

# Mutual Evaluation Report 9<sup>th</sup> Follow-Up Report for Iraq

Anti-Money Laundering and  
Combating the Financing of Terrorism

2 May 2018

The Republic of Iraq

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*This report provides an overview of the measures that The Republic of Iraq has taken to address the major deficiencies relating to Recommendations rated NC or PC since its last mutual evaluation. The progress shown indicates that sufficient action has been taken to address those major deficiencies, and in particular those related to R1, R3, R5, R10, R13, R23, R26, R35, R36, R40, SRI, SRII, SRIII, SRIV, and SR.V. It should be noted that the original rating does not take into account the subsequent progress made by the country.*

## 9<sup>th</sup> Follow-Up Report for the Republic of Iraq Request to Move from Follow-Up Process to Biennial Update

### A. Introduction

1. The 16<sup>th</sup> Plenary Meeting adopted the Mutual Evaluation Report (MER) for the Republic of Iraq (Iraq) on 28 November 2012. According to this report, Iraq was placed under the regular follow-up process, based on the mutual evaluation process procedures. Iraq submitted several follow-up reports (FURs) as follows: The 1<sup>st</sup> FUR in November 2013, the 2<sup>nd</sup> FUR in November 2014, the 3<sup>rd</sup> FUR in April 2015, the 4<sup>th</sup> FUR in November 2015, the 5<sup>th</sup> FUR in April 2016, the 6<sup>th</sup> FUR in November 2016, the 7<sup>th</sup> FUR in April 2017 and the 8<sup>th</sup> FUR in December 2017. Iraq expressed its hope that the 27<sup>th</sup> Plenary Meeting examines its request to move from regular follow-up to biennial update.

2. This report is based on the procedures for removal from the regular follow-up, as agreed by the 12<sup>th</sup> Plenary Meeting (November 2010) and the amendments on the procedures adopted in the e-Plenary Meeting (August - September 2013). The report contains a detailed description and analysis of the measures taken by Iraq with respect to the core<sup>1</sup> and key<sup>2</sup> recommendations rated Non-Compliant (NC) and Partially Compliant (PC) in the above-mentioned MER. It also contains a description and analysis of the other recommendations rated PC or NC. In Annex 1, we are including a list of the major laws and documents related to the AML/CFT system in the Republic of Iraq.

3. The procedures require that the Plenary Meeting considers the removal of the country from the regular follow-up if it has, in the opinion of the Plenary Meeting, an effective AML/CFT system in force, under which the country has implemented the core and key recommendations at the level equivalent to “Compliant” or “Largely Compliant”, taking into consideration that the original ratings will not be amended.

4. Iraq was rated PC and NC on a total of 44 recommendations:

Core Recommendations rated PC or NC	
PC: R10, R13	NC: R1, R5, SRII, SRIV
Key Recommendations rated PC or NC	
PC: R23, R35, R36,	NC: R3, R26, R40, SRI, SRIII, SRV.
Other recommendations rated PC	
R14, R15, R17, R18, R20, R27, R28, R33, R37, SRVIII.	
Other recommendations rated NC	
R2, R6, R7, R8, R11, R12, R16, R21, R22, R24, R25, R29, R30, R31, R32, R38, SRVI, SRVII, SRIX.	

<sup>1</sup> The Core Recommendations according to the FATF classification are: R1, R5, R10, R13, SRII, SRIV.

<sup>2</sup> The Key Recommendations according to the FATF classification are: R3, R4, R23, R26, R35, R36, R40, SRI, SRIII,SRV.

5. As prescribed by the procedures for exiting the regular follow-up, Iraq provided the MENAFATF Secretariat (the Secretariat) with a full report on its progress since the adoption of the MER. Accordingly, the Secretariat prepared a detailed analysis of the progress made by Iraq regarding the core and key recommendations rated NC or PC, comprising as well an analysis of the other recommendations rated NC or PC. The Secretariat provided its report to the Iraqi authorities accompanied with some inquiries and requests. Iraq provided the Secretariat with all the documents and information requested during this process, and some comments raised by the Republic of Iraq were taken into consideration.

6. As a general note on all the requests for exiting the regular follow-up: this procedure has a based-desk nature, and it is, therefore, less detailed and thorough than a mutual evaluation report. The analysis focuses on the recommendations rated NC or PC, which means that only a part of the AML/CFT system will be reviewed. This analysis essentially consists of looking into the main laws, regulations and other materials to verify the technical compliance of domestic legislations with the FATF standards. In assessing whether sufficient progress was achieved, effectiveness is taken into consideration to the maximum extent possible in the off-site and paper-based review, by reviewing the data provided by the country. Any conclusions in this report do not prejudge the results of the future assessments, as they are based on information which was not verified based on an on-site process and was not as comprehensive as the case would be in a mutual evaluation.

## **B- Conclusion and Recommendation to the Plenary Meeting**

### **Core Recommendations**

7. **R1 (Money laundering offense):** The deficiencies relating to this recommendation were addressed by issuing the AML/CFT law No (39) of 2015, where the predicate offense scope was extended to cover felonies and misdemeanors punished in Iraq, thereby including the 20 offenses set out in the Methodology, and without requiring the conviction to exist in the predicate crime in order to prove that the funds are illicit and by applying the AML/CFT Law by the Iraqi authorities on the Kurdistan Region. It is worth mentioning that (435) ML and TF convictions were issued, as follows: (71) ML convictions, (364) convictions pursuant to the provisions of article (4) of the Anti-Terrorism Law and (3) convictions issued in cases related to terrorist financing.

8. **R5 (Customer due diligence):** Iraq addressed the deficiencies relating to this recommendation through the main obligations related to due diligence measures which were imposed in the AML/CFT Law. The said law required FIs not to open anonymous accounts or accounts with fictitious names, to identify and assess risks, to keep and update the risk assessment study and relevant information. The law also required FIs to identify the customer and to verify his identity based on reliable and independent sources, documents, data and information issued by official authorities, including all the natural or legal customers, or persons acting on behalf of the natural person or legal persons, to understand the ownership and control structure of the customer, to understand the purpose and nature of the business relationship, to conduct on-going follow-up of the business relationships, to examine the operations conducted by customers and to keep the documents and records for a period of five (5) years following the end of the relationship with the customer, the closure of the account or the completion of a transaction for an occasional customer, whichever is longer, and to provide them to the competent authorities in a timely manner. The law comprised cases where due diligence measures should be applied. It also provided for due diligence measures required to be applied on natural and legal persons, the determination of the notion

of beneficial owner, the obligation of institutions to identify the beneficial owner and verify his identity, the obligation of FIs to conduct a risk assessment, and to take enhanced due diligence measures for higher-risk categories of customers, business relationships or operations.

9. **R10 (Record keeping):** The requirements of this recommendation were met, by incorporating a provision into the law which requires all FIs and DNFBPs to keep the records, in line with the said requirements and by underlining them through the rules issued by competent supervisors in this field, by virtue of the license explicitly granted to them under the law.

10. **R13 and SRIV:** Iraq addressed the relevant deficiencies by requiring all FIs to immediately report any operation suspected of involving money laundering or terrorist financing to the Anti-Money Laundering and Counter-Financing of Terrorism Office, whether such operation was conducted or not, according to the STR form prepared by the Office for this purpose. The customer due diligence (CDD) instructions for FIs included the obligation of the reporting officer to immediately notify the Office of any transaction or attempted transaction whenever he suspects or has reasonable grounds to suspect that it is related to the proceeds of a crime or related to money laundering or terrorist financing, or that it is being used by terrorists, terrorist organizations or terrorist financiers.

11. **SRII (Criminalizing the financing of terrorism):** The deficiencies relating to this recommendation were addressed by including all forms of raising and providing funds to a terrorist organization, group or individual in the criminalization, even if such funds were from legitimate sources, so that criminalization would be largely consistent with the Convention for the Suppression of the Financing of Terrorism. Iraq also addressed the unclear definition of funds in the scope of terrorist financing, where this definition encompasses now assets of any kind and electronic and digital documents, so as it conforms with the definition mentioned in the said Convention.

12. As a general result, it can be said that the level of Iraq's compliance with these recommendations can be rated "Largely Compliant".

### **Key Recommendations**

13. **R3 (Confiscation and provisional measures):** The deficiencies relating to this recommendation were addressed through the amendments made to the law, where the amendment included a provision on the confiscation penalty in ML/TF offenses, and such penalty now covers the confiscation of all property, proceeds or instrumentalities used in, or intended for use in, the commission of these offenses or property of corresponding value and the lapse of a criminal lawsuit shall not preclude a ruling ordering the confiscation of funds generated from ML/TF operations.

14. **R23 (Regulation, supervision and follow-up):** The deficiencies relating to this recommendation were addressed by designating the supervisory and monitoring authorities in charge of supervising FIs subjected to the law, such as the Ministry of Commerce, the Ministry of Industry, the Central Bank of Iraq, the Securities Commission and the Insurance Bureau, as well as any other authority designated as a supervisory authority by virtue of a

resolution issued by the Council of Ministers, pursuant to the AML/CFT Council proposal, in order to ensure the subjected institutions' compliance with the AML/CFT requirements, determining the powers conferred upon each of the supervisors of FIs and the Anti-Money Laundering and Counter-Financing of Terrorism Office and granting the Office the power to follow-up compliance with the obligations set out in the amended law. Supervision of the FI sectors, such as exchange companies, insurance companies, banks and securities companies, was also given effect and enhanced, by improving the technical and human resources of the supervisors designated in the AML/CFT Law, enhancing the on-site and off-site inspection and providing a training for the employees of supervisory authorities and the Anti-Money Laundering and Counter-Financing of Terrorism Office.

15. **R26 (Financial Intelligence Unit):** Iraq addressed the deficiencies relating to this recommendation by establishing the Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) Office and granting it powers to receive, analyze, forward and disseminate STRs, in addition to its power to request further information from reporting entities, by issuing guidance to reporting entities regarding the process of submitting reports to the Office, and giving it full autonomy to take decisions to forward suspicious transactions, allocating an independent budget for it, relocating to another office equipped with modern technologies and initiating the operational phases of the said Office. It is worth noting that the (AML/CFT) Office has also launched its official website - [www.aml.iq](http://www.aml.iq)

16. **R35 (Conventions):** The deficiencies relating to this recommendation were addressed by acceding to and ratifying the International Convention for the Suppression of the Financing of Terrorism by virtue of law No. (3) of 2012.

17. **R36 (Mutual legal assistance):** The deficiencies relating to mutual legal assistance were addressed through the amended law which granted the Iraqi judicial authorities the power to cooperate with non-Iraqi counterparts, the accession to relevant international conventions which require the provision of mutual legal assistance, and the signature of memorandums of cooperation and understanding with several countries, where the number of mutual legal assistance requests for the recovery of funds reached (56).

18. **R40 (Other forms of international cooperation):** Iraq addressed the deficiencies relating to this recommendation through the ability of supervisors to exchange information and international cooperation with their counterparts in the AML/CFT field. Competent authorities in Iraq have also signed MOUs with several counterpart authorities in order to reinforce international cooperation in exchanging information.

19. **SRI (implementation of UN instruments):** Iraq addressed the deficiencies relating to this recommendation by taking the necessary measures to implement the obligations set out in the International Convention for the Suppression of the Financing of Terrorism, implementing UNSCRs 1267 (1999) and 1373 (2001) and successor resolutions, and issuing executive measures relating to the implementation of the foregoing resolutions.

20. **SRIII (Freezing and confiscating terrorist assets):** The deficiencies relating to the freezing and confiscation of terrorist assets were addressed, by designating the authority which handles the freezing of terrorist assets according to the UNSCRS, where a (Commission for Terrorist Funds Freezing) was formed at the General Secretariat of the Council of Ministers to handle the fulfillment of the obligations mentioned in UNSCRs (1267) and (1373). These obligations comprise the freezing of terrorist funds or other assets belonging to persons designated by the UN AL-Qa'eda Sanctions Committee established

pursuant to UNSCR 1267 (1999) and other relevant resolutions, or those designated by virtue of UNSCR 1373 (2001) and other relevant resolutions, regarding the guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets, concerning their obligations to take action under freezing mechanisms.

21. **SRV (International cooperation):** The deficiencies relating to international cooperation in the AML/CFT field were addressed, where the AML/CFT Law No. (39) of 2015 comprised provisions on dealing with mutual legal assistance requests, extradition requests and international rogatory letters, and on executing the final decisions rendered by foreign competent judiciary authorities, in accordance with the rules and measures stated by the Iraqi laws and regulations in force and the international, regional or bilateral agreements Iraq is a party to.

### *Other Recommendations*

22. Iraq addressed the deficiencies relating to other recommendations, and it is worth noting that the decision on removing Iraq from the follow-up process is originally based on the core and key recommendations. And this report does not provide a detailed analysis regarding the other recommendations.

### *Conclusion*

23. The follow-up procedures state that in order to consider the exit of a country from a follow-up process, it should take sufficient measures allowing it to do so and it should have an effective AML/CFT system which enabled it to implement the core and key recommendations at a level equivalent to “C” or “LC”, while taking into consideration that the original compliance ratings will not be amended. Plenary does, however, retain some flexibility with regard to the key recommendations if substantial progress has also been made on the overall set of recommendations that have been rated “PC” or “NC”.

24. With regard to core recommendations, it can be said that Iraq’s level of compliance with these recommendations is rated “LC”.

25. With regard to key recommendations, it can be said that Iraq’s level of compliance with most of these recommendations is also rated “LC”.

26. With regard to other recommendations where Iraq was rated NC or PC, it can be said that its level of compliance with these recommendations in general is equivalent to “LC”.

27. With regard to effectiveness, the authorities stated that (435) ML/TF convictions were issued 2017, (71) of which on ML cases and (364) convictions according to article (4)<sup>1</sup> of the

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<sup>1</sup> Article (4) of the Anti-Terrorism Law No. (13) of 2005 in the Republic of Iraq stipulates the following:

1. Anyone who committed, as a main perpetrator or a participant, any of the terrorist acts stated in the second & third articles of this law, shall be sentenced to death. A person who incites, plans, finances, or assists terrorists to commit the crimes stated in this law shall face the same penalty as the main perpetrator.

Anti-Terrorism Law, and the number of convictions issued on cases related to terrorist financing reached (3), and the number of cases which are still under investigations and concern the convicts according to the provisions of article (4) of the Anti-Terrorism Law reached (68). Iraq provided statistics on the number of persons or entities and on the value of frozen property, according to UNSCRs related to terrorist financing; where funds of (370) persons and companies were frozen by the Commission for Terrorist Funds Freezing, (346) of which are persons and (24) companies. The value of the frozen and confiscated funds and properties related to money laundering and terrorist financing reached \$(50000000) and Euros (252682500), due to non-declaration of the sum at the border posts. The number of MLA requests for the recovery of funds reached (56) and the number of requests for the extradition of convicted criminals reached (132). The number of banks and companies which licenses were withdrawn reached (1) bank and (31) companies for breaching the AML/CFT Law. Iraq provided statistics on the number of reports of suspicious or suspected transactions which were handled and submitted to the Anti-Money Laundering and Counter-Financing of Terrorism Office, with regard to ML/CFT cases, based on their source which stated that (82) reports in 2016 and (140) in 2017 were received by the Anti-Money Laundering and Counter-Financing of Terrorism Office from various authorities (supervisors, law enforcement, Customs, FIs, counterpart units). The above-mentioned statistics show an increase in the number of STRS which were frequently dealt with in 2017, which is a positive indicator due to the improvement noticed in terms of awareness, expertise, training and exchange of information in this field.

28. With regard to effectiveness of supervisors of FIs and DNFBPs, it can be said that Iraq has taken several steps aiming at improving and giving effect to the level of FIs supervision, in terms of the number of on-site visits to banks, insurance companies, exchange companies, financing companies and the securities sector. Iraq has also taken several steps to enhance the level of DNFBPs supervision.

29. As a result, since Iraq's level of compliance with the core recommendations is rated "LC" at a minimum and the level of compliance with the key recommendations is also rated "LC" at a minimum, the Plenary Meeting may consider the approval upon Iraq's request to move from regular follow-up to biennial update.

## **Overview of the Republic of Iraq**

### ***Overview of the Main Developments Since the Adoption of the MER***

30. Since the adoption of the MER, Iraq has made efforts to implement the work plan developed to meet the requirements for compliance with the AML/CFT international standards. On this note, Iraq issued law No. (39) of 2015 on combating money laundering and terrorist financing (AML/CFT Law) and the Council of Ministers in the country issued regulation No. (5) of 2016 on freezing terrorist funds and published it in issue No. (4419) of

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2. Any one, who intentionally covers up any terrorist act or harbors a terrorist with the purpose of concealment, shall be sentenced to life imprisonment. Article (37) of the AML/CFT Law No. (39) of 2015 states that any person who commits a terrorist financing offense shall be punished by life imprisonment.



Alwaqai Aliraqiya (the official Gazette of the Republic of Iraq) dated October 10, 2016. This regulation aims at determining mechanisms for the implementation of UNSCRs 1267 and 1373 on the measures for freezing terrorist funds which are provided for by AML/CFT Law No. (39) of 2015. Iraq also issued law No. (3) of 2012 on approving upon Iraq's accession to the UN Convention for the Suppression of the Financing of Terrorism. The supervisory and monitoring authorities also issued AML/CFT instructions to their subjected entities.

### ***Legal and Regulatory Framework***

31. The legal framework of the AML/CFT system in Iraq is based on the AML/CFT Law No. (39) of 2015 which is published in issue No. (4387) of Alwaqai Aliraqiya (the official Gazette of the Republic of Iraq) dated November 16, 2015. This law imposes obligations on FIs and DNFBPs regarding due diligence measures which comprise the identification and verification of the identity of the customer, the beneficial owner and any person acting on behalf of or for the customer, understanding of the purpose and nature of the business relationship, not opening anonymous accounts or accounts with fictitious names, identification of the ownership and control structure of the customer, on-going follow-up of the business relationships, record-keeping, reporting of suspicious operations related to money laundering and terrorist financing, including attempted operations, preparation and execution of AML/CFT programs which comprise the conduct of a ML/TF risk assessment, establishment of internal policies, procedures and controls for the implementation of the requirements imposed in the AML/CFT field, establishment of an Anti-Money Laundering and Counter-Financing of Terrorism Office at the Central Bank having the status of "Public Department", where this office handles the receipt and analysis of reports and information on operations suspected to relate to proceeds of predicate offenses or ML/TF offenses, obtained from reporting entities, and other requirements and obligations. The promulgated law is regarded as the result of the efforts exerted by Iraq over the period which followed the adoption of the MER in 2012, through the review and the assessment of the AML/CFT systems, represented in the review and the amendment of the AML/CFT Law.

32. The governor of the Central Bank of Iraq issued instructions No. (1) of 2017 on CDD rules for FIs, based on the provisions of clause (fourth)<sup>1</sup> of article (10) of the AML/CFT Law No. (39) of 2015 AD, which were published in issue No. (4439) of Alwaqai Aliraqiya on 20/3/2017. The instructions comprised several fundamental provisions, such as: the definition of customer due diligence, high-risk persons who occupy prominent positions, non-profit associations and organizations, reporting officer, financial group, intermediary financial institution, ordering financial institution and recipient financial institution, the general rules for the application of customer due diligence, measures for the identification of the natural person, the legal person, non-profit associations and organizations, trust fund and the beneficial owner, obligations of FIs to put in place rules for the ML/TF risk management, provisions on the simplified and enhanced due diligence measures for high-risk customers, services and transactions, provisions on transactions conducted with persons residing in countries which do not implement or insufficiently implement the FATF recommendations, provisions on non-residing customers whether natural or legal persons or legal arrangements, correspondent banks, procedures for the management of ML/TF risks arising from the development of new products, professional practices and payment services through the mobile phone, obligations of FIs which are engaged in electronic or regular transfers, including the obligations of ordering and recipient institutions and those of the intermediary

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<sup>1</sup> Clause fourth of article (10) of the AML/CFT Law No. (39) of 2015 AD stipulates the following: "The CDD rules for financial institutions shall be determined by virtue of instructions issued by the Governor".

financial institutions, provisions on reporting suspicious cases to the Anti-Money Laundering and Counter-Financing of Terrorism Office, records and documents keeping and the commitment of FIs to prepare and implement AML/CFT programs.

33. The president of the Insurance Bureau issued due diligence controls for insurance companies. The said controls comprised several provisions related to the obligations of insurance companies when implementing due diligence measures covering the identification of a natural person, legal persons and arrangements, and non-profit organizations in detail, the identification of the beneficial owner, the implementation of appropriate measures to verify his identity, the implementation of due diligence measures regarding the beneficiary of a life insurance policy, the understanding of the nature and purpose of the business relationship and the value of the relevant insurance policies, the implementation of due diligence measures when making a substantial change to the insurance policy, the conditions for delaying the verification of the customer or beneficial owner identity until after the conclusion of the insurance contract. In addition, the controls determined the obligations of insurance companies, mainly the on-going follow-up and examination of the business relationships with the customer, the periodical review and update of customers data, the implementation of due diligence measures based on materiality and risk for the customers which were engaged with such companies before the entry into force of the provisions of such instructions. They also referred to the review of documents for customer identification, the measures to be taken when the veracity of data is suspected, as well the conditions to be observed when dealing with incompetent or incapacitated persons and dealing with the company on behalf of the customer. The controls also mentioned the implementation of enhanced due diligence measures when dealing with large insurance transactions with no apparent legal or economic purpose and in countries which do not have appropriate AML/CFT regulations, dealing with high-risk persons who occupy prominent positions, implementation of simplified due diligence measures, obligation to keep insurance records and documents for a period not less than five years following the end of the business relationship or the dealing with the customer whichever is longer, commitment to establish and execute AML/CFT policies, procedures and controls proportionate with the risk assessment results, appointment of a reporting officer, reporting procedures, establishment of an on-going training program for employees in the AML/CFT field, establishment of appropriate scrutinizing measures to verify compliance with high standards of integrity and competence, when hiring employees. These controls were published on the main website of the Insurance Bureau and disseminated to all the insurance companies.

34. Regarding the securities sector, the president of the Iraqi Securities Commission issued CDD controls for securities by virtue of decision No. (1/4/2017,) which comprised definitions of the funds, terrorist financing, beneficial owner, customer, business relationship, deposit, reporting officer, the definition of the term “immediately” and high-risk persons who occupy prominent positions. They also comprised general CDD rules detailed, as follows: the identification and verification of the customer and beneficial owner identity, the prohibition of dealing with, maintaining or providing any services for anonymous, or numbered accounts or accounts with fictitious names, the understanding of the purpose and nature of the business relationship, the use of automated systems that monitor the customer on an on-going basis, the implementation of due diligence measures and refraining from relying upon a third party, the conditions governing the termination of the business relationship, the conditions governing the failure to complete the due diligence measures, the implementation of due diligence measures on the basis of materiality and risks and the verification that the customer is not on the list of prohibited customers. Furthermore, the controls mentioned the on-going

follow-up of the business relationship with the customer, the examination of the operations, the periodical review and update of customer data, the implementation of due diligence toward customers dealing with them before the issuance of the instructions on the basis of materiality and risks and the conditions governing the registration of cash. Such controls also elaborated the measures related to the identification of the natural and legal persons, measures related to the identification of the beneficial owner, enhanced due diligence measures toward high-risk persons who occupy prominent positions, reporting measures, appointment of a reporting officer, keeping of records related to domestic and international operations, establishment of an internal bylaw comprising internal policies, procedures and controls which must be in place to combat ML/TF operations and to conduct a ML/TF risk assessment. Such controls were ratified by the president of the Commission and published on the official website of the Iraqi Securities Commission

35. Regarding the supervision of the customs sector, the AML/CFT Council issued Controls No. (1) of 2017 regarding the declaration of cash incoming and outgoing across the Iraqi borders. These controls were published in (AlBaiyyina) and in issue No. (4471) of the official Gazette (Alwaqai Aliraqia) on 27/11/2017, with a sample of the cash declaration form, following its signature by the president of the AML/CFT Council. These controls were also published on the website of the Anti-Money Laundering and Counter-Financing of Office and comprised a number of provisions concerning the amount of declaration, where cash, precious stones and metals and bearer negotiable instruments which are of a value exceeding (10000) ten thousand US Dollars are declared, the declaration authority which is the General Customs Authority at the airport or at the border posts according to the prescribed form, the obligations of customs departments at airports and border posts to place guiding signs in high and visible places, to request travelers to complete the declaration form, to provide a sufficient number of declaration forms, to keep regular records where all the declaration cases are recorded, to request further information from travelers on the source and purpose of funds and to provide the Anti-Money Laundering and Counter-Financing of Terrorism Office with the declaration forms and any information it requests. In addition, the controls set out the conditions governing the seizure of cash, bearer negotiable instruments, and precious stones and metals by employees of the General Customs Authority. They also referred to the conditions for lifting the seizure by the Anti-Money Laundering and Counter-Financing of Terrorism Office. The Iraqi authorities published the above-mentioned controls on the official website of the General Customs Authority.

36. Regarding the implementation of UNSCRs (1267) and (1373), the Council of Ministers in Iraq issued regulation No. (5) of 2016 on freezing terrorist funds and published it in issue No. (4419) of Alwaqai Aliraqiya (the official Gazette of the Republic of Iraq) dated October 10, 2016. This regulation aims at determining mechanisms for the implementation of UNSCRs 1267 and 1373 on the measures for freezing terrorist funds which are provided for by the AML/CFT Law No. (39) of 2015.

## **C- Review of the Measures Taken in Relation to Core Recommendations**

### **R1: Compliance Rating (NC)**

***Deficiency 1: The ML offense does not comprise the elements of “concealing” or “disguising” in all the cases.***

37. Iraq addressed this deficiency relating to this issue through clause second of article (2) of the AML/CFT Law No. (39) of 2015, which stipulated the following: "Any person who conceals or disguises the true nature, source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crimes, upon receiving them, shall be considered a perpetrator of a money laundering offense". Accordingly, Iraq would have addressed the deficiency relating to this issue.

***Deficiency 2: The material element of the ML offence is narrower than the one required under the international standards.***

38. Iraq addressed the shortcoming relating to this deficiency, through the amendment that the Iraqi legislator made to the definition of the ML offense in law No. (39) of 2015 and the extension of the material element scope with a view to cover all forms of money laundering offense provided for in relevant international conventions. In this context, article 2 of the said law defined the ML offense as follows: any person who commits one of the following acts shall be considered a perpetrator of a money laundering offense:

First: Converting, transferring or substituting funds by a person who knows or should have known that such funds are proceeds of crime, with the purpose of concealing or disguising the illicit origin thereof, or helping the perpetrator or accomplice of such offense or the predicate offense evade legal consequences for such acts.

Second: Concealing or disguising the true nature, source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crime.

Third: Acquiring, possessing or using funds by a person who knows or should have known, when receiving them, that such funds are proceeds of crime.

39. The foregoing shows that Iraq has extended the material element scope of the ML offense to correspond with the international conventions, and Iraq would have, thereby, addressed the deficiency relating to this issue.

***Deficiency 3: Self-laundering is not criminalized.***

40. Iraq addressed the deficiency relating to this issue, by criminalizing self-laundering according to article (4) of the AML/CFT Law No. (39) of 2015 which stipulates that ((the conviction of a person accused of any predicate offense shall not preclude a conviction with regard to self-laundering crime which resulted from that offense. And the provision on multiple offenses and punishment provided for in the Penal Code shall apply)).

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***Deficiency 4: Insider trading is not criminalized and it is therefore not considered a predicate offense for money laundering.***

41. Iraq addressed the deficiency relating to this issue, through the Iraqi law which punished the insider trading crime under the Iraqi Law No. (111) of 1969 and article (2-first) of Law No. (39) of 2015 mentioned the terms “proceeds of crime”; the law would have, thereby, legally covered the insider trading crime, and article (3) stipulated that the non-conviction of a money laundering offense shall not require a ruling regarding the predicate offense.

***Deficiency 5: It is not possible to enforce the AML law in the Kurdistan Region.***

42. Iraq addressed the deficiency relating to this issue, considering that the provisions of the AML/CFT Law No. (39) of 2015 are applied on the Kurdistan Region, and in application of these provisions, the governor of the Central Bank of Iraq issued the administrative order No. (3819) on 8/11/2016 regarding the opening of two branches for the Central Bank in the Kurdistan Region, which shall be established according to the central exchange principles and which shall be administratively, financially and technically related to the Central Bank of Iraq; they shall not fall under any orders, directions or supervision from any entity whatsoever in the Republic of Iraq. A competent team shall be assigned to achieve this task over two stages and the date of commencement of the work shall be officially announced after the completion of the necessary procedures. There is a coordination with the Kurdistan Region concerning the training of employees of banks operating in the Region and that the Anti-Money Laundering and Counter-Financing of Terrorism Office has provided the said Region with a copy of the guidance on indicators of suspicion of money laundering and terrorist financing operations in banking transactions addressed (to banks, money transfer companies, exchange companies) and transactions in the DNFBP sector (real estate agents, legal accountants, lawyers, trust funds, dealers in precious metals and jewelers), customs, the Securities Commission, insurance companies and non-profit organizations, as well as the guidance on filling suspicious transactions reporting forms which have been already published on the website of the Central Bank of Iraq and has disseminated the said guidance to all the relevant institutions and ministries in the Region, according to the letter sent by the representative of the Region. The authorities also stated that they have negotiated with the Region in order to designate the authority in charge of concluding a memorandum of understanding with the Region. The received reply indicated that the concerned authority is the Council of Ministers Department in the Kurdistan Region. The authorities also said that they will communicate with the Department regarding the foregoing and that the supervisors at the Central Bank of Iraq have organized a training session for public and private banks, money transfer companies operating in the Kurdistan Region/Suleymaniya under the title of “combating money laundering and terrorist financing, compliance and risk management”, during the period from 19-23/2/2017. The authorities also stated that a training workshop will be held by the Anti-Money Laundering and Counter-Financing of Terrorism Office for FIs operating in the Kurdistan Region from (1-5/4/2018).
43. In addition to the foregoing, the official letter issued by the Prime Ministry in Kurdistan and sent to the Anti-Money Laundering and Counter-Financing of Terrorism Office (which was perused by the Secretariat) inferred that the government of the Region applied the said law, particularly after re-opening the branch of the Bank in the said Region, that the competent authorities in the Region closed (4) unlicensed exchange and money

transfer offices and are monitoring them on an on-going basis, that the Council of Ministers in the government of the Region disseminated the Terrorist Fund Freezing Regulation No. (5) of 2016 as well as the correspondences and circulars on the closure of exchange and money transfer companies and offices to all the ministries, authorities, entities and departments which are not related to the Ministry and that the Ministry of Finance and Economy in the Region engaged one of its staff in a session on combating money laundering held in Lebanon. The authorities also informed that a letter was sent by the board of directors of the Central Bank on 2/10/2017 ascertaining that the same existing measures are still applied and that the Central Bank of Iraq is empowered to play its monitoring and supervisory role over the banking sector and non-banking FIs in the Region. An inspection authority was formed by the Exchange Monitoring Directorate at the Central Bank of Iraq to inspect the banks operating in Baghdad and the Kurdistan Region. Several violations were detected, some banks were referred to the Sanctions Committee and a number of penalties were imposed.

***Deficiency 6: Lack of investigations and no convictions for ML despite the important number of criminal investigations for predicate offenses that generate proceeds (Lack of effectiveness).***

44. Iraq addressed the deficiency relating to this issue, where the number of convictions issued by the Iraqi courts on ML/TF offenses reached (435), as follows: (71) ML convictions, (364) convictions pursuant to the provisions of article (4) of the Anti-Terrorism Law and the number of convictions issued on cases related to terrorist financing reached (3). Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

#### **R5: Compliance Rating (NC)**

***Deficiency 1: The prohibition of anonymous, fictitious, or numbered accounts does not prohibit maintaining such existing accounts, and is not applicable to institutions other than banks or remittance companies***

45. Iraq addressed the deficiency relating to this recommendation, through article (13) of the AML/CFT Law No. (39) of 2015 which required all FIs not to open or maintain anonymous accounts or accounts with fictitious names. The same obligation was provided for under article 2 of the CDD instructions toward FIs, which required all FIs to apply the general CDD rules represented in the prohibition of dealing with, maintaining or providing any services for anonymous, or numbered accounts or accounts with fictitious names, the implementation of due diligence measures toward owners and beneficiaries of these accounts the soonest possible and in any event before or while using them.

***Deficiency 2: Provisions on when to apply minimum standard CDD/KYC measures provide unfettered discretion to financial institutions in implementation, thus, effectiveness in assessing and enforcing compliance is not clear.***

46. Iraq addressed the deficiency relating to this recommendation, through article (9) of instructions No. (1) of 2017 on CDD rules for FIs which comprised simplified due diligence measures and required FIs to identify transactions to be carried out or customers toward whom simplified due diligence measures, when establishing and verifying the identity of the customer and the beneficial owner, subject to the recommendations, international standards and best practices and in application thereof, which prescribed examples of low-risk

customers or transactions, and any other international controls or domestic requirements in this regard. The same article also required not to take simplified due diligence measure in case of suspecting ML/TF operations or in low-risk circumstances.

***Deficiency 3: There is no requirement to conduct CDD procedures on both the agent and principal when a person is representing another, or verify the authority by which a customer is acting on behalf of another.***

47. Iraq addressed the deficiency relating to this issue, through paragraph (b) of article (10) of the AML/CFT Law No. (39) of 2015 which required FIs to apply CDD measures, to identify and verify the identity of any person acting on behalf of the customer including evidence that such person is properly authorized to act in this capacity. In further describing this obligation, the CDD instructions for FIs described this obligation in detail, where article (3) of the instructions required FIs to verify, when identifying the identity of the natural person, the existence of an official power of attorney which grants the agent the authority to act for the principal and to determine the identity of the agent according to KYC measures which are provided for by the AML/CFT Law and these instructions, along with keeping the original document and a certified copy of the power of attorney. Regarding the identification and verification of the legal person's identity, the documents evidencing the authorization given by the legal person to the natural persons who are authorized to act for it must be obtained, in addition to the identification of the person authorized to act, according to KYC measures which are provided for in the instructions and represented in identifying the name, legal form and business address of the legal person, type of activity, capital, and the names, nationalities, telephone numbers of the persons authorized to act and the purpose of the dealing, and any other information the institution deems appropriate to obtain. The said instructions also required to verify the existence of the legal personality of the company and its legal status through the articles of association and the internal bylaw, the address and headquarters of the company, its accounts and other requirements.

***Deficiency 4: Insufficient CDD requirements obligating reporting entities to establish who is the beneficial owner and the natural persons that own or control legal entities, and to identify the legal form of legal entities (trust or other arrangements)***

48. Iraq addressed the deficiency relating to this issue, through article 1 of the AML/CFT Law No. (39) of 2015 which defined the beneficial owner as being: The natural person who ultimately owns or exercises direct or indirect control over a customer or the natural person on whose behalf a transaction is being conducted. It also includes those persons who ultimately exercise effective control over a legal person or legal arrangement, and this article also defined the legal arrangements as being: A relationship established pursuant to a contract between two or more parties that does not result in the emergence of a legal person, such as trust funds or other similar arrangements. Article (10) of the Financial Institutions Law required the identification and verification of the customer and the beneficial owner identities through documents or data from reliable and independent sources, as well as the identification of the ownership and control structure for legal persons and arrangements.

49. Article (7) of the CDD instructions for FIs required all FIs, when identifying the beneficial owner identity, that every customer has to submit a written declaration, when opening the account or starting the business relationship, stating the identity of the beneficiary of the operation intended to be conducted. The declaration includes at a minimum the information on customer identification. The article also required the application of reasonable measures to verify this identity based on data or information evidenced in official documents and data, which would satisfy that the institution knows the identity of the

beneficial owner, in addition to the identification of the beneficial owner in case of a legal person or arrangement, by taking reasonable measures to verify the ownership and control structure of the customer. Regarding the measures for establishing the identity of the trust fund, they include the following: To identify the trust fund, its official name and legal form, its cause of existence, its fiduciary agreement, its objective, its activity type, the name, address, email, if any, and telephone number of the trustee(s) and any other means of communication, the signature of the trustee and the purpose of the business relationship.

***Deficiency 5: The requirement to obtain information on the nature and purpose of the business relationship only applies after suspicious activity is detected.***

50. Iraq addressed the deficiency relating to this issue, where article (10) of the AML/CFT Law No. (39) of 2015 required all FIs, concerning the application of CDD measures, to understand and, as appropriate, obtain additional information on the purpose and nature of the business relationship. The same obligation was also provided for in the CDD instructions for FIs, where article 2 required all FIs to understand, and as appropriate, obtain additional information on the intended purpose and nature of the business relationship.

***Deficiency 6: There is no effective obligation for reporting entities to conduct on-going due diligence.***

51. Clause (e) of article (10) of the law required all FIs to apply CDD measures by monitoring the business relationship on an on-going basis, examining any transactions carried out to ensure they are consistent with their knowledge of the customer, commercial activities and risk profile, and where required, the source of funds.

52. The same obligation was also stipulated in clause (d) First of article (2) of the CDD instructions for FIs which required FIs to use automated systems that monitor the relationship with the customer on an on-going basis to identify the pattern of his transactions and detect any transactions that are inconsistent with this pattern or with the knowledge of its customer, his activity and risk profile, including the source of funds and wealth of any customer classified as high-risk.

53. In addition to the foregoing, article (5) of the AML/CFT instructions in insurance activities required insurance companies to monitor the insurance relationship with the customer on an on-going basis, to examine the operations conducted during this relationship, such as making changes to the insurance policy or exercising any of the rights mentioned in it, in order to verify that it is consistent with the knowledge by the company of the customer, the beneficial owner, the nature of business or activity of any of them and to assess the ML/TF risks resulting from its business relationship with him. These instructions also required insurance companies to review the data of their customers on a periodical basis and to update it for all the customers, particularly high-risk customers or when they suspect the accuracy or appropriateness of the data which was previously obtained. Clause (d) of article (3) of the CDD controls for securities included an obligation requiring entities subjected to the provisions of the instructions to use automated systems to monitor the relationship with the customer on an on-going basis in order to identify the pattern of his transactions and to detect any transactions that are inconsistent with this pattern or the knowledge by the institution of its customer, his activity and risk profile, including the knowledge of the sources of funds and wealth of any customer considered as a high-risk. Similarly, article (4) of the same controls also required subjected entities to monitor the relationship with the customer on an on-going basis and to examine the transactions carried out through this relationship in order to verify that they are consistent with the knowledge by the entities



subjected to the provisions of these instructions of the customer and the beneficial owner and the nature of the business or activity of any of them and to assess the ML/TF risks resulting from their relationship with him.

***Deficiency 7: There exists no requirement to classify higher-risk customers and apply enhanced due diligence measures, and no regulatory guidance to assist in the implementation of CDD risk-based decisions of financial institutions.***

54. Article (12) of the amended law required FIs to establish and implement AML/CFT programs which include the assessment of ML/TF risks they are exposed to, including identification, assessment and understanding of these risks, and application of effective mitigation measures. Article (8) of the CDD instructions for FIs required FIs to classify customers in several categories based on risks and materiality and to establish the necessary measures to deal with such risks in consistency with each degree. Regarding higher-risk customers, they are subject to the enhanced due diligence measures provided for in article (10) of the CDD instructions which comprise the following measures concerning high-risk persons who occupy prominent positions: To take reasonable measures to determine whether the customer or the beneficial owner is a high-risk person who occupies a prominent position, to establish risk management rules for high-risk persons who occupy prominent positions or their beneficial owners, provided that these rules determine whether the future customer is among those high-risk persons, to obtain the approval of the senior management when establishing a relationship with high-risk persons who occupy prominent positions and when detecting that any customer or beneficial owner belongs to this category, to take sufficient measures to verify the sources of wealth of any customer or the beneficial owner who is a high-risk person who occupies a prominent position and to monitor the transactions of those customers engaged with the FI on an on-going and accurate basis.

55. The Central Bank of Iraq also issued controls No. (1) of 2017 regarding due diligence toward high-risk persons who occupy prominent positions, where article (1) of the controls defined the high-risk persons who occupy prominent positions as being: Individuals who have been entrusted with prominent public functions in the Republic of Iraq or in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, directors, senior executives of State-owned corporations, political party officials, individuals entrusted with prominent positions at an international organization, such as members of senior management and their deputies, members of a board of directors or equivalent, personal advisors broadly and publicly known, any person occupying a position that allows him to largely benefit from the close association with the Politically Exposed Person and their direct relatives up to the second degree. Article 5 of these controls also included an obligation requiring FIs to take, in addition to the regular due diligence measures for high-risk persons who occupy prominent positions, actions represented in the following: To establish a risk management system which enables to detect if the customer or the beneficial owner is a high-risk person who occupies a prominent position, to obtain the approval of the senior management when establishing a relationship with these persons who occupy prominent positions and when detecting that any customer or beneficial owner belongs to this category, to take sufficient measures to verify the sources of wealth and activities of any customer or beneficial owner who is a high-risk person who occupies a prominent position, to periodically review the risk management policies and procedures related to high-risk persons who occupy prominent positions, to take the necessary corrective actions if necessary, to monitor the transactions of customers who are high-risk persons who occupy prominent positions with FIs on an on-going and accurate basis, to take measures for further identification and verification in case the beneficial owner

is a high-risk person who occupies a prominent position. The identification of the beneficial owner must be observed in case of a legal person, in addition to the application of the necessary measures to examine the ownership and control structure of the legal person, including reliance on information and data obtained from official documents and other means that enable the financial institution to know the beneficial owner. The implementation of these provisions encompasses the persons exposed to risks, by virtue of their positions, and their relatives up to the second degree.

56. In addition to the foregoing, the AML/CFT instructions in insurance activities included provisions on the application of enhanced due diligence measures with respect to PEPs and persons who reside in countries which do not have appropriate AML/CFT regulations or which do not apply or which sufficiently apply the AML/CFT international controls, including the Financial Action Task Force (FATF) recommendations.

***Deficiency 8: CDD requirements permit financial institutions to apply reduced CDD measures without justification or evidence that the ML/TF risks are actually lower.***

***Deficiency 9: There is no requirement to ensure reduced CDD measures are limited to customers resident in countries that do not effectively implement international AML/CFT standards.***

***Deficiency 10: No guidelines are issued to address the extent to which financial institutions may determine the application of simplified CDD measures on a risk-sensitive basis.***

57. Iraq addressed the deficiency relating to this recommendation, through article (9) of the CDD rules for financial institutions which required to identify transactions to be carried out or customers toward whom simplified due diligence measures need to be applied, when establishing and verifying the identity of the customer and the beneficial owner, subject to the recommendations, international standards and best practices and in application thereof, the Directorate General for Exchange and Compliance Monitoring at the Central Bank of Iraq issued supervisory controls for banks and non-banking FIs on combating money laundering and terrorist financing, where article 3 of the controls provided for the simplified or reduced due diligence measures in detail and stipulated that it is possible for banks to apply due diligence measures in a more simplified or reduced manner, whenever there are circumstances where ML/TF risks are low and simplified due diligence measures can be applied with respect to low-risk customers, transactions or products, such as: Ministries, governmental authorities and institutions, FIs subjected to the AML/CFT conditions which are consistent with the requirements set out in the law, the executive bylaw, these controls and the FATF recommendations, the completed occasional or single operation where the value of the transaction is less than (1) million Iraqi Dinars or its equivalent in other currencies, and where the name and contact information of the customer can be obtained, when conducting occasional transactions for an occasional customer in the form of a wire transfer of a value less than (1) million Iraqi Dinars or its equivalent in other currencies.

58. In addition to the foregoing, the article required not to apply simplified due diligence measures in cases where the bank knows, suspects or has a reason to suspect that the customer is involved in money laundering or terrorist financing, or that the transaction is being conducted on behalf of another person involved in ML/TF activities. These measures cannot be applied in cases where the bank knows, suspects or has a reason to suspect that the transactions are co-related and exceed the above-mentioned threshold.

**R10: Compliance rating (PC).**

*Deficiency 1: Although recordkeeping requirements are contained in the AML Law, these obligations are not being effectively implemented by financial institutions, assessed for compliance during on-site inspections, or are non-compliance effectively sanctioned.*

*Deficiency 2: The respective supervisory authorities for the insurance and securities industries are responsible for monitoring compliance with recordkeeping requirements applicable to these sectors. There are no defined time periods for how long to maintain records, and there are no AML recordkeeping requirements in the Insurance Business Regulation Act or the Securities Law.*

59. Iraq addressed the deficiency relating to this issue, where article (11) of the AML/CFT Law No. (39) of 2015 required all FIs to maintain records of information and documents for five (5) years following the end of the relationship with the customer, the closure of the account or the completion of a transaction for an occasional customer, whichever is longer, and ensure that such records are available to competent authorities in a timely manner. These documents include the following: Copies of all records obtained during the due diligence process to verify the transactions, including identification documents of customers, beneficial owners, accounting files and business correspondences, all records of transactions, both domestic and international, executed or attempted, provided that such records must be sufficiently detailed to permit the reconstruction of each individual transaction, copies of suspicious transaction reports sent to the Office and documents related thereto for at least five (5) years after the date the report was made or a ruling was issued in a related lawsuit, even if it has exceeded this period, and records related to the risk assessment or any underlying information from the date it was carried out or updated.

60. Article (8) of the AML/CFT instructions in insurance activities required all the companies to keep the different records and documents they obtain during the business relationship with the customer, in addition to records of various operations and transactions and the results of the ML/TF risk assessment. These records include the following: Documents on the conduct of due diligence with regard to business relationships, customers and beneficial owners of insurance policies, copies of the correspondences exchanged with them for a period not less than five years from the end of the business relationship or the dealing with the customer, whichever is longer, the record of transactions containing all the insurance policies concluded by the company, sufficient data and details about every individual transaction for a period not less than five years from the end of the business relationship or the dealing with the customer, whichever is longer, the payout records which contain all the claims made by the insured persons, and relevant documents, including the date of submitting the claim and its value, the name and address of the insured person, the insurance policy number and date of issuance, the sum paid for the claim and any amendments made to the claim, the payout amount and settlement, and in case of rejection, the date and reasons must be stated, for a period not less than five years from the end of the business relationship or the dealing with the customer, whichever is longer, the record of intermediaries and agents and relevant documents, which includes the name and addresses of (intermediaries/agents) at the Authority, the last renewal date, for a period not less than five years from the end of the dealing with the intermediary or the agent.

61. Article (9) of the CDD controls for securities included the same obligation requiring entities subjected to the provisions of these controls to keep records and documents on the domestic or international operations they conduct, where they include sufficient data to

identify these operations, including identification data records on due diligence measures for the identification of the customer and beneficial owner identity, for a period of (5) years at least, from the date of completion of the operation or the termination of the dealing with the customer as the case may be, and the periodical update of such data, in addition to the preparation of files for the operations suspected to relate to money laundering or terrorist financing where copies of STRs, data and documents related to these operations are kept for a period not less than five (5) years from the reporting date or until the rendering of a conclusive decision by the competent court, whichever is longer. The article also required subjected entities to update the information on a periodical and on-going basis or when there are doubts concerning it at any stage of the dealing, and to provide an integrated information system to keep the records and documents, thereby enabling to meet the request of the Office and competent official authorities in a timely manner. The article also required them to make all the afore-mentioned records and documents available to the Office and the competent official authorities upon request.

***Deficiency 3: No available information about whether customer and account records from financial institutions aided in terrorist financing prosecutions, or whether insufficient recordkeeping has ever impeded financial investigations.***

62. Iraq addressed the deficiency relating to this issue by requiring FIs to keep the records for a period of five (5) years by virtue of the AML/CFT Law No.(39) of 2015, and when sending a STR to prosecution, it shall be accompanied with several attachments, the statement of account and documents supporting the suspicion. In case of lack of information, it will be requested from the Office. Such information may be useful in completing the investigation. The authorities also informed that the customer and account records from FIs have never impeded financial investigations, but aided in convicting suspects for TF offenses.

### **R13 and SRIV: Compliance Rating (NC).**

***Deficiency 1: Financial institutions are not required to submit STRs as soon as they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity.***

63. Iraq addressed the deficiency relating to this recommendation, where a reference was made to the definition of a suspicious transaction in chapter 1, article (1), paragraph 18 of the AML/CFT Law No. (39) of 2015, which stipulates that the suspicion operation is: Any transaction thought to be carried out wholly or partially with proceeds of a predicate offense. Article (12) of the law required all FIs to report to the Office without delay any transaction suspected to involve money laundering or terrorist financing, whether it was conducted or not, using the reporting form prepared by the Office.

***Deficiency 2: Financial institutions are not required to report attempted suspicious transactions.***

64. The expression “whether this transaction was conducted or not” which is mentioned in article (12) of the AML/CFT Law No. (39) of 2015 is meant to require FIs to report attempted suspicious transactions; accordingly, Iraq would have addressed the deficiencies mentioned in this recommendation.

***Deficiency 3: Lack of effectiveness of the reporting process.***

65. In order to increase the effectiveness of the reporting system in Iraq, the authorities have taken several steps to this end, where the Anti-Money Laundering and Counter-Financing of Terrorism Office issued several indicators with regard to each of the reporting sectors to help them identify and report suspicious transactions. On this note, the Office issued the guidance on suspicion indicators for ML/TF operations in banking transactions (banks, money transfer and exchange companies), and operations in the DNFBP sector (real estate agents, legal accountants, lawyers, trust funds, dealers in precious metals and jewelers), customs, the Securities Commission, insurance companies and non-profit organizations, as well as the guidance on filling suspicious transactions reporting forms which were already published on the website of the Central Bank of Iraq and the guidance was also disseminated to all the relevant institutions and ministries. On the other hand, the Anti-Money Laundering and Counter-Financing of Terrorism Office provided statistics on the number of reports it has received and which reached (140) STRs from 2/1/2017 to 31/12/2017, as follows: banks and companies - (112) STRs from banks, (7) from companies, (1) from counterpart units, (4) from law enforcement authorities, (3) from the General Customs Authority, (4) from the legal department, (6) from supervisory and monitoring authorities and (3) from reporting entities. The Office also received (4) STRs from 2/1/2018 to 24/1/2018, as follows: (1) STR from supervisory and monitoring authorities, (2) from banks and (1) from other reporting entities.

66. The authorities mentioned that (15) STRs were referred by the Anti-Money Laundering and Counter-Financing of Terrorism Office to the Public Prosecution from 1/1/2017 to 31/12/2017, detailed as follows: (13) STRs on money laundering, (1) on terrorist financing, and (1) on non-disclosure of the amount.

67. Statistics submitted by the authorities reveal an increase in reporting made by banks over the past stage and an increase in the number of reporting cases in 2017.

**SRII: Compliance Rating (NC).**

***Deficiency 1: TF definition does not cover the financing of an individual terrorist.***

***Deficiency 2: TF definition does not cover all the criminal acts within the scope of the treaties listed in the annex of the United Nations Convention for the Suppression of the Financing of Terrorism.***

68. As mentioned in article 1/clause Tenth of the AML/CFT Law No. (39) of 2015, terrorist financing is any act committed by a person who, by any means, directly or indirectly, willfully, provides or collects funds, or attempts to do so from a legal or illegal source, with the knowledge that they will be used or with the intent that they will be used, in full or in part, in carrying out a terrorist act or for the benefit of a terrorist or a terrorist organization, regardless of whether the crime occurred or not and of the country where this act occurs or where the terrorist or terrorist organization is located in this country. Criminalization under the law would have consequently comprised the raising, provision or securing of funds for a terrorist person or organization. Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

***Deficiency 3: There is no definition for TF-related funds in the Kurdistan Region.***

69. Article 1 of the AML/CFT Law No. (39) of 2015 defined the funds as being: Assets or properties however acquired, such as local currency, foreign currencies, financial and commercial instruments, deposits, current accounts, financial investments, deeds and documents in any form including electronic or official, precious stones and metals and any asset with financial value such as immovable or movable property and relevant rights, interests and profit vested therein, whether inside or outside Iraq and any other type of funds prescribed by the AML/CFT Council for the purposes of the present Law, in a statement published in the official Gazette. Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

***Deficiency 4: TF sanctions on natural and legal persons are not effective, proportionate and dissuasive in most of TF offenses.***

70. Iraq addressed the deficiency relating to this issue, where chapter 11 of the AML/CFT Law No. (39) of 2015 included the sanctions applied against natural and legal persons in detail. Concerning the sanctions applied against natural persons, article (36) of the law stipulated that any person who commits a money laundering offense shall be punished with imprisonment for a period not exceeding (15) years and a fine of no less than the full and up to five times the value of the funds that were the objects of the offense. While article (37) stipulated that any person who commits a terrorist financing offense shall be punished by life imprisonment, in addition to the custodial sanctions mentioned above. Article (38) also provided for the penalty of confiscating funds subject of the crime stipulated in the law, their proceeds or instrumentalities used or intended to be used in committing the offense or their equivalent value in case it is not possible to confiscate or execute the ruling on such funds, whether in possession of the accused or a third party, without prejudice to the rights of (bona fide) third parties.

71. Regarding the sanctions applied against legal persons by virtue of the law, clause First of article (39) stipulated that a financial institution shall be punished with a fine of no less than twenty five million (IQD 25,000,000) and up to two hundred fifty million (IQD 250,000,000), in either of the following cases:

- Failure to keep records and documents to record its domestic and international financial transactions, containing adequate information to identify such transactions, and failure to maintain the same for the period stipulated in the present Law.
- Opening an account, accepting deposits or accepting funds and deposits of unknown sources or under fictitious or bogus names.

Second: A penalty of imprisonment for up to three (3) years and a fine of no less than fifteen million (IQD 15,000,000) and up to fifty million (IQD 50,000,000) or any of these two, shall be imposed on anyone who: a) refrains from submitting STRs to the Office, or intentionally submits false information, b) discloses to the customer, beneficiary or any party except the competent authorities and bodies responsible for implementing the provisions of the law, any action of reporting, investigation or inspection taken with respect to financial transactions suspected to involve money laundering or terrorist financing, or the data related to this action.

72. In addition to the foregoing, article (40) of the same law stipulated that any chairman or member of the Board of Directors, or owner, director or employee of a financial institution who violates any of the obligations stipulated in the law deliberately or through gross negligence shall be punished with imprisonment and a fine of up to one hundred million (IQD 100,000,000) or one of these two penalties. Article (41) punished the person who refrains from providing information to the Office within (7) seven days from being notified to do so, with the penalty of imprisonment for a period up to one year.

***Deficiency 5: Lack of investigations and convictions for TF compared to the high number and risk of terrorist activities in Iraq.***

73. Iraq addressed the deficiency relating to this issue, since the number of convictions issued by the Iraqi courts on ML/TF offenses reached (435), (71) of which are on ML offenses and (364) convictions according to article (4) of the Anti-Terrorism Law and (3) on TF offense. Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

**D. Review of the Measures Taken with Regard to Key Recommendations**

**R3: Compliance Rating (NC):**

***Deficiency 1: No legal provisions allowing the confiscation of property of corresponding value.***

***Deficiency 2: No provisional measures applicable to ML offences, TF offences and predicate offences.***

***Deficiency 3: No provisional measures that cover instrumentalities, property of corresponding value and property owned by third parties.***

74. Iraq addressed the deficiency relating to this recommendation, where article (38) of the AML/CFT Law No. (39) of 2015 provided for the penalty of confiscating funds subject of the crime stipulated in the law, their proceeds or instrumentalities used or intended to be used in committing the offense or their equivalent value in case it is not possible to confiscate or execute the ruling on such funds, whether in possession of the accused or a third party, without prejudice to the rights of bona fide third parties. The article also stipulated that the proceeds of crime intermingled with property obtained from legal sources are subject to the confiscation measures, within the limits of the value estimated for proceeds and their profits; and the lapse of a penal lawsuit shall not preclude a ruling ordering the confiscation of funds generated from ML/TF operations.

75. Regarding provisional measures, article (23) of the above-mentioned law regulated this issue by authorizing the investigation magistrate and the Court, at the request of the Public Prosecutor, Governor or Anti-Money Laundering and Counter-Financing of Terrorism Office, to implement a seizure of funds related to a money laundering or terrorist financing offense. This shall not preclude the implementation of the seizure process directly by the competent judicial authority, when necessary, even if it is not requested to do so. Seizure may be implemented before or when filing a complaint at any stage of the penal lawsuit, unless the ruling on the case has become decisive. The previous article also provided for the items subjected to seizure, as follows: Funds, instrumentalities used or meant to be used in committing a money laundering or terrorist financing crime or a predicate offense, or any

property of an equivalent value, whether in the possession or under disposition of the accused or a third party. Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

***Deficiency 4: Lack of use of the confiscation and provisional measures framework to achieve effectiveness in this area.***

***Deficiency 5: Lack of effectiveness in ML, TF and predicate offences regarding confiscation and provisional measures.***

76. The authorities informed about the issuance of a ruling ordering the confiscation of the funds of a person by the Supreme Judicial Council /misdemeanor court in charge of integrity, economic crime and money laundering cases, amounting to \$ (50000) with a financial fine of IQD (10) ten million. The authorities also informed about the confiscation of \$(50000000) fifty million and Euros (252682500) for the failure to declare them at the border posts.

**R23: Compliance rating (PC):**

***Deficiency 1: Supervision and compliance monitoring of AML/CFT obligations in State-owned banks, as well as the entire insurance and securities sectors has not yet commenced***

77. Iraq addressed the deficiency relating to this recommendation, since the Central Bank of Iraq conducts supervision and monitoring over the State-owned banks and private banks for their compliance with the AML/CFT obligations, in addition to the supervision conducted by the Financial Supervision Bureau in State-owned departments. State banks are also subject to administrative sanctions imposed by the Central Bank in case they breach the provisions of the AML/CFT Law No. (39) of 2015.

***Deficiency 2: Failure to establish laws governing the insurance and securities sectors and the role of supervisors as regards monitoring AML/CFT compliance.***

78. Iraq addressed the deficiency relating to this recommendation, through the president of the Insurance Bureau who issued due diligence controls for insurance companies, which comprised several provisions related to the obligations of insurance companies when implementing due diligence measures that include the identification of the natural person, legal persons and arrangements, and non-profit organizations in detail, the identification of the beneficial owner, the implementation of appropriate measures to verify his identity, the implementation of due diligence measures regarding the beneficiary of a life insurance policy, the understanding of the nature and purpose of the business relationship and the value of the relevant insurance policies, the implementation of due diligence measures when making a substantial change to the insurance policy, the conditions for delaying the verification of the customer or beneficial owner identity until after the conclusion of the insurance contract. In addition, the controls determined the obligations of insurance companies, mainly the on-going follow-up and examination of the business relationships with the customer, the periodical review and the update of customers data, the implementation of due diligence measures based on materiality and risk for the customers engaged with such companies before the entry into force of the provisions of such instructions. They also referred to the perusal of documents for customer identification, the measures to be taken when the veracity of data is suspected, as well the conditions to be observed when dealing with incompetent or incapacitated persons and dealing with the



company on behalf of the customer. The controls also mentioned the implementation of enhanced due diligence measures when dealing with large insurance transactions with no apparent legal or economic purpose and in countries which do not have appropriate AML/CFT regulations, dealing with high-risk persons who occupy prominent positions, implementation of simplified due diligence measures, maintaining insurance records and documents for a period not less than five years following the termination of the business relationship or the dealing with the customer whichever is longer, commitment to set and execute AML/CFT policies, procedures and controls proportionate with the risk assessment results, appointment of a reporting officer, reporting procedures, and establishment of an on-going training program for employees in the AML/CFT field.

79. Regarding the securities sector, the president of the Iraqi Securities Commission issued the CDD controls for securities by virtue of decision No. (1/4/2017,) which comprised definitions of the funds, terrorist financing, beneficial owner, customer, business relationship, deposit, reporting officer, the definition of the term “immediately” and high-risk persons who occupy prominent positions. They also comprised general CDD rules detailed, as follows: The identification and verification of the customer and beneficial owner identity, the prohibition of dealing with, maintaining or providing any services for anonymous, or numbered accounts or accounts with fictitious names, the understanding of the purpose and nature of the business relationship, the use of automated systems that monitor the customer on an on-going basis, the implementation of due diligence measures and refraining from relying upon a third party, the conditions governing the termination of the business relationship, the conditions governing the failure to complete the due diligence measures, the implementation of due diligence measures on the basis of materiality and risks and the verification that the customer is not on the list of prohibited customers. Furthermore, the controls mentioned the on-going follow-up of the business relationship with the customer, the examination of the operations, the periodical review and the update of customer data, the implementation of due diligence toward customers dealing with such companies before the issuance of the instructions on the basis of materiality and risks and the conditions governing the registration of cash. Such controls also elaborated the measures related to the identification of the natural and legal persons, measures related to the identification of the beneficial owner, enhanced due diligence measures toward high-risk persons who occupy prominent positions, reporting measures, appointment of a reporting officer, keeping of records related to domestic and international operations, establishment of an internal bylaw comprising internal policies, procedures and controls which must be in place to combat ML/TF operations and to assess ML/TF risks. Such controls were ratified by the president of the Commission and published on the official website of the Iraqi Securities Commission.

80. Regarding the role of supervisors as regards monitoring AML/CFT compliance, article (26) of the AML/CFT Law No. (39) of 2015 provided for the obligations of supervisors, as follows: Developing inspection procedures and follow-up methods and standards to ensure compliance of financial institutions and DNFBPs with AML/CFT obligations, using the power granted to them by Law in cases where FIs and DNFBPs violate their obligations, cooperating and exchanging information with competent authorities in the implementation of the provisions of the law and with competent counterparts concerned with combating money laundering and terrorist financing, ensuring that branches and majority owned subsidiaries of financial institutions outside Iraq are implementing the procedures stipulated in the present law and regulations, instructions, controls, to the extent permissible by legislations of the countries in which such branches and subsidiaries operate, verifying the compliance of FIs and DNFBPs under their supervision or oversight with the obligations set out in the law, informing the Office immediately of any information related to suspicious transactions that

may be related to money laundering, terrorist financing or to predicate offenses, setting competence, fitness and expertise standards for members of the board of directors and members of executive administration, issuing guidelines to assist FIs in implementing the obligations stipulated in the law, and other obligations.

***Deficiency 3: Current laws and regulations are ineffective in preventing criminals and associates from holding, or being the beneficial owner of a controlling interest or holding a management function.***

81. The authorities stated that they are inquiring about the names of shareholders and owners of FIs through the Central Bank of Iraq, in coordination with law enforcement authorities in order to prevent criminals and associates from holding controlling interest in such institutions. Article 12-first of amended law No. (21) of 1997 (the Iraqi Companies Law) stipulated that “the Iraqi person has the right to acquire membership in the companies stipulated in this law as founder, shareholder, or partner, unless such person is banned from such membership under the law, or due to a decision issued by competent authorities in the country) and article 64 – paragraph 3 – No.4 of the same law stipulated that (the shareholder cannot transfer ownership of his shares if the transferee is prohibited to own shares in the company under a law or a decision issued by a competent quarter).

***Deficiency 4: Implementation of recognized Core Principles of financial institutions in relation to AML/CFT controls needs improvement in the banking sector and is non-existent in the insurance and securities sectors***

82. Iraq addressed the deficiency relating to this recommendation, through the AML/CFT Law No. (39) of 2015 which provided for essential and clear obligations for FIs, including banks, insurance companies and securities companies, in order to comply with the AML/CFT requirements. On this note, the law required these institutions to implement CDD measures, represented in the following: To determine and verify the identity of the customer and beneficial owner through documents and data from reliable and independent sources, to determine the identity of any person acting on behalf of the customer, to understand the purpose and nature of the business relationship, to identify the ownership and control structure of legal persons and arrangements, to follow up the business relationship on an on-going basis and examine any transactions carried out to ensure they are consistent with their knowledge of the customer, commercial activities and source of funds, to terminate the business relationship in case where compliance with due diligence measures is not possible, or to prevent the start of the business relationship, to keep records and documents for a period of (5) five years following the end of the relationship with the customer, the closure of the account or the completion of the transaction, and to ensure that such records are available to competent authorities in a timely manner, to prepare and execute AML/CFT programs which comprise the conduct of a ML/TF risk assessment, to establish internal policies, procedures and controls for the implementation of the requirements imposed in the AML/CFT field, which would limit assessed risks, to establish and implement adequate standards of integrity when selecting employees, to provide on-going training for officers and employees to enhance their ability to ensure a better understanding of ML/TF risks, and enhance their ability to identify irregular or suspicious transactions and how to deal with them, to efficiently implement necessary measures, to refrain from opening or maintaining anonymous accounts or accounts under fictitious names, to abide by the list of persons, whether natural or legal, with whom it is prohibited to deal and against whom decisions are issued by local or international authorities with regard to money laundering and terrorist financing, to refrain from disclosing, to the customer or to the beneficiary other than the

competent authorities, the implementation of the provisions of law concerning the legal measures taken with regard to suspected ML/TF transactions or operations, to immediately report any operation suspected to involve a ML/TF offense to the Office, to provide the Office with the information and documents it requires in a timely manner, to provide all the records to the courts and competent authorities upon request, to refrain from dealing with shallow banks or engaging in correspondent banking relationships with them and to refrain from dealing with any FI that provides its services to internationally prohibited FIs.

83. In application of the foregoing, the authorities issued instructions on the due diligence rules for FIs customers and due diligence controls for insurance companies. These controls comprised several provisions related to the obligations of insurance companies when implementing due diligence measures. They also issued CDD controls for securities.

***Deficiency 5: Although CBI licenses and supervises money transmitters and exchange houses, the quality of AML/CFT compliance monitoring is lacking which harms effectiveness of implementation and enforcement.***

84. Iraq addressed the deficiency relating to this recommendation, through the issuance by the AML/CFT Council Statement No. (1) of 2016 related to due diligence measures for occasional operations and electronic transfers and it was published in issue No. 4426 of Alwaqai Aliraqiya on 5/12/2016. This statement required that the cash amounts and negotiable instruments of a value equal to or exceeding ten thousand US dollars or its equivalent in Iraqi Dinars or other foreign currencies should be subjected to ML/TF monitoring, whether they are a single operation or several operations that seem associated. The statement also required that due diligence measures should be implemented when conducting a transaction for an occasional customer which value equals or exceeds ten thousand US dollars or its equivalent in Iraqi Dinars or other foreign currencies, whether it is a single operation or several operations that seem associated. It also stipulated that due diligence measures should be implemented as well when conducting an electronic transfer for an occasional customer which value equals or exceeds ten thousand US dollars or its equivalent in Iraqi Dinars or other foreign currencies.

**R26: Compliance Rating (NC):**

***Deficiency 1: The Anti-Money Laundering and Counter-Financing of Terrorism Office is not a national center for receiving, analyzing, and disseminating disclosures of STR and other relevant information concerning suspected ML/TF activities.***

***Deficiency 2: The Anti-Money Laundering and Counter-Financing of Terrorism Office does not have sufficient operational independence and autonomy.***

***Deficiency 3: The Anti-Money Laundering and Counter-Financing of Terrorism Office is not adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform its functions.***

85. The Anti-Money Laundering and Counter-Financing of Terrorism Office was established according to the AML Law No. (93) of 2004, by virtue of the administrative order (1308) dated 19/4/2007 within the Central Bank of Iraq. The Office was granted financial and administrative powers. Following the issuance of the AML/CFT Law No. (39) of 2015, the general manager of the Office was given the powers of a minister, wherever cited in the laws in effect, in addition to the powers set out in article (9) of the law, which includes the mandates of the Office which are centralized in the country. Paragraph (first) of article (8) of the said law stipulated that (there shall be established an Office known as the

Anti-Money Laundering and Counter-Financing of Terrorism Office at the Central Bank of Iraq having the status of “Public Department” and a legal personality, with financial and administrative autonomy. The said Office shall be represented by a general manager or by an authorized person). The Office is formed of the general manager, his assistant and a number of employees having the competence and expertise in various areas. The business of the Office will be handled by the manager who will be responsible for managing the affairs of the said Office. He shall represent the highest authority and may take the decisions he deems appropriate to achieve the purpose for which the Office was established. The organizational structure of the Anti-Money Laundering and Counter-Financing of Terrorism Office is formed of many divisions: Verification and investigation division, research and studies division, communication and international cooperation division, financial and administrative division and database division. The authorities informed that the Office was relocated to a separate building outside the Central Bank of Iraq. An appropriate protection was provided to the building and assets, and a special independent budget amounting to ID (850) million, which is equivalent to \$(750,000) was provided. The Anti-Money Laundering and Counter-Financing of Terrorism Office website [www.aml.iq](http://www.aml.iq) was recently launched.

86. Regarding the human resources of the Office, the total number of its employees is (47): (42) permanent employees (permanent employment contracts), (5) contract employees, (31) employees who have a baccalaureate degree, including (5) employees holding an Information Technology degree, (9) employees holding higher degrees: (2) PhDs in law, (7) master’s degrees in various specializations (economy, statistics, law, translation, accounting, business administration), (1) employee holding a diploma (institute) and (6) employees graduated from public secondary school.

87. Article (9) of the AML/CFT Law No. (39) of 2015 determined the mandates of the Office as being the central authority responsible for receiving, requesting, analyzing and disseminating information suspected to involve predicate offense, ML or TF crime proceeds, therefore its main mandates can be restricted to four mandates (to receive, request, analyze and disseminate). On this note, the Office receives reports or information on transactions suspected of involving predicate offense, ML or TF crime proceeds from reporting entities, which are represented in FIs and DNFBPs. The Office may, in fulfilling its tasks, obtain from reporting entities, any further information it deems useful to conduct the analysis during the period it fixes. It may also obtain this information from any other entity according to the provisions of paragraph (b-first-article 9) of the law. Paragraph (sixth-article 12) required the provision of the Office with information and documents its needs, in a timely manner. It set a penalty to be imposed on anyone who refrains from providing information to the Office seven (7) days after being notified to do so. Analysis of information is one of the main mandates of the Office. The Verification and Investigation Division analyzes the information it receives according to the STR form and redrafts it into valuable information and relates it all in order to reach a result on any evidence on suspicion and to make an assumption on the nature of suspicious transactions, thereby enabling the analyst to reach an opinion and make the appropriate recommendation to the general manager of the Office. Another mandate of the Office is to coordinate with reporting entities, supervisors, law enforcement authorities and the competent court.

88. Regarding international cooperation with foreign counterpart units, paragraph (first-article 29) of the AML/CFT Law No. (39) of 2015 authorized the Office to exchange information automatically or upon request, with any foreign counterpart unit which carries out similar functions as the Office and is subjected to the same confidentiality obligations, regardless of the nature of this foreign unit, subject to reciprocity and to the provisions of international or bilateral agreements.

89. In addition to the foregoing, paragraph (first-article 13) of the Terrorist Fund Freezing Regulation No. (5) of 2016 granted the Office the right to include in the domestic lists the names of persons regarding whom there are reasonable grounds to believe that they committed or attempted to commit a terrorist act, or initiated or participated in it, or facilitated its commission or the persons who act on behalf of these persons, at their direction, under their ownership or control, whether directly or indirectly.

***Deficiency 4: The staff of the Anti-Money Laundering and Counter-Financing of Terrorism Office do not have appropriate skills and are not provided with adequate and relevant AML/CFT training.***

90. The Anti-Money Laundering and Counter-Financing of Terrorism Office engaged its employees in training programs and workshops to improve their professional performance level, which was positively reflected in developing skills and knowledge in many aspects, including mutual evaluation, preparing countries for assessment, using AML means and tools to combat corruption, domestic cooperation to combat money laundering and terrorist financing, protecting FIUs. Attention was largely focused on engaging employees in sessions and workshops on operational analysis in view of its utmost importance in the FIUs work in general, since it is one of the main mandates of the Office; this action had a big impact on increasing the effectiveness and competence of the Office analysts.

***Deficiency 5: The Anti-Money Laundering and Counter-Financing of Terrorism Office does not have a direct or indirect access, in a timely manner, to financial, administrative and law enforcement information it needs to properly carry out its functions, including the analysis of STRs, without the need for the approval of the Central Bank of Iraq.***

***Deficiency 6: The Anti-Money Laundering and Counter-Financing of Terrorism Office does not use its authority to obtain further information it needs from reporting parties in order to carry out its functions more efficiently.***

91. The Office may, in fulfilling its tasks, obtain from reporting entities, any further information it deems useful to conduct the analysis during the period it fixes. It may also obtain this information from any other entity according to the provisions of paragraph (b-first-article 9) of the law. Paragraph (sixth-article 12) required the provision of the Office with the information and documents its needs, in a timely manner. It set a penalty to be imposed on anyone who refrains from providing information to the Office seven (7) days after being notified to do so, according to article (41) of the law.

***Deficiency 7: Information kept by the Anti-Money Laundering and Counter-Financing of Terrorism Office was not securely protected.***

92. Regarding the protection of the information the Office has, the authorities stated that a separate building was allocated to the Office and information is protected, using big safe boxes to keep important reports and transactions and the information received by the Office or the STRs received by email which is a governmental mail through the (iq) portal are secure only in terms of their receipt. A backup database containing all the inputs and outputs of the Office was also created.

***Deficiency 8: No guidance on the reporting method, including the specification of reporting forms and the procedures which must be followed when reporting, was issued to certain FIs (insurance companies, for instance) and all the DNFBPs.***

93. The Office prepared a guidance on suspicion indicators that helps reporting entities monitor suspicious transactions. Indicators were determined according to each reporting entity, since the context in which a transaction is conducted differs from an area to another and therefore, indicators vary according to the nature of services provided by each entity. These indicators which were published on the website of the Central Bank of Iraq included general and specific indicators and the entities comprise: Banks, money transfer companies, exchange companies, insurance companies, securities sector, non-profit organizations, DNFBPs.

94. In addition to the foregoing, the Anti-Money Laundering and Counter-Financing of Terrorism Office prepared STR forms to be used by FIs and DNFBPs, in order to provide the Office with information on suspicious transactions, where FI and DNFBPs undertake to immediately report to the Office, any transaction suspected to involve money laundering or terrorist financing, whether such transaction was conducted or not. The Office prepared (6) STR forms for each of the reporting entities and published them on the website of the Central Bank of Iraq. These entities comprise: Banks, money transfer companies, exchange companies, insurance companies, securities sector, non-profit organizations, DNFBPs.

***Deficiency 9: The Anti-Money Laundering and Counter-Financing of Terrorism Office did not publicly issue periodical reports which include statistics, typologies, and trends in Iraq or information on activities.***

95. The Anti-Money Laundering and Counter-Financing of Terrorism Office issued the annual report for 2016 which was published on its website [www.aml.iq](http://www.aml.iq). The annual report stated the mandates of the Anti-Money Laundering and Counter-Financing of Terrorism Office, the AML/CFT Council and the Commission for Terrorist Funds Freezing. It also included the aspects of cooperation and coordination at the national, regional and international levels, the achievements made by the Anti-Money Laundering and Counter-Financing of Terrorism Office in terms of its contribution to the preparation of regulations and instructions, the preparation of STR forms, the issuance of the guidance on suspicion indicators for banks, money transfer companies, exchange companies, insurance companies, securities sector, non-profit organizations, and DNFBPs, training of employees and its contribution to the preparation of an annex comprising a summary of some suspicion cases and another annex comprising internal and external sessions the Office participated in.

### **R35: Compliance rating (PC):**

***Deficiency 1: There are deficiencies in the execution of Vienna and Palermo Conventions (criminalizing money laundering).***

96. Iraq addressed the deficiency relating to this recommendation, through article (2) of the AML/CFT Law No. (39) of 2015 which stipulated the criminalization of money laundering offense by including all forms of money laundering offense, as follows: Converting, transferring or substituting funds by a person who knows or should have known that such funds are proceeds of crime, with the purpose of disguising or concealing the illicit origin thereof, or helping the perpetrator or accomplice of such offense or the predicate offense evade legal consequences for his acts, disguising or concealing the true nature,

source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crime, acquiring, possessing or using funds by a person who knows or should have known that such funds are proceeds of crime, upon receiving them. Conviction of the accused of committing a money laundering offense shall not require a ruling regarding the predicate offense from which the funds were obtained. Accordingly, Iraq would have addressed the deficiency relating to this recommendation.

***Deficiency 2: The Convention for the Suppression of the Financing of Terrorism was not ratified and there are deficiencies in the implementation (which means, criminalization of the financing of terrorism).***

97. Iraq addressed most of the deficiencies relating to this recommendation, by acceding to and ratifying the UN Convention for the Suppression of the Financing of Terrorism, by virtue of law No. (3) of 2012. Iraq also addressed the deficiencies relating to the criminalization of the financing of terrorism, in conformity with the International Convention for the Suppression of the Financing of Terrorism, by criminalizing the forms of providing and raising funds for terrorists or terrorist organizations. The country also treated the unclarity of the notion of funds in TF offense and many international legal assistance requests were executed, based on the said Convention. Accordingly, Iraq would have addressed the deficiency relating to this issue.

**R36: Compliance rating (PC):**

***Deficiency 1: Deficiencies relating to R1, R2, R3 and SR11 have a negative impact on this recommendation.***

98. It was already mentioned that Iraq has addressed the deficiencies relating to these recommendations in the report.

***Deficiency 2: Effectiveness could not be assessed due to the lack of statistics and information on practical cases.***

99. Articles (352-356) of the amended Criminal Procedures Code No. (23) of 1971 included the regulation of international legal assistance procedures (rogatory letter), where article (352) stipulated the following: In letters rogatory and extradition of accused and sentenced persons to foreign countries, the provisions provided for shall be applied, subject to the provisions of international treaties and conventions, the common law rules and reciprocity.

100. The authorities stated that the Anti-Money Laundering and Counter-Financing of Terrorism Office sent an official letter to the Commission of Integrity/Extradition Office to provide it with a detailed statement of the mutual legal assistance requests sent and received by Iraq for the period from (2014-2017), regarding ML/TF offenses. The Commission of Integrity responded by sending several mutual legal assistance requests on recovery of funds, which number reached (39) until 31/12/2017 and the number of assistance requests regarding extradition of persons convicted and sentenced for corruption cases and fugitives reached (132).

**R40: Compliance Rating (NC):**

***Deficiency 1: Competent authorities are not able to provide the widest range of international cooperation to their foreign counterparts.***

***Deficiency 2: Cooperation relies, in general, on bilateral and mutual legal assistance, which is why it is slow and subject to unnecessary limitations.***

***Deficiency 3: There are no clear and effective gateways out the use of bilateral and mutual legal assistance.***

101. Iraq took many actions to address the deficiency relating to this recommendation. To this end, chapter 9 of the AML/CFT Law No. (39) of 2015 regulated international cooperation under article (27) which stipulated that ML and TF offenses are considered crimes for which letters rogatory, legal assistance, coordination, cooperation and extradition are allowed according to the provisions of conventions to which the Republic of Iraq is signatory. The law authorized the Anti-Money Laundering and Counter-Financing of Terrorism Office to exchange information automatically or upon request, with any foreign counterpart unit which carries out similar functions as the Office and is subjected to the same confidentiality obligations, regardless of the nature of this foreign unit, subject to reciprocity and to the provisions of international or bilateral agreements, provided that this information is only used for the purpose of combating predicate offenses, money laundering and terrorist financing offenses. The Office is also entitled to conclude MOUs with counterpart units in order to regulate this cooperation.

102. In application of the foregoing, Iraq signed a MOU for the exchange of information with the Hashemite Kingdom of Jordan and prepared a draft MOU with the Russia Financial Monitoring Service and the Syrian AML/CFT Commission. Amendments related to this MOU are currently under process, in line with the law and other requirements and they are under completion. An opinion was also stated regarding the agreement on the exchange of information on ML/TF operations with the Czech FIU.

103. The authorities also informed that as of 2/1/2017 to 31/12/2017, the Anti-Money Laundering and Counter-Financing of Terrorism Office responded to (4) information requests sent by counterpart units and the number of information requests sent to counterpart units for inquiry reached (12).

***Deficiency 4: A law enforcement authority (investigation judges) can provide assistance to other authorities but only invoke these powers through bilateral and mutual legal assistance.***

104. Iraq addressed the deficiency relating to this issue, as article (30) of the AML/CFT Law No. (39) of 2015 authorized the competent judiciary authorities, upon request of a judicial authority of another country based on an agreement signed with the Republic of Iraq or on the principle of reciprocity, to decide to track, seize or restrain funds, proceeds, revenues, instrumentalities and tools used or intended to be used in committing a ML crime, its predicate offense or a TF crime, or their corresponding value, in a way that does not contradict the Iraqi law and without prejudice to the rights of (bona fide) third parties.



**SRI: Compliance rating (PC)**

***Deficiency 1: The Convention for the Suppression of the Financing of Terrorism was not ratified and there are deficiencies in the implementation.***

105. This issue was already tackled in the report during the analysis of R (35).

***Deficiency 2: Implementation of the UNSCR 1267 is very limited.***

***Deficiency 3: Lack of implementation of UNSCR 1373.***

106. Article (15) of the AML/CFT Law No. (39) of 2015 set the legal basis for compliance with UNSCRs (1267) and (1373) and their implementation in full (and their successor resolutions) and the application of the necessary measures for fund freezing by virtue of these two resolutions. Accordingly, the Council of Ministers issued regulation No. (5) of 2016 on freezing terrorist funds. This regulation aims at setting measures and mechanisms for the implementation of the UNSCR issued under chapter 7 of the UN Charter on the prevention and suppression of terrorism and its financing. We will tackle the mechanism in detail under SRIII, hereinafter.

**SRIII: Compliance Rating (NC)**

***Deficiency 1: No laws or procedures in place to implement UNSCR 1267 and successor resolutions.***

***Deficiency 2: No laws or procedures in place to implement UNSCR 1373.***

107. Iraq addressed the deficiency relating to this recommendation, where the Council of Ministers in Iraq issued regulation No. (5) of 2016 on freezing terrorist funds and published it in issue No. (4419) of Alwaqai Aliraqiya (the official Gazette of the Republic of Iraq) dated October 10, 2016. This regulation aims at determining mechanisms for the implementation of UNSCRs 1267 and 1373 on the measures for freezing terrorist funds which are provided for by the AML/CFT Law No. (39) of 2015.

108. The regulation comprised measures to establish a competent commission for the implementation of resolutions (Commission for Terrorist Funds Freezing) at the General Secretariat of the Council of Ministers, under the chairmanship of the vice-governor of the Central Bank of Iraq and the general manager of the Anti-Money Laundering and Counter-Financing of Terrorism Office (vice-president) and with the membership of several authorities (Ministry of Finance, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Commerce, Ministry of Telecommunication, Commission of Integrity, Counter-Terrorism Service, National Intelligence Service). This Commission is entrusted with implementing UNSCRs 1267 and 1373 by freezing terrorist funds and other assets of persons designated by the UN Sanctions Committee established pursuant to the UNSCRs, subject to chapter 7 of the UN Charter (the consolidated list) or those who are designated at the national level (the domestic list) or at the request of another country according to the UNSCRs (the international list). It is also entrusted with coordinating with other authorities to implement the provisions of the resolutions, applying targeted financial sanctions relating to funds or economic resources of terrorists who are locally designated or upon the request of another country pursuant to relevant UNSCRs or of other persons designated by the UN Sanctions Committee. The regulation required all the persons to freeze, without delay or prior notice, all the funds and economic resources belonging to any person designated by the

Commission for Terrorist Funds Freezing or a person who acts on his behalf or under his management or a legal entity owned or, directly or indirectly controlled by this person.

109. Article (16) of the AML/CFT Law No. (39) of 2015 stipulated the mandates of the Commission, as follows: To disseminate names of persons whose funds are frozen upon their publication on the UN Sanctions Committee official website to competent authorities, without delay, for the purpose of taking necessary measures for freezing funds or other assets of designated persons and entities or funds of persons and entities acting on their behalf, for their interest or at their direction. This includes funds and other assets derived or generated from property owned or controlled, directly or indirectly, by those persons or entities. The Commission may freeze funds and assets of the ascendants, descendants and spouses of any designated persons whenever justified; prepare a local list of names of terrorists and terrorist organizations against which freezing standards apply, based on information provided by competent authorities; receive requests sent to the Ministry of Foreign Affairs from foreign countries with respect to freezing funds and other assets of persons residing in the Republic of Iraq; verify the availability of standards of freezing; and issue its decision accordingly.

110. Regulation No. (5) of 2016 on freezing terrorist funds stipulated, in detail, the mandates of the Commission for Terrorist Funds Freezing which undertakes the following, with respect to the consolidated list adopted by the UN Sanctions Committee: a) To disseminate the consolidated list, without delay, upon its publication on the UN Sanctions Committee website or its receipt by the Commission through the Ministry of Foreign Affairs or any other official authority, to FIs, DNFBPs and other stakeholders, for the purpose of implementing the obligations provided for in the regulation, b) to disseminate the name of any person or entity added, deleted or changed in the consolidated list for the first time, upon the issuance of the illustrative summary relating to the designation of this person or entity by the Sanctions Committee to FIs and DNFBPs, c) to notify, without delay, Iraqis or foreigners residing in Iraq whose funds, other assets and economic resources are frozen about the freezing due to their designation on the consolidated list, provided that this illustrative summary and the information regarding designation are enclosed with the notification; d) to publish the consolidated list and its relevant amendments in the official Gazette and on the website of the Anti-Money Laundering and Counter-Financing of Terrorism Office. Regarding the international list, the Commission undertakes the following: a) To receive requests sent by other countries through the Ministry of Foreign Affairs or the Anti-Money Laundering and Counter-Financing of Terrorism Office to add a person on the international list, b) to respond to the requests within seven (7) days from recording them in the incoming register it maintains for this purpose, by accepting the request to list a person regarding whom there are reasonable grounds to believe that he committed or attempted to commit a terrorist act, or initiated or participated in it, or facilitated its commission or the persons who act on behalf of these persons, at their direction, under their ownership or control, whether directly or indirectly or by rejecting such request, and it may require additional information from the requesting authority or any other authority, c) to disseminate the names designated on the international list to concerned authorities without delay and these authorities will inform the Commission of the action they have taken, d) to disseminate the name of any de-listed person or entity once informed of or has taken this decision, in order to take the necessary measures to unfreeze his funds and economic resources, e) to inform the requesting country of its decision of accepting or rejecting the listing request through the Ministry of Foreign Affairs, f) to consider the unfreezing request made by the country which has originally requested the freezing, g) to inform the persons whose funds and economic resources are frozen about the freezing due to their designation on the international list or about the unfreezing, without delay, provided that the notification document is accompanied with the reasons of the decision. The Commission also publishes the international

list and its amendments on the official Gazette and on the website of the Anti-Money Laundering and Counter-Financing of Terrorism Office.

111. Freezing acts - as defined in the law - and mentioned in regulation No. (5) of 2016 on freezing terrorist funds - extend to all funds, equipment or other instrumentalities whether owned by persons or by entities. The regulation also included measures to consider the authorization to dispose of all or part of the frozen funds or economic resources and measures to consider the requests to challenge the freezing decisions issued by virtue of the list determined by the Commission, in addition to measures to submit listing requests to the UN or to de-list names from the UN lists. It also comprised an obligation requiring FIs and DNFBPs to adopt measures to ensure their compliance with the provisions of the regulation. It gave supervisors the power to verify FIs and DNFBPs compliance with the said provisions and to apply penal sanctions on authorities which violate them.

112. Article (20) of the foregoing regulation stipulated clear obligations for FIs and DNFBPs to implement the freezing decisions issued by virtue of the UNSCRs, as they are required to refer to the consolidated, domestic and international lists when conducting any transaction or starting a relationship with any person, to verify that his name is not on these lists and in the event where there is a matching name, these authorities should freeze his funds and economic resources and immediately inform the Commission of the action they have taken, to prevent any person or entity designated on the consolidated, domestic or international lists from disposing of any funds or economic resources, whether directly or indirectly, to inform the Commission for Terrorist Funds Freezing about the freezing of any funds or economic resources under clause (first)<sup>1</sup> of article (5) of the regulation, or to take any measure in application of the provisions of this regulation, including the attempted transactions, to inform the Commission for Terrorist Funds Freezing, once they know or suspect that a customer or a former customer or a person they are dealing with or have dealt with is a person regarding whom the provisions of clause (first) of article (5) of the regulation apply, to provide the Commission for Terrorist Funds Freezing with information on the status of funds or economic resources and any related action, or on the nature and amount of the frozen funds or economic resources and any other relevant information and to cooperate with the Commission in verifying the accuracy of the information provided. The supervisory authorities mentioned by virtue of the AML/CFT law are responsible for verifying the compliance of FIs and DNFBPs with the provisions of the regulation.

113. It is worth noting that regulation No. (5) of 2016 provided for the fines and measures imposed by supervisors in case FIs and DNFBPs subjected to their supervision do not comply with the measures provided for in the regulation. On this note, the regulation referred to the application of measures and fines stipulated in article (45) of the law, which include the issuance of an order to cease the activity which entailed the violation, withdrawal of the business license according to the law, warning represented in notifying the violating entity of the obligation to remedy the violation within an appropriate period, prevention of persons from working in the related sector for a period fixed by supervisors, restriction of the powers

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Article (5) first of regulation No. (5) of 2016 on freezing terrorist funds: Each person should freeze all funds <sup>1</sup> and economic resources owned or controlled, wholly or jointly, directly or indirectly, by any of the following entities, without delay and without prior notice: a. any person listed by the Commission for Terrorist Funds Freezing according to articles (13 and 15) of the regulation, or any person acting on his behalf or at his direction, or any legal entity owned or controlled, directly or indirectly, by this person, b. Any person listed by the UN Sanctions Committee, or any person acting on his behalf or at his direction, or any legal entity owned or controlled, directly or indirectly, by this person.

of directors or requesting their replacement, payment of an amount not less than IQD (250000) and up to IQD (5000000) for each violation.

114. Regarding the implementation of the UNSCRs 1267 and 1373, the Commission for Terrorist Funds Freezing issued (11) decisions comprising the freezing of movable and immovable property and economic resources for many natural and legal persons against whom decisions to freeze their funds were taken based on the provisions of articles (15) and (16/second) of the AML/CFT Law No. (39) of 2015 and the provisions of article (13/first) of regulation No. (5) of 2016 on freezing terrorist funds (perused by the Secretariat). The authorities stated that they have published the freezing decisions in the official Gazette and on the website of the Central Bank of Iraq. In application of the foregoing, the Anti-Money Laundering and Counter-Financing of Terrorism Office issued several circulars to all FIs and the DNFBP sector, such as circular No. (1) dated 29/1/2017 regarding the list that the 1267 Committee shall determine; circular No. (2) dated 16/3/2017 regarding the decisions of the Commission for Terrorist Funds Freezing, while emphasizing the necessity of immediately informing the Commission and the Office of any available information on the persons and entities mentioned in the consolidated list; the issuance of circular No. (6) on 4/5/2017 regarding the international list, while emphasizing the necessity of reviewing the official website on a daily and on-going basis and informing the Commission and the Office of any available information on the designated persons and entities; the issuance of circular No. (9/1/4/41) dated 2/2/2017 regarding the follow-up of the international and domestic prohibition lists disseminated on the website of the Central Bank of Iraq and the need to inform the Office of the names of persons who have transactions with banks; and letter No. (388) dated 19/7/2017 addressed to the Terrorist Funds Freezing Division at the General Secretariat of the Council of Ministers to provide the Office with a detailed statement of the frozen amounts and assets by virtue of the decisions taken by the Commission.

115. In addition, the authorities issued circular No. (15) released by the Anti-Money Laundering and Counter-Financing of Terrorism Office and addressed to all FIs and DNFBPs. It states that it is necessary to refer to the Anti-Money Laundering and Counter-Financing of Terrorism Office website [www.aml.iq](http://www.aml.iq) to peruse the decisions and lists issued by the Commission for Terrorist Funds Freezing. The Commission also published the updated UNSC lists in the official Gazette and froze movable and immovable property and economic resources according to the decisions of the Commission for Terrorist Funds Freezing, totaling a number of (32) decisions and the number of persons whose funds were frozen reached (334) natural persons and (24) legal persons.

116. Article (24) of the regulation regulated the access to frozen funds, by allowing any person whose funds or economic resources were frozen to submit a written request to the Commission for Terrorist Funds Freezing in order to obtain an authorization to dispose of all or part of the frozen funds or economic resources for the payment of necessary expenses, including amounts paid for food, rental, mortgage, medicines, medical treatment, taxes, insurance premiums, public service fees, payment charges and settlement of management and maintenance fees, or for humanitarian reasons for the family of the person whose funds are frozen. In case the request is related to the funds or economic resources frozen pursuant to the designation of the UN Sanctions Committee, the said authorization may not be granted without a written approval by the competent UN Sanctions Committee.

**SRV: Compliance Rating (NC)**

*Deficiency 1: Deficiencies relating to R36, R37, R38, R39 and R40 have a negative impact on this recommendation.*

117. This issue was already tackled in the report while addressing the said recommendations.

**E. Review of the Measures Taken in Relation to the Other Recommendations Rated PC or NC**

**R2: (Compliance Rating: NC)**

118. Iraq addressed the deficiencies relating to this recommendation, as article (2) of the AML/CFT Law No. (39) of 2015 comprised an amendment for the definition of the money laundering offense. Such definition included concealing or disguising the true nature, source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crime. The conviction of a person accused of any predicate offense shall not preclude a conviction with regard to self-laundering crime which resulted from that offense and the provisions on multiple offenses and punishment provided for in the Penal Code shall apply. The Penal Code also imposed sanctions on natural and legal persons according to article (46) of the AML/CFT Law and stipulated that the penal liability shall extend to legal persons and that they shall be subject to administrative sanctions in case the law requirements are violated.

**R6: (Compliance Rating: NC)**

119. Iraq addressed the deficiencies relating to the implementation of due diligence in dealing with PEPs, where a PEP was defined in conformity with the international standards, in article (1) of instructions No. (1) of 2017 on CDD for FIs, which defined high-risk persons who occupy prominent positions as being: Individuals who have been entrusted with prominent public functions in the Republic of Iraq or in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, directors, senior executives of State-owned corporations, political party officials, individuals entrusted with prominent positions at an international organization, such as members of senior management and their deputies, members of a board of directors or equivalent, personal advisors broadly and publicly known, any person occupying a position that allows him to largely benefit from the close association with the Politically Exposed Person and their direct relatives up to the second degree. Article 1 of controls No. (1) of 2017 regarding due diligence toward high-risk persons who occupy prominent position comprised the same afore-mentioned definition.

120. Article (10) of the CDD instructions for FIs provided for enhanced due diligence measures for customers who are high-risk persons occupying prominent positions, in addition to the regular due diligence measures, represented in the following: To take reasonable measures to determine whether the customer or the beneficial owner is a high-risk person who occupies a prominent position, to establish risk management rules for high-risk persons who occupy prominent positions or their beneficial owners, to obtain the approval of the senior management when establishing a business relationship with high-risk persons who

occupy prominent positions and when detecting that any customer or beneficial owner belongs to this category, to take sufficient measures to verify the source of wealth of any customer or the beneficial owner who is a high-risk person who occupies a prominent position and to monitor the transactions of those customers with the FI on an on-going and accurate basis.

121. In addition to the foregoing, the Central Bank of Iraq also issued controls No. (1) of 2017 regarding due diligence toward high-risk persons who occupy prominent positions. The provisions of these controls are applicable to FIs in Iraq, their branches operating outside the Republic of Iraq and their subsidiaries. These controls required FIs to apply the risk-based approach in due diligence measures for high-risk persons who occupy prominent positions, to identify and understand ML/TF risks associated with them and to establish policies and strategies based on these risks. FIs were also required to submit the results of the measures taken to the competent supervisors upon request. Article 5 of the same controls included the obligations of FIs, in addition to the implementation of regular due diligence measures for high-risk persons who occupy prominent positions, which are as follows: To establish a risk management system which enables to detect if the customer or the beneficial owner is a high-risk person who occupies a prominent position, to obtain the approval of the senior management when establishing a business relationship with the persons who occupy such positions and when detecting that any customer or beneficial owner belongs to this category, to take sufficient measures to verify the source of funds and activities of any customer or beneficial owner who is a high-risk person who occupies a prominent position, to periodically review the risk management policies and procedures related to high-risk persons who occupy prominent positions, to take the necessary corrective actions if necessary, to monitor the transactions of customers who are high-risk persons who occupy prominent positions with the FIs on an accurate and on-going basis, and in case the beneficial owner is a high-risk person who occupies a prominent position, to take measures for further identification and verification of these persons. The identification of the beneficial owner must be observed in case of a legal person, in addition to the application of the necessary measures to examine the ownership and control structure of the legal person, including reliance on information and data obtained from official documents and other means that enable the financial institutions to know the beneficial owner.

122. Article (6) of the CDD controls for securities required entities subjected to the provisions of the controls to take enhanced due diligence measures toward high-risk persons who occupy prominent positions, as follows: To take reasonable measures to determine whether the customer or the beneficial owner is a high-risk person who occupies a prominent position, to establish risk management rules for high-risk persons who occupy prominent positions or their beneficial owners, to obtain the approval of the senior management when establishing a relationship with high-risk persons who occupy prominent positions and when detecting that any customer or beneficial owner belongs to this category, to take sufficient measures to verify the source of wealth of any customer or the beneficial owner who is a high-risk person who occupies a prominent position and to monitor the transactions of those customers with the FI on an accurate and on-going basis.

123. It is worth noting that the Iraqi authorities prepared a consolidated and updated form for the opening of accounts, as per the international requirements, in the AML/CFT field and disseminated it to banks. The said form included a full clause on high-risk customers (PEPs).

124. In addition to the foregoing, the AML/CFT supervisory controls issued by the Directorate General for Exchange and Credit Monitoring to banks and non-banking financial institutions comprised the same obligations mentioned above.

**R7: (Compliance Rating: NC)**

125. Iraq addressed the deficiencies relating to this recommendation by requiring FIs, with regard to correspondent banking with foreign correspondent banks and other relationships, to collect sufficient information, to examine the nature of business these institutions are engaged in, to assess the reputation of the correspondent institution and the quality of supervision it is subjected to, including whether it has been subject to an AML/CFT investigation or regulatory action, to assess the controls applied on correspondent institutions, to obtain the approval of the senior management before establishing a new correspondent relationship, to identify and document the responsibilities of each institution in the AML/CFT field, and to apply these measures on relationships which existed upon the issuance of the law. Clause Sixth of article (10) of the CDD instructions for FIs required FIs, when establishing a correspondent relationship, to apply the following additional measures in addition to the due diligence measures they already implement:

- a. To gather sufficient information about correspondent banks to understand the nature of their business, ownership and management structure, main activities and business they are engaged in, location and headquarters of the parent institution, to determine from available information the reputation of the respondent bank and the quality of supervision and whether there is any investigation, civil or criminal lawsuit with the bank or any of its directors or controlling shareholders, in money laundering and terrorist financing or whether it is subject to any supervisory action in this regard.
- b. To assess the respondent bank's AML/CFT controls and to verify their effectiveness and adequacy.
- c. To obtain approval from the senior management when establishing a correspondent relationship with foreign FIs.
- d. To document the respective AML/CFT responsibilities of each financial institution concerning correspondent banking relationships.
- e. To verify that the recipient financial institution has performed CDD measures on its customers that have direct access to the accounts of the correspondent FI and to be able to provide relevant CDD information upon request.
- f. Not to enter into correspondent banking relationships with a shell bank or a bank that provides correspondent services to shell banks or to continue a correspondent banking relationship with a shell bank.
- g. To require FIs to satisfy themselves that respondent financial institutions do not permit their accounts to be used by shell banks.
- h. To obtain a written survey indicating the status of correspondent banks in terms of their compliance with their AML/CFT domestic legislations and supervisory controls and CDD criteria applied on their customers and whether they have effective internal policies and controls.
- i. To conduct a periodical review of the operations of correspondent banks accounts to verify the consistency of these operations with the purpose of opening the account.
- j. To determine the degree of risks associated with the correspondent banks, based on the information available on them, such as:

- (1) The location of the correspondent parent bank in a high-risk country.
  - (2) To determine if correspondent banks are providing private banking services.
  - (3) To determine whether high-risk persons who occupy prominent positions have accounts with correspondent banks.
  - (4) To determine the quality of monitoring and supervisory regulations they are subject to.
  - (5) On-going unusual changes in the management or work plan of correspondent banks.
- k. To establish specific policies concerning the annual update and assessment of the correspondent banks' data and to verify the discontinuance of any relationship with shell banks.

**R8: (Compliance Rating: NC)**

126. Iraq addressed the deficiencies relating to the obligation requiring FIs to take the necessary measures to prevent the misuse of technological developments in the AML/CFT field and to implement specific and adequate measures to face ML/TF risks in case of opening the account, entering into business relationships, or conducting non face-to-face transactions. Clause “second” of article (8) of the CDD instructions for FIs required FIs to establish policies and procedures for the identification of risks associated with banking products and services which can be misused for money laundering and terrorist financing, including new or innovative products and services, whether provided by the FI or to which it is a party. The FI uses many factors as guidance in identifying these risks, such as: Products and services which do not allow the disclosure of a large amount of information on users identity or those of international characteristic such as on-line banking services and stored-value cards, non face-to-face business relationships and private exchange services.

127. Iraq addressed the deficiency relating to non-residing customers, where clause “fifth” of article (10) of the CDD instructions for FIs required all FIs to take several measures with regard to customers. For legal persons, the entrance visa should be examined and its validity verified, with the submission of a true copy thereof. For legal persons or arrangements, a copy of the deed of incorporation of the legal person or arrangement, certified by the embassy in the home country must be obtained, in addition to a copy of the official document stating the registration of the legal person or arrangement, certified by the competent authority in the home country, as well as obtaining the approval of the supervisory authority to which the legal person or arrangement is subject in the home country in its dealing with the bank, in case this restriction is set out in the internal bylaw of the legal person or arrangement. The financial institution also monitors accounts of non-residing customers, whether natural persons, legal persons or legal arrangements, to verify that they are being used for the purpose they were established for and to detect any unusual or suspected transactions conducted on such accounts and it also prepares special periodical reports on the activity of these accounts which are presented to the reporting officer at the FI.

128. In addition to the foregoing, article 2 of the AML/CFT supervisory controls for banks and non-banking FIs for 2016, issued by the Compliance Department at the Directorate General for Exchange and Credit Monitoring, required banks and non-banking FIs to establish the necessary internal policies, procedures and regulations to avoid risks of misusing technological developments in money laundering or terrorist financing and the risks associated with business relationships made through social media or other means, such as e-



mail services, on-line transactions, computer services and banking transactions, ATM, use of ATMs through telephone, transmission of instructions or applications through facsimile or other similar means, making payments and receiving cash withdrawals as part of an electronic transaction at a point of sale by using prepaid cards, debit cards and stored-value cards associated with a bank account. Examples of such policies and procedures include the following: To verify the documents submitted, to request further complementary documents on indirect customers in addition to the required documents, to establish separate contact with the customer, to adopt third party mediation. The controls also required the bank to have specific and effective due diligence measures applied on non face-to-face customers, to establish the necessary measures to verify that the customer is the same person concerned and that the address obtained is actually his, and in case of an on-line payment operation, to verify that supervision of these operations is the same applied on the other services provided by the bank, and that it has a risk-based methodology for assessing ML/TF risks arising from such services.

**R11: (Compliance Rating: NC)**

129. Iraq addressed the deficiencies relating to this recommendation, by requiring all financial institutions to give special attention to all complex, unusual large transactions, and all unusual patterns of transactions, and cases which have no apparent economic or lawful purpose, to examine and verify the background and purpose of these transactions, to record and provide them to competent authorities when necessary. FIs are required to give special attention to all complex, unusual large transactions, and all unusual patterns of transactions which have no apparent economic or lawful purpose, to examine the background and purpose of these transactions, to document all the information related to them and to the identity of all the parties thereto, to keep such records for a period of five (5) years at least, according to the provisions of article (10) of the CDD instructions for FIs. FIs are also required to provide this information to competent authorities upon request.

130. Article 7 of the AML/CFT instructions in insurance activities required insurance companies to apply enhanced due diligence measures with regard to large insurance operations which have no apparent economic or legal purpose, to establish the necessary measures to examine the circumstances and purposes of these operations and to enter the relevant results in their records.

131. In addition to the foregoing, article 6 of the CDD controls for securities required entities subjected to the provisions of the instructions to apply special due diligence to identify the customer and his activity, particularly, with regard to large operations and operations which have no apparent economic or lawful purpose, to establish the necessary measures to examine the circumstances and purposes of these operations and to enter the relevant results in their records.

**R12: (Compliance Rating: NC)**

132. Iraq addressed the deficiencies relating to this recommendation by listing explicit obligations for DNFBPs which are determined by virtue of the amended law, in order to implement due diligence measures toward the customers of these entities. On this note, article 1 of the law defined DNFBPs as being: Real estate agents, whenever they initiate transactions related to real estate selling or purchasing, or both, for a customer; jewelers and

dealers in precious metals and stones, when engaging in any cash transaction of a value determined by a statement issued by the Chairman of the Council and published in the official Gazette; lawyers or accountants, practicing as independent professionals or as partners or employees in specialized firms, when they prepare, execute, or conduct transactions for their customers in relation to any of the following activities: Purchase or sale of real estate, management of a customer's funds, securities or other assets; administration of bank accounts, saving accounts or securities accounts; organization of subscriptions in the establishment, operation, or management of companies; establishment, operation or management of legal persons or legal arrangements; buying or selling companies, company and trust service providers, when they prepare for or carry out transactions for a customer on a commercial basis. These services include: Acting as a formation agent of legal persons; acting as or arranging for another person to act as a commissioned director or partner in a partnership company, or in a similar position in legal persons, providing a registered office, business address, and correspondence, postal or administrative address for a company or for a legal person or legal arrangement; acting as or arranging for another person to act as trustee or an equivalent function for a legal arrangement; acting as or arranging for another person to act as a nominee shareholder; and any other activity or profession added by virtue of a Council of Ministers' Resolution pursuant to the Council's proposal, and published in the official Gazette.

133. The law required DNFBPs to implement several CDD measures, where it requires them to report suspicious transactions, to establish a system for the implementation of CDD measures, to identify and verify the identity of the customer and the beneficial owner by using reliable and independent documents, data or information when initiating the dealing, to identify and verify the identity of any person who acts for the customer, to verify that this person has the authority to act in this capacity, to understand the purpose and nature of the business relationship, to determine the ownership and control structure of legal persons and arrangements, to monitor anything related to the business relationship on an on-going basis and to examine and require non-financial businesses and professions to take special measures and give special attention when handling complex and unusual large transactions which have no apparent economic purpose, including the examination and registration of the background and purpose of these transactions and providing them to competent authorities, and to establish due diligence measures to deal with PEPs. In general, it can be said that non-financial businesses and professions are required to take the same measures imposed on FIs when dealing with customers.

134. Regarding the regulation of supervisory and monitoring operations over DNFBPs, the authorities prepared controls for legal accountants in coordination with the Account Monitoring and Auditing Council. The project of such controls comprised a number of fundamental provisions related to due diligence measures represented in the identification of the customer's identity, legal situations, activity, purpose and nature of his relationship and the beneficial owner, the on-going follow-up of the business relationship, the duties of legal accountants, the measures for the identification and verification of the beneficial owner identity, if he is a natural or a legal person, obligation to pay special attention to large operations which have no apparent economic or legal purpose, the operations conducted with persons who reside in or belong to countries which do not have appropriate AML/CFT regulations or which do not sufficiently apply international controls, dealing with high-risk persons who occupy prominent positions and measures for dealing with them, obligations of the auditor to conduct reporting procedures, obligation to keep records and documents of the operations for a period not less than five years after the end of the dealing with the customer or the completion of the operation, and periodically updating and providing data and

information when requested by the Anti-Money Laundering and Counter-Financing of Terrorism Office. On this note, the Iraqi authorities mentioned that they are awaiting the adoption of such controls and their publication by the Account Monitoring and Auditing Council. Regarding the implementation of the UNSCRs to this end, the Account Monitoring and Auditing Council issued an official letter to auditors enclosing therewith the Central Bank of Iraq - AML Office circulars - for perusal and for taking the necessary action regarding their content and which are related to the updates made to the international sanctions list.

135. Regarding real estate agents, the president of the AML/CFT Council issued letter No. (33) on 15/2/2017 to each of the Presidency of Public Prosecution, the Ministry of Foreign Affairs (Department of Foreign Economic Relations), the Ministry of Justice (the State Council), the Ministry of Commerce (Department of Foreign Economic Relations), the Iraqi National Intelligence Service, the National Security Service and the Counter-Terrorism Service to give opinions and proposals on the content of the Real Estate Law No. (58) of 1987 and the instructions project proposed by the Office on combating ML/TF operations. The Office also issued a letter to the Ministry of Commerce on giving opinions and observations regarding the due diligence rules for combating ML/TF operations addressed to real estate agents and the receipt of the reply of the Ministry of Commerce on 1/3/2017 indicating that they have approached the Ministry of Foreign Affairs, the Ministry of Justice, the National Security Service, the Union of Chambers of Commerce and Baghdad Chamber of Commerce to attend an expanded meeting to discuss all matters related to the real estate profession and trading. The meeting concluded that the Chamber of Commerce shall continue to issue licenses for the practice of the real estate profession to natural persons and the companies registration department for legal persons (intermediary companies engaged in the sale and purchase of real estate and the real estate investment companies) and that the said entities shall provide the concerned authorities with details on those working in the sector and shall continuously update them. The authorities mentioned that regarding real estate agents and dealers in precious stones, the supervisory authority in charge of keeping and auditing records at the Ministry of Commerce which is the Commercial Supervision Department was appointed. Specialized staff was also prepared at a specialized unit for combating money laundering and terrorist financing and engaged in training sessions to acquire experience in this field in coordination with the Anti-Money Laundering and Counter-Financing of Terrorism Office.

136. In application of the foregoing, the Iraqi authorities prepared the due diligence rules for combating ML/TF operations addressed to real estate agents. The project of such controls comprised a number of fundamental provisions related to due diligence measures represented in the determination of the identity of customers and beneficial owners before and during the dealing, when suspecting an operation associated with money laundering or terrorist financing, and when suspecting the accuracy of data or information, the identification of the beneficial owner, the application of appropriate measures to verify his identity, to identify the purpose and nature of the business relationship and to identify the source of funds of the customer, the obligations of real estate agents represented in refraining from dealing with or entering into financial relationships with anonymous persons or persons with fictitious names, verifying that the customer is not on the international and domestic prohibition lists, updating the customer identification data every five years, monitoring the business relationship on an on-going basis, and reporting operations suspected to relate to money laundering or terrorist financing. The project also comprised measures to identify and verify the identity of the beneficial owner, whether he is a natural or a legal person, in detail, the obligation to keep records and documents

related to the operations for a period not less than five years from the end of the dealing with the customer or the completion of the operation, the obligation to periodically update the data and to provide all the records and documents related to customers and operations when requested by the Office and the obligation to prepare the necessary training programs on combating money laundering and terrorist financing for real estate agents in cooperation with the Office.

137. Regarding jewelers and dealers in precious metals and stones, the authorities prepared controls for this sector aimed at verifying that the Iraqi jewelers and dealers in precious metals and stones who are licensed to work in the Republic of Iraq are complying with the provisions of the law, in order to prevent, detect and combat ML/TF activities, to report such cases to the Office and to protect the profession of jewelers and dealers in precious metals and stones against such offenses. These controls are applicable to all the jewelers and dealers in precious metals and stones who are licensed and subject to the Central Organization for Standardization and Quality Control, according to Goldsmith and Silversmith labeling law No.(83) in 1976 and to the non-Iraqi foreign office branches, when they engage in cash transaction with a value exceeding ten thousand US Dollars or its equivalent in other currencies, whether it is a single operation or several operations that seem associated. The project of such controls comprised a number of fundamental provisions related to due diligence measures represented in the determination of the identity of customers and beneficial owners, if the single transaction or the multiple transactions are of a value that exceeds ten thousand US Dollars or its equivalent in other currencies, when suspecting an operation associated with money laundering or terrorist financing, regardless of the transaction value or when suspecting the accuracy of data or information obtained from the customer. In case where compliance with CDD measures is not possible, the business relationship must not be started or any operations conducted, and the business relationship must be terminated if existing and the Office must be notified of the customer. The said due diligence measures were also represented in the identification of the beneficial owner and the application of appropriate measures to verify his identity through official documents and data, the determination of the identity of the natural person in full and in case of dealing with a person who acts on behalf of the customer, to verify that this person is authorized to act as such, the determination of the identity of the customer, if he is a legal person, legal arrangement, or a non-profit association or organization, and the verification of his legal form, business address, type of activity he is engaged in, his registration date and number at the competent authorities, management of ML/TF risks through the assessment of the ML/TF risks related to their activities, the documentation, assessment in writing and update of risks, the reporting of suspicious transactions to the Office according to the STR form used for DNFBPs, accompanied with data and documents related to all these transactions, the keeping of various records and documents on the implementation of due diligence measures toward customers and beneficial owners for a period not less than five years from the end of the business relationship or the dealing with the customer, whichever is longer, the provision of all the records and documents related to customers and operations upon the request of the Office or any other competent authority, the establishment of AML/CFT policies, procedures and controls approved by the senior management and consistent with the risk assessment results, the appointment of a reporting officer, and the cooperation with the Office on the preparation of on-going training programs for all the workers in the sector.

138. Regarding the lawyer's sector, the Office issued a letter to the Iraqi Bar Association on expediting the preparation of the instructions related to the AML/CFT measures and there is an on-going coordination between the Anti-Money Laundering and Counter-Financing of Terrorism Office and the Bar Association on the implementation of the

AML/CFT law. In application of the foregoing, the Iraqi authorities prepared the project of due diligence controls to combat money laundering and terrorist financing for lawyers in cooperation with the Iraqi Bar Association. Such controls aim at verifying the compliance of Iraqi lawyers, and national and global law offices and firms licensed to work in the Republic of Iraq with the provisions of the law, in order to prevent, detect and combat ML/TF activities, and to report them to the Anti-Money Laundering and Counter-Financing of Terrorism Office and also to protect the law profession against such offenses. These controls are applicable to all the registered Iraqi lawyers at the Iraqi Bar Association, the national and global law offices and firms licensed to work in the Republic of Iraq. The project of such controls comprised a number of fundamental provisions related to due diligence measures to determine the agent's identity, legal situations, activity and purpose and nature of his business relationship, to identify the beneficial owner, to apply appropriate measures to verify his identity, to determine the source of funds of the principal, to follow up the operations on an on-going and continuous basis, the duties of lawyers represented in refraining from dealing or entering into financial relationships with anonymous persons or persons with fictitious names, to verify that the principal is not on the international and national prohibition lists issued by the Commission for Terrorist Funds Freezing and published on the official website of the Office and other relevant authorities, before entering into the business relationship, to apply due diligence measures on their own without relying on third parties to apply the measures, to update the principal identification data every five years or when there are reasons to do so, to monitor their relationship with their principals on an on-going basis to know the pattern of their transactions and to detect any transactions which are not consistent with the nature of the customer's activity, to report operations suspected to relate to money laundering or terrorist financing, the application of measures to determine and verify the identity of the beneficial owner, whether he is a natural or a legal person, to give special care concerning large operations which have no apparent economic or legal purpose, to identify the circumstances and purpose of such operations and to enter the results in their records, the case of establishing companies with no obvious objectives, to review large sale and purchase contracts and large revenues or expenditures which are not consistent with the principal's activity, in case of suspecting a ML/TF operation, the non face-to-face operations or the operations conducted through electronic means, non-residing customers, dealing with high-risk persons who occupy prominent positions, to keep records and documents related to operations conducted, for a period not less than five years from the end of the dealing with the customer or the completion of the operation, to periodically update the data, information and documents of principals and beneficial owners, to provide records and documents upon the request of the Office, the commitment of the Bar Association with the preparation of the necessary training programs for lawyers, in cooperation with the Anti-Money Laundering and Counter-Financing of Terrorism Office, which would introduce lawyers to the texts of the AML/CFT Law, and instructions and controls issued thereunder, instructions to identify suspicious patterns, and procedures to report operations suspected to related to money laundering or terrorist financing.

**R14: (Compliance Rating: PC).**

139. Iraq addressed the deficiencies relating to the obligation of FIs to refrain from disclosing any STRs submitted to the Anti-Money Laundering and Counter-Financing of Terrorism Office, any related information, or any ML/TF investigation, when reporting to the

Office upon suspecting or having sufficient evidence of suspicion. FIs and DNFBPs are also required to provide information and documents to competent authorities, each within their scope, upon request. Financial institutions and DNFBPs, their directors, officers and employees are protected by law from criminal, civil, disciplinary or administrative liability for breach of any restriction on disclosure of information imposed by contract or by any law.

140. In addition to the foregoing, the authorities mentioned that (2) employees of the Office gave lectures at a workshop entitled “Corruption and Money Laundering” at the Commission of Integrity, held over five days from 22 to 26/10/2017. Similarly, a training plan for 2018 was also prepared in coordination with the Banking Studies Center at the Central Bank of Iraq. In addition, the Anti-Money Laundering and Counter-Financing of Terrorism Office issued official letters to the Ministry of Interior, the Organized Crimes Directorate, the Non-Governmental Organizations Department at the General Secretariat of the Council of Ministers, the Council of Ministers and Committees Affairs Department in order for the Office employees to prepare training sessions for concerned specialized employees to train them on AML/CFT awareness raising, while emphasizing the protection and confidentiality of information.

**R15: (Compliance Rating: PC).**

141. Iraq addressed the deficiencies relating to this recommendation, through article (12) of the AML/CFT Law No. (39) of 2015 which required FIs and DNFBPs to prepare and execute AML/CFT programs which include the assessment of ML/TF risks they are exposed to, including identification, assessment and understanding of these risks, and application of effective mitigation measures, provision of the assessment to supervisors, establishment and preparation of internal policies, procedures and controls suitable for the implementation of the requirements imposed in the AML/CFT field, which results in the mitigation of risks, including appropriate arrangements for the management of compliance, establishment and implementation of adequate standards of integrity when selecting employees, execution of on-going training programs for officers and employees which would ensure that they are acquainted with the AML/CFT requirements and to establish an autonomous internal auditing task to verify compliance with the internal policies, procedures, regulations and controls and to ensure their effectiveness and consistency with the provisions of the law.

142. The instructions on the CDD rules for FIs elaborate this obligation imposed on the financial institutions. Accordingly, FIs are required to establish internal AML/CFT basis, procedures and controls and to inform their employees of them, including the determination and verification of the customers identity, monitoring of their transactions on an on-going basis, record keeping, monitoring of unusual operations, detection and reporting of suspicious transactions, establishment of an on-going program to train their employees. The said instructions also required the appointment of a reporting office in charge of immediately notifying the Anti-Money Laundering and Counter-Financing of Terrorism Office of any transaction or attempted transaction whenever he suspects or has reasonable grounds to suspect that it is related to the proceeds of a crime or related to money laundering or terrorist financing, and in case those working at the FI suspect that any transaction is associated with the crime proceeds or an attempted transaction or associated with money laundering or terrorist financing, they should report it to the reporting officer, along with all the data and copies of the documents related to this transaction or attempted transaction. In case the reporting officer suspects a transaction or an activity, he shall submit a report of the data to the Office and facilitates its perusal of relevant records and information kept by the institution.

143. The Central Bank of Iraq issued a circular to all the licensed banks and non-banking financial institutions concerning AML/CFT supervisory controls, which included controls for the appointment of a compliance supervisor and a reporting officer at banks and the determination of their powers and tasks. These controls were published on the website of the Central Bank of Iraq to act accordingly. A letter was issued by the Exchange Monitoring Directorate to licensed banks and money transfer companies stating the issue concerning (the change of compliance supervisors and AML units officers), while emphasizing the necessity of obtaining the approval of the Central Bank of Iraq upon the change.

144. In addition to the foregoing, the authorities stated that FIs prepared and issued the handbook on the AML/CFT policies and procedures and compliance and copies thereof were sent to the Office to give its opinion and observations in this regard.

**R16: (Compliance Rating: NC)**

145. Following its amendment, the law required all DNFBPs to report to the Anti-Money Laundering and Counter-Financing of Terrorism Office without delay any transaction suspected to involve money laundering or terrorist financing, whether it was conducted or not, using the reporting form prepared by the Office, according to clause fifth, article (12) of the amended law, including real estate agents, jewelers and dealers in precious metals and stones, lawyers and accountants, trust and company service providers, when preparing or conducting transactions for a customer on a commercial basis, any other activity or profession added by virtue of a Council of Ministers' Resolution based on the AML/CFT Council's proposal.

146. On the other hand, the competent supervisors prepared instructions for real estate agents, legal accountants and lawyers, concerning AML/CFT obligations. These instructions include the reporting of suspicious transactions, implementation of due diligence measures which include the verification of customers and beneficial owner identity, the identification of natural persons who own or have an effective control on the legal person, the establishment of internal regulations and procedures for the implementation of due diligence measures, and the protection of information.

147. They also require all DNFBPs to establish on-going programs to train and qualify employees in the AML/CFT field, provided that such training comprises an introduction to laws, instructions and international agreements and conventions related to combating money laundering and terrorist financing.

**R17: (Compliance Rating: PC)**

148. Iraq addressed the deficiency relating to this recommendation by granting supervisors the power to apply administrative measures and fines on FIs and DNFBPs for their non-compliance with the provisions of this law. Article (45) of the amended law also determined a set of measures and fines supervisors can apply one or more of them against institutions that violate the provisions of the law, relevant regulations, instructions, controls or orders, as follows:

- a. To issue an order to cease the activity which entailed the violation.
- b. To withdraw the business license according to the law.
- c. The warning represented in notifying the violating entity of the obligation to remedy the violation within an appropriate period fixed for this purpose.
- d. To prevent persons from working in the related sector for a period fixed by the supervisory authority.
- e. To restrict the powers of directors or to request their replacement.
- f. To pay an amount not less than IQD (250000) two hundred and fifty thousand and up to IQD (5000000) five million for each violation.

149. Article (46) of the foregoing law stipulated that the legal person shall be held accountable for the crimes stipulated in the law and which are perpetrated by its representatives, directors or agents for its interest, and in its name, and shall be punished with the penalty and confiscation prescribed for the crime, in accordance with the law.

150. Regarding the sanctions imposed, the authorities mentioned that the supervisory and monitoring authorities at the Central Bank of Iraq imposed many administrative and punitive sanctions against FIs subjected to the control of the Central Bank of Iraq for violating the provisions of the AML/CFT Law No. (39) of 2015. On this note, the number of administrative sanctions for 2017 which were imposed by the Exchange Control Directorate at the Central Bank of Iraq against banking and non-banking FIs which violations were detected during on-site inspection rounds, reached (20). The number of companies which licenses were withdrawn for violating the provisions of the AML/CFT Law reached (31).

**R18: (Compliance Rating: PC).**

151. Iraq addressed the deficiencies relating to this recommendation by prohibiting the licensing of a shell bank or preventing it from carrying out its activities in the Republic of Iraq, and by prohibiting FIs from entering into, or continuing, a correspondent banking relationship with shell banks or with a respondent financial institution in a foreign country, that permit their accounts to be used by shell banks. Any person, whether natural or legal, who establishes or attempts to establish a shell bank or who enters into a business relationship with a shell bank shall be punished, by virtue of the law, with penal sanctions.

**R20: (Compliance Rating: PC).**

152. The report submitted by the Iraqi authorities did not include the implementation by Iraq of R5, R6, R8-R11, R13-R15, R17 and R21 toward non-financial institutions and professions (unlike the DNFBPs) which are considered exposed to exploitation for ML/TF purposes. For example: Dealers in luxury and high-value items, mortgage services, casinos, auctions, investment consulting services.

153. The authorities informed that they will provide the Secretariat with the projects at a later stage.

154. Regarding the measures taken by Iraq to encourage the establishment and use of modern and secure techniques to conduct financial transactions which would be less exposed to money laundering, Iraq issued regulation No. (3) of 2014 on electronic payment services, signed by the General Secretary of the Council of Ministers and published it in issue No. 4326 of the official Gazette (Alwaqai Aliraqiya) on 23/6/2014. The regulation included a



number of fundamental provisions on clarifying the purport of the electronic payment service activities, the licensing of electronic payment services practice, the conditions to be fulfilled by the payment service provider, provisions concerning agents of foreign transfer service providers, supervision, record-keeping, obligations of the electronic payment service provider, provisions concerning agents of electronic payment service providers, execution of payment transactions, electronic payment service contract, customer rights, settlement and other provisions.

155. In addition to the foregoing, the Anti-Money Laundering and Counter-Financing of Terrorism Office prepared a draft handbook for electronic payment services and presented it to the IMF and it is under completion. The salaries of the State employees and retired persons were domiciliated considering that they are targeted in the cash cooperation and they were comprised in the electronic payment procedure.

**R21: (Compliance Rating: PC)**

156. Iraq addressed the deficiency relating to this recommendation, as clause fourth of article (10) of the instructions on CDD rules for FIs stipulated that concerning transactions made with persons in countries which do not apply or insufficiently apply the FATF recommendations, the background of the transactions which have no apparent legitimate economic purpose must be examined, its purpose verified, and the results reached documented, in writing, for perusal by the bank, the Anti-Money Laundering and Counter-Financing of Terrorism Office and FIs auditors. In the event where countries persist in not applying or in insufficiently applying the FATF recommendations, based on the information held by the FI, the institution may take several actions according to the risk degree and materiality and appropriate actions against persons belonging to or residing in this country, for instance: To continue the implementation of enhanced due diligence measures against these customers, to accurately monitor the transactions of these persons and identify their purpose, to send a statement of the transactions of these customers to the Anti-Money Laundering and Counter-Financing of Terrorism Office, to terminate the business relationships or limit the financial dealings with these customers, when the FI is unable to implement effective due diligence measures. The said instructions also required FIs to give special attention to their branches and subsidiaries located in countries that do not apply or insufficiently apply the FATF recommendations.

157. In addition to the foregoing, article 2 of the supervisory controls for banks and non-banking FIs on combating money laundering and terrorist financing which are issued by the Directorate General for Exchange and Credit Monitoring, required banks to take appropriate actions to implement due diligence with regard to transactions made with persons which belong to countries which do not apply or insufficiently apply the FATF recommendations, including legal persons and other FIs, and to implement enhanced measures in their regard, such as: To accurately monitor the transactions of these persons and identify their purpose, to notify the Anti-Money Laundering and Counter-Financing of Terrorism Office, in case there is no apparent economic purpose or in case any suspicions arise in their regard, and to limit the business relationships or financial transactions with the said countries or persons who belong to or reside in these countries.

158. However, on the other hand, the authorities still have to provide the necessary guidance to institutions on how to identify countries which do not apply or insufficiently

apply the FATF recommendations and whether there is any mechanism to apply counter-measures.

**R22: (Compliance Rating: NC)**

159. Iraq addressed the deficiency relating to this recommendation, through article (13) of the AML/CFT Law No. (39) of 2015 which stipulated that the obligations of financial institutions by virtue of the provisions of the law, regulations and instructions issued shall apply to branches and majority owned subsidiaries of institutions operating outside the Republic of Iraq as long as these provisions are not contradictory to legislations in effect in the concerned country. Financial institutions shall apply these obligations at the level of the financial group including the information exchange policy and procedures within the financial group; and financial institutions that have branches and majority owned subsidiaries in countries where laws prohibit the implementation of the provisions of the AML Law must notify the supervisory authority of this fact.

160. Paragraph (eighth/article 16) of the instructions on CDD rules for FIs included the following: To apply AML/CFT programs at the level of the financial group and all its branches and majority-owned subsidiaries. The measures include: Policies and procedures for the exchange of information required for the purposes of CDD measures, ML/TF risk management, compliance with and examination of AML/CFT measures at the level of the financial group, with information on the customer, accounts and operations of branches and subsidiaries, when necessary, for ML/TF purposes, and compliance with appropriate preventive measures regarding confidentiality and use of exchanged information.

**R24: (Compliance Rating: NC)**

161. A reference was previously made to non-financial businesses and professions being subjected to the AML/CFT Law. On this note, clause (17) of article 1 of the AML/CFT Law No. (39) of 2015 designated the competent supervisors which included the Ministry of Commerce, the Ministry of Industry, the Central Bank of Iraq, the Securities Commission, the Insurance Bureau and any other entity designated as a supervisory authority by virtue of a resolution issued by the Council of Ministers, pursuant to the AML/CFT Council proposal.

162. Article (26) of the foregoing law included a statement of the obligations and competences of supervisors comprising the regulation, monitoring and supervision of FIs and non-financial businesses and professions for their compliance with the conditions provided for in the law, regulations, ministerial resolutions and relevant instructions. They shall have powers and duties, including the following:

- To develop inspection procedures and follow-up methods and standards to ensure compliance of financial institutions and DNFBPs with AML/CFT obligations set out in the law.
- To use the powers granted to them by law in cases where FIs and DNFBPs violate their obligations.
- To cooperate and exchange information with competent authorities in the implementation of the provisions of the law and with foreign counterparts concerned with combating money laundering and terrorist financing.
- To ensure that branches outside the Republic of Iraq and majority owned subsidiaries of financial institutions are implementing the procedures stipulated in the law and regulations, instructions, statements, controls and orders issued thereunder, to the

extent permissible by legislations of the countries in which such branches or subsidiaries operate.

- To verify the compliance of FIs and DNFBPs under their supervision or oversight with the obligations set out in the law and they may use their supervisory powers to this effect.
- To inform the Office immediately of any information on transactions suspected to relate to money laundering, terrorist financing or to predicate offenses.
- To set competence, fitness, expertise and integrity standards for members of the board of directors and members or directors of the executive or supervisory administration at FIs.
- To determine circumstances where FIs and DNFBPs may delay the verification of the customer or the beneficial owner identity until after the establishment of the business relationship.
- To set the necessary conditions to own, manage or directly participate in the establishment, management or operation of a financial institution or the designated non-financial professions.
- To issue guidance to assist FIs and DNFBPs in implementing the obligations stipulated in the law.

163. In addition to the foregoing, supervisors prepared for the real estate sector, legal accountants and lawyers, a project of instructions on AML/CFT obligations, for all the real estate agents, legal accounts and lawyers. Such obligations comprised the fundamental provisions related to due diligence measures represented in the identification of the customer's identity, legal situations, activity and purpose and nature of his business relationship and the beneficial owner, the on-going follow-up of the business relationship, the measures for the identification and verification of the beneficial owner identity, if he is a natural or a legal person, the obligation of paying special attention to large operations with no apparent legal or economic purpose, the operations conducted with persons who reside in or belong to countries which do not have appropriate AML/CFT regulations or which do not sufficiently apply international controls, dealing with high-risk persons who occupy prominent positions and measures for dealing with them, obligations of reporting suspicious transactions, the obligation of keeping records and documents of the operations for a period not less than five years after the end of the dealing with the customer or the completion of the operation, and periodically updating and providing data and information when requested by the AML/CFT Office, in addition to other obligations.

#### **R25: (Compliance Rating: PC)**

164. Iraq addressed the deficiencies relating to this recommendation, as the Anti-Money Laundering and Counter-Financing of Terrorism Office provided and disseminated guiding principles on reporting suspicious transactions to all the sectors, including STR forms. The authorities also stated that the Office provided FIs and DNFBPs with feedback on the reported cases and informed them of the results of the STRs analysis. In application of the foregoing, the Anti-Money Laundering and Counter-Financing of Terrorism Office issued the guidance on indicators of suspicion of money laundering and terrorist financing operations in banking transactions (banks, money transfer companies, exchange companies) and transactions in the DNFBP sector (real estate agents, legal accountants, lawyers, trust

funds, dealers in precious metals and jewelers), customs, the Securities Commission, insurance companies and non-profit organizations, as well as the guidance on filling suspicious transactions reporting forms which were already published on the website of the Central Bank of Iraq. The Office also disseminated the said guidance to relevant institutions and ministries.

165. In addition to the foregoing, the authorities stated that they have engaged (2) employees of the Anti-Money Laundering and Counter-Financing of Terrorism Office as lecturers at a session on (combating money laundering and terrorist financing) organized by the Central Bank of Iraq at the Banking Studies Center in 2017. The authorities also issued AML/CFT guidance to assist the insurance and securities sectors in complying with the AML/CFT requirements. AML/CFT controls for intermediary companies engaged in the sale and purchase of foreign currencies were issued and published on the websites of the Central Bank of Iraq and the Anti-Money Laundering and Counter-Financing of Terrorism Office, after being signed by the governor of the Central Bank of Iraq.

166. It is worth mentioning that chapter 6 of the supervisory controls for banks and non-banking FIs on combating money laundering and terrorist financing, issued by the Directorate General for Exchange and Credit Monitoring, included the guiding indicators for the identification of transactions suspected to involve money laundering or terrorist financing. The said chapter also cited examples of some transactions which need further due diligence and examination to determine the existence of suspicion: Cash transactions, remittances, documentary credit operations, letters of guarantee, credit facilities, e-banking operations, credit cards, foreign currency operations, safe deposit leasing services, customer behaviors, suspicion indicators for the identification of operations which might involve terrorist financing, correspondent accounts (correspondent banking relationships) and other general guidance.

**R27: (Compliance Rating: PC)**

167. Iraq addressed the deficiency relating to this recommendation, through the amended law which exclusively granted the Public Prosecution the power to investigate, take action and prosecute facts related to ML offense, associated predicate offense and terrorist financing. Article (54) of the amended law stipulated the formation of a criminal court specializing in ML/TF cases at the Supreme Judiciary Council. Other courts at the appeals districts may be formed, when necessary, through a declaration to be issued by the President of the Supreme Judiciary Council.

168. The authorities approached the court concerned with money laundering and economic crime cases to provide it with a detailed statement comprising the ML/TF cases the court rendered decisions on them for the period (2014-2017) and it was found that (48) decisions were rendered. The authorities also approached the Presidency of Public Prosecution to inform the Office of the STRs results which have been already sent and to inform it as well of the results of investigations of these reports and of the convictions issued.

169. Regarding raising awareness and training, the Supreme Judiciary Council and the Commission of Integrity prepared continuous AML/CFT sessions for investigation judges, investigators and employees. The Commission of Integrity held (8) training sessions which covered AML/CFT topics and presented (8) studies and research in the same field. Regarding training sessions for judicial investigators, two sessions were held with the participation of approximately (60) judicial investigators. The Anti-Money Laundering and Counter-

Financing of Terrorism Office coordinated with the European Union on holding a workshop to train judges on the implementation of paragraphs and provisions of the new law and on determining the violations most expected to be committed by persons and institutions.

**R28: (Compliance Rating: PC).**

170. It was already mentioned that Iraq has addressed the deficiencies relating to the criminalization of terrorist financing. On this note, the authority in charge of investigation (the Public Prosecution) was given the power to investigate, take action and prosecute facts related to ML offense, associated predicate offense and terrorist financing. Article (23) of the law authorized the investigation judge and the court to seize funds associated with ML/TF offense, at the request of the Public Prosecution, the governor or the Office. This shall not preclude seizure by the competent judicial authority immediately and when necessary, even if it was not requested to do so.

171. The authorities informed that the AML/CFT Council held (14) meetings to discuss several issues and to take several decisions. Many consultants (investigation judge) specialized in ML/TF investigations were hosted and the role of the Public Prosecution in such investigations was also determined. The national AML/CFT strategy is now endorsed by the committee entrusted by various authorities with preparing it, by virtue of order No. (7) of 2017.

172. In addition to the foregoing, the AML/CFT Council coordinated with various relevant authorities concerning the implementation of UNSCR (2322) of 2016 on international and judicial cooperation in countering terrorist financing and the fulfillment of Iraq's obligations in this field.

**R29: (Compliance Rating: NC).**

173. Iraq addressed the deficiency relating to this recommendation, through paragraph (17) of article 1 of the AML/CFT Law No. (39) of 2015 which defined supervisors as being: The authority in charge of licensing, authorizing, supervising financial institutions and DNFBPs and ensuring their compliance with requirements to combat money laundering and terrorist financing. These supervisors include the Ministry of Commerce, the Ministry of Industry, the Central Bank of Iraq, the Securities Commission and the Insurance Bureau, as well as any other authority designated as a supervisory authority by virtue of a resolution issued by the Council of Ministers, pursuant to the AML/CFT Council proposal and published in the official Gazette.

174. Chapter 8 of the amended law comprised the mandates of supervisors in details. On this note, article (26) of the law stipulated that the supervisors shall undertake, in addition to their mandates provided for in other laws, the following: Developing inspection procedures and follow-up methods and standards to ensure compliance of financial institutions and DNFBPs with AML/CFT obligations set out in the law, using the powers granted to them by Law in cases where FIs and DNFBPs violate their obligations, cooperating and exchanging information with competent authorities in the implementation of the provisions of the law and with foreign counterparts concerned with combating money laundering and terrorist financing, ensuring that branches and majority owned subsidiaries of financial institutions outside the Republic of Iraq are implementing the procedures stipulated in the law, regulations, instructions, statements, controls and orders issued thereunder, to the extent

permissible by legislations of the countries in which such branches or subsidiaries operate, verifying the compliance of FIs and owners of non-financial businesses and professions under their supervision or oversight with the obligations set out in the law, informing the Office immediately of any information suspected to relate to money laundering, terrorist financing or to predicate offenses, setting competence, fitness, expertise and integrity standards for members of the board of directors and members or directors of executive or supervisory administration at the financial institutions, determining circumstances where FIs and DNFBPs may delay the verification of the customer or the beneficial owner identity until after the establishment of the business relationship, setting the necessary conditions to own, manage or directly participate in the establishment, management or operation of a financial institution or the designated non-financial professions, and issuing guidelines to assist FIs and DNFBPs in implementing the obligations stipulated in the law.

175. The authorities also designated (the Securities Commission) the supervisor of the securities sector in Iraq. It is an independent governmental authority established under law No. (74) of 2004 and it aims at contributing to stable and sustainable economic growth in Iraq by strengthening the investment infrastructure and encouraging the formation of capital by granting licenses and monitoring participants in the capital markets in order to protect them from fraud. The Commission prepared and published, in coordination with the Anti-Money Laundering and Counter-Financing of Terrorism Office, AML/CFT controls to prevent the exploitation of this sector by criminals and the conduct of suspicious transactions. The supervisory authority (The Insurance Bureau) of insurance companies in Iraq was also designated. The Bureau aims at regulating and supervising the insurance sector in the country. It also issued AML/CFT instructions (as previously mentioned) to prevent the exploitation of this sector by money launderers and financiers of terrorist operations.

176. Article (45) of the law stated the measures and fines imposed by supervisors on institutions subjected to their supervision. These measures vary between the issuance of an order to cease the activity which entailed the violation, withdrawal of the business license, warning represented in notifying the violating entity of the obligation to remedy the violation within an appropriate period, prevention of persons from working in the related sector for a period fixed by the supervisor, restriction of the powers of directors or requesting their replacement, payment of an amount not less than IQD (250000) two hundred and fifty thousand and up to IQD (5000000) five million for each violation.

177. In application of the foregoing, an inspection authority was formed by the Exchange Monitoring Directorate at the Central Bank of Iraq to inspect the banks operating in Baghdad and the Kurdistan Region. Several violations were discovered, concerning the following: The Iraqi bank of commerce in Erbil and Sulaymaniyah did not provide an evidence on the source of funds and profession of the customer and his average monthly income, failed to carry out other due diligence requirements and did not conduct due diligence toward customers. The bank also violated the exchange circular concerning the account opening form and failed to obtain the signature of the customer who opened an account on his personal documents, considering that they are true copies, as well as other violations.

178. In addition to the foregoing, the Securities Commission initiated the establishment of the due diligence center for customers dealing with securities, with a headquarters located in Iraq Securities Market. The due diligence controls for securities were disseminated to all the reporting entities, being the intermediary companies, Iraq Securities Market, the Depository, in addition to the Securities Commission, considering that it is a supervisory authority

responsible for verifying the level of compliance of the reporting entities. Therefore, it should report to the Office immediately in case it obtains information on a suspicion relating to money laundering or terrorist financing. Administrative sanctions were also applied by the Securities Commission and sanctions were also applied and violations detected by the Insurance Bureau with regard to (7) companies working in the insurance field.

**R30: (Compliance Rating: NC).**

179. Iraq addressed the deficiency relating to this recommendation by taking several steps to increase the human and financial resources of the entities engaged in the AML/CFT field and participating in training sessions specialized in combating fields. In this context, clause (d) of article (12) of the amended law required the financial institutions and the Designated Non-Financial Businesses and Professions to execute an on-going training program to train the employees in order to ensure a full command of the AML/CFT requirements, the understanding of ML/TF risks, the identification of unusual or suspicious operations and transactions and how to handle them, new developments and prevailing trends. The authorities informed that the supervisors held a series of awareness seminars, sessions and conferences on combating money laundering and terrorist financing and they also issued awareness bulletins and handbooks in this regard.

180. The Anti-Money Laundering and Counter-Financing of Terrorism Office employees participated in a number of training workshops on combating money laundering and terrorist financing, such as the workshop on developing a CFT regulation held in Jordan from 22 to 25 May 2017, a workshop on the essential investigative techniques for combating terrorist financing held in Lebanon from 24 to 27 April 2017, participation in a workshop on the disruption of terrorist financing held in the State of Qatar from 8 to 11 May 2017, a workshop on strategic analysis held in the KSA from 16 to 20 July 2017, an introductory workshop on how to report suspicious transactions held on April 10, 2017, a workshop on combating money laundering held in Jadriyya in the city of Baghdad on April 15, 2017 and a session on financial accounts monitoring held at the Central Bank of Iraq from 2 to 20 July.

181. The authorities also mentioned that the Anti-Money Laundering and Counter-Financing of Terrorism Office is still engaging many of its employees in sessions and workshops to inform them of the latest developments in the AML/CFT field, thereby enhancing their ability to identify the crime and its patterns and how to face it. In this context, (2) two employees of the Office gave lectures at a workshop entitled “Corruption and Money Laundering” at the Commission of Integrity, held over five days from 22 to 26/10/2017. Similarly, a training plan for 2018 was also prepared in coordination with the Banking Studies Center at the Central Bank of Iraq and (2) lecturers among the Office employees were nominated to hold the first program of the training session for the concerned employees at the financial institutions from 28/1/2018 to 1/2/2018. The authorities also informed that the program will continue until the end of the year, over (5) five days a month, and it will tackle various topics and that training will cover various provinces of Iraq and banks operating in the Kurdistan Region.

182. In addition to the foregoing, the authorities issued official letters to each of: (The Ministry of Interior, the Organize Crimes Directorate, the Non-Governmental Organizations Department at the General Secretariat of the Council of Ministers, the Council of Ministers and Committees Affairs Department) to prepare training sessions by the Office employees for concerned specialized employees to train them on AML/CFT awareness raising, while

emphasizing the protection and confidentiality of information. Several Office employees participated in training workshops at the Office headquarters in Jadriyya, which were organized by the US Treasury Department, concerning the explanation and filling of STR forms, on 21, 23 and 25 January, 2018.

**R31: (Compliance Rating: NC).**

183. Iraq addressed the deficiency relating to this recommendation, particularly concerning the application of the AML/CFT Law on the “Kurdistan Region”. In this context, the Iraqi authorities opened two branches for the Central Bank in the Kurdistan Region, according to the provisions of paragraph (3) of article 2 of the Central Bank of Iraq Law No. (56) of 2004, which authorizes it to open branches inside and outside Iraq, and by virtue of the decision No. (1146) issued by the board of directors of the bank convened on 23/10/2016 concerning the placement of branches under the supervision and monitoring of the Central Bank of Iraq. There was also a coordination with the Region on training the employees of banks operating in the Region and a workshop for AML units officers at banks was organized. The Region was provided with a copy of the guidance on indicators of suspicion of money laundering and terrorist financing operations in banking transactions (banks, money transfer companies, exchange companies) and transactions in the DNFBP sector (real estate agents, legal accountants, lawyers, trust funds, dealers in precious metals and jewelers), customs, the Securities Commission, insurance companies and non-profit organizations, as well as the guidance on filling suspicious transactions reporting forms which were published on the website of the Central Bank of Iraq and the said guidance was disseminated to relevant institutions and ministries in the Region. “The Council of Ministers Department” was designated as the authority responsible for entering into a memorandum of understanding with the Region. A draft bilateral cooperation agreement with the Region was prepared for the purpose of cooperation and exchange of information and is still under completion. The authorities forwarded the letter of the AML/CFT Council to the Region, in order to designate a representative from the Region to attend the Council’s meetings, but without having the right to vote at such meetings.

184. The authorities also stated that the branch of the Central Bank of Iraq in Erbil became operational and issued a statement comprising the names of unlicensed companies working in the exchange and currency changing field in the Region and which were closed on 21/9/2017 for the purpose of preventing ML/TF operations. FIs operating in the Region also executed the decisions issued by the Commission for Terrorist Funds Freezing, and a cooperation agreement was signed with the Counter-Terrorism Service on 9/11/2017 and the Ministry of Interior on 28/11/2017. There is also a cooperation agreement (still to be signed) with the National Intelligence Service for the exchange of AML/CFT information and consolidation of efforts. (2) employees of the Office were nominated for the exchange of expertise in crimes relating to the Office work at the Ministry of Interior/the Anti-Organized Crimes Directorate. The Anti-Money Laundering and Counter-Financing of Terrorism Office signed a bilateral cooperation agreement with the Commission of Integrity/Extradition Office for the exchange of information in consistency with the Commission of Integrity Law No. (30) of 2010 AD, the AML/CFT Law No. (39) of 2015 AD and the international standards and agreements related to combating money laundering and terrorist financing. The said Office also signed a draft memorandum for the exchange of information with the supervisory and monitoring authorities at the Central Bank of Iraq (the Exchange Monitoring Directorate).



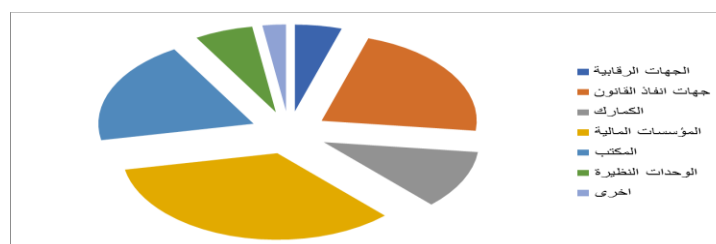
185. In addition to the foregoing, the authorities informed that inspection entities at the Exchange Monitoring Directorate at the Central Bank of Iraq are still conducting inspections on institutions working in the Kurdistan Region and that the training of concerned employees at FIs on the methods for combating money laundering and terrorist financing which was incorporated into the training program for 2018 which is scheduled to be held in coordination with the Banking Studies Center of the Central Bank. An inspection authority was formed by the Exchange Monitoring Directorate at the Central Bank of Iraq to inspect the banks operating in Baghdad and the Kurdistan Region. Several violations were discovered, some banks were referred to the Sanctions Committee and penalties were imposed.

**R32: (Compliance Rating: NC).**

186. The Iraqi authorities provided several statistics on many aspects of the AML/CFT system, which indicate the availability of useful statistical information. The following is an elaborate description of these statistics:

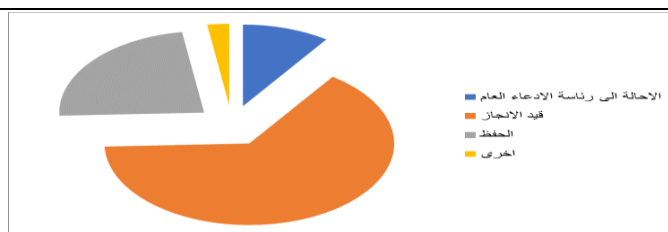
**Suspicious or suspected cases based on their source/2016**

Authority	Number	Percentage out of the total %
Supervisors	4	4.88%
Law enforcement authorities	18	21.95%
Customs	9	10.98%
Financial institutions	28	34.15%
The Office	16	19.51%
Counterpart units	5	6.10%
Others	2	2.44%
<b>Total</b>	<b>82</b>	<b>100.00%</b>



**Suspicious or suspected cases according to the actions taken/2016**

Action taken	Number	Percentage out of the total %
Referral to the Presidency of Public Prosecution	8	12.12%
Under completion	41	62.12%
Dismissal	10	15.15%
Others	7	10.61%
<b>Total</b>	<b>66</b>	<b>100.00%</b>



### Requests of information sent and received between the Office and counterpart units on suspicious cases/2016

Country	Number of requests	Type of request	Percentage out of the total %
The United Arab Emirates	1	Sent	7.69%
Lebanon	4	Sent	30.77%
Jordan	5	(4) sent and (1) received	38.46%
Saudi Arabia	1	Sent	7.69%
Morocco	1	Sent	7.69%
Palestine	1	Sent	7.69%
<b>Total</b>	<b>13</b>		<b>100.00%</b>



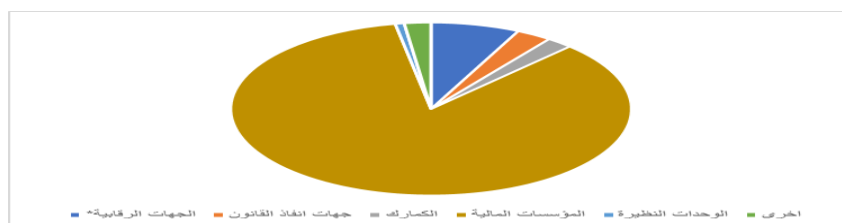
### Violations/2016

Authority	Administrative sanctions	License withdrawal	On-site inspection rounds
Banks	17		
Non-banking financial institutions	3		
<b>Total</b>	<b>20</b>		

### STRs sent to the Office based on their source/2017

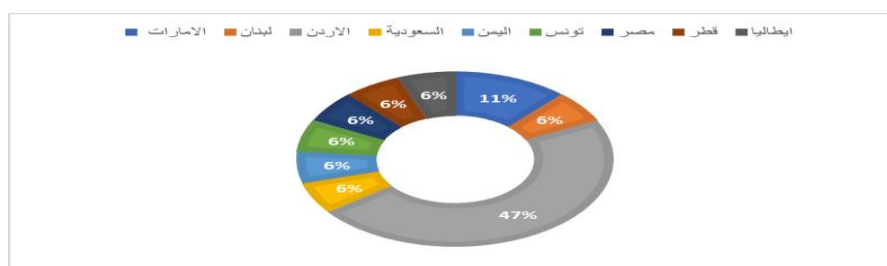
Authority	Number	Percentage out of the total %
Supervisors*	10	7.14%
Law enforcement authorities	4	2.86%
Customs	3	2.14%
Financial institutions	119	85.00%
Counterpart units	1	0.71%
Others	3	2.14%

<b>Total</b>	<b>140</b>	<b>100%</b>
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### Requests of information sent and received between the Office and counterpart units on suspicious cases/2017

Issuing country	Number of requests	Type of request	Percentage out of the total %
The United Arab Emirates	2	Sent	11.76%
Lebanon	1	Sent	5.88%
Jordan	8	(4) sent and (3) received	47.06%
Saudi Arabia	1	Sent	5.88%
Yemen	1	Sent	5.88%
Tunisia	1	Sent	5.88%
Egypt	1	Sent	5.88%
Qatar	1	Sent	5.88%
Italy	1	Received	5.88%
<b>Total</b>	<b>17</b>		<b>100.00%</b>



### Violations/2017

Authority	Administrative sanctions	License withdrawal	On-site inspection rounds
<b>Banks</b>	8	-	42
<b>Non-banking financial institutions</b>	6	36	175
<b>Total</b>	<b>14</b>	<b>36</b>	<b>217</b>

**R33: (Compliance Rating: PC)**

187. The deficiencies relating to this recommendation were addressed, through clause fourteenth of article 1 of the AML/CFT Law No. (39) of 2015 which defined the beneficial owner as being: The natural person who ultimately owns or exercises direct or indirect control over a customer or the natural person on whose behalf a transaction is being conducted. It also includes those persons who ultimately exercise effective control over a legal person or legal arrangement.

188. Article (34-first) of the Iraqi Law of Commerce No. (30) of 1984 required companies to apply for registration in the commercial register, within (30) days from its date of establishment. Article (37) of the said law stated that the commercial register is a public record regulated by the Chambers of Commerce and Industry in which all the data that the company is required to record under the law must be listed and which is stipulated in articles (33 and 34) of the law, such as the name, date of establishment, type of activity of the company, names of its founders, chairmen of its boards of directors, and managing directors and its headquarters. Article (35) of the said law required the company to request the annotation of any amendment made to the data stipulated in articles (33 and 34) within thirty days from the date of the legal action, the judgment or the incident which necessitated this annotation. The company is also required under article (37) to mention the commercial register in which it is recorded and the registration number in all the correspondences and literature related to its commercial activities. Article (32) requires the competent Chamber of Commerce and Industry to establish the accuracy of the data contained in the commercial register and to check their conformity with the current situation. Article (30) of the law stipulates that the commercial register is based on the principle of publicity where any citizen may request to review its content and to receive a certified copy of this content in consideration of a fee.

**R37: (Compliance Rating: PC)**

189. Iraq did not address the deficiency relating to this recommendation, as the Iraqi authorities stated that extradition requests or legal assistance requests based on the provisions of the AML/CFT Law No. (39) of 2015 are not executed, unless the laws of the requesting country and those of the Republic of Iraq punish the crime subject of the request or a similar crime. Dual criminality requirements are applied, regardless of whether the laws of the requesting country place the offense within the same category of offense or denominate the offense by the same terminology, as used in the Iraqi law, provided that laws of the requesting country criminalize the conduct underlying the offense.

**R38: (Compliance Rating: PC)**

190. Chapter 9 of Law No. (39) of 2015 on the issuance of the AML/CFT Law regulated the legal basis to respond to the mutual legal and judicial assistance requests with respect to confiscation and extradition requests concerning combating money laundering and terrorist financing, by granting the Iraqi judicial authorities the power to cooperate with non-Iraqi counterparts on providing assistance, rogatory letters, extradition of accused and sentenced persons, and requests of non-Iraqi authorities to track, freeze or seize funds or proceeds of ML/TF offenses. The Iraqi judicial authorities were also granted the power to execute the final judicial orders issued by foreign judicial authorities on money laundering or terrorist

financing crime, including the orders of confiscation of funds and proceeds generated from ML/TF offenses and the instrumentalities used in committing them, in accordance with the rules and measures stated by the Iraqi laws and regulations in force and the international, regional or bilateral agreements Iraq is a party thereto or subject to reciprocity.

191. The authorities formed a working group at the General Secretariat of the Council of Ministers, with the membership of the assistant general manager of the Anti-Money Laundering and Counter-Financing of Terrorism Office. One of the primary mandates of the group is to establish an asset forfeiture fund (confiscated and frozen funds) particularly for post-2003 funds.

192. On the other hand, the Iraqi authorities still have to consider licensing the sharing of confiscated property with other countries, when confiscation is resulted, directly or indirectly, from coordinating actions of law enforcement authorities.

### **SRVI: (Compliance rating: PC)**

193. The deficiencies relating to this recommendation were addressed, through the CDD instructions which required FIs engaged in electronic transfer activity to obtain information on the transfer order and the recipient of the transfer when making the transactions, to verify that this information remains with the transfer orders or related messages throughout the payment chain. The said instructions also prohibited the ordering financial institution from conducting the electronic transfer in case information could not be obtained.

### **SRVII: (Compliance Rating: PC)**

194. Iraq addressed the deficiencies relating to this recommendation, through article 1 of instructions No. (1) of 2017 on due diligence rules for FIs customers which comprised a definition for each of the following: Ordering financial institution, the recipient financial institution, the intermediary financial institution, where the ordering financial institution was defined as being: The financial institution which initiates the wire transfer and transfers the funds upon receiving the request for a wire transfer on behalf of the originator. The article also defined the recipient financial institution as: The financial institution which receives the wire transfer from the ordering financial institution directly or through an intermediary financial institution and makes the funds available to the beneficiary. The said article defined the intermediary financial institution as: A financial institution in a serial or cover payment chain that receives and transmits a wire transfer on behalf of the ordering financial institution and the recipient financial institution, or another intermediary financial institution.

195. Article (13) of the afore-mentioned instructions required FIs, which are engaged in electronic or regular transfer in any currency and which they order or receive, including transactions made by using credit or debit cards or any other similar means of payment, to maintain current lists of their agents and to make them accessible for inspection upon request. The transfers resulting from the transactions should be accompanied with a unique reference number which permits traceability of the transaction back to the ordering person and the recipient. The same article also stipulated the obligations of each of:

**First: Obligations of the ordering financial institution, as follows:**

- a. (1) To obtain full information on the originator, including number, date and amount of the transfer, name, nationality, profession and identity number or tax identification number or account number of the originator, purpose of the transfer, beneficiary correspondent bank, its nationality, and account number if any.  
(2) To create a system through which the originator is given a unique reference number in case he has no account number at the FI.
- b. To send the transfer after the verification of all the information relating to the originator through official documents and data.
- c. To verify and ensure that all the data provided for in paragraph 1 of the clause is mentioned in the transfer form.
- d. For transfers sent in a single batch, the ordering financial institution shall include the originator's account number or unique transaction reference number, in the absence of an account, provided that:
  - The financial institution shall maintain all originator information provided for in paragraph (a) of this clause.
  - The ordering financial institution shall be able to provide the recipient financial institution with the full information required within one business day from the date of receiving the information request.
  - The financial institution shall be able to immediately respond to any order issued by the Central Bank of Iraq or the Anti-Money Laundering and Counter-Financing of Terrorism Office or by competent law enforcement authorities to review this information.

**Second: Obligations of the recipient financial institution, as follows:**

- a. To establish effective systems to detect any missing information on the originator.
- b. To have effective risk-based policies and procedures in dealing with transfers lacking required originator information. These procedures include the request of lacking information from the ordering financial institution, and in case the request is not met, the financial institution should take risk-based measures, which might include the rejection of the transfer or the notification of the Anti-Money Laundering and Counter-Financing of Terrorism Office of the case.

**Third: Obligations of the intermediary financial institution, as follows:**

- a. To ensure that all the information accompanying a transfer is retained with it when conducting the transfer, in case the financial institution participates in the execution of the transfer without being an originator or a recipient.
- b. If the financial institution is unable to retain the information accompanying the transfer for technical reasons, it should keep all the information received, for at least five (5) years, regardless of whether this information is complete or lacking, and should make the information available to the recipient FIs within three (3) business days from receiving the request.
- c. If the intermediary financial institution receives lacking originator information from the ordering financial institution, it should notify the recipient institution of the execution of the transfer.

196. In addition to the foregoing, the AML/CFT Council issued statement No. (1) of 2017 on CDD measures for occasional transactions and electronic transfers and published it in issue No. (4461) of Alwaqai Aliraqiya on September 18, 2017. It included the amendment of article 1 of the statement, by decreasing the amount of cash for which due diligence measures are undertaken, from (10000) ten thousand US Dollars or its equivalent in Iraqi Dinar or other foreign currencies to (4000) four thousand US Dollars or its equivalent in Iraqi Dinar or other foreign currencies, when conducting an operation or an electronic transfer for an occasional customer.

**SRVIII: (Compliance Rating: PC)**

197. Iraq addressed the deficiency relating to this recommendation, through paragraph third of article 1 of instructions No. (1) of 2017 on CDD rules for FIs which defined non-profit associations and organizations as being: Any legal person established by virtue of the law that primarily engages in the provision of social or voluntary services without seeking to achieve a profit or a personal benefit. These organizations comprise local and foreign civil society organizations. Article 5 of the afore-mentioned instructions comprised the obligation of FIs when establishing the identity of non-profit associations and organizations, as follows: To determine the identity, official name, legal form, business address, type of activity, date of incorporation and organizational structure of the association or organization, the minutes of election and decision to appoint the board of directors, the names of persons authorized to act for it, telephone numbers, purpose of dealing, any other information the institution deems necessary to obtain, to verify the existence and legal status of the association or organization through a certificate of incorporation issued by the competent authority and the internal bylaw of the association or organization, to submit a letter which designates the bank where the account is opened, signed by the competent authority, to obtain documents proving the existence of an authorization by the association or organization granted to natural persons authorized to act on its behalf, to determine the identity of the authorized person, according to the measures for customer identification provided for in the instructions and to obtain information on the identity of donors and beneficiaries of the deposited and withdrawn funds.

198. The authorities stated that they have prepared a draft bilateral cooperation agreement between the Anti-Money Laundering and Counter-Financing of Terrorism Office and the Non-Profit Organizations Department. A training session was held over five days from 18/2/2018 to 22/2/2018 to introduce the work mechanisms for financing and monitoring the sources of funds of NGOs and limiting suspicious transactions for which the organizations are a front in the AML/CFT field.

199. The Anti-Money Laundering and Counter-Financing of Terrorism Office sent letter No. (387) on 19/7/2017 to the Non-Governmental Organizations Department at the General Secretariat of the Council of Ministers, comprising the inquiry of the Office about the actions taken by the Department regarding the follow-up of funds sent to the civil society organizations and NPOs by associations or organizations abroad and the follow-up of their distribution and any other indicators in this regard. The authorities stated that the General Secretariat of the Council of Ministers was approached, considering that the Non-Governmental Organizations Department is related to it, in order to put the national strategic mainsprings for combating money laundering and terrorist financing in practice, by training the NGOs staff and holding training workshops for NGOs representatives to prevent the exploitation of the objectives of the organizations for purposes related to illicit financial transactions.

200. In addition to the foregoing, the Anti-Money Laundering and Counter-Financing of Terrorism Office issued an official letter to the General Secretariat of the Council of Ministers and enclosed a form of the statement of transfers sent to NPOs subjected to its supervision and monitoring, comprising the transferred amount, the date and currency of the transfer, the name of the recipient organization and the nature of its activity, the purpose of the transfer, the name of the correspondent bank, the name and nationality of the transferor, to enable the Department to follow up how the amounts received are being spent, whether they are actually received by their beneficiaries and whether the Department has an electronic system that facilitates the monitoring of these organizations' business. The Office also issued another official letter to the Non-Governmental Organizations Department to nominate specialized employees from the Department to attend the training session that the Office will organize from 18 to 22/2/2018, in order to acquire more information and raise awareness on combating money laundering and terrorist financing.

**SRIX: (Compliance rating: NC)**

201. Article (34) of Law No. (39) of 2015 on the issuance of the AML/CFT Law comprised an obligation requiring any person, when entering or leaving Iraq, to declare, upon request of a representative of the General Administration of Customs, that he/she is in possession of funds, currency, bearer negotiable instruments or is transporting such items into or out of Iraq through a person, postal service and shipping company, or through any other means. Disclosure shall include the value of such funds or instruments. The General Administration of Customs may request additional information from the person about the origin of such funds, currency, or bearer negotiable instruments and the intended use thereof. The aforementioned information shall be referred with a true and exact copy of the declaration form to the Anti-Money Laundering and Counter-Financing of Terrorism Office.

202. Article (35) of the afore-mentioned amended law gave the General Administration of Customs the power to seize funds, currencies or bearer negotiable instruments in case of non or false disclosure or if there is sufficient evidence to believe that they are proceeds of a predicate offense or crimes of money laundering or terrorism financing or were to be used for such purposes. The Anti-Money Laundering and Counter-Financing of Terrorism Office shall issue a recommendation to lift the seizure or to refer the seized funds to the judiciary within seven (7) days from the date of it being notified of the decision.

203. The AML/CFT Council issued Controls No. (1) of 2017 regarding the declaration of cash incoming and outgoing across the Iraqi borders. These controls were published in (AlBayyina) and in issue No. (4471) of the official Gazette (Alwaqai Aliraqia) on 27/11/2017. They comprised a number of provisions concerning the amount of declaration, where cash, precious stones and metals and bearer negotiable instruments which are of a value exceeding (10000) ten thousand US Dollars are declared to the declaration authority which is the General Customs Authority at the airport or at the border posts of the Republic of Iraq, according to the prescribed form, the obligations of customs departments at airports and border posts to place guiding signs (in Arabic, Kurdish and English) in high and visible places, that clarify the provisions mentioned in the Controls, to request travelers to complete the declaration form, to provide a sufficient number of declaration forms at all the border posts in order to provide them to arriving and departing travelers in order to declare the cash amounts, financial instruments, precious stones and metals in their possession, to keep regular records where all the declaration cases and the cases where the traveler failed to make



the required declaration according to the provisions of the AML/CFT Law and these Controls are recorded at the Customs Authority, to keep such records and declaration forms and documents for a period of five (5) years or more as per the nature of the cases and to request further information from travelers on the source and purpose of funds and to provide the Anti-Money Laundering and Counter-Financing of Terrorism Office with the declaration forms and any information it requests. In addition, the controls set out the conditions governing the seizure of cash, bearer negotiable instruments, and precious stones and metals by the employees of the General Customs Authority. They also referred to the conditions for lifting the seizure by the Anti-Money Laundering and Counter-Financing of Terrorism Office, where there are justifications that confirm the safety of the seized property or their referral to the judiciary within seven (7) days from the date of it being notified of the decision and the General Customs Authority shall be informed of the same. It is worth noting that the Iraqi authorities published the above-mentioned controls on the official website of the General Customs Authority.

204. Regarding sanctions, article (43) of the law stipulated that any person, upon entering or departing from the Republic of Iraq, and when required by the representative of the General Administration of Customs, who fails to declare or provides false information regarding funds, currency, or bearer negotiable instruments he/she holds or is transporting into or out of Iraq through a person, postal service, shipping company, or through any other means, shall be punished with imprisonment for up to two (2) years and a fine of no less than the value of the funds subject of the crime and up to three (3) times that value.

205. The authorities mentioned that they have nominated one (1) employee from the Anti-Money Laundering and Counter-Financing of Terrorism Office to participate in a unit responsible for data analysis at the border posts, under the chairmanship of the Ministry of Interior, the Intelligence Service, the National Security Service, the General Border Posts Authority and the General Customs Administration.

206. Regarding training and capacity building, the Ministry of Finance and the General Customs were engaged in two workshops held in the Hashemite Kingdom of Jordan to execute the AML/CFT national strategy by virtue of administrative ordinances No. (10/7267) dated 2/11/2017 and No. (10/965) dated 31/1/2018.

207. At the international cooperation level, the Republic of Iraq is a member of the World Customs Organization since 1990 and a study on combating illicit financial flows was prepared by the Policy Commission of the World Customs Organization.