

**Middle East & North  
Africa Financial Action  
Task Force**



***Mutual Evaluation Report  
Of  
The Kingdom of Morocco  
On  
Anti-Money Laundering and Combating Financing of  
Terrorism***

**6 November 2007**

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**KINGDOM OF BAHRAIN**

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>6</b>
<b>1. OVERVIEW.....</b>	<b>12</b>
1.1 GENERAL INFORMATION ON MOROCCO .....	12
1.2 GENERAL SITUATION OF MONEY-LAUNDERING AND FINANCING OF TERRORISM .....	14
1.3 OVERVIEW OF THE FINANCIAL SECTOR AND DNFBPS.....	15
1.4 OVERVIEW OF COMMERCIAL LAWS AND MECHANISMS GOVERNING LEGAL PERSONS AND ARRANGEMENTS.....	22
1.5 OVERVIEW OF STRATEGY TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING .....	25
<b>2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES .....</b>	<b>28</b>
2.1 CRIMINALIZATION OF MONEY LAUNDERING (R. 1 & 2).....	28
2.2 CRIMINALIZATION OF TERRORIST FINANCING (SR. II).....	31
2.3 CONFISCATION, FREEZING AND SEIZING OF PROCEEDS OF CRIMES (R. 3).....	33
2.4 FREEZING OF FUNDS USED FOR TERRORIST FINANCING (SR III).....	35
2.5 THE FIU AND ITS FUNCTIONS (R 26) .....	38
2.6 LAW ENFORCEMENT, PROSECUTION AND OTHER COMPETENT AUTHORITIES –THE FRAMEWORK FOR THE INVESTIGATION AND PROSECUTION OF OFFENSES, AND FOR CONFISCATION AND FREEZING (R 27 & 28).....	40
2.7 CROSS-BORDER DECLARATION/DISCLOSURE (SR IX) .....	45
<b>3. PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS .....</b>	<b>49</b>
3.1 RISK OF MONEY LAUNDERING AND TERRORIST FINANCING .....	50
3.2 CUSTOMER DUE DILIGENCE, INCLUDING ENHANCED OR REDUCED MEASURES (R 5 TO 8).....	50
3.3 THIRD PARTIES AND INTRODUCED BUSINESS (R 9) .....	58
3.4 FINANCIAL INSTITUTION SECRECY OR CONFIDENTIALITY (R. 4).....	58
3.5 RECORD KEEPING AND WIRE TRANSFER RULES (R 10 & SR VII).....	59
3.6 MONITORING TRANSACTIONS AND RELATIONSHIPS (R 11 & 21) .....	61
3.7 SUSPICIOUS TRANSACTION REPORTING AND OTHER REPORTING CONDITIONS (R. 13, 14, 19, 25 & SR. IV).....	63
3.8 INTERNAL CONTROLS, COMPLIANCE, AUDIT AND FOREIGN BRANCHES (R 15 & 22).....	66
3.9 SHELL BANKS (R 18).....	68
3.10 THE SUPERVISORY AND OVERSIGHT SYSTEM – COMPETENT AUTHORITIES AND SROs: ROLES, FUNCTIONS, DUTIES AND POWERS (INCLUDING SANCTIONS) (R. 23, 29, 17, 25).....	69
3.11 MONEY OR VALUE TRANSFER SERVICES (SR VI).....	76
<b>4. PREVENTIVE MEASURES – DNFBPS.....</b>	<b>77</b>
4.1 CUSTOMER DUE DILIGENCE AND RECORD-KEEPING (R 12) (IMPLEMENTATION OF R. 5, 6, 8 TO 11).....	77
4.2 SUSPICIOUS TRANSACTION REPORTING (STR) (R 16) (IMPLEMENTATION OF RECOMMENDATIONS 13 TO 15 & 21).....	82
4.3 REGULATION, SUPERVISION AND MONITORING (R 24 & 25) .....	84
4.4 OTHER NON-FINANCIAL BUSINESSES AND PROFESSIONS— .....	86
MODERN SECURE TRANSACTION TECHNIQUES (R 20).....	86
<b>5. LEGAL PERSONS, LEGAL ARRANGEMENTS AND NON-PROFIT ORGANIZATIONS ...</b>	<b>86</b>
5.1 LEGAL PERSONS- ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION (R 33) .....	86
5.2 LEGAL ARRANGEMENTS- ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION (R.34) .....	89
5.3 NON PROFIT ORGANISATIONS (NPOs) (SR VIII).....	89
<b>6. NATIONAL AND INTERNATIONAL COOPERATION .....</b>	<b>91</b>
6.1 NATIONAL COOPERATION AND COORDINATION (R 31).....	91
6.2 THE CONVENTIONS AND UN SPECIAL RESOLUTIONS (R 35 & SR I) .....	92
6.3 MUTUAL LEGAL ASSISTANCE (R.36-38, SR.V).....	93
6.4 EXTRADITION OF CRIMINALS (R 37, 39 & SR V) .....	98
6.5 OTHER FORMS OF INTERNATIONAL COOPERATION (R 40 & SR V).....	100

<b>7. OTHER ISSUES .....</b>	<b>101</b>
7.1 RESOURCES AND STATISTICS .....	101
<b>TABLES .....</b>	<b>104</b>
<b>TABLE 1: RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS.....</b>	<b>104</b>
<b>TABLE 2: RECOMMENDED ACTION PLAN TO IMPROVE THE AML/CFT SYSTEM.....</b>	<b>110</b>

## **PREFACE - Information and Methodology used for the evaluation of The Kingdom of Morocco**

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Kingdom of Morocco was based on the 2003 Forty Recommendations and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task force (FATF) and was prepared using the AML/CFT Methodology 2004<sup>1</sup>. It was based on the laws, regulations and other materials supplied by Morocco and the information obtained by the evaluation team during its onsite visit to Morocco from 29 January to 09 February 2007, and subsequently. During the mission, the evaluation team met with officials and representatives of all relevant government agencies in Morocco and the private sector (Rabat and Casablanca). A list of the bodies met is set out in Annex 1 to the mutual evaluation report.
2. The evaluation was conducted by a team consisted of members of the MENAFATF Secretariat and MENAFATF experts in criminal law, law enforcement, as well as financial and banking issues. The team included: *Dr. Adel Al-Siwi*, Court Chairman (Egypt); *Mr. Abdulla Al-Alawi*, Representative of Law Enforcement Authorities (Oman); *Ms. Basma Hafez*, Ministry of Finance (Syria); *Mr. Adel Al Qulish*, MENAFATF Executive Secretary; and *Dr. Rana Matar*, Administrative Officer, MENAFATF Secretariat. The team of experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines, and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs). The capacity, implementation, and effectiveness of all these systems were examined.
3. This report provides a summary of the AML/CFT measures in place in Morocco as at the date of the onsite visit or immediately thereafter. It describes and analyzes those measures, sets out Morocco's level of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).
4. The assessment team extends its heartfelt gratitude to the Moroccan Authorities for their generous hospitality and their cooperation throughout the onsite visit of the evaluation team. In particular, the team would like to express thanks and appreciation to *Dr. Fathallah Oualalou*, Minister of Finance and Privatization in Morocco, and all those who gave the team the opportunity to fulfill its mission.

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<sup>1</sup> As amended in June 2006.

## EXECUTIVE SUMMARY

### **1. Background:**

1. The mutual evaluation report presents a summary of the Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) system in the Kingdom of Morocco (Morocco) at the time of the onsite visit (from January 29, till February 9, 2007) and immediately thereafter. The report includes a description and analysis of these systems and gives recommendations to support them and tackle the points of weaknesses. The report also includes the evaluation of the compliance of Morocco with the FATF AML/CFT recommendations, based on the 2004 AML/CFT methodology. (See the annexed table about the rating of compliance with FATF recommendations).

2. The anti-money laundering (AML) system in Morocco is still at its first stages, as the AML Law came into effect in May 2007. The new law is compatible, to some extent, with the international conventions with regard to the criminalization of the money laundering offense. However, it is noted that the Financial Information Processing Unit (the Moroccan FIU) provided for by the law has not been established yet. Moreover, the AML Law executive instruments and/or instructions have not been issued yet. No practical measures for the setting of regulatory frameworks have been undertaken in the AML field. The combating culture has also been absent in Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) as this concept is still recent and no direct expertise is present in this regard. However, only credit institutions have a type of culture of prudence, vigilance and caution to protect the banking system from any use of illicit purposes. As to the combating of terrorist financing (TF), Morocco has criminalized this conduct since 2003. However, the Moroccan definition of TF is narrow, since it does not criminalize the act of using funds by a terrorist organization or by a terrorist. At the law enforcement level, no investigations or pursuits of activities on the grounds that they are related to ML/TF have taken place. In addition, there are no legal or judicial precedents in relation to ML cases in Morocco prior to (or since) the issuance of the law. The assessment team has not been provided with any statistics with regard to TF cases.

3. In light of the aforementioned, and since this report addresses the actual situation of the AML/CFT system in the Kingdom of Morocco during the onsite visit and immediately thereafter, it is not possible to recognize the competence and efficiency of implementing the newly created system. This is due to the lack of the practical application of the law and lack of any cases of ML/TF suspicion reporting, prosecutions, or trials, which is reflected in this report upon addressing statistics.

### **2. Legal System and Relevant Institutional Measures:**

4. The definition of the ML crime is, to some extent, compatible with the Vienna and Palermo Conventions with regard to the material and mental elements. However, the criminalization forms are deficient since the transferring of properties and concealing their source or location are not criminalized. Moreover, the act of ML does not include the indirect proceeds of predicate crimes. Morocco follows the list system with regard to predicate crimes of ML. However, the law does not include all the categories of designated predicate offenses. Regarding ML ancillary offenses, the law meets the international requirements. As for sanctions, the Moroccan legislator has issued appropriate and deterrent sanctions, but the efficiency of the implementation of the said sanctions cannot be evaluated because of the recent issuance of the law.

5. Morocco criminalized TF on May 28, 2003. The TF definition however is narrow, since the criminalization is only confined to the use of funds to commit a terrorist act without any expansion to include the use of funds by a terrorist organization or by a terrorist. The TF crime

requires as a condition the presence of the knowledge and intention elements. However, punishing the perpetrator – the TF crime committer – is not conditioned on his/her knowledge of the terrorist act in specific. TF is criminalized whether the terrorist act takes place or not. Also, attempting a TF crime is criminalized, as well as offering assistance or counseling with regard to TF. The TF crime is considered a predicate crime of ML, and its perpetrators are punishable by appropriate and deterrent sanctions. In addition to the principal sanctions, confiscation can be imposed as an additional sanction.

6. The AML Law is explicit regarding the ordering of confiscation as a mandatory additional sanction. However, it gives the court the power to order full or partial confiscation of ML related properties and proceeds derived from them. As to TF, a convicted person's properties may be totally or partially confiscated. Optional confiscation is only confined to direct properties without including other properties derived from criminal proceeds. There are no statistics related to confiscation. With regard to freezing, the King's Prosecutor, the Public Prosecution representative, may order the temporary freezing of properties. The seizure of the properties of natural or legal persons who are suspects of being involved with persons, organizations or activities related to ML/TF crimes is also allowed even where the said acts are committed outside the kingdom. The measure of temporary seizure does not include all the properties subject to confiscation, in accordance with the mentioned definition in the methodology.

7. There are no special laws in Morocco concerning the implementation of Security Council Resolution 1267 (1999). However, there are some measures applied by the kingdom to implement this resolution. The application of the said measures requires a number of stages that are time consuming. The Public Prosecution opens an investigation and requests information from the banks with regard to the person whose personal details are mentioned in the Security Council resolution. The investigation judge issues an order to freeze his/her accounts. The concerned banks, and Bank Al-Maghrib if necessary, shall be notified of the said order. It is noteworthy that the AML law gives the FIU the right to receive and address the requests of property freezing "because of a terrorist crime, issued by qualified international authorities", and the right to seize properties. The banks should submit information with regard to financial operations or the movements of funds suspected of being related to TF to the judicial authorities. As to S/RES/1373 (2001) concerning the freezing of terrorist assets without delay, there is no standing regime to meet the obligations listed therein. Authorities have reported three cases related to freezing, in accordance with S/RES/1267. The Moroccan Criminal Procedure Code regulates the legal mechanism with regard to the measures of de-listing and unfreezing of funds or other assets of the persons or legal persons de-listed, persons proved to be not the ones specified in the resolution, and persons or legal persons unintentionally affected by the freezing mechanism.

8. At the practical level, there is no FIU, but the law provides for its establishment. The FIU will be responsible for receiving STRs related to ML/TF crimes. The institutions addressed by the provisions of this law are obliged to report when they suspect the occurrence of these crimes. The FIU will follow the model of administrative units, and will be responsible for specifying the data that should be included in STRs, the nature and amounts of the operations subject to reporting. The persons covered by the law should inform the FIU and the supervisory and monitoring authorities with all necessary documents and information to accomplish their tasks. The said persons may not object to the investigation and verification processes ordered by the FIU, and they should maintain the profession confidentiality. The level of independence that the FIU will enjoy cannot be confirmed before its establishing regulatory text is issued.

9. The law grants the King's Prosecutor at the first instance court in Rabat the powers of investigation and verification in the suspicious cases referred by the FIU. The Rabat courts are entrusted with follow-up, investigation and sentence issuance with regard to the acts that are ML crimes. The Rabat court of appeal is entrusted with follow-up, investigation and sentence issuance with regard to terrorist crimes. Therefore, the King's Prosecutor-General at the Rabat court of appeal shall be responsible for filing and conducting public lawsuits. The investigation judge

carries out the investigations, and is allowed in this regard to take some measures that aim to disclose the truth. The investigation judge and the King's Prosecutor-General are granted special powers in the event where the matter is related to a terrorism crime.

10. The system applied currently with regard to cash couriers does not oblige persons to disclose/declare under any condition. This system is concerned with regulating the Moroccan exchange market and is not aimed at AML/CFT purposes. There is no legal text with regard to non-disclosure/declaration punishment or punishment for false disclosures/declarations on currency or bearer negotiable instruments. Moreover, there is no mechanism in Morocco to inform the customs or other competent authorities in other countries with which unusual operations are taking place, including gold or precious stones or metals, or to verify the source, destination and purpose of these substances and take appropriate measures in this regard.

### **3. Preventative Measures – Financial Institutions (FIs)**

11. Persons required to comply with the AML law obligations cannot be identified clearly. As to ensuring the compliance of such persons, the law does not explicitly identify the supervisory authorities entrusted with this task. However, it can be implicitly understood that the FIU will be assuming this responsibility. Since the FIU has not been established yet, no instructions or guidelines have been issued regarding the preventative measures and procedures that should be taken by the persons covered by the law. The country should establish the said FIU to play its pivotal role in the AML/CTF system in Morocco.

12. At the practical level before the AML law came into force, Bank Al-Maghrib issued Circular No. 36/G/2003, which included instructions on the rules that should be observed by credit institutions, in accordance with their vigilance obligation, rather than in the context of AML obligations. The circular is not considered as one of the other enforceable means as defined in the methodology, as it does not include sanctions in the cases of violation. As to the rest of the FIs, no instructions related to AML/CTF existed, whether prior to the effective date of the AML Law or thereafter. The institutions and persons covered by the Moroccan law are in need for instructions that are comprehensive and activity-based for each category as per the duties imposed by the law.

13. FIs in Morocco are subject to the requirements of the AML Law, which does not include any reference to the implementation of reduced due diligence measures based on risk. However, (only) credit institutions, which are subject to the supervision of Bank Al-Maghrib, are required pursuant to Circular 36 to classify their customers according to risk levels, without assigning any consequent enhanced or reduced measures that might result from such classification. Nothing referred to the existence of special treatment for politicians in the AML Law or other laws available for the assessment team. Moroccan authorities are requested to pay greater attention to this sector in order to achieve more transparency and efficiency in the AML/CFT system. Moreover, the law does not stipulate requiring FIs to take any special measures to address ML threats resulting from the spread of modern technologies. Moroccan FIs should be encouraged to adopt developed measures and mechanisms that enable them to face this form of risk.

14. No article of the AML law or other laws requires in specific that FIs should pay special attention to business relationships and transactions with persons from or in countries that do not, or do not sufficiently, implement the FATF recommendations. Moreover, there are no measures which guarantee that FIs are informed about the concerns related to the weaknesses of the combating systems in other countries. This requires that Moroccan supervisory authorities to work closely with FIs and ensure that they are acquainted with geographic risks related to ML/TF.

15. FIs include, in addition to credit institutions, a number of offshore banks which operate in the offshore financial zone in Tangiers (6 banks at the time of the onsite visit). These banks represent a high level of risk since they are free to conduct any financial or banking operation on behalf of their non-resident customers. In this context, Moroccan authorities should regulate this

important sector in a manner that it can be supervised and controlled effectively and efficiently. In spite of the above, the Moroccan law includes sufficient obligations that enable the persons addressed by its requirements to identify their customers, whether natural or legal, through official identification documents. The Moroccan law also includes appropriate provisions related to record-keeping and updating by the persons required to comply with its obligations.

16. To the date of the onsite visit, the sector of money transfer companies and institutions was not active, as no companies operating in this field have been licensed or registered. Such companies practice their activity only in local currency and are subject to the foreign exchange law. In this regard, some foreign services are provided within local agreements with some credit institutions. It is noted that FIs carrying out transfer operations are obliged to obtain and keep information on the originator. However, this does not cover all the required information listed in the methodology (the name of the originator, his/her account number – or a unique identifier number – and address). It is also noted that there is no obligation to include the full originator information in the message or payment form accompanying the wire transfer. Morocco should regulate this sector in a more comprehensive manner and should activate accurate supervision for AML/CFT purposes.

17. With regard to reporting suspicions, the Moroccan law confines the predicate crimes definition to a number of crimes that do not cover all the categories of designated predicate offenses specified in the forty recommendations of FATF. Therefore, reporting suspicion with regard to ML/TF operations in accordance with this scope is not considered compliant with FATF recommendations. This is one of the biggest deficiencies of the combating system in Morocco, requiring reconsideration of the approach taken in specifying the scope of ML predicate crimes and the expansion thereof. It is worth mentioning that, at the practical level, no STRs have been submitted to the FIU stipulated by the law, since the FIU has not been established yet and due to the novelty of the law.

18. The feedback provided for by the law is not sufficient, as the law stipulates only that the FIU should acknowledge receipt of STRs in writing. Since the FIU has not been established and the suspicion reporting system is not put into effect yet, this form of feedback has not been submitted by the FIU. It might be necessary to stipulate the commitment of the FIU and other authorities to submitting a wide range of feedback to the reporting institutions.

19. It was noted that there were no appropriate arrangements to monitor compliance with the AML/CFT requirements in the FIs that have been visited. Moreover, there was no commitment to the minimum requirement in this regard, i.e. the appointment of a compliance officer at the management level. The assessment team also found that FIs were not required to establish an independent audit function to test the compliance with the internal controls, policies and measures in the field of AML/CTF. The said should be adopted in accordance with the relevant methodology criteria.

20. The assessment team has not been provided with any legal or regulatory texts related to Moroccan FIs entering or continuing correspondent banking relationships with shell banks, or verifying that FIs from other countries, which they have correspondent relationships with, do not allow the use of their accounts by shell banks. This should be addressed clearly through a text that obliges FIs to do so.

21. As to the applicable sanctions in the event of violation of any of the provisions of the law by the persons covered therein, the FIU shall refer the matter to the authority with the power to monitor and sanction such persons. The supervisor should impose sanctions, within a range of financial fines set in the AML law on the basis of the legislation applicable to the institutions. In the event where the person covered by the law is not under any supervision or oversight authority, the FIU shall impose the sanction. This mechanism, separating the AML/CFT supervisory authority and the sanctioning authority (the general supervisor), is not practical, as the general

supervisor is the authority with the natural right to impose the sanction, while the FIU is the competent authority to monitor the compliance of subject persons in the AML/CFT field. This may lead to a conflict of jurisdiction between the two. Moreover, it is noted that some of the legislations referred to do not give the supervisor open sanctioning powers, but rather specify a definite sanction for each violation.

22. The scope of sanctions that can be imposed by the supervisory authorities against the violating persons cannot be accurately identified, with the exception of the financial sanctions mentioned in the law. The Moroccan law should be more specific with regard to setting the sanctions to be imposed against the persons covered thereby in the event of violating any of its provisions.

#### **4. Preventative Measures – Designated Non-Financial Businesses and Professions (DNFBPs)**

23. With regard to DNFBPs, following the review of the entities covered by the law, it is noted that the categories of accountants, lawyers, notaries and casinos are the only categories subject to AML/CFT obligations. Thus, the categories of real estate agents and precious metals and stones dealers are not subject to the obligations stipulated in the law. Some of the DNFBPs addressed by the law (such as independent lawyers, notaries and casinos) are not subject to any specific supervisory authority. They are only required to obtain licenses to practice their activities. At the practical level, it was noticed that for some DNFBPs, the lack of awareness by these sectors and their supervisory authorities of the AML/CFT criteria and the measures that should be taken in this regard was noted. Moreover, there were no issued instructions or guidelines to inform this sector of the said requirements. In addition, there were no sufficient supervisory powers or authorities to protect this sector from ML/TF risks. Thus, Moroccan authorities are required to set a comprehensive system of supervision and oversight for the DNFBPs sector similar to the system imposed on the FIs sector after introducing some necessary amendments, considering the specific requirements related to the categories of this sector.

#### **5. Legal Persons, Legal Arrangements and Non-Profit Organizations**

24. The Commercial Code and the laws related to companies formation provide for transparency concerning beneficial ownership and control of legal persons. They provide for preventing the exploitation of this sector in ML/TF operations in general, however, allowing the trade in bearer shares without the presence of any special measures to regulate the process of trading can be used in ML. Transparency in Morocco is present through a central registration system in which the relevant details with regard to the beneficial owner are recorded, the notification of any change in such data is mandatory and making available of this information to every person is maintained. However, there is no text in the Moroccan laws that provides for the possibility of exchanging this information with other foreign authorities. Trust funds do not exist in Morocco neither in form nor in concept.

25. Non-profit organizations in Morocco take the form of associations and are subject to a declaration system. Their supervision is carried out by the local administrative authority. It turned up during the onsite visit that supervision exists for the public associations with regard to funds that are collected from abroad and the internal governmental funds only. Internal supervision is only exercised with associations of public benefit. No preventive measures exist to date to protect this sector from exploitation for TF. Thus, Moroccan authorities should take whatever necessary to prohibit the exploitation of this system and place an efficient internal and external supervision. The Public Prosecution is entrusted with conducting investigations to collect information on these organizations. There is no sign of any internal cooperation or coordination on information exchange among the competent authorities. In addition, there are no onsite visits or investigation of associations.

## **6. National and International Cooperation**

26. It is difficult to evaluate the level of cooperation at the national level in the field of AML/CFT as the FIU is not existent on the ground. The combating system is basically based on the principle of cooperation among various judicial authorities and law enforcement authorities on the one hand, and the FIU on the other, through all stages, whether related to reporting suspicion, investigation, prosecution, information keeping, or sanctions implementation on convicted person as per the law. It is notable though that there are some national cooperation channels, namely the counter-terrorism committee at the Ministry of Foreign Affairs as well as the continuous cooperation between the Ministry of Foreign Affairs and the General Prosecution Office on one hand and Bank Al-Maghrib on the other, to implement Security Council resolutions.

27. The Kingdom of Morocco has signed and ratified the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime.

28. The Kingdom of Morocco has a legal framework that allows to a great extent the cooperation in the field of judicial assistance, information exchange and extradition. The priority in cooperation is to the application of international agreements. In the absence of such agreements, the relevant general rules stipulated in the Criminal Procedure Code with regard to judicial relationships with foreign authorities are applied. The AML Law grants the FIU to be established the right to exchange financial information related to the ML crime with foreign authorities, within the framework of the international agreements joined by the Kingdom of Morocco, or in implementation of the principle of reciprocity. The authorization of the King's Prosecutor-General is a condition to the implementation inside Morocco of any judicial order of freezing, seizure or confiscation issued by a foreign judicial authority and for which requests are submitted by the said authority.

29. Moroccan laws and international, regional or bilateral agreements guarantee the exchange of mutual legal assistance with regard to conducting investigation, hearing testimonies and effecting rogatory letters. Foreign rogatory letters may be addressed through diplomatic channels – and in the event of urgency, addressing the competent magistrates directly can take place. The said assistance is not related to any unreasonable or inappropriate measures or conditions. The assessment team could not evaluate the efficiency of providing mutual legal assistance at the appropriate time and without any delay since no statistics have been provided to show the number of the required and implemented prosecutions or the time taken for the implementation of the said prosecutions. There is no text in the Moroccan law that provides for the refusal of mutual legal assistance requests.

30. The legal system in Morocco provides for objective conditions for extradition. The extradition procedure allows any foreign state to implement the extradition of any indicted or convicted non-Moroccan who is in Moroccan territory and subject to a follow-up by the requesting country or sentenced with a penalty issued by one of its ordinary courts. ML and TF crimes are recognized for requesting extradition or approving it. Morocco adopts measures that allow dealing with extradition requests, and procedures in general, without any delays.

# Mutual Evaluation Report

## 1. OVERVIEW

### 1.1 GENERAL INFORMATION ON MOROCCO

1. The Kingdom of Morocco is located in the North West of Africa. It borders the Mediterranean Sea to the north, Mauritania to the South, Algeria to the East and the Atlantic Ocean to the West. The Capital of Morocco is Rabat, and the city of Casablanca has the most population density. Its population reaches 29.891.708 according to the statistics of 2004. The GDP of Morocco reaches about USD 135.7 Billion (2005). The Moroccan currency is the Moroccan Dirham which is equivalent to about USD 0.12. The Kingdom of Morocco is divided into 16 regions, according to the administrative division of the kingdom which is based on the system of administrative decentralization.
2. Morocco gained its independence from France and Spain in March and April of 1956 respectively. The regime of ruling in Morocco is a democratic and social constitutional monarchy regime, (The first Chapter of the constitution of the Kingdom). The King appoints the Prime Minister and the rest of the government members at the proposal of the Prime Minister, and may relieve them from office (Chapter 24 of the constitution of the Kingdom). He has the authority to dissolve the two councils of Parliament, according to the conditions specified by the law (Chapter 71 and chapter 73 of the constitution of the Kingdom). The King shall chair the meetings of the Council of Ministers, and the Prime Minister shall chair the meetings of the Cabinet. The Prime Minister and Ministers shall be responsible before the King and Parliament (Chapter 60 of the constitution of the Kingdom).
3. The Moroccan Parliament consists of two councils; the Parliamentary Council (325 members) and the Advisory Council (270 members), the members derive their mandate from the nation (Chapter 36 of the Constitution of the Kingdom). The Parliamentary Council is elected by direct public voting (with the specification of 30 seats for women) while, the Advisory Council is elected by indirect voting.
4. The judicial regulation of the kingdom consists of a number of courts and the Supreme Council. The first instance courts are considered as the minimum degree of litigation. The Constitution of the Kingdom acknowledges, in Chapter 82, the principle of the independence of the judicial authority from the executive and legislative authorities. The courts are divided into municipal and district courts, first instance courts, in its capacity as the public courts of the state, courts of appeal, as well as, first instance and appeal administrative and commercial courts. The Supreme Council assumes supervision of court rulings through the supervision of the legitimacy of the decisions and orders issued by these courts and ensuring the consistency of judiciary practice.
5. The King chairs the Supreme Council of the Judiciary and is represented by the Minister of Justice. The Supreme Council of the Judiciary is consisted of, in addition to the Minister of Justice, the First President, the King's Prosecutor-General, President of the First Chamber of the Supreme Council, two representatives of the judges of appeal courts, elected by the judges from among themselves, and four representatives of first instance courts, elected by the judges from among themselves. The Supreme Council of the Judiciary ensures the implementation of the guarantees granted to judges in order to promote or discipline them.

6. The economy of Morocco, which is considered a free economy, is based on the sector of phosphate mines, the transactions of Moroccans who live abroad<sup>1</sup> and tourism. Casablanca is considered as the centre of trade and industry in Morocco, and it also includes the largest port. Morocco is considered the biggest African market in the fishing industry, and it is the biggest silver market in Africa. It ranks second internationally in exporting phosphate. Unemployment rate in Morocco, according to the statistics of 2004, is %12.1. Morocco has signed a partnership agreement with the European Union (that came into effect in March 2000) and a free trade agreement with the United States of America (that came into effect in January 2006)... Foreigners are allowed to invest in Morocco in all sectors, (Framework Law No. 18-95 as the charter of investments implemented by the Dahir No. 1-95-213, issued on November 8, 1995). The foreign investments direct quantity increased in Morocco in 2005 to USD 2.9 Billion in comparison with a total of USD 1.07 Billion in 2004.
7. Morocco is a member of a large number of significant international and regional organizations, such as the United Nations (1956), the League of Arab States (1958), the Group of 77 (1964)... Morocco is also a founding member of the Organization of the Islamic Conference (1969), the Arab Maghreb Union (1989), the World Trade Organization (1995), the Mediterranean Dialogue (1995), and MENAFATF (on November 30, 2004).
8. In the framework of anti-corruption and anti-bribery efforts, Morocco initiated a number of measures at the legislative and judicial levels to contain the problem. This initiative came by reformist workshops whose main purpose is the eradication of corruption through a strategy that mainly aims to punish bribers and not to hesitate in activating judicial follow-ups of the ones involved.
9. The Ministry of Justice has outlined a number of practical objectives which aim to update the legislative requirements, in particular, the criminal requirements concerning anti-bribery. Reviewing the Penal Code requirements has taken place under Law No. 03-79 concerning the change of Penal Code and canceling the Special Court of Justice. The determined punishment for bribery has been increased and an additional punishment has been added in the form of confiscating anything related to bribery whether in the form of money, movable values or proceeds of any type for the benefit of the state treasury under the responsibility of any person and whoever is the beneficiary.
10. In addition to these anti-bribery mechanisms, the legislator has found a legal mechanism that has a preventive aspect. The mechanism monitors the wealth of employees, government members, Parliamentary Council, Local Groups Councils and Occupational Chambers through Law No. 25-92<sup>2</sup> which obliges these employees to state their real estate properties and their movable values whether owned by them or by their underage children or spouses in order to prevent them from laundering the revenues of bribery in the framework of these properties. However, this law does not specify the punishments of the concerned persons in case they do not provide any statement, and does not specify whether these persons shall provide their statement at the end of their service or work period.
11. At the judicial level, the judicial system functions, based on the existing legislative grounds, to address bribery crimes. The record of the number of cases related to bribery before various ordinary courts has witnessed a significant progress between 2000 and 2005, as stated in the following table:

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<sup>1</sup> The number of Moroccans who live abroad is estimated as 2.6 million according to the statistics stated on the Ministry of Foreign Affairs and Cooperation website [www.maec.gov.ma](http://www.maec.gov.ma). The money transfer of Moroccans who live abroad reached in 2003, according to the statistics of the Moroccan Exchange Office website ([www.oc.gov.ma](http://www.oc.gov.ma)) around Moroccan Dirham 34.5 Billion.

<sup>2</sup>This Law has been issued in 1992.

Judicial Year	2002	2003	2004	2005	2006
Number of recorded bribery cases	2312	3435	4838	3948	5793

The same progress has been witnessed concerning the number of followed-ups before the courts regarding bribery crimes in the last three years, as illustrated in the following table:

Judicial Year	2003	2004	2005	2006
Number of followed-ups before courts	3537	5051	4166	5674

12. The Ministry of Justice is still operating in the framework of a comprehensive act program aiming at implementing the governmental plan to combat bribery through outlining great objectives that aim to put into effect the role of judiciary by promoting the role of Public Prosecution in implementing the aforementioned governmental plan, starting with appointing a judge for Public Prosecution who is entrusted with receiving complaints related to these crimes and collecting information and data in this regard. The said shall be followed by establishing a central cell to collect the issued orders regarding bribery cases, analyzing these orders, drawing the rules of the judicial effort, collecting information on bribery crimes in which a decision has been made, and evaluating the outcome of what the judicial system is offering in this field. Other objectives are the immunization of the justice sector through simplifying administrative procedures, ensuring transparency in the course of various sector facilities and preparing the human resources in a manner that guarantees the integrity of performance at work.

## 1.2 GENERAL SITUATION OF MONEY-LAUNDERING AND FINANCING OF TERRORISM

13. The extent and possible techniques of ML in Morocco cannot be identified. However, some criminal activities that may generate proceeds that could be laundered are existent. One of the crimes Morocco is suffering from is illicit drug trafficking. International trafficking of cannabis of Moroccan origin is estimated at USD 5.5 billion, according to the last report issued by UNODC on Morocco in this regard<sup>3</sup>. The Moroccan authorities estimate that internal money laundering risks are limited and it is believed that the biggest part of ML is taking place in the European Continent. Among other criminal activities that generate illicit funds with proceeds possible to launder are cash smuggling, manipulation of invoices, purchase of contraband goods, public funds embezzlement, and illegal immigration. Morocco is considered a transit country for illegal immigrants to Europe whether from Morocco or from other countries<sup>4</sup>. It is noteworthy that all the aforementioned crimes are ML predicate crimes that can generate enormous sums of money that can be laundered internally or externally. Morocco should pay special attention to the ML risks arising from those crimes.
14. In Morocco, there is an offshore financial zone in Tangiers where the goods produced in it and designated for export are granted customs exemptions. There are no reports on any ML operations on commercial operations or activities of TF in this zone in Tangiers or the offshore banks in it.

<sup>3</sup> Maroc: Enquête sur le cannabis 2005, Office de Nations Unies pour la lutte contre la drogue et le crime; p.23.

<sup>4</sup> UNODC Report, 'Trafficking in Persons: Global Patterns 2006'.

15. The indicators of ML methods in Morocco can not be identified as the AML Law was not in effect at the time of the onsite visit. Subsequently, practical cases or statistical studies that illustrate the general trends of these methods can not be found at the current time.
16. With regard to terrorist activities, Morocco was exposed to concurrent explosive operation by terrorists in May, 2003. During March and April, 2007, a number of explosive operations took place in Casablanca and left a number of victims. Other terrorist plans have been foiled as reported by the Moroccan authorities.
17. There are no confirmed reports on the channels of financing terrorism in Morocco. However, in accordance with the information obtained from the Moroccan authorities, it is believed that the funding resources are mostly from abroad through establishing commercial projects in Europe. Moroccan authorities state that there is a possibility that an internal funding is taking place through the money transfers of the members of terrorism cells that have been dismantled, thefts and some other ordinary crimes.
18. In addition to all of that, Morocco has exerted some efforts to combat corruption related to drugs in 2006. An investigation conducted by the Moroccan government in September of this year against a network of drug trafficking in the north of the country resulted in arresting a number of senior governmental, judicial and military officials and associates of implementing the law.

### **1.3 OVERVIEW OF THE FINANCIAL SECTOR AND DNFbps**

#### ***1.3.1 Moroccan financial sector***

19. The financial sector in Morocco is divided into a banking sector and a non-banking sector. The banking sector is based on credit institutions, which perform one or more of the operations related to receiving money from the public, implementing credit operations, providing all payment means at the disposal of customers or managing these means, in addition to institutions assimilated to credit institutions. Credit Institutions are classified as banks and financing companies. A bank is any institution granted the right to exercise all the mentioned activities in articles 1 and 7 of Law No. 34-03 concerning credit institutions and assimilated bodies, issued on 14 February 2006<sup>5</sup> (16 banks at the time of the onsite visit). Financing companies are the institutions that are only entitled to exercise the operations stated in the approval decisions (36 companies). The financing companies are distributed according to the operations authorized as the following: (19 companies) for consumption loans, (7 companies) for letting and rental loans (financial lease), (4 companies) for managing the payment methods, (2 companies) for debt collection and purchase, (2 companies) for mortgage loans and (2 companies) for sponsorship.
20. The activity of credit institutions in Morocco is regulated by the abovementioned Banking Law. Credit Institutions in the Kingdom are under the supervision of Bank Al-Maghrib, according to the Banking Law, in particular, article (53). Bank Al-Maghrib verifies, according to article (9) of Law No. 76-03 concerning Bank Al-Maghrib Statute implemented by the Dahir No. 1-05-38, issued in November of 2005, the proper functioning of the banking system and monitors the implementation of legislative and regulatory provisions concerning the supervision of credit institutions and assimilated bodies.
21. In addition to the above credit institutions, Law No. 58-90 concerning the offshore financial zones, issued on February 26, 1992, found the offshore banks in the free zone in Tangiers (6 banks at the time of the onsite visit). These banks are free to perform all financial or banking

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<sup>5</sup> Referred to as The Banking Law thereafter.

operations with foreign currencies that can be exchanged either to their own account or the account of non-resident persons or entities. Granting any credit from these banks to resident persons, or performing any other operation with them is terminated generally by a previous permission from the exchange office (article 14).

22. Offshore banks are licensed by the Ministry of Finance following the opinion of Bank Al-Maghrib (article 5 of Offshore financial zones law). Offshore banks are considered, according to article (13) of the Banking Law, one of the bodies assimilated to credit institutions. This article stipulates that offshore banks shall be subject to some of the provisions of the law, including article (53) which stipulates that credit institutions shall be subject to the supervision of Bank Al-Maghrib which enables the bank to conduct an onsite supervision.
23. It is worth mentioning that Bank Al-Maghrib (The Central Bank of Morocco) performs banking activities according to article (28) of its statute which stipulates that the bank can open and handle accounts on demand and any other saving accounts, accept transferred values, precious metals and cash as savings, let safe boxes, initiate all operations of drawing amounts, carry out all exchange operations whether by solutions or setting terms, conduct all banking operations with the permission of others and on his/her behalf as much as the coverage of the mentioned operations is offered or conducted for the benefit of the bank, and obtain loans, grant them, lend and borrow from foreign banks, or monetary and FIs and authorities whether foreign or international. These operations are performed within certain limits as the number of opened accounts of persons does not exceed 2000 accounts. Bank Al-Maghrib is not subject to the provisions of the Banking Law, according to article (16) of this law.
24. The activities of the Bank are subject to the supervision of the government deputy, with the exception of the operations related to the proper functioning of the course of the Monetary Policy. The provisions of the law on the statute of Bank Al-Maghrib, in particular, ensure the compliance of the bank with the legislative provisions. The accounts of the Bank are subject to annual auditing by the account auditor who submits reports to the bank council and the government deputy.
25. The bodies assimilated to credit institutions include, according to articles (13), (14) and (15) of the Banking Law; (1) Financial services of Morocco Post, (2) Management and Deposit Fund, (3) Central Guarantee Fund, (4) Micro-credit associations, (5) The abovementioned Offshore Banks, (6) Financial Companies and (7) Money Transfer Companies.
26. The financial services of Morocco Post consist of the national saving fund service, current account and mail cheques service, and postal orders service (governmental institution). Moroccan Post is a public institution which is self-dependent and financially independent under the sponsorship of the state. The institution has been established in 1998 as of the effective date of Law No. 96-24. The Banking Law subjects the financial services of Moroccan Post to some of its requirements. In this context and in implementation of the requirements of article (13) of the Banking Law, a resolution was issued by the Minister of Finance and Privatization, Resolution No. 07-28 on 5 January, 2007 concerning the conditions of applying some of the Banking Law requirements on the financial services of Moroccan Post. The most important requirements of this resolution are the following:
  - Obliging Morocco Post to provide an internal control system for its financial services a manner that goes in line with its activities to specify all the risks it may face, measure and control them.
  - Informing the public with the conditions applied on behalf of the financial services of Moroccan Post on all its operations, in particular, concerning interest rate, commission and the values dates' system.

- Getting Bank Al-Maghrib acquainted with all necessary documents and data to ensure the proper course of functioning of the common interests.
  - Obliging Morocco Post to conduct an agreement, upon opening any account on demand, account for a term, or account for bonds, on behalf of The National saving Fund service, or current accounts and mail cheques service, a copy of which shall be given to the customer specifying the conditions concerning operating and closing an account.
27. The Management and Deposit Fund: (a governmental institution that does not need a license). The Management and Deposit Fund was established by Dahir No. 74-59-1 issued on 10 February, 1959, as a public institution that enjoys a civil status and is financially independent. The Management and Deposit Fund is entrusted with, according to the manners illustrated in the aforementioned Dahir, with the following: (1) Managing monetary matters and maintaining the current values of the funds properties, or the properties of organizations bound with it, or organizations willing to subscribe to it, (2) Receiving administrative and judicial keepings as well as guarantees, (3) Managing the funds or personal interests entrusted with. With regard to the supervision of the institution, Chapters 3 and 4 of the aforementioned Dahir stipulate that a guarding committee shall be formed, assigned in the name of the state to supervise the fund operations. This committee receives a regular statement on the status of the fund and gets acquainted with its activity. The committee appoints one of its members to verify the cash money at the fund or the financial bonds portfolio at least once a month.
28. Chapter 6 of the same Dahir stipulates that a general secretary, appointed by a decree, shall deal with the handling of funds and values, initiate or ensure the drawing of incomes and pay expenditures. He shall be entrusted with maintaining and protecting the money and values at his disposal in any form. In addition, the Management and Deposit Fund has been subject to some of the Banking Law requirements, according to article (13), concerning the following provisions:
- The provisions of article (40) concerning informing Bank Al-Maghrib with all the necessary documents and information to ensure the proper course of functioning of common interests, in particular, focusing on risks, performance obstacles and outstanding debts which need to be settled.
  - The provisions of Section Three concerning accounting and preventative rules. In this context, the Management and Deposit Fund has adopted the accounting plan of credit institutions since 2000.
  - The provisions of Section 4 concerning the supervision of credit institutions.
  - The provisions of Section 7 concerning the criminal and disciplinary sanctions.
29. It is worth mentioning that the Minister of Finance and Privatization issued Resolution No. 29-07, on 5 January, 2007, concerning the conditions related to implementing the provisions of the abovementioned article (13). It stipulates the establishment of the appropriateness and risk distribution factors that shall be respected on a personal and firm basis, provision of an internal monitoring system of this institution that goes in line with its activities and the mandatory appointment of two account auditors following the approval of Bank Al-Maghrib. With regard to the level of the institution activity, it should be noted that the accounting status of the institution at the end of 2006 showed that the level of total assets reached Dirham 54.7 Billion, and that the portfolio of investments and contributions reached Dirham 12.2 Billion, which is equivalent to %22.3 of total assets. The level of deposits at the institution reached Dirham 42.3 Billion, which is equivalent to %77.4 of total liabilities.

30. The Central Guarantee Fund: (A governmental institution that does not need a license). A public institution that was established by the Dahir issued on 4 July 1949<sup>6</sup>. The institution enjoys an entity status and is self-dependent. It is under the recommendation of the Ministry of Finance and Privatization which ensures the institution respect of the requirements of Law No. 95-47, dated August 7, 1996, concerning the re-regulation of this fund<sup>7</sup>. This institution forms a special mechanism of the state in the field of contributing to facilitate the financing of investment projects that aim to achieve the economic and social development of the state. The Central Guarantee Fund carries out the following functions:

- Guaranteeing that the loans obtained inside or from outside the kingdom by public and private establishments and authorities to finance operations contributing to the social and economic development of the state, are paid.
- Granting the required guarantees by the Moroccan establishments that submit offers related to work deals, supplies or services abroad that are approved for implementation.
- Managing guarantee funds and any other similar operation. The management of the aforementioned funds and operations is carried out in the framework of agreements signed between the state or other authorities and the Central Guarantee Fund.

31. With the issuance of the Banking Law, the Central Guarantee Fund has become subject to some of its provisions, according to the specified conditions in Resolution No. 30-07 by the Minister of Finance and Privatization, issued on January 5, 2007. The requirements of this resolution are interested, in particular, in the following:

- Carrying out accounting according to the applied requirements on credit institutions.
- Following some preventative rules.
- Providing an internal control system that goes in line with its activities to specify the risks faced measure and monitor them.
- Appointing an accounting auditor following the approval of Bank Al-Maghrib.

It is worth mentioning that Bank Al-Maghrib is entrusted with, on the basis of the Banking Law requirements, supervising this institution with regard to respecting the requirements of the above-mentioned law and its implementing regulations.

32. The activity of micro-credits is subject to the requirements of Law. No. 18-97 related to micro-credits. This law stipulates in article (14) the establishment of a committee to follow-up the activities of micro-credit institutions and this committee shall be consisted of representatives of the administration. The committee is entrusted with monitoring the institutions compliance with the provisions of the law and its implementing regulations and is presided by the Minister of Finance. It is noted that it is not clear (in the law) which entity the aforementioned committee follow, although the Moroccan authorities state that it is under the Ministry of Finance. Currently, there are 12 micro-credit institutions, licensed by the Minister of Finance. In this context, it is worth mentioning that micro-credit institutions are subject to the requirements related to supervising credit institutions (mentioned in Section Four of the Banking Law) by Bank Al-Maghrib which has the right (according to article 56) to inform the aforementioned follow-up committee in article (14) with the outcomes of supervision. The Resolution of the Minister of Finance and Privatization No. 31-07, issued on January 5, 2007 compels the micro-credit institutions to get Bank Al-Maghrib acquainted with all necessary documents and information to carry out their entrusted functions, according to the abovementioned Banking Law. The aforementioned resolution also stipulates that micro-credit institutions shall appoint an accounting auditor following the approval of Bank Al-Maghrib.

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<sup>6</sup> This Dahir has not been provided to the evaluation team.

<sup>7</sup> This law has not been provided to the evaluation team.

The auditor, in particular, is entrusted with monitoring the accounting and verifying the accuracy of the information offered to the public and their matching with the accounts.

33. Financial Companies: Companies that mainly carry out in Morocco the activity of owning and managing financial contributions and monitoring, directly or through companies of the same purpose, a number of institutions which carry out operations of financial nature, including one credit institution at least. Financial companies are subject to the supervision of Bank Al-Maghrib. The publication of the Governor of Bank Al-Maghrib No. 2006/ G /30, issued on December 5, 2006, ratified by The Minister of Finance and Privatization No. 214-07, on January 30, 2007, specifies the conditions of implementing the Banking Law requirements on these companies. The most important requirements can be summarized in the following:

- Submitting the synthetic lists to Bank Al-Maghrib to enable the bank to carry out its role in supervising and controlling.
- The necessity of publishing the synthetic lists of financial companies.
- The consideration by finance companies of at least %8 of their own funds on the one hand, and the number of risks faced, on the other hand.

34. Money Transfer Companies: These companies are subject, according to the statements of the Moroccan Authorities, to all the procedures of the exchange office, in its capacity as responsible for supervising the operations carried out in foreign currencies<sup>8</sup>. The establishments, which habitually carry out intermediary operations concerning money transfer and related to receiving or sending money by all means inside or outside Morocco, shall be licensed in advance, prior to carrying out their activity, according to the requirements of articles (15) and (27) of the Banking Law. However, in reality, this sector has been considered inactive up till the time of the onsite visit as no licensing or registering of any of the companies operating in this field has taken place. These companies carry out their activity only by the local currency, and are subject to the Exchange Law. They also offer within local agreement with credit institutions the service of Western Union. A law shall be issued soon to regulate this sector, according to the statements of some of the officials. The companies that carry out money transfer activities are subject to the provisions of Section Three, Section Four and Section Seven of the abovementioned Law, with taking into consideration the conditions stipulated for this purpose in the resolutions issued by the Minister of Finance and Privatization (article 15).

35. With regard to the conditions of practicing money transfer activities, a circular<sup>9</sup> by Bank Al-Maghrib specifies these conditions as the following, according to the statements of the Moroccan Authorities:

- Transferring money may only be carried out for natural persons, while transferring money for legal persons remains exceptional.
- The necessity of conducting an agreement concerning opening an account between these companies and a bank of their choice to guarantee following-up the operations carried out by these companies.

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<sup>8</sup> The Moroccan Authorities consider that Money Transfer Companies are regulated by the following laws and resolutions: Dahir September 10, 1939 which prohibits or regulates the export of capital, exchange operations and transactions in gold **at wartime** – Dahir January 22, 1958, No. 1-58-021 – Chapter 1 – The Exchange Office is entrusted with granting the licences stipulated in Dahir September 10, 1939, and Law No. 19-06, issued on April 30, 2007 relating to the statistical statements (Chapter 1 and chapter 3). The said can not be deemed appropriate or sufficient because Dahir 1939 is exclusive to regulating some of the operations in the event of war. These laws and legal tools have not been provided to the assessment team to ensure their relevance.

<sup>9</sup> This circular has not been specified or provided to the evaluation team.

- The licensed money transfer companies may delegate other persons to carry out these activities, provided that these tasks are taking place under the responsibility of these companies.
  - The companies which signs contracts with international companies shall state the agreements conducted with the competent companies.
  - The foreign companies dealing with Moroccan companies shall be subject to a supervisory authority similar to the authority enjoyed by Bank Al-Maghrib with regard to these companies.
36. The non-banking financial sector includes insurance and reinsurance contracting and the institutions that practice their activity in the securities market.
37. Insurance and reinsurance contracting: These insurances are subject to the requirements of Law No. 99-17 concerning the insurance code issued on October 3, 2002 and its implementing regulations (decrees and resolutions). The measures related to approve the insurance and reinsurance contracting are stipulated, in particular, by the Minister of Finance and Privatization Resolution No. 05-1548, dated October 10, 2005 concerning insurance and reinsurance contracting. The insurance sector is subject to the supervision and control of the Directorate of Insurance and Social Security under the Ministry of Finance and Privatization.
38. The stock market and companies are subject to the supervision and regulation of the 'Securities Council' which is considered an independent public institution. This sector is under Law No. 1-93-211 issued in September 21, 1993 on the securities, Law No. 1-93-212 and some circulars issued by the abovementioned council. The activity of stock companies is mostly interested in carrying out the securities transactions. They may also contribute to other activities, in particular, the investment of bonds issued by legal persons that invite people to subscribe to their shares or bonds and manage the securities portfolio. All stock companies are obliged to obtain an approving license in advance prior to the commencement of practicing their activities. This license is granted by the Minister of Finance following the consultation of the opinion of the Securities Council. The stock companies, which are 14 currently, contributed efficiently to activate the stock market which is supervised by the Securities Company in Casablanca, according to the provisions of the aforementioned Law No. 1-93-212.
39. The entities entrusted with the collective investment in securities: These are the joint investment funds and variable capital investment firms. The number of these entities reached 185 at the end of 2005. The net of their assets reached Dirham 86 Billion. These bodies are governed by the requirements of Dahir-Law No. 1-93-213, dated September 21, 1993. The securities are specified by all the items referred to in article (2) of Dahir-Law No. 1-93-211, issued on September 21, 1993 concerning the securities stock exchange, such as: (1) shares, bonds or other rights that allow or may allow the direct or indirect participation in the capital and voting rights that are subject to transfer through an account or by being traded, (2) Debt instruments which represent a right in a public debt of the properties of the legal person and are subject to transfer through an account or by being traded, except for the securities and fund permits. In addition, bonds that are treated as securities, according to article (1) of Law No. 96-35<sup>10</sup> concerning Central Depository<sup>11</sup> are also added.

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<sup>10</sup> (1) Marketable debt instruments, stipulated in Law No. 94-35, issued on January 26, 1995, (2) Any right related to the abovementioned securities within Law No. 1-93-211 whether it was marketable or may become marketable, (3) The shares owned by joint investment funds stipulated in Law No. 1-93-213 related to the entities entrusted with the collective investment in securities. (4) Movable shares of collective investment funds for securitisation under Law No. 98-10 concerning securitisation of outstanding debts, (5) Shares owned by the speculative funds investment authorities under the legislation related to the funds investment authorities (6) Marketable debt instruments stipulated in Law No. 94-35 issued on January 26, 1995, (7) Any right related to the abovementioned securities within Law No. 1-93-211 whether it is marketable, or may become marketable, (8) The shares owned by the joint investment funds stipulated in Law No. 1-93-213 related to the authorities entrusted with the collective investment in securities, (9) The movable shares

40. The collective investment entities are approved by ‘The Securities Council’ (which is established according to Dahir-Law No. 1-93-213 as a supervisory authority of legal persons that invite people to subscribe to their shares or bonds) after ensuring that they provide financial, technical and human abilities that enable them to carry out their activity in the light of safe and transparent conditions.

### **1.3.2. The DNFBP Sector**

41. Most of the Designated Non-Financial Businesses and Professions (DNFBPs) are found in Morocco (Casinos, real estate brokers, precious metals dealers, precious stones dealers, lawyers, notaries, other independent legal professions and accountants). After reviewing the persons covered by the law, it is illustrated that the categories of accountants, lawyers, notaries and casinos are alone subject to the requirements in the law. Thus, the categories of real estate brokers, precious metals dealers and precious stones dealers, in particular, are not subject to the requirements stipulated by the law. It was not clarified whether there is a category of ‘company service providers’ which is found as an independent entity or institution in Morocco.
42. The evaluation team found that accountants in Morocco are divided into three types: Certified Public Accountants who have the exclusive right to endorse the company’s accountings and ensure the accuracy of the accountings (320 experts and 60 companies. They are under the Certified Public Accountants Association), chartered accountants who are specialized in dealing with accounts (280 accountants and are under the Chartered Accountants Association) and independent accountants (5000 offices and they are under no supervisory authority).
43. With regard to lawyers and other legal professions, there are almost ten thousand lawyers in Morocco who practice the profession formally, and one thousand trainees. Lawyers are under 17 different associations according to their specialization and their geographic region is responsible for disciplinary sanctions against them. Each association is independent with regard to registration and disciplinary procedures. The association also resorts to court in the event of any legal disputes. In addition, 650 notaries work in Morocco, and the Directorate of Civil Affairs at the Ministry of Justice assumes the function of granting them licenses to practice the profession on the basis of a contest for persons who obtained a certificate in Law, Shari’a (Religious Legislation), or any equivalent. The notaries are subject to two types of supervising, professional supervising practiced by the abovementioned directorate and a disciplinary one practiced by the Public Prosecution in the judicial department at which they perform their duties<sup>12</sup>.
44. With regard to exploiting casinos, the procedure related to granting a license of exploitation is specified under the guideline letter of the Prime Minister, issued on July 29, 2002<sup>13</sup>. According to this letter, an initial license is granted by the Prime Minister to the reviver of tourism who is willing to establish a tourism unit that includes a casino. In this context, the Prime Minister issues a decree in which he endorses the agreement that specifies the obligations of the concerned investor (Burdens Ledger). This decree shall also be signed by the Minister of Interior and the Minister of Finance. The Minister of Interior and the Minister of Finance issue

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of collective investment funds for securitisation under Law No. 98-10 concerning the securitisation of outstanding debts, (10) The shares owned by the speculative funds investment authorities under the legislation related to the speculative funds investment authorities.

<sup>11</sup> The Central Depository (according to article 2 of the aforementioned law) is a shareholding company which is the only body granted the power of maintaining securities accepted in its operations, facilitating their transfer and simplifying their management for the interest of its subscribers.

<sup>12</sup> According to the statements of the Moroccan Authorities. The legal provisions related thereto have not been provided.

<sup>13</sup> This guideline letter has not been provided to the assessment team.

a joint resolution that specifies the date of opening the casino to the public, the applied regulatory provisions and the licensed games.

45. Concerning the precious metals trade, it is worth mentioning that the import and export operations of gold are subject to a license granted in advance by the Administration of customs and indirect taxes as stipulated by the requirements of Dahir September 10, 1939. This Dahir has also been amended and completed under Dahir May 18, 1949. The processes of engraving the imprint are carried out at the custom offices, according to the carat arranged by the jeweler, as per the legal requirements stipulated in Chapter 44 up to Chapter 53 of Dahir-Law No. 340-77-1, dated October 09, 1977 (at the custom code). It is illustrated that gold, precious metals and precious stone dealers are not subject, as professions, to a special law or to any control by any supervisory authority. No statistics of the number of shops working in this field have been provided.
46. No sufficient information on real estate agents, their number, or the manner of obtaining licenses, registration and their supervisory authorities has been provided.

#### **1.4 OVERVIEW OF COMMERCIAL LAWS AND MECHANISMS GOVERNING LEGAL PERSONS AND ARRANGEMENTS**

47. The types of legal persons that can be established in Morocco are as follows: legal persons subject to the public law and legal persons subject to the private law.
48. *Legal persons subject to the public law*, established under a law according to Chapter 46 of the Constitution of the Moroccan Kingdom, are, in particular: Public institutions operated by an administrative council presided by the Prime Minister or one of the Ministers entrusted with the activity of the institution. They shall be administrated by a General Manager appointed by His Majesty the King, on the basis of a proposal by the competent minister. These institutions are generally subject to the rules of public accounting, the financial monitoring of the state, the monitoring of the government delegates and the Supreme Council which is a judicial body.
49. *Legal persons subject to the private law*, established under a contract according to the laws in effect, are shareholding companies, other companies, associations, trade unions and cooperatives.
50. The shareholding company (regulated by Law No. 95-17 implemented by Dahir No. 124-96-1 on August 30, 1996), enjoys an entity status commencing on the date of its registration in the trade register (article 7 of the abovementioned law). Others may get acquainted with the trade register and all the information related to the shareholding company; its name, social headquarters, objective, capital and the deposited documents (article 2) under the control of the commercial court (article 12), such as the statute of the company which includes in addition to the aforementioned data the following information: (1) The number of the issued shares and their nominal value, (2) Shares type, (3) Special conditions on new shareholders, (4) The identity of the owners of corporeal shares, the evaluation of each share offered by each of them and the number of stocks received for each share, (5) The identity of any person who benefits from special privileges and the nature of these privileges, (6) The requirements related to the composing elements of the company equipment, operating this equipment and its power, (7) The requirements related to distributing profit, forming reserve and distributing the bonuses of settlement.
51. Founders, and primary members of administration, collective administration and control parties shall, under the penalty of refusing the request for registering the company in the trade register, record the following at the court register, article (31): (1) A statement in which they present all the operations carried out for the legal establishment of the company. They witness

- in this statement that the establishment of the company has been carried out according to the legal and regulatory provisions, (2) The original copy of the statute or a copy of it, (3) a copy of the subscription and payment certificate that shows the subscription to the capital and the share of stocks by every shareholder, (4) An endorsed list of subscribers including the first and family name of subscribers, their addresses, nationalities, status, professions, the number of shares they are subscribed to and the amount of payments settled by each of them, (5) The report of the shares auditor in the event of litigation, (6) A copy of the appointment documentation of the members of administration, management, operation, or initial accounting auditors, in the event where this appointment takes place by a separate contract.
52. The provisions of articles (2), (3), (5), (8), (11), (12), (27), (31), (32), (136) up to (138), (222) up to (229), (337) up to (348) and (361) up to (372) of Law No. 95-17 concerning shareholding companies and other companies regarding whether they are compatible and the provisions related thereto. The following companies (The Joint venture, Limited Partnership, Private Company Limited by Shares, and the Company with Limited Liability) acquire the entity status commencing on the date of registration in the commercial register. Others may be allowed to get acquainted with all the registered information in the commercial register related to the term of these companies, names, social headquarters, objective and capital (article 2 of Law No. 96-5 implemented by Dahir No. 49-97-1, dated February 13, 1997).
  53. The Joint venture, under the penalty of nullifying the company, shall have its articles of association dated and the articles of association shall include the following data (article 5): (1) The first and family names and the domicile of each partner, (2) Establishing the company in the form of partnership, (3) The objective of the company, (4) Naming the company, (5) Headquarters of the company, (6) Capital amount, (7) The share of each partner and its value in the event of a corporeal share, (8) The number and value of shares of each partner, (9) The company term, (10) The first and family names and countries of partners or others that have the right to compel the company, if necessary, (11) Recording the articles of association at the court register, (12) Signatures of all partners.
  54. The limited partnership: The articles of association of the company shall include, in addition to the aforementioned data, the following (article 23): (1) The amount or value of the share of each solidarity or recommended partner in the company capital, (2) The total share of solidarity partners and the share of each recommended partner of the distribution of profit and the revenue of settlement.
  55. The rules related to limited partnership and the provisions of Law No. 95-17 related to shareholding companies shall be applied to the company limited by shares, with the exception of the provisions related to operating and managing these companies within the limits of compatibility with the provisions stipulated in the law (article 31).
  56. The company with limited liability: Under the penalty of nullifying the company, the articles of association of the company shall be dated and shall include the following data (article 50): (1) The first and family names and the country of each partner, or where applicable, the name, form and headquarters of the entity (2) Establishing the company in the form of the company of limited responsibility, (3) The objective of the company, (4) Naming the company, (5) Headquarters of the company, (6) Capital amount, (7) The share of each partner and its value in the event of a corporeal share, (8) The distribution of shares among partners and the payment of all their amounts, (9) The company period, (10) The first and family names and countries of partners or others that have the right to compel the company, if necessary, (11) Recording the statute at the court register, (12) Signatures of all partners.
  57. Another type of company exists only in the relations of partners, and doesn't aim to inform others of its existence. It does not enjoy an entity status and does not be subject to any registration in the trade register or to any publicity measures; however, it may be proven by

any method. Publicity takes place through recording contracts or documents at the register of the social headquarters court, and by publishing notices or advertisements in a newspaper authorized to publish legal advertisements and in the Official Gazette (article 96).

58. The societies regulated by Dahir No. 376-58-1, on November 27, 1958 which regulates the right of establishing societies shall submit a statement to the headquarters of the local administration authority in the region of its location, directly or by means of a judicial assistant who enables these societies to receive an immediate temporary sealed and dated receipt. The abovementioned local authority sends the Public Prosecution at the competent First Instance Court a copy of the aforementioned statement and copies of the documents mentioned below to enable the Public Prosecution to show its opinion in the request upon litigation. In the event where the statement meets the procedures stipulated below, the final receipt<sup>14</sup> is delivered.
59. In addition to the statement, the statutes of the society shall also be submitted to headquarters of the local administration authority. Any change of operation or management, any amendment of the articles of association, or establishing any subsidiary or separate institutions shall be stated during the following month and within the same conditions. It may not be allowed to object to these changes or amendments until the commencement of their statement date. The societies that receive foreign aid shall state the said aid to the General Secretariat of the state with specifying the amounts obtained and their sources within thirty full days from the date of reaching of aids (article 32, bis).
60. Union Trades (regulated by Law No. 99-65 related to the Labor Law implemented by Dahir No. 194-03-1, dated September 11, 2003, shall obtain the legal person following the recording of the documents related to their establishment at the competent authorities according to the provisions of the Labor Law. Thus, the unions representatives or the person entrusted with their establishment shall the following at the local administration authority offices (Article 414): (1) The statute of the union planned for establishment. The statute shall be identical with the objective of the union and shall specify, in particular, its internal regulation, the conditions of appointing members entrusted with its management and operation, and the conditions of subscribing to it or unsubscribing, (2) The complete list of the persons entrusted with managing its issues or administrating the union.
61. Cooperatives (regulated under Law No. 83-24 implemented by Dahir No. 226-83-1, dated October 5, 1984) obtain their entity status after obtaining the licensing resolution by the Cooperative Development Office and being published in the Official Gazette. Approving the standard statutes of cooperatives shall be carried out as per regulatory provisions. On the other hand, the intention of establishing the cooperative shall be stated by a customary contract, signed by at least seven people who enjoy their civil rights. This statement shall be directed at the administration and the Cooperative Development Office, according to the specified conditions, as per regulatory provisions (article 7). The cooperative (article 10) shall prior, to the commencement of any function, within thirty days following the publication of the licensing resolution (article 9) in the Official Gazette, register two copies of the required documents<sup>15</sup> with the competent first instant court registry, specialized in the cooperative headquarters.

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<sup>14</sup> The statement includes the following: (1) The name and objective of the society, (2) A list of the first and last names, nationality, age, date and place of birth, profession and residence of the members of the operating office, (3) The capacity of representing the society under any name, (4) Copies of their national cards, residence cards or passports for foreigners and copies of the notaries cards, (5) The society headquarters, (6) The number and headquarters of any established subsidiaries, or separate institutions that function under the society administration or is related to it by constant relations and aim to carry out a joint function.

<sup>15</sup> (1) Its statute, (2) The record of the general founding society, (3) A list that includes the members of the administration board, the manager and the accounting auditors who are all capable of taking responsibility of their duties

## 1.5 OVERVIEW OF STRATEGY TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING

### *a. AML/CFT strategies and priorities*

62. In the framework of contributing to the exerted efforts by the international society to AML/CFT, Morocco adopted a number of arrangements and procedures mainly related with the endorsement of all international agreements related to AML/CFT and the judicial and security cooperation at the international level.
63. In the field of CFT, and considering the seriousness of these scourges in relation to the international society, Morocco has worked on issuing a special law concerning this crime. The law was endorsed on May 28, 2003. The law stipulates that terrorism and its financing shall be criminalized, and it also gives the judicial authorities broad powers in the field of follow-up and collecting information of FIs and confiscating the funds, values and properties of those accused of financing terrorism and international cooperation. This law also acknowledges the procedure of freezing properties in the Moroccan legislation.
64. With regard to AML, the Moroccan authorities have been working on issuing Law No. 43-05 concerning AML. The law was issued on April 17, 2007. The aforementioned law stipulates in its items some basic foundations concerning AML. The law criminalizes ML, lists its main crimes, including trafficking in drug and psychotropic substances and their effects, identifies the persons under its requirements, and specifies their vigilance and suspicion reporting obligations, as well as, establishing a unit to process financial information as an institutional framework, disclosing the professional secret and acknowledging the international cooperation in this field.
65. At the practical level, the banking sector has been activated since 2004, the date on which the circular 36 of the Central Bank comes into effect (which is basically related to the obligation of vigilance without any certain connection with the requirements of AML/CFT<sup>16</sup>). This circular also stipulates the keeping of the documents related to agents and the operations carried out within a period of not less than 10 years.

### *b. Institutional Framework of AML/CFT*

66. According to the Law of AML, a FIU is being established and is specialized with receiving the reports of suspicious transactions related to AML/CFT. This unit shall be the central competent authority in this regard. The law grants the unit a number of powers, including the identification of the data that shall be included in the suspicion, the declaration, the nature of the operations subject to the declaration, their minimum amounts, the specifications of the operations' amounts and their conditions which require the implementation of the law provisions. The law also grants the unit the power to be acquainted with all the search and investigations conducted by the search and investigation bodies (administrations, public institutions and other entities under the public law, which upon monitoring the persons covered by the law, can disclose the law violations) which contribute to the performance of the unit assigned duty and the coordination among the work of these bodies. A detailed description will be given later as the law grants the unit (implicitly not explicitly) the authority of controlling and supervising the persons under its power in order to ensure their compliance with the required obligations in accordance with the law. At the practical level, the establishment of the stipulated FIU, up to the date of writing the report, has not taken place, the fact that means that its role as the central authority in the institutional framework in Morocco in the AML/CFT has not been activated.

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– and a list including the members' first and family names, professions, countries and the region in which they practise their activity, (4) A copy of the licensing resolution.

<sup>16</sup> As it was issued in December, 2003 and came into effect at the beginning of January, 2004.

67. Regarding the supervisory authorities, the law allows the FIU to seek their assistance, as mentioned, in performing its duties. The law obliges these authorities, in the event where they disclose any violation of the provisions of the law, to inform the FIU. The AML law also grants the power of punishing the persons under it to the supervisory authorities in the event where the unit refers them when they violate their obligations set by the law. The said shall take place according to the legislation they fall under. The supervisory authorities of the persons covered by the law are divided according to the various sectors in Morocco as follows:
68. Credit Institutions in the kingdom are under the supervision of Bank Al-Maghrib, according to Law No. 76-03 concerning Bank Al-Maghrib Statute, issued in November 23, 2005. The assimilated bodies to credit institutions are also under the supervision of Bank Al-Maghrib according to the provisions of the Banking Law.
69. Offshore banks are licensed by the Ministry of Finance following the opinion of Bank Al-Maghrib (According to the Offshore financial zones law). The Minister of Finance presides a committee to follow-up the functions of the offshore banks, nevertheless, offshore banks are considered, according to article (13) of the Banking Law, one of the bodies assimilated to credit institutions. This article stipulates that offshore banks shall be subject to some of the provisions of the law, including article (53) which stipulates that credit institutions shall be subject to the supervision of Bank Al-Maghrib which enables the bank to conduct an onsite supervision.
70. The offshore financial zones law is not clear regarding the supervisory role of the Ministry of Finance over offshore banks according to the text of article (23) concerning the establishment of the above-mentioned follow-up committee, which has representations from the Ministry of Finance, Bank Al-Maghrib and the exchange office. The committee is entrusted with following up the functions of these banks and ensuring their compliance with the law provisions, including the license provisions, the scope of their work and ordering sanctions against them by the Minister of Finance according to article (24), even though article (4) of the law stipulates that contributors in the offshore banks choose the legislation that is applied to the rules of establishing, operating and dissolving the said committee.
71. The sector of insurance is under the control and supervision of the Directorate of Insurance and Social Security which fall under the Ministry of Finance and Privatization.
72. The collective investment entities are under the Securities Council (established by Dahir-Law No. 213-93-1, as a supervisory authority on the entities which invite the subscription to its shares and bonds) after ensuring that they provide financial, monetary and human resources that enable them to perform their activity in the light of the conditions that provide safety and transparency. The stock market and companies are also under the supervision and regulation of the movable values council.
73. The supervisory authorities of the DNFBPs under the provisions of AML law (the two categories of accountants, lawyers, notaries and casinos) are divided among the said professions. Lawyers, as mentioned, follow 17 different trade unions. Each union is independent in terms of registration and disciplinary measures. The unions refer to the court in the event where there are any legal disputes.
74. Some accountants follow certain supervisory authorities. Certified Public Accountants follow the Certified Public Accountants Association, and chartered accountants are under the Chartered Accountants Association. The Certified Public Accountants Association is independent as the state opinion regarding its functions is considered consultative. As for the Chartered Accountants Association, on the other hand, the state interferes in its functions and grants licenses to its members through a committee which consists of representatives of the finance, trade and education ministries.

75. Some DNFBP's addressed by the law (independent accountants, notaries and casinos, for instance) are not under a certain supervisory committee. They are only granted licenses to exercise their work. Article (22) of the AML Law (which guarantees that the unit can seek the assistance of the supervisory authorities in performing its duties) does not regulate directly the methods of the required diligent implementation concerning DNFBP.

*c. Risk-based approach*

76. AML Law does not refer to the fact that the persons covered by the law shall generally take the required diligent procedures or classify the agents or operations on the basis of the risk degrees. However, the persons legally eligible for opening accounts (only) are obliged to carry out a special supervision of the accounts of the agents that seem to constitute high risks and of their operations. In addition, the persons covered by the law, usually, carry out a special study of every operation that includes amounts that their individual or total amount exceeds the amount that will be specified by the unit. These operations are surrounded by unusual or complicated conditions and do not seem to have an economic excuse or an obvious legal content.

77. The law does not specify any exception to the rule of implementing the required diligent procedures, thus, the law does not allow the persons covered by the law to reduce the required diligent procedures by their branches or subsidiaries institutions outside Morocco, unless the local legislation prevents it, and in this case they shall inform the unit.

78. Bank Al-Maghrib issued circular 36 which requests that credit institutions shall divide their agents according to the risk degree. Thus, the documents of opening an account shall include the degree of the agent risk, according to the required documents, interviews and some references such as the original country of the agent, fund resources, nature of the business, nature of the operations carried out and the date of the account. This circular obliges credit institutions to pay special attention to the operations carried out by professional intermediaries (such as, notaries, lawyers and institutions which usually carry out the intermediary profession, counseling and assistance regarding the fund management) on behalf of their agents whether natural persons or entities. In addition, credit institutions are required to pay a special attention to the operations carried out by persons residing at another person's residence, receive their post by a postal box or at the offices of the institution itself, or persons who change their address constantly.

79. With regard to the rest of the persons covered by the law, there is no specific executive mechanism to classify risk and deal with it, in particular, regarding the considerations of AML and CFT.

*d. Progress since the last mutual evaluation*

80. Morocco has not been subject to any evaluation which may specify the details of AML/CFT systems prior to the onsite visit of the evaluation team. Moreover, there is no evaluation prepared by the World Bank or the International Monetary Fund (IMF) in this regard.

## 2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

### Laws and Regulations

#### 2.1 CRIMINALIZATION OF MONEY LAUNDERING (R. 1 & 2)

##### 2.1.1 Description and analysis

81. **Recommendation 1:** Morocco criminalized the act of money laundering under AML Law No. 43-05, issued on April 17, 2007. The law came into effect on May 3, 2007<sup>17</sup>. This law stipulates that a Section concerning money laundering shall be added to the section of felonies and misdemeanors related to money in the Penal Code.
82. Chapter 574-1 of Section six bis from the Penal Code, according to article 1 of AML Law, includes the criminalization of ML in the following manner: obtaining, possessing, using, exchanging or transferring properties, assisting any involved person, or facilitating false justifications in any manner of the 'properties or proceeds of any predicate crime perpetrator, assisting or advising in relation to any operation concerning guarding, recruiting, concealing, exchanging or transferring the proceeds obtained directly or 'indirectly from committing any of the predicate crimes. Thus, this law is exclusive to some of the forms stipulated in the UN Convention against illicit traffic in narcotic drugs and Psychotropic Substances (Vienna 1988), and the UN Convention against transnational organized crime (Palermo 2000). Criminalizing the transfer of properties, and concealing their source or location has not been criminalized and the said fact cannot be derived from this law.
83. The law identifies the ML crime as obtaining, possessing, using, exchanging or transferring properties, facilitating false justifications in any manner of the properties or proceeds of any predicate crime perpetrator, and assisting or advising in relation to any operation concerning guarding, recruiting, concealing, exchanging or transferring the proceeds obtained directly or indirectly. According to article 1 of the second article of the law, the definition of properties is as follows: all types of corporal or incorporeal properties whether movable or real estate properties owned by one person or communal and the legal contracts or documents that prove the ownership of these properties or the rights thereto. Proceeds, on the other hand, are all properties obtained directly or indirectly by committing any of the predicate crimes. Thus, "proceeds" is broader than "properties", and therefore, the ML crime includes any type of properties regardless of their value, and represents directly or indirectly possessions resulted from a crime except in the events of obtaining, possessing, using, exchanging or transferring properties. In these events, the law is exclusive to the properties and does not cover the proceeds obtained directly or indirectly.
84. The law does not require in any of its articles, in the event where the involved person is condemned with the ML crime, the necessity that the person be convicted of the predicate offence.
85. According to article 1 of the law, Morocco follows the list system in relation to the predicate ML offences. Chapter 574-2 of the Penal Code includes the crimes of trafficking in drugs and psychotropic substances, trafficking in persons, smuggling of migrants, illicit trafficking in arms and ammunition, bribery, treachery, exploitation of influence, embezzlement of private and public funds, terrorist crimes, money counterfeiting and public loan instruments or any other payment means. Moreover, article (32) of AML Law adds the criminalization of property laundering in the event where its source is related to a terrorist crime or the purpose of such

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<sup>17</sup> The Law was published in the Official Gazette No. 5522, on May 3, 2007.

operations or acts is financing terrorism. According to Chapter 218-4 of the Penal Code, the finance of terrorism is deemed as one of the forms of terrorist crimes in Morocco. Thus, the Moroccan legislator considers the finance of terrorism as a predicate offence of ML, however, the legislator does not point all the designated categories offences. The recommendation requires, as a condition, the necessity of including these categories in any system adopted by the AML Law. Therefore, the legislator does not criminalize the laundering of the proceeds of the following crimes: participating in organized criminal group and racketeering, sexual exploitation including sexual exploitation of children, illicit trafficking in stolen and other goods, counterfeiting and piracy of products, environmental crimes, murders and grievous bodily injury, kidnapping, illegal restraint and hostage-taking, robbery or thefts, smuggling, piracy, insider trading and market manipulation.

86. The law does not illustrate the status of the predicate offences committed outside the kingdom which result in obtaining the money that causes the ML crime inside the Moroccan kingdom. The law only refers to the authority of the King's Prosecutor-General in confiscating the properties of natural and legal persons which are suspects of being involved with persons, organizations, or activities related to the crimes of ML, even when these crimes are committed outside the kingdom. With reference to the general rules of the Code of criminal procedure, there is a reference to the specialization related to some of the crimes committed outside the kingdom. This reference does not include the possibility of extending the definition of predicate crimes in the ML field to include the acts committed in another country which constitutes a predicate offence in the said country<sup>18</sup>.
87. The aforementioned law does not preclude explicitly from applying the provisions of ML crime to persons who commit the predicate offence. Thus, theoretically, this means that self money-laundering crime is possible. The Moroccan authorities state that the crime of ML and the predicate offence are not deemed as one crime. These are two separate crimes and each act is punished according to the penalty of the crime committed. However, upon carrying out the punishment, the more severe penalty is carried out provided that the conditions stipulated in Chapter 120 of the Penal Code are met. Carrying out the more severe penalty is not imperative. In the event of multiple felonies or misdemeanors that are considered at the same time before one court, the said violations will be sentenced to one freedom deprivation punishment that does not exceed the maximum period determined legally to punish the more severe crime. On the other hand, in the event where the violations are sentenced to a number of freedom deprivation orders due to the multiple number of crimes, the more severe penalty is to be carried out. In the event where the sentenced sanctions are of the same type, the judge, after providing a justified decision, may order to combine some or all of the sanctions, provided that the sum does not exceed the maximum period determined in the law of the more severe crime.
88. With regard to ML ancillary crimes, the law does not stipulate any form of ancillaries' offences to the offence of ML. However, in this event, the general rules related to contributing and participating in a crime stipulated in Chapters (128-131) of the Penal Code are applied. Article (128) stipulates the following: *'Any person shall be deemed as a participant in a crime in the event where he personally performs any act of the material implementation of the crime'*. Article (129) adds that: *'A person shall be deemed as a participant in a felony or misdemeanor even when he does not contribute directly to the implementation of the said offence, provided that he performs any of the following acts: (1) Orders the perpetration of the act or advocates the said perpetration (...), (3) Assists the perpetrator or perpetrators of the crimes in the preparations or in facilitating the procedures to commit the crime, with his knowledge of the said fact (...)*. Article (130) stipulates that: *'The participant in any felony or misdemeanor*

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<sup>18</sup> Article (711) of the code of penal procedure: Any foreigner, who commits a felony or misdemeanour against the security of the state or counterfeits the seal of the state outside the kingdom as a predicate perpetrator, contributor, or participant, shall be tried according to the Moroccan requirements..... Any Moroccan who commits any crime of the said crimes thereof outside the kingdom as a perpetrator, contributor or participant, shall be punished as if the crime is committed inside Morocco. (...)

*shall be punished by the determined penalty for this felony or misdemeanor*'. Therefore, participation or contribution is applied to the ML crime. With regard to attempting to commit a crime, the law explicitly criminalizes the attempt to commit ML crime in Chapter 574-3 through approving the same sanctions against the attempt to commit ML crimes.

89. **Additional Elements.** The law does not include any provision concerning the status of the Moroccan who obtains proceeds from an act that is not an offence in another country. However, the Moroccan authorities state that dual criminality is required in order to punish a person for the crime of ML according to the Moroccan ML Law, the criminalization of the act from which the laundered money is obtained or on which ML operations are performed.
90. **Recommendation 2.** The ML Law stipulates that ML crimes should be deliberately engaged. In this context, the ML crime is applied to the persons who knowingly commit these acts. In addition, the Moroccan judicial system empowers the judicial authority a discretionary power to interfere the intentional element from objective factual circumstances as according to article 286 of the penal procedure: 'Crimes may be proved by any proof means except in the events where the law stipulates otherwise, and the judge shall issue his order according to his core convention (...)'. Thus, the law permits the intentional element to be interfered in the ML crime from objective factual circumstances.
91. According to Chapter (127) of the Penal Code, legal persons are only punished by financial fines and by additional sanctions determined in Chapter 36, section (5), (6) and (7) (partial confiscation, dissolution of the legal person, publication of the condemnation order). The said fact shows that the Moroccan law adopts the principle of criminal liability of legal persons. The ML Law has added Chapter 574-3 to the Penal Code to enable the punishment for money laundering whether committed by natural or legal persons. Legal persons are punished by a fine from Dirham 500.000 to 3.000.000 (equivalent to about USD 60 thousand to 360 thousand), without prejudice to the punishments that may be issued against the operators of money laundering or the users who are involved in committing crimes.
92. With explicit reference, without prejudice to the criminal liability of legal persons for the punishments that may be issued against the operators of money laundering or the users who are involved in committing crimes, the law does not explicitly refers to the fact that legal persons that are subject to criminal liability for money laundering does not preclude them from being subject to the civil and administrative procedures.
93. The law stipulates in its first article that persons who committed ML shall be punished by imprisonment from two to five years and a fine from Dirham 20.000 to 100.000 (equivalent to about USD 2400 to 12000). With regard to legal persons, they shall be punished by a fine from Dirham 500.000 to 3.000.000 (equivalent to about USD 60 thousand to 360 thousand). The punishments of imprisonment and fine shall be duplicated in the event where crimes are committed by using the facilities provided by practicing a professional activity, the person habitually commits ML operations, crimes are committed in the framework of an organized crime gang, or in the cases of recidivism.
94. One or more sanctions may be imposed on ML offender. Chapter 574-5 of the Penal Code includes the penalty of partial or total confiscation of the money used in committing the crime and the obtained proceeds of this money, with preserving the rights of bona fides. Confiscation, dissolution of the legal persons, publication of the decisions of conviction by all appropriate means at the expense of the sentenced person, and provisional or final prevention from practicing the professions, activities or skills during which the crime was committed, shall always be ordered in the event of conviction.
95. These sanctions seem dissuasive and proportionate upon comparison with offences against property stipulated in Section 9 of the Penal Code (Chapters 505-607). However, the

efficiency cannot be evaluated because this law is recently issued and no sentences have been issued yet concerning the ML crimes.

96. *Statistics*. There are no statistics in the Moroccan Kingdom because the ML Law is recently issued.

### 2.1.2 Recommendations and comments

97. The Moroccan Kingdom should perform the following:

- Criminalizing the property transfer, concealing its source or location as one form of money laundering.
- Extending the act of money laundering to include the proceeds obtained from the predicate crimes.
- Amending Chapter 574-2 to include all the designated categories of offences as participating in organized criminal group and racketeering, sexual exploitation including sexual exploitation of children, illicit trafficking in stolen and other goods, counterfeiting and piracy of products, environmental crimes, murders and grievous bodily injury, kidnapping, illegal restraint and hostage-taking, robbery or thefts, smuggling, piracy, insider trading and market manipulation.
- Stipulating the punishment of any person accused of a ML crime who committed the predicate offence outside the kingdom, and which is deemed as an offence in the event where it is committed internally.

### 2.1.3 Compliance with R. 1 & 2.

	Rating	Summary of factors underlying rating
<b>R 1</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Non-criminalization of property transfer, concealing its source or location as one form of money laundering.</li> <li>▪ Non-extension of the act of money laundering to include the proceeds obtained directly or indirectly.</li> <li>▪ The predicate crimes do not include all the designated of offences.</li> <li>▪ Non provision of the punishment of any person accused of a ML crime who committed the predicate offence outside the kingdom, and which is deemed as a crime in the event where it is committed internally.</li> </ul>
<b>R 2</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ The efficiency of the ML legal system cannot be evaluated because the law is recently issued.</li> </ul>

## 2.2 CRIMINALIZATION OF TERRORIST FINANCING (SR. II)

### 2.2.1 Description and Analysis

98. *Special Recommendation II*. The criminalization of TF took place under Law No. 03-03 concerning the combat of terrorism, issued in May 28, 2003. Under this law, Chapter 218-4 has been added to the Penal Code. The said chapter considers the following as terrorist acts too: ‘*Carrying out by any mean, directly or indirectly, the provision, collection or arrangement of funds, values or properties for the purpose of using these funds, or in the knowledge that are to be used, in full or in part to carry out a terrorist act, whether the said act takes place or not*’. Thus, the law does not explicitly stipulate the definition of terrorist financing; it only criminalizes certain forms of the activities considered as terrorist acts.

Chapter 218-4 stipulates the forms of TF which does not include all the forms of TF stipulated in article (2) of the Terrorist Financing Convention. The act is only excluded to using funds to carry out a terrorist act, but does not extend to using the funds by a terrorist organization or an individual terrorist. This chapter is quite broad as it criminalizes TF whether the terrorist act takes place or not.

99. Regarding funds, criminalization of forms of TF is stipulated in Chapter 218-4 as '*funds, values or properties*' in general without outlining a definition of 'funds' which includes all the elements stipulated in the Terrorist Financing Convention. As for the source of funds, the Moroccan legislator has issued a general provision to criminalize the said funds, values, or properties mentioned, without specifying their source. Thus, criminalization includes funds, values and properties whether from legitimate or illegitimate source.
100. The Terrorism Law does not include a special provision to criminalize the attempt to commit the TF crime. The general rules of the penal code criminalize any attempt to commit a felony and punish it by the same sanctions of the predicate crime, without the need to a special provision. Thus, because the TF crime is considered as a felony, according to the Moroccan penal code, attempt to commit a TF is punished by the same sanctions of the predicate crime, in accordance with the provisions of Chapter (114) of the Penal Code which stipulates that 'any attempt to commit a felony (...) is considered as a complete felony and is punished as such'.
101. Chapter 218-4 of the Penal Code stipulates the criminalization of offering any assistance or advice regarding the TF. Chapter 218-5 also states the punishment of 'any person who, by any mean, convinces others of committing any of the crimes stipulated in (the TF Law), or encourages them to perform the said crime'. The crimes of TF are considered as predicate crimes of ML. Article (32) of the Moroccan ML Law stipulates the criminalization of laundering properties or proceeds when the purpose of these acts is to finance terrorism.
102. The TF Law does not specify whether the crimes of TF apply regardless of whether the person alleged to have committed the offence is in the same country or a different country, however, the Moroccan authorities state that in the event where the accused of a TF crime is Moroccan, he shall be punished regardless whether he or the terrorist organization is in the same country or in a different country where the terrorist act took place or is going to take place, in accordance with the provisions of article (711) of the aforementioned criminal procedure law.
103. Regarding the intentional element in relation to the TF offence stipulated in Chapter 218-4, the chapter requires as a condition the presence of knowledge and intention. The Moroccan authorities add that an accused of the TF crime must be aware that the money is going to be used to commit a terrorist act, however, punishing the accused for the crime of TF does not require his knowledge of the terrorist act in specific. In addition, the Moroccan law adopts the principle of the freedom of proof in criminal cases. According to the criminal procedure, article (286): 'Crimes may be proved by any proof means except in the events where the law stipulates otherwise, and the judge shall issue his order according to his core convention (...)'. Thus, the law permits the intentional element of the TF offence to be inferred from objective factual circumstances.
104. Chapter 218-4 of the Penal Code stipulates that any person who commits the TF crime shall be punished by imprisonment from five to twenty years and a fine from Dirham 500.000 to 2.000.000 (equivalent to about USD 60 thousand to 240 thousand). With regard to legal persons, they shall be punished by a fine from Dirham 1.000.000 to 5.000.000 (equivalent to about USD 120 thousand to 600 thousand). The said sanctions shall be applied to legal persons without prejudice to the sanctions that may be issued against their operators or users who are involved in committing crimes. The penalty of imprisonment shall be increased to ten years

and thirty years, and the fine shall be duplicated, in the event where the crimes are committed by using the facilities offered by practicing a profession activity, in the framework of an organized gang or in the event of recidivism.

105. Moreover, Chapter (44/1) of the Penal Code states that: ‘The court may order the confiscation stipulated in Chapter (42) of this law in the event where the matter is related to a terrorist crime. The said confiscation mentioned in Chapter (43) and Chapter (44) of this law shall always be ordered with preserving the right of others in the event where a person is proved guilty of a terrorist crime.
106. These sanctions are considered as dissuasive and proportionate. However, regarding their efficiency, the assessment team could not obtain any statistics in this regard to help it get acquainted with this efficiency.
107. *Statistics.* The Ministry of Justice follows up the cases related to terrorist acts, and prepares a database in this regard by means of the reports submitted by the Public Prosecution. However, the assessment team did not get acquainted with any statistics related to the TF crime although the law has been issued since May 2003.

### 2.2.2 Recommendations and Comments

108. The Kingdom of Morocco should:
- Amend the provisions of Chapter 218-4 of the Penal Code concerning the combat of terrorism, by extending the TF forms to the use of funds by a terrorist organization or an individual terrorist as well.
  - Set up a specified definition for "funds" to include all the elements stipulated in the Terrorism Financing Convention.

### 2.2.3 Compliance with SR II

	Rating	Summary of factors underlying rating
SR II	PC	<ul style="list-style-type: none"> <li>▪ The forms of TF are exclusive to carrying out a terrorist act.</li> <li>▪ Not setting up a definition of funds to include all the elements stipulated in the TF convention.</li> <li>▪ Lack of evidence of the efficiency of the legal system concerning the TF offence.</li> </ul>

## 2.3 CONFISCATION, FREEZING AND SEIZING OF PROCEEDS OF CRIMES (R. 3)

### 2.3.1 Description and Analysis

109. *Recommendation 3.* The Penal Code regulates the general provisions concerning the confiscation in Chapters 42, 43, 44, 44/1, 45 and 46. Chapter (42) stipulates that ‘*Confiscation is allowing the country to own a part of the properties or certain properties owned by the sentenced person*’. Chapter (43) states that ‘*In the event where a person is proved guilty of a felony, the judge may order to confiscate for the benefit of the state, with preserving the right of others, the tools and things that were used or planned to be used in committing the crime or obtained from the said crime, as well as, any other grants or benefits rewarded to the person who committed the crime, or were prepared for his reward*’. Chapter (44) adds that: ‘*In the event where the person is proved guilty for acts deemed as felonies or violations, an order of the confiscation mentioned in the previous chapter may not be allowed unless in the events*

*cited by an explicit legal provision*'. Chapter (44/1) states that: 'The court may order the confiscation stipulated in Chapter (42) of this law in the event where the case is related to a terrorist crime. The said confiscation mentioned in Chapters (43) and (44) of this law shall always be ordered with preserving the right of others in the event where a person is proved guilty of a terrorist crime'.

110. The AML Law is explicit regarding the necessity of ordering the confiscation as an additional mandatory penalty. However, Chapter 574-5, which stipulates punishing the persons committing the ML crime by partial or total confiscation of the funds used to commit the crime and the proceeds obtained from these funds, illustrates that the said does not oblige the court to order the confiscation of all the properties in a ML crime, but it gives the court the authority to order the total or partial confiscation of the funds used in the crimes and the proceeds obtained from it according to its discretion authority in this regard. Regarding the crime of TF, Chapter 218-4 states that an order may be issued to totally or partially confiscate the properties of the convicted person of TF. Thus, the confiscation penalty concerning the crimes of TF is not mandatory.
111. The AML Law only refers to the partial or total confiscation of the funds used to commit the crime and the proceeds obtained from these funds. TF Law is exclusive in this context as the confiscation only covered the properties without including any other crime proceeds.
112. Article (19) of AML Law authorizes the King's Prosecutor-General to order, within the period of search that does not exceed one month and which is renewable for only one time, freezing the properties by prohibiting their transfer, exchange, disposal or movement. The article also authorizes the King's Prosecutor-General or the Investigation Judge to order the seizure of the properties of the natural or legal persons who are suspects of being involved with persons, organizations or activities related to ML crimes even in the event where the crimes are not committed inside the kingdom. Article (32) states that the provisions of article (19) shall be applied to terrorist crimes as TF crimes. This law identifies the properties as all types of corporeal or incorporeal properties whether movable or real estate properties owned by one person or communal, as well as, legal contracts or documents that prove the ownership of these properties or rights related thereto.
113. Moreover, Combating Terrorism Law has found special provisions that have been added to Chapter 595-2 of the Penal Code that enabled the King's Prosecutor-General, the Investigation Judge and the governing authority to order the freezing or confiscation of the funds of the suspected of being related to TF. Chapter 595-3 defines freezing as the temporary prohibition of transferring, exchanging, disposing, moving or guarding properties.
114. Granting the King's Prosecutor-General the right to freeze properties, in addition to the absence of any provision that forces taking such a measure without a prior notice, meets the requirements of Recommendation 3.
115. Chapter 574-5 of the Penal Code stipulates the confiscation of the funds used in committing the crime and the proceeds obtained from these funds with providing protection for the rights of bona fide "the third party". However, there is no authority to take steps or void actions where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.
116. AML Law grants the FIU, in accordance with article (15), the authority to request all the searches or investigations that are conducted by the search and investigation services (related to the supervisory authorities). Nevertheless, the law does not entrust any authority with any specified power for this purpose.

117. *Additional elements.* There is no law in the Kingdom of Morocco which is related to confiscating the properties of organizations that are found to be criminal in nature. Neither is there any law related to confiscating the properties without a conviction of any person or which require that the offender demonstrates the lawful origin of these properties.
118. *Statistics.* The team did not obtain any statistics related to confiscation in terms of crimes, amounts or properties confiscated in relation to predicate crimes or the TF crime. Regarding the confiscation related to ML, there are no statistics due to the recent issuance of the law.

### 2.3.2 Recommendations and Comments

119. The Kingdom of Morocco should:
- Amend the provision of Chapter 574-5 added to the first article of AML Law to make the penalty of confiscating the funds used to commit the crime and the proceeds obtained from these funds a total confiscation and cancel the partial confiscation.
  - Amend the provision of Chapter 218-4 of the Penal Code to make the confiscation sentence include properties and other proceeds of crimes related to the TF crime and make the confiscation penalty mandatory.
  - Extend the confiscation order to include the proceeds of the crimes related to TF crime.
  - Extend the temporary measure of freezing to include all the properties subject to confiscation.

### 2.3.3 Compliance with R. 3

	Rating	Summary of factors underlying rating
R 3	NC	<ul style="list-style-type: none"> <li>▪ The possibility of ordering partial confiscation in relation to ML crimes, and non-mandatory of the penalty of confiscation in relation to TF crimes.</li> <li>▪ Properties subject to confiscation did not cover the crimes proceeds related to TF offence.</li> <li>▪ The temporary freezing did not cover all properties that may be subject to confiscation.</li> <li>▪ The absence of evidence of the efficiency of the legal system in relation to confiscation and freezing.</li> </ul>

## 2.4 FREEZING OF FUNDS USED FOR TERRORIST FINANCING (SR III)

### 2.4.1 Description and Analysis

120. *Special Recommendation III.* SR III requires the implementation of S/RES/1267 (1999) concerning the freezing of funds or other terrorist assets of persons designated by the UN Al-Qaida and Taliban Sanctions Committee through taking all necessary and appropriate procedures to meet the requirements of the validity of this resolution, i.e. having a legally binding law inside the borders of Morocco. The said can be achieved by issuing a law, regulations or any executive procedure, however, there is no specific laws related to the implementation of S/RES/1267 (1999) in the Kingdom of Morocco. There are some procedures taken by the kingdom to implement the said resolution. The Moroccan authorities declares regarding the procedures of freezing or seizure of funds related to the resolutions of the Security Council that the Public Prosecution is launching an investigation of this request and requesting information from banks in this regard. These banks are committed to answering

this request within thirty days from the date of receiving the request (Article 595-4 of CT Law). The investigation judge shall order to freeze the accounts of the person whose data is mentioned in the Security Council resolution. Bank Al-Maghrib shall be notified with the said order and shall follow up its implementation with the competent bank or banks.

121. With respect to freezing the funds of terrorists, AML Law grants, as per article (37), the FIU the right to receive and process the requests of freezing properties due to a terrorist crime which are issued by eligible international authorities. The law also grants the FIU the right to freeze the properties for a period not exceeding three months. The FIU may extend the said period once on the basis of the request of the international authority following the submission of the necessary evidence. The resolutions of the Security Council with regard to freezing fall under this item. The words “international authorities” refer to the UN and its bodies, as well as, the decisions of the King’s Prosecutor-General concerning the procedures of freezing with regard to the resolutions of the Security Council.
122. It is worth mentioning that the Moroccan authorities state that they are working on putting into effect of all the Security Council resolutions issued in relation to freezing the funds of terrorists, such as Resolution No. 1267, issued on October 15, 1999, Resolution No. 1313, issued on July 19, 2001, Resolution No. 1373 issued on September 28, 2001, Resolution No. 1390 issued on January 16, 2002, Resolution No. 1452 issued on December 20, 2002, Resolution No. 1455 issued on January 17, 2003, Resolution No. 1526 issued on January 30, 2004, Resolution No. 1530 issued on March 11, 2004, Resolution No. 1535 issued on March 26, 2004, Resolution No. 1566 issued on October 8, 2004 and Resolution No. 1624 issued on September 14, 2005. In this regard, Morocco has responded to three requests submitted by the sanctions committee established as per the Security Council Resolution No. 1267 concerning the freezing of financial and economic properties of natural and legal persons under the issued lists.
123. The Moroccan authorities, in coordination with foreign authorities, work on seizing all movements of suspected funds related to international terrorist groups, or persons or entities related to these groups, or on freezing the said funds (Statistics of the Ministry of Justice and the statistics of the Moroccan National Security on freezing the funds of TF crimes, addressed in the meeting held with its members).
124. Article 595-6 of Law No. 03-03, concerning the government combat of terrorism, allows, within the framework of implementing international agreements on CFT that are joined by Morocco and officially published, the submission of the request, upon the request of a foreign country, to the King’s Prosecutor-General to take the following procedures:
  - The search and definition of anything related to the proceed of any TF crimes and the properties used or prepared to be used in committing this crime, or any property equivalent in value to the said crime proceed.
  - Confiscation or seizure of properties.
  - Taking protective procedures concerning the abovementioned properties.
125. However, this article grants the King’s Prosecutor-General the right to refuse the request where:
  - Implementing the request can affect the sovereignty, security, main interests or public order of the state.
  - A final judicial order is issued in the national territory concerning the acts mentioned in the request.

- The case is related to implementing a foreign judicial order under conditions that do not offer “sufficient guarantees to protect the rights of defense”.
  - The facts, on the basis of which the request is submitted, have nothing to do with TF.
126. The expression “the funds suspected of being related to TF” which may be subject to freezing or seizure by the judicial authorities “the investigation judge, King’s Prosecutor-General or the Governing authority”, is found under the text of article 595-2 of Law No. 03-03 concerning the combat of terrorism in a general and unrestricted manner. This fact means that the article includes all the events mentioned in criterion III.4.
127. The mechanism of the notification of freezing procedures is provided under Chapter 595-2 in the last section of the Penal Code. The section stipulates that Moroccan authorities shall notify Bank Al-Maghrib with the adopted procedures concerning the orders of freezing or seizure of the funds that are suspected of being related to TF.
128. Chapter 595-4 of CT Law compels a submission of information on financial operations or movement of the funds suspected of being related to TF by the banks to the judicial authorities (the investigation judge, King’s Prosecutor-General or governing authority) within thirty days of receiving the request. The said banks are not allowed to protest using the principle of preserving the professional confidentiality as an excuse before these authorities or Al-Maghrib Bank.
129. Regarding the procedures of de-listing requests or unfreezing the funds or other assets of persons or entities deleted from the list, persons proved not to be included in the resolution or persons or entities affected by the mechanism of freezing, the Moroccan Criminal Procedure Law regulates the legal manner of implementing the said procedure, the manner of appeal against the decision of freezing or reservation of funds<sup>19</sup>.
130. The third article of CFT Law stipulates that ordering the penalty of confiscation shall take place upon conviction of a terrorist crime. The text shows that a terrorist crime is defined as the crime stipulated in Chapter 218-1 of this law, with preserving the right of others in the event where a person is proved guilty of a terrorist crime, in implementation of the general rules stipulated in Chapters 44/1, 43 and 44 of the Penal Code<sup>20</sup>.

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<sup>19</sup> Article (106) of the Criminal Procedure Law: “The accused person, the civilian party and any person allegedly having rights in any reservation by the justice may submit a request to the investigation judge to recover the reserved thing or its value in the event where the investigation judge decides its selling fearing that the said thing may break down or become out of order or may not be preserved. The Public Prosecution and all the other parties shall be notified of any request submitted by the accused person, the civilian party or others. The investigation judge shall make a decision, under a justified order within eight days, regarding the submitted requests, following the opinion of the Public Prosecution. The parties may appeal against the decision of the investigation judge before the misdemeanour chamber within ten days from the date of notification. The appeal shall not cause any delay in the course of investigation. In the event where the request is submitted by others, the submitter may, just like the other parties, address his remarks in writing to the misdemeanour chamber, however, he is not allowed to request putting the procedures file under his command”. Article (107): “The investigation judge shall remain entrusted with making a decision regarding the recovery of reserved things even following the issuance of a non-follow-up decision. Appeal against his decisions may take place before the misdemeanour chamber at the court of appeal according to the provision of the said article thereof

<sup>20</sup> Chapter 43 of the Penal Code: In the event where a person is proved guilty of an act deemed as a felony, the judge may order a confiscation, for the benefit of the state and with preserving the right of others, of the tools and things used or planned to be used to commit the crime or which are obtained from it, as well as, grants and other benefits rewarded or planned to be rewarded to the perpetrator. Chapter 44: In the event where the person is proved guilty of acts deemed as misdemeanours or violations, the said confiscation mentioned in the pervious chapter may not be ordered unless in the events where an explicit, legal provision is present. Chapter 44/1: “The court may order the confiscation stipulated in Chapter 42 of this law in the event where the case is related to a terrorist crime. The confiscation mentioned in Chapters 43 and 44 of this law shall always be ordered, with preserving the right of others, in the event where a person is proved guilty of a terrorist crime”.

131. The Penal Code, generally, does not mention the legal provisions which regulate the compliance with the implementation of the rules of the existing laws inside the kingdom, including the mentioned commitments in this recommendation.
132. **Statistics.** The Moroccan authorities reported that there were three cases of freezing pursuant to UN S/RES 1267.

## 2.4.2 Recommendations and Comments

133. Moroccan authorities should:
- Set a legal system to regulate the procedures of freezing of funds and properties of the persons whose names are listed in S/RES of the Security Council.

## 2.4.3 Compliance with SR III

	Rating	Summary of factors underlying rating
SR. III	PC	<ul style="list-style-type: none"> <li>▪ Lack of laws to regulate the procedures of freezing of funds and assets of the persons whose names are listed pursuant to resolutions of the Security Council.</li> </ul>

## Authorities

### 2.5 THE FIU AND ITS FUNCTIONS (R 26)

#### 2.5.1 Description and Analysis

134. **Recommendation 26.** The AML Law stipulates the establishment of a FIU. Article (14) of this law stipulates the establishment of the Financial Information Processing Unit under the prime ministry via a regulatory text. According to articles (9, 13, 32, 33 and 34) of the abovementioned law, FIU is entrusted with receiving STR on ML and TF crimes. Institutions addressed by the provisions of this law are required to report any suspicions related to these crimes.
135. Moroccan authorities state that the FIU which will be established is going to follow the model of the administrative units and shall not have any judicial power. Through the powers and tasks vested with the FIU, according to Law No. 43-05, in particular article (14), the Moroccan FIU has an administrative nature.
136. Article (9) also stipulates that the FIU is responsible for specifying the data that should be included in the STR and the nature of the operations subject to the abovementioned declaration and their minimum amount. Articles (9, 10 and 11) of the AML Law stipulate the events where the suspicious declaration takes place and the declaration method.
137. The FIU, following its establishment, will be provided, according to the law, with the power to obtain the financial and administrative information which enables it to perform its duties. Article (13) of the law compels that the persons under the provisions of this law inform the FIU and the supervisory authorities of all necessary documents and data to perform their duties. These persons are not allowed to object against the search or investigation operations ordered by the FIU and completed by the agents mentioned in Article (22). These persons are also required to facilitate access to the necessary documents and information to perform their

duties. They may not protest using the professional confidentiality before the FIU or the supervisory authorities assigned by the FIU.

138. The FIU is provided, in order to perform its duties, with staff consisted of qualified agents for the FIU, in particular. Article (22) of the law grants the FIU the right, in the framework of performing its duties, to refer the case to the public administrations and institutions and the other entities under the public law which are concerned, with regard to supervising the persons mentioned in article (2) of the law, with detecting violations of this law, and stating the duty limits of each of them. Public administrations and institutions and other entities under the public law to which the case was referred to shall, whenever they detect any violation of the provisions of this law, inform the FIU of the said violation.
139. According to article (18) of the law, the FIU shall, upon accessing any information that highlights the presence of any acts related to the ML crime, refer the case to the King's Prosecutor-General at the court of first instance in Rabat, illustrating if necessary the search, investigation or supervision and monitoring bodies that were informed to carry out the investigations. The King's Prosecutor-General shall inform the FIU of the final decisions issued with regard to the cases referred.
140. The independence that the FIU is going to be granted cannot be confirmed unless following the issuance of the regulatory text concerning its establishment by the Premier (according to article 14 of the law). The Moroccan authorities state that the independence of the FIU lies in the fact that it is going to be established at the ministry and not under the authority of any other ministry or the central bank as is the case in many countries.
141. Article (20) of the law imposes on all the persons contributing to the FIU acts and in general on all the persons who are acquainted with the information related to the duty assigned by the FIU, the preservation of the professional confidentiality even after the completion of the assigned duties. They may not use the said information for any other purposes not stipulated in the law. In the event where they violate the said, they shall be punished by the penalty stipulated in article (446) of the Penal Code: (... Any person who is considered as one of the confidants due to his profession or temporary or permanent post shall be punished by imprisonment from one to six months and a fine from Dirham 1200 to 20.000<sup>21</sup> in the event where he discloses a secret entrusted to him in the events not allowed by the law or where the law requires him to report the case ...). The requirements of article (21) of Law No. 43-05 also prevents the use of the information, obtained by the FIU and the supervisory authorities of the persons covered by the law, for any purposes other than AML/CFT purposes.
142. The law does not specify the organizational structure of the FIU. However, it stipulates in article (22) of the abovementioned law that the FIU is going to be provided in order to perform its duties with a staff consisted of qualified agents, in particular, for the FIU to perform the said purpose. The law also stipulates in article (14) that the establishment of the FIU shall be established via a regulatory provision at the Prime ministry. As no regulatory text has been issued yet, it is not possible at the current time to judge what its organizational structure is going to be. The authorities state that in this framework the necessity of providing the FIU with all financial and human resources to enable it to perform its duties at best and guarantee that it is independence from any influences or inappropriate interventions with its work shall be taken into consideration. The employees at the FIU shall also be committed to appropriate standards including the standards concerning confidentiality and shall have a high degree of integrity and the appropriate skills. Establishing the FIU by the administrations and entities under the public law which are concerned with AML guarantees the provision of expertise that have a high degree of integrity and skill.

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<sup>21</sup> This approximately equals USD \$ 150-2500.

143. No training program of the employees at the FIU in the field of AML has been prepared. The number of employees has not been identified yet. However, the number will be identified soon in order to enable them to gain high level skills and competences in the field of AML and TF, according to the statements of the Moroccan officials.
144. In this regard, it is worth mentioning that in the framework of the cooperation between the Kingdom of Morocco and the EU, a program will be set to train all the competent parties in AML/CFT field, including the employees at the FIU, according to the statements of the Moroccan officials.
145. Regarding the FIU, it is required under the requirement of article (15) of the law to prepare an annual report on its activities which shall be submitted to the prime minister. The law does not require that the FIU publishes the periodic reports.

### 2.5.2. Recommendations and Comments

146. The Kingdom of Morocco should:
- Accelerate the establishment of the FIU through the regulatory text mentioned in the law.
  - Provide the FIU pursuant to its establishment with human resources and work on training and qualifying its employees and provide technical and other resources.
  - Accelerate the issuance of the guidelines and instructions of FIs, banks and relevant authorities related to declaring the STR according to the law.
  - Take the necessary measures for the independency of the FIU.
  - Consider the membership application to join the Egmont Group.
  - Have regard to the Egmont Group Statement of Purpose and its principles for Information Exchange between FIUs for ML cases.

### 2.5.3 Compliance with R 26

	Rating	Summary of factors underlying the rating of compliance related to Section 2.5
R 26	NC	<ul style="list-style-type: none"> <li>▪ FIU not established yet.</li> <li>▪ The independency status of the FIU, the status of training its employees, its efficiency, and all the other standards related thereto in R. 26 following its establishment cannot be confirmed at the current time as the FIU is not established and the concerned regulatory text is not issued by the Premier yet.</li> </ul>

## 2.6 LAW ENFORCEMENT, PROSECUTION AND OTHER COMPETENT AUTHORITIES – THE FRAMEWORK FOR THE INVESTIGATION AND PROSECUTION OF OFFENSES, AND FOR CONFISCATION AND FREEZING (R 27 & 28)

### 2.6.1 Description and Analysis

147. **Recommendation 27.** Article (18) of the AML law stipulates that: “Once the FIU accesses any information highlighting any acts that might be ML crimes, the FIU refers the matter to the King’s Prosecutor at the court of first instance in Rabat illustrating, if necessary, the inspection and investigation or supervisory authorities that have been informed to carry out the investigations. Despite the rules of jurisdiction laid down in the code of Criminal Procedure or

other texts, Rabat courts are the competent authorities to follow-up, investigate and make decisions concerning the acts of ML crimes (Article 38 of the AML law).

148. Rabat court of appeal is the competent authority to follow-up, investigate and issue orders in relation to terrorist crimes (Article 7 of Law No. 03-03). Therefore, the King's Prosecutor-General at the court of appeal in Rabat is entrusted with filing and conducting public lawsuits.
149. In accordance with articles (36) and (85) of the Criminal Procedure Code, Public Prosecution is the competent authority responsible for conducting and supervising public lawsuits and requesting the implementation of the law. While performing its functions, the Public Prosecution shall have the right to use the public force directly. The investigation judge shall conduct the investigations, and shall, in this regard, conduct investigations and proceed with some procedures that serve accessing the truth.
150. The Public Prosecution is represented by the King's Prosecutor personally or by his deputies within the power of the first instance court in which he is appointed. The Public lawsuit is conducted by the King's Prosecutor under the supervision of the King's Prosecutor-General either automatically or upon the complaint of an aggrieved person. The King's Prosecutor exercises his power on his deputies and has the right, when performing his functions, to use the public force directly. He shall inform the King's Prosecutor-General of the felonies referred to him, various events and serious crimes that may affect public security. The King's Prosecutor receives records, complaints and reports and orders what he sees appropriate in this regard. He personally proceeds with, or orders proceeding with necessary procedures to search for the Penal Code violators, and orders their seizure, prosecution and follow-up. The King's Prosecutor is allowed to, for necessity of implementing criminals extradition procedure, issue international orders to search for, seize and refer the records, complaints and reports received and adopted procedures thereto to the competent governing authorities, or order their preservation under a decision that can always be reneged on. He shall submit requests from these authorities to carry out the investigation procedures, request the implementation of the determined sanctions by the law and submit, in the name of the law, all the requests he finds valid. The court shall witness the said by including them in its record and making a decision in this regard. When required, the means of appeal against the made decisions shall be used.
151. Article (48) of the Criminal Procedure Code stipulates that the Public Prosecution before the court of appeal is represented by the King's Prosecutor-General, personally, in his capacity as a chairman of the Public Prosecution, or by his deputies (there are almost 22 King's Prosecutor-Generals). In the event where the King's Prosecutor-General is not available, he shall be succeeded by the King's Prosecutor-General Deputy appointed by him. Article (49) of the same Code stipulates that the King's Prosecutor-General shall be entrusted with watching the implementation of the Penal Code with regard to the power of the court of appeal. He exercises his authority on all the Public Prosecution judges under his power, judicial police officers and agents and the employees responsible for the judicial police duties, according to article (17) of the same law. While exercising his duties, the King's Prosecutor-General has the right to use the public force directly, receive complaints, reports and records addressed to him, order the procedures he sees appropriate in this regard, or send them along with his instructions to the competent king's prosecutor. He personally proceeds with, or orders proceeding with necessary procedures to search for the felony perpetrators, and orders their seizure, prosecution and follow-up. The King's Prosecutor-General refers the records, complaints and reports received and adopted procedures thereto to the investigation authorities or the competent governing authorities, or order their preservation under a decision that can always be reneged on. He shall submit requests from these authorities to carry out the investigation procedures, and shall be granted, for necessity of implementing the Criminals Extradition Procedure, the right to issue international orders of inspection or seizure.

152. The judges assigned for investigation at the first instance courts are appointed from among themselves for a period of three years that is renewable by a resolution issued by the Minister of Justice, upon the proposal of the President of the court of first instance. The judges assigned for investigation at the courts of appeal are appointed from among their advisors for a period of three years that is renewable by a resolution issued by the Minister of Justice, upon the proposal of the First President of the court of appeal. During this period, they can be exempted from their duties in the same manner (Article 52 of the Criminal Procedure Code).
153. The investigation judge conducts – according to the law – all the investigation procedures that he sees valid to disclose the truth (Article 85 of the criminal procedure code) including the inspection and seizure of things and documents, according to articles (59, 60, 61 and 62) of the judicial procedure code, the mobility, inspection and confiscation (article 99, up to article 107) and listening to witnesses, in accordance with articles (117, 118 and 119) of the same law. The investigation judge may, if necessary, order, in writing, ease dropping on phone conversations and all communications carried out by remote communication means, recording, making copies and seizing the said communications. The King’s Prosecutor-General is allowed the same rights according to article (108) of the same law. The investigation judge is also allowed to order the attendance, fetching (article 144, 145 and 146), imprisonment, seizure (articles 153 – 157), monitoring and standby arrest (article 159-188).
154. The investigation judge and the King’s Prosecutor-General have special powers in the event where the matter is related to a terrorist crime, such as allowing the investigation judge, in the event of extreme emergency and under a justified resolution, to search the accused residence out of legal hours in the presence of the Public Prosecution representative (Article 102 of the Criminal Procedure Code). The King’s Prosecutor-General is also allowed, exceptionally in the event of extreme emergency, to order, in writing, ease dropping on phone conversations or communications carried out by remote communications means, recording, making copies and seizing the said communications, in the event where the inspection requires urgency for fear of disappearance of evidence means, where the crime affects the state security, is a terrorist crime, or is related to drugs and psychotropic substances, arms, ammunition, explosives, abduction or hostage taking.
155. The judicial police proceeds with its functions to enforce the law under the supervision of the Public Prosecution. The judicial police status is granted in accordance with special requirements stipulated under the Moroccan Criminal Procedure Code. The judicial police officers in Morocco are under, either The General Directorate of Territorial Security which is under the Ministry of Interior, or The Royal Gendarmerie which is a military apparatus along with other apparatuses empowered by the law with this attribute, (such as commanders, customs, etc). The judicial police officers proceed with their functions under the supervision of the Public Prosecution (The Ministry of Justice). It is worth mentioning that there is no competent apparatus in Morocco to combat illegal immigration apart from The National Office for Combating Illegal Immigration under the national brigade of judicial police which is under the General Directorate of Territorial Security.
156. It is worth mentioning that Morocco has adopted a national strategy to combat drugs whose most important pillars can be summarized as the following:
- At the legal level: Morocco has a number of legal texts which have been issued to criminalize the production of and illegal trafficking in drugs. The most important of which are: Dahir, issued on 05/01/1916 concerning the monitoring of kif (hashish) cultivation, Dahir, issued on 12/11/1932 which prohibits the cultivation of hashish in the south of Morocco, Dahir, issued on 24/04/1954 which prohibits the Indian Cannabis in Morocco and Dahir, issued on 21/05/1974, concerning the suppression of addiction (toxicomanie).

- Morocco has also joined the international agreements in this regard and is considered an efficient member in many competent, regional organizations in the field of combating drugs. In this framework, Morocco has joined OIPC in 1956, and a national center for combating crime and trafficking in drugs has been opened in Rabat. Morocco also joined the single convention on narcotic drugs in 1961, and the international convention regarding psychotropic substances in 1971.
  - On the international cooperation level: Morocco has signed a number of agreements on narcotics combating among which are a cooperation agreement with Italy regarding countering terrorism, organized crime, and drug trafficking (16/1/1987); a cooperation agreement with Spain on narcotics combating (18/10/1987); a protocol with the USA on countering narcotics, terrorism, and organized crime (10/2/1989).
  - Morocco also helped in preparing Vienna Convention on combating illicit trafficking in narcotic drugs and psychotropic substances, dated 20/12/1988 and ratified the said convention on 09/10/1992.
157. The Criminal Procedure Code, TF Law and AML Law do not include any provisions concerning taking any legislative or other procedures that allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. However, the said procedures can be concluded from the total powers granted to the Public Prosecution – in its capacity as the authority entrusted with conducting investigations and public lawsuits – stipulated by the Criminal Procedure Code.
158. *Additional elements.* Morocco adopts special mechanisms of inquiries in coordination with European states under the supervision of the Public Prosecution that applies, in this regard, the principle of opportunity (Principe de l’opportunité). The said principle requires a type of flexibility that goes in line with the urgency and confidentiality that must be found in the inquiries related to terrorism and international organized crimes.
159. Moroccan authorities state that there is a special jurisdiction in the fields of combating terrorism and financial crimes, on the basis of the requirement of article (7) of Law No. 03-03, concerning combating terrorism, which stipulates that “Regardless of the rules of jurisdiction determined in the Criminal Procedure Code or in any other provisions, the court of appeal in Rabat is entrusted with following up, investigating and issuing orders with regard to the terrorism crimes. The said court may, for reasons related to public security, exceptionally hold its meetings at the headquarters of any other court.” In addition to article (38) of Law No. 05-43 on AML which stipulates that: “... Rabat courts are entrusted with following up, investigating and making decisions with regard to acts of ML crimes.” Moreover, The Anti-Terrorism Cell is working 24/7 and has assigned 3 King’s Prosecutor-Generals to perform its duties. Regarding the jurisdiction of making decisions concerning the financial crimes cases, following the cancellation of the special court of justice, the jurisdiction has been assigned to nine courts of appeal through the kingdom in the event where the matter is related to the embezzlement or wasting of Public Funds, bribery, exploitation of power or betrayal, provided that the value of financial amounts obtained or wasted as a result of the said crimes exceed Dirham 100.000 (about USD 12000). Regarding the crimes whose amounts are less than this value, the legislator grants ordinary courts the jurisdiction in this regard. Competent judges in the field of combating terrorism have been trained abroad as there is no official specialisation at the Higher Institute of the Judiciary.
160. AML Law or the aforementioned Criminal Procedure Code do not include obliging the law enforcement authorities and the other competent authorities to review the manners and methods of the general trends of AML/CFT in an organized manner among the authorities, and to distribute the information, studies or analysis obtained from the employees at the law enforcement authorities and other competent authorities.

161. Through the visit, we have been informed by the competent judicial authorities that there are common investigations with the relevant competent authorities of other states through hosting some investigators to investigate in relation to some cases. Financial investigators, in particular, custom and exchange office agents, are qualified for conducting investigations on crime proceeds in their jurisdiction and in relation to exchange and custom laws.
162. Article (15) of the aforementioned AML Law stipulates that the FIU shall cooperate and coordinate with other relevant bodies and authorities in studying the procedures that can be adopted to combat ML.
163. **Recommendation 28.** Article (21) of AML Law stipulates that the FIU shall provide the King's Prosecutor-General or the investigation judge, upon their request or in order to perform their duties, with the documents and information obtained during performing its duties, with the exception of the STR. The King's Prosecutor-General may, upon conducting a judicial investigation, request information on the operations or movements of funds, which are suspicious of being related to TF, from banks or offshore banks, according to the requirements of article (1-595) up to article (5-595) of Law No. 03-03, concerning TF. The abovementioned banking institutions shall submit the required information within a period of 30 days from the date of receiving the request.
164. Moreover, the investigation judges are granted the necessary powers that enable them to inspect persons and scenes to seize evidence and obtain information that can help the investigation, in accordance with the Criminal Procedure Code. The investigation judge – according to the law – conducts all the investigation procedures that he sees valid to disclose the truth (Article 85 of the Criminal Procedure Code), including the inspection and seizure of things and documents according to articles (59, 60, 61 and 62) of the judicial procedure code and the mobility, inspection and confiscation (Article 99 up to 107) and listening to witnesses according to articles (117, 118 and 119) of the same code.
165. According to article (19) of AML Law, the King's Prosecutor-General may order, during the inspection period and for a period that does not exceed one month, renewable for one time, the freezing, by temporary prohibition, of transferring, replacing, disposing of or moving properties. The King's Prosecutor-General, investigation judge and governing body may also order the freezing or confiscating funds that are suspicious of being related to TF. The said authorities are also allowed to seek the assistance of Bank Al-Maghrib to implement these procedures (Article 595-2 of the Criminal Procedure Code). It has also been declared that funds resulted from drugs are immediately confiscated, without the need to wait for a judicial order, by the Public Prosecution which is assigned the responsibility of inspection. In the event where it is illustrated during the inspection procedures in any drugs case that the funds inspected are criminal proceeds, the Public Prosecution is allowed to issue a confiscation order until the final decision on the case is made.
166. In the framework of bilateral judicial agreements with some countries, some judges have been trained in the field of AML/CTF in France, Spain, Belgium and Luxemburg.
167. **Statistics.** The assessment team did not receive any statistics in this regard.

## 2.6.2. Recommendations and Comments

168. The Moroccan authorities should:
- Consider the possibility of granting the Public Prosecution the power to postpone or waive the arrest of suspected persons, and/or seize their funds for the purpose of

identifying persons involved in such activities or for evidence gathering in ML/TF crimes.

- Maintain exhaustive statistics on ML/TF investigations, the number of prosecutions and the judgments of convictions to make sure about the effectiveness and competence of such systems in AML/CFT.

### 2.6.3 Compliance with R 27 & 28.

	Rating	Summary of factors underlying the rating of compliance related to Section 2-6
R 27	PC	<ul style="list-style-type: none"> <li>• Lack of specified authorities responsible for AML/CFT investigations.</li> <li>• Lack of evidence of effectiveness of law enforcement authorities and lack of statistics.</li> </ul>
R 28	C	

## 2.7 CROSS-BORDER DECLARATION/DISCLOSURE (SR IX)

### 2.7.1 Description and Analysis

169. **SR IX.** (Preliminary Note: The assessment team did not receive the legal texts or the accurate and sufficient indicators of the legislative basics – including the exchange law – which the Moroccan authorities based on in describing the declaration/disclosure system applied in Morocco regarding the operations of transferring cash cross-border). It has been illustrated that the applied system **up till the date of the onsite visit and thereafter** in transferring money does not oblige the persons to declare/disclose in any event. In addition, the said system is designed to control the Moroccan exchange market, not for purposes of AML/CFT. This system can be described as the following:
170. General Requirements: It is categorically prohibited to import or export the Moroccan Dirham, while importing other currencies is not subject to any declaration at the custom bodies. Exporting foreign currencies is allowed according to some procedures that differ in relation to the residence inside or outside Morocco. In the event where the person does not reside inside Morocco and wishes to export currencies that have already been imported, he may be allowed to submit a written import declaration of the payment means upon entering Morocco.
171. Foreigners Non-Resident in Morocco Requirements: Re-exporting of foreign currencies may take place on the basis of any document that proves their importing by the source (an import declaration of the payment means, exchange or currency purchase receipt, a banking certificate or notification, or bank statement abroad). In the event of wishing to export all or a part of the foreign currencies that have already been imported, the person may submit a written import declaration. It is also possible to re-export traveler’s checks, banking or postal checks, credit cards and any other payment means in foreign currencies, except banknotes. In addition, it is possible to export currencies withdrawn from an account in a foreign currency in Morocco, provided that documents proving this withdraw are provided upon the request of custom agents.
172. Moroccan residing abroad requirements: Moroccan residing abroad who are passing by or residing for a short term, are allowed to export foreign currencies which are imported and not-replaced, provided that they prove, when necessary, the foreign source of these currencies. It is

also possible to export the amounts that have already been imported and which exceed Dirham 50000 (about USD 6000) by stating in writing (optional) this purpose upon entering Morocco.

173. Foreign Currency Export by Residents: Regarding the residents, exporting foreign currencies, according to the exchange law requirements, is subject to a public and private license. The public license is under specified regulations by the exchange office which enables accepted intermediaries (banks... ) to implement the operations in the framework of this license. The private license is granted directly by the exchange office with regard to some operations. Foreigners residing in Morocco can also export, without any restrictions or amount limits, currencies in foreign banknotes obtained from their foreign currency or transferable Dirham account.
174. In accordance with the exchange law requirements, the competent authorities are granted the power to request and obtain information and documents from the relevant persons. Upon the discovery of any false declaration/disclosure, a violation of the exchange law is proven according to the event. In the event where the matter is related to exporting currencies, a violation of exporting currencies without a license or under a false declaration is proven. On the other hand, in the event where the matter is related to an import, there is no violation of the exchange law, unless where the matter is related to the Dirham import. Upon proving a violation of the exchange law in exporting, an administrative fine is imposed, or the case is submitted to the court to order the sanctions represented in the confiscation, as well as, imposing a fine that reaches five times the value of the seized currency.
175. In accordance with the exchange law requirements, the relevant competent authorities (customs...) are allowed to stop or prohibit the currency for a reasonable period to check the compliance with legal regulations. The right of investigation in this regard is granted to these authorities within the powers entrusted.
176. In the event where an evidence is discovered regarding the relation of this currency or financial instruments with a ML/TF crime, the FIU shall be informed as per the requirements of articles (2) and (9) of the AML Law. According to article (19), the King's Prosecutor-General may order, during the inspection period and for a period not exceeding one month, renewable for one time, the freezing, by temporary prohibition, of transferring, replacing, disposing of or moving of properties, or the appointment of a special institution or body to carry out temporary guarding or monitoring of these properties.
177. The custom directorate, in the framework of implementing the exchange law requirements, maintains some detailed data on the operations related to the declarations/disclosures that include false information, and does not maintain the documents of the other operations.
178. The AML Law stipulates international cooperation between the FIU and the foreign authorities regarding the exchange of information related to ML operations (Article 24). The custom directorate is linked with a number of international custom cooperation agreements with foreign custom authorities which basically aim to fight fraud and are not addressed to AML/CFT.
179. There is no legal provision concerning the punishment of non declaration/disclosure, or the punishment of false declaration/disclosure of currency or bearer negotiable instruments.
180. In the event where the currency or bearer negotiable instruments which are cross-borders transferred are related to ML or TF, the said transfer can be deemed as one of the crimes of "obtaining, possessing or using properties where they are the proceeds of one of the stipulated crimes", according to the first chapter of the law. The said represents a ML crime whose perpetrators are subject to the stipulated sanctions by the law.

181. Regarding the applicability of the requirements of confiscation, reservation measures and freezing to the currency and bearer negotiable instruments which are related to ML/TF, they can be treated under the same legal texts related to ML crimes perpetrators. The first article of the ML law stipulates that possessing the properties that are the proceeds of any stipulated predicate crimes is deemed as the elements of the ML crime. Therefore, the applied confiscation procedures in this regard shall be in effect in relation to the said perpetrators (Review the sections concerning R3 and SRIII of this report).
182. There is no mechanism in Morocco to report to the custom authorities or any other competent authorities in the other countries with which unusual operations take place, including gold, precious metals or stones. Moreover, there is no mechanism of verifying the source of the said substances, their destination and purpose, and of taking the appropriate action.
183. No information has been provided on the level of the preventative regulations enjoyed by the system of reporting cross-border operations to guarantee the accurate use of information or data reported or recorded.
184. It is worth mentioning that the exchange office issued on April 25, 2007 the Circular 1716 concerning the import and export of payment means<sup>22</sup> in which an amendment of some of the elements of the declaration of the currency coming in and out of the country has taken place. Regarding the Moroccan Dirham, its import or export is allowed within the limits of only Moroccan Dirham 1000 whether for residents or non-residents. The new Circular distinguishes between natural persons who are residents or non-residents in Morocco in the event where the currency is foreign. Regarding the non-resident persons (including Moroccans), the Circular allows the import and export of the payment means in foreign currency without any limits and in any form, provided that it is declared at the customs in the event where it is in the form of banknotes (only), and where it reaches or exceeds Moroccan Dirham 100.000 (USD 12.000). The concerned person should keep the said declaration to show it to the customs upon leaving Morocco. With regard to export, natural persons are freely allowed and without any proof at the customs to export the payment means in foreign currencies which are issued abroad with the exception of banknotes. The export of banknotes (only) is subject to declaration as the said export needs to be proven by a written declaration upon entering Morocco in the event where the amount exported reaches or exceeds Moroccan Dirham 100.000.
185. Regarding residents in Morocco (including foreigners), they are allowed to import foreign currencies, provided that the amounts that reach or exceed Dirham 100.000 are declared at the customs and are going to be sold within 30 days of entering Morocco. Foreigners are also freely allowed to bring to Morocco any other payment means in foreign currencies issued abroad. In relation to export, export of banknotes is subject to declaration at customs either by a passport that contains the stamp of the accepted intermediary, exchange agency or the money transfer intermediary company which is licensed to carry out currency exchange operations, or by the detailed statement of the payment exchange by the accepted intermediary bank or any person legally qualified to carry out this type of currency grant. The said should take place within 60 days from the date of obtaining foreign banknotes in relation to tourist and religious trips and 30 days in relation to other trips. Resident foreigners who obtained the currency by withdrawing amounts from their currency or transferable Dirham accounts are required to prove the transaction by stating the liability notice or the detailed exchange statement received by the accepted intermediary which keeps the records.

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<sup>22</sup> This Circular came into effect on May 15, 2007, according to the text at its end. Thus, the Circular has exceeded the grace period during which the issued laws, resolutions and other documents related to the assessment process are considered. Consequently, this Circular will not be invoked in relation to the recommendations, comments and the compliance rating of SRIX.

186. Following the review of the new declaration system, it is illustrated that the said system does not include the required international standards. This system does not require the declaration of all payment means in or out, with the exception of foreign banknotes which reach or exceed USD 12.000. In addition, the new Circular does not stipulate the punishment of non-declaration or the punishment of false declaration on currency or bearer negotiable instruments.
187. *Additional Elements.* The assessment team did not notice the implementation of the Moroccan authorities of the measures mentioned in the best practices note related to SR IX issued by MENAFATF. In addition, there is no electronic database to keep the reports on cross-border transportation of currency.
188. *Statistics.* No statistics are available on the amount of cross-border currencies or the amounts seized or confiscated.

### 2.7.2 Recommendations and Comments

189. Moroccan authorities should:
- Implement a disclosure/declaration system in compliance with the SR IX, provided that this implementation is not limited to the restrictions imposed on the freedom of foreign exchange or on taking out local currencies outside the country only. The current system is trying to stabilize the Moroccan Dirham exchange rate and is not serving the purpose of AML/CFT.
  - Set up a system to keep the data of travelers carrying amounts that exceed the applied national limit.
  - Amend legislations to create sanctions for false disclosure/declaration of the currency or bearer negotiable instruments, carried by travelers, in addition to the confiscation sanction.
  - Establish a database at the customs to keep information concerned with the transfer of currency and bearer negotiable instruments that are declared.
  - Create cooperation between the Customs, the FIU and the other concerned authorities.
  - Set up and improve the arrangements to cooperate with the concerned authorities in the other countries for the purpose of exchanging information on foreign currencies and the financial instruments seized at borders.

### 2.7.3 Compliance with the SR IX

	Rating	Summary of factors underlying the rating of compliance related to Section 2.7
SR IX	NC	<ul style="list-style-type: none"> <li>▪ Lack of disclosure/declaration system as per the Rec. criteria.</li> <li>▪ No channels for cooperation between the customs and FIU.</li> <li>▪ No specified measures to exchange information between the customs, FIU and other law enforcement authorities.</li> </ul>

### 3. PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS

#### *Due Diligence and Record-Keeping*

190. The second branch of the second section of article 2 of the AML Law includes the obligations of due diligence of the persons covered by the law. According to the second article of the law, the scope of its implementation covers natural and legal persons subject to the provisions of the public or private law, with the exception of the State, who, while conducting their duties or professions, execute operations that result in the movement of funds, supervise them or be consulted with regard to them, where they constitute the crimes mentioned in the Penal Code as well as their sanctions. The law mentions, in particular, a number of the persons covered by the law: (1) credit institutions, (2) offshore banks and holding companies, (3) finance companies, (4) insurance and re-insurance companies, (5) account auditors, external accountants and financial consultants, (6) persons of independent legal professions when they act on behalf of their customer in financial or real estate transactions, or when they assist the customer in preparing or implementing some specific operations, and (7) persons who exploit or operate casinos or gambling institutions.
191. It is noted that the said definition of the persons covered by the law is vague and does not illustrate clearly the persons covered by the law. This is due to two reasons. a) the phrase "... natural and legal persons subject to the provisions of the public or private law, with the exception of the State, who, while conducting their duties or professions, execute operations that result in the movement of funds, supervise them or be consulted with regard to them, where they constitute the crimes mentioned ..." is not clear. It does not clearly identify all the persons covered by the law, and subsequently, the supervisory authorities and their consequent obligations. b). Mentioning some persons "in specific" as persons covered by the law might lead to confusion as to the scope of the persons concerned with the implementation of the law.
192. The AML Law gives the authority to monitor the compliance of the subject to it to the Financial Information Processing Unit (the Moroccan FIU) whose establishment is provided for in the law. This has been mentioned implicitly rather than explicitly in Article (30) of the mentioned law. The article stipulates that in the event where a person subject to the law does not implement the stipulated obligations, the FIU shall refer the matter to the authority entrusted with the power of supervising and sanctioning such person so as to impose sanctions on the basis of the legislation applied to it. In this context, considering that the said FIU has not been established yet, no instructions or guidelines have been issued regarding the preventative measures and arrangements related to AML/CFT that the persons covered by the law should adopt.
193. At the practical level, it can be considered that the preventative measures in the AML/CFT field prior to the law coming into effect (May 2007) have been specified according to Circular 36/2003 of Bank Al-Maghrib which came into effect on January 1, 2004. It is worth mentioning that the said Circular is applied only to credit institutions, is not mandatory and no sanctions are imposed in the case of breach thereof. This Circular includes some instructions on the rules that credit institutions should follow for the purposes of vigilance, as the Circular does not stipulate that these rules should be considered in relation to AML/CFT. According to Articles (13), (14) and (15) of the banking law, the Financial Services of Barid Al-Maghrib (Moroccan Postal Service), the Management and Deposit Fund, the Central Guarantee Fund, Microcredit Institutions, Offshore Banks, Finance Companies, and Money Transfer Companies, are subject to some of the obligations mentioned therein, as assimilated bodies to credit institutions.

194. Bank Al-Maghrib is responsible for supervising the implementation of the abovementioned measures, on the one hand, through the annual examination of documents and the internal monitoring reports of credit institutions which should include a description of the vigilance systems and the applied monitoring operations in this regard, according to Article (26) of the aforementioned Circular. On the other hand, Bank Al-Maghrib conducts onsite supervision to ensure that the mentioned institutions are implementing the stipulated vigilance rules.
195. Regarding the rest of the FIs, such as insurance and reinsurance companies, no instructions related to AML/CFT have been provided, whether prior to the AML Law coming into effect or following that date.

### **Customer Due Diligence and Record-Keeping**

#### **3.1 RISK OF MONEY LAUNDERING AND TERRORIST FINANCING**

196. The financial sector in Morocco is subject to the AML Law requirements, which do not include a reference to the implementation of reduced diligence measures based on the risk level. Nonetheless, Article (6) of the law stipulates that persons legally qualified to open accounts are obliged to carry out special monitoring of the accounts of customers who seem to constitute high risks and all their operations. Article (8) of the law obliges the persons covered by the law to conduct a special study of each operation that includes amounts exceeding in their individual or total amount the amount specified by the FIU, and which, without being in the scope of implementing the suspicion reporting provisions, is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content. In this event, the persons covered by the law carry out an investigation with the customer on the source and purpose of these amounts and the identity of the beneficiaries. Article (12) of the law obliges the qualified persons to make a suspicion report by notifying their operators regularly in writing of the conducted operations by the customers who constitute high level of risk.
197. Therefore, the law does not exempt any type of institutions in the financial sector from implementing the stipulated usual measures regardless of the nature or value of the transaction. However, (only) credit institutions under the supervision of Bank Al-Maghrib are required, according to Circular 36, to divide their customers on the basis of the risk level. Article (13) of the circular stipulates that credit institutions shall divide their customers in categories according to the risk level (without specifying any enhanced or reduced measures that may result). Thus, the paperwork upon opening an account should include the risk level of the customer based on the required documents and interviews and some other indicators, such as the customer's country of origin, funds source, nature of the business, nature of the conducted operations and the date of the account.

#### **3.2 CUSTOMER DUE DILIGENCE, INCLUDING ENHANCED OR REDUCED MEASURES (R 5 TO 8)**

##### **3.2.1 Description and Analysis**

198. The obligations of the vigilance mentioned in the law (Article 3) include the collection of all elements of information that enable the identification of permanent and occasional customers' identity. In the event where the customer is a legal person, verifying by means of necessary documents and data of its naming, legal form, activity, social headquarters address, capital, operators identity, or the power entrusted with the persons qualified to represent it before others or on its behalf as per the power of attorney, should take place. The persons covered by the law should not carry out any operation in the event where the identity of the

concerned persons is not verified, not completed or seems to be false (Article 4). The persons legally qualified to open accounts should, according to Article (5) of the AML Law, verify the identity of the applicant prior to opening any account, in accordance with the provisions of Article (488) of the Commercial Code. They should, according to the same conditions, carry out the following:

- Verify the identity of their occasional customers who request carrying out operations whose nature and amount are specified by the FIU.
- Verify the identity of the persons **ordering** of operations of which others are the beneficiaries.
- Inquire about the real identity of the persons for whom accounts are opened or operations are carried out on their behalf in the event where the persons requesting opening an account or conducting an operation do not seem to be doing so for their own interest.
- Inquire about the identity of the persons who are carrying out operations on behalf of their customers as per the power of attorney.
- Inquire about the funds source.

199. Article (488) of the Moroccan Commercial Code obliges only banking institutions to verify the identify of the applicant (customer) prior to opening accounts and keeping the records related to each customer, including, with regard to natural persons, verifying the residence and identity of the account applicant, on the basis of the data of the national identification card, the registration in relation to resident foreigners, passport or any equivalent to prove the identity with regard to non-resident foreigners. Regarding legal persons, on the other hand, verifying their form, name, and headquarters address should take place, as well as, the identity and powers of the natural persons or persons entrusted with carrying out account operations, the company tax number, commercial register or profession tax number.

200. According to Article (6) of the AML law, the persons legally qualified to open accounts should verify, during opening any account, that the applicant has other opened accounts in their records. In addition, they should investigate the reasons on the basis of which an application for a new account has been submitted, regularly update the legal files of their customers' accounts and monitor the accounts and operations of customers who seem to constitute high risk. The persons covered by the law should be responsible for keeping the documents related to the conducted operations by their **customers** for ten years commencing on the date of their implementation. They should also keep the documents related to the identity of their permanent and occasional customers for ten years, commencing on the date of closing their accounts or terminating their business relationships, as well as, keeping the documents related to the abovementioned persons ordering the said accounts.

201. The persons covered by the law should conduct a special study for each operation concerning amounts that exceed in their individual or total amount the amount specified by the **FIU**, and which, without being in the scope of implementing the provisions related to suspicion reporting, is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content. In this event, the persons covered by the law should carry out an investigation of the customer on the source and purpose of these amounts and the identity of the beneficiaries. The operation details should be included in a document and kept by the persons covered by the law, according to the aforementioned conditions.

202. Moreover, the persons covered by the law should verify that these obligations are applied by their branches or subsidiaries that are based abroad, unless the regional legislation stipulates otherwise. In the latter event, they should inform the FIU.

203. Article (10) of Law No. 58-90, concerning offshore financial zones, requires offshore banks to identify their customers.

#### ***Recommendation 5***

##### *Anonymous accounts, accounts in fictitious names and numbered accounts*

204. The AML Law and other enforced laws and systems do not stipulate explicitly prohibiting FIs from maintaining of anonymous accounts or accounts in fictitious names. However, identification procedures applicable to those institutions do not enable the opening of such accounts. In addition, the AML and banking laws do not regulate numbered accounts specifically or differently. At the practical level, the assessment team has found out that all the FIs that keep accounts of their customers do not open these types of accounts.

#### **When Customer Due Diligence is Required**

205. Article (4) of the AML Law prohibits the persons covered by the law from conducting any operation if the identity of the concerned persons is not verified, not completed or seems to be false. Article (5) of the same law specifies that the persons legally qualified to open accounts should verify the identity of their occasional customers who request operations whose nature and amount are specified by the FIU. This text in Article (5) confines the identification of customers who request conducting occasional operations (from the persons legally qualified to open accounts in particular) if the said operations exceed a certain amount that will be specified by the FIU. This has not taken place up until now, as the FIU has not been established to date, leaving the obligations related to these operations uncertain. Article (84) of the banking law compels credit institutions and the other bodies under the monitoring of Bank Al-Maghrib to comply with the vigilance obligation regarding any operation whose economic reason or legal nature is not clear. Bank Al-Maghrib Circular 36 requires credit institutions only to obtain all the information that enables the identification of the customer identity prior to opening any account or carrying out any occasional operation.

206. Regardless of the above, there is no proof that Morocco obliges the verification of the customer's identity in the event where:

- There is a doubt that ML/TF is taking place, regardless of any mentioned exemptions or threshold limits, although article (5) of the law refers to the operations whose nature and amount are specified by the FIU. Article (84) of the banking law is only related to banking institutions and assimilated bodies, not all FIs.
- There is a doubt at the financial institution concerning the accuracy or sufficiency of the data previously obtained to identify a customer.

#### **Due Diligence Measures**

207. The AML Law in Article (3) requires that the persons under its power should request all elements of information that enable them to identify their permanent or occasional customers. Article (5) of the same law requires that the persons qualified to open banking accounts verify the identity of the applicant prior to opening the account, in implementation of the provisions of Article (488) of the Commercial Code, i.e. on the basis of a national identification card, a registry card for resident foreigners, a passport or any equivalent to prove the identity for non-resident foreigners.

208. Article (3) of the law stipulates that in the event where the customer is a legal person, all persons covered by the law should verify its identity by means of all the data on its naming, legal form, activity, headquarters address, capital, operators identity, and the power entrusted

with the persons qualified to represent it before others or on its behalf as per the power of attorney. Article (10) of the Offshore Banks Law stipulates that banks should obtain all the data that enable them to identify the opened account holder regardless of the nature of the account.

209. Article (3) of Bank Al-Maghrib Circular requires credit institutions to obtain information that enables them to identify the identity of the persons wishing to open accounts regardless of the nature of the accounts, rent safe boxes or request a occasional operation, such as transferring funds. Article (5) of the same Circular requests filling out a statement of opening an account in the name of each customer in the event where he/she is a natural person on the basis of the information in any official identification document. The said document should be valid, issued by an authorized Moroccan body or by a recognized foreign authority, and containing a photograph of the customer. The following elements should be listed in the statement: (1) Name (or names) and surname, (2) Number of the national identity for citizens and its validity, (3) Number of the registration card for resident foreigners and its validity, (4) Number of passport or any equivalent identity document for non-resident foreigners and its validity, (5) Address, (6) Profession, and (7) Number of registration at the commercial register for natural persons who are identified as dealers and the registration centre. All the mentioned identification elements should be collected from the persons who might be working on operating the customer account by the power of attorney. The statement of opening an account and copies of the identity documents should be kept in a file opened in the name of the customer.
210. With regard to legal persons, Article (6) of Bank Al-Maghrib circular requests that credit institutions should fill out a statement of opening an account in the name of the customer which should include according to the legal status of these persons all or some of the following identification elements: (1) Name, (2) Legal form, (3) Activity, (4) Headquarters address, (5) Number of tax registration, and (6) Number of registration at the commercial register and the registration centre. This statement should be kept in a file opened in the name of the legal person, in addition to the additional documents specified below according to the legal form. The additional documents that should be submitted by commercial companies include, in particular: updated statutes, legal announcement concerning the establishment of the company, possible amendments of the regulations, minutes of the meetings of public associations or the partners who are assigned presidents of the said associations, members of the monitoring board or chairmen and the names of directors and persons entrusted with operating the banking account. In the case of the companies under establishment, the credit institution should request the negative certificate and statute project and should collect all the identification elements of the founding persons and the capital shareholders.
211. According to the mentioned Circular, the additional documents that should be submitted by the associations include: (1) Updated statutes, (2) A temporary or final receipt of submitting the declaration file to the competent administrative authorities, (3) Minutes of the founding public associations concerning the election of the office members, president and the assignment of duties at the office, and (4) Names of the operators and persons entrusted with operating the banking account. The additional documents required for submission by cooperatives include: (1) Updated statutes, (2) Minutes of the founding public association, (3) The contract under which persons entrusted with operating the account are assigned, and (4) The resolution which grants the license of establishing the cooperative. The additional documents that should be submitted by institutions and other public entities include: (1) The founding contract, (2) The contract which appoint representatives or specify the powers of various authorities at the institution, and (3) Names of the persons entrusted with operating the account. With regard to the other legal persons categories, credit institutions require the additional elements related to them after consulting the legal instruments regulating them.

212. Article (5) of the law obliges the persons legally qualified to open accounts to verify the identity of the applicant prior to opening any account. They should also verify the identity of their occasional customers, the identity of the persons ordering the conduct of operations of which others are the beneficiaries, and verify the identity of the persons who are carrying out operations on behalf of their customers as per the power of attorney. Moreover, they are required to verify the real identity of the persons the account is opened or the operation is carried out on their behalf if the persons requesting opening an account or conducting an operation do not seem to be doing so for their own interest and verify the funds source. Despite the above, there are no specific steps or clear instructions to obtain sufficient identification data to verify the identity of beneficiaries.
213. Regarding legal person customers, there is no provision that obliges the identification of natural persons who possess or have complete control of the customer. Moreover, nothing obliges the FIs to obtain information on the purpose and nature of the business relationship (except verifying the reasons on the basis of which the request to open new accounts has been submitted. The said only applies to the institutions qualified to open accounts). In addition, there is a lack of actual case practice, which may only take place within the commercial practice.
214. Article (6) of the AML Law obliges (only) the persons qualified to open accounts to ensure the regular updating of the legal files related to the customers' accounts. Article (23) of Bank Al-Maghrib Circular stipulates that credit institutions should constantly update the information concerning their customers. It states that credit institutions should ensure, as much as possible, and gradually, the update of the files related to the verification of the identities of customers with whom they had business relationships prior to the effective date of this Circular. It is noted that other FIs are not required to regularly update their customers' files. It is worth mentioning that some of the sample banks did not start the process of updating the customers' files. However, constant monitoring of the conducted operations of these accounts take place according to those institutions.

### ***Risks***

215. Regarding the enhanced due diligence measures, Article (6) of the law stipulates that the persons legally qualified to open accounts are obliged to carry out a special monitoring of the accounts and operations of customers who seem to constitute high risk. Article (8) of the law obliges the persons covered by the law to carry out a special study of each operation that includes amounts exceeding in their individual or total amount the amount specified by the FIU, and which, without being in the scope of implementing suspicion reporting provisions, is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content. In this event, the persons covered by the law carry out an investigation with the customer on the source and purpose of these amounts and the identity of the beneficiaries. Article (12) of the law in its last section obliges the qualified reporting persons to notify their operators regularly in writing of the conducted operations by the customers who constitute high level of risk.
216. Bank Al-Maghrib Circular 36 expands on this point in Article (1), which stipulates the necessity of monitoring the customers' operations, in particular those constituting high risk, as well as increasing the awareness of employees and training them on investigation mechanisms and prevention from unusual and suspicious transactions. Article (13) of the Circular stipulates the importance of dividing the customers into categories according to the risk level of the customer. The documents of opening accounts should include the risk level of the customer based on the necessary documents and interviews, as well as, some indicators, such as the customer's country of origin, funds source, nature of the business, nature of the conducted operations and the account date. Article (14) of Bank Al-Maghrib Circular also requires credit

institutions to set thresholds for operations for each category of customers. In the event where the customer exceeds these limits, these operations can be considered unusual or suspicious.

217. Article (15) of Bank Al-Maghrib Circular stipulates that credit institutions should pay special attention to the financial operations carried out by professional intermediaries (such as notaries, lawyers and the institutions that usually carry out the intermediary profession, consultation and assistance in relation to funds managing) on behalf of their customers whether natural or legal persons. Credit institutions are required according to Article (16) to pay special attention to the operations carried out by persons living at others' residence or who receive their mail by PO Boxes or at the offices of the institution, or the ones who change their addresses constantly.
218. Article (18) of the Circular stipulates that the requirements of opening an account and the important funds transaction should be under a central monitoring to ensure that all information related to the concerned customers is available and that these transactions do not lead to any operations of an unusual or suspicious nature. A written report in relation to any operation of an unusual or suspicious nature should be submitted to the competent officer. Each credit institution should appoint an officer and a deputy to him entrusted with guaranteeing the communication with Bank Al-Maghrib concerning the matters related to vigilance. Some of the duties of the officer are:
- The central collection and studying of the reports that are issued by the branches in relation to operations of an unusual or suspicious nature.
  - Guaranteeing a special follow-up of the accounts that record any operations considered of an unusual or suspicious nature.
  - Constantly informing the institution administration of high risk customers.
219. The law does not determine any exception to the due diligence measures implementation rule. Thus, the law does not allow the persons covered by the law to reduce the due diligence measures by their branches or their subsidiaries based abroad unless the regional legislation stipulates otherwise. In this event, they should inform the FIU (Article 8 of the law).

#### ***Timing of verification***

220. The law (Article 4) does not allow the persons subject thereto to carry out any operation for a customer prior to verifying the identity of the concerned persons. Article (5) requires the verification of the occasional customers identity in relation to the operations whose nature and amounts are specified by the FIU. The legislations do not allow FIs to complete the verification process of the customer or beneficial owner identities following the commencement of the business relationship.

#### ***Failure to satisfactory complete CDD***

221. FIs are not allowed, as mentioned above, to initiate business relationships prior completing CDD, according to Article (4) of the law. No operation can be carried out prior to verifying the customer identity or in the event where the said identity is incomplete or false. However, there is no provision concerning the termination of the business relationship if the financial institution is unable to comply with CDD standards and the consideration of the reporting the suspicious transactions (for instance, in the case of inability to perform CDD on suspecting the veracity of the customers' data that has been previously obtained).

### *Existing Customers*

222. Bank Al-Maghrib Circular stipulates, as mentioned, that credit institutions should divide their customers based on the risk level. The account opening statement should include the risk level of the customer on the basis of the required documents and interviews and some other indicators, such as the customer's country of origin, funds source, nature of the business, nature of the conducted operations and the date of the account. However, there is no provision regarding allowing the said institutions to carry out due diligence measures on the basis of the risk level. Thus, the sample banks divide their customers in categories, and this division may be based on the type of customer, operation or the size of the operation.
223. Regarding the rest of the FIs, they are also required, according to Article (12) of the law, to inform their operators regularly of the operations conducted by customers who seem to constitute a high level of risk. However, to the date of the onsite visit, no regulatory or supervisory provisions have been issued with regard to classifying existing customers of these institutions on the basis of materiality or risk. Moreover, there is no reference to carrying out due diligence measures at appropriate times.
224. **Recommendation 6.** There is no reference to any classification of political persons included in the AML Law or other laws available for the assessment team. Thus, there is no provision to oblige the persons covered by the law to set any appropriate regulations or measures of risk management to specify whether the possible customer, existing customer or beneficial owner is a politically exposed person. It is worth mentioning that up until the date of the onsite visit the United Nations Convention against Corruption 2003 has not been ratified by Morocco. Moroccan authorities state that procedure measurements related to the ratification of this convention<sup>23</sup> have been initiated.
225. **Recommendation 7.** Regarding cross-border correspondence banking and similar relationships, neither the law nor Bank Al-Maghrib Circular require FIs to collect any information that leads to a comprehensive understanding of the nature of business of correspondent institutions, determining their reputation or evaluating the applied AML/CFT regulations. Moreover, there are no instructions that require obtaining the permission of the senior management prior to conducting any new relationships with such institutions. The law does not stipulate any additional due diligence measures in relation to the payable-through accounts. As there are no instructions in this regard, FIs are only provided with the instructions and guidelines of due diligence stipulated in the law and Bank Al-Maghrib Circular.
226. **Recommendation 8.** Neither the law nor Bank Al-Maghrib Circular require FIs to take any special measures other than the stipulated precautionary detection and monitoring measures in Article (12) of the law, to face the ML threats resulted from the spread of modern technologies. The only exception to that is the provision of Article (8) of Bank Al-Maghrib circular which states that the remote requests of opening accounts (through the internet, for example) should be subject to the same provisions stipulated in the Circular concerning opening accounts in the usual manner. The said is not considered sufficient to meet the requirements of R8 which requests the existence of such policies and measures in a comprehensive and clear manner. On the other hand, since the law does not distinguish between face-to-face and non-face-to-face customers, its provisions related to due diligence are applied, to the same degree, to the customers who carry out any transactions including the use of modern technologies. Considering the general status of the banking system in Morocco, it can be noted that carrying out any business relationships requires the personal presence of the customer, while remote account opening is not widely spread. On the other hand, credit institutions have not developed remote banking operations either.

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<sup>23</sup> The official ratification by the Moroccan Government on the UN convention against corruption took place on May 9, 2007, following the onsite visit of the assessment team.

### 3.2.2 Recommendations and Comments

227. Morocco has to ensure the following:

- Specify a certain amount by the FIU to oblige FIs to take due diligence measures upon conducting any occasional transactions that exceed the threshold within the Recommendations (USD/Euro 15000), or in a manner that goes in line with the level of the financial sector transactions.
- Promulgate a legislative text to oblige FIs to specify natural persons with beneficial ownership or control of the customer (and to expand the said to include the FIs other than those qualified to open accounts only).
- Oblige FIs to obtain the information related to the purpose and nature of the business relationship (without requiring that the implementation only applies to opening accounts institutions).
- Refer to implementing enhanced due diligence on customer categories, business relationships, or high risk transactions, and in particular the operations carried out by non-residents.
- Oblige FIs to terminate business relationships and consider filing suspicious transaction reports in the event of finding difficulty in applying due diligence.
- Oblige FIs to implement due diligence measures on existing customers based on materiality and risk.
- Oblige the rest of FIs to update the profiles of their customers, documents and information obtained within due diligence measures. The FIU should verify the practical implementation of the said following its establishment.
- Issue circulars or binding regulations to implement the conditions of Law No. 43-05, so that it includes, for instance, the requirements of Bank Al-Maghrib Circular 36.
- Oblige FIs to set appropriate risk management systems according to the requirements of R6 to deal with politically exposed persons.
- Oblige FIs to take some measures in addition to the due diligence process, concerning correspondent banks in a manner that allows a comprehensive understanding of the nature of business of the correspondents, determining their reputation, knowing the nature of the applied AML/CFT regulations and evaluating them, and obtaining senior management permission prior to conducting new relationships.
- Oblige FIs to set policies or take necessary measures to prevent the exploitation of technological developments in ML/TF operations.

### 3.2.3 Compliance with R 5 – 8

	Rating	Summary of factors underlying the rating of compliance
<b>R 5</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No specification of a threshold for occasional transactions that is in line with the threshold specified in the methodology.</li> <li>▪ No obligation to identify the beneficial owners or controllers of the customer in the institutions other than those qualified to open accounts.</li> <li>▪ No obligations of the institutions other than those qualified to open accounts to obtain the information related to the purpose and nature of the business relationship.</li> <li>▪ No obligation to terminate the business relationship with</li> </ul>

		customers in the event of the inability to implement the due diligence measures. <ul style="list-style-type: none"> <li>▪ No obligations on financial entities other than banking institutions to constantly update the files of customers.</li> </ul>
<b>R 6</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ FIs are not obliged to set appropriate systems to deal with politically exposed persons.</li> </ul>
<b>R 7</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No rules to deal with correspondent institutions.</li> </ul>
<b>R 8</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No applied policies or measures to prevent the exploitation of modern technologies in ML or deal with the risks related to indirect transactions.</li> </ul>

### 3.3 THIRD PARTIES AND INTRODUCED BUSINESS (R 9)

#### 3.3.1 Description and Analysis

228. **R. 9.** This recommendation is not applicable in Morocco, since neither the law nor the existing legislations stipulate the possibility of the reliance of FIs on third parties to carry out some of due diligence measures. All FIs are obliged to carry out verification measures wholly by themselves through the requirements of AML Law. Thus, these persons are responsible for customer identification and implementing CDD rules.

#### 3.3.2 Recommendations and Comments

#### 3.3.3 Compliance with R 9

	Rating	Summary of factors underlying the rating of compliance
<b>R 9</b>	<b>NA</b>	<ul style="list-style-type: none"> <li>▪ Legislations do not allow FIs to rely on third parties to implement some CDD measures.</li> </ul>

### 3.4 FINANCIAL INSTITUTION SECRECY OR CONFIDENTIALITY (R. 4)

#### 3.4.1 Description and Analysis

229. **Recommendation 4.** Lifting professional secrecy is key to enabling the competent authorities to obtain sufficient information of AML/CFT. In this context, the requirements of Article (13) of AML Law obliges the persons covered by the law to inform the FIU and the supervision an supervisory authorities of all necessary documents and information necessary to carry out their duties. Persons covered by the law are not allowed to object to investigation or verification processes ordered by the FIU and carried out by the agents sought for assistance. The said persons should facilitate access to necessary documents and information to the agents. They cannot use professional secrecy to challenge the FIU or the supervisory and oversight authorities. The said is an exception to the requirement of Article (79) of the banking law which imposes professional secrecy on "... all persons who are involved, in any form, in administering, operating, or managing, a credit institution or employed thereat ... and in general any person, who is requested, in any form, to access the information related to the mentioned institutions or their use in relation to all the cases they access in any capacity, is subject to the sanctions stipulated in Chapter (446) of the Penal Code."

230. On the other hand, the law in Article (24) allows the FIU, in the framework of the international agreements joined by the Moroccan Kingdom, which are legally published, or in implementation of the principle of reciprocity, and in the framework of respecting the effective legal requirements, to exchange financial information related to AML with the foreign authorities with similar competences.

### 3.4.2 Recommendations and Comments

### 3.4.3 Compliance with R 4

	Rating	Summary of factors underlying the rating of compliance
R 4	C	

## 3.5 RECORD KEEPING AND WIRE TRANSFER RULES (R 10 & SR VII)

### 3.5.1 Description and Analysis

231. **Recommendation 10.** The persons covered by the law are obliged by Article (7) of the law to keep the documents related to the conducted operations by their customers for ten years commencing on the date of their execution. It is worth noting that the record keeping process takes place regardless whether the account or business relationship are still existing or not. The same article also requires the persons covered by the law to keep the documents related to the identity of their permanent and occasional customers for ten years, commencing on the date of closing their accounts or terminating their business relationships as well as keeping the documents related to the persons ordering operations where others are the beneficiaries. It is noted that the law does not explicitly stipulate the guaranteed provision of the said records and information at the appropriate time to the local competent authorities. However, the law gives the FIU the power to obtain the said information by relying on public administrations and institutions and legal persons subject to the public law which, within their authority to monitor the activities of the persons covered by the law, can obtain information.

232. Moreover, Article (22) of Bank Al-Maghrib Circular, concerning credit institutions only, **stipulates** that the process of record keeping should be sufficient for the reconstruction of individual transactions (transaction value, transaction type) and provide necessary information to the competent authorities at the appropriate time.

233. **Special Recommendation VII.** Establishments that exercise intermediary operations related to money transfer with regard to receiving or sending funds by any means inside or outside the kingdom should be licensed prior to practicing their activity, according to the requirements of Article (15) and Article (27) of the banking law. At the practical level, this sector has been ineffective to the date of the onsite visit since no license or registration has taken place for any of the companies operating in this field. The said companies practice their activity only in the local currency since it is subject to the exchange law. There are some foreign services in this regard within local agreements with some credit institutions, such as Western Union. As mentioned, the said establishments are subject to the measures of the exchange office, which is responsible for monitoring the operations carried out in foreign currencies in implementation of the exchange law. The said law prohibits the possession of or dealing in foreign currencies by citizens unless they are granted permits by the exchange office

as a measure to stabilize the exchange rate. According to officials, a law to regulate this sector is going to be issued soon.

234. Regarding the conditions of practicing money transfer activities, a circular<sup>24</sup> of Bank Al-Maghrib specifies the said conditions as the following:

- The transfer of funds is only allowed for the interest of natural persons, while the transfer of funds for legal persons remains an exception.
- The said companies should sign agreements with a bank of their choice to guarantee the follow-up of the operations carried out by these companies.
- The licensed companies of money transfer are allowed to entrust others by the power of attorney to carry out these activities, provided that this takes place under their responsibility.
- The companies which sign agreements with other international companies should declare the said agreements with the concerned companies.
- The foreign companies which deal with Moroccan companies should be subject to a supervisory authority which is similar to the one enjoyed by Bank Al-Maghrib and these companies.

235. With regard to the compliance of the FIs, which carry out transfer operations, with obtaining and keeping full originator information (name, account number – or a unique reference number – and address of the originator), Moroccan authorities state that this is included in the measures persons qualified to open accounts take in order to verify the identity of the persons ordering operations where others are the beneficiaries (Article 5 of the law). It is noted, with regard to this justification, that Article (5) of the law does not require obtaining an account number or a unique reference number, where there is no account, upon carrying out the transfer. Moreover, this justification excludes, for instance, the companies specialized in the field of money transfer, which do not necessarily open accounts for their customers. It is also noted that there are no obligations to include the full information about the transaction originator in the letter or in the payment form accompanying the wire transfer. However, officials say that the rule which obliges banks to include all the operation information in the payment method of cross-border wire transfer or local transfer is stipulated in a Bank Al-Maghrib circular to come into effect later. In addition, there is no obligation on intermediary or beneficiary institutions in the case of payment chain to ensure the transmission of all originator information accompanying the wire.

236. It has been noted that some credit institutions “banks” implement, at the practical level, some of the requirements with regard to obtaining and keeping the name, account number and address of the originator, as well as, including the transaction information in the institution's payment form for cross-border or local wire transfers.

237. There are no measures in place to impose efficient supervision to guarantee the compliance of the FIs, which carry out transfers in the absence of explicit obligations with regard to implementing the requirements of the SR. VII, regardless of the existence of any companies operating in this field outside the framework of monitoring and regulation.

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<sup>24</sup> This circular has not been specified or provided to the assessment team.

### 3.5.2 Recommendations and Comments

238. Morocco should:

- Establish an enforceable text to guarantee the provision of the records and information related to financial transactions to the local competent authorities at the appropriate time.
- Oblige the FIs that carry out money transfers to implement the requirements of the SR. VII with regard to obtaining and keeping the information related to the operation, imposing monitoring by the monitoring bodies and finding deterrent and appropriate sanctions, so that the said measures are implemented on all institutions operating in this sector.
- Oblige the intermediary and beneficiary institutions in the payment chain to ensure the transmission of all the information related to the originator of wire transfer.

### 3.5.3 Compliance with R 10 & SR VII

	Rating	Summary of factors underlying the rating of compliance
<b>R 10</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ No reference to guaranteeing the provision of records and information to local competent authorities at the appropriate time.</li> <li>▪ No establishment of the FIU, which is the central authority, as per the law, in receiving and requesting information from FIs.</li> </ul>
<b>SR VII</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No obligation on FIs carrying out transfers to implement the requirements of the SR. VII with regard to obtaining and keeping information related to the operation and imposing monitoring by the monitoring bodies. Therefore, there are no appropriate and deterrent sanctions in the event of violation of the requirements.</li> <li>▪ No obligation on intermediary or beneficiary institutions in the payment chain to ensure the transmission of all originator information in wire transfers.</li> </ul>

### Unusual and Suspicious Transactions

#### 3.6 MONITORING TRANSACTIONS AND RELATIONSHIPS (R 11 & 21)

##### 3.6.1 Description and Analysis

239. **Recommendation 11.** Article (8) of the law requires the persons covered by the law to carry out a special study of each operation that includes amounts exceeding in their individual or total amount the amount specified by the FIU and which, without falling within the implementation scope of suspicion reporting provisions stipulated in Article (9) of the law, is surrounded by unusual or suspicious circumstances and does not seem to have any economic reason or any obvious legal content. In this case, the persons covered by the law should verify with the customer the source of these amounts, their purpose and the identity of the beneficiaries. The operation details should be included in a document and kept by the persons covered by the law in accordance with conditions stipulated in Article (7) of the law. The outcomes of such study should be put under the disposal of the competent authorities, in implementation of the requirements of Article (13) of the law. It is noted though that confining unusual or complicated operations that do not have any obvious economic reason to the operations related to certain amounts specified by the FIU does not comply with the criteria of

the recommendation, which do not require such specification. In addition, as the FIU has not been established yet, no amounts have been specified up to this date.

240. As to Article (9) of the law, it provides that the persons covered by the law are required to report any suspicion to the FIU with regard to all amounts or operations suspected of being related to money laundering, or any operation in which the identity of the ordering or the beneficiary person is suspicious.
241. Bank Al-Maghrib circular also stipulates that credit institutions should appoint an officer and a deputy to him to guarantee the communication with Bank Al-Maghrib in connection with matters related to vigilance. Some of the duties of this officer are:
- The central collection and studying of the reports filed by branches in relation the operations of an unusual or suspicious nature.
  - Ensuring a special follow-up of the accounts that record any operations of unusual or suspicious nature.
  - Constantly informing the institution management of the customers who constitute high risks
242. **Recommendation 21.** No article of the law or the other regulations includes, in specific, any obligation on the FIs to pay any special attention to the business relationships and transactions with persons (including entities and other FIs) from or in other countries that do not, or do not sufficiently, apply the FATF recommendations. Moreover, there are no measures that ensure that FIs are advised of the concerns related to the weaknesses of the combating systems in the other countries. Nevertheless, Moroccan authorities state that Article (6) of the law obliges the persons qualified to open accounts to carry out a special monitoring of the customers' accounts who seem to constitute high risks and their operations, which implicitly includes the persons from or in countries that do not implement the FATF recommendations. The said cannot be considered sufficient in the framework of compliance with the R. 21 criteria, which explicitly request paying special attention to these categories of customers and transactions.
243. Moroccan authorities refer to Article (8) of the AML Law, which obliges subject persons to carry out a special study of each operation that includes amounts exceeding in their individual or total amount the amount specified by the FIU and which, without falling within the scope of suspicion reporting provisions in the law, is surrounded by unusual or suspicious circumstances and does not seem to have any economic reason or any obvious legal content. The persons covered by the law should verify the implementation of this obligation by their branches and subsidiaries based abroad, unless the local legislation stipulates otherwise. In the latter case, they should inform the FIU. This article of the law is not related to the recommendation criteria. Moreover, this article is related to financial operations exceeding a certain threshold to be set by the FIU. The above has not taken place yet since the FIU has not been established in the first place.

### 3.6.2 Recommendations and Comments

244. Morocco should ensure the following:
- Obliging FIs to pay special attention to business relationships and transactions with persons, entities or other FIs from or in countries that do not implement the FATF Recommendations.
  - Promulgation of texts providing that FIs should be advised of the weaknesses in AML/CFT systems in other countries.

- Issuing provisions providing for appropriate countermeasures in cases where a country continues to not implement the FATF recommendations.

### 3.6.3 Compliance with R 11 & 21

	Rating	Summary of factors underlying the rating of compliance
<b>R 11</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of clarity with regard to the persons covered by the law and the supervisory authorities.</li> <li>▪ Linking the suspicion of any unusual or complicated operations with a certain threshold (set by the FIU).</li> </ul>
<b>R. 21</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No explicit obligation on FIs to pay special attention to business relationships and transactions with persons, entities or other FIs from or in the countries that do not implement the FATF recommendation.</li> </ul>

### 3.7 SUSPICIOUS TRANSACTION REPORTING AND OTHER REPORTING CONDITIONS (R. 13, 14, 19, 25 & SR. IV)

#### 3.7.1 Description and Analysis

245. **Recommendation 13 & SR IV:** Article (9) of the AML Law includes the obligation on subject persons to immediately report any suspicion to the FIU with regard to: (1) all suspicious amounts or operations related to money laundering, and (2) any transaction in which the identity of the ordering or the beneficiary person is suspicious. The FIU should specify the data that should be included in the suspicion report, the nature of the transactions to be reported and their minimum amount. This requirement is not considered sufficient to meet the criteria of R. 13, which stipulate that the reporting requirement should be applicable to at least the proceeds of all the crimes that should be included as predicate ML offenses, according to Recommendation 1. Since the Moroccan law only includes, in the definition of predicate offenses in Chapter 574-2, a number of crimes that do not cover all the categories of designated predicate crimes specified in the FATF Forty Recommendations, the suspicion reporting in ML operations in this regard therefore is incompatible with the FATF Recommendations.
246. With regard to reporting the transactions which include funds suspected of being related to terrorism, terrorist acts or which are used by terrorist organizations or terrorism financiers, Article (32) of AML Law stipulates that this law is applied on the acts and operations stipulated in Chapter 574-1 in the event where the source of these properties or proceeds is related to a terrorist crime or where the purpose of these acts or operations is funding terrorism, as stipulated by section 1 (bis), Part One of the third book of the Penal Code. Since the definition of TF in the Moroccan Law is not compatible with the international standard, as the law confines the forms of TF to committing a terrorist act without including the use of funds by a terrorist organization or a terrorist individual, the obligation to report the transactions related to TF in this regard does not cover all the TF forms.
247. As for reporting attempts of suspicious transactions, the Moroccan legislation does not include any provisions in this regard; which does not meet the requirements of R. 13 that stipulates that the said reporting should be mandatory. With regard to the financial transactions that include tax matters, no financial transactions of that sort are exempt from the obligation of reporting to the FIU in the event of suspicion, which means that such transactions are subject, as all other transactions, to the same obligation, which meets criteria 13-4.

248. It is worth mentioning that at the practical level, no reporting has been submitted to the FIU provided for in the law, as the FIU has not been established yet and the law has come into effect quite recently (May 2007). The Moroccan authorities state that prior to the issuance of the law, the reporting to Bank Al-Maghrib with regard to ML and TF has been confined to the voluntary conduct of credit institutions, based on the compliance with the general vigilance duty. Cases reported to Bank Al-Maghrib in this regard were closed.
249. **Recommendation 14.** The fourth branch of the law titled “The Protection of Persons covered by the law, their Operators, Agents and the FIU and its Agents” in Article (25) and Article (26), stipulates that, with regard to the amounts or transactions subject to suspicion reporting, no prosecution is allowed based on Chapter 446 of the Penal Code or any special provisions related to keeping the professional confidentiality, against the person subject to the law, their operators or agents who report suspicion in good faith. Moreover, no case is allowed to take place or a sanction to be ordered on the basis of civil liability, in particular in relation to false reporting against the persons covered by the law, their operators or agents who submitted the suspicion report in good faith. This text guarantees the protection of the persons covered by the law generally from any civil or penal liability, including the events where these persons do not know the predicate crime which is related to the suspicious transaction and regardless whether the illegal act takes place or not.
250. With regard to the requirements of non-disclosure of the information available to the persons covered by the law, Article (29) of the law stipulates that the operators or agents of the **persons covered by the law** will be subject to the sanctions stipulated in Article (446) of the Penal Code, regarding maintaining professional confidentiality, in the case they intentionally inform the concerned person, or others, of a suspicion report or information on decisions taken in its regard. The same also applies to those who intentionally use the obtained information for purposes other than the ones stipulated in Section 2 of the law.
251. Pursuant to Article (79) of the banking law, credit institutions and their employees are bound by professional confidentiality. Article (83) of the same law stipulates that the information and documents exchange between Bank Al-Maghrib and auditors should be subject to the professional confidentiality rule, and that auditors should not be liable for reporting information to Bank Al-Maghrib.
252. Pursuant to Article (20) of the AML law, all persons who participate in the functions of the FIU, and in general all persons who have access, in any form, to the information related to the duty assigned to the FIU, or who use such information, should observe professional confidentiality according to the conditions and consequences stipulated in Article (446) of the Penal Code. Article (21) of the law stipulates that the use of the information obtained by the FIU, supervision and oversight authorities of the persons covered by the law is not allowed for purposes other than the ones stipulated in this section. However, as an exception to the provisions of this paragraph, the FIU is allowed to provide the King's Prosecutor and the investigation magistrate, upon their request and to perform their duties, with the documents and information obtained from exercising its duties, except for suspicion reports. From these provisions, it is concluded that the names of the persons covered by the law who submit suspicious transactions reports to the FIU and their personal details are fully protected as per the law.
253. **Recommendation 19.** Morocco, according to what has been provided to the assessment team, has not considered the feasibility and utility of implementing a system in which FIs report all currency transactions which exceed a certain amount to any national central authority with an electronic database.
254. **Recommendation 25.** It is implicitly understood from Article (30) of the law, in accordance with what will be mentioned below, that the FIU is the authority responsible for

monitoring the compliance of the persons covered by the law with the AML/CFT requirements. Although the FIU is the central agency to which suspicion reports should be reported, the AML Law does not mention that any competent authority (or the FIU in particular) should provide feedback to reporting institutions except in Article (10), which stipulates that the FIU should acknowledge in writing its receipt of the suspicion reports. Since the FIU has not been established and the suspicion reporting system has not been activated yet, no report of any suspicious transactions has taken place. Therefore, this type of feedback has not been submitted by the FIU.

255. As to the rest of the competent authorities, concerning credit institutions, Article (56) of the banking law (in the section related to monitoring credit institutions) stipulates that Bank Al-Maghrib should report supervision results and recommendations to the concerned institution operators, its management or monitoring apparatus (without specifying any AML/CFT related feedback). Regarding offshore banks, on the other hand, the supervision results should be directed to the follow-up committee mentioned in the Offshore Zones Law. The assessment team was not made aware of any measures that should be taken by the other competent authorities relevant to the rest of the institutions subject to the AML Law requirements.

### 3.7.2 Recommendations and Comments

256. The following is recommended:

- Expanding the scope of ML/TF predicate crimes so that reporting includes the suspicious cases related to all the categories of designated predicate offenses stipulated in the FATF Recommendations at least.
- Amending the definition of TF to include all forms of TF to be reported as listed in the criteria of SR. IV.
- Obliging the persons subject to the AML Law to report any attempts of suspicious transactions according to forms the FIU, which should be established in accordance with the law, is still to set and apply.
- Considering the feasibility of implementing a system that obliges FIs to report all currency transactions exceeding a certain amount to a national central authority with an electronic database.
- Setting rules and instructions which guarantee the provision of feedback to the reporting FIs.

### 3.7.3 Compliance with R. 13, 14, 19, 25 (Criteria 25.2) & SR IV

	Rating	Summary of factors underlying the rating of compliance
<b>R. 13</b>	NC	<ul style="list-style-type: none"> <li>▪ Non-inclusion as predicate offenses related to transactions all the categories of designated predicate offenses set forth by the recommendations.</li> <li>▪ No legal obligation to report attempts of suspicious transactions.</li> <li>▪ Non-establishment of the FIU to date.</li> </ul>
<b>R 14</b>	C	
<b>R 19</b>	NC	<ul style="list-style-type: none"> <li>▪ Morocco has not consider setting a system to report all currency transactions exceeding a certain amount to a national central authority with an electronic database.</li> </ul>
<b>R 25</b>	NC	<ul style="list-style-type: none"> <li>▪ No reference to providing feedback to FIs by the competent authorities or the FIU.</li> <li>▪ No practical feedback provided by the FIU as it has not been</li> </ul>

		established yet.
<b>SR IV</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No clear identification of the institutions addressed by the AML Law.</li> <li>▪ Confining TF forms to committing a terrorist act.</li> <li>▪ No activation of the reporting system because of absence of an FIU.</li> </ul>

**Internal Controls and Other Measures**

**3.8 INTERNAL CONTROLS, COMPLIANCE, AUDIT AND FOREIGN BRANCHES (R 15 & 22)**

**3.8.1 Description and Analysis**

257. **R. 15.** Article (12) of the law obliges the persons covered by the law to take internal measures concerning prudence, detection and monitoring that allow the observing of the requirements stipulated in the law in relation to conducting due diligence, including customer identification, record-keeping, detection of unusual and suspicious transactions and reporting. No reference in the law, any executive regulations or instructions refers to any details of these internal control systems. With regard to credit institutions in particular, Article (84) of the banking law (2006) stipulates the obligation on these institutions to commit to vigilance with regard to any operation in which the economic reason or legal nature is not obvious. Article (25) of Bank Al-Maghrib circular in its last paragraph requests that credit institutions should communicate to their agents the risks they may face in case they are abused for illicit purposes. It is noted from the above that there is no obligation to set any controls, policies or internal measures specialized in particular for the purposes of AML in credit institutions and assimilated bodies, as well as the rest of the persons covered by the law. The monitoring of ML/TF suspicious transactions takes place within the ordinary monitoring of the various activities.

258. This situation is reflected on the practical implementation of this obligation, as it is noted that there are no appropriate arrangements to manage the compliance with AML/CFT requirements in FIs that have been visited. Moreover, the minimum requirement in this regard, i.e. appointing an officer responsible for ensuring compliance with these requirements in specific at the management level, is not met. The provision of Bank Al-Maghrib circular requiring FIs to appoint an officer entrusted with communicating with Bank Al-Maghrib with regard to vigilance does not meet the recommendation requirements as such officer does not have any clear jurisdiction in the field of AML/CFT compliance. In addition, it does not specify the officer's administrative level or his authority to report the senior management at the credit institution. In this regard, there are no references that expand the powers of the said communication officer to include duties which are related to AML/CFT following the issuance of AML Law.

259. It was clear to the assessment team that FIs are not required to establish an independent audit function entrusted with testing the compliance with internal controls, policies and measures in the field of AML/CFT. However, Moroccan authorities state, in this regard, that Article (51) of the banking law obliges credit institutions and assimilated bodies to have appropriate systems of internal control to identify, measure and control all the risks they face.

260. With regard to training and educating the staff of FIs concerning the latest developments, methods and trends in the ML/TF field, the law does not mention, in this regard, any obligations on the persons under its power. However, Bank Al-Maghrib circular requires credit institutions to take measures that allow them to increase the awareness of employees and train them on investigation and unusual and suspicious transactions precaution techniques. It also stipulates that credit institutions should ensure that the employees responsible for the

implementation of the provisions of this circular should be subject directly or indirectly to appropriate training. The assessment team could not obtain lists of the training courses employees of the FIs addressed by the law have been subject to.

261. **Recommendation 22.** Pursuant to Article (8) of the AML Law, the persons covered by the law should ensure the implementation of the requirements specified in this article by their branches or subsidiaries based abroad (without depending on the competence level of the implementation of FATF recommendations in the foreign countries) unless the national legislation of the hosting country stipulates otherwise. In this event the FIU should be informed (in its capacity as the supervisory authority in the field of AML/CFT). It is noted that the compliance of branches and subsidiaries based abroad is only exclusive to the specified requirement in article 8 only (in accordance to the text of the article), i.e. conducting a special study of every operation that includes amounts that their individual or total amount exceeds the amount specified by the FIU and which is surrounded by unusual or complicated conditions and does not seem to have an economic reason or an obvious legal content. Regarding the rest of the requirements related to due diligence measures, there is no obligation concerning compliance with them, which in turn affects the reporting of these branches and subsidiaries to the FIU with regard to their ability to commit to the Moroccan criteria abroad. Moreover, neither the law nor any other enforceable means stipulate the commitment to the more severe requirements in the event of disparity between the Moroccan criteria and the national criteria abroad in relation to AML/CFT measures.
262. It was not evident to the assessment team whether FIs implement these requirements on a voluntary basis. At the practical level, institutions cannot comply with the reporting obligation set in the law (not to mention required criteria), as the FIU has not been established to date, which negatively affects the practical effectiveness element.
263. **Additional elements.** The level of compliance of FIs subject to the Core Principles of Basel committee, upon visiting them, as regards the implementation of the CDD measures consistent at the group level taking into account the customer's activity with their various branches and subsidiaries around the world.

### 3.8.2 Recommendations and Comments

264. **R. 15.** Moroccan authorities should:
- Oblige the establishments of internal controls, policies and measures specialized, in specific, for AML purposes, and this should cover all FIs.
  - Request that the persons covered by the law establish independent audit functions whose duty is to test the compliance with internal controls, policies and measures in the field of AML/CFT.
  - Pay the training and employee qualification sufficient attention.
265. **R. 22.** Moroccan authorities should:
- Oblige FIs to ensure the compliance of their branches and subsidiaries based abroad with AML/CFT measures.
  - Promulgate a text that requires implementing the more severe criteria in the event of disparity between AML measures in Morocco and foreign countries.

### 3.8.3 Compliance with R 15 & 22

	Rating	Summary of factors underlying the rating of compliance
R 15	NC	<ul style="list-style-type: none"> <li>▪ No requirement that FIs should set internal controls, policies and measures on AML/CFT.</li> <li>▪ No requirement that FIs should establish independent audit functions to test the compliance with the internal controls of AML/CFT.</li> <li>▪ Lack of employee training in FIs.</li> </ul>
R 22	NC	<ul style="list-style-type: none"> <li>▪ No obligation on FIs to ensure the compliance of their branches and subsidiaries abroad with <u>all</u> AML/CFT measures.</li> <li>▪ No obligation concerning implementing the more severe criteria in the event of disparity between AML measures in Morocco and foreign countries.</li> </ul>

### 3.9 SHELL BANKS (R 18)

#### 3.9.1 Description and Analysis

266. **Recommendation 18.** Shell banks do not exist in the Moroccan kingdom, in accordance with the requirements of the banking law which does not allow banks or finance companies to exercise their activity unless they obtain the approval of the Governor of Bank Al-Maghrib, in accordance with the conditions stipulated in Section 2 of the law “Granting Licenses to Credit Institutions, conditions of exercising their activity and withdrawal of licenses”. Article (28) of the mentioned law stipulates that credit institutions whose social headquarters is based in Morocco are not allowed to be established unless in the form of shareholding companies with a fixed capital, except the institutions for which the law specifies a special statute. Any person who violates these requirements (article 135 & 136) should be punished by criminal sanctions. Granting licenses to offshore banks is assigned to the Ministry of Finance following the referral to Bank Al-Maghrib, according to the requirement of Law No. 58-90 concerning offshore zones, which stipulates in the definition of offshore bank that it is “Any legal person... based in an offshore financial zone...”

267. With regard to allowing Moroccan FIs entering or continuing any correspondent banking relationships with shell banks, or verifying that the FIs in other countries which deal with Moroccan institutions as correspondents do not allow the use of their accounts by shell banks, no legal or regulative text has been provided to the assessment team in this regard. However, Moroccan authorities state that the persons covered by the law are required to take due diligence measures with correspondent banks as customers abroad. Thus, they should verify through necessary documents and data the information related to their names, legal form, activity, headquarters address, capital, the identity of their operators and the granted powers entrusted with the persons qualified to represent the said banks or on behalf of them under the power of attorney (in accordance with article 3 of the AML Law). The said is not considered sufficient to meet the requirements of R. 18 which requires explicitly not to allow FIs to enter or continue any correspondent banking relationships with shell banks, and that FIs ensure that correspondent FIs in other countries do not allow the use of their accounts by shell banks.

#### 3.9.2 Recommendations and Comments

268. It should be explicitly stipulated that Moroccan FIs are not allowed to enter or continue any correspondent banking relationships with shell banks. Moroccan FIs should ensure that correspondent FIs in other countries do not allow the use of their accounts by shell banks.

### 3.9.3 Compliance with R 18

	Rating	Summary of factors underlying the rating of compliance
R 18	PC	<ul style="list-style-type: none"> <li>▪ No explicit provisions to prohibit Moroccan FIs from entering or continuing banking correspondent relationships with shell banks, and to ensure that correspondent FIs in other countries do not allow the use of their accounts by shell banks.</li> </ul>

#### Regulation, supervision, guidance, monitoring and sanctions

#### **3.10 THE SUPERVISORY AND OVERSIGHT SYSTEM – COMPETENT AUTHORITIES AND SROs: ROLES, FUNCTIONS, DUTIES AND POWERS (INCLUDING SANCTIONS) (R. 23, 29, 17, 25)**

##### **3.10.1 Description and Analysis**

269. Supervisory authorities in Morocco in relation to the financial sector can be listed as follows:

- Credit institutions operations in Morocco are regulated by Law No. 34-04 concerning Credit Institutions and Assimilated Bodies, issued on February 14, 2006. Credit institutions in the kingdom are subject to the supervision of Bank Al-Maghrib, in accordance with Article (9) of Law No. 76-03 concerning the Statute of Bank Al-Maghrib, issued on November 23, 2005.
- Licensing offshore banks is assigned to the Ministry of Finance after referral to Bank Al-Maghrib (Article 5 of the Offshore Financial Zones Law). Article (23) of the same law states that a committee under the Minister of Finance should be entrusted with monitoring the operations of offshore banks. Despite the said, offshore banks are considered according to Article (13) of the banking law of the bodies assimilated to credit institutions. This article stipulates that offshore banks should be subject to the provisions of some of the articles of the law, including Article (53) which states that credit institutions should be subject to the supervision of Bank Al-Maghrib, which can carry out an onsite supervision.
- It is worth mentioning that the offshore financial zones law is not clear with regard to the supervision of the Ministry of Finance of offshore banks according to the provisions of Article (23) with regard to forming the abovementioned monitoring committee which represents the Ministry of Finance, Bank Al-Maghrib, and the Exchange Office. The committee is entrusted with monitoring the operations of the banks and verifying their compliance with the provisions of the law, including the license provisions, scope of operation. Sanctions by the Minister of Finance should follow pursuant to Article (24), despite the fact that Article (4) of the law states that shareholders in offshore banks may choose the legislation to be applied regarding the rules of their establishment, operation and dissolution.
- The insurance sector (17 companies) is subject to the oversight and supervision of the Directorate of Insurance and Collective Reserve at the Ministry of Finance and Privatization. The companies include 8 departments: Personal Insurance Department, Market and Financial Operations Regulation Department, Insurance and Reinsurance Supervision Department, Reinsurance Department, Retirement Regulations Department,

Inspection Department, Insurance Brokers Supervision Department and Damage Insurance Department. Seventy-six inspectors work at the Directorate. These inspectors have carried out 382 inspection operations during 2006.

- Collective Investment entities are approved by ‘The Securities Council’ (which is established according to Dahir-Law No. 213-93-1 as a supervisory authority of legal persons that solicit persons to subscribe to their shares or bonds) after ensuring that they provide financial, technical and human resources that enable them to carry out their activity in safe and transparent conditions. In addition, the Stock market and companies are subject to the supervision and regulation of The Securities Council.

270. **Recommendation 23.** The AML Law does not explicitly state that subject persons should be under sufficient oversight and supervision with regard to implementing their AML/CFT obligations and compliance with the FATF recommendations. The law does not assign any clear or specified obligations to any supervisory authority entrusted with verifying the compliance of the persons under its power with the requirements mentioned. Article (15) of the same law, which exclusively addresses the functions of the FIU, does not stipulate the said role, neither explicitly, nor implicitly. However, Article (9) of the law stipulates that “the persons covered by the law should inform the FIU of the identity of the operators, employees and the persons qualified to submit suspicion reporting... and of the internal measures related to diligence measures they take in order to guarantee the compliance with the provisions of this section”.

271. Moreover, it is (implicitly) understood from the provisions of Article (30) of the law that the addressed FIs are subject to the monitoring of the FIU as to verifying their compliance with the AML Law requirements. This article stipulates that in the event where a person subject to the law does not implement the specified obligations, the FIU shall refer the matter to the authority granted the monitoring and sanctioning powers over the said person, so as to impose sanction thereon on the basis of the applicable legislation thereto. It is worth mentioning that to the date of writing the report, the FIU which is entrusted with verifying the general compliance of the persons covered by the law with the its requirements (in addition to the FATF recommendations) efficiently, has not been established.

272. **Recommendation 30.** No sufficient information has been provided to the assessment team on the competence and the structure of the supervisory authorities, their funding, staffing, technical and other resources allowing them to practice their tasks. Thus, it is not possible to evaluate the competence of the role they may play in the AML/CFT domain. With regard to training, Moroccan authorities has provided the statistics on training courses which some of the employees of the supervisory authorities participated in. The statistics illustrate that training is very limited and requires more focus by all supervisory authorities and bodies related to the AML/CFT system. A statement of the said courses is as the following:

Authority	Number of Participants	Training Authority
Customs	4	USA, Spain and Luxemburg
Bank Al-Maghrib (Central Bank)	41	France, Arab Monetary Fund, USA and Spain

## Authorities' Powers and Sanctions

273. **Recommendation 29.** The AML Law does not stipulate any role of the supervisory authorities of the persons covered by the law in verifying their compliance with the AML requirements. In addition, Article (15) of the law, which exclusively addresses the FIU tasks, does not state any supervisory role in this regard. Despite the said, as mentioned above, Article (30) of the AML Law indirectly provide that persons covered by the law are subject to the supervision of the FIU with regard to verifying their compliance with the requirements of AML/CFT, in accordance with FATF recommendations.
274. Pursuant to Article (22) of the law, the FIU may, for the purpose of performing its duties, refer the matter of carrying out a task to public administrations and institutions and other legal persons, which through their powers to monitor the activities of the persons covered by the law, can disclose the violations of this law and show the level of each violation. In this regard, Article (13) of the law stipulates that the persons covered by the law are not allowed to object to the verification and investigation operations ordered by the FIU and carried out by the said agents mentioned in Article (22) of this law. The said persons should facilitate access to the documents and information necessary to perform their tasks, and they cannot use professional confidentiality to challenge the FIU or its appointed supervision and oversight authorities. The above shows that despite the fact that there is no explicit reference in the tasks of the FIU, (exclusively) stipulated in the law, to its role as a supervisory authority in verifying the subject persons' compliance with their duties, the FIU can carry out any inspection operations whether directly or indirectly and can enforce the production of all records, documents or information by such persons, without requiring a court order.
275. With regard to the supervisory authorities' sanctioning powers in the event of violating any obligations, Article (28) of the AML Law provides for punishing the persons covered by the law who violate their obligations stipulated in the law by a fine of 100.000 to 500.000 Moroccan Dirham (USD 12.000 – 60.000). The said fine is to be imposed by the authority they are subject to, in accordance with the legislation applicable to them in the event of violating their duties or professional or ethical codes. The FIU can also, as per the same article, issue a sanction against the person subject to the law where the said person does not fall under any supervision or oversight authority upon violating the said duties or rules.
276. The text of Article (30) of the law may serve as an explanation of the sanction imposing mechanism applied to violating institutions. This article states that in the event a person subject to the law does not implement the obligations in the law, the FIU refers the matter to the authority entrusted with the power of monitoring and sanctioning the mentioned person, based on the applicable legislation. This mechanism, separating the AML/CFT supervisory authority and the sanctioning authority (the general supervisor), is not practical; it will not be possible to ascertain the imposition of sanctions by the supervisor. The latter is the authority with the natural right to impose the sanction, while the FIU is the competent authority to monitor the compliance of subject persons in the AML/CFT field, which may lead to a conflict of jurisdiction between the two.
277. **Recommendation 17.** The AML Law states, in Branch 5, various sanctions and provisions; article (28) provides for sanctioning of subject persons who violate their duties listed in Articles (3, 4, 5, 6, 7, 8, 9, 11, 13, and 16) may be fined 100.000 to 500.000 Moroccan Dirham (USD 12.000 – 60.000). The fine is to be imposed by their supervisory authorities, in accordance with the legislations applied to them upon violation of their duties, professional or ethical codes. In the event where the person subject to the law does not follow any supervisory or oversight authority, the FIU, to be established as per this law, shall impose the sanction. Article (30) states that in the event where the person subject to the law does not implement the

specified obligations, the FIU shall refer the matter to the authorities granted the power of monitoring and sanctioning the said person, based on the legislation applicable thereto.

278. As referred in Paragraph (282) below, there is no legal text that allows the sanctioning of the natural persons who manage FIs when they violate the AML Law provisions, unless in the case of informing the concerned person of the relevant suspicion reporting, and where the intentional use of the obtained information for purposes other than the ones meant takes place. In general, the sanctions mentioned in the law cannot be judged as effective, proportionate, or dissuasive due to the novelty of the law coming into effect. Moreover, the scope of sanctions that can be approved by supervisory authorities, according to what will be stated in the following paragraphs, cannot be identified.
279. With regard to the authorities qualified to impose sanctions against the persons covered by the law in the event of violation, the text of the law in this regard gives this power to the authorities under which supervision the subject persons operate upon referral by the FIU in the event of violating the obligations. Thus, the FIU does not specify the sanction, but rather monitors and identifies the violation and refer the matter to the supervisory authorities, having the freedom to impose sanctions according to their governing legislations. As will be mentioned below (with regard to the scope of the applied sanctions), the legal texts of some supervisory authorities do not include specific sanctions for the violations of AML Law, or open sanctioning powers. It is not possible to identify for sure the sanctions that could be imposed in the case that the regulations applicable to subject persons do not include texts that allow for sanctions covering the sanctions listed in the law. An exception to this is where the person subject to the law is not under any supervision or oversight authority; in this event, the FIU imposes the sanction.
280. It is noted that the AML Law does not specify any sanctions on the natural persons, including managers and senior management members at the FIs in the event of non-compliance with AML/CFT requirements, or inappropriate implementation in conformity with the FATF recommendations. The exception is at the event of intentional tipping-off by the subject person's operators or agents of the concerned person or others regarding the relevant suspicion reporting or information on the decisions taken in its regard, as well as the intentional use of the obtained information for purposes other than the ones meant (Article 29). In these cases, the said persons shall be punished by the sanctions stipulated in Article (446) of the Penal Code (incarceration of 1-6 months and a fine of 12.000-20.000 Moroccan Dirhams (USD 144-2400)).
281. With regard to the scope of the sanctions applied to the violating persons, and since Article (30) stipulates that the FIU should refer the matter to the competent supervisory authorities to impose sanctions in accordance with the applied legislation, the sanctions that can be approved by the supervisory authorities differ from one authority to another. For instance, it is noted that the banking law and the insurance code do not grant Bank Al-Maghrib and the Department of Insurance and Collective Reserve open powers to approve sanctions against credit and insurance contracting institutions upon violation of their imposed obligations. They assign a specified sanction to each specified violation of the law. In this manner, it is not possible to identify the sanctions that can be approved by supervisory authorities against the violating persons covered by the law, except the fine included in Article (28).
282. **Recommendation 23. (criteria 3, 5, and 7)** Pursuant to Article (27) of the banking law, and in the framework of decision making with regard to accreditation requests to perform the activity of credit institutions, Bank Al-Maghrib verifies the profession expertise and the righteousness available in the founders and participants in the capital, members of the administration apparatus, operation and management.

283. Article (31) of the banking law stipulates that it is not possible for any person to establish, operate, administrate, manage or liquidize any credit institution, in any form, in the following events:

1. The person is sentenced by a final judgment with regard to a felony or any of the misdemeanors stipulated and punished by articles (334-291) and (505-574) of the Penal Code.
2. The person is sentenced by a final judgment with regard to a violation of the exchange legislation.
3. The person is sentenced by a final judgment with regard to terrorism combating legislation.
4. The person loses his/her commercial eligibility as per the provisions of articles (711-720) of Law No. 15-95 concerning the Commercial Code, and he/she does not recover the said eligibility.
5. The person is sentenced by a final judgment with regard to any of the violations stipulated by articles (721-724) of Law No. 15-95 concerning the Commercial Code.
6. The person is sentenced by a final judgment with regard to the provisions of articles (135-146) of this law.
7. The person is sentenced by a foreign court with regard to any of the abovementioned felonies or misdemeanors.
8. The person's name is cancelled permanently from any of the regulated professions for disciplinary reasons and he/she does not recover eligibility.

These requirements are also applied to intermediaries in the operations carried out by credit institutions, in accordance with Article (124) of Law No. 34-03 concerning credit institutions and the authorities treated as such.

284. With regard to offshore banks, and as per Law No. 58-90 concerning offshore financial zones, they cannot be approved unless following the verification of their being fledging companies or subsidiaries of internationally known banks. These institutions should submit biographies of the persons entrusted with their administration. With regard to insurance and reinsurance companies, Article (165) of Law No. 17-99 concerning the Insurance Code stipulates that upon granting or refusing any accreditation, the following should be taken into consideration: integrity and competence of the persons entrusted with management, capital distribution, shareholders quality or methods of seed capital.

285. With regard to microcredit institutions, Article (7) of Law No. 18-97 stipulates that no person is allowed to be the founder of or a member of the administration apparatus, or manage any of the microcredit institutions, be entrusted with the task of administrating, operating or managing the affairs of these institutions or representing them in any form in the event where the said person is not competent, or:

1. The person is sentenced by a final judgment with regard to a felony or any of the misdemeanors stipulated by articles (334-291) and (505-574) of the Penal Code.
2. The person is sentenced by a final judgment with regard to a violation of the exchange legislation.
3. The person is liquidated by a judicial order.
4. The person is sentenced by a foreign court with regard to any of the abovementioned crimes.

286. With regard to the persons subject to the supervision of The Securities Council (stock companies, collective investment entities, collective investment in securities funds, Central Depository and speculative funds investment authorities, etc), the assessment team could not obtain sufficient information on the measures through which the integrity of their owners and operators take place.
287. With regard to licensing or registration of the natural or legal persons who offer the services of transferring money or value, it was found that the institutions allowed to carry out these operations are credit institutions, and money transfer authorities which should be authorized by the Bank Al-Maghrib Governor, in accordance with Article (15) and Article (27) of the banking law. It is worth mentioning that through the onsite visit, the assessment team noted that there are no licensed establishments in Morocco operating only in the activity of money transfer as mentioned.
288. The assessment team could not establish that FIs not subject to the Core Principles for Effective Banking Supervision (the Core Principles of Basel Committee) are subject to a licensing or registration obligation or are being subject to any type of monitoring for AML/CFT purposes. The said can be due to the recent enforcement date of the AML Law.

#### ***On-going Supervision and Monitoring***

289. ***Recommendation 23. (Criteria 4, 6 and 7)*** The FIs subject to the Core Principles for Effective Banking Supervision are subject to the AML Law requirements. Banks, deposit taking institutions, insurance intermediaries companies, collective investment institutions and market intermediaries are included in the persons covered by the law according to the definition stipulated therein. However, the assessment team has not been able to establish the level of implementing supervision and oversight protective measures which are also related to ML by the persons covered by the law. It is worth mentioning that any existent protective measures have already been implemented prior to enforcing the AML Law (May 2007). Therefore, the said measures are not related to AML/CFT obligations.
290. With regard to providers of money and value transfer services (which are narrowed down, according to the Moroccan legislation to banks and money transfer establishments licensed by Bank Al-Maghrib), they are among the persons subject to the obligations stipulated by the AML Law, and therefore they are subject to the monitoring of the FIU. It is noted that no money transfer companies have been licensed in Morocco. The said can be attributed to the possibility of exercising such activity informally. However, the capacity of the informal money transfer sector cannot be accurately specified. As mentioned, the FIU which should be entrusted with verifying the general compliance of the subject persons with the law requirements, including the providers of these services (whether banks or money transfer establishments) has not been established yet.
291. Criterion (32-2) concerning the competent authorities keeping of comprehensive statistics on the matters related to the competence and efficiency of AML/CFT systems is considered inapplicable at the present time due, on the one hand, to the novelty of the AML Law coming into force, and to the absence of the FIU on the other hand.

***Guidance other than on Suspicious Transaction Reports Only***

292. **Recommendation 25 (Criterion 1)** No guidance has been issued in relation to AML/CFT measures since the FIU provided for by the new law has not been established yet. The said FIU should be entrusted with monitoring the compliance of the persons covered by the law with the obligations of AML/CFT.

**3.10.2 Recommendations and Comments**

293. Moroccan authorities are recommended to carry out the following:

- Specifying the supervisory authorities responsible for ensuring the compliance of FIs with the requirements of the law in accordance with FATF recommendations explicitly.
- Clarifying the scope of sanctions against the persons covered by the law in the event of violating obligations.
- Including natural persons managing and operating persons covered by the law within the scope of sanctions in all events and without any exception.
- Expanding the scope of imposed sanctions on the persons covered by the law and their operators in the event of violating their duties stipulated by the law.
- Implementing all measures necessary to verify the integrity of owners and controllers of all persons covered by the law.
- Implementing the imposed prudential measures related to ML/TF on the FIs subject to the Core Principles for purposes of AML/CFT.
- Requiring FIs not subject to the Core Principles of Effective Banking Supervision to be licensed or registered and being monitoring for AML/CFT purposes.

**3.10.3 Compliance with Recommendations 23, 29, 17 & 25**

	Rating	Summary of factors underlying rating
<b>R 17</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No clarity of the sanctions applied by supervisory authorities against violating persons. i.e. non-effectiveness, proportionality, or dissuasiveness of sanctions.</li> <li>▪ Natural persons managing subject persons are not subject to sanctions in all violation cases.</li> <li>▪ Lack of certainty regarding the supervisory authorities' imposing sanctions upon the FIU referral.</li> <li>▪ Non establishment of the FIU up to this date.</li> </ul>
<b>R 23</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ No explicit text regarding the effective supervisory measures or the competent supervisory authority for subject persons.</li> <li>▪ Non-establishment of the FIU to which FIs will be subject with regard to the AML obligations.</li> <li>▪ Verification measures concerning the integrity of owners and controllers of subject persons do not include all types of the persons covered by the law.</li> <li>▪ No clarity regarding the supervision and oversight authorities of the entities and persons offering money and value transfer services.</li> <li>▪ No requirement of the FIs not subject to the Core Principles of Basel to comply with the requirements of registration, licensing or monitoring for purposes of AML/CFT.</li> </ul>
<b>R 25</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No guidance to the persons covered by the law with regard to AML/CFT.</li> </ul>
<b>R 29</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No explicit text regarding the role of the oversight authorities or FIU in monitoring the compliance of the persons covered by the law with the</li> </ul>

		<p>stipulated obligations.</p> <ul style="list-style-type: none"> <li>▪ No explicit text regarding the powers of the FIU in carrying out inspection operations related to monitoring the persons covered by the law within its stipulated tasks by the law.</li> <li>▪ No clarity of the sanctions imposable by the supervisory authorities on the persons covered by the law upon their violation of their duties.</li> <li>▪ Lack of certainty regarding the supervisory authorities' imposing sanctions upon the FIU referral.</li> <li>▪ Non establishment of the FIU to date.</li> </ul>
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### 3.11 MONEY OR VALUE TRANSFER SERVICES (SR VI)

#### 3.11.1 Description and Analysis (summary)

294. As mentioned above, the institutions allowed to carry out money transfer operations are banks and money transfer establishments. Both are subject to Bank Al-Maghrib with regard to licensing. These institutions are subject to the requirements of the AML Law, as they are included in credit institutions defined in detail by the banking law. Thus, the said institutions are subject to the oversight of the FIU with regard to the verification of their compliance with their duties imposed by the law. The assessment team could not establish whether all these institutions keep updated lists of their customers available for Bank Al-Maghrib. These authorities, in accordance with the AML Law, are subject to the same sanctions stipulated upon violating their obligations, and which (as mentioned above) are not effective, proportionate or various and do not include the natural persons who manage these entities in all events.

295. It is worth mentioning that no money transfer establishments have been licensed in Morocco. This can be attributed to the possibility of exercising this activity informally. The capacity of the informal money transfer sector in Morocco cannot be accurately identified. As mentioned, the FIU which should be responsible for the general compliance of subject persons with the law requirements, including the providers of these services (whether banks or money transfer establishments), has not been established yet.

296. The assessment team recognized during the visit that there was a wide scope of informal transfer activities, as a large population of Moroccans abroad use such systems. However, according to the Moroccan authorities, the size of informal transfer activities in Morocco cannot be determined and the channels through which they operate cannot be identified.

#### 3.11.2 Recommendations and Comments

297. Moroccan authorities are recommended to carry out the following:

- Include natural persons managing and operating the institutions subject to the law within the scope of sanctions in all events and without any exception.
- Widen the scope of sanctions imposed on managers and operators of subject persons
- Clarify the sanctions that can be determined by the supervisory authorities against their subsidiaries.
- Regulate informal remittance systems

### 3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR VI	NC	<ul style="list-style-type: none"> <li>▪ No clarity of the sanctions applied by the supervisory authorities against violating persons.</li> <li>▪ No sanctions for natural persons who manage the persons covered by the law in all violations.</li> <li>▪ No regulation for informal remittance systems.</li> </ul>

## 4. PREVENTIVE MEASURES – DNFBPS

### 4.1 CUSTOMER DUE DILIGENCE AND RECORD-KEEPING (R 12) (IMPLEMENTATION OF R. 5, 6, 8 TO 11)

#### 4.1.1 Description and Analysis

298. The law, in Article (2), specifies the persons under its power as the following:

1. Credit institutions.
2. Offshore banks and holding companies.
3. Finance Companies.
4. Insurance and Re-insurance Contracting.
5. External auditors and accountants, and fiscal advisors.
6. Persons belonging to an independent legal profession in the event where they participate on behalf of their customer in a financial or real estate transaction, or in the event where they assist the customer in preparing or implementing operations related to the following:
  - a. Purchase or sale of any real estate or commercial contracting.
  - b. Managing the funds, instruments or other assets owned by the customer.
  - c. Opening or managing banking accounts, savings or instruments.
  - d. Regulating necessary shares to form, operate or administrate companies.
  - e. Establishing credit companies or similar establishments or companies, operating or administrating the said companies.
7. Persons who exploit or operate casinos or gambling houses.

299. As per this statement, it is illustrated that the six categories mentioned in the forty recommendations as DNFBPs (casinos, real estate agents, dealers in precious, dealers in precious stones, lawyers, notaries, other independent legal professions, accountants and Trust and company service provider) are not included in the persons covered by the law, with the exception of the above items (5, 6 & 7). Upon reviewing these authorities, it has been illustrated that accountants, lawyers, notaries and casinos are subject to the AML/CFT Law obligations. Real estate agents and precious metals and stones dealers are, in specific, not subject to the stipulated obligations of the law. It has not been illustrated whether “company service provider” are found as independent bodies or institutions.

300. Some DNFBP’s addressed by the law (independent accountants, notaries and casinos, for example) are not subject to a specific supervisory authority, and they are only required to obtain a license to exercise their duties. Article (22) of the AML Law (which guarantees that the FIU can seek assistance from supervisory authorities in practicing their duties) does not regulate the due diligence implementation methods with regard to DNFBP’s directly. It is also

noted that at the practical level of some DNFBP's, some sectors and supervisory authorities which are under these DNFBP's are not aware of the AML/CFT criteria and the measures that should be taken in this regard. Moreover, there are no issued instructions or guidelines to inform this sector of these requirements.

301. The assessment team has found that accountants in Morocco are divided into three types: Certified Public Accountants who have the exclusive right to endorse the company's accountings and ensure the accuracy of the accountings (320 experts and 60 companies. They are under the Certified Public Accountants Association) Chartered Accountants who are specialized in dealing with accounts (280 accountants and are under the Chartered Accountants Association) and Independent Accountants (5000 office and they are under no supervisory authority).
302. With regard to lawyers and other legal professions, there are almost ten thousand lawyers in Morocco who practice the profession formally, and one thousand trainees. Lawyers are under 17 different associations according to their specialization, and their geographic region which are responsible for disciplinary sanctions against them. Each association is independent with regard to registration and disciplinary procedures. The association also reports to court in the event of any legal disputes. Moreover, 650 notaries work in Morocco, and the Directorate of Civil Affairs at the Ministry of Justice assumes the function of granting them licenses to practice the profession on the basis of a contest for persons who obtained a certificate in Law, Shari'a (Religious Legislation), or any equivalent. The notaries are subject to two types of supervision, professional supervision by the abovementioned directorate and a disciplinary supervision practiced by the Public Prosecution in the judicial department at which they perform their duties<sup>25</sup>.
303. It is illustrated that the aforementioned categories of (DNFBP's) are subject to the requirements of the law. They should commit to the diligence requirements, including the necessity of identifying permanent and occasional customers and verifying their identity, as stipulated by article (3). They are also obliged not to conduct any transaction without advanced identification of the customer identity (Article 4), and to keep the documents related to their identity and the carried out operations for a period of at least 10 years (Article 7).

#### ***Implementation of Recommendation 5:***

304. Article (4) of the AML Law prohibits the FIs subject to the law from carrying out any operation prior to verifying the identity of the concerned persons, or in the event where the identity is incomplete or seems to be false. The law in article (3) requires the persons under its power to request all the elements of information which enable the identification of the permanent and occasional customers' identity. Article (3) also stipulates that in the event where the customer is a legal person, all persons covered by the law should verify its identity by means of all the data on its naming, legal form, activity, social headquarters address, capital, operators identity, or the power entrusted with the persons qualified to represent it before others or on its behalf as per the power of attorney.
305. There are no texts obliging the identification of the customers represented by legal arrangements and the verification of their identity by using original documents, data or information from a reliable source. It is noted that regarding customers of the legal persons, there is no obligation that obliges the specification of natural persons who possess or have complete control of the customer. Moreover, nothing obliges the FIs to obtain information on the purpose and nature of the business relationship. In addition, there is a lack of actual practice which only takes place within the commercial practice.

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<sup>25</sup> According to the statement of the Moroccan authorities. It is worth mentioning that the relevant legal texts in this regard have not been provided.

306. Article (8) of the law obliges the persons covered by the law to carry out a special study of each operation that includes amounts which exceed in their individual or total amount the amount specified by the FIU, and which, without being included in the framework of the implementation of the provisions related to the STR, is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content. In this event, the persons covered by the law carry out an investigation of the customer on the source and purpose of these amounts and the identity of the beneficiaries.
307. Article (12) of the law, in its last paragraph, obliges the persons qualified to report a suspicious transaction by notifying their operators regularly in writing of the conducted operations by the customers who constitute high level of risks. The law does not decide any exception to the implementation of due diligence measures. Therefore, the law does not allow the persons covered by the law to apply reduced due diligence measures by their branches or subsidiaries which are based abroad, unless the regional legislation stipulates otherwise. In the latter event, they should inform the FIU (Article 8).
308. The law (Article 4) does not allow the persons covered by the law to carry out any operation on behalf of the customer prior to verifying the identity of the concerned persons. Article (5) of the same law obliges the persons covered by the law qualified to open accounts only verification of the occasional customers' identity in relation to the operations whose nature and amounts are specified by the FIU. The legislations do not include allowing persons covered by the law to complete the verification process of the customer and beneficial owner identities following the business relationship.
309. The persons covered by the law are not allowed, as mentioned, to initiate any business relationship prior to completing due diligence measures, in accordance with article (4). It is prohibited to carry out any operation prior to verifying the customer identity, or in the event where the identity is not completed or seems to be false. However, there is no obligation to terminate business relationships in the event where the person covered by the law is unable to comply with due diligence criteria, and no consideration of setting a report with regard to suspicious transactions.

***Implementation of Recommendation 6:***

310. With regard to (DNFBP's) implementation of the criteria stipulated in recommendation (6), they are required, as persons subject to the mentioned law, to set internal prudential, detection and supervisory measures which enable respecting the obligations stipulated by the law. They are also directly required to identify the customers' identity and implement due diligence measures. However, since there is no special categorization with regard to PEP within the AML Law and other laws, controls and instructions, there is no obligation on the persons covered by the law to set any appropriate regulations or measures of risk management to specify whether the possible customer, existing customer or beneficial owner is a PEP.

***Implementation of Recommendation 8:***

311. The law does not stipulate that (DNFBP's) should take any special measures other than the stipulated precautionary, detection and supervisory measures, to face the ML threats resulted from the spread of modern technologies, and which can encourage carrying out transactions of anonymous source.

***Implementation of Recommendation 9:***

312. This recommendation is not applicable since neither the law, nor the existing legislations stipulate the possibility of the reliance of DNFBP on a third party to carry out some of due diligence measures. Various DNFBP are obliged to carry out verification measures concerning knowing the complete identity of the customer by themselves through the requirements of AML Law related to implementing due diligence measures through obliging only the persons covered by the law to its requirements. Thus, these persons are responsible for specifying the customer identity and implement CDD measures. Therefore, they are not allowed to rely on intermediary authorities or third parties to carry out some of the due diligence measures stipulated in the operation of due diligence in verifying the identity of customers.

***Implementation of Recommendation 10:***

313. The persons covered by the law are obliged by article (7) of the law to keep the documents related to the conducted operations by their customers for ten years starting on the date of their implementation. It is worth noting that the keeping process takes place regardless whether the account or business relationship are still existing or not. The same article, in paragraph 2, also requires the persons covered by the law to keep the documents related to the identity of their permanent and occasional customers for ten years, commencing on the date of closing their accounts or terminating their business relationships, as well as, keeping the documents related to the persons ordering the conduct of operations where others are the beneficiaries. It is noted that the law does not explicitly stipulate the guaranteed provision of the said records and information at the appropriate time to the regional competent authorities.

***Implementation of Recommendation 11:***

314. Article (8) of the law obliges the persons covered by the law to carry out a special study of each operation that includes amounts which exceed in their individual or total amount the amount specified by the FIU, and which is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content. In this event, the persons covered by the law carry out an investigation of the customer on the source and purpose of these amounts and the identity of the beneficiaries. The operation specifications should be included in a document and kept by the persons covered by the law as per the conditions of record-keeping, stipulated in article (7) of the law. The outcomes of the transactions study should be put under the disposal of the competent authorities, in implementation of the requirements of article (13) of the law. It is noted that this text does not offer any clarification with regard to the meaning of carrying out the special study with regard to the operation which is surrounded by unusual or complicated circumstances and does not seem to have any economic reason or any obvious legal content.
315. It has not been illustrated that supervisory authorities met by the assessment team and the members employed at the said authorities are, up to this date, implementing any due diligence measures, except identifying the customer and record-keeping, noting that these supervisory authorities have not, up to this date, taken any measure to specify the due diligence implementation methods stipulated in the law (since the law has just come into effect recently), and on the other hand, because of lack of implementation of due diligence measures by DNFBPs which are under no supervisory authority).

### ***Implementation of Recommendation 17:***

316. The AML Law stipulates, as mentioned, the sanctions imposed on the persons covered by the law in general. Therefore, the same provisions related to sanctions shall be applied to DNFBPs in the event of violating any of the obligations stipulated by the law.

### **4.1.2 Recommendations and Comments**

317. The following is recommended:

- Subject real estate agents and gold and precious stones dealers to the requirements of the AML Law, as well as, company service providers and trust funds.
- Appoint supervisory authorities of independent accountants and casinos and grant them the powers of supervision with regard to AML/CFT.
- Accelerate the issuance of instructions that include the conditions of the due diligence implementation stipulated in the law and which should be taken by DNFBPs which are different in nature from FIs.
- Oblige DNFBPs to obtain information which is related to the purpose and nature of the business relationship and constantly apply diligence during the period of the relationship to ensure the consistency of the transactions carried out under the knowledge of the customers and their activity type. In addition, oblige DNFBPs to regularly update the files related to their customers.
- Oblige DNFBPs to set, in addition to due diligence measures, appropriate systems and measures to manage the risks to specify whether the future customer, the existing customer or beneficial owner is a PEP.
- Oblige DNFBPs to take, in addition to prudential, detection and supervisory measures, any arrangements to face the threats of ML operations which are resulted from the spread of modern technologies and which might encourage transactions of anonymous source.

### **4.1.3 Compliance with Recommendation 12**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R 12</b>	<b>NC</b>	<ul style="list-style-type: none"><li>▪ Real estate agents, gold and precious stones dealers, company service providers and trust funds are not subject to the requirements of AML Law.</li><li>▪ Lack of instructions which include the implementation of the due diligence conditions stipulated in the law, and which should be taken by DNFBPs which are different in nature from FIs.</li><li>▪ No obligation on DNFBPs to obtain information related to the purpose and nature of the business relationship, to constantly take diligence during the period of the relationship and to regularly update the files of their customers.</li><li>▪ No obligation on DNFBPs, in addition to due diligence measures, to set appropriate systems or measures to manage the risks in order to specify whether the future customer, existing customer or beneficial owner is a PEP.</li><li>▪ No reference of any special measures, in addition to prudential, detection and supervisory measures, to face the threats of ML operations which are resulted from the spread of modern technologies and which encourage transactions of anonymous source.</li><li>▪ No guarantee of providing records and information at the appropriate time to the competent national authorities.</li></ul>

## **4.2 SUSPICIOUS TRANSACTION REPORTING (STR) (R 16) (IMPLEMENTATION OF RECOMMENDATIONS 13 TO 15 & 21)**

### **4.2.1 Description and Analysis**

318. Article (9) of the AML Law stipulates that the persons under its power are obliged to report any suspicion immediately to the FIU with regard to: (1) all amounts or operations suspicious of being related to ML and (2) any operation in which the identity of the person ordering it or benefiting from it, is suspicious, provided that FIU specifies the data that should be included in the STR and the nature of the operations subject to the abovementioned reporting and their minimum amount. This requirement is not considered sufficient to meet the criteria of R. 13 which stipulates that the reporting requirement should be equivalent to at least the proceeds of all the crimes that should be included in predicate ML crimes, according to the first recommendation of the forty recommendations. Since the Moroccan law only includes, in the definition of Predicate Crimes in Chapter 574-2, a number of crimes that do not cover the all categories of designated predicate offences specified in the FATF Forty Recommendations, the STR in ML operations in this regard is not considered compatible with the FATF Recommendations.
319. With regard to reporting the operations which include funds that are suspicious in relation to terrorism, terrorist operations or which are used by terrorist organizations or terrorism financiers, article (32) of AML Law stipulates that this law is applied to the acts and operations stipulated in Chapter 574-1 in the event where the source of these properties or proceeds is related to a terrorist crime or where the purpose of these acts or operations is funding terrorism, as stipulated by section 1, the first part of the third book of the Penal Code, bis. The definition of TF in the Moroccan Law is not compatible with the international criteria since it does not include all forms of TF. The said does not meet the requirements of the recommendation with regard to STR of TF.
320. With regard to reporting attempts of completing suspicious transactions, the Moroccan legislation does not include any provisions in this regard. Moreover, there is no text which stipulates excluding any financial transaction from the reporting requirement under the excuse of containing fiscal matters.

#### ***Implementation of Recommendation 14:***

321. The fourth branch of the law under “The protection of the persons covered by the law, their operators, agents and the FIU and its agents” in articles (25) and (26), stipulates that, with regard to the amounts or operations that are under a STR, no follow-up is allowed, in the event where it is based on Chapter 446 of the Penal Code or any special provisions related to keeping the professional confidentiality, against the person covered by the law, their operators or agents who submitted the STR in good faith. Moreover, no case is allowed to take place or a sanction to be ordered on the basis of civil liability, in particular in relation to false reporting against the persons covered by the law, their operators or agents who submitted the suspicion report in good faith. This text guarantees the protection of the persons covered by the law generally from any civil or penal liability, including the events where these persons do not know the predicate crime which is related to the suspicious transaction and regardless whether the illegal act takes place or not.
322. With regard to the requirements of non-disclosure of the information available to the persons covered by the law, article (29) of the law stipulates that the operators or agents of the persons covered by the law will be subject to the sanctions stipulated in article (446) of the Penal Code regarding keeping the professional confidentiality, in the event where they intentionally report, to the concerned persons or others, the suspicion report or information on

the adopted resolutions concerning this report, or who intentionally use the information obtained for purposes other than the stipulated purpose in Section 2 of the law.

323. Pursuant to article (20) of the law, all persons who participate in the functions of the FIU, in general the persons who are acquainted, in any form, with the information related to the duty assigned to the FIU or who use this information, should keep the professional confidentiality according to the conditions and impacts stipulated in article (446) of the Penal Code. Article (21) of the law stipulates that the use of the information obtained by the FIU, supervision and control bodies of the persons covered by the law is not allowed for purposes other than the ones stipulated in this section. However, with the exception of the provisions of this paragraph, the FIU provides, the King's Prosecutor and the investigation judge upon their request to perform their duties, with the documents and information obtained from exercising its duties, except the suspicion report. From these provisions, it is concluded that the names of the persons covered by the law who submit suspicious transactions reports to the FIU and their personal details are fully protected as per the law.

#### ***Implementation of Recommendation 15:***

324. Article (12) of the law obliges the persons covered by the law to take internal measures concerning prudence, detection and supervision which enable respecting the requirements stipulated in this law related to due diligence in investigating the identity of customers, record-keeping, detection unusual and suspicious transactions and committing to reporting. No references in the law, executive regulations or instructions mention any details of these internal controls systems.

325. With regard to training employees concerning the latest developments, methods and tendencies in the field of AML/CFT, the law does not mention, in this regard, any obligations on the persons under its power, including DNFBPs.

#### ***Implementation of Recommendation 17:***

326. The AML Law stipulates, as mentioned, the sanctions imposed on the persons covered by the law in general. Therefore, the same provisions related to sanctions shall be applied to DNFBPs in the event of violating any of the obligations stipulated by the law.

#### ***Implementation of Recommendation 21:***

327. No article of the law or the other regulations includes any obligation on DNFBPs to pay any special attention to the business relationships and transactions with persons (including legal persons and other FIs) from or in other countries that do not implement, or do not sufficiently apply the FATF Recommendations. Moreover, there are no measures that guarantee that DNFBPs are advised on the concerns related to the weaknesses of the combating systems in the other countries.

### **4.2.2 Recommendations and Comments**

328. Morocco should verify the following:

- Expanding the scope of predicate crime of ML/TF so that the report includes the suspicious cases related to all categories of designated predicate offences stipulated in the FATF Recommendations.
- Obliging the persons subject to the AML Law to report any attempts of carrying out the suspicious transactions according to certain models that the FIU which will be established in accordance to the law, has to set and implement.

- Obliging the establishments of supervisory systems and internal policies and measures specialized, in specific, for AML purposes, and the said should include all DNFBPs.
- Paying the element of employees training and rehabilitating sufficient attention.
- Obliging DNFBPs to pay special attention to the business relationships and transactions with persons or legal persons from or in other countries that do not implement the FATF Recommendations.
- Promulgating a text that guarantees that DNFBPs are briefed on the weaknesses of the AML/CFT systems.
- Promulgating a text that stipulates appropriate counterpart measures to be taken in the event where a country continues to object to implementing the FATF Recommendations.

### 4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors underlying rating
<b>R 16</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Non-expansion of the scope of AML/CFT predicate crimes to include all the categories of designated predicate offences.</li> <li>▪ No legal obligation on the persons subject to the AML to report attempts of suspicious transactions.</li> <li>▪ No obligation of setting supervisory systems and internal policies and measures specialized, in specific, for AML purposes.</li> <li>▪ No sufficient attention paid to the element of training and rehabilitating of employees.</li> <li>▪ Non-issuance of a text which stipulates that DNFBPs should be briefed on the weaknesses of the AML/CFT systems.</li> <li>▪ Lack of appropriate counterpart measures in the event where a country continues to object to implementing the FATF recommendations.</li> <li>▪ No obligation on DNFBPs to pay any special attention to the business relationships and transactions with persons or legal persons from or in other countries that do not implement the FATF Recommendations.</li> </ul>

## 4.3 REGULATION, SUPERVISION AND MONITORING (R 24 & 25)

### 4.3.1 Description and Analysis

#### Recommendation 24:

329. As mentioned above, casinos are not under a certain supervisory entity. They are only granted licenses to be able to exercise their work. With regard to the procedure related to granting a license of casino exploitation, it is specified under the guideline letter of the Prime Minister, issued on July 29, 2002<sup>26</sup>. According to this letter, an initial license is granted by the Prime Minister to the reviver of tourism who is willing to establish a tourism unit that includes a casino. In this context, the Prime Minister issues a decree in which he endorses the

<sup>26</sup>Morocco has not provided this guideline letter issued by the Prime Minister for the assessment team.

agreement that specifies the obligations of the concerned investor (Burdens Ledger). This decree shall also be signed by the Minister of Interior and the Minister of Finance. The Minister of Interior and the Minister of Finance issue a joint resolution that specifies the date of opening the casino to the public, the applied regulatory provisions and the licensed games. Concerning the supervision of their compliance to the AML/CFT obligations, in particular, this responsibility shall lie with FIU following its establishment, in accordance with article (30) of the law.

330. With regard to accountants, Certified Public Accountants are under the supervision of Certified Public Accountants Association, and Chartered Accountants are under the Chartered Accountants Association. The Certified Public Accountants Association is independent as the opinion of the state regarding its actions is considered consultative. A national council falls under its power and is consisted of two regional councils in Rabat and Casablanca. The Association is granted the right of registration, cancellation, supervision and disciplinary punishment. On the other hand, the state interferes in the actions of the Chartered Accountants Association. The said association grants licenses to its members through a committee which consists of representatives of Finance, Commerce and Education Ministries. Through these two associations, FIU can refer any violations for determination of appropriate sanctions, in accordance with article (30) of the AML Law.

331. With regard to lawyers and other legal professions, lawyers are under 17 different associations according to their specialization and their geographic region which is responsible for disciplinary sanctions against them. Each association is independent with regard to registration and disciplinary procedures. The association also resorts to court in the event of any legal disputes. Moreover, 650 notaries work in Morocco, and the Directorate of Civil Affairs at the Ministry of Justice assumes the function of granting them licenses to practice the profession on the basis of a contest for persons who obtained a certificate in Law, Shari'a (Religious Legislation), or any equivalent. The notaries are subject to two types of supervision, professional supervision practiced by the abovementioned directorate and a disciplinary supervision practiced by the Public Prosecution in the judicial department at which they perform their duties<sup>27</sup>.

#### ***Recommendation 25:***

332. In accordance with the aforementioned, FIU (which has not been established yet) is responsible for supervising the compliance of the persons covered by the law with their imposed duties, including DNFbps. The supervision of these authorities shall be entrusted with determining sanctions following the referral of FIU upon any violation of their duties.

#### **4.3.2 Recommendations and Comments**

333. Morocco should verify the following:

- Subjecting casinos to a comprehensive monitoring and supervisory system to implement the AML/CFT obligations.
- Subjecting the rest categories of (DNFBPs) to a comprehensive monitoring and supervision and considering the relevant risks related to these sectors.

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<sup>27</sup> According to the statement of Moroccan authorities. It is note mentioning that the relevant legal texts in this regard have not been provided.

### 4.3.3 Compliance with R 16

	Rating	Summary of factors underlying rating
R 24	NC	<ul style="list-style-type: none"> <li>▪ Casinos are not subject to a comprehensive monitoring and supervisory system in implementing necessary AML/CFT measures of FATF recommendations.</li> <li>▪ The rest of (DNFBPs) are not subject to AML/CFT supervision</li> </ul>
R 25	NC	<ul style="list-style-type: none"> <li>▪ Non establishment of FIU which is responsible for supervising the compliance of (DNFBPs) and issuing their executive instructions.</li> </ul>

### 4.4 OTHER NON-FINANCIAL BUSINESSES AND PROFESSIONS— MODERN SECURE TRANSACTION TECHNIQUES (R 20)

#### 4.4.1 Description and Analysis

334. Morocco has not evaluated ML risks within a comprehensive scope. Thus, no financial business and profession other than DNFBPs which might be at AML/CFT risks have been identified. For the same reason, no measures have been taken to encourage setting and using modern and secure methods to carry out financial transactions that are less vulnerable to ML.

#### 4.4.2 Recommendations and Comments

335. Morocco should evaluate risks and consider the implementation of AML/CFT measures on non financial businesses and professions which it finds vulnerable to exploitation. Moreover, it should take measures to encourage setting and using modern and secure methods to carry out financial transactions that are less vulnerable to ML.

### 4.4.3 Compliance with R 20

	Rating	Summary of factors underlying rating
R 20	NC	<ul style="list-style-type: none"> <li>▪ Lack of consideration by Morocco to expand the scope of NFBPs covered by the law.</li> <li>▪ Lack of measures taken by Morocco to encourage setting and using modern and secure methods to carry out financial transactions that are less vulnerable to ML.</li> </ul>

## 5. LEGAL PERSONS, LEGAL ARRANGEMENTS AND NON-PROFIT ORGANIZATIONS

### 5.1 LEGAL PERSONS- ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION (R 33)

#### 5.1.1 Description and Analysis

336. **Recommendation 33:** Commercial companies in Morocco are divided into partnerships companies and joint stock companies. Partnerships companies are represented by joint venture, Limited Partnership, and a third type which do not have a legal personality. Joint-stock

companies can take the form of a Shareholding Company, Private Company Limited by Shares, or Limited Liability Company (this form of companies is more common in the kingdom). In addition to the abovementioned, there are offshore holding companies.

*Shareholding Companies:*

337. The shareholding company are regulated by Law No. 17-95. The capital of the said company is divided into securities that can be traded in. This company enjoys a legal person status starting on the date of its registration in the trade register. Announcing the company takes place by depositing all the information and documents at the competent commercial court related to the trade register. This law allows the existence of nominal shares. Article (245) stipulates that “Shares (...) are either nominal or bearer. The instrument shall be transferred to the bearer upon handling”. Article (12) adds that the statute of the company should include specific data, including the form of shares. They should be either all nominal, or partially nominal and partially for their bearer. With regard to the persons trading in them, article (41) states indirectly that traders should be legal persons<sup>28</sup>.

*Other Types of Companies:*

338. Law No. 5-96 concerning the joint venture, Limited Partnership, Private Company Limited by Shares, the Company with Limited Liability and the third type of Company regulates the said companies. They are subject to the same abovementioned provisions with regard to the necessity of announcement and registration at the trade register<sup>29</sup>.

*Offshore Holding Companies:*

339. These companies are regulated by Law No. 58-90, concerning free trade zones. Offshore holding companies are any legal person which consists of natural or legal persons of foreign nationality whose purpose is confined to managing shares portfolios and owning shares in various establishments. The capital of the said legal person is in transferable foreign currencies, and all its operations are carried out by transferable foreign currencies. Moroccan natural and legal persons are allowed to establish offshore holding companies, or be partners in them, provided that they comply with the regulatory texts in force with regard to exchange. According to article (29) of this law, this type of companies is also required to register at the trade register. The said companies are allowed to freely settle in the free trade zone in Tangiers, provided that they notify the exchange office within a period not exceeding 30 days from the date of registering at the trade register. The notification should include the articles of association and a list which includes the names of their operators and partners. Any change should be notified to the exchange office, in accordance with the same measures. However, no subsidiaries of the holding companies are allowed to be established unless inside the free trade zone.

*Trade Register:*

340. The Kingdom of Morocco, just like other states, has a trade register. The trade register, in accordance with article (27) of the Commercial Code, consists of regional registers (64 regional registers) and a central register. Regional record-keeping takes place by registering at the competent court. The regional register should send the registrations within a month to the

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<sup>28</sup>For further details, review paragraphs 52 and 53.

<sup>29</sup>For further details, review paragraphs 54-59.

central register under the Moroccan Office for Industrial and Commercial Property<sup>30</sup> (Article 31 of the same law).

341. According to the requirements of article (37) of this law, all legal persons, whether Moroccan or foreign, which practice a commercial activity inside Morocco are required to register at the trade register. The central register is considered a public register. However, accessing the said register is conditioned on the presence of the employee entrusted with record-keeping (article 32). Any person is allowed to obtain a copy of any certified excerpt with regard to the registered documents included in the trade register (article 29). Registered documents at the trade register include registrations, amended registered documents and cancellations (Article 45).
342. Article (45) of the same law states that commercial companies should refer in their registration statement to: (1) Forenames and family names of non-shareholder partners, date and place of birth, nationality and national identification card number, registration card number for resident foreigners, or passport or any equivalent for non-resident foreigners, (2) Address and naming of the company and the date of the negative certificate received from the central trade register, (3) Purpose of the company, (4) Actual activity, (5) Social headquarters and the location of branches of the company in Morocco or abroad if found, and the registration number of the profession tax table, and (6) Names of the partners or third parties licensed to administrate and manage the company and determine on its behalf, date and place of birth, their nationality and national identification card number, registration card number for resident foreigners, or passport or any equivalent for non-resident foreigners (...). Article (46) states that in order to register at the trade register, companies should state forenames and family names, date and location of birth with regard to operators or members of administration, management, operation apparatus or concerned managers during the establishment of the company, their nationality and national identification card number, registration card number for resident foreigners, or passport or any equivalent for non-resident foreigners (...).
343. Moroccan authorities state that the ratification of the statute of the company is performed by the Ministry of Interior. Upon establishment, the company documents are studied by the persons entrusted with regional registers, and the data is updated in turn as regional records and competent courts are notified annually of the minutes of the meetings. The Moroccan Office for Industrial and Commercial Property by which record-keeping of the central register takes place can be accessed on its website<sup>31</sup>. The website contains information on almost 150 thousand companies since 1927, and any information related to the companies can be obtained through it.
344. In addition to the abovementioned with regard to the central trade register, each competent authority should access necessary mechanisms which enable it to obtain, access sufficient, accurate and modern information on the beneficiary owner of legal persons, and control the said information within their jurisdiction.
345. The Commercial Code and the laws stipulate establishing the companies on the basis of transparency with regard to beneficial ownership and control shares of legal persons. They state the possibility of prohibiting the exploitation of this sector in AML/CFT operations in general. However, allowing the trade of in bearer shares and the lack of any measures to regulate operations trading in bearer shares can be used in ML. Transparency is accessible in Morocco through the central registration system in which necessary details related to

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<sup>30</sup> The establishment of this office has been under Law No. 13/99. The office is a public institution entrusted with record-keeping of the central trade register and providing legal information related to commercial companies.

<sup>31</sup> [www.ompic.org.ma](http://www.ompic.org.ma).

ownership, control and change notifications are kept and available for every person. However, there is no text in the Moroccan laws to enable information exchange with other states.

346. **Additional elements:** There are no special measures to facilitate the access of financial institutions to the information related to beneficial ownership and control information. However, in accordance with article (32) of Law No. 15-95, concerning the Commercial Code, the mentioned central register enables the public to get information through its website.

### 5.1.2 Recommendations and Comments

347. It is recommend the following:
- Find appropriate measures to guarantee non-exploitation of bearer shares in ML operations.

### 5.1.3 Compliance with R 33

	Rating	Summary of factors underlying rating
R 33	LC	<ul style="list-style-type: none"> <li>▪ No specific measures to prohibit the exploitation of bearer shares.</li> </ul>

## 5.2 ..... LEGAL ARRANGEMENTS- ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION (R.34)

### 5.2.1 Description and Analysis

348. **Recommendation 34:** There is nothing in the Kingdom of Morocco known as trust funds, neither in form nor in content.

### 5.2.2 Recommendations and Comments

### 5.2.3 Compliance with R 34

	Rating	Summary of factors underlying rating
R 34	NA	

## 5.3 NON PROFIT ORGANISATIONS (NPOs) (SR VIII)

### 5.3.1 Description and Analysis

349. **Special Recommendation VIII:** Pursuant to article (5) of Dahir No. 1-58-376, dated November 15, 1958, regulating the right of establishing associations, establishing any association requires submitting a legal file which includes a number of documents containing accurate information regarding the following aspects: name and purpose of the association, list of the names, nationalities, professions and addresses of the members of the office administrating the association, capacity of the members qualified to represent the association, copies of national identification cards, or residence cards for foreigners, copies of criminal record, headquarters of the association, number of headquarters, branches and subsidiaries, and the statute of association. Chapter (5) of the abovementioned Dahir states that associations

adopt the system of declaration. Supervision of the said association is under the local administration authority.

350. Throughout the visit, it has been illustrated that there is a supervising of public associations with regard to funds obtained from abroad and governmental funds obtained nationally. Internal supervision is only applicable to the association of public benefit. The mentioned law states that associations of public benefit should, according to the specified conditions, under a regulatory text, have an accounting which reflects an accurate image of their disclaiming, financial status and outcomes, and should keep synthetic lists, documents proving accounting registers and books for a period of five years. They are also required to submit a report annually to the general secretariat of the government, including the aspects of resource used during the year. The said report should be endorsed by a certified accountant registered at the certified accountants association who ensures the accuracy of accounting included.
351. There are no preventive measures up to this date that should be taken to protect this sector from exploitation in TF (no conferences or symposiums have been organized in this regard).
352. These associations keep information on the identity of the persons who own or administrate them and the members of their administration board and purposes and objectives of their activities. This information is found at the associations offices.
353. Chapter 8 of the abovementioned Dahir includes the sanctions of violating the law regulating these associations. It states that a fine of around Dirham 1200 – 5000 should be imposed on the persons who, following the establishment of the association, carry out any of the operations stipulated in Chapter 6, without considering the determined measures in Chapter 5. In the event of repeating the violation, the fine should be doubled. An imprisonment punishment for a period of one month to six months, and a fine of Dirham 10.000 and 20.000, or either penalty, shall be imposed on any person who continues to perform actions or re-establishes the association in an illegal manner following the order of dissolution of the association. The same sanctions shall be applied on the persons who assist the meetings of the members of the association in the event where an order of dissolution takes place.
354. The Public Prosecution shall be entrusted with carrying out investigations to collect information on these organizations. In this regard, it shall take the same measures adopted with all other financial institutions. There is no reference to any internal cooperation and coordination to exchange information between all the competent authorities and organizations.
355. There are no onsite visits or inspections regarding associations. The inspection might be carried out by the board of auditors. During the visit, it has not been illustrated to the team the methods of the said inspection and the meaning of the board of auditors in specific. The law does not stipulate the onsite inspection; however, it states that the inspection should be the responsibility of the government Public Prosecution and that an inspection department can be formed.
356. The first instance court is the competent court to consider requests of authorizing invalidation or dissolution of the association in the event of violating the law. It can also order conservative measures to close locations and prohibit the meetings of association members, according to chapter 7 of the abovementioned law.
357. In addition to the public association's law, there are other laws, such as Law No. 14-5, concerning the conditions of opening and managing social welfare institutions. The provisions of this law shall be applied to social welfare institutions whose purpose is taking care of all persons, males and females, who are living in difficult, instable or poverty circumstances, and Law No. 004-71, concerning the seek of public charity. This law stipulates that the seek of

public charity cannot be organized, carried out or announced on the road, public places or at some persons' residence, by any person and in any form, without obtaining the permission of the government secretary general. The seek of public charity means any request addressed to the public to obtain in any manner (in particular seeking, fund raising, subscriptions and selling tickets for parties, balls, charity markets and events and concerts) money, things or products that are totally or partially offered to a charity project or any other authority or person, regardless of lottery games and their special texts. Chapter 2 of the law states that an exemption of the mentioned permission request is granted to the seek of public charity which is carried out by the national cooperation, in accordance with chapter 9 of Dahir No. 1.57.099, issued on Ramadan 26, 1376 (April 27, 1957), concerning the establishment of national cooperation and seeking fund-raising through traditional manners.

### 5.3.1 Recommendations and comments

358. Moroccan authorities have to:

- Review local legislations to meet SR.VIII.
- Consider the implementation of the measures stipulated in the MENAFATF best practices on SR VIII.

### 5.3.2 Compliance with SR VIII

	Rating	Summary of factors underlying rating
SR VIII	NC	<ul style="list-style-type: none"> <li>▪ Lack of legislation that prohibits the exploitation of non-profit organisations in AML/CFT, and lack of obligation to report suspicious transactions.</li> <li>▪ Lack of tangible measures to verify money and others that are raised or transferred via NPOs.</li> </ul>

## 6. NATIONAL AND INTERNATIONAL COOPERATION

### 6.1 NATIONAL COOPERATION AND COORDINATION (R 31)

#### 6.1.1 Description and Analysis

359. **Recommendation 31:** Since the AML unit has not been practically established yet, there is no type of national cooperation in AML/CTF in the Kingdom of Morocco. The AML/CTF regime introduced by the abovementioned AML/CTF law relies basically on the national cooperation with all its forms and on the level of mechanisms adopted in AML/CFT. The said regime is based on the principle of cooperation among various authorities (judicial, inspection and investigation) on the one hand, and on FIU, on the other hand, through all the stages, whether the ones related to suspicion, inspection, follow-up, information-keeping and implementation of sanctions against the persons violating the law requirements.

360. **Additional Elements:** Currently, there are no available mechanisms in Morocco for consultation with the financial sector and other sectors of AML/CTF.

## 6.1.2 Recommendations and Comments

361. Moroccan authorities should take necessary measures to coordinate the efforts among various authorities related to AML/CTF, and put into effect this combat and find appropriate mechanisms in this regard.

## 6.1.3 Compliance with R 31

	Rating	Summary of factors underlying rating
R 31	NC	- There is no evidence of coordination among different relevant authorities in AML/CFT field, and FIU has not been established yet.

## 6.2 THE CONVENTIONS AND UN SPECIAL RESOLUTIONS (R 35 & SR I)

### 6.2.1 Description and Analysis

362. **Recommendation 35:** The Kingdom of Morocco has signed the UN Convention against illicit traffic in narcotic drugs (1988), and ratified the said convention on October 28, 1992. (Regarding the implementation of this convention, see the analysis mentioned in R.1 & 2).
363. The Kingdom of Morocco signed on December 13, 2000 the UN Convention against transnational organized crime (Palermo 2000), and ratified the said convention on September 16, 2002.
364. The Kingdom of Morocco signed on October 12, 2001 the UN international convention for the suppression on the financing of terrorism of 1999, and ratified the said convention on September 19, 2002. The criminalization of terrorism and TF has taken place under Law No. 03-03, concerning the combat of terrorism. (See the analysis mentioned in SR.2). Morocco has ratified all the conventions related to combating terrorism, including the convention concerning hostage-taking of 1979, which Morocco joined on April 17, 2007. This convention came into effect on June 08, 2007. Moreover, Morocco signed the International Convention for the Suppression of Terrorist Bombing, in New York on October 31, 2003, and ratified it on April 17, 2007. The Kingdom of Morocco also signed the UN Convention against corruption on March 03, 2003, and ratified it on May 07, 2007. The said convention came into effect, pursuant to paragraph 2 of Article (68), on June 08, 2007. In addition, the Kingdom of Morocco has joined the Internal Convention for the Suppression of Acts of Nuclear Terrorism, and on April 10, 2007 initiated its ratification procedure.
365. **Additional elements:** The Kingdom of Morocco has joined the 1998 Arab Anti-Terrorism Convention.
366. **Special Recommendation I:** The Kingdom of Morocco has ratified the terrorism financing convention (1999). A large number of the provisions of this convention have been taken into consideration in criminalizing terrorism and the financing of terrorism by the kingdom, under Law No. 03-03, concerning the combat of terrorism.
367. Morocco applies Security Council Resolutions under chapter 7 of the UN Charter. However, there are no special laws in Morocco regarding the implementation of the resolutions of the Security Council, Resolution No. 1267 and Resolution No. 1373. However, there are only freezing measures, in general. (See the analysis mentioned in SR. 3).

## 6.2.2 Recommendations and Comments

368. The Moroccan authorities should find special laws to implement the UN Security Council resolutions and to implement totally the UN Conventions.

## 6.2.3 Compliance with R 35 and SR.I

	Rating	Summary of factors underlying the rating of compliance
<b>R 35</b>	<b>LC</b>	Vienna Convention and Palermo Convention are not fully implemented within the Moroccan Regulation
<b>SR.I</b>	<b>PC</b>	Non implementation of the recommendation in terms of the two UN resolutions

## 6.3 MUTUAL LEGAL ASSISTANCE (R.36-38, SR.V)

### 6.3.1 Description and Analysis

369. **Recommendation 36 and SR. V.** The Kingdom of Morocco has a legal frame allowing judicial cooperation in the field of judicial assistance, exchange of information and extradition of criminals. Priority is given to international conventions with respect to judicial cooperation with foreign countries (Article 713 of the code of criminal procedure). In case of the absence of any conventions or in case such conventions are free of any provisions in this regard, the general rules related to judicial relations with foreign authorities stipulated in articles 713 to 749 of the criminal procedure code are applied. Basically, the international conventions are considered as bilateral conventions for mutual judicial cooperation:

	Foreign Parties	Conventions	Date & Place of Signature	Date of Ratification
1	Libyan Arab Jamahiriya	Notices, Judicial delegations, execution of judgments, and extradition of criminals	Tripoli on 27/12/1962	11/2/1963
2	Arab Republic of Egypt	Judicial Cooperation in Criminal Matters and Extraditions of Criminals	Rabat on 22/3/1989	12/5/1997
3	Gabonese Republic	Judicial cooperation, exchange of judicial information, execution of judgments and extradition of criminals	Rabat on 27/2/1989	25/8/1999
4	Republic of Turkey	Judicial cooperation in criminal matters and extradition of criminals	Rabat on 15/5/1989	13/11/2001
5	Republic of France	Judicial cooperation, exchange of judicial information, execution of judgments, extradition of criminals + annexed protocol	Paris on 5/10/1957	2/10/1957

6	Republic of Tunisia	Judicial cooperation in criminal matters and extradition of criminals	Tunis on 9/12/1964	3/6/1966
7	Kingdom of Spain	Criminals Extradition Field	Madrid on 3/5/1997	22/4/1999
8	Libyan Arab Jamahiriya	Assistance of detained or imprisoned persons and transfer of convicted to their home countries	Rabat on 3/7/1967	19/12/1968
9	Republic of Senegal	Judicial cooperation, execution of judgments and extradition of criminals	Rabat on 3/7/1967	19/12/1968
10	Republic of Bulgaria	Extradition of criminals	Rabat on 15/3/2005	
11	Republic of Italy	Mutual assistance in the judicial field, execution of judgments and extradition of criminals	Roma on 12/2/1971	12/4/1976
12	Arab Republic of Yemen	Criminals extradition field	Rabat on 8/2/2006	
13	Arab Republic of Syria	Criminals extradition field	Marrakesh on 27/4/2006	
14	UAE	Judicial cooperation in criminal matters and extradition of criminals and in civil, commercial, family and civil status affairs	Rabat on 21/4/2006	
15	Islamic Republic of Mauritania	Judicial cooperation and extradition of criminals	Nouakchott on 20/9/1972	8/11/1979
16	Kingdom of Belgium	Extradition of criminals and judicial cooperation in criminal field + additional protocol of previous convention	Rabat on 27/2/1959	19/5/1960
17	Republic of Tunisia	Judicial cooperation, execution of civil judgments and extradition of criminals	Rabat on 30/3/1959	14/9/1959
18	USA	Judicial cooperation in criminal matters	17/10/1983	28/05/1993
19	Poland		21/05/1979	12/12/1980
20	Romania	Judicial cooperation in civil and criminal matters	30/08/1972	19/09/1977

370. The AML Law authorizes the Financial Information Unit intended to be founded to exchange financial information in terms of the money laundering (ML) offence with the foreign authorities in the framework of the international conventions where the Kingdom of Morocco is a party, or on the basis of the principle of reciprocity (Article 24 of the Law).
371. In the field of combating the financing of terrorism, article 595-6 of the Criminal Law authorizes the government to transfer, upon the demand of any foreign country, the request to the King's Prosecutor-General in order to take the following actions: (1) investigating and identifying the proceeds of a FT crime and the instrumentalities used or intended for use in this crime, or any property that is equal to the value of the proceeds; (2) freezing or seizure of properties; (3) taking preventive procedures with regard to such properties. The King's Prosecutor-General will reject the request if its execution affects the country's sovereignty, security, main interests or public order; if a definitive judgment is rendered inside the country in respect of the acts related to the request; if an order has been issued to execute a foreign judgment rendered under such conditions that do not provide sufficient guarantees to protect the defense rights; or if the acts contained in the request do not have any relation to the financing of terrorism.
372. The execution inside the country of any freezing, seizure or confiscation judgment rendered by a foreign judicial authority and in respect of which a request has been submitted by the said authority, shall be subject to the authorization of the King's Prosecutor-General. The authorization of any freezing, seizure or confiscation judgment shall be related to a property present inside the country, which is used or intended to be used in the crime; or it shall aim to render an obligation to make full payment in cash corresponding to the value of the mentioned property.
373. The Moroccan authorities stated that immediately after the terrorist acts committed in Madrid City in Spain, they have cooperated with the Spanish authorities to track the terrorist groups involved in those attacks and identify their financing sources. The groups were actually arrested and their funds were confiscated after identifying the sources of their proceeds represented mainly in Islamic commercial projects, food shops, mobile shops in addition to other funds collected from Al-Qaeda.
374. Article 31 of the AML Law authorizes the implementation of the aforementioned articles 595-6 and 595-7 in the field of AML in order to facilitate the international cooperation in this regard.
375. Article 19 of the AML Law stipulates that the King's Prosecutor-General or the Investigation may order that the properties of any natural or legal persons suspected to be involved with persons, organizations or activities related to ML crimes be seized, even if such crimes are not committed inside the Kingdom.
376. The Moroccan authorities stated that the security bodies in charge of combating drugs had cooperated with many security authorities in foreign countries to track the proceeds of drug trafficking. In many cases, the controlled delivery of drugs or proceeds of drug trafficking has been applied to some foreign countries, but the evaluation team was not able to collect any statistical data in this respect.
377. Regarding the rogatory letters, reference is made to the general rules set forth in the criminal code. By virtue of articles 714 and 715 of the said code, rogatory letters received from outside are addressed via diplomatic methods. In case of emergency, they might be addressed directly to competent judges and in such case; the results are not communicated to the foreign authority unless a copy is received via diplomatic methods. In this case, a copy of the rogatory letter and the documents is sent to the minister of justice in order to arrange

notification via diplomatic methods. The minister of justice may authorize the foreign authority representatives to attend the execution of rogatory letter as observers. Article 746 added that in the event where any foreign country requests the presence of any witness residing in the Kingdom of Morocco to give testimony in person with regard to any lawsuit, the Moroccan authorities which receive the request shall summon the witness to appear via diplomatic methods.

378. The Moroccan laws and the international, regional or bilateral conventions offer mutual legal assistance in terms of investigation, hearing of witnesses, and execution of rogatory letters. This assistance is not subject to unreasonable or disproportionate conditions. However, the evaluation team was not able to assess the efficiency of the process to obtain mutual legal assistance in a timely way and without any delay due to the absence of any statistics evidencing the number of requested and executed rogatory letters or the time within which such rogatory letters were executed.
379. Article 722 of the criminal code stipulates that extradition is not possible in case of crimes related to all types of taxes, customs rights or exchange system, unless based upon an express condition by virtue of which the country seeking extradition undertakes to accept a similar request in accordance with the principle of reciprocity. We can conclude through the AML/CFT Law as well as the conventions on mutual assistance concluded by the Kingdom of Morocco that there is no evidence that Morocco has rejected any request for mutual legal assistance, except for extradition of criminals, on the sole ground that the offence is also considered to involve fiscal matters. There is also no evidence that Morocco has rejected any request for mutual legal assistance on the grounds of laws that impose secrecy or confidentiality requirements. However, there is no stipulation determining the possibility to disclose any confidential information by any financial institutions or DNFPBs in order to meet the requirements of a request for obtaining mutual legal assistance.
380. The evaluation team noticed that the rules and procedures defined by the international, regional or bilateral conventions concluded by Morocco comprise the provision of many forms of assistance, including the mutual assistance, in order to conduct the investigation procedures, such as interrogation of accused, hearing of witnesses, experts and damaged authorities, or exchange of supporting documents and files as well as the procedures related to investigation or seizure.
381. Articles 704 to 711 of the criminal code stipulate the necessity to apply the Moroccan law within the scope of regional, corporeal or personal powers. Article 712 of the same code stipulates that the court having jurisdiction in such case shall be the court located at the place of residence of the suspected person; or the court located at his latest identified residence place in Morocco; or the court located at the place of seizure or the place of residence of the victim.
382. The CFT Law No. 03-03 comprised legal articles authorizing the use of the competent authorities' powers mentioned in R. 28 in fulfilling the requests for mutual legal assistance in the field of combating terrorism and financing terrorism<sup>32</sup>.
383. **Additional elements.** Absence of any text stipulating the authorization to use the powers of competent authorities, in accordance with R. 28, in case of any direct request submitted by judicial authorities or foreign law enforcement authorities to the local counterparties.

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<sup>32</sup> Articles comprised in Chapter II "Procedural Provisions", in Article 4: "Articles 59 (second paragraph), 62 (third added paragraph), 79 (fourth added paragraph), 102, 108 (third and fourth paragraphs), and in Article 5: "66 (fourth added paragraph), 80 (fourth added paragraph), and articles comprised in Section IV: 595-1, 595-2, 595-4, 595-5, 595-6.

384. **Recommendation 37 & SR. V.** Neither the criminal code nor the AML/CFT laws stipulates the necessity of dual criminality to offer any type of exchanges legal assistance, except for the extradition of criminals provided for in articles 718 to 745 of the Penal code.
385. **Recommendation 38 & SR. V.** Article 595-6 of the Penal Code (applied in the fields of combating terrorism and money laundering) authorizes the government to refer the request, upon demand of any foreign country, to the King's Prosecutor-General to take the following actions: (1) investigating and identifying the proceeds of a FT crime and the instrumentalities used or intended for use in this crime, or any property that corresponds to the value of the proceeds; (2) freezing or seizure of properties; (3) taking preventive procedures with regard to such properties. The execution inside the country of any freezing, seizure or confiscation judgment rendered by a foreign judicial authority and in respect of which a request has been submitted by the said authority, shall be subject to the authorization of the King's Prosecutor-General. The authorization of any freezing, seizure or confiscation judgment shall be related to a property present inside the country, which is used or intended to be used in the crime; or it shall aim to render an obligation to make full payment in cash corresponding to the value of the mentioned property. Article 19 of the AML law added that King's Prosecutor-General or investigation judge may order that the properties of any natural or legal persons suspected to be involved with persons, organizations or activities related to ML crimes be seized, even if such crimes are not committed inside the Kingdom.
386. Neither the CFT law nor the AML law states the necessity to establish an asset forfeiture fund where all or a portion of confiscated properties will be deposited to be used for law enforcement, health, education or other appropriate purposes. The AML law stipulates that the investigation judge may appoint a private establishment or authority to maintain or control the properties.
387. Regarding the sharing of confiscated properties, Chapter 8 – 595 of the criminal law stipulates that confiscation shall be subject to the transfer of confiscated properties to the Moroccan State unless it is otherwise agreed upon with the country seeking confiscation, or unless it is applied in the framework of an international convention or on the basis of reciprocity principle. This article applies to the financing of terrorism and there is no similar article applies in the field of money laundering.
388. **Additional Elements.** The conventions concluded by the Kingdom did not include any provisions related to the recognition of the confiscation ordered pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, according to the definition mentioned in criterion 3-7 of the forty Recommendations. However, article 171 of the Penal code stipulates that Morocco may not execute the civil requirements of any judgment rendered by foreign criminal court unless it has been given then executive form by virtue of a judgment rendered by Moroccan civil court in pursuance of the civil code requirements.
389. **Statistics.** There are no statistics related to the implementation of mutual assistance requests whether submitted by the Moroccan Kingdom to other countries or by other countries to Morocco.

### 6.3.2. Recommendations and Comments

390. The Kingdom of Morocco should:
- Take special care to keep statistics on mutual assistance requests to verify the efficiency of the mutual assistance frameworks.
  - Consider the necessary steps to provide the greatest mutual assistance possible to combat ML/T since the Law did not include the possibility of lifting the banking secrecy off other

financial institutions or other non-financial businesses and professions to meet the demand of receiving MLA, among which is the legal profession.

- Adopt legislative measures to include in laws or judicial cooperation agreements the following:
  - provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities intended to use in those crimes.
  - Provisions relevant to offering MLA when the request relates to property of corresponding value and stipulating the establishment of asset forfeiture fund, where all or part of the confiscated properties would be deposited for purposes of law enforcement, health care, education, or other adequate purposes.

### 6.3.3 Compliance with R 36 to 38 and SR V and R. 32

	Rating	Summary of factors underlying rating
<b>R 36</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ Lack of mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.</li> <li>▪ Factors on the basis of which R1 and SR2 were underlined affect the level of mutual legal assistance.</li> </ul>
<b>R 37</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ The non-criminalization of all categories of designated predicate offences for ML crime would affect the effectiveness of this recommendation.</li> </ul>
<b>R 38</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ The conventions concluded in terms of judicial cooperation did not include any provisions related to the recognition of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or verdicts that allow that.</li> </ul>
<b>SR V</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ No evidence of effectiveness and the lack of statistics.</li> <li>▪ The conventions concluded in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or verdicts that allow that.</li> </ul>

## 6.4 EXTRADITION OF CRIMINALS (R 37, 39 & SR V)

### 6.4.1 Description and Analysis

391. **Recommendation 39 and Special Recommendation V:** The extradition provisions in the Kingdom of Morocco are regulated in the first place through international treaties, and then through internal laws. (The evaluation team did not peruse any international or bilateral treaties regarding the extradition of criminals to identify their provisions). The criminal code regulates the extradition of criminals in articles 718 to 745.

392. Article 718 of the said code stipulates that the procedure for extradition of criminals to a foreign country authorizes the Moroccan State to extradite an accused or convicted non-Moroccan person present in the Kingdom and whose case is followed by the country seeking the extradition or who is convicted with a crime by the court of this country. Article 720 enumerated the acts on which the request for extradition or approval thereof is based. They consist of all acts sanctioned by the law of the country seeking extradition for a crime with a criminal sanction and the acts sanctioned by the law of the country seeking extradition for a crime with an offensive sanction depriving of freedom, if the maximum extent of sanction imposed by virtue of the said law is not less than one year or if it is related to convicted person when the sanction term is equal to or above four months.

393. Whereas the sanction of the FT offence has a criminal nature, it can be relied on such acts to request extradition or approval thereof. The ML offence is sanctioned by imprisonment for a period between 2 and 5 years. Therefore, it falls under the acts on which it can be relied to request extradition or approval thereof.
394. Extradition is only accepted if the offence covered by the request is perpetuated either by a national or foreigner inside the country seeking the extradition; or by one of its nationals abroad; or by a non-Moroccan foreigner outside the country, if the offence attributed to him falls under the offences that are allowed to be followed under the Moroccan legislation inside Morocco even if committed abroad. Extradition is not permitted if the wanted person is a Moroccan citizen and that this capacity is taken in consideration upon commitment of the crime covered by extradition, whether it consists of political crime or offence connected to political crime. Extradition in respect of crimes related to all types of taxes, customs rights or exchange system is not permitted unless under express condition by virtue of which the state seeking the extradition undertakes to accept a similar request in accordance with the principle of reciprocity.
395. In conclusion, the legal system in Morocco provides for objective extradition conditions. It does not extradite those appearing before its judiciary, does not extradite its nationals, and does not accept extradition for a political crime. And, the act, object of extradition, should be a crime or an offence sanctioned by one year of prison at least.
396. Article 726 of the criminal code regulating the extradition of criminals' procedures stipulates that "the request for the extradition of persons shall be submitted to Moroccan authorities in writing and via diplomatic methods. There shall be attached to the request (1) the original judgment rendered in respect of applicable sanction, either ordering seizure of the person or consisting of another applicable penal sanction issued by a judicial authority as per the requirements of the law applied in the country seeking the extradition; (2) a summary of the acts for which the extradition is requested, in addition to the date and place of commitment of such acts, accompanied by a copy of the legal texts applies to the criminal act; (3) a statement as accurate as possible about the wanted person's particulars and any other information that may identify him or his nationality; (4) an undertaking not to investigate the convicted person in terms of any other procedure undermining his person freedom for any act other than the act covered by the extradition. The Minister of Foreign Affairs sends the extradition request and the file after inspecting all its documents to the Minister of Justice who shall verify the accuracy of the request and take necessary legal actions. The King's prosecutor general or the examining magistrate may order that the properties of any natural or legal persons suspected to be involved with persons, organizations or activities related to ML crimes be seized, even if such crimes are not committed inside the Kingdom. This law defined the properties as being all types of material and immaterial possessions, movable or real estate owned by one person or by the state; as well as legal contracts or documents evidencing the property of such possessions or rights connected thereto.
397. Therefore, Morocco adopts procedures allowing it to deal with the requests and procedures for extradition of criminal in general without delay. With regard to the money laundering in general, it is impossible to take definite decision about this subject due to the absence of any statistics in the state as a result of the AML law recent promulgation.
398. **Statistics.** The Moroccan authorities did not provide any statistics to verify the efficiency of the extradition requests and procedures.

## 6.4.2 Recommendations and Comments

### 6.4.3 Compliance with R.37, R.39, SR V & R. 32

	Rating	Summary of factors underlying rating
R 39	LC	▪ Factors on the basis of which R1 and SR2 were underlined affect the level of extradition.
R 37	LC	▪ The non-criminalization of the all categories of designated predicates offences for ML crime would affect the effectiveness of this recommendation.
SR V	LC	▪ No evidence of effectiveness and lack of statistics.

## 6.5 OTHER FORMS OF INTERNATIONAL COOPERATION (R 40 & SR V)

### 6-5-1 Description and Analysis

399. **Recommendation 40 and Special Recommendation V:** Article 24 of the aforementioned law stipulates that in the framework of international conventions in which the Kingdom is a party and which are published in a legal form; or on the basis of the reciprocity principle; and in observance of the applicable legal requirements, the FIU may exchange financial information related to AML with foreign authorities that have similar jurisdictions.
400. The banking secrecy may be lifted and investigations may be conducted by the investigation judge, on behalf of foreign counterparties, in accordance with the rules and procedures defined by the Moroccan applicable laws and regulations and the international, regional or bilateral conventions where Morocco is a party, or on the basis of the principle of reciprocity.
401. Lifting of professional secrecy is a principal condition to enable competent authorities from obtaining sufficient information to combat ML/FT. The stipulations of article 13 of the aforementioned law oblige the subjected persons to furnish the FIU and the supervision and control authorities with any documents required for the completion of their mission. The subjected persons may not object to the investigation operations ordered by FIU and they shall facilitate the access to the documents and necessary information. Therefore, the lifting of professional secrecy covers also the exchange of financial information related to AML between the FIU and the foreign counterparties.
402. Article 21 of the aforementioned law stipulated that the information obtained by the FIU and the supervision and control authorities may not be used for any purpose other than those provided for under this chapter.
403. It is worth mentioning that the cooperation between the supervisory authorities and their foreign counterparts is very limited. There is no cooperation or information exchange system between the different national supervisory authorities (Bank Al-Maghreb as for the financial institutions, Insurance and Social Security Directorate as for the insurance activities) or between those authorities and their foreign counterparts. Those authorities shall have the capacity to conclude agreements for the exchange of confidential information for the purpose of supervising the institutions falling under their competent authority.
404. **Statistics.** There are no statistics related to international cooperation.

## 6.5.2 Recommendations and Comments

405. The following is recommended:

- Take interest in providing statistics on international cooperation to verify the efficiency of cooperation with counterpart or non-counterpart authorities.
- Take the necessary legislative procedures to add special texts to the existing legislations which include constraints and guarantees that assure the non-use of information received by competent authorities except in a responsible way.
- The Kingdom of Morocco should consider finding a sort of cooperation between supervisory authorities and their foreign counterparts in order to promote cooperation on the international level.

## 6.5.3 Compliance with R 40, SR V & R 32.

	Rating	Summary of factors underlying rating
R 40	PC	▪ Lack of cooperation between supervisory authorities on the financial sector and their foreign counterparts.
SR V	LC	▪ Lack of efficient tools and absence of statistics.

## 7. OTHER ISSUES

**Remark:** *The text of the description analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report i.e. all of section 2, parts of sections 3 and 4 and in section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several sections. Section 7.1 of the report primarily contains the boxes showing the rating and the factors underlying the rating.*

### 7.1 RESOURCES AND STATISTICS

406. **Recommendation 30.** The FIU lacks any organizational structure until now not to mention the absence of any AML competent authorities. Regarding the FT, the assessment team has discovered that the authorities have dealt with some terrorist, seized the involved criminals and confiscated the funds. Some investigation judges were trained to deal with terrorist crimes; however, no training has been conducted in the field of AML crimes up to present.

407. The assessment team has noted upon a visit to the prosecutor general of Rabat court of appeal that there were three prosecutors general specialized in the investigation of terrorist cases, in addition to two prosecutors in charge of financial matters with special nature. The assessment team has also discovered that there were a number of cases related to freezing of funds under judgments rendered by the investigation judge in terms of terrorist and financial cases.

408. Regarding the training offered to the supervisory authorities' staff, the Moroccan authorities have provided statistics on the training sessions offered to the staff of Customs and Bank Al-Maghreb. The training sessions appeared to be very limited. Training in this field should be concentrated on all supervisory authorities and all AML/CFT bodies. Below is a statement about the said training sessions:

Authority	No. of Participants	Training Body
Customs	4	USA, Spain and Luxembourg
Central Bank	41	France, Arab Monetary Fund, USA, Spain

409. *Additional elements.* The Moroccan authorities reported that some training courses were organized for judges in terms of ML and FT crimes.

### Recommendations and Comments

410. The following is recommended:

- To offer training and rehabilitation sessions to the investigation judges, judicial police, and customs officers in the field of AML / CFT.

411. *Recommendation 32.* There is no review for the efficiency of the AML/CFT system. No reports were received, analyzed or distributed in terms of suspicious transactions. No STRs were also submitted according to the financial institution or the DNFBPs' type. There are no statistics about the local or foreign transactions that exceed a specific limit and there are no reports about the cross-border transfer of currencies or negotiable financial instruments with regard to international wire transfers.

412. There are no investigations in the field of ML/FT; however, there are some statistics about the predicate crimes, the terrorism crimes and some judgments rendered in terms of freezing and confiscation of properties and crimes' proceeds.

413. The assessment team discovered during the visit that there is an international cooperation by virtue of the Convention against Transnational Organized Crime. There is also a British request and another Dutch one for judicial cooperation; however, there are no statistics about MLA or other international cooperation requests.

414. *Additional elements.* There are some statistics about predicate crimes, such as terrorist crime, bribes, and robbery; however, the competent authorities lack, as aforementioned, any STRs and criminal sanctions with regard to ML and FT crimes due to non implementation of the law during this period.

415. There are some other official requests for MLA received by the judicial authorities with regard to some predicate crimes but there are no indications to the presence of any ML and FT requests.

416. The assessment team was not able to define the number of cases, the value of seized and confiscated properties related to predicate crimes.

### Recommendations and Comments:

417. The competent authorities should:

- Cooperate with their foreign counterparts in order to strengthen international cooperation
- Provide necessary statistics about international cooperation with regard to MLA.
- Amend the last paragraph of article 15 of the AML law related to the annual report to be prepared by FIU about its activities and submitted to the prime minister, by adding a condition that the report should comprise the number of STRs inspected

by FIU, the value of frozen, seized and confiscated properties, and the proceeds of ML and FT crimes in order to activate the role of the country and its bodies in combating those two crimes through the control of the combating aspects on an annual basis and the result of the efforts deployed in this regard.

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R 30</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Lack of training and rehabilitation in the field of AML and CFT.</li> </ul>
<b>R 32</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Lack of statistics although they are mentioned in the legal texts due to the non-foundation of FIU so far</li> </ul>

## TABLES

**Table 1: Ratings of Compliance with FATF recommendations involved in money laundering**

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

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

**Table 1: Ratings of Compliance with FATF recommendations**

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

Forty Recommendations	Rating	Summary of factors underlying rating
<b>Legal systems</b>		
1. ML offence	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Non-criminalization of property transfer, concealing its source or location as one form of money laundering.</li> <li>▪ Non-extension of the act of money laundering to include the proceeds obtained directly or indirectly.</li> <li>▪ The predicate crimes do not include all the designated offences.</li> <li>▪ Non-explicit provision of the punishment of any person accused of a ML crime who committed the predicate offence outside the kingdom, and which is deemed as a crime in the event where it is committed internally.</li> </ul>
2. ML offence–mental element and corporate liability	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ The efficiency of the ML legal system cannot be evaluated because the law is recently issued.</li> </ul>
3. Confiscation and provisional measures	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ The possibility of ordering partial confiscation in relation to ML crimes, and non-mandatory of the penalty of confiscation in relation to TF crimes.</li> <li>▪ Properties subject to confiscation did not cover the crimes proceeds related to TF offence.</li> <li>▪ The temporary freezing did not cover all properties that may be subject to confiscation.</li> <li>▪ The absence of evidence of the efficiency of the legal system in relation to confiscation and freezing.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>C</b>	
5. Customer due diligence (CDD)	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No specification of a threshold for occasional transactions that is in line with the threshold specified in the methodology.</li> <li>▪ No obligation to identify the beneficial owners or controllers of the customer in the institutions other than those qualified to open accounts.</li> <li>▪ No obligations of the institutions other than those qualified to open accounts to obtain the information related to the purpose and nature of the business relationship.</li> <li>▪ No obligation to terminate the business relationship with</li> </ul>

		<p>customers in the event of the inability to implement the due diligence measures.</p> <ul style="list-style-type: none"> <li>▪ No obligations on financial entities other than banking institutions to constantly update the files of customers.</li> </ul>
6. Politically exposed persons (PEPs)	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ FIs are not obliged to set appropriate systems to deal with politically exposed persons.</li> </ul>
7. Correspondent banking	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No rules to deal with correspondent institutions.</li> </ul>
8. New technologies & non face-to-face business	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No applied policies or measures to prevent the exploitation of modern technologies in ML or deal with the risks related to indirect transactions.</li> </ul>
9. Third parties and introducers	<b>NA</b>	
10. Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ No reference to guaranteeing the provision of records and information to local competent authorities at the appropriate time.</li> <li>▪ No establishment of the FIU, which is the central authority, as per the law, in receiving and requesting information from FIs.</li> </ul>
11. Unusual transactions	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of clarity with regard to the persons covered by the law and the supervisory authorities.</li> <li>▪ Linking the suspicion of any unusual or complicated operations with a certain threshold (set by the FIU).</li> </ul>
12. DNFBP–R.5, 6, 8-11	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Real estate agents, gold and precious stones dealers, company service providers and trust funds are not subject to the requirements of AML Law.</li> <li>▪ Lack of instructions which include the implementation of the due diligence conditions stipulated in the law, and which should be taken by DNFBPs which are different in nature from FIs.</li> <li>▪ No obligation on DNFBPs to obtain information related to the purpose and nature of the business relationship, to constantly take diligence during the period of the relationship and to regularly update the files of their customers.</li> <li>▪ No obligation on DNFBPs, in addition to due diligence measures, to set appropriate systems or measures to manage the risks in order to specify whether the future customer, existing customer or beneficial owner is a PEP.</li> <li>▪ No reference of any special measures, in addition to prudential, detection and supervisory measures, to face the threats of ML operations which are resulted from the spread of modern technologies and which encourage transactions of anonymous source.</li> <li>▪ No guarantee of providing records and information at the appropriate time to the competent national authorities.</li> </ul>
13. Suspicious transaction reporting	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Non-inclusion as predicate offenses related to transactions the twenty categories of the predicate offenses set forth by the recommendations.</li> <li>▪ No legal obligation to report attempts of suspicious transactions.</li> <li>▪ Non-establishment of the FIU to date.</li> </ul>
14. Protection & no tipping-off	<b>C</b>	
15. Internal controls, compliance & audit	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No requirement that FIs should set internal controls, policies and measures on AML/CFT.</li> <li>▪ No requirement that FIs should establish independent audit functions to test the compliance with the internal controls of AML/CFT.</li> </ul>

		<ul style="list-style-type: none"> <li>▪ Lack of employee training in FIs.</li> </ul>
16. DNFBP–R.13-15 & 21	NC	<ul style="list-style-type: none"> <li>▪ Non-expansion of the scope of AML/CFT predicate crimes to include all the categories of designated predicate offences.</li> <li>▪ No legal obligation on the persons subject to the AML to report attempts of suspicious transactions.</li> <li>▪ No obligation of setting supervisory systems and internal policies and measures specialized, in specific, for AML purposes.</li> <li>▪ No sufficient attention paid to the element of training and rehabilitating of employees.</li> <li>▪ Non-issuance of a text which stipulates that DNFBPs should be briefed on the weaknesses of the AML/CFT systems.</li> <li>▪ Lack of appropriate counterpart measures in the event where a country continues to object to implementing the FATF recommendations.</li> <li>▪ No obligation on DNFBPs to pay any special attention to the business relationships and transactions with persons or legal persons from or in other countries that do not implement the FATF Recommendations.</li> </ul>
17. Sanctions	NC	<ul style="list-style-type: none"> <li>▪ No clarity of the sanctions applied by supervisory authorities against violating persons. i.e. non-effectiveness, proportionality, or dissuasiveness of sanctions.</li> <li>▪ Natural persons managing subject persons are not subject to sanctions in all violation cases.</li> <li>▪ Lack of certainty regarding the supervisory authorities' imposing sanctions upon the FIU referral.</li> <li>▪ Non establishment of the FIU up to this date.</li> </ul>
18. Shell banks	PC	<ul style="list-style-type: none"> <li>▪ No explicit provisions to prohibit Moroccan FIs from entering or continuing banking correspondent relationships with shell banks, and to ensure that correspondent FIs in other countries do not allow the use of their accounts by shell banks.</li> </ul>
19. Other forms of reporting	NC	<ul style="list-style-type: none"> <li>▪ Morocco has not consider setting a system to report all currency transactions exceeding a certain amount to a national central authority with an electronic database.</li> </ul>
20. Other NFBP & secure transaction techniques	NC	<ul style="list-style-type: none"> <li>▪ Lack of consideration by Morocco to expand the scope of NFBPs covered by the law.</li> <li>▪ Lack of measures taken by Morocco to encourage setting and using modern and secure methods to carry out financial transactions that are less vulnerable to ML.</li> </ul>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>▪ No explicit obligation on FIs to pay special attention to business relationships and transactions with persons, entities or other FIs from or in the countries that do not implement the FATF recommendation.</li> </ul>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> <li>▪ No obligation on FIs to ensure the compliance of their branches and subsidiaries abroad with <u>all</u> AML/CFT measures.</li> <li>▪ No obligation concerning implementing the more severe criteria in the event of disparity between AML measures in Morocco and foreign countries.</li> </ul>
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> <li>▪ No explicit text regarding the effective supervisory measures or the competent supervisory authority for subject persons.</li> <li>▪ Non-establishment of the FIU to which FIs will be subject with regard to the AML obligations.</li> <li>▪ Verification measures concerning the integrity of owners and controllers of subject persons do not include all types of the persons covered by the law.</li> <li>▪ No clarity regarding the supervision and oversight authorities</li> </ul>

		<p>of the entities and persons offering money and value transfer services.</p> <ul style="list-style-type: none"> <li>No requirement of the FIs not subject to the Core Principles of Basel to comply with the requirements of registration, licensing or monitoring for purposes of AML/CFT.</li> </ul>
24. DNFBP - regulation, supervision and monitoring	<b>NC</b>	<ul style="list-style-type: none"> <li>Casinos are not subject to a comprehensive monitoring and supervisory system in implementing necessary AML/CFT measures of FATF recommendations.</li> <li>The rest of (DNFBPs) are not subject to AML/CFT supervision</li> </ul>
25. Guidelines & Feedback	<b>NC</b>	<ul style="list-style-type: none"> <li>No reference to providing feedback to FIs by the competent authorities or the FIU.</li> <li>No practical feedback provided by the FIU as it has not been established yet.</li> <li>No guidance to the persons covered by the law with regard to AML/CFT.</li> <li>Non establishment of FIU which is responsible for supervising the compliance of (DNFBPs) and issuing their executive instructions.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	<b>NC</b>	<ul style="list-style-type: none"> <li>FIU not established yet.</li> <li>The independency status of the FIU, the status of training its employees, its efficiency, and all the other standards related thereto in R26 following its establishment cannot be confirmed at the current time as the FIU is not established and the concerned regulatory text is not issued by the Premier yet.</li> </ul>
27. Law enforcement authorities	<b>PC</b>	<ul style="list-style-type: none"> <li>Lack of specified authorities responsible for AML/CFT investigations.</li> <li>Lack of evidence of effectiveness of law enforcement authorities and lack of statistics.</li> </ul>
28. Powers of competent authorities	<b>C</b>	
29. Supervisors	<b>NC</b>	<ul style="list-style-type: none"> <li>No explicit text regarding the role of the oversight authorities or FIU in monitoring the compliance of the persons covered by the law with the stipulated obligations.</li> <li>No explicit text regarding the powers of the FIU in carrying out inspection operations related to monitoring the persons covered by the law within its stipulated tasks by the law.</li> <li>No clarity of the sanctions imposable by the supervisory authorities on the persons covered by the law upon their violation of their duties.</li> <li>Lack of certainty regarding the supervisory authorities' imposing sanctions upon the FIU referral.</li> <li>Non establishment of the FIU to date.</li> </ul>
30. Resources, integrity and training	<b>NC</b>	<ul style="list-style-type: none"> <li>Lack of training and rehabilitation in the field of AML and CFT.</li> </ul>
31. National cooperation	<b>NC</b>	<ul style="list-style-type: none"> <li>There is no evidence of coordination among different relevant authorities in AML/CFT field, and FIU has not been established yet.</li> </ul>
32. Statistics	<b>NC</b>	<ul style="list-style-type: none"> <li>Lack of statistics although they are mentioned in the legal texts due to the non-foundation of FIU so far</li> </ul>
33. Legal (corporate) persons–beneficial owners	<b>LC</b>	<ul style="list-style-type: none"> <li>No specific measures to prohibit the exploitation of bearer shares.</li> </ul>
34. Legal arrangements –	<b>NA</b>	

beneficial owners		
<b>International Cooperation</b>		
35. Conventions	<b>LC</b>	<ul style="list-style-type: none"> <li>Vienna Convention and Palermo Convention are not fully implemented within the Moroccan Regulation</li> </ul>
36. Mutual legal assistance (MLA)	<b>LC</b>	<ul style="list-style-type: none"> <li>Lack of mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.</li> <li>Factors on the basis of which R1 and SR2 were underlined affect the level of mutual legal assistance.</li> </ul>
37. Dual criminality	<b>LC</b>	<ul style="list-style-type: none"> <li>The non-criminalization of all categories of designated predicate offences for ML crime would affect the effectiveness of this recommendation.</li> </ul>
38. MLA on confiscation and freezing	<b>LC</b>	<ul style="list-style-type: none"> <li>The conventions concluded in terms of judicial cooperation did not include any provisions related to the recognition of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or verdicts that allow that.</li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>Factors on the basis of which R1 and SR2 were underlined affect the level of extradition</li> </ul>
40. Other forms of co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>Lack of cooperation between supervisory authorities on the financial sector and their foreign counterparts.</li> </ul>
<b>Nine Special Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating</b>
SR.I Implement UN instruments	<b>PC</b>	<ul style="list-style-type: none"> <li>Non implementation of the recommendation in terms of the two UN resolutions</li> </ul>
SR.II Criminalize terrorist financing	<b>PC</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> The forms of TF are exclusive to carrying out a terrorist act.</li> <li><input type="checkbox"/> Not setting up a definition of funds to include all the elements stipulated in the TF convention.</li> <li><input type="checkbox"/> Lack of evidence of the efficiency of the legal system concerning the TF offence.</li> </ul>
SR.III Freeze and confiscate terrorist assets	<b>PC</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Lack of a law to regulate the procedures of freezing of funds and properties of the persons whose names are listed in S/RES of the Security Council.</li> </ul>
SR.IV Suspicious transaction reporting	<b>NC</b>	<ul style="list-style-type: none"> <li>No clear identification of the institutions addressed by the AML Law.</li> <li>Confining TF forms to committing a terrorist act.</li> <li>No activation of the reporting system because of absence of an FIU.</li> </ul>
SR.V International cooperation	<b>LC</b>	<ul style="list-style-type: none"> <li>No evidence of effectiveness and the lack of statistics.</li> <li>The conventions concluded in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or verdicts that allow that.</li> </ul>
SR.VI AML requirements for money/value transfer services	<b>NC</b>	<ul style="list-style-type: none"> <li>No clarity of the sanctions applied by the supervisory authorities against violating persons.</li> <li>No sanctions for natural persons who manage the persons covered by the law in all violations.</li> <li>No regulation for informal remittance systems.</li> </ul>
SR.VII Wire transfer rules	<b>NC</b>	<ul style="list-style-type: none"> <li>No obligation on FIs carrying out transfers to implement the requirements of the SR. VII with regard to obtaining and keeping information related to the operation and imposing monitoring by the monitoring</li> </ul>

		<p>bodies. Therefore, there are no appropriate and deterrent sanctions in the event of violation of the requirements.</p> <ul style="list-style-type: none"> <li>▪ No obligation on intermediary or beneficiary institutions in the payment chain to ensure the transmission of all originator information in wire transfers.</li> </ul>
SR.VIII Nonprofit organizations	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Lack of legislation that prohibits the exploitation of non-profit organisations in AML/CFT, and lack of obligation to report suspicious transactions.</li> <li>▪ Lack of tangible measures to verify money and others that are raised or transferred via NPOs.</li> </ul>
SR.IX Cash Couriers	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Lack of disclosure/declaration system as per the Rec. criteria.</li> <li>▪ No channels of cooperation between the customs and FIU.</li> <li>▪ No specified measures to exchange information between the customs, FIU and other law enforcement authorities.</li> </ul>

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

AML/CFT System	
<b>1. General</b>	
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> <li>• Criminalizing the property transfer, concealing its source or location as one form of money laundering.</li> <li>• Extending the act of money laundering to include the proceeds obtained from the predicate crimes.</li> <li>• Amending Chapter 574-2 to include all the designated categories of offences as participating in organized criminal group and racketeering, sexual exploitation including sexual exploitation of children, illicit trafficking in stolen and other goods, counterfeiting and piracy of products, environmental crimes, murders and grievous bodily injury, kidnapping, illegal restraint and hostage-taking, robbery or thefts, smuggling, piracy, insider trading and market manipulation.</li> <li>• Stipulating explicitly the punishment of any person accused of a ML crime who committed the predicate offence outside the kingdom, and which is deemed as an offence in the event where it is committed internally.</li> </ul>
2.2 Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> <li>• Amend the provisions of Chapter 218-4 of the Penal Code concerning the combat of terrorism, by including the TF forms, the use of funds by a terrorist organization or an individual terrorist as well.</li> <li>• Set up a specified definition for "funds" to include all the elements stipulated in the Terrorism Financing Convention.</li> </ul>
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> <li>• Amend the provision of Chapter 574-5 added to the first article of AML Law to make the penalty of confiscating the funds used to commit the crime and the proceeds obtained from these funds a total confiscation and cancel the partial confiscation.</li> <li>• Amend the provision of Chapter 218-4 of the Penal Code to make the confiscation sentence include properties and other proceeds of crimes related to the TF crime and make the confiscation penalty mandatory.</li> <li>• Extend the confiscation order to include the proceeds of the crimes related to TF crime.</li> <li>• Extend the temporary measure of freezing to include all the properties subject to confiscation.</li> </ul>
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> <li>• Set a legal system to regulate the procedures of freezing of funds and properties of the persons whose names are listed in S/RES of the Security Council.</li> </ul>
2- 5 The Financial Intelligence Unit and its functions (R.26)	<ul style="list-style-type: none"> <li>• Accelerate the establishment of the FIU through the regulatory text mentioned in the law.</li> <li>• Provide the FIU pursuant to its establishment with human cadre and work on training and qualifying its employees and provide technical and other resources.</li> <li>• Accelerate the issuance of the guidelines and instructions of FIs, banks and relevant authorities related to declaring the STR according to the law.</li> <li>• Take the necessary measures for the independency of the FIU.</li> <li>• Consider the membership application to join the Egmont Group.</li> </ul>

	<ul style="list-style-type: none"> <li>• Have regard to the Egmont Group Statement of Purpose and its principles for Information Exchange between FIUs for ML cases.</li> </ul>
2-6 Law enforcement, prosecution and other competent authorities (R.27, 28)	<ul style="list-style-type: none"> <li>• Consider the possibility of granting the Public Prosecution the power to postpone or waive the arrest of suspected persons, and/or seize their funds for the purpose of identifying persons involved in such activities or for evidence gathering in ML/TF crimes.</li> <li>• Maintain exhaustive statistics on ML/TF investigations, the number of prosecutions and the judgments of convictions to make sure about the effectiveness and competence of such systems in AML/CFT.</li> </ul>
2-7 Declaration/disclosure of cross-border Cash couriers (SR IX)	<ul style="list-style-type: none"> <li>• Implement a disclosure/declaration system in compliance with the SR IX, provided that this implementation is not limited to the restrictions imposed on the freedom of foreign exchange or on taking out local currencies outside the country only. It should, in fact, cover the combating of money laundering and the financing of terrorism. The current system is trying to stabilize the Moroccan Dirham exchange rate and is not serving the purpose of AML/CFT.</li> <li>• Set up a system to keep the data of travelers carrying amounts that exceed the applied national limit.</li> <li>• Amend legislations to create sanctions for false disclosure/declaration of the currency or bearer negotiable instruments, carried by travelers, in addition to the confiscation sanction.</li> <li>• Establish a database at the customs to keep information concerned with the transfer of currency and bearer negotiable instruments that are declared.</li> <li>• Create cooperation between the Customs, the FIU and the other concerned authorities.</li> <li>• Set up and improve the arrangements to cooperate with the concerned authorities in the other countries for the purpose of exchanging information on foreign currencies and the financial instruments seized at borders.</li> </ul>
<b>3. Preventive Measures–Financial Institutions</b>	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> <li>• Specify a certain amount by the FIU to oblige FIs to take due diligence measures upon conducting any occasional transactions that exceed the threshold within the Recommendations (USD/Euro 15000), or in a manner that goes in line with the level of the financial sector transactions.</li> <li>• Promulgate a legislative text to oblige FIs to specify natural persons with beneficial ownership or control of the customer (and to expand the said to include the FIs other than those qualified to open accounts only).</li> <li>• Oblige FIs to obtain the information related to the purpose and nature of the business relationship (without requiring that the implementation only applies to opening accounts institutions).</li> <li>• Refer to implementing enhanced due diligence on customer categories, business relationships, or high risk transactions, and in particular the operations carried out by non-residents.</li> <li>• Oblige FIs to terminate business relationships and consider filing suspicious transaction reports in the event of finding</li> </ul>

	<p>difficulty in applying due diligence.</p> <ul style="list-style-type: none"> <li>• Oblige FIs to implement due diligence measures on existing customers based on materiality and risk.</li> <li>• Oblige the rest of FIs to update the profiles of their customers, documents and information obtained within due diligence measures. The FIU should verify the practical implementation of the said following its establishment.</li> <li>• Issue circulars or binding regulations to implement the conditions of Law No. 43-05, so that it includes, for instance, the requirements of Bank Al-Maghrib Circular 36.</li> <li>• Oblige FIs to set appropriate risk management systems according to the requirements of R6 to deal with politically exposed persons.</li> <li>• Oblige FIs to take some measures in addition to the due diligence process, concerning correspondent banks in a manner that allows a comprehensive understanding of the nature of business of the correspondents, determining their reputation, knowing the nature of the applied AML/CFT regulations and evaluating them, and obtaining senior management permission prior to conducting new relationships.</li> <li>• Oblige FIs to set policies or take necessary measures to prevent the exploitation of technological developments in ML/TF operations</li> </ul>
3.3 Third parties and introduced business (R.9)	
3-4 Financial institution secrecy or confidentiality (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> <li>• Establish an enforceable text to guarantee the provision of the records and information related to financial transactions to the local competent authorities at the appropriate time.</li> <li>• Oblige the FIs that carry out money transfers to implement the requirements of the SR. VII with regard to obtaining and keeping the information related to the operation, imposing monitoring by the monitoring bodies and finding deterrent and appropriate sanctions, so that the said measures are implemented on all institutions operating in this sector.</li> <li>• Oblige the intermediary and beneficiary institutions in the payment chain to ensure the transmission of all the information related to the originator of wire transfer.</li> </ul>
3-6 Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> <li>• Obliging FIs to pay special attention to business relationships and transactions with persons, entities or other FIs from or in countries that do not implement the FATF Recommendations.</li> <li>• Promulgation of texts providing that FIs should be advised of the weaknesses in AML/CFT systems in other countries.</li> <li>• Issuing provisions providing for appropriate countermeasures in cases where a country continues to not implement the FATF recommendations.</li> </ul>
3-7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<ul style="list-style-type: none"> <li>• Expanding the scope of ML/TF predicate crimes so that reporting includes the suspicious cases related to the twenty predicate offenses stipulated in the FATF Recommendations at least.</li> <li>• Amending the definition of TF to include all forms of TF to be reported as listed in the criteria of SR. IV.</li> </ul>

	<ul style="list-style-type: none"> <li>• Obliging the persons subject to the AML Law to report any attempts of suspicious transactions according to forms the FIU, which should be established in accordance with the law, is still to set and apply.</li> <li>• Considering the feasibility of implementing a system that obliges FIs to report all currency transactions exceeding a certain amount to a national central authority with an electronic database.</li> <li>• Setting rules and instructions which guarantee the provision of feedback to the reporting FIs.</li> </ul>
3-8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> <li>• Oblige the establishments of internal controls, policies and measures specialized, in specific, for AML purposes, and this should cover all FIs.</li> <li>• Request that the persons covered by the law establish independent audit functions whose duty is to test the compliance with internal controls, policies and measures in the field of AML/CFT.</li> <li>• Pay the training and employee qualification sufficient attention.</li> <li>• Oblige FIs to ensure the compliance of their branches and subsidiaries based abroad with AML/CFT measures.</li> <li>• Promulgate a text that requires implementing the more severe criteria in the event of disparity between AML measures in Morocco and foreign countries.</li> </ul>
3-9 Shell banks (R.18)	<ul style="list-style-type: none"> <li>• Stipulated explicitly that Moroccan FIs are not allowed to enter or continue any correspondent banking relationships with shell banks. Moroccan FIs should ensure that correspondent FIs in other countries do not allow the use of their accounts by shell banks.</li> </ul>
3.10 The supervisory and oversight system—competent authorities and SROs: Role, functions, duties and powers (including sanctions) (R. 17, 23, 29 & 25).	<ul style="list-style-type: none"> <li>• Specifying the supervisory authorities responsible for ensuring the compliance of FIs with the requirements of the law in accordance with FATF recommendations explicitly.</li> <li>• Clarifying the scope of sanctions against the persons covered by the law in the event of violating obligations.</li> <li>• Including natural persons managing and operating persons covered by the law within the scope of sanctions in all events and without any exception.</li> <li>• Expanding the scope of imposed sanctions on the persons covered by the law and their operators in the event of violating their duties stipulated by the law.</li> <li>• Implementing all measures necessary to verify the integrity of owners and controllers of all persons covered by the law.</li> <li>• Implementing the imposed prudential measures related to ML/TF on the FIs subject to the Core Principles for purposes of AML/CFT.</li> <li>• Requiring FIs not subject to the Core Principles of Effective Banking Supervision to be licensed or registered and being monitoring for AML/CFT purposes.</li> </ul>
3-11 Money or Value Transfer Service (SR VI)	<ul style="list-style-type: none"> <li>• Include natural persons managing and operating the institutions subject to the law within the scope of sanctions in all events and without any exception.</li> <li>• Widen the scope of sanctions imposed on managers and operators of subject persons</li> <li>• Clarify the sanctions that can be determined by the supervisory authorities against their subsidiaries.</li> <li>• Regulate informal remittance systems</li> </ul>

<b>4. Preventive Measures–Non-financial Businesses and Professions</b>	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> <li>• Subject real estate agents and gold and precious stones dealers to the requirements of the AML Law, as well as, company service providers and trust funds.</li> <li>• Appoint supervisory authorities of independent accountants and casinos and grant them the powers of supervisory with regard to AML/CFT.</li> <li>• Accelerate the issuance of instructions that include the conditions of the due diligence implementation stipulated in the law and which should be taken by DNFBPs which are different in nature from FIs.</li> <li>• Oblige DNFBPs to obtain information which is related to the purpose and nature of the business relationship and constantly apply diligence during the period of the relationship to ensure the consistency of the transactions carried out under the knowledge of the customers and their activity type. In addition, oblige DNFBPs to regularly update the files related to their customers.</li> <li>• Oblige DNFBPs to set, in addition to due diligence measures, appropriate systems and measures to manage the risks to specify whether the future customer, the existing customer or beneficial owner is a PEP.</li> <li>• Oblige DNFBPs to take, in addition to prudential, detection and supervisory measures, any arrangements to face the threats of ML operations which are resulted from the spread of modern technologies and which might encourage transactions of anonymous source.</li> </ul>
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> <li>• Expanding the scope of predicate crime of ML/TF so that the report includes the suspicious cases related to all categories of designated predicate offences stipulated in the FATF Recommendations.</li> <li>• Obliging the persons subject to the AML Law to report any attempts of carrying out the suspicious transactions according to certain models that the FIU which will be established in accordance to the law, has to set and implement.</li> <li>• Obliging the establishments of supervisory systems and internal policies and measures specialized, in specific, for AML purposes, and the said should include all FIs.</li> <li>• Paying the element of employees training and rehabilitating sufficient attention.</li> <li>• Obliging DNFBPs to pay special attention to the business relationships and transactions with persons or legal persons from or in other countries that do not implement the FATF Recommendations.</li> <li>• Promulgating a text that guarantees that DNFBPs are briefed on the weaknesses of the AML/CFT systems.</li> <li>• Promulgating a text that stipulates appropriate counterpart measures to be taken in the event where a country continues to object to implementing the FATF Recommendations.</li> </ul>
4.3 Regulation, supervision and monitoring (R. 24-25)	<ul style="list-style-type: none"> <li>• Subjecting casinos to a comprehensive monitoring and supervisory system to implement the AML/CFT obligations.</li> <li>• Subjecting the rest categories of (DNFBPs) to a comprehensive monitoring and supervision and considering the relevant risks related to these sectors</li> </ul>
4.4 Other designated non-financial	<ul style="list-style-type: none"> <li>• Evaluating risks and considering the implementation of</li> </ul>

businesses and professions (R.20)	AML/CFT measures on NFBP which it finds vulnerable to exploitation. Moreover, it should take measures to encourage setting and using modern and secure methods to carry out financial transactions that are less vulnerable to ML.
<b>5. Legal Persons and Arrangements &amp; Non-profit Organizations</b>	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>• Find appropriate measures to guarantee non-exploitation of bearer shares in ML operations.</li> </ul>
5.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)	
5.3 Non profit organizations (SR.VIII)	<ul style="list-style-type: none"> <li>• Review local legislations to meet SR.VIII.</li> <li>• Consider the implementation of the measures stipulated in the MENAFATF best practices on SR VIII.</li> </ul>
<b>6. National and International Cooperation</b>	
6.1 National cooperation and coordination (R.31)	<ul style="list-style-type: none"> <li>• Take necessary measures to coordinate the efforts among various authorities related to AML/CTF, and put into effect this combat and find appropriate mechanisms in this regard.</li> </ul>
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> <li>• Find special laws to implement the UN Security Council resolutions and to implement totally the UN Conventions</li> </ul>
6.3 Mutual Legal Assistance (R 36-38 & SR.V)	<ul style="list-style-type: none"> <li>• Take special care to keep statistics on mutual assistance requests to verify the efficiency of the mutual assistance frameworks.</li> <li>• Consider the necessary steps to provide the greatest mutual assistance possible to combat ML/T since the Law did not include the possibility of lifting the banking secrecy off other financial institutions or other non-financial businesses and professions to meet the demand of receiving MLA, among which is the legal profession.</li> <li>• Adopt legislative measures to include in laws or judicial cooperation agreements the following: <ul style="list-style-type: none"> <li>- provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities intended to use in those crimes.</li> <li>- Provisions relevant to offering MLA when the request relates to property of corresponding value and stipulating the establishment of asset forfeiture fund, where all or part of the confiscated properties would be deposited for purposes of law enforcement, health care, education, or other adequate purposes.</li> </ul> </li> </ul>
6.4 Extradition (R 37 & 39, & SR.V)	
6.5 Other Forms of Cooperation (R.40, & SR.V)	<ul style="list-style-type: none"> <li>• Take interest in providing statistics on international cooperation to verify the efficiency of cooperation with counterpart or non-counterpart authorities.</li> <li>• Take the necessary legislative procedures to add special texts to the existing legislations which include constraints and guarantees that assure the non-use of information received by competent authorities except in a responsible way.</li> <li>• Consider finding a sort of cooperation between supervisory authorities and their foreign counterparts in order to promote</li> </ul>

	cooperation on the international level.
7- Other issues	
7-1 Resources and Statistics (R.30,32)	<ul style="list-style-type: none"> <li>• Offer training and rehabilitation sessions to the investigation judges, judicial police, and customs officers in the field of AML / CFT.</li> <li>• Cooperate with their foreign counterparts in order to strengthen international cooperation</li> <li>• Provide necessary statistics about international cooperation with regard to MLA.</li> <li>• Amend the last paragraph of article 15 of the AML law related to the annual report to be prepared by FIU about its activities and submitted to the prime minister, by adding a condition that the report should comprise the number of STRs inspected by FIU, the value of frozen, seized and confiscated properties, and the proceeds of ML and FT crimes in order to activate the role of the country and its bodies in combating those two crimes through the control of the combating aspects on an annual basis and the result of the efforts deployed in this regard.</li> </ul>
Other measures or issues relevant to AML/CFT	
General Framework- Structural matters	

### Table 3: Authorities' Response to the Evaluation

The Moroccan Authorities would like to extend their heartfelt gratitude to the President of the Middle East & North Africa Financial Action Task Force and the Executive Secretariat for the efforts exerted to facilitate the plenary meeting discussion and approval of the mutual evaluation report (MER) on AML/CFT in the Kingdom of Morocco. The Moroccan Authorities also commend the assistance offered to the country by the heads and members of delegations of member countries and observers.

In implementation of the decision taken by the MENAFATF at its sixth plenary meeting, held in Damascus, Syrian Arab Republic, from 4 to 6 November 2007, to adopt the MER of the Kingdom of Morocco and authorize its publication, provided that an explanatory note comprising the remarks of the Kingdom of Morocco on certain conclusions deduced thereby be attached to the report, the Moroccan Authorities have the honor to submit the following remarks and comments on the report.

\* \* \* \* \*

The Kingdom of Morocco was one of the first countries that efficiently contributed to the preparatory phases of the establishment of the MENAFATF. It was one of the founding members and has regularly and effectively participated in its inaugural meeting, previous plenary meetings, and meetings of the working groups that emanated from it.

In its support of international efforts exerted to combat money laundering, terrorist financing and transnational organized crime, the Kingdom ratified several regional and international relevant conventions, especially:

- The Arab Convention for the Suppression of Terrorism;
- UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances;
- UN Convention against Transnational Organized Crime;
- UN International Convention for the Suppression of the Financing of Terrorism;
- UN Convention against Corruption;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

In respect of the abovementioned international obligations, as well as the FATF Recommendations and the relevant UN Security Council Resolutions, our country promulgated Law No. 03-03 on the combat of terrorism in May 2003.

The issuance of this law was twinned with the promulgation of a series of laws and regulatory instruments that oblige financial institutions in general and credit institutions, including banks, in particular, to have efficacious internal systems that ensure vigilance and prevention of all forms of financial crimes in particular so as to avoid the misuse of the financial and banking system for illicit purposes.

In parallel, supervision and monitoring of credit institutions and assimilated entities was consolidated by the introduction of the new banking Law, which came into force as of 2

March, 2006. This Law gives Bank Al-Maghrib (The Central Bank Al-Maghrib) all the powers necessary to perform its task, which is basically to preserve the proper progress of the banking system and the solidity and immunity thereof.

On another note, the new statute of Bank Al-Maghrib was issued on the same date, granting the Central Bank a wider autonomy, particularly with regard to managing the monetary policy and ensuring the proper progress and security of payment systems.

Since these Laws entered into force, Bank Al-Maghrib approved a number of executive instruments including, in particular, the ones relating to the preventative rules pursuant to the recommendations of Basel Committee through a risk preventive approach. The Kingdom of Morocco was one of the first countries in the region to conform its system to the Basel 2 standards, which actually came into effect in January 2007.

On 17 April 2007, the Kingdom of Morocco promulgated Law No. 43-05 concerning AML to complete the legislative system and fulfill its international obligations in this field.

This Law complies with the international standards and suits the Moroccan on-the-ground realities, which will facilitate its actual application effectively.

It also adopted a preventative approach that should be observed by all covered persons and supervisory authorities, assuring the necessity to establish cooperation channels and mechanisms on both bilateral and multilateral levels with the concerned regional and international countries and authorities.

Following the issuance of this Law, the supervisory authorities started to take, each within its scope of competence, the legal and procedural measures necessary to keep pace with the application of the AML Law by the persons subject thereto.

Within this framework, Bank Al-Maghrib updated, in August 2007, the periodic letter related to the obligation of vigilance with regard to the banking sector, knowing that it was applied since 1 January 2004, in order for it to be in conformity with the requirements of the AML Law.

Moreover, Bank Al-Maghrib issued two instruction papers. The first obliges the institutions subject to the Bank's supervision to create a compliance function, while the second imposes the adoption of best practices in the field of proper management, supervision and good governance.

On another note, it is worth saying that the Moroccan authorities launched a national awareness-raising campaign on October 31, 2007, which aims basically to explain the content of the aforesaid Law and its objectives under the slogan: **“Protection from Money Laundering, a Guarantee toward a Healthy Economy”**. The campaign will last four months and will comprise various authorities in the Kingdom.

In order to put the AML Law requirements into action, a draft executive decree was prepared to create **the Financial Information Processing Unit** to serve as the basic mechanism in the framework of the system created for this purpose.

In parallel, the Kingdom of Morocco has established firm cooperation relationships with several friendly countries and international organizations. Within this framework, Morocco signed a partnership agreement with the European Union, entrusting Spain and France with the implementation of the requirements thereof. The agreement basically aims to offer technical assistance in the AML field and support the Financial Information Processing Unit pertaining to the procedural and technical means to manage it and train its officers and employees.

Within this framework, and in order to activate the provisions of this agreement, the Resident Consultant of the European Union was dispatched to the country to undertake his functions.

Cooperation programs were also prepared in this field in partnership with the United States and European countries, namely France, the Netherlands, the UK and Belgium, in addition to the International Monetary Fund, the World Bank, the Arab Monetary Fund and the Union of Arab Banks.

Before listing the general remarks relating to the content of the mutual evaluation report, it is indispensable to recall the circumstances associated to this evaluation. The Moroccan legislative system was supposed to be assessed in 2008, in accordance with the first timeline. However, it was decided to accelerate this process and carry out the evaluation process at the beginning of 2007, although that the Moroccan Authorities expressed their desire to adopt the first timeline to enable the country to pass the AML Law. This led to the assessment team conduct its mission relying solely on a draft of the Law and not an applicable Law during the on-site visit in February 2007, as the AML Law was published in the Official Gazette on May 3, 2007. Therefore, the report seems hung between the situation that existed prior to the promulgation of the AML Law and the new situation that emerged after its entry into force, which had a negative impact on the contents of the evaluation in general.

The report did not discern the anti-terrorism system, covering the financing of terrorism, which our country has advanced in great strides since 2003 when it issued the CFT Law. This was evident even before that date according to the reports of the Security Council Counter-Terrorism Committee (CTC), which commended the efforts made by the Kingdom to combat terrorism and lauded the effective contribution to the exerted efforts by the international community in this regard. It should be born in mind that our country was a victim of terrorist attacks that solidified its determination to combat all acts that may jeopardize international peace and security. The report does not sufficiently show the various aspects of this cooperation, particularly with regard to the application of the requirements of both UN Resolutions 1267 and 1373. On another note, the report does not point out the cooperation relationships between the Kingdom of Morocco and a large number of friendly countries in the AML/CFT field and the important achievements accomplished in this regard.

The Kingdom of Morocco did not wait until the issuance of the AML Law, as it started, years ago, to prepare the suitable environment for its application by urging the administrative, financial and banking establishments to take preparatory measures of organizational, procedural and technical nature to be ready to implement their legal obligations.

On another note, and in view of the recent issuance of the AML Law, it was necessary for the evaluation process to take this aspect into account and refrain from measuring the rating of compliance on the basis of the actual application of the Law but rather in view of the compatibility of the Moroccan Laws with the relevant international conventions, recommendations and resolutions.

### Moroccan Authorities Response to the Evaluation

Relevant sections and paragraphs	Comments of the state
1- ML offence (Partially compliant)	The Moroccan Authorities consider that transport in the Moroccan legislation is a form of transfer since the verb "transfer" corresponds to the verb "transport from one place to another." Concealing properties or hiding their source is deemed one of the criminalized acts by virtue of Paragraph 1 of Chapter 1-574 of the AML Law.
3- Confiscation and provisional measures (Non-compliant)	Confiscation in FT crimes is obligatory pursuant to the requirements of Chapters 1-44 and 5-574 of the Penal Law.
5- Due Diligence (Non-compliant)	<p>Item 4 provided that there was no obligation concerning the termination of the business relationship with the customers in the event that the financial institution is unable to comply with CDD standards.</p> <p>The Moroccan Authorities consider, in application of the requirements of Article 4 of the AML Law, that the persons under the law should not carry out any transaction in the event where the identity of the concerned persons is not verified, not completed or seems to be false.</p>
6- Politically exposed persons (Non-compliant)	<p>The Moroccan Authorities do not agree with the viewpoint that the financial institutions are not obliged to set a special system to deal with the politically exposed persons. This category falls within the high-risk categories of customers as stipulated by Article 6, which obliges the persons covered by the law to take special measures in this regard. They are obliged, in addition to their obligation to request senior management approval prior to the establishment of any relationship with this category of customers, to monitor all the transactions carried out by them.</p> <p>It is worth saying that Article 20 of the Minister of Finance and Privatization Decree No. 1668/07 issued on 23 August 2007, endorsing the Governor of Bank Al-Maghrib's Decree No. 47/W/2007, provides that these customers comprise individuals who are or have been entrusted with prominent public functions (see the reference of the aforesaid resolution).</p>
7- Correspondent banking (Non-compliant)	The Moroccan Authorities consider that, regarding dealing with correspondent banks, Article 8 of the AML Law obliges the persons it covers to conduct a special study on every transaction surrounded by unusual or complicated conditions. Although this Article provides for the application of this requirement on transactions whose individual or total amount exceeds an applicable designated threshold, we consider that the transactions with correspondent banks are subject to special attention to make sure of their legitimacy.

	<p>Stressing that there are no rules for dealing with correspondent institutions only applies partially in view of the absence of a Law for this type of accounts. As to general rules for dealing with correspondent institutions, it is worth saying that Article 7 of the Bank Al-Maghrib Circular endorsed by the Minister of Finance Decree No. 07-1668 dated 23 August 2007, obliges credit institutions to apply the general rules relating to the obligation of vigilance before opening an account for a foreign banking correspondent. It also obliges them to make sure that it is subject to a certain AML/CFT legislation or system similar to the one applied in Morocco and that it is subject to an internal system of vigilance.</p>
<p>8- New technologies &amp; non face-to-face business (Non-compliant)</p>	<p>The comment relating to this Recommendation stated that no policies or procedures are applied to prevent the misuse of new technologies in ML operations or to deal with the risks related to non face-to-face transactions.</p> <p>On this issue, the Moroccan authorities assure that the Moroccan legislation does not allow the establishment of banks directly on the Internet or the establishment of an indirect relationship via modern communication means. Licensed banks only provide their regular customers with limited online services, knowing that these operations are processed exactly according to the rules applied on the transactions carried out with the customers directly at tellers.</p>
<p>11- Unusual transactions (Partially compliant)</p>	<p>Regarding the definition of the persons under the law and the supervisory authorities, the Moroccan authorities assure that their legal definition is comprehensive, as it applies to all natural and legal persons who carry out or monitor, during the pursuit of their tasks or professions, certain operations that result in money transactions.</p> <p>On another note, empowering the Unit to impose sanctions in certain cases, as well as the supervisory authorities, each within its scope of competence, on the persons subject to the authority thereof, clearly reflects the role of the Unit and the supervisory authorities in this regard.</p>
<p>12- DNFBPs – Recommendations 5, 6, 8 to 11 (Non-compliant)</p>	<p>Regarding the persons covered by the AML Law, in application of the requirements of Article 2 thereof, every person who carries out, monitors or offers advice regarding any operation that results in money transactions is obliged to apply the requirements of this Law.</p> <p>Therefore, the Moroccan authorities consider that this requirement is comprehensive as it encompasses all the categories that fall within the framework of the definition stated in the aforesaid Article, whether in relation with financial or non-financial institutions.</p>

<p>15- Internal controls, compliance &amp; audit (Non-compliant)</p>	<p>Contrary to the comment on the compliance with the recommendations relating to the internal controls, compliance and audit, the Moroccan authorities refer to the requirements of Article 12 of Law No. 43-05, which are basically related to the obligation of setting internal procedures for vigilance, detection and monitoring to observe the requirements of the Law.</p> <p>On another note, it is worth noting that, regarding credit institutions – banks and financing companies – they are bound by the vigilance obligation prior to the promulgation of the AML Law, in application of the requirements of Bank Al-Maghrib Circular No. 36 applied since January 2004 and relating to the vigilance obligation, which was updated on 2 August 2007.</p> <p>Regarding the training of the financial institutions employees, the Moroccan authorities assure that the credit institutions have put in place training programs on the national and international levels in this regard for the benefit of their employees prior to the issuance of Bank Al-Maghrib Circular stipulating the same. The awareness-raising campaign launched by the supervisory authorities (Bank Al-Maghrib) with the cooperation of the Ministry of Justice and the Ministry of Economy &amp; Finance constitutes the best evidence in this respect.</p>
<p>21- Special attention for higher risk Countries (Non-compliant)</p>	<p>As the AML Law stipulated – in Article 6 – that the persons legally authorized to open accounts are obliged to pay special attention and monitor the higher risk customers, particularly those who belong to higher risk countries that do not have an AML system or have a highly deficient system with regard to the international standards in this field, the Moroccan authorities consider this is sufficient, even to a some extent, to comply with this standard.</p>
<p>23- Regulation, supervision and Monitoring (penultimate criterion) (Partially compliant)</p>	<p>The Moroccan authorities believe that money transfer intermediaries were rendered subject to the regulation and supervision procedure by Bank Al-Maghrib since the issuance of the Banking Law in 2006, whose requirements were clarified by virtue of the Minister of Finance Decree No. 1510/07 dated July 26, 2007.</p>
<p>29- Supervisors (c.1) (Non-compliant)</p>	<p>Since the aforesaid Law provides that the Unit shall be vested with the power to impose sanctions on the persons subject to the law who do not have a supervisory authority, it is considered that it meets this standard. It should be noted that the other persons covered by the law have a supervisory authority. Thus, we can conclude from this requirement that the Unit has the power to supervise this category of persons.</p>
<p>Special Recommendation 6 (c.3) (Non-compliant)</p>	<p>The Moroccan authorities assured that this type of transactions (Hawala) do not exist or, more correctly, they are not widespread in Morocco since most transfers are made through the banking system or the licensed transfer companies, in accordance with the banking Law.</p>