AML/CFT Law requires reporting entities to keep records on the identification data obtained through or presented during the CDD process for a period of at least 10 years after the end of the business relationship. In the case of an occasional customer, the ten-year period starts from the conclusion of the transaction. Article 17(3) mentioned above sets out a requirement to maintain business correspondence for a period of at least ten years after the end of the business relationship. There is no requirement to maintain account files in line with criterion 10.2 (i.e., account applications, related business activity, and any other supporting information related to the identification data).

Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

355. Pursuant to Article 17(4), *“identification data and transactions records are immediately given to the requesting competent domestic authorities upon authorization by the Financial Investigation Unit.”* However, the requirement is too restrictive because access is only possible upon authorization by the FIU.

Obtain Originator Information for Wire Transfers (applying c. 5.2 and 5.3 in R.5, c.VII.1), and Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2):

356. In Rwanda, only banks and money remitters are licensed to provide payment services. However, only banks can conduct wire transfer activities. In the case of money remitters, payment services are conducted through banks, which are the only institutions having direct access to the Central Bank Payment System (Article 9(3) of Banking Law). Large money remitters such as Western Union and MoneyGram are not licensed by the BNR or incorporated as legal entities in Rwanda, but operate through an agency relationship agreement with local banks. As such, they are not allowed to conduct wire transfers.

357. According to Article 6 paragraph 1 of the AML/CFT Law, *“any transfer of money or negotiable instruments destined for or coming from a foreign country, of an amount at least equal to a threshold (still to be set) by the FIU, must be performed by a bank, a financial institution or an authorized money remitter.”* Pursuant to paragraph 2, banks, other reporting entities, and money remitters must include “accurate originator information” on all money transfers, electronic or other, along with any other related message. This information must go along with the transfer through the payment chain. The law does not define what is meant by “accurate originator information.” The authorities understand this to cover the originator’s name, account number, and address (“full originator information”), but could not corroborate that this information is indeed required in practice.

358. There is no specific requirement for ordering financial institutions to obtain and maintain in all wire transfers of EUR/US\$1,000 or more, the information related to the originator of the wire transfer as requested under criteria VII.1 [i.e., the name of the originator, the originator's account number (or unique reference number if no account number exists), and the originator's address]. Similarly, there are no requirements for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5.

359. There are exceptions to the rule for the following: i) wire transfers performed with credit or debit card so long as the number appears in the included information; however, it applies when the credit or cash cards are used as a means of payment, and ii) "wire transfers and payments when the originator subject to the obligation of providing information and the beneficiary are financial institutions which are acting on their own account" (paragraphs 3 and 4 of the same Article). These exceptions are in line with the type of payments listed in the Interpretative Note to SR.VII and to which the recommendation does not apply.

360. Article 10 of the AML/CFT Law also requires reporting entities to identify their customers when they receive a wire transfer that does not contain full information about the originator. The authorities could not explain the rationale for this requirement.

361. In practice, Article 6 does not apply, considering that the FIU has not yet set the threshold applicable to cross-border wire transfers.

Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3):

362. According to the authorities, the obligation set in Article 6 paragraph 2 to include "accurate originator information" in the transfer applies to both cross-border and domestic transfers. However, the law is ambiguous in this respect, as the text of paragraph 1 seems to limit the scope of Article 6—including its paragraph 2—to cross-border transfers of an amount equal to or above the threshold.

Maintenance of Originator Information ("Travel Rule") (c.VII.4); and Risk Based Procedures for Transfers Not Accompanied by Originator Information (c.VII.5):

363. There is no requirement for each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. Similarly, there are no rules that govern the

measures (other than the identification of the bank's own customer) that should be taken when wire transfers are not accompanied by complete originator information.

Monitoring of Implementation (c. VII.6):

364. There are no measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing SR.VII. The Regulation 002/2010 of the BNR governing payment service providers sets out, as a condition for obtaining the necessary license, the submission to the BNR of the "proof of ability" to comply with all AML/CFT measures (Article 4, paragraph 9). However, the BNR could not establish whether this had been implemented, and, in any event, had not examined, after the license has been granted, whether the payment providers are still able to, and do, in practice, comply the requirements on wire transfers.

Application of Sanctions (c. VII.7: applying c.17.1 – 17.4):

365. Once a license has been granted, there are no sanctions for non-compliance with the wire transfer obligations.

Additional elements: elimination of thresholds (c. VII.8 and c. VII.9):

366. At the time of the assessment, the FIU has not yet set the threshold applicable to cross-border wire transfers.

Implementation and Effectiveness:

R.10:

367. The assessors were informed by the BNR, the CMA, and the private sector representatives across all financial sectors that reporting entities retain all business records for at least ten years and that such records are available to competent authorities. However, in practice, banks, insurance companies, and securities firms comply with this obligation as imposed by sector specific laws. With respect to AML/CFT, only banks were aware of the record-keeping requirement, which reflects low level of effectiveness and implementation of the obligations set forth under the AML/CFT Law. The documentation maintained includes copies of the documentation obtained during the customer identification process (account applications for both natural and legal persons and copies of national ID, passports (for natural persons), and certificates of incorporation, articles of associations, powers of attorneys, etc., as well as the transaction history on the customer's account. However, there are some necessary components of transaction records, which

include the identification of the customer and the beneficial owner, and the ability to verify the address using independent and reliable data, which are not properly maintained. The shortcomings noted with regard to the implementation of the CDD measures have an impact on the effective implementation of the record-keeping requirements.

SR.VII:

368. Wire transfers are carried out using the SWIFT system, which requires that all fields in the message order are adequately completed. In this respect, representatives from banks indicated that the system is designed to detect the lack of originator information in the instructions, and that no transaction would take place if any information is missing. Banks' representatives indicated that, in practice, when a transfer is received without adequate originator information, it is placed "on hold" until the remaining information is provided. However, the absence of complete information is not considered a factor in assessing whether a transaction should be reported to the FIU, and no reports have therefore been filed for failure to provide full originator information. Financial institutions met by the assessors all indicated not having any major issue with respect to the implementation of requirements on wire transfers but showed a low level of awareness as to how the relevant AML/CFT controls should apply in this regard.

3.5.2 Recommendations and Comments

369. In order to fully comply with the requirements of Recommendation 10 and SR.VII, the authorities are recommended to do the following:

Recommendation 10:

- Require financial institutions to maintain records on account files;
- Ensure that all customer information required under Recommendation 5 is properly maintained;
- Ensure that there is no restriction to timely access to customer and transaction records by competent authorities.

Recommendation SR.VII:

- Require financial institutions conducting wire transfers (both domestic and international) of EUR/US\$1,000 or more to obtain and maintain full originator information (i.e., the originator's name, account number, and the address) and to verify the identity of the originator in accordance with Recommendation 5;
- Require each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer;
- Require beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information as a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII;
- Monitor the compliance of financial institutions with the requirements set forth under SR.VII; and
- Ensure that there are effective, proportionate, and dissuasive sanctions for failure to comply with the wire transfer requirements.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to maintain accounts files. • Limitation/restriction of competent authorities' access on a timely basis to customer and transaction records. • The shortcomings identified under Recommendation 5 affect the effectiveness and implementation of the record-keeping measures with regard to the necessary components of transaction records (i.e., address, beneficiary's name).
SR.VII	NC	<ul style="list-style-type: none"> • No requirement for reporting entities conducting wire transfers both domestic and international of amounts equivalent to EUR/US\$1000 or more to obtain and maintain full originator information. • No requirement for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5. • Lack of clarity as to whether originator information should be included in domestic wire transfers. • No requirement on intermediaries and beneficiary financial institutions in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer.

		<ul style="list-style-type: none"> • No requirement on beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII. • No supervisory framework to ensure compliance with the wire transfer requirements after the granting of the necessary license. • No sanctioning regime for failure to comply with wire transfer requirements. • Lack of effective implementation.
--	--	---

3.6. Monitoring of Transactions and Relationships (R.11 and 21)

3.6.1 *Description and Analysis*

Legal Framework:

370. The AML/CFT Law establishes the framework for preventive measures for reporting entities with respect to monitoring unusual transactions (R.11) and paying special attention to countries not sufficiently applying the FATF Recommendations (R.21). There were no AML/CFT regulations in place at the time of the assessment. Draft regulations had been prepared but were not shared with the assessors.

Special Attention to Complex, Unusual Large Transactions (c. 11.1), and Examination of Complex and Unusual Transactions (c. 11.2), and Record-Keeping of Findings of Examination (c. 11.3):

371. Reporting entities⁴⁵ are required to pay special attention to all complex, unusual patterns of transactions or exceptionally large transactions, which have no apparent economic or visible lawful purpose. They must examine the background and purpose of such transactions, establish their findings in writing, and transmit a report the transaction to the FIU (Article 15, paragraph 1 of the AML/CFT Law). In line with the obligation established under Article 17, paragraph 2, reporting entities are required to maintain, for a period of at least 10 years, all necessary records on transactions at the national and international level. They are not, however, required to make their findings available for competent authorities and auditors.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 and 21.1.1), and Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

372. Pursuant to Article 15, paragraph 2 of the AML/CFT Law, reporting entities are also required to pay special attention to business relationships and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for in the Rwandan AML/CFT Law. However, the requirement does not extend to countries that do not apply the standard on combating terrorist financing. In addition, there are no measures in place to advise reporting entities on concerns about weaknesses in the AML/CFT systems of other countries.

373. Although there are obligations on reporting entities to pay special attention to all complex, unusual patterns of transactions or exceptionally large transactions that have no apparent economic or visible lawful purpose, to examine the background and purpose of transactions, and to document their findings in writing as described under R.11 above, these obligations do not extend to business relationships and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for in the Rwandan AML/CFT Law.

Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

⁴⁵The English translation of the AML/CFT Law refers to “reporting authorities.” The French version, however, refers to “reporting entities,” which, according to the authorities, reflects the legislator’s intention as well as the content of the Kinyarwanda version. The inconsistency in the English translation has no bearing on the assessment.

374. The AML/CFT framework does not address possible counter-measures to protect Rwanda's financial sector from the risk arising from countries that continue not to apply or insufficiently apply the FATF Recommendations.

Implementation and Effectiveness:

375. Meetings with representatives from the private sector revealed limited knowledge of the requirement and inconsistencies in its implementation with few banks (namely generally those with a parent company abroad), demonstrating a better understanding of the requirement. During the same meetings, representatives indicated that some of their entities (with the exception of banks) did not have an automated system to monitor transactions on a real-time basis. As such, the monitoring of transactions was conducted manually and at the end of the day. In several instances, representatives from reporting entities visited were not aware of the AML/CFT Law in place or of its requirements; therefore, no monitoring of unusual transactions was taking place.

376. In light of the inconsistencies between foreign banks and other reporting entities, the implementation of the requirement is not considered effective.

3.6.2 Recommendations and Comments:

377. In order to comply fully with the standard, the authorities are recommended to do the following:

Recommendation 11:

- Require reporting entities to keep the findings of their analysis and examination of unusual transactions available for competent authorities and auditors.

Recommendation 21:

- Ensure that the reporting requirement extends to combating terrorist financing;
- Ensure that reporting entities are advised of concerns about weaknesses in the AML/CFT systems of other countries;

- Extend the obligation on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and to keep their written findings of those transactions available to assist competent authorities and auditors for business relations and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for the Rwandan AML/CFT Law; and
- Establish mechanisms for applying counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.6.3 Compliance with Recommendations 11 and 21

	Rating	Summary of factors underlying rating
R.11	NC	<ul style="list-style-type: none"> • No obligation to make findings of examinations of complex and unusual transactions available to competent authorities and auditors. • Limited knowledge of the requirement coupled with ineffective implementation due to non-automated systems for monitoring transactions. • Lack of effective implementation.
R.21	NC	<ul style="list-style-type: none"> • Lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries. • Lack of requirements imposed on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and that the written findings of those business transactions be available to assist competent authorities and auditors. • Lack of counter-measures in place to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations. • Lack of effective implementation.

3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 and SR.IV)

3.7.1 *Description and Analysis*⁴⁶

378. The AML/CFT Law provides the legal framework for the reporting of transactions to the FIU, which includes the filing of reports for any suspicion of money laundering and terrorist financing, and for any unusual transaction that is not justified. The scope of the suspicious transaction reporting requirement is too narrow, both with respect to money laundering and to terrorist financing.

379. The level of reporting is extremely low (only six STRs submitted by banks since the establishment of the FIU in May 2011) due to the lack of awareness of the obligations imposed by the AML/CFT Law.

Legal Framework:

380. The obligation to report suspicious transactions to the FIU is set out in Article 21 of the AML/CFT Law. Like other AML/CFT preventive measures, it applies to all reporting entities (natural or legal person) listed under Article 3 of the law, namely those who, in the framework of their profession, conduct, control, or advise transactions involving deposits, exchanges, investments, conversions, or any other capital movement or any other property, in particular, the BNR, banks, and other nonbank financial institutions (microfinance institutions, payment systems/service providers, money remitters, and *bureaux de change*). The obligation does not, however, extend to insurance companies and insurance brokers/agents because they are not covered by the definition of reporting entity.

381. No regulations or guidelines have been issued to provide further guidance to entities on the reporting of suspicious transactions.

Requirement to Make STRs on ML and TF to FIU (c. 13.1 and IV.1), and STRs Related to Terrorism and its Financing (c. 13.2), and Additional Element—Reporting of All Criminal Acts (c. 13.5):

⁴⁶The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

382. Reporting entities must, whenever they have reasonable motives to suspect that the funds or movement of funds are linked, associated, or destined to be used in money laundering activities or for financing terrorism, terrorism or acts of terrorism, or of terrorist organizations, report immediately their suspicion to the FIU. They must also immediately convey to the FIU any additional information that may confirm or deny their suspicion (Article 21 of the AML/CFT Law). Although the requirement is for reporting entities to report when “they have reasonable motives to suspect,” meetings with representatives of the banking sector revealed that their practice is to report transactions when they suspect that the transaction is linked to potential money laundering or terrorist financing.

383. As mentioned under Recommendation 1 above, the money laundering offense covers most, but not all, of the designated categories of predicate offenses. The scope of the reporting obligation and its reference to “money laundering activities” is therefore too limited. With respect to terrorism and its financing, the reporting obligation also falls short of the standard, considering that it does not address suspicions that funds may be linked or related to individual terrorists, terrorist organizations, and those who finance terrorism.

No Reporting Threshold for STRs (c. 13.3):

384. There is no explicit obligation to report attempted transactions. The authorities were not able to explain whether attempted transactions are implicitly included under the requirement of Article 21 of the AML/CFT Law. Meetings with representatives of the banking sector revealed that they would report attempted transactions as a matter of good practice (or in compliance with a requirement imposed by their parent companies abroad), but none have been reported so far.

385. In line with the standard, there are no thresholds contained in the law that would limit the range of suspicious transactions to be reported.

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

386. There is no explicit restriction in the law and no other indication that would suggest that the reporting requirements may be limited when the transactions are also thought to involve tax matters. As of the mission date, no tax-related STRs had been reported to the FIU.

Protection for Making STRs (c. 14.1):

387. No proceedings for breach of professional secrecy can be brought against the executive officers and employees of reporting entities who, in good faith, have transmitted information or submitted STRs to the FIU, even if the investigations or the court orders did not result in any conviction (Article 27(3) of the AML/CFT Law).

388. The authorities were not able to establish whether the protection extended to the independent or external members of the board of directors, managers, and any agents or representatives of the entities. Notwithstanding the need for implementing regulations, the protection granted under Article 27(3) above nevertheless seems sufficiently broad to provide general protection. Meetings with reporting entities, banks in particular, did not reveal any concerns with respect to the protection granted by the AML/CFT Law (other reporting entities were not aware of the protection as granted by the AML/CFT Law).

Prohibition Against Tipping-Off (c. 14.2):

389. Reporting entities are prohibited from revealing to their customers or to third parties that information has been communicated to the FIU or that a report related to money laundering or financing of terrorism has been submitted to the FIU (Article 22 of the AML/CFT Law). The authorities described “third parties” as any other person (natural or legal) not related to the customer or the reporting entities. BNR officials indicated that the BNR is not considered a third party.

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

390. The law does not address this element, but the authorities indicated that in practice the names and personal details of staff of reporting entities that make an STR are kept confidential by the FIU.

Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1):

391. Rwanda has considered the feasibility and utility of a threshold-based reporting system and included a reporting obligation in its AML/CFT Law: pursuant to Article 18, reporting authorities are required to report to the FIU, using the appropriate form and time determined by regulations set by the FIU, all cash transactions above the threshold set out by the FIU. The article also provides that this requirement is not applicable when both the sender and the recipient are “banks or financial institutions.”

392. Reporting authorities are also required to report to the FIU all transactions above the established threshold if they are part of transactions that are or seem to be linked and in the aggregate would exceed the established threshold.

393. At the time of the assessment, no threshold had been set.

Additional Element—Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2): and Additional Element—Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

394. The authorities indicated that there are no systems in place yet for reporting cash transactions to the FIU.

Feedback and Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.2) [Note: guidelines with respect to other aspects of compliance are analyzed in Section 3.10]—Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):

395. At the time of the assessment, no feedback or guidelines had been provided to the reporting entities with respect to their reporting obligations.

Statistics (R.32):

396. Statistics provided by the FIU during the assessment indicated that since it became operational in 2011, six STRs have been filed. All six were sent by banks. No other statistics were provided by the BNR.

Implementation and Effectiveness:

397. As mentioned above, implementation of the reporting obligation is low. This can be partly explained by the fact that although the AML/CFT Law has been in force since 2009, the FIU was not established until 2011.

398. Overall, the system for reporting suspicious transactions does not seem to be effective. This conclusion is supported by the low number of reports submitted to the FIU, and the very low level of awareness among the reporting entities (with the limited exception of foreign owned banks, where the level of awareness was slightly better). The assessors are of the view that guidance and outreach activities are needed.

3.7.2 Recommendations and Comments:

399. The main deficiency of the current reporting requirement is its limited scope. In order to comply fully with Recommendations 13, 14, 19, 25, and 32, the authorities are recommended to do the following:

- Amend the reporting obligation to apply to all the predicate offenses designated by the FATF;
- Include insurance companies and insurance brokers/agents in the definition of reporting entity to ensure that the reporting obligation covers them as well;
- Require all reporting entities (as defined in the FATF standard) to report all transactions, including attempted transactions, when they suspect or have reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to, or to be used for terrorism, terrorist acts, or terrorist organizations, or those who finance terrorism;
- Ensure that competent authorities, and particularly the FIU, provide guidance to assist reporting entities on AML/CFT issues covered under the FATF recommendations, including, at a minimum, a description of ML and FT techniques and methods, and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective;
- Establish communication mechanisms between the BNR, the FIU, and the CMA, as well as a mechanism for providing feedback to reporting entities including general and specific or case-by-case feedback;
- Consider providing guidance to reporting entities using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons; and
- Although not a technical deficiency, it may be useful to clarify that the protection for good faith reporting extends to the members of the board of directors or managers, the board committees, the compliance officer, other officers of the reporting entities, and any agents or representatives of the reporting entities.

3.7.3 Compliance with Recommendations 13, 14, 19, and 25 (criteria 25.2), and SR.IV

	Rating	Summary of factors underlying rating
R.13	NC	<ul style="list-style-type: none"> • The scope of the reporting obligation is too narrow because the money laundering offense does not apply to all the predicate offenses designated by the FATF. • The reporting obligation does not extend to insurance companies and insurance brokers/agents. • There is no obligation to report attempted transactions. • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists. • Implementation of reporting obligation is low.
R.14	C	This recommendation is met.
R.19	C	This recommendation is met.
R.25	NC	<ul style="list-style-type: none"> • Lack of guidelines and guidance on reporting obligation. • Lack of adequate and appropriate feedback from competent authorities, in particular the FIU.
SR.IV	NC	<ul style="list-style-type: none"> • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists, terrorist organizations, or those who finance terrorism.

Internal controls and other measures

3.8. Internal Controls, Compliance, Audit, and Foreign Branches (R.15 and 22)

3.8.1 *Description and Analysis*

Legal Framework:

400. The AML/CFT Law requires reporting entities to develop and maintain anti-money laundering and combating the financing of terrorism programs, designate a compliance officer at the management level, and establish mechanisms for recruiting staff. However, with the exception of banks, none of the reporting entities have adopted, developed, or implemented policies and procedures in line with these requirements. The obligation does not extend to insurance companies and insurance brokers/agents as these are not included in the definition of reporting entities.

Establish and Maintain Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1, and 15.1.2) and Employee Screening Procedures (c. 15.4):

401. Reporting entities⁴⁷ are required to develop and maintain programs “which are against money laundering and terrorist financing.” The programs should contain a number of elements, such as “the improvement of policies, procedures and controls including recruitment supervision mechanisms to check whether recruitment requirements are satisfactorily complied with” and “the designation of inspections at the management level” (Article 19 (1) and (2)). The authorities stated that, although this is not explicitly mentioned in the law, the intention of the legislator was to include a requirement to designate a compliance officer at the management level. The authorities acknowledged that the text should be clarified on this point.

402. The obligations under Article 19 (1) and (2) are very general and lack the necessary level of detail required by the standard. In particular, they do not establish the type of procedures, policies, and controls required (such as CDD measures), nor do they address record retention, detection of unusual and suspicious transactions, and the reporting obligation.

403. In addition, there are no obligations on reporting entities to (i) communicate the internal procedures, policies, and controls to prevent ML and FT to their employees, and (ii) grant the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information.

⁴⁷See explanation under footnote 25.

404. The authorities indicated that the requirement addressing “recruitment supervision mechanisms” refers to measures for hiring potential employees, and includes conducting face-to-face interviews, verifying previous employment references and personal references, and obtaining a “Certificate of Good Conduct” from law enforcement agencies.

Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):

405. Pursuant to Article 19(4) of the AML/CFT Law, the programs required should also include “a permanent audit function to ensure the conformity and the efficiency” of the AML/CFT measures adopted in compliance with the law. There is, however, no obligation to have an independent and well resourced audit function.

Ongoing Employee Training on AML/CFT Matters (c. 15.3):

406. Reporting entities are required to develop and maintain ongoing employee training on AML/CFT matters (Article 19 (3)). This obligation is drafted in very general terms and does not specify the content and scope of the required training. In particular, it does not establish that it should include information on current ML and TF techniques, methods and trends; all aspects of the AML/CFT Law and obligations; and in particular, the requirements concerning CDD and suspicious transaction reporting.

Additional Element—Independence of Compliance Officer (c. 15.5):

407. The AML/CFT Law does not address this element.

Application of AML/CFT Measures to Foreign Branches and Subsidiaries (c. 22.1, 22.1.1 and 22.1.2), and Requirement to Inform Home Country Supervisor if Foreign Branches and Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2), and Additional Element—Consistency of CDD Measures at Group Level (c. 22.3):

408. Not applicable. There are no Rwandan banks with foreign branches and subsidiaries abroad.

Implementation and Effectiveness:

409. Meetings with reporting entities across sectors revealed that there are some marked inconsistencies with respect to the scope and coverage of the compliance programs in place. The level of compliance with Article 19 of the AML/CFT Law varied significantly

between the various groups of reporting entities: banks with a foreign ownership had basic AML/CFT measures in place; however, securities brokers, *bureaux de change*, microfinance institutions, pension funds, and payment services/system providers had no AML/CFT controls in place. Also, the obligations do not extend to insurance companies and insurance brokers/agents as these are not included in the definition of reporting entities. The main reasons for this lack of compliance can be attributed to the lack of awareness of the AML/CFT Law and its obligations, and the lack of guidance from and supervision by competent authorities. For all these reasons, the preventive measures dealing with internal AML/CFT programs are not effective.

3.8.2 Recommendations and Comments:

410. In order to fully comply with Recommendation 15, the authorities are recommended to do the following:

- Require all reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation;
- Require reporting entities to designate the AML/CFT compliance officer at managerial level;
- Require reporting entities to ensure that the AML/CFT compliance officer and other appropriate staff have timely access to customer information, data and other CDD information, transaction records, and other relevant information;
- Require reporting entities to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies, and controls; and provide them with sufficient details to ensure that the scope of the internal audit function clearly includes AML/CFT audits and an overall assessment of the adequacy of the internal control systems and policies with respect to AML/CFT; and
- Require reporting entities to develop and maintain ongoing employee training on AML/CFT matters, in particular to include information on current ML and FT techniques, methods, and trends; all aspects of the AML/CFT Law and obligations; and the requirements concerning CDD and suspicious transaction reporting.

411. Although Recommendation 22 is not currently applicable to Rwanda, authorities are also encouraged to set out provisions for reporting entities in the event that foreign branches and subsidiaries are established to ensure that these institutions observe AML/CFT

measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e., host country) laws and regulations permit; to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e., host country) laws and regulations permit.

3.8.3 *Compliance with Recommendations 15 and 22*

	Rating	Summary of factors underlying rating
R.15	PC	<p>Although the AML/CFT Law does require the implementation of some measures to prevent ML and TF, it lacks the necessary level of clarity and detail to be in compliance with the standard. In particular:</p> <ul style="list-style-type: none"> • The requirements for reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions and the reporting obligation are incomplete. • There are incomplete requirements for reporting entities to do the following: <ul style="list-style-type: none"> ▪ Communicate the internal procedures, policies, and controls to prevent ML and FT to their employees. ▪ Designate the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. • The requirements for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and

		<p>to maintain an adequately resourced and independent audit function are incomplete.</p> <ul style="list-style-type: none"> • There is a lack of implementation of the requirements under this recommendation. • Effectiveness was not established.
R.22	N/A	

3.9. Shell Banks (R.18)

3.9.1 Description and Analysis

Legal Framework:

412. Both the AML/CFT Law and the Banking Law contain provisions to address the conditions of a bank's physical presence in Rwanda.

Prohibition of Establishment Shell Banks (c. 18.1):

413. The Banking Law, under Chapter II, establishes the licensing requirements for banks. In addition, Article 9(1) of the AML/CFT Law requires banks to have a physical presence in Rwanda to be able to operate in the country. It does not, however, define what constitutes "physical presence." Under Article 32 of the Banking Law, bank managers are required to be domiciled in Rwanda. Further licensing requirements (applicable to domestic banks as well as to branches and/or subsidiaries of foreign banks) in the Banking Law preclude the establishment of shell banks. These requirements are covered in detail under Recommendation 23 of this report. As such, the requirements under the Banking Law, together with the requirement under the AML law, seem to effectively preclude the establishment or continued operation of shell banks in Rwanda.

Prohibition of Correspondent Banking with Shell Banks (c. 18.2):

414. Banks are prohibited from having business relationships with banks registered in places where they are not physically present (Article 9(2) of the AML/CFT Law). According to the authorities, the notion of “not physically present” includes instances where a bank has no operation or business in its place of registration. This prohibition would effectively preclude banks from entering into and/or continuing correspondent banking relationships with shell banks.

Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):

415. There is no requirement on banks to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. In practice, however, it seems that none of the banks visited during the mission provide correspondent accounts to financial institutions abroad.

Implementation and Effectiveness:

416. Representatives from the banking sector indicated that there are no shell banks established in or operating from Rwanda and no Rwandan banks maintain any correspondent relationships with shell banks. The legal framework for licensing a bank in Rwanda effectively prohibits the establishment or continued operation of shell banks.

3.9.2 Recommendations and Comments

417. In order to fully comply with Recommendation 18, the authorities are recommended to do the following:

- Explicitly require reporting entities to satisfy themselves that when establishing correspondent relationships in the future, their respondent institutions in foreign countries 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	LC	<ul style="list-style-type: none">• No requirement for reporting entities to satisfy themselves that their foreign respondents 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 Self-Regulatory Organizations (SROs). Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17, and 25)

Legal framework:

418. There are two supervisory authorities responsible for prudential (financial risks) and market conduct supervision, namely the National Bank of Rwanda (BNR) and the Capital Markets Authority (CMA). However, they are not responsible for AML/CFT supervision.⁴⁸

3.10.1 Description and Analysis

Competent authorities—powers and resources: Designation of Competent Authority (c. 23.2); Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2);

419. According to the authorities, the BNR and CMA's respective remits extend to the monitoring of the financial entities' compliance with any obligations, i.e., including those set out in the AML/CFT Law. However, they were not able to provide the legal basis for this. The AML/CFT Law does not designate or make any reference to the authorities responsible for AML/CFT supervision, and does not cross-refer to any of the sector-specific laws (neither in its preamble, nor in its specific provisions). The sector-specific laws provide the legal framework for the BNR and CMA supervision as set out in the table below, but do not address AML/CFT issues. The powers that they grant the BNR and CMA apply only in the context of the provisions set out in these laws. There is therefore no

⁴⁸The BNR and CMA powers in relation to prudential and market conduct matters (and not for AML/CFT purposes) are set out in the following laws:

- Law No. 55/2007 of 30/11/2007 governing the Central Bank of Rwanda—applicable to foreign exchange market, banks, microfinance, insurance companies, social security institutions, collective placement companies, and pension funds institutions.
- Law No. 007/2008 of 08/04/2008 concerning organization of banking—applicable to banks, microfinance, cooperative savings and loans associations, and savings institutions.
- Law No. 40/2008 of 26/08/2008 establishing the organization of microfinance activities—applicable to microfinance institutions.
- Law No. 52/2008 of 10/09/2008 governing the organization of insurance business—applicable to insurers and licensed insurance intermediaries.
- Law No. 03/2010 of 26/02/2010 concerning payment system—applicable to payment system providers.
- Law No. 11/2011 of 18/05/2011 establishing the CMA and determining its mission, powers, organization and functioning—applicable to brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

authority that has been designated to monitor the reporting entities' compliance with AML/CFT obligations. In addition, although the authorities claim that they are responsible for AML/CFT supervision, neither the BNR nor the CMA could demonstrate that they have conducted such supervision in practice. Consequently, AML/CFT supervision does not take place, neither de jure nor de facto.⁴⁹

420. The BNR and CMA powers in other areas and their respective organizational charts are indicated below.

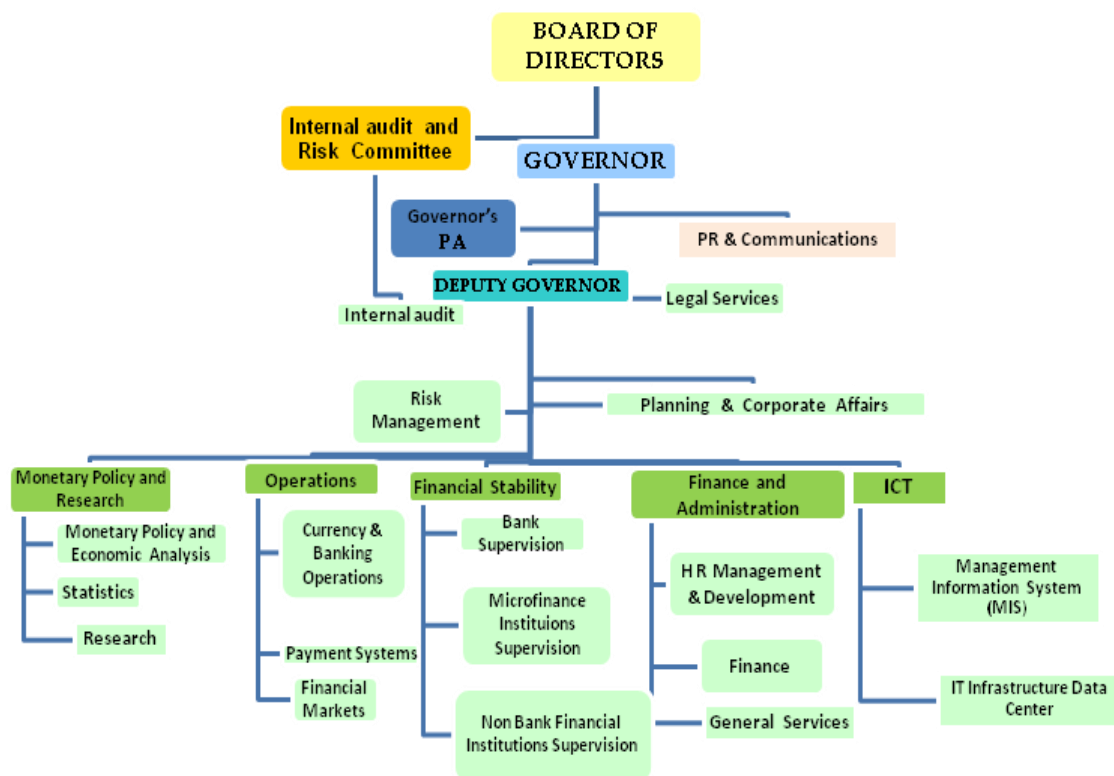
National Bank of Rwanda (BNR):

421. The BNR is responsible for regulation and supervision, with respect to financial risks (prudential supervision) of banks, microfinance companies, insurance companies and brokers, pension funds, savings and credit institutions, *bureaux de change*, and payment systems/services providers (which includes money remitters).

422. The BNR's organizational chart below presents the supervisory structure in place at the time of the assessment.

Figure 1. BNR Organizational Chart

⁴⁹Although Article 13 of Presidential Order 27/01 designates the FIU as the supervisory authority for reporting entities without a natural supervisor, this responsibility/power does not extend to making the FIU the designated competent authority for AML/CFT supervision of those reporting entities under the responsibility of the BNR and the CMA.



Capital Markets Authority (CMA):

423. The CMA is responsible for regulation and supervision of securities firms, brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency with respect to market conduct.

Powers to Monitor and Supervise Reporting Entities:

424. Sector-specific laws provide both the BNR and the CMA with powers to monitor and supervise (including conducting inspections of) their respective reporting entities as follows:

Table 5. Powers to Monitor and Supervise Reporting Entities.

Sector specific law:	Powers vested under Article(s):	Sector/Reporting Entity	Areas Supervised:
Central Bank Law (No. 55/2007)	6(2) 6(3) 53	Foreign Exchange Market Banks, Microfinance, Insurance Companies, Social Security Institutions, Collective Placement Companies, and Pension Funds Institutions	Financial/Prudential Risks and access to any documents, information, or necessary justifications for the analysis of the position of the financial institutions.
Banking Law (No. 007/2008)	58 61	Banks, Microfinance, Cooperative Savings and Loans Associations, and Savings Institutions	Financial/Prudential Risks as banks and their branches are required to make their books, minutes, receipts, and other documents available for inspection by the inspectors of the Central Bank.
Microfinance Law	40	Microfinance institutions	Financial/Prudential Risks

(No. 40/2008)	35		Microfinance institutions should transmit to the Central Bank all financial statements and documents set by the Central Bank regulations and all information requested to assess their financial situation. The powers to access the records, documents, or information relevant to monitoring including policies, procedures, books, and records are vested under the Banking Law as stated above.
Insurance Law (No. 52/2008)	54	Insurers, Licensed Insurance Intermediaries	Financial/Prudential Risks including procedures, systems and controls, assets, and examining and making copies of documents related to the business, and any other information or

			documents specified in the regulations.
Payment System Law (No. 003/2010)	7(3), 8, and 9	Payment providers system	Financial/Prudential Risks and the power to request at any time from the PSP any information, document, clarification, proof and any other. Also the power to appoint auditors or any other persons to carry out inspections of systems, operators and issues of payment instruments.
Capital Market Authority Law (No. 11/2011)	4(9)	Brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency	Market conduct.
Law Regulating Capital Market in Rwanda (No. 01/2011)	36 to 39	Same reporting entities.	CMA is granted the powers to request information from any licensed or approved person, inspect any

			<p>licensed or approved person with an Order of the Minister, carry out investigations, and entry into the premises of any licensed or approved person.</p> <p>However, there is nothing in the law addressing the CMA's powers to access records, documents, or information relevant to monitoring including policies, procedures, books, and records and sample testing.</p>
--	--	--	--

425. The authorities also indicated that a draft Pension Law is currently pending in Parliament.

426. As mentioned above, none of the sector-specific laws provide that the respective supervisory powers extend to AML/CFT issues or designate the BNR and the CMA as the competent authorities with responsibility to regulate and supervise their reporting entities for AML/CFT purposes. As also mentioned above, the AML/CFT Law does not designate the AML/CFT supervisor(s). In the absence of a legal basis, the powers vested to the BNR and the CMA under the sector-specific laws may not be used for AML/CFT purposes. Meetings with officials from the BNR's Supervision Departments for banks, microfinance, insurance, pension funds, payment system/services providers, and *bureaux de change* revealed that the BNR supervisory approach for financial/prudential matters was based on risk (complemented with the CAMELS methodology for banks), including for both off- and onsite activities. The authorities provided the assessors with documentation related to supervisory activities in general for both offsite and onsite. A review of this

documentation revealed that the BNR Bank Supervision Department's Offsite Surveillance Manual exclusively focused on financial/prudential risks. There was no coverage of surveillance and monitoring activities for AML/CFT purposes. The authorities also provided the assessors with a copy of the BNR's Onsite Inspection Procedures Manual (dated January 2010), which includes several references to AML/CFT. However, the scope of these references with respect to inspection procedures, as contained in the section of the manual addressing the assessment of the "Management" component of CAMELS, was limited to the following activities: (i) determining whether the bank has an effective AML/CFT function, (ii) determining the adequacy of internal audit review of anti-money laundering issues, and (iii) communicating with examiners reviewing other areas to assess the level of compliance with other applicable laws such as AML. These activities are not comprehensive enough to provide the details of what the supervisors are supposed to inspect when assessing the level of compliance of financial institutions with respect to AML/CFT preventive measures. Furthermore, the assessors could not establish the scope or the extent of the onsite inspection work performed as the Bank Supervision Department officials did not provide working papers supporting the AML/CFT activities conducted. The authorities indicated that AML/CFT matters were documented and reported to management only when noncompliance issues and/or violations of law were identified.

427. The BNR authorities, however, were able to provide the following supervisory statistical information during the mission:

Table 6. Financial/Prudential onsite inspections conducted by the BNR (2009–2011)

Reporting Entity Inspected	Total Number of Reporting Entities Licensed and Operating as of the mission date	2009 Inspections Conducted	2010 Inspections Conducted	2011 Inspections Conducted
Bank	15	4	4	7
Microfinance	134	38	44	52
Insurance Companies	13	6	2	5
Pension Funds	1	*	*	*
Bureaux de Change	133	*	1	27
Payment System/Services Providers	*	3	8	14

*Information not provided by the authorities.

428. Although BNR officials indicated that during their onsite inspections AML/CFT matters are covered as part of the financial/prudential inspection, they did not provide the assessors with documentation, including work papers and reports of inspections covering the AML/CFT work performed, to support the scope of their AML/CFT activities.

Adequacy of resources—Supervisory Authorities (R. 30)

429. The table below provides information with respect to the BNR’s supervisory resources available, including for staff and budgetary. However, the authorities were not able to clearly determine or provide a reasonable estimate of the number of supervisors assigned to conduct AML/CFT inspections, thus making an assessment of the adequacy of current resources impossible.

Table 7. Staffing and Budgetary Resources at the BNR

<i>Department</i>	<i>Number of Staff</i>	<i>Annual Budget Allocation (in monetary terms or in percentage of the BNR's overall budget)</i>
Banking	13	No information provided.
Microfinance	77	No information provided.
Insurance and Pension Funds (NBFIs)	11	No information provided.
Bureaux de Change	3	No information provided.
Payment System/Services Providers	2	No information provided.

430. With respect to supervisory staff maintaining high professional standards, integrity of the staff, and skills and expertise, the BNR authorities indicated that “each staff of the BNR has signed a pledge of confidentiality.” However, the assessors were not provided with a sample copy of such pledge to confirm the coverage of confidentiality.

431. The authorities indicated that as of the mission date, no specific training related to AML/CFT has been provided to BNR staff.

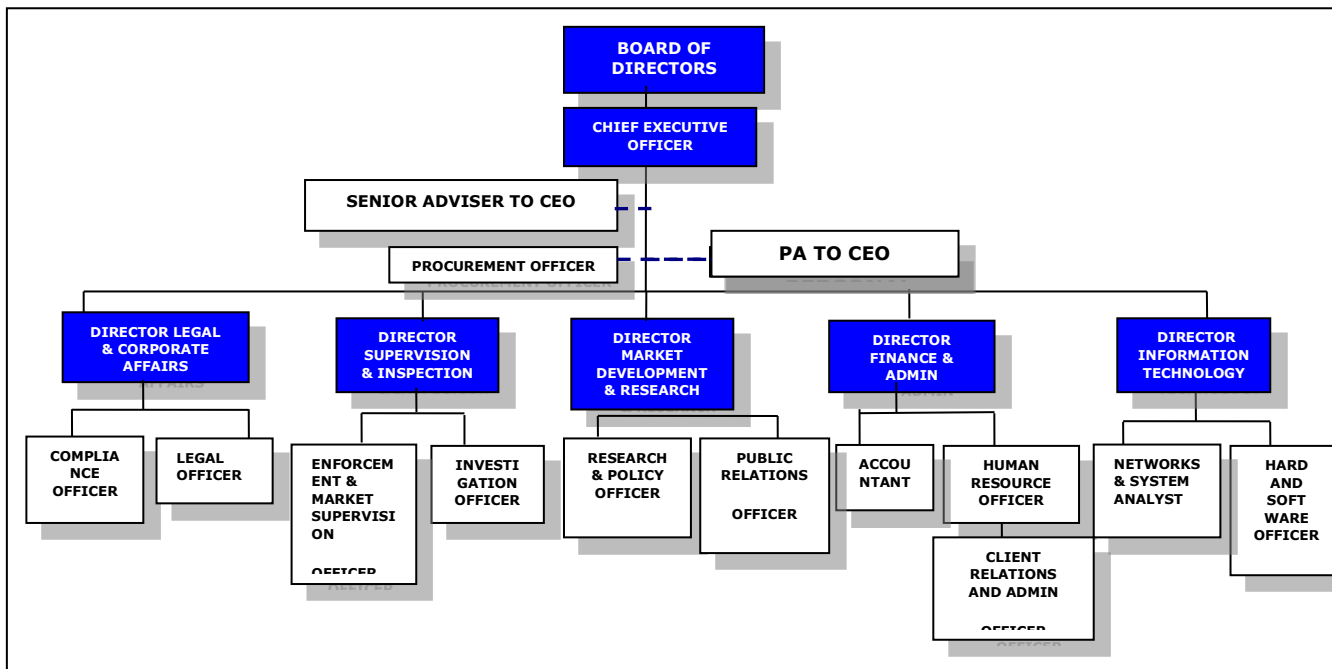
Capital Markets Authority—(CMA):

432. The CMA’s organizational chart below presents the supervisory structure in place at the time of the assessment.

Figure 2. CMA Organizational Chart

433. Meetings with a CMA official revealed that although market conduct inspections have been carried out since the CMA was established in June 2011, to date no AML/CFT inspection has yet been conducted.

Table 8. Staffing and Budgetary Resources at the CMA



<i>Department</i>	<i>Number of Staff</i>	<i>Annual Budget Allocation</i>
CEO Office	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Legal and Corporate Affairs	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Finance and Administration	4	The budget is allocated to the institution and departments get their budget through actions that they perform.
IT	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Market Development and Research	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Supervision and Inspection	3	The budget is allocated to the institution and departments get their budget through actions that they perform.

434. As in the case of the BNR, it was not possible to assess the adequacy of supervisory resources due to the fact that the authorities did not clearly determine or provide a reasonable estimate of the number of supervisors assigned to conduct AML/CFT inspections.

435. Although the CMA authorities did not share with the assessors a copy of the Administration Manual, they indicated that with respect to professional standards for supervisory staff, Part IV of the manual provides “that all staff shall maintain the highest standard of integrity, conduct and self discipline as required. They shall regulate their private and official activities so as not to discredit the Authority. Penalties may be imposed by the Board and/or the CEO as appropriate, in accordance with the disciplinary procedures of the Manual.”

436. The CMA has not provided training to its staff on AML/CFT matters, but is considering developing the training material.⁵⁰

Power of Supervisors to Monitor AML/CFT Requirements (c.29.1) and Authority to conduct AML/CFT inspections by Supervisors (c.29.2):

437. Monitoring, supervision, and inspections of reporting entities by both the BNR and the CMA are mainly focused towards prudential (financial) matters and market conduct, respectively. The powers vested under the sector-specific laws as described under c.23.2 above are only applicable to prudential and market conduct matters and do not extend to or address AML/CFT matters.

438. The CMA is entitled to request, in the exercise of its functions, information from persons licensed or approved, and to enter any premises occupied by a licenses or approved person (Articles 36 and 37 of the Law 01/2011). The Ministerial Order No. 002/12/10/TC of May 18, 2012, which determines the modalities for conducting inspections and investigations, provides the CMA with adequate powers to decide the scope of and to conduct its supervisory functions.

Power for Supervisors to Compel Production of Records (c. 29.3 and 29.3.1):

439. See c.29.1 above for the legal framework applicable by sector.

⁵⁰After the assessment mission, the CMA Legal and Corporate Manager attended an AML training conducted by a Kenyan firm.

Sanctions: Powers of Enforcement and Sanction (c. 29.4); Availability of Effective, Proportionate and Dissuasive Sanctions (c. 17.1); Designation of Authority to Impose Sanctions (c. 17.2); Ability to Sanction Directors and Senior Management of Financial Institutions (c. 17.3); Range of Sanctions—Scope and Proportionality (c. 17.4)

440. Tipping off and failure to comply with the reporting requirements were punishable by 5 to 10 years imprisonment and/or a fine in Article 53, paragraphs 1 and 7 of the AML/CFT Law but these provisions have been repealed by the new Penal Code. Article 54 of the AML/CFT Law enables the “disciplinary and supervisory authority” to sanction other failures to comply with the obligations of the law according to the conditions provided for by the professional and administrative regulations. Although the sector-specific laws provide sanctioning powers to both the BNR and the CMA for violations of the requirements they impose, they do not specifically extend to violations of AML/CFT requirements. It is therefore not entirely clear what sanctions would be imposed in this context. In addition, the wording of the law limits the availability of sanctions to cases where it has been demonstrated that the failure was “a result of either a serious lack of vigilance or a shortcoming in the organization of the internal procedures of money laundering prevention.”

441. The BNR has used its powers in very few occasions (see table below), mostly by imposing financial penalties on reporting entities for failure to provide regulatory reports in a timely manner. For the reasons mentioned above, none of these penalties related to noncompliance with AML/CFT requirements. The CMA Law granted the CMA the powers to impose financial penalties. However, as of the mission date, there was no range of sanctions established or sanctions imposed by the CMA.

Market entry: Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 and 23.3.1); Licensing or Registration of Value Transfer/Exchange Services (c. 23.5); Licensing of other Financial Institutions (c. 23.7):

442. The BNR is responsible for managing the framework for granting and revoking of licenses for banks, microfinance, insurance companies and brokers, pension funds, savings and credit cooperatives, bureaux de change, and payment system/services providers, as well as changes in control over ownership of these reporting entities. The CMA is responsible for granting and revoking of licenses for brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

443. All regulated entities require authorization and a license from the BNR or the CMA to operate in Rwanda. Licensing requirements are covered under the relevant sector law, except for pension schemes.

Table 9. Licensing Requirements Covered Under Relevant Sector Law

Sector	Licensing requirements covered under:	Fit and Proper Criteria	Licensing (Competent) Authority
Banking	Banking Law: Articles, 5 and 6; and Articles 18 to 21 Regulation No. 03/2008: Articles 2 and 3	Banking Law (Art. 5(c)): provides a general statement as follows: “the qualifications and experience of the members of the Board of Directors and management of the future bank are relevant, and that all of these individuals are trustworthy and enjoy an impeccable professional reputation.” Regulation: (Art. 2 and 3) covers fit and proper criteria for substantial shareholders (Appendix 2), proposed directors, and officers (Appendix 4).	BNR
Microfinance	Law No. 40/2008 of 26/08/2008 - Articles 9, 10, 11, 12, 14	Law No. 40/2008 of 26/08/2008 - Article 22, 23	BNR

Insurance	Regulation No. 05/2009 of 29/07/2009 - Articles 6, 7, 38, 43, 44	<p>Regulation No. 05/2009 of 29/07/2009 on licensing requirements and other requirements for carrying out insurance business, Article 8.</p> <p>When determining the fitness and property of current and proposed qualifying shareholders, director, and senior management of a licensed insurer, the central bank shall have regard to:</p> <p>(a) personal quality relating to his general probity competence and soundness of judgment, for fulfilling their responsibilities, and diligence with which they fulfill or are likely to fulfill their responsibilities;</p> <p>(b) previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that the person has been</p>	BNR
-----------	--	---	-----

		<p>declared bankrupt or has been involved as a shareholder, director, or manager of insolvent enterprises;</p> <p>(c) has been convicted of or has been accomplice in any offence involving corruption, fraud, tax evasion, money laundering, other economic and financial crimes, crime against humanity, crime of genocide or terrorism.</p>	
Pension	Not covered in law or regulation ⁵¹	Not covered in law or regulation ⁵²	BNR
Payment System Provider	<p>Regulation No. 006/2012 of 21/06/2012 of the BNR governing payment services providers</p> <p>Regulation No. 05/2010 of 27/12/2010 of the</p>	Not covered in law or regulation	BNR

⁵¹The authorities mentioned that, at the time of the assessment, a draft law covering the licensing and the fit-and-proper requirements for pensions was pending before Parliament.

⁵²The authorities mentioned that, at the time of the assessment, a draft law covering the licensing and the fit-and-proper requirements was pending before Parliament.

	BNR relating to licensing criteria of operating payment and securities settlement systems - Articles 3, 4, 5, 6		
Foreign Exchange (Regulation)	Regulation No. 13/2001 - Articles 3, 4, 5, 6, 7	Not covered in law or regulation	BNR
Securities	Regulation No. 01 of 6/06/2012 – Articles 4, 5, 6, 7	<p>a) Regulation No. 01 of 06/06/2012 of the CMA on capital markets (licensing requirements) sets out a list of elements that the CMA should take into account, namely the following:</p> <ul style="list-style-type: none"> • person's honesty, integrity, and reputation (including by looking at past criminal convictions and disciplinary actions, etc); • person's competence and capability (including by 	CMA

		<p>looking at past training, etc.); and</p> <ul style="list-style-type: none"> • person's financial soundness (including by looking at past bankruptcies). 	
--	--	---	--

444. As per the authorities, in addition to the licensing requirements, all owners, directors, and officers are subject to a vetting process for technical competence, solvency, and integrity. The authorities indicated that in the licensing process for PSPs, forex bureaux are covered and that the clearance form from the Prosecution Authority is submitted to address background checks. They also indicated that the only pension scheme is public (owned by the government) and that in this instance the requirements are not applicable.

445. The authorities provided the following statistical information related to their licensing activities:

Statistical Table 5. Licensing Activities

Apps. Rec'd	Banks	MFs	Ins. Agents	Loss adjusters	Ins. brokers	Insurers	Pensions	Bureaux Change de	PSPs
2009	0	0	0	0	0	1	0	12	1
2010	0	13	133	1	6	2	0	15	7
2011	1	372	120	7	7	5	0	26	0
Applications withdrawn									
2009	0	0	0	0	0	0	0	0	0
2010	0	0	0	0	0	0	0	0	0
2011	0	0	0	0	0	0	0	0	0
Applications rejected									
2009		0	0	0	0	0	0	0	0
2010	0	0	0	0	0	0	0	0	0
2011	0	0	0	0	0	0		0	0
Applications approved									
2009	0	0	0	0	0	0	0	5	1
2010	0	5	120	0		2	0	10	7

2011	1	157	105	5	5	0	0	15	4
Applications pending									
2009	0	0	0	0	0	1	0	0	0
2010	0	8	13	1	2	0	0	0	0
2011	0	215	15	2	2		0	0	

Licensing or Registration of Value Transfer/Exchange Services (c. 23.5):

446. Legal persons providing money or value transfer service or a money or currency changing service are subject to the AML/CFT requirements, and subject to the licensing requirements of the BNR. The authorities indicated that there are no natural persons providing money or value transfer or currency changing services in Rwanda as these activities are conducted through legal persons licensed by the BNR.

Licensing of other Financial Institutions (c. 23.7):

447. At the time of the mission, there were no financial institutions in addition to those subject to the Core Principles.

Ongoing supervision: Regulation and Supervision of Financial Institutions (c. 23.1); Application of Prudential Regulations to AML/CFT (c. 23.4); Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6); AML/CFT Supervision of other Financial Institutions (c. 23.7); Guidelines for Financial Institutions (c. 25.1):

448. Persons and entities that conduct financial sector activities, as defined in the FATF Recommendations, are not subject to AML/CFT supervision in Rwanda, as neither the AML/CFT Law nor the sector-specific laws designate or delegate supervisory responsibility for AML/CFT purposes to a competent authority or authorities. Refer to c. 23.2 for a description of the competent authorities responsible for supervision of reporting entities with respect to financial/prudential risks.

449. With respect reporting entities subject to the Core Principles, the authorities did not provide the mission with documentation to explain whether and how measures applied for prudential purposes that are also relevant for money laundering are applied for AML/CFT purposes.

450. MVTs and *bureaux de change* are subject to supervision under the BNR. However, current supervisory practices/activities do not cover AML/CFT matters.⁵³

451. At the time of the assessment, no feedback or guidelines had been provided to the reporting entities with respect to their AML/CFT obligations.⁵⁴

Implementation and effectiveness:

452. No authority has been designated to conduct AML/CFT supervision. Although the authorities claim that the BNR and CMA are responsible for AML/CFT supervision, they could not establish the legal basis for this supervision and, in practice, neither the BNR nor the CMA has conducted AML/CFT supervision. Because it does not address AML/CFT, the existing supervisory framework appears inadequate to enable the BNR and the MCA to effectively monitor compliance by reporting entities with respect to obligations established by the AML/CFT Law.

453. Although the range of administrative sanctions and powers available to the BNR and the CMA with respect to prudential matters is broad, none of these sanctions and powers target AML/CFT-related matters. Hence, the sanctions and powers are also considered inadequate.

454. There are no measures or mechanisms in place to ensure that CMA supervisory staff maintains high professional standards or legal provisions and sanctions applicable to confidentiality standards. In addition, no training on AML/CFT matters has been provided to staff since the CMA came into existence.

⁵³A new BNR regulation (No. 06/2013 of 21/01/2013 governing forex bureaus) imposes AML/CFT obligations on *bureaux de change*.

⁵⁴The authorities mentioned that the BNR issued, in June 2014, comprehensive guidelines to banks on AML/CFT to provide guidance on the implementation of the AML/CFT Law (see http://www.bnr.rw/uploads/media/AML_CFT_GUIDELINES_TO_BANKS.pdf).

3.10.2 Compliance with Recommendations

455. In order to comply with Recommendations 23, 17, 25 and 29, the authorities are recommended to do the following:

Recommendation 23:

- Designate a competent authority or authorities responsible for AML/CFT supervision of the reporting entities;
- Develop, adopt, and implement a formal AML/CFT supervisory framework, including setting out the necessary activities for offsite surveillance and examination procedures for onsite visits; and
- Ensure that, in the course of prudential supervision of financial institutions subject to the Core Principles, supervisors apply for AML/CFT purposes the prudential regulatory and supervisory measures that are also relevant to money laundering.

Recommendation 17:

- Ensure that there is an adequate range of sanctions (administrative, civil, and financial) for noncompliance with the AML/CFT requirements to ensure that these are effective, proportionate, and dissuasive, and that they may be applied without undue limitation; and
- Ensure that the range of sanctions not only applies to legal persons that are financial institutions or businesses but also to their directors and senior management.

Recommendation 25:

- Consider providing guidance to reporting entities on their AML/CFT obligations, using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons, in particular with respect to the reporting of suspicious transactions.

Recommendation 29:

- Ensure that competent authorities such as the BNR and the CMA have adequate powers to monitor and ensure compliance by financial institutions with the requirement to combat money laundering and terrorist financing, including powers to do the following:
 - Conduct inspections to ensure compliance;
 - Compel production of or to obtain access to all records, documents, or information relevant to monitoring compliance; and
 - Enforce and sanction financial institutions and their directors or senior management for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.

3.10.3 Compliance with Recommendations 17, 23, 25, and 29

	Rating	Summary of factors underlying rating
R.17	NC	<ul style="list-style-type: none"> • No sanctioning regime for failure to comply with AML/CFT obligations (i.e., no competent authority), lack of clarity as to the range of available sanctions, and scope limitation of available sanctions.
R.23	NC	<ul style="list-style-type: none"> • No authority or authorities designated for AML/CFT supervision. • Institutions not subject to adequate AML/CFT regulation and supervision. • Lack of fit-and-proper measures for pension, payment service providers, and forex sectors, and application of relevant Core Principles to AML/CFT matters. • Lack of measures to ensure that relevant prudential regulatory and supervisory measures are also applicable for AML/CFT purposes.

		<ul style="list-style-type: none"> Effectiveness was not established.
R.25	NC	<ul style="list-style-type: none"> Lack of guidelines and guidance on AML/CFT issues provided by the BNR and the CMA to reporting entities.
R.29	NC	<ul style="list-style-type: none"> Lack of adequate supervisory authority/powers addressing AML/CFT matters across all sectors.

3.11. Money or Value Transfer Services (SR.VI)

3.11.1 Description and Analysis (summary)

456. Money or value transfer systems, known in Rwanda as money remitters, are licensed, regulated, and supervised by the BNR as a category of payment service providers (PSPs). There are two categories of reporting entities that can provide money transfer services: banks and registered money transfer businesses. There are currently 14 registered money transfer businesses. There are also two additional businesses (Western Union and MoneyGram) that operate under an agency agreement with the majority of the banks. These two entities are not licensed by the BNR and are not registered as legal entities in Rwanda. Unlike their agents (i.e., the banks), they are not subject to the requirements imposed by the AML/CFT Law.

Legal Framework:

457. Banks are authorized to transfer money as part of the permitted banking activities (Article 9 of the Banking Law).

458. Registered money transfer businesses (money remitters) are licensed also by the BNR under the law on payment system (Article 7). PSPs cover any entity providing services enabling cash deposits and withdrawals, execution of payment transactions, issuing and/or acquisition of payment instruments, money remittances, and any other services functional to the transfer of money (Article 2 of the law on payment system). This definition includes some but not all of the elements mentioned in the FATF definition and the Interpretative Note to SR VI.

459. The same law designates the BNR as the competent supervisory authority for money remitters and also vests the BNR with powers to sanction noncompliance with the requirements imposed by this law. However, these powers fall short of including responsibility over AML/CFT matters as well, including for sanctions for noncompliance with the AML/CFT obligations.

Designation of Registration or Licensing Authority (c. VI.1), and Application of FATF Recommendations (applying R.4–11, 13–15 and 21–23, and SRI–IX) (c. VI.2):

460. Under Articles 7 and 8 of the law on payment system, the BNR is responsible for the licensing, regulation, and supervision of PSPs (i.e., money remitters, operating in Rwanda). PSPs are covered by and subject to the obligations imposed by the AML/CFT Law, including for the identification of customers, monitoring of certain transactions, record-keeping, declaration of cash transactions, establishment of compliance programs, and reporting of suspicious transactions to the FIU. However, because the AML/CFT framework applicable to PSPs is the same as the one for banks and other financial institutions, the shortcomings noted under all applicable Recommendations also affect this recommendation.

Monitoring of Value Transfer Service Operators (c. VI.3), and Adequacy of Resources—MVT Registration, Licensing and Supervisory Authority (R.30):

461. The authorities indicated that the main focus of the BNR’s supervisory visits to PSPs is on transactions and controls, and not on assessing the level of compliance of these reporting entities with their AML/CFT obligations. PSPs are also required to provide the BNR with regulatory reports on a weekly and monthly basis supporting their activities, as part of the BNR’s oversight/surveillance function.

462. The supervisory resources available to oversee compliance with the law on payment system and regulations comprised the head of the supervision department and one other supervisor with responsibility over 14 PSPs (money remitters). Against this background, the resources available appear very low relative to the number of licensed/registered reporting entities, which precludes the BNR’s ability to identify potential ML/FT risks within this sector.

463. The authorities did not explain the scope of their surveillance activities or how they supervise the implementation of customer identification and due diligence measures for customers making use of the remittance services provided by both Western Union and MoneyGram.

List of Agents (c. VI.4):

464. There were no obligations in place requiring PSPs to maintain a list of agents. Therefore, the authorities were not able to provide the assessors with a current list of agents operating with the licensed PSPs.

Sanctions (applying c. 17.1-17.4 in R.17) (c. VI.5):

465. The BNR is vested with powers to sanction noncompliance with the requirements under the law on payment system. However, these powers do not extend to compliance with AML/CFT requirements.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6):

466. The authorities have not yet implemented the measures set out in the Best Practices Paper.

Implementation and Effectiveness:

467. The authorities were not able to coordinate a meeting/visit with a licensed PSP as part of the assessment. Although PSPs are considered reporting entities under the AML/CFT Law and subject to all of the obligations imposed by this law, conversations with supervisory staff of the BNR revealed that the level of awareness of AML/CFT issues within this sector is low. Considering the limited supervisory resources available, the lack of AML/CFT supervision and sanctions imposed for noncompliance, the level of implementation is also considered low.

468. Anecdotal evidence revealed that an informal money/value transfer system appears to be operating within Rwanda. This informal system seems to be directly related to and used by a large group of individuals residing outside Rwanda in neighboring countries. While the BNR did not confirm this information, considering that less than 15 percent of the population has access to financial services and that the Rwandan economy is significantly cash-based, it seems reasonable to assume that individuals residing outside Rwanda frequently transfer money/funds to their families and relatives from their respective countries through channels outside the banking and money remittance sectors.

3.11.2 *Recommendations and Comments*

469. The authorities are recommended to do the following:

- Address the shortcomings identified in recommendations 4–11, 13–15, and 21–23, and Special Recommendation VII, as applicable to this recommendation; and
- Ensure that informal PSP systems currently operating in Rwanda are registered or licensed, subject to the applicable FATF Recommendations and to adequate monitoring.

3.11.3 *Compliance with Special Recommendation VI*

	Rating	Summary of factors underlying rating
SR.VI	NC	<ul style="list-style-type: none">• The shortcomings identified in other recommendations related to CDD, sanctions, supervision, and regulation affect the implementation and effectiveness of this recommendation.• No list of agents maintained by the MVT service operator or provided to the authorities.• No sanctions available for failure to comply with AML/CFT requirements.• Informal money/value transfer system operating in Rwanda without effective monitoring.

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

4.1. Customer Due Diligence and Record-keeping (R.12)

4.1.1 *Description and Analysis*

470. Pursuant to Article 3 of the AML/CFT Law, the following DNFBPs are subject to the AML/CFT requirements:

- Members of private legal profession when they represent or assist their clients outside of a judicial process;
- Auditors;⁵⁵
- Real estate agents;
- Traders in items of significant value, such as works of art (paintings, masks), as well as precious metals and stones; and
- Owners, directors, and managers of casinos and gaming halls, including the national lottery.

471. Casinos are not “reporting entities” under Article 3 of the AML/CFT Law. Article 11 of the AML/CFT Law does designate the owners, directors, and managers of casinos and gaming halls, including national lotteries, as reporting entities, but this is not sufficient, considering that casinos are not included as such.

472. A number of DNFBPs have specific laws in relation to their professional licensing and operations, though these laws do not contain any additional AML/CTF obligations. Furthermore, no SRO has issued requirements directly in relation to AML and CFT other than the code of ethics that members are to abide by.

473. As of the mission date, trust service providers were not present in Rwanda. A new law regulating the creation of trusts and trustees was passed in March 2013. According to the authorities, the Rwandan financial sector does not provide services with respect

⁵⁵Article 3 of the AML/CFT Law designates “auditors” as reporting entities. Article 12 of the AML/CFT Law specifies the circumstances where CDD should apply. In this respect, the term “accountants” is used to refer to “auditors” as mentioned under Article 3 of the AML/CFT Law. The authorities informed that the terms “auditors and accountants” are interchangeable under the AML/CFT Law.

to trusts created abroad. Similar services for companies are currently provided by real estate agents, accountants, and lawyers. Going forward, the authorities are recommended to include trust and CSPs as reporting entities and to subject them to the AML/CFT legal framework.

474. The FIU has been designated as the competent supervisory authority with respect to compliance with all AML/CFT obligations for all reporting entities “that are not under any supervisory body” (Article 13 of Presidential Order No. 27/2011 of 05/30/2011). However, it has not been provided with powers to impose sanctions and, given its recent designation, the FIU has not yet monitored or supervised the level of compliance of these reporting entities with respect to the obligations imposed by the AML/CFT Law.

Legal Framework:

475. AML/CFT Law, Law 58/2011 (Law governing the gaming activities), *Barreau de Kigali, Reglment D’Ordre interieur, 19/2/1997 Loi N 3/97 Portant creation Du Barreau Au Rwanda*, Presidential Order No. 2/01 designating government officers to serve as notaries, head office and jurisdiction of notarial areas, Presidential Order No. 27/01 determining the organization, functioning and mission of the Financial Investigation Unit. The findings in relation to Recommendation 5, 6, and 8–11 above apply similarly to DNFBPs, except for c. 5.1, which only applies to financial institutions.

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):

476. The requirement to undertake CDD measures is set forth in Article 10 of the AML/CFT Law, which applies equally to all reporting entities, i.e., the financial institutions and the categories of DNFBPs included under Article 3 of the same law. In order to avoid duplication, this section will briefly outline the requirements, noting any changes or differences that may apply to DNFBPs only.

477. According to Article 12 of the AML/CFT Law, CDD and record-keeping requirements apply to non-financial business and professions in the following circumstances:

- Real estate agents: when they are involved in transactions for their client concerning the buying and selling of real estate;
- Dealers in precious metals and precious stones: when they engage in any cash transaction with a customer equal to or above the threshold, which is (still to be) specified by FIU;

- Lawyers, notaries, other legal professionals, and accountants: when they prepare for or carry out transactions for their client concerning the following activities:
 - buying and selling of real estate;
 - management of client's money, securities, or any other assets ;
 - management of the bank, savings, or securities accounts;
 - organization of contributions for the creation, operation, or management of business companies; and
 - creation, operation, or management of legal persons or arrangements, and buying and selling of business entities.

478. Casinos are not included as reporting entities under Article 3 of the AML/CFT Law. Under Article 11, managers, directors, and owners of casinos and gaming halls are subject to the obligation to (i) demonstrate to the relevant public authorities, from the day of the application for the opening, the lawful origin of the funds necessary for the creation of the enterprise; (ii) confirm the identity, upon presentation of a valid identity card or any valid original official document, of the players who buy, bring, change chips or game tags for an amount of money superior or equal to the threshold set by the FIU; (iii) record all transactions set forth in the paragraph above; and (iv) record any transfer of funds transacted between casinos and gaming halls.

479. The FIU has not established the applicable threshold for casinos (in the AML/CFT Law “managers/owners and directors of casinos”) and dealers in precious metals and stones. In the absence of a threshold, managers/directors/owners of casinos and dealers in precious metals and stones are not required to identify their clients. This legal loophole, besides the non-designation of casinos as reporting entities, exposes the sector to undue ML/FT risks.

480. Article 10(1) of the AML/CFT Law requires both financial institutions and DNFBPs to identify the customer prior to establishing a business relationship or when they execute an occasional transaction exceeding the threshold set by the FIU. However, in the absence of a threshold, reporting entities are not required to identify the person executing the occasional transaction. This legal loophole, besides the inconsistent implementation among reporting entities, exposes the sector to undue ML/FT risks.

481. Article 10(2) further indicates that the identification of both natural and legal persons must be verified by a valid official identification document.

482. In the case of casinos, directors and owners of casinos and gaming halls must “confirm the identity, on the basis of a valid identity card, or any valid original official document bearing a photograph, of the players who buy, bring, change chips or games tags for an amount that exceeds the threshold set by the FIU” (Article 11(2) of the AML/CFT Law), but as previously mentioned, there is still no threshold in place.

CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 and 8-11 to DNFBP) (c.12.2):

483. The requirements concerning PEPs envisaged by Article 16 of the AML/CFT Law are also applicable to DNFBPs. There are no additional laws or regulations issued for DNFBPs on PEPs. The same shortcomings that have been identified with regard to the legal framework for financial institutions are applicable to DNFBPs.

Misuse of New Technology for ML/FT (c. 8.1), and Risk of Non-Face-to-Face Business Relationships (c. 8.2 and 8.2.1):

484. There are no measures that address any of the essential criteria (c. 8.1 to c. 8.2.1) dealing with money laundering threats that may arise from the use of new or developing technologies.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1), Availability of Identification Data from Third Parties (c. 9.2), Regulation and Supervision of Third Party (applying R. 23, 24, and 29, c. 9.3), Adequacy of Application of FATF Recommendations (c. 9.4), and Ultimate Responsibility for CDD (c. 9.5):

485. There are no provisions in line with the requirements of Recommendation 9.

Record-Keeping and Reconstruction of Transaction Records (c. 10.1 and 10.1.1), Record-Keeping for Identification Data, Files and Correspondence (c. 10.2), and Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

486. As discussed in Section 3 of this report, Article 17 of the AML/CFT Law requires the maintenance of records on transactions, both domestic and international, and the identification data for a period of 10 years, following the end of the business relationship. However, the requirement in place falls short in requiring reporting entities to keep records on transactions for 10 years following

completion of the transaction. There are some other deficiencies in the legal framework that are highlighted under Section 3 that apply equally to DNFBPs.

487. The record-keeping obligation for managers, directors, and owners of casinos and gaming halls is addressed specifically under Article 11, which provides that they must record all transactions in *“an appropriate register in a chronological order, including their nature and amount, indicating all names of each player, as well as the number of the presented identification document and preserve this register for five (5) years when the last transaction was recorded.”* In addition, paragraph 4 states that those natural persons are required to record any transfer of funds transacted between casinos and gaming halls in an appropriate register in a chronological order and to preserve this register for five years from the time when the last transactions was recorded.

488. The record-keeping requirement applies to “players,” and does not extend to those circumstances where the customers have purchased, redeemed, and transferred chips without “playing,” which could also be worth considering.

Special Attention to Complex, Unusual Large Transactions (c. 11.1), Special Attention to Complex, Unusual Large Transactions (c. 11.1), and Examination of Complex and Unusual Transactions (c. 11.2):

489. All reporting entities⁵⁶ in Rwanda, under Article 15 of the AML/CFT Law, are required to pay attention to all complex, unusual patterns of transactions, which have no apparent economic or visible lawful purpose. In the same way, reporting entities are required to examine the background and purpose of those transactions. They are also required to establish the findings in writing and to transmit the report to the FIU. There is no requirement for DNFBPs to make findings of the examination of complex and unusual transactions available to competent authorities and auditors.

490. As of the mission date, there were no detailed guidelines or guidance provided to DNFBPs for the detection of unusual transactions.

⁵⁶The English translation of Article 15 of the AML/CFT Law refers to “reporting authorities.” The French version, however, refers to “reporting entities.” The authorities confirmed that the Kinyarwanda version also referred to “reporting entities.” The English terminology is a translation error and the inconsistency in the translations has no bearing on the assessment.

Implementation and effectiveness:

491. The DNFBPs met during the mission were unaware of their obligations under the AML/CFT Law and did not conduct CDD. The casino operating in Rwanda has a player tracking system in place, which allows it to track the buying and selling of chips, but it does not include an identification of the customer.

492. One area of particular concern is the real estate sector, since there is no evidence of implementation of CDD measures, in spite of the many activities conducted for the clients (e.g., opening of bank accounts, assistance to customers in the incorporation of companies at the Rwanda Development Board, and acceptance of cash).

493. None of the DNFBPs visited understand the concept of PEP and treat all transactions and business relationships in the same way.

494. Similarly, DNFBPs do not comply with the record-keeping requirements and do not have systems in place to monitor all complex, unusual large transactions, which have no apparent or visible economic or lawful purpose.

4.1.2 Recommendations and Comments

495. The shortcomings identified under Recommendations 5, 6, and 8 to 11 in Section 3 are equally valid for DNFBPs. The preventive measures applicable to DNFBPs need to be expanded and tailored to the specificities of each business and profession.

496. In addition to the shortcomings identified with regard to the financial sector, authorities are recommended to do the following:

- Address the deficiencies identified under Recommendations 5, 6, and 8 to 11 above;
- Incorporate casinos as reporting entities under the AML/CFT Law;
- Designate the threshold called for by the AML/CFT Law for customer identification by casinos and dealers in precious metals and stones;

- Ensure that DNFBPs are subject to the preventive measures, and record-keeping requirements in line with Recommendations 5, 6, 8, 9, 10, and 11;
- Ensure the effective implementation of the AML/CFT provisions by DNFBPs;
- Develop outreach campaigns specifically to raise awareness of CDD obligations and, more generally, to raise awareness of ML and TF risks in all of the DNFBP sectors; and
- Although trusts services are not provided at the time of the assessment, in view of the upcoming entry in force of a new law allowing for the creation of Rwandan trusts and of the related services that will be provided, it is recommended that the authorities include trust service providers amongst the reporting entities subject to the AML/CFT Law.

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"> • Casinos are not reporting entities under the AML/CFT Law. • No threshold for CDD measures applicable to casinos and dealers in precious metals and stones. • The shortcomings identified in the framework of Recommendations 5, 6, and 10–11 are applicable to designated non-financial business and professions. • No provisions in line with Recommendations 8–9. • Lack of implementation of the preventive measures by DNFBPs. • The effectiveness of the preventive measures to AML/CFT has not been established.

4.2. Suspicious Transaction Reporting (R.16)

4.2.1 Description and Analysis

Legal Framework:

Requirement to Make STRs on ML and FT to FIU (applying c. 13.1 and IV.1 to DNFBPs) STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs) No Reporting Threshold for STRs (applying c. 13.3 and IV.2 to DNFBPs), Making of ML and FT STRs Regardless of Possible Involvement of Fiscal Matters (applying c. 13.4 and c. IV.2 to DNFBPs), and Additional Element-Reporting of All Criminal Acts (applying c. 13.5 to DNFBPs):

497. The reporting requirements set forth under Article 21 of the AML/CFT Law, described under Section 3 above, equally apply to the DNFBPs, except for casinos (company formation services are provided by lawyers, accountants, and real estate agents who are all covered by the AML/CFT regime).⁵⁷ Pursuant Article 21 of the AML/CFT Law, the categories of DNFBPs designated under Article 3 of the AML/CFT Law must immediately report to the FIU *“whenever they have reasonable motives to suspect that the funds or movement of funds are/is linked, associated or destined to be used in money laundering activities or for financing terrorism, terrorism or acts of terrorism or of terrorist organizations.”* They must convey immediately any additional information that may confirm or deny their suspicion. The findings in relation to Recommendation 13 apply similarly to DNFBPs.

498. The legal framework does not provide for any applicable threshold for the reporting requirement for dealers in precious metals or stones and therefore they are subject to the same reporting requirement as any other reporting entity.

499. Casinos are not required to report suspicious transactions.

500. Pursuant to Article 8 of the AML/CFT Law, *“every reporting entity, control organ or auditor shall respect the condition set forth by this Law, notwithstanding any obligation or professional secrecy or restriction of divulgation of information imposed by any other Law. However, lawyers, notaries and other independent legal professions acting as independent jurists are not required to submit a suspicious transaction report to*

⁵⁷Although the English version of the law seems to suggest that, as far as DNFBPs are concerned, only those that are legal persons are required to report suspicious transactions, the Kinyarwanda and French versions apply to both natural and legal persons. The limitation in the English version therefore appears to be an error in translation and therefore has no bearing on the current assessment.

the Financial Intelligence Unit if the information that they acquired was obtained in circumstances resulting from professional secrecy or legal professional privilege.” Lawyers are considered as reporting entities when they represent or assist their clients outside of a judicial process in particular with the framework of the following activities:

- Buying and selling properties, trading companies or business;
- Handling of money, securities, and other assets belonging to clients;
- Opening and management of current, savings, or securities accounts; and
- Formation, management, or directing of companies, trusts, or other similar ventures or the execution of any financial transactions (Article 3 of the AML/CFT Law).

501. Information gained while exercising their traditional roles of providing legal advice or representation in litigations is covered by legal professional privilege and, consequently, exempt from the reporting requirements.

502. Lawyers are subject to strict professional secrecy provisions, under the Criminal Code, the law organizing the lawyers’ profession, and internal regulations issued by the Bar Association. According to the authorities, the secrecy provisions in practice do not allow them to comply with the reporting requirement. The scope of professional secrecy is defined under Article 283 of the Criminal Code that states the following: *“Any person serving as a keeper who reveals a professional secrecy entrusted to him/her by virtue of function, occupation or religious authority shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of one million (1,000,000) to seven million (7,000,000) Rwandan francs or one of these penalties.”*⁵⁸

503. Article 658 (*Penalties for other offences related to money laundering and terrorist financing*) under section 6 states that “... any natural person or legal entity who, in the exercise of its duties of managing, supervising or providing advice on deposit, currency exchange, investment or using any other means of transfer of funds or any other property, disregards the rules related to the secrecy of

⁵⁸Organic Law No. 01/2012/OL of 02/05/2012 instituting the Penal Code. Under the old Penal Code, article 214 defined the professional secrecy under the following terms: *“Persons who, by their status or profession, hold information covered by professional secrecy and who-except in cases where they are called upon to give evidence in court or where the law requires them to divulge this confidential information or to denounce it- will have released it, shall be punished by imprisonment from two months to two years and a maximum fine of fifty thousand francs, or one of these penalties. The prohibition to hold public office or employment for up to ten years may also be imposed.”*

information collected, related to the prohibition to reveal them or communicate them, shall be liable to a term of imprisonment of one (1) year to three (3) years and a fine of five hundred thousand (500,000) to five million (5,000,000) Rwandan francs.”

504. Further, the law regulating the lawyers’ profession and the Bar Association’s internal regulations have several provisions regarding the professional legal secrecy, among which it is worth highlighting the following ones:

- Article 64 (Law regulating the lawyers’ profession): *“The Confidentiality covers everything that has an intimate nature, that the client has a moral or material interest in not revealing when the lawyer learns in the course of his business or his client or the opposing party or counsel, or third parties.”*
- In addition, Article 65 states: *“The privilege covers not only all that is said in the lawyer’s office, the correspondence between the lawyer and his client and that exchanged between lawyers of different parties, but also talks and negotiations between councils, both in terms of content that the very fact of their existence, unless the fact of their existence must be found for good cause that the Bar will enjoy.”*
- Article 101 (Internal regulation): *“The Advocate and the entire staff of his office, are strictly bound to respect professional secrecy, which is absolute, and which no one, including the client, cannot be met.”*

505. The legal professional privilege or legal professional secrecy seems to go beyond the information that lawyers, notaries, or other independent legal professionals receive from or obtain through one of their clients (i) in the course of ascertaining the legal position of their client, or (ii) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration, or mediation proceedings, which adversely impacts the effectiveness of the system.

506. Notaries are public officers and are subject to legal professional secrecy according to provisions of the General Statute for Rwanda Public Service. However, the authorities were not able to explain the extent of the legal professional secrecy for notaries and whether, in practice, notaries, as public servants, have anything to report.

Protection for Making STRs (applying c. 14.1 to DNFBPs), Prohibition against Tipping-Off (applying c. 14.2 to DNFBPs), and Additional Element-Confidentiality of Reporting Staff (applying c. 14.3 to DNFBPs):

507. Pursuant to Article 27(3) of the AML/CFT Law, no proceedings for breach of professional secrecy can be brought against those who, in good faith, have transmitted information or submitted STRs to the FIU, even if the investigation or the court orders did not result in any conviction.

508. DNFBPs are prohibited from revealing that an STR has been filed to the same extent as reporting entities.

Establish and Maintain Internal Controls to Prevent ML and FT (applying c. 15.1, 15.1.1 and 15.1.2 to DNFBPs), Independent Audit of Internal Controls to Prevent ML and FT (applying c. 15.2 to DNFBPs), Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs), Employee Screening Procedures (applying c. 15.4 to DNFBPs), and Additional Element—Independence of Compliance Officer (applying c. 15.5 to DNFBPs):

509. The AML/CFT Law under Article 19 requires all reporting entities to develop AML/CFT policies, procedures, and controls; designate a compliance officer at the management level; establish mechanisms for recruiting staff; and maintain an independent audit function, and an ongoing employee training program. The current requirements are not sufficiently comprehensive to be fully in line with the standards. In particular, they do not establish the type of procedures, policies, and controls required (such as CDD), nor do they address record retention, detection of unusual and suspicious transactions, and the reporting obligation.

510. In addition, there are no obligations on reporting entities to i) communicate the internal procedures, policies, and controls to prevent ML/TF to their employees, and ii) grant the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. Other shortcomings are as follows: lack of requirement for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an independent and well resourced audit function.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 and 21.1.1):

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2), and Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

511. The obligation to pay special attention to countries not sufficiently applying the FATF Recommendations is set forth under Article 15(2) of the AML/CFT Law, which applies to all reporting entities subject to the AML/CFT Law. The analysis and findings in Recommendation 21 in relation to the provision set forth in the AML/CFT Law apply equally to DNFBPs and could be summarized as follows: (i) lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries, (ii) lack of requirements on reporting entities to examine as far as possible the background and purpose of transactions that have no apparent economic or visible lawful purpose, and (iii) lack of counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

Implementation and effectiveness:

512. The majority of the DNFBPs visited during the mission was not aware of the existence of the AML/CFT Law and of their reporting obligations. So far, no STR has been filed by any category of DNFBP. At the time of the onsite visit, none of the DNFBPs met had internal AML/CFT control procedures and measures in place. Professional secrecy provisions imposed on lawyers and advocates are absolute and are therefore not in line with the standard.

513. Overall, implementation of the AML/CFT measures is very weak, which raises serious concerns about the effectiveness of the regime.

4.2.2 Recommendations and Comments

514. The authorities are recommended to do the following:

- Require casinos to report suspicious transactions to the FIU;
- Ensure that the carve-out for legal and professional secrecy is limited to information (i) obtained in the course of ascertaining the legal position of a client, or (ii) in performing their tasks of defending or representing that client in, or concerning judicial, administrative, arbitration, or mediation proceedings; and
- Ensure that all DNFBPs are subject to and effectively implement the requirements under Rec. 13, 14, 15, and 21.

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">• Casinos are not subject to the requirements of Rec. 13, 14, 15, and 21.• The shortcomings identified in the framework of Recommendations 13, 14, 15, and 21 are applicable to non-financial business and professions.• Professional secrecy provisions for lawyers and legal professionals pose an impediment to suspicious transactions reporting.• No reporting by DNFBPs.• Effectiveness was not established.

4.3. Regulation, Supervision, and Monitoring (R.24–25)

4.3.1 *Description and Analysis*

Legal Framework:

515. The current sector-specific laws do not address regulation, supervision, and monitoring of DNFBPs for AML/CFT purposes. In May 2011, the FIU was designated as the authority “required to check if the reporting entities which are not under any supervising body, fulfill the obligations set out in the AML/CFT Law” (Article 13 of the Presidential Order No. 27/01 of May 30, 2011). Since the issuance of this order, all DNFBPs fall within the remit of the FIU’s supervision. However, given the recent designation, the FIU was not yet monitoring or supervising the level of compliance of these reporting entities with respect to the obligations imposed by the AML/CFT Law.

516. Although not directly involved in AML/CFT, the following authorities are also relevant:

- The Rwanda Development Board (RDB): DNFBPs that are legal persons must be registered and incorporated with the RDB. After the registration and incorporation, the RDB issues an operational license to conduct business in Rwanda, which needs to be renewed annually.
- The Ministry of Commerce and Industry (MINICOM), through a competent authority still to be designated, is responsible for the supervision of casinos pursuant to Articles 4 and 5 of the Gaming Activities Law. However, at the time of the assessment, no competent authority had been designated.
- The Rwanda Bar Association: advocates are members of the Rwanda Bar Association.
- Certified Public Accountants of Rwanda (ICPAR): the ICPAR acts as the SRO for accountants and is the only body authorized by law to register and grant practicing certificates to CPAs in Rwanda.

517. There is no sanctioning regime for noncompliance with the AML/CFT obligations for DNFBPs.

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 and 24.1.3):

518. As mentioned earlier in this section, casinos are not reporting entities; only the “owners, directors and managers of casinos and gaming halls, including national lotteries” are reporting entities under the AML/CFT Law (Article 3(4)e).

519. Law No. 58/2011 governing the Gaming Activities provides under Article 4 that the Ministry of Trade and Industry (MINICOM) should have overall control of the gaming activities. It further states that “a Prime Minister’s Order may determine another gaming regulatory authority, if necessary.”⁵⁹ Although the responsibilities of the regulatory authority appear to be comprehensive, there is no

⁵⁹Article 5 of the same law describes the responsibilities of the regulatory authority as follows:

- to oversee the gaming industry and all activities related to it;
- to determine the number of licenses that may be granted in the Country, in accordance with the needs;
- to investigate and consider applications for gaming licenses and permits;
- to issue licenses and permits;
- to oversee the Consultative Gaming Committee, to appoint its members to determine its responsibilities, organization, functioning, and competence;
- to conduct investigations to ensure compliance with this Law and issue notices in case of its violation to competent authorities for the purposes of their prosecution;

clear and direct responsibility for AML/CFT regulation and supervision of casinos. Also, the powers to sanction are directly related to violations and noncompliance issues related to the Gaming Activities Law and not to noncompliance with the AML/CFT obligations.

520. With respect to licensing requirements and preventing criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino, Article 23 of the Gaming Activities Law provides that an applicant must submit an application for a casino license to the regulatory authority. Once submitted, the regulatory authority must conduct an investigation with respect to probity, technical competence, industry competitiveness of the applicant(s), and any other legal requirements. During the process, the authority should also conduct a hearing with the applicant or it could delegate the task to the Consultative Gaming Committee. In addition, Article 11(1) of the AML/CFT Law states that managers, directors, and owners of casinos and gaming halls must demonstrate to the relevant public authorities, from the day of the application for the opening, the lawful origin of the funds necessary for the creation of the enterprise.

521. The gaming activities law came into effect on March 26, 2012, and, at the time of the assessment, there was no competent regulatory authority designated to oversee, regulate, and supervise casinos.

Monitoring Systems for Other DNFBPs (c. 24.2 and 24.2.1):

522. Real estate agents are not subject to monitoring or oversight by a designated competent authority or self-regulated organization (SRO).

523. In the case of legal professionals, only those that are members (advocates) of the Rwanda Bar Association (SRO) are under some kind of oversight with respect to procedures for admission to the Bar Association, professional standards, training, ethics, and sanctioning measures for noncompliance with the internal rules. However, the Bar Association does not oversee or monitor its members' compliance with their AML/CFT obligations.

-
- to review licenses and activities of their license holders;
 - to suspend or revoke any license that is in violation of this Law or when the license holder operates in violation of this Law;
 - to ensure that unlawful activities related to lottery schemes, casinos, sport books, wagering and unlicensed gaming activities are prevented or detected and prosecuted; and
 - to ensure that undertakings made by license holders are carried out.

524. For accountants, an SRO was established by Law 11/2008 in May 2008. The ICPAR is responsible for registering and granting practitioners a certificate as a CPA in Rwanda. ICPAR is also responsible for regulating the accounting profession, preserving the integrity of the profession, including taking disciplinary measures against its members when unable to perform their duties, and revoking/withdrawing practitioners' licenses in case of misconduct. However, similar to the Bar Association, ICPAR does not oversee or monitor its members with respect to ensuring compliance with the requirements to combat ML and FT, as required by the AML/CFT Law.

525. Traders in items of significant value, precious stones and metal, travel agencies, business of transporting money are not subject to any form of supervision or monitoring.

526. In light of the above, and more specifically of the absence of designated authority in charge of supervision and monitoring for AML/CFT purposes, all DNFBPs active in Rwanda fall under the FIU's supervision in application of Article 13 of the Presidential Order No. 27/01. However, given its recent designation as "supervisor," the FIU has not yet started monitoring or supervising the DNFBPs' level of compliance with the obligations imposed by the AML/CFT Law.

Guidelines for DNFBPs (applying c. 25.1):

527. No guidelines have been issued to assist the DNFBPs to implement and comply with AML/CFT requirements. No feedback has been provided by the FIU to the DNFBPs.

Adequacy of Resources—Supervisory Authorities for DNFBPs (R.30):

528. The FIU has 13 staff in total to perform the entirety of its functions (i.e., those linked to the receipt, analysis, and dissemination of STRs, as well as those related to supervision), which is neither enough nor adequate.

Implementation and effectiveness:

529. Due to its recent establishment, the FIU has not started its supervisory function and DNFBPs remain unsupervised for AML/CFT purposes.

530. Regardless, the current framework for the supervision of DNFBPs does not seem adequate because the FIU has neither the resources nor the expertise to conduct AML/CFT monitoring and supervision. The authorities may wish to consider creating one or several separate supervisors for DNFBPs other than the legal profession. It could be faster and more efficient to implement than the establishment of a specific supervisor for each profession. Provided that the authorities conduct an assessment of the ML/TF risks in the DNFBPS sector, it could also enable a better programming of controls and allocation of resources according to the risks posed by the various DNFBPs. With respect to the legal professionals, the Ministry of Justice should implement a mechanism to enable a more effective supervision of the compliance of advocates with the AML/CFT requirements.

4.3.2 Recommendations and Comments

531. The authorities are recommended to do the following:

- Ensure that the FIU has adequate capacity (in terms of resources and expertise) to conduct its supervisory functions, or reconsider the current framework for supervision of DNFBPs;
- Introduce a sanctioning regime for noncompliance with the AML/CFT obligations applicable to DNFBPs;
- Ensure that the designated competent authorities or SROs responsible for monitoring have adequate powers and resources to perform their functions;
- Increase awareness among all DNFBP categories;
- Provide guidance to assist DNFBPs implement and comply with their respective AML/CFT requirements; and
- Provide feedback to DNFBPs on current techniques, methods, and trends or sanitized examples of actual ML and FT cases.

4.3.3 Compliance with Recommendations 24 and 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">• The FIU does not have the capacity (both in terms of resources and expertise) to conduct AML/CFT supervision in an adequate manner.• No AML/CFT supervision of DNFBPs.• No sanctions for non-compliance with the AML/CFT obligations.• Lack of implementation and awareness of AML/CFT obligations.
R.25	NC	<ul style="list-style-type: none">• No guidance has been issued to assist DNFBPs in the implementation of their AML/CFT obligations.• No (general) feedback has been provided by the FIU.

4.4. Other Non-Financial Businesses and Professions—Modern, Secure Transaction Techniques (R.20)

532. The methodology provides the following examples of businesses or professions to which countries “should consider” applying the FATF Recommendations: dealers in high value and luxury goods, pawnshops, gambling, auction houses, and investment advisers.

533. The authorities did not provide any information about measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. Neither have they considered the need to impose CDD and/or reporting obligations to businesses, professions, or activities that could generate a significant risk of ML or FT in Rwanda.

4.4.1 Description and Analysis

Legal Framework:

534. Not available.

Other Vulnerable DNFBPs (applying R. 5, 6, 8–11, 13–15, 17, and 21 c. 20.1):

535. The authorities have not yet conducted an assessment of non-financial businesses and professions (other than DNFBPs currently subject to the AML/CFT Law) that could be used or exposed to potential money laundering and terrorist financing risks.

Modernization of Conduct of Financial Transactions (c. 20.2):

536. The authorities did not provide any information about measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

Implementation and Effectiveness:

537. No evidence of measures or steps taken to apply preventive measures to other non-financial businesses and professions that may be vulnerable of misuse for money laundering or terrorist financing purposes or to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML. Rwanda's economy is mainly cash-based. One measure that the authorities could consider is minimizing the reliance on cash and increasing the reliance on more secure means of conducting financial transactions.

4.4.2 Recommendations and Comments

538. The authorities are recommended to do the following:

- Conduct a risk assessment of non-financial businesses and professions (other than DNFBPs) that could be used for or exposed to potential ML and FT activities in Rwanda;
- On the basis of the results of the risk assessment, introduce measures to reduce reliance on cash;
- Apply Recommendations 5, 6, 8-11, 13-15, 17, and 21 to non-financial businesses and professions (other than DNFBPs) that are at risk of being misused for ML and FT, in line with the results of the risk assessment; and

- Encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	NC	<ul style="list-style-type: none"> • No risk assessment has been conducted in the domestic sector. • No consideration has been given to applying the FATF recommendations to other higher-risk businesses and professions. • No evidence of measures or steps taken to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

5. LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANIZATIONS

5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

5.1.1 Description and Analysis

539. The types of legal persons that may be established under Rwandan law are the following:

- Companies, regulated by law No. 07/2009 of 27/04/2009 relating to companies (the Companies Law), and of which there are several different types: private company limited by shares, private company limited by guarantees, private company limited by shares and guarantees, private unlimited company, public company limited by shares, and public company limited by shares and guarantees.
- Cooperative organizations, regulated by the law No. 50/2007 providing for the establishment, organization, and functioning of cooperative organizations in Rwanda, and of which there are several different types: production cooperative organizations,

commercial and consumer cooperative organizations, services cooperative organizations, and multipurpose cooperative organizations.

- Non-governmental organizations (NGO): NGOs are governed by Law No. 4/2012 and may be categorized in three broad categories, depending on their main objectives and the nature of their membership: public interest organizations (which carry out activities in the development of various sectors), common interest organizations (which act in a specific domain in favor of their members), and foundations (whose purpose is either to establish a fund or to collect funds, and manage and use them to provide beneficiaries with support). The Rwanda Governance Board (RGB) is the competent authority in charge of registering, granting legal personality, and monitoring of the functioning of national and religious non-governmental organizations (Article 16 of the Law of national NGOs, and Article 14 of the Law of Religious NGOs). The Directorate General of Immigration and Emigration is the competent authority in charge of registering and monitoring the international NGOs (Article 6 of the International NGO Law).

540. Associations cannot be established as a separate type of legal person under Rwandan law.

Statistical Table 6. Statistics were provided with respect to companies only

STATISTICS	
1) Limited by shares private	15,546
2) Limited by guarantee private	10
3) Limited by shares and guarantee private	1
4) Unlimited private	4
5) Limited by shares public	60
6) Limited by guarantee public	0
7) Limited by shares and guarantee public	0
8) Unlimited public	0

Table 10. Registered NGOs in Rwanda

TYPE OF ORGANISATION	REGISTERED	IN PROCESS OF REGISTRATION
National NGOs	338	440
Religious NGOs	468	58
International NGOs	156	16
Total	962	514
Grand Total	1476	

541. No information was provided as to the number of existing cooperatives established under Rwandan law.

Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):

Companies:

542. Rwanda has a central registration system in place for companies. It is compulsory for all companies wishing to operate in Rwanda to register with the Office of the Registrar General of the Rwanda Development Board. Legal personality can only be obtained after registration, and the registration certificate constitutes proof of incorporation. Pursuant to Articles 14 and 15 of the company law, an application for registration of a company must be sent or delivered to the Registrar General, and accompanied by a memorandum of association and the articles of association, if any. The memorandum of association must state (i) the name of the company, (ii) the head office of the company, and (iii) the particulars of any business occupation.

543. The memorandum of association of a company with share capital must state the following:

- The amount of share capital;
- The number of shares making the share capital unless where the company is an unlimited company; and
- The full name and the number of shares of every shareholder.

544. For all types of domestic companies, the application form for incorporation also requires the following:

- Company's identification data (company code;⁶⁰ name reservation ID;⁶¹ company name);
- Applicant's position (power of attorney, power of representative, managing director, chairman of the board), name, gender, ID document (national ID card or passport) and its number, date of birth, address, and contact information (telephone and email);
- Head office address and working hours (although it is not clear whether the head office must be in Rwanda);
- Optional: chairman of the board's ID, date of birth, address;
- Managing director, company employee/secretary, members of the board: name, gender, ID document (national ID card or passport) and its number, date of birth, address, contact information (telephone and email);
- Auditor and Accountant: type (person or organization), name, gender, ID document (national ID card or passport) and its number, date of birth, address, company or enterprise's code and registered name and registered office address;
- Business activities (code and name);
- Capital information (type, number, par value, and total value of shares);
- Guarantee type and amount;
- Subscribers: ID information and address;
- Guarantor: ID information, guarantee type and amount;
- Employees: date of hiring first employee and number of employees at the time of registration;

⁶⁰The company code is the company identification number. It is issued randomly by the IT system and acts as company ID number as well as its Tax Identification Number.

⁶¹The name reservation code applies to companies that have submitted a name reservation application prior to registration.

- Amalgamated company code; and
- Signature of all shareholders, as well as copies of their passports or ID cards (Article 2 of the law No. 14/2010 of May 7, 2010 modifying and complementing Law No. 7/2009 of April 27, 2009 relating to companies).

545. The registration form that must be completed for all types of legal persons requires the designation of the managing director of the future company.

546. When the shareholder of a company to be registered is a foreign company, its representatives must provide the same information as foreign companies wishing to establish a branch in Rwanda, namely (i) a duly authenticated copy of the articles of association and the certificate of registration, or any other instrument constituting or defining their incorporation; and (ii) a notarized declaration made by the authorized representatives of the company to take shares in the Rwandan company. Considering, however, that shareholder information is not provided to the registrar, it is unclear how the latter would know whether the company's shareholders are foreign or local.

547. The certificate of registration is issued once the registrar general is satisfied that all legal requirements have been complied with. The certificate is "conclusive evidence" of the incorporation and its date (Article 17 of the company law).

548. The identity of persons involved in the establishment of a legal person is required, but is not really verified by the Office of the Registrar General. The same holds true for other information required. The mechanism put in place by the Rwanda Development Board aims at facilitating the establishment of legal persons and thus simplifying the registration process, rather than establishing who the beneficial owners are.

549. Some elements of the company's status must be kept up to date, but changes in the control structure or in the shareholdings are not required to be reflected in the registrar general. Transfers of shares should be reflected in the register of shares held by the company itself but there is no timeframe for these updates and therefore no measure to ensure that the register is current. Similarly, there are no clear requirements with respect to a directors' register, which would ensure that legal entities collect and maintain up-to-date information on their management and control structure.

550. All information collected by the Office of the Registrar General (either by its headquarters in Kigali or within one of its four branches in the country) is automated: headquarter and branches therefore all have access to the same information.

Cooperative organizations:

551. A cooperative organization that applies for legal personality must submit an application letter to the organ responsible for the development of cooperative organizations (namely the Rwanda Cooperative Agency, the RCA). This letter must then pass through the Mayor of the district who endorses it with his signature, with copy to the province and the court where the cooperative operates. This letter must be accompanied by the following documents:

- four copies of the by-laws⁶² of the Cooperative Organization bearing the date and the signatures or fingerprints of founding members. Copies of the by-laws of the Cooperative Organizations operating at the district or national level must be certified by an authorized notary. The notary must verify the identity of all members of a cooperative operating at the district or national level, but not those of cooperatives operating at a sector level;
- four copies of the minutes of the Constituent General Assembly meeting of the Cooperative Organization bearing the signatures or fingerprints of all founding members;
- four copies of the list of the members of the Board of Directors and of the Supervisory Committee indicating their names, addresses, functions, and the signature of each person;

⁶²The by-laws must include the following information: (i) the name of the cooperative organization, which shall not be similar to any other name of another cooperative organization operating in Rwanda, and which was granted legal personality. The name must include the word “cooperative”; (ii) the type of social and economic activities to be undertaken; (iii) the registered office and its full address; (iv) the corporate objectives or its purpose; (v) requirements for the members who share subscription; (vi) the value and number of nominal share per member; (vii) requirements for each nominal share value; (viii) members’ rights and obligations; (ix) criteria and condition for members’ withdrawal or expulsion; (x) modalities for keeping books and other records; (xi) modalities for convening meetings of the organs of the cooperative organization and the regional meetings; (xii) composition of the Board of Directors and criteria for the eligibility; (xiii) composition of the supervisory committee and criteria for the eligibility of its members; (xiv) condition of the voluntary dissolution or liquidation; (xv) procedures for amending the bylaws; (xvi) criteria by which the Board of Directors may authorize the transfer of nominal shares; (xvii) the modalities of management and the use of the property of the cooperative organizations; and (xviii) any other relevant business that may facilitate the achievement of the objectives of the cooperative organization.

- a specimen of the signature or fingerprints of persons authorized to represent their Cooperative Organization before the law; and
- a certificate issued by the district authorities in which the cooperative organization has its headquarters.

552. A cooperative organization that has fully complied with all the provisions of legal registration becomes a body corporate, and, within thirty days from obtaining legal personality, submits all required documents to the Official Gazette Office for the publication of the registration certificate in the Official Gazette of the Republic of Rwanda (Article 25 of the same law).

NGOs and INGOs:

553. A registration certificate is required before NGOs start their activities in Rwanda, except for common interests organizations and foundations, which may start their activities and strive to comply with the registration requirement within two years (and remain under monitoring in the meantime).

554. During the registration process, the RGB ensures that national and religious NGOs submit copies of their activity and the financial reports for the previous year. These organizations must also notify the RGB of any changes concerning the states, the legal representative, the head office, and harmonization of its functions with the legislation. (Article 29 of the NGO Law and Article 29 and 32 of the RBO Law). The following requirements also apply:

- NGOs: the statutes of the NGO must provide (i) the name of the organization, (ii) the mission and activities of the organization, (iii) the organ and mechanisms of conflict resolution, (iv) the criteria and procedures for admission or loss of membership, (v) the organ in charge of administration and financial audit, (vi) the hierarchy of organs and competence in taking decisions, and (vii) the property disposal in the case of dissolution of the organization (Article 6 of the Law for national NGOs).
- Religious NGOs must provide information regarding their name, mission, area of activities, and the beneficiaries; organizational structure, competence and duties of the organs; criteria for being a leader and loss of leadership; administrative and financial audit organs; organ for and mechanisms of conflict resolution; and the property disposal in case of dissolution of the religious-based organization (Article 16 of the law governing religious NGOs).

- INGOs must provide an authenticated copy of the statutes of the organization, an official document allowing the organization to operate in the country of origin and indicating its geographical establishment throughout the world if any, the nature of the activities in which the organization intends to engage in and an action plan, and the budget and its source (Article 7 of the international NGO law).

555. All NGOs have to present the information determined above when they apply for the registration. The distribution of information is done in accordance with national laws relating to access to information.

556. Overall, while basic information on a legal entity at the time of its incorporation is collected and easily available to competent authorities, beneficial ownership information is not really obtained, verified, and maintained, either at the Office of the Registrar General or the RGB, and there is no indication that this information would be otherwise available (for example through the tax authorities or through trust and company service providers).

Access to Information on Beneficial Owners of Legal Persons (c. 33.2):

557. Competent authorities have online access to all information contained in the Central Registrar and may request additional information from the company itself. However, neither the Office of the General Registrar and RGB nor the legal person is required to gather and maintain current and up-to-date information on the beneficial ownership of the legal person.

Prevention of Misuse of Bearer Shares (c. 33.3):

558. Shares may not be issued in bearer form; Article 15 of the Company Law explicitly requires them to be nominative.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions) (c. 33.4):

559. All the information contained in the database of the Office of the Central Register is available online and accessible by financial institutions but does not include information on a company's beneficial owners—only the original shareholdings.

Implementation and effectiveness:

560. The authorities have made great progress in streamlining the process for the creation of legal persons and establishing a modern central registration system that is easily accessible by the competent authorities and the public at large. The information contained in the Central Register is, however, relatively limited and is not kept up to date. In particular, it does not aim at establishing the control structure or the beneficial ownership of the legal person. While competent authorities may request additional information from the company itself, that information is not necessarily current and does not identify the natural person who ultimately owns or controls the legal person.

561. No precise information was provided on the type of activities usually conducted by Rwandan legal entities but it would appear that most of the companies limited by private shares (which are the most frequent form of legal person in Rwanda) mainly operate businesses (the size of which is unclear) and that there are generally no or few asset management vehicles.

5.1.2 *Recommendations and Comments*

562. In order to fully comply with Recommendation 33, it is recommended that the authorities do the following:

- Take additional steps to prevent the misuse of legal persons established in Rwanda by ensuring that there is adequate transparency concerning their beneficial ownership and control.

5.1.3 *Compliance with Recommendation 33*

	Rating	Summary of factors underlying rating
R.33	PC	<ul style="list-style-type: none"> • Information collected at the time of incorporation is easily accessible, but it is not kept up to date and does not specifically address the beneficial ownership.

5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

5.2.1 *Description and Analysis*

Legal Framework:

563. The current legal framework does not allow for the establishment of legal arrangements such as the common law “trust,” and there is no indication that the private sector is holding or otherwise dealing with assets of foreign “trusts.” The Rwandan authorities indicated, however, that they are working on draft legislation that will allow for the creation of Rwandan trusts.⁶³

Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1) and Access to Information on Beneficial Owners of Legal Arrangements (c. 34.2):

564. No measures have currently been taken to prevent the potential misuse of legal arrangements, collect information on their beneficial owners, and ensure the competent authorities’ access to that information.

Additional Element—Access to Information on Beneficial Owners of Legal Arrangements by Financial Institutions) (c. 34.3):

Implementation and effectiveness:

565. The fact that a law on the creation of Rwandan trusts is being prepared would normally suggest that there is an existing business need for the regulation of trusts and some familiarity in the private sector with foreign trusts. However, nothing suggests that this is the case in Rwanda and no rationale was provided for the new law. Representatives of the private sector and of the authorities seemed unfamiliar with the notion of trusts and other similar forms of legal arrangements, and the assessment team saw no evidence of the use of foreign trusts in Rwanda. In these circumstances, Recommendation 34 does not appear to be applicable at the time of this assessment.

5.2.2 Recommendations and Comments

566. Despite the fact that this Recommendation is considered to be nonapplicable to Rwanda at the time of this assessment, in light of the upcoming entry into force of a new law allowing for the creation of Rwanda trusts, it is recommended that the authorities take

⁶³Law No. 20/2013 of March 25, 2013 regulating the creation of trusts and trustees came into force more than two months after the assessment team’s onsite visit and therefore has no bearing on this assessment. The law defines a trust as “a fund created in writing as a result of mutual undertaking by any person or a person obliged to fulfill any obligation where the property owner transfers his/her property to a trustee for the benefit of the beneficiary or beneficiaries for a specified period or a specific purpose.” It also provides that the “trustee must properly manage such property in accordance with the trust instrument concluded with the property owner.”

all necessary steps to prevent the misuse of the Rwandan trust for money laundering or terrorist financing purposes, and ensure that adequate, accurate, and timely information on these trusts (including information on the settler, trustee, and beneficiaries) can be obtained by competent authorities in a timely fashion, and to facilitate access to that information by reporting entities. The authorities are in particular recommended to consider the examples provided in the FATF methodology.

5.2.3 *Compliance with Recommendations 34*

	Rating	Summary of factors underlying rating
R.34	N/A	

5.3. Nonprofit Organizations (SR.VIII)

5.3.1 *Description and Analysis*

Legal Framework:

567. There are three different laws regulating NPOs in Rwanda:

- Law N°04/2012 of 17/02/2012 governing the organization and the functioning of the national nongovernmental organizations (hereinafter Law on National NGOs);
- Law N°05/2012 of 17/02/2012 governing the organization and functioning of international nongovernmental organizations (hereinafter Law on International NGOs); and
- Law N°06/2012 of 17/02/2012 determining organization and functioning of religious-based organizations (hereinafter Law on religious NGOs).⁶⁴

⁶⁴These laws replaced the Law of 26/07/2000 LAN° 20/2000 relating to NPOs.

568. The AML/CFT Law requires NPOs to report suspicious transactions (please refer to information under Rec. 13 for more details).

569. The national nongovernmental organizations are classified into three broad categories in respect of their main objectives and nature of membership:

- Public interest organizations: organizations serving public interests. The organizations carry out activities in the development of various sectors including civil society, economy, social welfare, culture, science, and human rights;
- Common interest organizations: organizations that act in a specific domain in favor of their members; and
- Foundation: an organization whose purpose is either to establish a fund or to collect funds, manage and use them to provide beneficiaries with support.

Review of Adequacy of Laws and Regulations of NPOs (c. VIII.1):

570. In light of international developments in this area, the authorities reviewed the domestic legislation on NPOs and issued the three laws mentioned above in April 2012. According to the laws, the RGB is the competent authority in charge of registering, granting legal personality, and monitoring of the functioning of national and religious NGOs (Article 16 of the Law of National NGOs, and Article 14 of the Law of Religious NGOs). The Directorate General of Immigration at the Ministry of Internal Security (MIS), the former regulator of NGOs, continues to register and supervise the international NGOs (Article 6 of the International NGO Law). The information on national NGOs registered under the old regime in accordance with the NGO Law of 2000 was migrated from the Ministry of Justice to the RGB. Implementing regulations that relate to the NPOs have not been issued yet.

571. The RGB and the MIS did not use all sources of available information to undertake a domestic review on the activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics.

572. The monitoring agencies are in the process of re-registering the existing NGOs operating in Rwanda. Fifty out of 100 national NGOs were registered in accordance with the requirements under the new law. The remaining NGOs were asked to present the proper documentation for registration with a notice of termination of activities if they do not do so within the coming months.

Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2):

573. Information is provided during the registration about the legislative requirements, and additional awareness campaigns on issues related to the management and activities of NGOs are regularly made. However, the RGB and the MIS did not conduct an outreach campaign to raise the awareness of NPOs about the risks of terrorist abuse and the available measures to protect the sector.

Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3):

574. National and religious NGOs: For the purpose of promoting transparency and accountability, the supervision of national NGOs must be conducted by the RGB. The RGB may determine necessary administrative entities to assist it in conducting the supervision (Article 30 of the Law on national and religious NGOs). The RGB must ensure that the NGO (i) submits a copy of its activity and financial report for the previous year in accordance with pre-set conditions (that were not determined yet), and (ii) notifies it with changes concerning the states, the legal representative, the head office and harmonization of its functions with the legislation. (Article 29 of the Law of religious NGOs). The same requirements apply to religious NGOs (Article 29 and 32 of the Law of religious NGOs).

575. International NGOs: International NGOs are subject to different requirements. The Ministry (MIS) could, pursuant to Article 22 of the law, request the NGO to conduct and submit an internal audit on its activities and finances within the 90 days from the date of the request. Such audits are conducted regularly to determine the activities the NGOs are engaged in and to collect information about the source of the funds, management, and intended use.

576. At the time of the onsite mission, the RGB was not supervising the activities of the NGOs. The newly formed agency was still in the process of registering the local and religious NGOs conducting activities under the old law of 2000. Under Article 38 of the law of 2000, the MIS used to conduct the monitoring and evaluation of all NPOs in accordance with the article by asking at any time any organization to give it within a one-month period all data and documents concerning its activities. The recently adopted laws provide the RGB and MIS the powers to monitor NPOs, which account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities. However, the concerned agencies are not yet doing that in a comprehensive way.

Information maintained by NPOs and availability to the public thereof (c. VIII.3.1):

577. Pursuant to Article 6 of the Law for national NGOs, the statutes of the NGO must particularly provide the following information: (i) the name of the organization, (ii) the mission and activities of the organization, (iii) the organ and mechanisms of conflict resolution, (iv) the criteria and procedures for adhesion or loss of membership, (v) the organ in charge of administration and financial audit, (vi) the hierarchy of organs and competence in taking decisions, and (vii) the property disposal in the case of dissolution of the organization.

578. The religious NGOs are obliged under Article 16 of the Law of religious NGOs to provide information regarding its name, mission, area of activities and the beneficiaries, organizational structure, competence and duties of the organs, criteria for being a leader and loss of leadership, administrative and financial audit organs, organ for and mechanisms of conflict resolution, and the property disposal in case of dissolution of the religious-based organization.

579. Pursuant to Article 7 of the Law of international NGOs and for an international NPO to be registered, the applicant must present the following: an authenticated copy of the statutes of the organization; an official document allowing the organization to operate in the country of origin and indicating its geographical establishment throughout the world, if any; the nature of the activities in which the organization intends to engage in and an action plan; and the budget and its source. An order of the minister in charge of international non-governmental organizations may determine additional requirements for registration of international non-governmental organizations.

580. All NGOs have to present the information determined above when they apply for the registration. However, the laws do not contain specific obligations to publicly maintain this information and those related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members or to make it available through appropriate authorities.

Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2):

581. The laws provide sanctions against the different kinds of NGOs. The Law for national NGOs allows the RGB to send a warning (Article 31), suspend it temporarily (Article 32), suspend it (Article 33), or dissolve it (Articles 34 to 36). Similarly, the law for religious NGOs allows the RGB to impose the same sanctions (Articles 33 to 37). The law for international NGOs allows the MIS to send a warning (Article 24), suspend temporarily (Article 26), enact a final suspension (Article 27), or close it down (Article 28).

582. Confiscation of the NPOs' property is also available under Article 51 of the Penal Code.

Licensing or registration of NPOs and availability of this information (c. VIII.3.3):

583. When the NGOs provide the information mentioned under VIII.3.1 above, the RGB or DGIE issue a temporary certificate of registration that is valid for a period of 12 months. NGOs should apply for legal personality nine months after the issue of the temporary certificate (Articles 17 of the law 04/2012 governing NGOs and 15 of the law 06/2012 governing RBOs).

584. The applicant for a temporary certificate of registration for a religious and national NGO must apply in writing to the RGB. The application letter should be accompanied by the authenticated statutes; the head office and full address of the organization; the name of the legal representative of the organization, the name of his/her deputy, their duties, full address, curriculum vitae as well as their judicial records; and the minutes of the general assembly that appointed the legal representative of the organization and the signatures of all the members that attended such a general assembly meeting. The international NGOs are not under the requirements of pre-certification for one year. The certification is issued immediately upon approval of the DGIE.

585. According to the Law on national NGOs, the common interest organizations and foundations may start operating before they are registered. Pre-registration period shall not exceed two years. During pre-registration period, such organizations and foundations shall introduce themselves to the administrative entities whose ambit covers their operating area.

Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4):

586. As mentioned above, the RGB can require national and religious NGOs to submit a copy of their activity and financial report for the previous year in accordance with pre-set conditions (that were not yet determined). The DGIE can also request the international NGOs to conduct and submit an internal audit on its activities and finances within the ninety days from the date of the request. However, the laws do not contain a clear requirement for NPOs to maintain records for a period of at least five years and to make such records available to appropriate authorities, or an obligation for records of domestic and international transactions having to be sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization.

Measures to ensure effective investigation and gathering of information (c. VIII.4); Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1); Access to information on administration and management of NPOs during investigations (c. VIII.4.2); Sharing of information, preventative actions and investigative expertise and capability, with respect to NPOs suspected of being exploited for terrorist financing purposes (c. VIII.4.3):

587. The RGB and DGIE are entitled to share the information relevant to all NPOs, although it is not clear whether they can do so both spontaneously and upon request. The MIS also coordinates the monitoring of international NPOs with LEAs. The coordination between the RGB, DGIE, and LEAs is not effective enough to allow information-sharing, coordination, and cooperation.

588. LEAs have appropriate powers to obtain information on the administration and management of a particular NPO during the course of an investigation. However, this information is not accurate or complete because not all the required information (i.e., financial information) is collected during the registration process, and is only updated upon request of the monitoring agencies.

589. Finally, the authorities did not develop and implement effective mechanisms for the prompt sharing of information among all relevant competent authorities in order to take preventative or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is being exploited for TF purposes or is a front organization for terrorist fundraising. Furthermore, the LEAs do not have sufficient investigative expertise and capacity to promptly examine those NPOs that are suspected of FT or being exploited for this purpose.

Responding to international requests regarding NPOs—points of contact and procedures (c. VIII.5):

590. The authorities have designated the DGIE (international NGOs) and the RGB (national and religious NGOs) as the points of contact for international requests for information about an NPO suspected of TF or other forms of terrorist support.

Implementation and effectiveness:

591. Currently, there are 338 national NGOs, 468 religious NGOs, and 156 INGOs registered in Rwanda.

592. The new legislation entered into force shortly before the assessment and had not been fully implemented. Their implementing regulations have not been issued yet. These laws governing the work of NPOs appear to have contributed to an increase in transparency. Nevertheless, there are certain loopholes in the laws that should be complemented by the implementing regulations. Not all the information required by the standard is collected at the registration level. The RGB and the DGIE are not effectively conducting monitoring of national, religious, and international NGOs. The relevant information is not required to be kept for five years, and there are no effective mechanisms between competent authorities to share relevant information and conduct prompt investigations.

5.3.2 *Recommendations and Comments*

593. The authorities are recommended to do the following:

- Use all sources of available information to undertake a domestic review on the NPOs' activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics;
- Conduct outreach programs focused on raising awareness on the risks of terrorist abuse and the measures available to protect against such abuses, directed to the entire NPO sector;
- Effectively monitor those NPOs, which account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities;
- Require NPOs to maintain information on related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members, or to make it available through appropriate authorities and make such information as well as information on the NPOs' purpose and stated activities and objectives publicly available;
- Review the NPO legislation to require NPOs to maintain, for a period of at least five years, and make available to appropriate 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 organization; and
- Put in place effective mechanisms to share relevant information, target, and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.

5.3.3 *Compliance with Special Recommendation VIII*

	Rating	Summary of factors underlying rating
SR.VIII	PC	<ul style="list-style-type: none">• No review on the NPO sector has been conducted and lack of outreach to the NPO sector on the risks of TF.

		<ul style="list-style-type: none"> • Insufficient supervision/monitoring of the NPO sector (mostly domestic NGOs) that account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector’s international activities; • Lack of requirement to maintain relevant information and make it available publicly and to appropriate authorities. • No requirement to maintain certain records required under SRVIII for a period of five years. • Lack of effective mechanisms to share relevant information and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.
--	--	---

6. NATIONAL AND INTERNATIONAL COOPERATION

6.1. National Cooperation and Coordination (R.31 and R.32)

6.1.1 *Description and Analysis*

Legal Framework:

594. Domestic coordination is not addressed in the laws and regulations of Rwanda.

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

595. There is no effective mechanism to enable the policy makers, law enforcement and supervisors, and other competent authorities to cooperate, and where appropriate, coordinate domestically the development and implementation of AML/CFT policies and activities.

596. The Advisory Board of the FIU brings together several competent authorities, and, as such, could be used to ensure some level of domestic cooperation, but its main task is to support the FIU rather than Rwanda's broader AML/CFT efforts.⁶⁵ Moreover, while its original composition was relatively broad, it was recently limited without any clear explanation or justification.⁶⁶ It is now chaired by the Governor of the BNR, and comprises the Prosecutor General (Deputy Chairperson), the head of the Investigation Department in the Rwanda Defense Forces, two representatives of the RNP (the Commissioners of Intelligence and of Criminal Investigation, respectively), the Commissioner General of Rwanda Revenue Authority, and the Chief of External Security of the National Intelligence and Security Service. Representatives from the Office of Ombudsman, MFA, and the MOCI are no longer part of the Advisory Board. (Additional information on the Advisory Board can be found under Recommendation 26.)

Bilateral Cooperation amongst competent authorities:

597. FIU-LEAs cooperation: As mentioned under Recommendation 26 above, the FIU has access to a number of databases and uses its investigation powers to gather the necessary information to promptly undertake its functions. The FIU does not receive feedback from LEAs on trends, methodologies, and typologies developed by relevant LEAs. According to the authorities, regular meetings are organized between the FIU and LEAs to exchange information. Other regular quarterly meetings are organized to discuss policy issues.

598. Cooperation amongst LEAs: The assessment team met with several divisions involved in fighting financial crimes at the RNP. There are already some forms of cooperation and coordination attempts present in the law enforcement area, together with a degree of interaction between the FIU and the RNP. The FIU and the customs adopted a practice of cooperation in the interception of suspicious cross-border cash movements. However, there are no effective mechanisms for coordination amongst LEAs to ensure the sharing of information between them on predicate crimes and ML offenses.⁶⁷

⁶⁵The responsibilities of the Advisory Board are set in Article 13 of the FIU Presidential Decree: In addition to advising the FIU on its core functions, the responsibilities consist of (i) proposing measures aimed at enabling the Unit to fulfill its mission (ii) updating the legislation relating to the fight against money laundering and financing of terrorism, (iii) establishing internal rules and regulations of the Unit, (iv) proposing agreements with foreign FIUs, (v) monitoring and evaluating achievements in the Unit in order to assess the adequacy of existing measures or to modify them wherever necessary, and (vi) providing a quarterly (or at any time deemed necessary) report to the minister in charge of internal security.

⁶⁶Prime Minister's Order No.180/03 of 09/12/2011

⁶⁷The authorities indicated after assessment that cooperation takes place in a forum called Joint Operation Centre (JOC) where security organs and law enforcement agencies meet and share information about security and crimes. They mentioned that the JOC meets regularly since 2011. Because this information

599. FIU–supervisory authorities cooperation: The supervisory bodies and the FIU do not exchange information related to their AML and CFT activities. The supervisory authorities do not inform the FIU about the reporting entities’ compliance with the AML/CFT Law (i.e., inspection results), and the FIU does not provide the supervisory authorities with information resulting from the analysis of STRs and other information.

600. Cooperation amongst supervisory authorities: Finally, there is no mechanism allowing the cooperation between supervisory agencies of FIs and DNFBPs, notably, BNR, MOJ, and MOCI.

Additional Element—Mechanisms for Consultation Between Competent Authorities and Regulated Institutions (c. 31.2):

601. There is no mechanism in place for consultation between competent authorities, the financial sector, and other sectors (i.e., DNFBPs, NPOs) that are subject to AML/CFT legislation.

Effectiveness of the AML/CT system (c.32.1):

602. Rwanda did not review the effectiveness of its AML/CFT system.

Implementation and Effectiveness:

603. In the absence of a clear coordination mechanism, the Rwandan authorities communicate on a bilateral basis, but this communication is sporadic and, ultimately, not as effective as it could and should be.

604. The competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT system.

6.1.2 Recommendations and Comments

605. The authorities are recommended to do the following:

was not provided during the onsite mission, the assessors could not discuss with the various members of the JOC and establish the extent to which it addresses ML and TF.

- Put in place effective mechanisms between policy makers, the FIU, LEAs, and supervisors that will enable them to cooperate and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF;
- Ensure that the FIU, LEAs, and supervisory authorities effectively exchange information on AML/CFT issues;
- Develop comprehensive statistics in the relevant areas of the fight against ML and TF (including statistics on domestic investigations; prosecutions; property frozen, seized and confiscated; convictions; and international cooperation, etc.); and
- Review the effectiveness of the AML/CFT system on a regular basis.

6.1.3 *Compliance with Recommendation 31*

	Rating	Summary of factors underlying rating
R.31	NC	<ul style="list-style-type: none"> • Lack of a mechanism to ensure cooperation amongst all relevant authorities and coordination of the development and implementation of AML/CFT policies and activities. • No bilateral exchange of information between the FIU, LEAs, and supervisory authorities.
R.32	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matters relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.

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

6.2.1 *Description and Analysis*

Legal Framework:

Ratification of AML-Related UN Conventions (c. 35.1) and Ratification of CFT-Related UN Conventions (c. I.1):

606. Rwanda is party to all the relevant conventions under the standard: It acceded to the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on May 12, 2012; it signed and ratified the 2000 Convention against Transnational Organized Crime (the Palermo Convention) on December 14, 2000 and September 26, 2003, respectively; and it signed the 1999 International Convention for the Suppression of the Financing of Terrorism (the ICSFT) on December 4, 2001 and ratified it on May 13, 2002.

607. Upon their publication in the official Gazette, international treaties and agreements that have been conclusively adopted in accordance with the provisions of law are “more binding than organic laws and ordinary laws except in the case of non compliance by one of parties” (Article 126 of the Constitution). Most of the provisions of the relevant international conventions require implementing measures, which, in the case of Rwanda, have been taken, albeit not entirely comprehensively, with the adoption of the AML/CFT Law.

608. As mentioned under SR.III above, Rwanda has not fully implemented the UNSCRs dealing with the prevention and suppression of the financing of terrorism.

Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2):

609. Rwanda is also party to the 1999 Convention of the Organization of African Unity on the Prevention and Combating of Terrorism.

Implementation and Effectiveness:

610. Rwanda has not yet fully implemented the relevant provisions of the Vienna and Palermo Conventions, or the relevant UNSCRs and the ICSFT.

6.2.2 Recommendations and Comments

611. In order to fully comply with Recommendation 35 and SR.I, it is recommended that the authorities do the following:

Recommendation 35:

- Fully implement the provisions of the Vienna and Palermo Conventions, the ICSFT, and the relevant UNSCRs.

SR.I:

- Implement fully the relevant UNSCRs.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	LC	<ul style="list-style-type: none">• Effective implementation was not established.
SR.I	PC	<ul style="list-style-type: none">• Effective implementation was not established.

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

6.3.1 Description and Analysis

Legal Framework:

612. The main framework for cooperation in the fight against money laundering and terrorist financing is set out in chapter IV of the AML/CFT Law. In addition, the international conventions to which Rwanda is a party and the bilateral agreements it has signed

also define the scope and conditions of the MLA that Rwanda may render. Rwanda concluded bilateral cooperation agreements with Kenya, Luxembourg, Malawi, and Uganda,⁶⁸ but their content was not shared with the assessment team. According to the Constitution, multilateral and bilateral agreements take precedence over domestic law. The assessment team was not provided with copies of the agreements to which Rwanda is party; for this reason, it is unable to establish whether the international agreements contradict the text of the law. The description below is based on the AML/CFT Law.

Widest Possible Range of Mutual Assistance (c. 36.1):

613. Article 28 of the AML/CFT Law provides that the government of Rwanda shall cooperate with other States in the exchange of information; in investigations and procedures dealing with protective measures; and seizures and confiscation of the instruments, funds and property related to money laundering and financing of terrorism. It does not, however, deal with cooperation with respect to the predicate offenses. Pursuant to Article 29, the cooperation may include the following:

- collecting evidence or statements from persons;
- assisting the requesting state's legal authorities in providing access to detained persons or other persons in order to witness or to help in the enquiries;
- providing judicial documents;
- executing searches and seizures;
- examining objects and visiting sites;

⁶⁸With Kenya: Extradition treaty on reciprocal recognition of judiciary decisions and Treaty on mutual legal assistance in criminal matters, all concluded in Nairobi on May 28, 1990. With Malawi: General Agreement on bilateral cooperation; and Extradition treaty. With Luxemburg: General cooperation agreement signed on December 16, 2002. With Uganda: Extradition convention, Protocol relating to rogatory commissions, both signed on February 6, 1988. Extradition treaty signed on July 2005, and Security cooperation agreement signed on August 8, 1992.

- providing information and items with evidential value; and
- providing originals or certified copies of relevant documents, including bank statements, accounting documents, and registers, showing the functioning of an enterprise or its commercial activities. According to the authorities, bank statements may be obtained upon request from the NPPA or the police.

614. The law provides for some flexibility in the execution of the requests: investigative and trial measures may be executed pursuant to the requested state's law, as long as this is not incompatible with Rwanda's legislation, and judges or civil servants of the requesting state may participate to the measures taken by their Rwandan counterparts, if necessary (Article 31 of the AML/CFT Law).

Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):

615. The authorities mentioned that they endeavor to respond to MLA request to the largest extent possible, and in a timely fashion. No further information (such as statistics of incoming requests and their outcome) was, however, provided to support their claim.

No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2):

616. The AML/CFT Law (Article 30) specifically lists the grounds for refusal—none of which appear to prohibit or place unreasonably or unduly restrictive conditions on the provision of MLA. A request for cooperation may only be refused in the following cases:

- it is likely to prejudice the public order, sovereignty, security, or fundamental principles of the Constitution of the Republic of Rwanda;
- the requesting authority is not competent under the requesting state law, or the request is not duly transmitted;
- the facts on which the request is based have already been criminally processed, sentenced, or definitively judged on the territory of the Republic of Rwanda;
- the offense on which the request is based does not exist under Rwandan law or does not have common characteristics with an offense under Rwandan law;

- the requested measures or other measures with similar effects are not authorized in Rwanda or cannot be applied to the offenses on which the request is based;
- the requested measures cannot be decreed or executed “because of the prescription of the crime of money laundering or financing terrorism” (i.e., status of limitation) under the requesting state’s or Rwanda’s laws;
- the foreign ruling requested to be implemented is not binding under the legislation of Rwanda;
- the conditions under which the decision from the requesting state has been ordered do not offer sufficient guarantees of defense rights;
- there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on the basis of sex, race, religion, nationality, ethnic origin or political opinions or status;
- the request is based on a political offense or is motivated by political considerations; and
- the case is not important enough to justify the requested measures or the enforcement of the foreign court decision.

617. In case of refusal, the Rwandan government must immediately communicate to the requesting state the grounds for its decision (Article 30 of the AML/CFT Law). No additional information was provided on the grounds that seem to call for flexibility and judgment on the authorities’ behalf (such as for example the ones dealing with the non-binding nature of the foreign decision, the level of defense rights that should be considered to be sufficient, and the “importance” of a case), but the authorities met were not aware of any requests having been turned down for any of these reasons.

Efficiency of Processes (c. 36.3):

618. Requests for MLA are to be transmitted to the Rwandan authorities through diplomatic channels. In practice, the MFA transmits the requests to the Ministry of Justice, which, upon verification of the validity of the request, forwards it to the NPPA. In urgent cases, however, requests may be communicated through INTERPOL or directly by the foreign authorities to the judicial authorities in Rwanda, either by mail, or by any other faster means of transmission, leaving a hard copy or equivalent material. It is up to the authorities to establish what constitutes in practice an “urgent case.” In such cases, unless confirmation is given through

diplomatic channels, requests are not followed up upon (Article 41 of the AML/CFT Law). In practice, the authorities mentioned that they work to maximize both the INTERPOL and the diplomatic channels to ensure that potential delays are avoided.

619. All requests and their annexes must be in, or accompanied by, a translation in Kinyarwanda, English, or French (Article 41 of the AML/CFT Law). They must specify all the following necessary elements to enable their execution according to the type of assistance requested:

- the authority requesting the measure;
- the requested authority;
- the subject of the request and any relevant remark on its context;
- the facts justifying the request;
- all known elements likely to facilitate the identification of the persons concerned and in particular the civil status, the nationality, the address, and the profession;
- all necessary information to identify and locate the person, instruments, resources, or property concerned;
- the text of the legal provision instituting the offense or, if needed, a report of the law applicable to the offense, and the indication of the sentence incurred for the offense; and
- a description of the required assistance and the detail of any particular procedure that the requesting state wishes to see applied (Article 42 of the AML/CFT Law).

620. Additional information is necessary when provisional measures or confiscation are requested, namely in the case of a request for a protective measure, a description of the protective order requested; and in case of a request for a decision for confiscation, a report of the relevant facts and arguments allowing the judicial authorities to pronounce the confiscation, according to the provisions of national law.

621. In case of a request for enforcement of a decision of a protective measure or of confiscation, the requests must be further accompanied by a certified copy of the decision setting out such grounds and, if it does not state them, an explanatory note of such a decision; a certificate according to which the decision is enforceable and not subject to ordinary means of redress; the indication of the limits within which the decision shall be carried out and, where appropriate, the amount of money to reclaim for the asset(s); and if applicable and if possible, all indications related to the rights that third parties can demand on the instruments, resources, property, or other.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):

622. According to the authorities and the list of grounds for refusal mentioned above, the fact that the offense that gave rise to a request for MLA is also considered to involve fiscal matters is not in itself sufficient grounds to refuse to cooperate.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):

623. Pursuant to Article 8 of the AML/CFT Law, every reporting entity, control organ, or auditor must implement the law, notwithstanding any obligation of professional secrecy or restriction of divulgation of information imposed by any other law. According to the authorities, this notably means that they may request, on behalf of a foreign State, information held by any of the reporting entities. The assessment found, however, that this did not include information held by lawyers because the scope of legal privilege in Rwanda is too broad (i.e., goes beyond the exemption from the reporting requirement provided for in the standard) and applies to all information obtained by lawyers.

Availability of Powers of Competent Authorities (applying R.28, c. 36.6):

624. According to the authorities, the powers available to them to search and seize information may be used in response to a request for MLA.

Avoiding Conflicts of Jurisdiction (c. 36.7):

625. No mechanisms were established to avoid conflicts of jurisdiction. The authorities did not recall having ever encountered such a conflict in practice.

Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):

626. According to the authorities, they may use the powers granted in the domestic context to respond to a direct request for assistance from foreign judicial or enforcement authorities.

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

627. The measures and procedures described above are equally applicable to requests for assistance in the fight against terrorist financing.

Dual Criminality and Mutual Assistance (c. 37.1, 37.2 and SR V.2):

628. The AML/CFT Law only addresses dual criminality in the context of extradition: MLA may be rendered for less intrusive and compulsory measures even in instances where there is no dual criminality. In the absence of requests made in the context of the fight against money laundering and terrorist financing, this principle has not been tested by the courts.

Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1):

629. Requests for provisional measures are dealt with by the competent court: if the request is written in general terms, the court will pronounce the most appropriate protective measure provided for by Rwandan legislation, and if the requested provisional measures are not provided for in Rwanda, the court may substitute them with other appropriate measures (Article 32). No example of “appropriate measures” was given. According to the authorities, the powers granted by the PC (Article 51) to freeze, seize, and ultimately confiscate can be exercised in response to a foreign request to the same extent as in the course of a domestic investigation. As a result, the authorities may seize or freeze and confiscate all items subject to confiscation under the standard. Considering the absence of requests for provisional measures and confiscation, however, the authorities have not had the opportunity to gain practical experience in implementing these provisions on behalf of a foreign State.

Property of Corresponding Value (c. 38.2):

630. If the assets to be frozen, seized, and confiscated are no longer available or are not identifiable, the authorities may seize and confiscate assets of corresponding value (Article 51 of the PC). According to the authorities, although this provision applies in the context of a domestic investigation, it may also be used in response to a request from a foreign State.

Coordination of Seizure and Confiscation Actions (c. 38.3):

631. There is no mechanism for coordinating seizure or confiscation actions with other countries and the authorities were not aware of such coordination having been necessary in practice so far.

International Cooperation under SR V (applying c. 38.1–38.3 in R. 38, c. V.3):

632. The provisions and authorities' views mentioned above apply equally to MLA in the context of combating the financing of terrorism.

Asset Forfeiture Fund (c. 38.4):

633. Pursuant to Article 61 of the AML/CFT Law, confiscated resources or assets are vested in the state that may allocate them to a fund designated for combating money laundering, terrorism, transnational organized crime, and illicit traffic of drugs and psychotropic substances. They remain burdened on to the amount of their value of the charge legally made up to the profit of third parties. In the event of confiscation by default, the confiscated assets are vested to the state and are liquidated according to the relevant procedures. However, if the competent court acquits the prosecuted person following the case review, it orders the restitution of the confiscated assets in monetary terms by the state.

634. In practice, no such fund was established because no assets were confiscated, but the law clearly sets out the framework to do so if the need were to arise.

Sharing of Confiscated Assets (c. 38.5):

635. Article 34 of the AML/CFT Law provides that the Rwandan state has the powers to dispose of confiscated property on its territory upon request of foreign authorities, "unless an agreement concluded with the requesting State provides otherwise." According to the authorities, this would enable them to share assets, if deemed appropriate.

Additional Element (R 38 and V.7)—Recognition of Foreign Orders for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and c) Confiscation of Property which Reverses Burden of Proof (applying c. 3.7 in R.3, c. 38.6); V.7:

636. Article 31 of the AML/CFT Law provides that investigative and trial measures are to be executed in accordance with the laws of the Republic of Rwanda “unless the competent authorities of another State require that it be proceeded according to a specific form compatible with the legislation of the Republic of Rwanda.” According to the authorities, this would enable them to recognize a foreign order for confiscation of assets from organizations principally criminal in nature, civil forfeiture, and/or confiscation that reverses the burden of proof if approved by the High Court through exequatur. Considering that no request to recognize such an order was made, it is not clear whether the High Court would deem that the foreign measure, such as civil forfeiture, for example, is indeed “compatible with the legislation of Rwanda” and approve its implementation.

Statistics (applying R.32):

637. At the time of the assessment, the authorities had received two requests for MLA in the fight against money laundering (one from Switzerland and the other from Belgium). The authorities mentioned that they responded to the requests through rogatory commission, but they did not provide any information on the object of the requests and the timing of the response. They also mentioned having requested a neighboring country’s assistance in a terrorist financing case, but without providing additional details. The authorities met were not aware of any requests for MLA having been turned down.

Implementation and Effectiveness:

638. The conditions for and the range of measures that Rwanda can take in response to requests for MLA appear reasonable, and, although the country has little experience in requesting or providing MLA in combating ML, TF, and predicate crimes other than genocide, the authorities appeared eager to cooperate with other states to the greatest extent possible. Due to the lack of practical experience, however, the authorities could not establish that the MLA framework allows for timely responses to requests for international cooperation, and that dual criminality requirements do not constitute unreasonable obstacles in practice. Similarly, they could not establish how coordination of seizing and confiscation measures would work in practice and how they would cooperate with respect to the predicate offenses.

6.3.2 *Recommendations and Comments*

639. In order to fully comply with the following Recommendations, the authorities are recommended to do the following:

Recommendation 36:

- Consider devising a mechanism for determining the best venue of jurisdiction of defendants in the interest of justice in cases that are subject to prosecution in more than one country; and
- Ensure that information obtained by lawyers may be obtained upon request from another state in the circumstances envisaged in the standard.

Recommendation 38:

- Establish a framework to freezing, seizing, and confiscating and sharing the proceeds of predicate offenses in response to a request from a foreign country.

6.3.3 *Compliance with Recommendations 36 to 38 and SR.V*

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	PC	<ul style="list-style-type: none">• The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide.• Broad scope of the legal privilege prevents the authorities from obtaining upon request of a foreign state any information held by lawyers.• Timeliness of responses was not established.

		<ul style="list-style-type: none"> • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country.
R.37	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
R.38	PC	<ul style="list-style-type: none"> • The AML/CFT Law addresses cooperation in freezing, seizing, and confiscation in the context of ML/TF only and similar cooperation with respect to the predicate offenses is unclear. • Effective implementation was not established.
SR.V	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Effective implementation was not established.

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

6.4.1 Description and Analysis

Legal Framework:

640. The AML/CFT Law sets the general framework for extradition in ML/TF cases.

641. Rwanda has also concluded bilateral extradition agreements with Kenya, Malawi, and Uganda,⁶⁹ but their content was not shared with the assessment team, and it is therefore unclear to what extent they also apply to extradition for money laundering and terrorist financing.

642. Pursuant to Article 26 of the Constitution, no Rwandan national may be extradited.

Dual Criminality and Mutual Assistance (c. 37.1 and 37.2):

643. Dual criminality is a condition for extradition (Article 36 of the AML/CFT): extradition may only be carried out when the offense giving rise to extradition or a similar offense is envisaged both in the legislation of the requesting State and of the Republic of Rwanda. According to the authorities, technical differences between the laws of Rwanda and the laws of the State requesting extradition would not constitute an impediment to extradition.

Money Laundering as Extraditable Offense (c. 39.1):

644. Pursuant to Article 35 of the AML/CFT Law, money laundering (as well as terrorist financing) is an extraditable offense. Requests for extradition are to be carried out pursuant to the terms of the applicable treaty and, in the absence of a treaty, according to the principles defined by the standard treaty of extradition adopted by the General Assembly of the United Nations in its Resolution

⁶⁹With Kenya: Extradition treaty on reciprocal recognition of judiciary decisions and Treaty on mutual legal assistance in criminal matters, all concluded in Nairobi on May 28, 1990. With Malawi: General Agreement on bilateral cooperation, and Extradition treaty. With Uganda: Extradition convention and Protocol relating to rogatory commissions, both signed on February 6, 1988. Extradition treaty signed on July 2005 and Security cooperation agreement signed on August 8, 1992.

45/116. The AML/CFT law sets out grounds for both compulsory⁷⁰ and optional⁷¹ refusal of extradition (Article 37 and 38), all of which are reasonable and do not appear to unduly limit the fight against money laundering and terrorist financing. Extradition is, however,

⁷⁰Requested extradition of the accused shall not be granted in the following cases:

- 1) there are serious reasons to believe that the request for extradition was presented with a view to suing or punishing a person due to his/her race, religion, nationality, ethnic origins, political opinions, sex, or status; or that this situation may endanger him/her for any of the above reasons;
- 2) a final judgment was pronounced in the Republic of Rwanda for the offense in respect of which the extradition is being sought;
- 3) the person whose extradition is being sought can no longer, due to the legislation of one or the other of these countries, be sued or punished due to the elapsed time; and
- 4) the person whose extradition is being sought has been or would be subjected to torture and other cruel, inhuman, and degrading treatments;
- 5) the person whose extradition is being sought has not received or would not receive the minimum guarantees in criminal proceedings as contained in Article 14 of the International Convention on Civil and Political Rights.

The extradition may not be refused for the simple reason that the offense is considered as relating to fiscal issues. In any case, extradition of a Rwandan citizen shall not be granted.

⁷¹Extradition may be refused in the following cases:

- 1) the competent authorities of the Republic of Rwanda have decided not to proceed with charges against the person concerned for the particular offense for which the extradition is requested or to put an end to the proceedings instituted against the aforementioned person;
- 2) proceedings for the offense related to the requested extradition are pending in the Republic of Rwanda;
- 3) the offense for which the extradition is requested has been committed outside the territory of either country and for which, according to the legislation of the Republic of Rwanda, the Rwandan jurisdictions are not competent with regard to the offenses committed outside its territory in comparable circumstances;
- 4) the person whose extradition is requested has been judged or risked to be judged or convicted in the requesting State by a special Court;
- 5) the Republic of Rwanda, while taking into account the nature of the offense and the interests of the requesting State, considers that, given the circumstances of the matter, the extradition of the concerned person would be incompatible with humanitarian considerations, taking into account the age, the state of health, or other personal circumstances of the aforesaid person;
- 6) the offense for which the extradition is requested is considered by the legislation of the Republic of Rwanda as committed in all or partly on its territory;
- 7) the extradition is requested in execution of a final judgment issued in the absence of the person concerned who has not been able to ensure his/her defense for reasons beyond his/her will.

only available for persons who have been convicted on money laundering charges, and not for persons charged for money laundering and pending trial.

Extradition of Nationals (c. 39.2) and Cooperation for Prosecution of Nationals (c. 39.3):

645. Rwanda cannot extradite its nationals (Articles 25 of the Constitution and 37 of the AML/CFT Law). The AML/CFT Law provides that, when certain grounds of refusal are met, the case must be referred to the competent Rwanda court, but it does not list nationality among the grounds that give rise to the principle of *aut dedere aut judicare* principle. No action is required following the refusal to extradite a Rwandan national. There is therefore no framework for cooperation in the prosecution of a Rwandan national.

Efficiency of Extradition Process (c. 39.4):

646. The laws and procedures applicable to a request for extradition aim at ensuring that the request for extradition is founded,⁷² but do not address the timeframe in which a response should be provided. At the time of the assessment, no requests for extradition had been submitted and processed in Rwanda in application of the AML/CFT Law. It was therefore not possible to establish whether extradition may be executed in a timely fashion.

Additional Element (R.39 and V)—Existence of Simplified Procedures relating to Extradition (c. 39.5, and V.8):

647. There are no simplified extradition procedures in place.

Statistics (R.32):

⁷²The authorities provided in particular the following explanations on the extradition process: Unless otherwise specified by the bilateral extradition treaties signed (which, as mentioned above, were not provided to the assessors), requests for extradition must be accompanied by the judgment (or a certified copy conform to the judgment) or any other document proving that the concerned person has been recognized guilty and indicative of the sentence pronounced. They must also establish that the judgment is enforceable and the extent to which the sentence has not been carried out. The ministry in charge of justice, after having verified the legitimacy of the request, must submit it to the NPPA of the location where the person whose extradition is requested is located. The NPPA must then refer to the competent civil servants for the requests for investigation and the competent court with regard to the requests related to extradition.

648. Rwanda has not been requested to extradite anyone on the basis of a conviction for money laundering or terrorist financing.

6.4.2 *Recommendations and Comments*

649. In order to fully comply with Recommendation 39 and SR.V, the authorities are recommended to do the following:

- Ensure that Rwandan nationals who are found guilty of money laundering or terrorist financing by a foreign state and whose extradition to that state is refused by Rwanda on the grounds of nationality only are subject to prosecution in Rwanda;
- If necessary, to ensure the efficiency of this process, establish a framework for cooperation with the foreign state that had originally requested the extradition of the Rwandan national;
- Ensure that extradition is also available for persons charged with a money laundering or a terrorist financing offense and pending trial; and
- Ensure that extradition requests may be handled without undue delay.

6.4.3 Compliance with Recommendations 37 and 39, and SR.V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	PC	<ul style="list-style-type: none"> • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. • Extradition is not available for persons charged for money laundering and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.
R.37	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
SR.V	PC	<ul style="list-style-type: none"> • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign state and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality.

		<ul style="list-style-type: none"> • Extradition is not available for persons charged for terrorist financing and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.
--	--	--

6.5. Other Forms of International Cooperation (R.40 and SR.V)

6.5.1 *Description and Analysis*

Legal Framework:

650. FIU: Articles 14 to 16 of the FIU Presidential Decree.

651. Financial sector laws, including the Central Bank Law (No. 55/2007), Banking Law (No. 007/2008), Law Regulating the Capital Market in Rwanda (No. 1/2011), and Law Establishing the Capital Market Authority (No. 52/2008) provide the framework for exchanging and sharing information with foreign counterparts.

Widest Range of International Cooperation (c. 40.1 to 40.9)

LEAs:

652. The law enforcement authorities in Rwanda are able to provide international cooperation to their foreign counterparts through a number of fora, including Interpol, as well as direct police-to-police contact. The Directorate of International Cooperation (DIC) at the RNP receives and replies to requests of information from counterparts. The directorate is composed of the following four divisions: multilateral cooperation, cooperation with organizations, bilateral cooperation, and research and liaison. Eight officers are working for the Directorate.

653. The law enforcement authorities have signed MOUs with counterparts in a large number of countries. The provision of direct assistance is generally not subject to any conditions or restrictions. The information-sharing ability of law enforcement also extends to information subject to confidentiality.

654. Rwanda is member of the following organizations that facilitate the exchange of information between LEAs:

- The Eastern Africa Police Chiefs Cooperation Organization⁷³ (EAPCCO) that was created in 1998 in Kampala, Uganda, as a regional practical response to the need to join police efforts against transnational and organized crime.
- The EAC, the regional intergovernmental organization of Kenya, Uganda, Tanzania, Rwanda, and Burundi, with its headquarters in Arusha, Tanzania. The EAC aims at widening and deepening co-operation among the Partner States in, among others, political, economic, and social fields for their mutual benefit. To this extent, the EAC countries established a Customs Union in 2005 and a Common Market in 2010. The next phase of the integration will see the bloc enter into a Monetary Union and ultimately become a Political Federation of the East African States.

655. The LEAs in Rwanda are not authorized to conduct investigations on behalf of foreign counterparts as required by the standard.

656. The authorities have informed the assessment team that cooperation may not be refused merely based on the involvement of fiscal matters. However, assessors have not been informed of any written process that sets forth the scope or nature of the sharing of AML/CFT information internationally or that would specifically permit the sharing of information related to fiscal matters.

657. It is not possible to share information detained by lawyers with foreign counterparts since LEAs cannot obtain financial information and documents from them. Lawyers in Rwanda are obliged to stringent confidentiality requirements when they prepare for or carry out transactions for their clients concerning the activities set under Recommendation 12.

FIU:

⁷³EAPCCO is composed of the following 11 members: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Seychelles, Somalia, South Sudan, Sudan, and Tanzania.

658. Pursuant to Article 14 of the AML/CFT Law, the FIU can transmit to a national or relevant foreign control organ or to the authorities responsible for the enforcement of the AML/CFT Law the information resulting directly or indirectly from its examination when it has good reasons to believe that the information is suspicious or that it can contribute to an investigation on the non-respect of the AML/CFT Law or to the crime of money laundering and financing of terrorism in compliance with the Instructions of the Inspector General of the RNP. The authorities mentioned that “the Director of the FIU works under the supervision of the IGP, and follows the RNP crime prevention strategies and standard operating procedures as provided by the RNP leadership.”

659. Article 15 determines the relationship of the Rwandan FIU with foreign FIUs. The FIU can, on its own initiative or upon request, provide, receive, or exchange information with the financial intelligence unit from another country or other foreign counterparts with similar functions about an STR, provided that the counterparts concerned are under the same obligations of professional secrecy. From this perspective, the FIU can conclude cooperation agreements in compliance with the procedural manual prepared by the Unit and approved by the Advisory Board. When the unit receives a request for information or transmission of financial information from a financial intelligence unit of another country, it shall follow up this request in the limits of the power conferred to it under the Law.

660. Finally, Article 16 sets the confidentiality requirements: “before transmitting personal data to a foreign authority, the [FIU] must take steps to ensure that this information is protected by the same provisions of professional secrecy as those which apply to the information of national source provided to the aforementioned authority and this one uses information for purposes envisaged by this [decree or the AML/CFT Law].”

661. Although the legal framework is satisfactory, the Inspector General of the RNP did not release instructions determining the conditions for information sharing, and the FIU did not develop a procedural manual for cooperation agreements as required by Article 15 of the Presidential Decree. In practice, the FIU did not sign MOUs with foreign counterparts, and has never shared information with them. It is not member of Egmont Group and is not currently implementing its principles.

Statistics (R.32)

662. No information was provided with respect to the number and type of requests received from foreign counterparts by any of the competent authorities.

Widest Range of International Cooperation (c. 40.1); Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1); and Clear and Effective Gateways for Exchange of Information (c. 40.2) and Spontaneous Exchange of Information (c. 40.3):

663. The BNR and the CMA as the competent supervisory authorities in Rwanda are vested with powers to share information with other competent authorities internationally.

664. Law 55/07, Article 72, allows the BNR to cooperate with foreign central banks, foreign supervisory authorities, foreign regulators, and international institutions in the execution of its functions. Also, Article 58, section 3 of the Banking Law provides for consolidated supervision and grants the BNR with the power to “set out modalities of cooperation with the supervisory authority of the host country by means of a cooperative agreement.” As mentioned above, however, the BNR is not the AML/CFT supervisor and may therefore not use these powers for AML/CFT purposes.

665. The CMA has powers to share information with other international competent authorities under Articles 51, 52, 57, and 58 of the Law 1/2011, and Article 3 paragraph 14 of the Law 11/2011. These powers allow the CMA to provide assistance to other foreign regulatory authorities, including carrying out investigations of any alleged breaches of the legal or regulatory requirements or to provide such other information, opinion, or assistance as may be required by a foreign regulatory authority.

666. According to the authorities, some MOUs were concluded (although they did not specify with whom) but do not provide for the exchange of information in relation to ML and the underlying predicate offenses.

667. No further information was provided on the way in which both authorities provide assistance to their foreign counterparts in practice.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4):

668. No information was provided on whether and under what conditions the competent authorities may make inquiries on behalf of foreign counterparts.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6) and Safeguards in Use of Exchanged Information (c. 40.9):

669. Similarly, no information was provided on the type of controls or safeguards in place to ensure that the information received by the competent authorities other than the CMA is used only in an authorized manner.

670. The CMA is allowed to provide assistance to foreign authorities, provided that, among other issues, the following conditions are established: (i) the foreign regulatory authority is a legally recognized authority; (ii) whether the assistance sought would be used by the foreign regulatory authority in fulfilling its responsibilities; (iii) whether the foreign regulatory authority will provide comparable assistance to the CMA; (iv) whether the foreign regulatory authority would comply with any condition that the CMA may impose on the transmission of such information; and (v) whether the foreign regulatory authority is able to keep the information provided confidential. Based on these provisions, it does not appear that the CMA's ability to exchange information is subject to disproportionate or unduly restrictive conditions.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

671. According to the authorities, the fact that a request may involve fiscal matters is not sufficient grounds for refusing a request for cooperation.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

672. There is no secrecy, financial, or confidentiality law in Rwanda restricting financial institutions from exchanging information. However, for DNFBPs, particularly for lawyers (advocates), these legal professionals are subject to strict professional secrecy provisions under the Criminal Code, the Law Organizing the Lawyers Profession, and internal regulations issued by the Bar Association. Refer to R.16 for DNFBPs description and analysis with respect to legal professional privilege or legal professional secrecy.

Additional Element—Exchange of Information with Non-Counterparts (c. 40.10, c. 40.10.1, and 40.11):

673. No information was provided on the mechanisms in place.

Implementation and effectiveness:

674. Very little information was provided on the legal framework for cooperation and it appeared that the competent authorities have no experience in cooperating with their foreign counterparts in AML/CFT matters.

675. The FIU never shared information with counterparts.⁷⁴ Law enforcement agencies are not proactive enough in requesting information on ML/TF and underlying predicate offenses from their counterparts. Most of the requests made by Rwanda are about fugitive tracking and Genocide cases. They are not authorized to conduct investigations on behalf of foreign counterparts. The LEAs never shared TF information with counterparts. The lack of TF criminalization can limit the scope of sharing of TF information.

676. The MOUs in place do not cover AML/CFT matters to allow the BNR and the CMA to share or exchange information in relation to the following:

- both ML and the underlying predicate offenses, and
- allow the AML/CFT supervisory authorities to conduct inquiries on behalf of foreign counterparts.

677. The mission also identified that there are professional secrecy provisions applicable to the legal profession (advocates) representing an impediment for complying with the sharing or exchanging of information.

6.5.2 Recommendations and Comments

678. The authorities are recommended to do the following:

- Ensure that the FIU shares information with its foreign counterparts;
- Provide LEAs with the power to conduct investigations on behalf of foreign counterparts;
- Allow for the sharing of information and documents detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12;
- Maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, and supervisors, including whether the request was granted or refused and the response time;

⁷⁴ The authorities indicated that, since the assessment, the FIU has been sharing information with other law enforcement agencies on a regular and at times on a daily basis.

- Ensure that all AML/CFT supervisors have arrangements in place to share and exchange information with respect to both ML and the underlying predicate offenses;
- Grant powers to all AML/CFT supervisors to allow for the conduct of inquiries on behalf of foreign counterparts;
- Establish controls and safeguards for the AML/CFT supervisor for banks and other entities licensed by the BNR, FIU, and LEAs to ensure that the information received by competent authorities is used only in an authorized manner; and
- Ensure that requests for cooperation are not refused on the grounds of professional privilege or legal professional secrecy.

6.5.3 *Compliance with Recommendation 40 and Special Recommendation V*

	Rating	Summary of factors relative to s.6.5 underlying overall rating
R.40	NC	<p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> • No sharing of information by the FIU with foreign counterparts. • Lack of powers of LEAs to conduct investigations on behalf of foreign counterparts. • Impossibility of sharing information detained by lawyers when conducting transactions for their clients concerning the activities set under Recommendation 12. • Lack of statistics and overall effectiveness. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • No AML/CFT supervisor in place for the banking sector that may cooperate with foreign counterparts.

		<ul style="list-style-type: none"> • Lack of arrangements in place to the sharing and exchange of information with respect to both ML and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts. • Lack of controls and safeguards in place for the AML/CFT supervisor of banks and other entities licensed by the BNR, the FIU, and LEAs to ensure that the information received by competent authorities is used only in an authorized manner. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
SR.V	NC	<p>With respect to the FIU and LEAs</p> <ul style="list-style-type: none"> • Lack of TF criminalization limits the ability to provide cooperation by all concerned authorities. • Lack of overall effectiveness of the exchange of information relating to TF. • Lack of statistics. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • Lack of arrangements in place to facilitate the sharing and exchange of information with respect to both TF and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts in TF matters.

		<ul style="list-style-type: none"> • Lack of controls and safeguards in place in the banking sector to ensure that the information received by competent authorities is used only in an authorized manner. • Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
--	--	---

7. OTHER ISSUES

7.1. Resources and Statistics

679. At the time of the assessment, the implementation of the AML/CFT framework had only just begun, and the authorities were not fully seized of their AML/CFT functions. It was therefore not possible to establish whether current resources are sufficient, but, going forward, all competent authorities are likely to require additional resources to be able to conduct their AML/CFT functions adequately. Overall, the level of awareness in combating money laundering and terrorist financing and in the provisions of the AML/CFT was relatively low across the range of competent authorities.

680. Statistical information was scarce, mainly due to the fact that the law had not been applied in many instances, but the authorities seemed to have the necessary capacity to produce valid statistics once implementation increases.

681. Due to the recent implementation of the law, no review of the effectiveness of the AML/CFT framework had been conducted.

7.2. Recommendations and Comments

682. In order to comply fully with the following Recommendations, the authorities are recommended to do the following:

Recommendation 30:

- Ensure that all competent authorities are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions, keeping in mind that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference; and
- Staff of competent authorities are provided with adequate training on AML/CFT.

Recommendation 32:

- Review the effectiveness of the AML/CFT system on a regular basis; and
- Ensure that all competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT framework in line with the FATF standard.

	Rating	Summary of factors underlying rating
R.30	NC	<ul style="list-style-type: none"> • Unable to determine whether resources are sufficient (in numerical terms) due to lack of implementation. • Overall, resources did not appear adequate in terms of technical knowledge of AML/CFT. • Insufficient training provided on AML/CFT.
R.32	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matter relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.

7.3. Other Relevant AML/CFT Measures or Issues

683. None.

7.4. General Framework for AML/CFT System (see also section 1.1)

684. None.

Table 11. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating ⁷⁵
Legal systems		
1. ML offense	LC	<ul style="list-style-type: none"> • Lack of clarity as to whether prior conviction for the predicate offense is required to prove that property is the proceeds of crime, and authorities are of the view that it is a necessary requirement. • ML offense does not cover the concealment or disguise of the movement of property. • Lack of effectiveness of the money laundering offense.
2. ML offense—mental element and corporate liability	PC	<ul style="list-style-type: none"> • Lack of clarity as to whether the intentional element of the offense can be inferred from objective factual circumstances, and authorities are of the view that it cannot. • Lack of sanctions and effective implementation of the money laundering offense.
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • Rights of <i>bona fide</i> third parties not ensured in the criminal process.

⁷⁵These factors are only required to be set out when the rating is less than Compliant.

		<ul style="list-style-type: none"> • Lack of effectiveness: no funds or assets have been confiscated in application of the AML/CFT Law and the PC; limited use of the provisional measures and powers to identify and trace the proceeds of crimes.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • The mechanisms in place for exchanging and sharing information among competent authorities have not addressed AML/CFT matters. • Effectiveness was not established with respect to the sharing of information between competent authorities, both at a domestic and at an international level.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • Banks are not prohibited from keeping anonymous accounts or accounts in fictitious names.

		<ul style="list-style-type: none"> • No requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR. VII. • No requirement to undertake CDD measures when there is suspicion of terrorist financing. • No threshold set by the FIU for conducting CDD for occasional transactions and, as such, the identification obligation remains inapplicable. • No mechanisms in place for verifying the power to bind the legal person or arrangement. • No requirement to identify the customer and verify the customer's identity using reliable, independent source documents, data or information. • No requirement to identify the beneficial owner in line with the standard. No requirement to understand the control structure of the customer and identify the natural person(s) who ultimately own or control the customer, including those with a controlling interest and those who comprise the mind and management of the company.
--	--	---

		<ul style="list-style-type: none"> • No requirement to undertake ongoing due diligence on the business relationship. • No requirement to ensure that documents, data, or information collected under the CDD process is kept up to date, particularly for higher risk categories of customers or business relationships. • No obligation to establish the purpose and intended nature of the business relationship. • No requirement to undertake enhanced CDD for high-risk customers, business relationships, or transactions. • No requirement to reject opening an account/commence business relationship/perform the transaction when unable to comply with the CDD measures and to consider making an STR. • No requirement to terminate the business relationship and consider filing an STR in the event that the financial institution can no longer be satisfied that it knows the genuine identity of the customer for whom it has already opened an account. • No requirement to apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality
--	--	---

		<p>and risk and to conduct due diligence on such existing accounts at appropriate times.</p> <ul style="list-style-type: none"> • No requirement to perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names. • Low level of implementation by all reporting entities. • The effectiveness of the CDD measures has not been demonstrated.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • No requirement to obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • No requirement to take reasonable measures to establish the source of wealth and source of funds for the beneficial owners identified as PEPs.

		<ul style="list-style-type: none"> • No requirement to conduct enhanced monitoring on the relationship with PEPs. • Low level of implementation. • The effectiveness of the measures related to PEPs has not been demonstrated.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • No measures in relation to cross-border correspondent banking or other similar relationships.
8. New technologies and non-face-to-face business	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement on reporting entities to do the following: <ul style="list-style-type: none"> • Have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes; • Have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions; and • Implement measures for managing the risks including specific and effective

		CDD procedures that apply to non-face-to-face customers.
9. Third parties and introducers	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No legal or regulatory provisions addressing reliance on third parties to perform elements of the CDD process or introduce business.
10. Record-keeping	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to maintain accounts files. • Limitation/restriction of competent authorities' access on a timely basis to customer and transaction records. • The shortcomings identified under Rec.5 affect the effectiveness and implementation of the record-keeping measures with regard to the necessary components of transaction records (i.e., address, beneficiary's name).
11. Unusual transactions	NC	<ul style="list-style-type: none"> • No obligation to make findings of examinations of complex and unusual transactions available to competent authorities and auditors.

		<ul style="list-style-type: none"> • Limited knowledge of the requirement coupled with ineffective implementation due to non-automated systems for monitoring transactions. • Lack of effective implementation.
12. DNFBP-R.5, 6, 8–11	NC	<ul style="list-style-type: none"> • Casinos are not reporting entities under the AML/CFT Law. • No threshold for CDD measures applicable to casinos and dealers in precious metals and stones. • The shortcomings identified in the framework of Recommendations 5, 6, and 10–11 are applicable to designated non-financial business and professions. • No provisions in line with Recommendations 8–9. • Lack of implementation of the preventive measures by DNFBPs. • The effectiveness of the preventive measures to AML/CFT has not been established.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The scope of the reporting obligation is too narrow because the money laundering offense does not apply to all the predicate offenses designated by the FATF.

		<ul style="list-style-type: none"> • The reporting obligation does not extend to insurance companies and insurance brokers/agents. • There is no obligation to report attempted transactions. • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists. • Implementation of reporting obligation is low.
14. Protection and no tipping-off	C	<ul style="list-style-type: none"> • This recommendation is met.
15. Internal controls, compliance and audit	PC	<p>Although the AML/CFT Law does require the implementation of some measures to prevent ML and TF, it lacks the necessary level of clarity and detail to be in compliance with the standard. In particular:</p> <ul style="list-style-type: none"> • The requirements for reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation are incomplete. • There are incomplete requirements for reporting entities to do the following:

		<ul style="list-style-type: none"> • Communicate the internal procedures, policies, and controls to prevent ML and TF to their employees; and • Designate the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. • The requirements for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an adequately resourced and independent audit function are incomplete. • There is a lack of implementation of the requirements under this recommendation. • Effectiveness was not established.
16. DNFBP-R.13–15 and 21	NC	<ul style="list-style-type: none"> • Casinos are not subject to the requirements of Rec. 13, 14, 15, and 21. • The shortcomings identified in the framework of Recommendations 13, 14, 15, and 21 are applicable to non-financial business and professions.

		<ul style="list-style-type: none"> • Professional secrecy provisions for lawyers and legal professionals pose an impediment to suspicious transactions reporting. • No reporting by DNFBPs. • Effectiveness was not established.
17. Sanctions	NC	<ul style="list-style-type: none"> • No sanctioning regime for failure to comply with AML/CFT obligations (i.e., no competent authority, lack of clarity as to the range of available sanctions, and scope limitation of available sanctions.)
18. Shell banks	LC	<ul style="list-style-type: none"> • No requirement for reporting entities to satisfy themselves that their foreign respondents do not permit their accounts to be used by shell banks.
19. Other forms of reporting	C	<ul style="list-style-type: none"> • This recommendation is met.
20. Other NFBP and secure transaction techniques	NC	<ul style="list-style-type: none"> • No risk assessment has been conducted in the domestic sector. • No consideration has been given to applying the FATF recommendations to other higher-risk businesses and professions. • No evidence of measures or steps taken to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries. • Lack of requirements imposed on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and that the written findings of those business transactions are available to assist competent authorities and auditors. • Lack of countermeasures in place to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations. • Lack of effective implementation.
22. Foreign branches and subsidiaries	N/A	
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • No authority or authorities designated for AML/CFT supervision. • Institutions not subject to adequate AML/CFT regulation and supervision. • Lack of fit-and-proper measures for pension, payment service providers, and Forex sectors, and application of relevant Core Principles to AML/CFT matters.

		<ul style="list-style-type: none"> • Lack of measures to ensure that relevant prudential regulatory and supervisory measures are also applicable for AML/CFT purposes. • Effectiveness was not established.
24. DNFBP—regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • The FIU does not have the capacity (both in terms of resources and expertise) to conduct AML/CFT supervision in an adequate manner. • No AML/CFT supervision of DNFBPs. • No sanctions for non-compliance with the AML/CFT obligations. • Lack of implementation and awareness of AML/CFT obligations.
25. Guidelines and Feedback	NC	<ul style="list-style-type: none"> • Lack of guidelines and guidance on reporting obligation. • Lack of adequate and appropriate feedback from competent authorities, in particular the FIU. • No guidance has been issued to assist DNFBPs in the implementation of their AML/CFT obligations. • No (general) feedback has been provided by the FIU.

		<ul style="list-style-type: none"> • Lack of guidelines and guidance on AML/CFT issues provided by the BNR and the CMA to reporting entities.
Institutional and other measures		
26. The FIU	PC	<ul style="list-style-type: none"> • Lack of analysis of STRs and other information mostly due to performing investigations and lack of analytical tools and weak quality/quantity of reporting. • Lack of guidance on manner of reporting including reporting forms for nonbank reporting entities. • No additional requests of information addressed to reporting entities. • Very low level of dissemination due to low level of STRs received. • No publication of annual reports containing information about its activities, statistics, and typologies. • Lack of sufficient operational independence and autonomy mainly due to the powers and responsibilities of the Advisory Board. • Information not securely protected. • Effectiveness was not established

27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • The various police units responsible for the investigation of the predicate crimes do not investigate ML related activities; the FIU conducts some investigations into ML on the basis of STRs received, although it should focus on its analysis functions. • Effectiveness of the current investigation and prosecution framework was not established.
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • Lack of powers to compel production of documents and information from FIs and DNFBPs (documents can only be seized based on powers in CPC). • No legal power obtaining documents and information held by lawyers. • Effectiveness of powers for document production, search, and seizure was not established.
29. Supervisors	NC	<ul style="list-style-type: none"> • Lack of adequate supervisory authority/powers addressing AML/CFT matters across all sectors.
30. Resources, integrity, and training	NC	<ul style="list-style-type: none"> • Unable to determine whether resources are sufficient (in numerical terms) due to lack of implementation. • Overall, resources did not appear adequate in terms of technical knowledge of AML/CFT.

		<ul style="list-style-type: none"> • Insufficient training provided on AML/CFT.
31. National cooperation	NC	<ul style="list-style-type: none"> • Lack of a mechanism to ensure cooperation amongst all relevant authorities and coordination of the development and implementation of AML/CFT policies and activities. • No bilateral exchange of information between the FIU, LEAs, and supervisory authorities.
32. Statistics	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matter relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Information collected at the time of incorporation is easily accessible but it is not kept up to date and does not specifically address the beneficial ownership.
34. Legal arrangements – beneficial owners	N/A	
International Cooperation		
35. Conventions	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the

		<p>scope of assistance that the authorities can provide.</p> <ul style="list-style-type: none"> • Broad scope of the legal privilege prevents the authorities from obtaining upon request of a foreign state any information held by lawyers. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country.
37. Dual criminality	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • The AML/CFT Law addresses cooperation in freezing, seizing, and confiscation in the context of ML/TF only and similar cooperation with respect to the predicate offenses is unclear. • Effective implementation was not established.
39. Extradition	PC	<ul style="list-style-type: none"> • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national

		<p>whose extradition was refused on the grounds of nationality.</p> <ul style="list-style-type: none"> • Extradition is not available for persons charged for money laundering and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.
40. Other forms of cooperation	NC	<p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> • No sharing of information by the FIU with foreign counterparts. • Lack of powers of LEAs to conduct investigations on behalf of foreign counterparts. • Impossibility of sharing information detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12. • Lack of statistics and overall effectiveness. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • No AML/CFT supervisor in place for the banking sector that may cooperate with foreign counterparts. • Lack of arrangements in place to the sharing and exchange of information with respect to

		<p>both ML and the underlying predicate offenses.</p> <ul style="list-style-type: none"> • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts. • Lack of controls and safeguards in place for the BNR to ensure that the information received by competent authorities is used only in an authorized manner. • Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
Nine Special Recommendations		
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> • Effective implementation was not established.
SR.II Criminalize terrorist financing	NC	<ul style="list-style-type: none"> • The provision and collection of funds to individual terrorists and to terrorist organizations are not criminalized. • The direct and indirect collection and provision of funds is not covered under the TF offense.

		<ul style="list-style-type: none"> • Funding of terrorist acts is limited to acts defined in the treaties to which Rwanda is party, and therefore not all financing of terrorist acts are covered in the TF offense. • Lack of clarity as to whether the intentional element of the offense of TF can be inferred from objective factual circumstances. • Lack of effectiveness of the TF offense.
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> • Absence of measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. • Absence of measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts, or terrorist organizations.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • There is no obligation to report funds suspected of being linked or related to, or to be used by individual terrorists, terrorist organizations, or those who finance terrorism.

SR.V International cooperation	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Effective implementation was not established. • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. • Extradition is not available for persons charged for money laundering and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.
--------------------------------	----	--

		<p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> • Lack of TF criminalization limits the ability to provide cooperation by all concerned authorities. • Lack of overall effectiveness of the exchange of information relating to TF. • Lack of statistics. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • Lack of arrangements in place to facilitate the sharing and exchange of information with respect to both TF and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts in TF matters. • Lack of controls and safeguards in place in the banking sector to ensure that the information received by competent authorities is used only in an authorized manner. • Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
--	--	---

SR.VI AML/CFT requirements for money/value transfer services	NC	<ul style="list-style-type: none"> • The shortcomings identified in other recommendations related to CDD, sanctions, supervision, and regulation affect the implementation and effectiveness of this recommendation. • No list of agents maintained by the MVT service operator or provided to the authorities. • No sanctions available for failure to comply with AML/CFT requirements. • Informal money/value transfer system operating in Rwanda without effective monitoring.
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> • No requirement for reporting entities conducting wire transfers, both domestic and international, of amounts equivalent to EUR/US\$1,000 or more to obtain and maintain full originator information. • No requirement for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5. • Lack of clarity as to whether originator information should be included in domestic wire transfers. • No requirement on intermediaries and beneficiary financial institutions in the payment chain to ensure that all originator

		<p>information that accompanies a wire transfer is transmitted with the transfer.</p> <ul style="list-style-type: none"> • No requirement on beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR. VII. • No supervisory framework to ensure compliance with the wire transfer requirements after the granting of the necessary license. • No sanctioning regime for failure to comply with wire transfer requirements. • Lack of effective implementation.
SR.VIII Nonprofit organizations	PC	<ul style="list-style-type: none"> • No review on the NPO sector has been conducted and lack of outreach to the NPO sector on the risks of FT. • Insufficient supervision/monitoring of the NPO sector, mostly domestic NGOs, which account for a significant portion of the financial resources under control of the

		<p>sector, and a substantial share of the sector's international activities.</p> <ul style="list-style-type: none"> • Lack of requirement to maintain relevant information and make it available publicly and to appropriate authorities. • No requirement to maintain certain records required under SR.VIII for a period of five years. • Lack of effective mechanisms to share relevant information and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.
SR.IX Cross-Border Declaration and Disclosure	NC	<ul style="list-style-type: none"> • Declaration system is not in force yet and is not in line with the standard. • Exemption regarding the withdrawal of cash from banks could limit the effectiveness of the declaration system. • Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. • Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found.

		<ul style="list-style-type: none"> • Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. • The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. • Absence of clear definition of bearer negotiable instruments. • Lack of implementation of the system transportation of currency and bearer negotiable instruments across all border points. • Lack of training on the best practice of implementing the requirement of SR.IX. • Effectiveness of the declaration system has not been established.
--	--	---

Table 12. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 and 2)	<ul style="list-style-type: none"> • Ensure that the concealment or disguise of the movement of property, knowing that such property is derived from an offense, also constitutes money laundering. • Clarify that prior conviction for the predicate offense is not a necessity to secure a money laundering conviction (i.e., when proving that property is the proceeds of crime). • Ensure that, in practice, intention can effectively be inferred from objective factual circumstances. • Ensure that criminal sanctions do not preclude the possibility of parallel civil or administrative proceedings if such proceedings are available.
2.2 Criminalization of Terrorist Financing (SR.II)	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Criminalize the provision and collection of funds to individual terrorists and to terrorist organizations. • Ratify and implement the Convention for the Suppression of Unlawful Acts against the Safety of

	<p>Maritime Navigation, done at Rome on March 10, 1988, and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988.</p> <ul style="list-style-type: none"> • Ensure that, in practice, intention can be inferred from objective factual circumstances. • Review the approach taken in applying the TF provisions to ensure that the legal framework in place is used more effectively.
2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)	<p>In order to comply fully with Recommendation 3, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Ensure that <i>bona fide</i> third parties can defend their rights at all stages of the confiscation process. • Effectively identify and trace property that is, or may become, subject to confiscation or is suspected of being the proceeds of crime. • Make effective use of the provisional and confiscation measures to fight ML, TF, and predicate crimes.
2.4 Freezing of funds used for terrorist financing (SR.III)	<p>In conclusion, Rwanda did not implement the necessary measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. The authorities are therefore recommended to do the following:</p>

	<ul style="list-style-type: none"> • Put in place effective laws and procedures to freeze terrorist funds or other assets or persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 of 1999 and successor resolutions. Such freezing should take place without delay and without prior notice to the designated persons involved. • Put in place effective laws and procedures to freeze terrorist funds or other assets of persons designated in the context on UNSCR 1373 of 2001. Such freezing should take place without delay and without prior notice to the designated persons involved. • Develop effective laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions. • Extend the freezing measures to all “funds and other property,” which would make it possible, pursuant to the aforementioned resolutions, to cover all financial assets and property of any kind, whether corporeal or incorporeal, movable or immovable, as well as legal documents or instruments of any kind evidencing title to or interest in such property. • Provide a clear and rapid mechanism for distributing the UNSCR lists nationally to the financial institutions and other persons or entities that may be holding targeted funds or other assets.
--	--

	<ul style="list-style-type: none"> • Provide clear guidance to FIs and other persons or entities that may be holding targeted funds or assets concerning their obligations in taking action under freezing mechanisms. • Introduce effective and publicly known procedures for timely review of requests to de-list designated persons and to unfreeze the funds or other property of persons or entities removed from the lists. • Introduce effective and publicly known procedures for unfreezing as promptly as possible the funds or other property of persons or entities inadvertently affected by a freezing mechanism, upon verification that the person or entity is not a designated person. • Introduce appropriate procedures for authorizing access to funds or other property frozen pursuant to Resolution S/RES/1267 (1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses, and service charges, as well as extraordinary expenses. • Introduce appropriate procedures allowing a person or entity whose funds or other property were frozen to challenge the measures, including with ultimate recourse to a court. • Introduce a provision that would ensure protection for the rights of third parties acting in good faith. • Develop appropriate measures to monitor effectively the compliance with relevant legislation, rules, or regulations governing the obligations under SR.III
--	--

	and to impose civil, administrative, and criminal sanctions to failure to comply with such legislation, rules, or regulations.
2.5 The Financial Intelligence Unit and its functions (R.26)	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Provide reporting entities with guidance on the manner of reporting, including comprehensive reporting forms for all reporting entities other than banks (which have already received a reporting form). • Ensure that the FIU asks reporting entities for additional information when the information is correlated to received information. • Ensure that the FIU strengthens the quality of its analysis of STRs and other information, in particular by undertaking more in-depth analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved inter alia by <ul style="list-style-type: none"> (i) conducting analysis of information instead of investigation, (ii) strengthening the technical tools available to the analysts, and (iii) increasing the number of analysts with financial background and raising their awareness. • Ensure that the information held by the FIU is securely protected. • Ensure the independence of the FIU by, among other things, (i) putting in place proper safeguards for the

	<p>sharing of information with the Advisory Board,</p> <p>(ii) securing adequate financial, human, and technical resources to conduct its core functions, and</p> <p>(iii) securing the information held at its premises.</p> <ul style="list-style-type: none"> • Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing, as well as information regarding its activities. • Consider applying to Egmont Group membership. • Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, predicate offenses to money laundering, analysis techniques, and familiarization with money laundering and terrorist financing typologies and risks and vulnerabilities.
2.6 Law enforcement, prosecution and other competent authorities (R.27 and 28)	<p>In order to comply fully with Recommendations 27 and 28, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Appoint and adequately resource dedicated financial investigators at the NPPA and RNP (other than the FIU) to deal with money laundering cases. • Provide LEAs with adequate powers to compel the production of documents and information from lawyers. • Investigate money laundering and/or terrorist financing offenses irrespective of whether the source

	<p>of information emanates from the FIU or any other source.</p> <ul style="list-style-type: none"> • Provide the judiciary with more independence by limiting the power of the Minister of Justice to intervene in the decisions of the Prosecutor General. • Provide AML/CFT training to all LEAs and in particular to all dedicated financial crime investigators and prosecutors. <p>The authorities should also consider the following:</p> <ul style="list-style-type: none"> • Making a more frequent use of special investigative techniques such as the monitoring of accounts and special investigative techniques to detect and investigate money laundering and its predicate crimes.
2.7 Cross-Border Declaration and Disclosure (SR.IX)	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Ensure that the proposed declaration system has the characteristics described under SR.IX. • Remove the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda. • Amend the requirements to extend to the shipment of currency and bearer negotiable instruments through cargo containers and the mail. • Define the term “bearer negotiable instruments” to include monetary instruments in bearer form, such as travelers cheques and negotiable instruments (including cheques, promissory notes, and money

	<p>orders) that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such a form that title can pass upon delivery; and incomplete instruments (including cheques, promissory notes, and money orders) signed, but with the payee's name omitted.</p> <ul style="list-style-type: none"> • Ensure that competent authorities have the powers to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF, and the temporary restraint measures, and the adequate and uniform level of sanctions. • Provide competent authorities with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found where there is a suspicion of ML or TF or where there is a false declaration. • Once this system is established, competent authorities should be provided with training on the best practices paper for SR.IX.
3. Preventive Measures–Financial Institutions	
3.1 Risk of money laundering or terrorist financing	

<p>3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)</p>	<p>The AML/CFT Law includes a number of basic CDD obligations, in particular the obligation to identify the customer. However, it fails to address all the elements required in the standard and, in a number of instances, is too general and lacks the necessary level of detail to be effective. Going forward, the requirements set forth under the AML/CFT Law should be better supported and complemented with sector-specific regulations and guidelines.</p> <p>Recommendation 5:</p> <p>Require in law or regulation all financial institutions (as defined in the FATF standard) to do the following:</p> <ul style="list-style-type: none"> • Refrain from establishing or keeping anonymous accounts or accounts in fictitious names. • Undertake CDD measures in the following cases: <ul style="list-style-type: none"> • When carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII; and • When there is a suspicion of terrorist financing (in addition to the suspicion of money laundering already included in the law), without exceptions and regardless of the amounts involved. • Establish the applicable threshold for undertaking CDD for occasional transactions.
--	--

	<ul style="list-style-type: none"> • Identify their customers and verify that customer's identity using reliable, independent source documents, data, or information (identification data). • Establish mechanisms for adequately verifying the power to bind the legal person or arrangement. • Identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner in line with the definition set forth under the standard, which should refer not only to the natural person(s) who ultimately owns or controls a customer and/or the persons on whose behalf a transaction is being conducted but also the persons who exercise ultimate effective control over a legal person or arrangement, including those who comprise the mind and management of a company. • Conduct ongoing due diligence on the business relationship, which should include the scrutiny of transactions undertaken throughout the course of the business relationship and monitoring of the business relationship to ensure that documents, data, or information collected under the CDD process are kept up to date. <p>The authorities are further recommended to require in law, regulation, or other enforceable means financial institutions (as defined in the FATF standard) to do the following:</p>
--	---

	<ul style="list-style-type: none"> • Obtain information on the purpose and intended nature of the business relationship. • Perform enhanced due diligence for higher risk categories of customers, business relationships, or transactions. • Refuse to open an account, establish a business relationship, or conduct the transaction, and consider making an STR when they are unable to comply with the CDD requirements. • Terminate the business relationship and consider filing an STR when they have doubts about the veracity or adequacy of previously obtained customer identification data. • Apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and conduct due diligence on such existing relationships at appropriate times. • Perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names that predate the AML/CFT Law. <p>Recommendation 6:</p> <p>The authorities are recommended to provide examples of the prominent public functions that would fall under the definition of “political leader” (e.g., heads of state or of government; senior politicians; senior government, judicial, or military officials; senior executives of state-</p>
--	---

	<p>owned corporations; and important political party officials).</p> <p>The authorities are also recommended to require reporting entities to do the following:</p> <ul style="list-style-type: none"> • Put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • Obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • Establish the source of wealth and the source of funds of beneficial owners identified as PEPs. • Conduct enhanced monitoring on that relationship. <p>Recommendation 7:</p> <p>With respect to cross-border correspondent relationships, require reporting entities to do the following:</p> <ul style="list-style-type: none"> • Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine its reputation and quality of supervision. • Assess the respondent institution's AML/CFT controls. • Obtain approval from senior management before establishing correspondent relationship.
--	---

	<ul style="list-style-type: none"> • Documenting the respective obligations of each institution. <p>Recommendation 8:</p> <ul style="list-style-type: none"> • Establish measures including policies and procedures designed to prevent and protect financial institutions (as defined by the FATF standard) from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non-face-to-face business relationships and transactions. Authorities are encouraged to consult the Risk Management Principles for Electronic Banking issued by the Basel Committee in July 2003.
3.3 Third parties and introduced business (R.9)	<p>In order to comply with Recommendation 9, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Regulate reliance on intermediaries or third parties to perform elements of the CDD process, and ensure the following: <ul style="list-style-type: none"> • CDD measures performed by the intermediary or third parties are those listed under Criteria 5.3 to 5.6 of the Methodology; • The information collected by the third party may be immediately made available to reporting entities upon request without delay; and • The reporting entities are required to satisfy themselves that the third party is regulated and

	<p>supervised for and have measures in place to comply with CDD requirements in line with Recommendation 5.</p> <ul style="list-style-type: none"> • The ultimate responsibility for customer identification and verification remains with the reporting entities relying on the third party.
3.4 Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> • Ensure that the BNR is granted the power to exchange AML/CFT information with other domestic competent authorities. • Ensure that competent authorities share information on AML/CFT-related issues both at domestic and international levels. • Ensure that reporting entities are allowed to share information required under R.7, R.9, or SR.VII.
3.5 Record keeping and wire transfer rules (R.10 and SR.VII)	<p>Recommendation 10:</p> <ul style="list-style-type: none"> • Require financial institutions to maintain records on account files. • Ensure that all customer information required under R.5 is properly maintained. • Ensure that there is no restriction to timely access to customer and transaction records by competent authorities. <p>Recommendation SR.VII:</p> <ul style="list-style-type: none"> • Require financial institutions conducting wire transfers (both domestic and international) of EUR/US\$1,000 or more to obtain and maintain full

	<p>originator information (i.e., the originator's name, account number, and the address) and to verify the identity of the originator in accordance with Recommendation 5.</p> <ul style="list-style-type: none"> • Require each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer. • Require beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information as a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII. • Monitor the compliance of financial institutions with the requirements set forth under SR.VII. • Ensure that there are effective, proportionate, and dissuasive sanctions for failure to comply with the wire transfer requirements.
3.6 Monitoring of transactions and relationships (R.11 and 21)	<p>Recommendation 11:</p> <ul style="list-style-type: none"> • Require reporting entities to keep the findings of their analysis and examination of unusual transactions available for competent authorities and auditors.

	<p>Recommendation 21:</p> <ul style="list-style-type: none"> • Ensure that the reporting requirement extends to combating terrorist financing. • Ensure that reporting entities are advised of concerns about weaknesses in the AML/CFT systems of other countries. • Extend the obligation on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and to keep their written findings of those transactions available to assist competent authorities and auditors for business relations and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for the Rwandan AML/CFT Law. • Establish mechanisms for applying counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.
3.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25, and SR.IV)	<ul style="list-style-type: none"> • Amend the reporting obligation to apply to all the predicate offenses designated by the FATF. • Include insurance companies and insurance brokers/agents in the definition of reporting entity to ensure that the reporting obligation covers them as well.

	<ul style="list-style-type: none"> • Require all reporting entities (as defined in the FATF standard) to report all transactions, including attempted transactions, when they suspect or have reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to, or to be used for terrorism, terrorist acts, or terrorist organizations or those who finance terrorism. • Ensure that competent authorities, and particularly the FIU, provide guidance to assist reporting entities on AML/CFT issues covered under the FATF recommendations, including, at a minimum, a description of ML and TF techniques and methods; and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective. • Establish communication mechanisms between the BNR, the FIU, and the CMA, as well as a mechanism for providing feedback to reporting entities, including general and specific or case-by-case feedback. • Consider providing guidance to reporting entities using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. • Although not a technical deficiency, it may be useful to clarify that the protection for good faith reporting extends to the members of the board of directors or
--	--

	managers, the board committees, the compliance officer, other officers of the reporting entities, and any agents or representatives of the reporting entities.
3.8 Internal controls, compliance, audit and foreign branches (R.15 and 22)	<ul style="list-style-type: none"> • Require all reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation. • Require reporting entities to designate the AML/CFT compliance officer at managerial level. • Require reporting entities to ensure that the AML/CFT compliance officer and other appropriate staff have timely access to customer information, data and other CDD information, transaction records, and other relevant information. • Require reporting entities to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls; and provide them with sufficient details to ensure that the scope of the internal audit function clearly includes AML/CFT audits and an overall assessment of the adequacy of the internal control systems and policies with respect to AML/CFT. • Require reporting entities to develop and maintain ongoing employee training on AML/CFT matters, in particular to include information on current ML and TF techniques, methods, and trends; all aspects of the

	<p>AML/CFT Law and obligations; and the requirements concerning CDD and suspicious transaction reporting.</p> <ul style="list-style-type: none"> • Although Recommendation 22 is not currently applicable to Rwanda, the authorities are also encouraged to set out provisions for reporting entities in the event that foreign branches and subsidiaries are established to ensure that these institutions observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e., host country) laws and regulations permit; to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e., host country) laws and regulations permit.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • Explicitly require reporting entities to satisfy themselves that when establishing correspondent relationships in the future, their respondent institutions in foreign countries do not permit their accounts to be used by shell banks.

<p>3.10 The supervisory and oversight system—competent authorities and SROs</p> <p>Role, functions, duties and powers (including sanctions) (R.23, 29, 17, and 25)</p>	<p>In order to comply with Recommendations 23, 17, 25, and 29, the authorities are recommended to do the following:</p> <p>Recommendation 23:</p> <ul style="list-style-type: none"> • Designate a competent authority or authorities responsible for AML/CFT supervision of the reporting entities. • Develop, adopt and implement a formal AML/CFT supervisory framework, including setting out the necessary activities for offsite surveillance and examination procedures for onsite visits. • Ensure that, in the course of prudential supervision of financial institutions subject to the Core Principles, supervisors apply for AML/CFT purposes the prudential regulatory and supervisory measures that are also relevant to money laundering. <p>Recommendation 17:</p> <ul style="list-style-type: none"> • Ensure that there is an adequate range of sanctions (administrative, civil, and financial) for noncompliance with the AML/CFT requirements to ensure that these are effective, proportionate, and dissuasive, and that they may be applied without undue limitation. • Ensure that the range of sanctions not only applies to legal persons that are financial institutions or
--	---

	<p>businesses but also to their directors and senior management.</p> <p>Recommendation 25:</p> <ul style="list-style-type: none"> • Consider providing guidance to reporting entities on their AML/CFT obligations using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons, in particular with respect to suspicious transactions. <p>Recommendation 29:</p> <ul style="list-style-type: none"> • Ensure that competent authorities like the BNR and the CMA have adequate powers to monitor and ensure compliance by financial institutions with the requirement to combat money laundering and terrorist financing, including powers to do the following: <ul style="list-style-type: none"> • Conduct inspections to ensure compliance; • Compel production of or to obtain access to all records, documents or information relevant to monitoring compliance; and • Enforce and sanction financial institutions and their directors or senior management for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.
--	---

3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • Address the shortcomings identified in recommendations 4–11, 13–15, and 21–23, and Special Recommendation VII, as applicable to this recommendation. • Ensure that informal PSP systems currently operating in Rwanda are registered or licensed, and subject to the applicable FATF Recommendations and to adequate monitoring.
4. Preventive Measures– Nonfinancial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • The shortcomings identified under Recommendations 5, 6, and 8 to 11 in Section 3 are equally valid for DNFBPs. The preventive measures applicable to DNFBPs need to be expanded and tailored to the specificities of each business and profession. <p>In addition to the shortcomings identified under with regard to the financial sector, authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Address the deficiencies identified under Recommendations 5, 6, and 8 to 11 above. • Incorporate casinos as reporting entities under the AML/CFT Law. • Designate the threshold called for by the AML/CFT Law for customer identification by casinos and dealers in precious metals and stones.

	<ul style="list-style-type: none"> • Ensure that DNFBPs are subject to the preventive measures and record-keeping requirements in line with Recommendations 5, 6, 8, 9, 10, and 11. • Ensure the effective implementation of the AML/CFT provisions by DNFBPs. • Develop outreach campaigns specifically to raise awareness of CDD obligations and, more generally, to raise awareness of ML and TF risks in all of the DNFBP sectors. • Although trusts services are not provided at the time of the assessment, in view of the upcoming entry in force of a new law allowing for the creation of Rwandan trusts and of the related services that will be provided, it is recommended that the authorities include trust service providers amongst the reporting entities subject to the AML/CFT Law.
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Require casinos to report suspicious transactions to the FIU. • Ensure that the carve-out for legal and professional secrecy is limited to information (a) obtained in the course of ascertaining the legal position of a client, or (b) in performing their tasks of defending or representing that client in or concerning judicial, administrative, arbitration, or mediation proceedings.

	<ul style="list-style-type: none"> • Ensure that all DNFBPs are subject to and effectively implement the requirements under Recommendations 13, 14, 15, and 21.
4.3 Regulation, supervision, monitoring, and sanctions (R.17, 24, and 25)	<ul style="list-style-type: none"> • Ensure that the FIU has adequate capacity (in terms of resources and expertise) to conduct its supervisory functions, or reconsider the current framework for supervision of DNFBPs. • Introduce a sanctioning regime for noncompliance with the AML/CFT obligations applicable to DNFBPs. • Ensure that the designated competent authorities or SROs responsible for monitoring have adequate powers and resources to perform their functions. • Increase awareness among all DNFBP categories. • Provide guidance to assist DNFBPs implement and comply with their respective AML/CFT requirements. • Provide feedback to DNFBPs on current techniques, methods, and trends or sanitized examples of actual ML and TF cases.
4.4 Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • Conduct a risk assessment of non-financial businesses and professions (other than DNFBPs) that could be used for or exposed to potential ML and TF activities in Rwanda. • On the basis of the results of the risk assessment, introduce measures to reduce reliance on cash.

	<ul style="list-style-type: none"> • Apply Recommendations 5, 6, 8–11, 13–15, 17, and 21 to non-financial businesses and professions (other than DNFBPs) that are at risk of being misused for ML and FT, in line with the results of the risk assessment. • Encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.
5. Legal Persons and Arrangements and Non-Profit Organizations	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Take additional steps to prevent the misuse of legal persons established in Rwanda by ensuring that there is adequate transparency concerning their beneficial ownership and control.
5.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> • Despite the fact that this Recommendation is considered to be non-applicable to Rwanda at the time of this assessment, in light of the upcoming entry into force of a new law allowing for the creation of Rwanda trusts, it is recommended that the authorities take all necessary steps to prevent the misuse of the Rwandan trust for money laundering or terrorist financing purposes, and ensure that adequate, accurate, and timely information on these trusts (including information on the settler, trustee, and beneficiaries) can be obtained by competent authorities in a timely fashion, and to facilitate access

	<p>to that information by reporting entities. The authorities are in particular recommended to consider the examples provided in the FATF methodology.</p>
<p>5.3 Non-profit organizations (SR.VIII)</p>	<ul style="list-style-type: none"> • Use all sources of available information to undertake a domestic review on the NPOs' activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics. • Conduct outreach programs focused on raising awareness on the risks of terrorist abuse and the measures available to protect against such abuses directed to the entire NPO sector. • Effectively monitor those NPOs that account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities. • Require NPOs to maintain information on related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members, or to make it available through appropriate authorities and make such information as well as information on the NPOs' purpose and stated activities and objectives publicly available. • Review the NPOs' legislation to require NPOs to maintain, for a period of at least five years, and make

	<p>available to appropriate 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 organization.</p> <ul style="list-style-type: none"> • Put in place effective mechanisms to share relevant information, target, and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.
6. National and International Cooperation	
6.1 National cooperation and coordination (R.31)	<ul style="list-style-type: none"> • Put in place effective mechanisms between policy makers, the FIU, LEAs, and supervisors, which will enable them to cooperate and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF. • Ensure that the FIU, LEAs, and supervisory authorities effectively exchange information on AML/CFT issues. • Develop comprehensive statistics in the relevant areas of the fight against ML and TF (including statistics on domestic investigations; prosecutions; property frozen, seized, and confiscated; convictions; and international cooperation, etc.).

	<ul style="list-style-type: none"> • Review the effectiveness of the AML/CFT system on a regular basis.
6.2 The Conventions and UN Special Resolutions (R.35 and SR.I)	<p>Recommendation 35:</p> <ul style="list-style-type: none"> • Fully implement the provisions of the Vienna and Palermo Conventions, the ICSFT, and the relevant UNSCRs. <p>SR.I:</p> <ul style="list-style-type: none"> • Implement fully the relevant UNSCRs.
6.3 Mutual Legal Assistance (R.36, 37, 38, and SR.V)	<p>Recommendation 36:</p> <ul style="list-style-type: none"> • Consider devising a mechanism for determining the best venue of jurisdiction of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Ensure that information obtained by lawyers may be obtained upon request from another State in the circumstances envisaged in the standard. <p>Recommendation 38:</p> <ul style="list-style-type: none"> • Establish a framework to freezing, seizing, and confiscating and sharing the proceeds of predicate offenses in response to a request from a foreign country.
6.4 Extradition (R. 39, 37, and SR.V)	<ul style="list-style-type: none"> • Ensure that Rwandan nationals who are found guilty of money laundering or terrorist financing by a foreign State and whose extradition to that State is

	<p>refused by Rwanda on the grounds of nationality only are subject to prosecution in Rwanda.</p> <ul style="list-style-type: none"> • If necessary to ensure the efficiency of this process, establish a framework for cooperation with the foreign State that had originally requested the extradition of the Rwandan national. • Ensure that extradition is available for persons charged for money laundering or terrorist financing and pending trial. • Ensure that extradition requests may be handled without undue delay.
6.5 Other Forms of Cooperation (R.40 and SR.V)	<ul style="list-style-type: none"> • Ensure that the FIU shares information with its foreign counterparts. • Provide LEAs with the power to conduct investigations on behalf of foreign counterparts. • Allow for the sharing of information and documents detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12. • Maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, and supervisors, including whether the request was granted or refused and the response time. • Ensure that all AML/CFT supervisors have arrangements in place to share and exchange information with respect to both ML and the underlying predicate offenses.

	<ul style="list-style-type: none"> • Grant powers to all AML/CFT supervisors to allow for the conduct of inquiries on behalf of foreign counterparts. • Establish controls and safeguards for the AML/CFT supervisor for banks and other entities licensed by the BNR, FIU, and LEAs to ensure that the information received by competent authorities is used only in an authorized manner. • Ensure that requests for cooperation are not refused on the grounds of professional privilege or legal professional secrecy.
7. Other Issues	
7.1 Resources and statistics (R. 30 and 32)	<p>Recommendation 30:</p> <ul style="list-style-type: none"> • Ensure that all competent authorities are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions, keeping in mind that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference. • Ensure that staff of competent authorities are provided with adequate training on AML/CFT. <p>Recommendation 32:</p>

	<ul style="list-style-type: none"> • Review the effectiveness of the AML/CFT system on a regular basis. • Ensure that all competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT framework in line with the FATF standard.
7.2 Other relevant AML/CFT measures or issues	None.
7.3 General framework–structural issues	None.

Annex 1. Authorities' Response to the Assessment

No response provided.

Annex 2. List of Bodies Met During the On-site Visit

Ministries

1. Ministry of Commerce and Industry
2. Ministry of Justice
3. Ministry of Foreign Affairs

Criminal Justice and Operational Agencies

4. Financial Investigation Unit
5. Judiciary
6. National Police of Rwanda, Commission of Intelligence
7. National Police of Rwanda, Financial Crime Unit
8. National Police of Rwanda, Interpol unit and International Cooperation Unit
9. National Public Prosecution Authority
10. Office of the Ombudsman

Financial and Nonfinancial Supervisory Bodies and Other Authorities

11. Capital Market Authority
12. National Bank of Rwanda
13. Office of the Registrar General
14. Rwanda Governance Board
15. Rwanda Revenue Authority
16. Stock Exchange

Private Sector Bodies

- 17. Bar association (Ordre des Avocats au Barreau de Kigali)
- 18. Trust Law Chambers

Private Sector Representatives

- 19. Audit firms
- 20. Banks
- 21. Brokers
- 22. Casinos and gaming hall
- 23. Foreign Exchange Bureaus
- 24. Insurance companies
- 25. Lawyers
- 26. Microfinance Institutions
- 27. Money and Value Transfer Service Providers
- 28. Real Estate Agents
- 29. Traders in items of significant value
- 30. Transparency International Rwanda

Annex 3. List of All Laws, Regulations, and Other Material Received

Constitution
Constitution of the Republic of Rwanda (2003)
Laws
Criminal Code of 1977 (in French only)
Law N°03/1997 of 19/03/1997 establishing the Bar in Rwanda (in French only)
Law No. 20/2000 of 26/7/2000 relating to nonprofit making organisations
Law N°23/2003 on the prevention, suppression and punishment of corruption
Law N°13/2004 of 17/05/2004 relating to the code of criminal procedure, O.G special N° of 30/07/2004
Law N°55/2007 of 30/11/2007 governing the Central Bank of Rwanda (the Central Bank law)
Law No. 50/2007 providing for the establishment, organisation and functioning of cooperative organisations in Rwanda
Law N°07/2008 of 08/04/2008 concerning organisation of banking (Banking law)
Law No. 11/2008 on the Institute of Certified Public Accountants of Rwanda
Law N°40/2008 of 26/08/2008 establishing the organisation of Micro Finance activities
Law N°45/2008 of 09/09/2008 on counter terrorism (the CT law)

Law N°47/2008 of 09/09/2008 on prevention and penalising the crime of money laundering and financing terrorism (AML/CFT law)
Law No. 52/2008 governing the organisation of the insurance business (the Insurance law)
Law N°07/2009 of 27/04/2009 relating to companies
Law N°33/2009 of 18/11/2009 relating to arms
Law N°03/2010 of 26/02/2010 concerning payment system
Law N°46/2010 of 14/12/2010 determining the powers, responsibilities, organization and functioning of the Rwanda National Police
Law N°01/2011 of 10/02/2011 regulating capital market in Rwanda
Law N°11/2011 of 18/05/2011 establishing the Capital Market Authority (CMA) and determining its mission, powers, organisation and functioning
Law N°40/2011 of 20/09/2011 regulating collective investment schemes in Rwanda
Law N°58/2011 of 31/12/2011 governing the gaming activities
Law N°03/2012 of 15/02/2012 governing narcotic drugs, psychotropic substances and precursors in Rwanda
Law N°04/2012 governing the organisation and the functioning of national non-governmental organisations
Law N°05/2012 of 17/02/2012 governing the organisation and functioning of international non-governmental organisations

Law N°06/2012 of 17/02/2012 determining organisation and functioning of religious-based organisations
Organic Law No. 1/2012.OL of 2/5/2012 instituting the penal code (the PC)
Presidential Orders
Presidential Order N°27/2011 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit
Presidential Order N°46/01 of 29/07/2011 governing modalities for the recruitment, appointment and nomination of public servants
Presidential Order N°119/01 of 09/12/2011 modifying and completing presidential order N°27/01 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit
Regulations
Internal Regulation of the Kigali Bar on the application of Law N°03/1997 of 19/03/1997 (in French only)
Regulation N°03/2008 of the National Bank of Rwanda on licensing conditions of banks
Regulation N°02/2009 of the National Bank of Rwanda on the organisation of microfinance activity
Regulation N°05/2009 of 29/07/2009 of the National Bank of Rwanda on licensing requirements and other requirements for carrying out insurance business
Regulation N°02/2010 of the National Bank of Rwanda governing payment services providers

Regulation N°05/2010 of 27/12/2010 of the National Bank of Rwanda relating to the licensing criteria of operating payment and securities settlement systems
Regulation N°06/2012 of 21/06/2012 of the National Bank of Rwanda governing payment services providers
Other
National Bank of Rwanda Onsite Inspection Procedures 2010
National Bank of Rwanda Anti-Money Laundering Policy, May 2012

Annex 4. Copies of Key Laws, Regulations, and Other Measures

1. Law N°47/2008 of 09/09/2008 on prevention and penalising the crime of money laundering and financing terrorism (AML/CFT law)
2. Law N°45/2008 of 09/09/2008 on counter terrorism (the CT law)
3. Extracts of the Organic Law No. 1/2012.OL of 2/5/2012 instituting the penal code (the PC): Preamble; Articles 5, 22, 23, 16, 27, 97, 98, 99, 169 to 175, 652, 653 and 656.
4. Extracts from the Law N°13/2004 of 17/05/2004 relating to the code of criminal procedure, O.G special N° of 30/07/2004: Articles 26, 131, 132 and 138.
5. Extracts from the Law N°55/2007 of 30/11/2007 governing the Central Bank of Rwanda (the Central Bank law): Articles 6 and 53.
6. Extracts of the Law N°07/2008 of 08/04/2008 concerning organisation of banking (Banking law): Articles 1, 3, 4, 5, 9, 58 and 61.
7. Presidential Order N°27/2011 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit

(see additional attachment)