

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



***Mutual Evaluation Report  
Of  
The Islamic Republic of  
Mauritania  
On  
Anti-Money Laundering and Combating Financing of  
Terrorism***

This Detailed Assessment Report on anti-money laundering and combating the financing of terrorism for Mauritania was prepared by the World Bank. The report assesses compliance with the FATF 40+9 Recommendations and uses the FATF methodology of 2004. The report was adopted as a MENAFATF Mutual Evaluation by the MENAFATF Plenary on November 14<sup>th</sup>, 2006.

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**KINGDOM OF BAHRAIN**

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## ACRONYMS

AML	Anti-Money Laundering
APROMI	Association of Microfinance Professionals and Operators
BCM	Central Bank of Mauritania
CAC	Statutory Auditors
CANIF	Financial Information Analysis Commission
CC	Criminal Code
CFT	Combating the Financing of Terrorism
CIBG	Interministerial Committee on Good Governance
CIMO	Conference of the Interior Ministers of the Western Mediterranean
CMJD	Military Council for Justice and Democracy
CNLTS	National Commission for Combating Drug Trafficking
CPC	Criminal Procedures Code
CS	Security Council
DCLDEF	Central Directorate for Combating Economic and Financial Crime
DNFBPs	Designated Non-financial Businesses and Professions
ECOWAS	Economic Community of West African States
FIU	Financial Intelligence Unit
MENAFATF	Middle East and Northern Africa Financial Action Task Force
MFI	Microfinance Institution
MOF	Ministry of Finance
OCLTIS	Central Office for Combating Illegal Drug Trafficking
OHADA	Organization for the Harmonization of Business Law in Africa
PEPs	Politically exposed persons
ROSC	Report on the Observance of Standards and Codes
SNIM	National Industrial and Mining Company
STR	Suspicious Transaction Report
UN	United Nations
WAMU	West African Monetary Union

## **A. FOREWORD**

1. A mission from the World Bank (Financial Market Integrity) visited Nouakchott from May 14 to 21, 2005 for purposes of applying a precise methodology for assessing the degree to which the Islamic Republic of Mauritania is in compliance with international standards applicable in the area of Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT). This mission was carried out in conjunction with the Financial Sector Assessment Program (FSAP) conducted jointly by the World Bank and International Monetary Fund in February 2005.

2. There are a number of reasons behind the time lag separating the appraisal mission from the completion of this report. First, the coup d'état which took place shortly after the experts' visit brought about a profound change in the country's political and institutional framework, and thus slowed down the continuation of work. Furthermore, the mission took place at a time when the national authorities were working to develop a legislative framework to combat money laundering and terrorism financing, work which was expected to be finalized in the wake of the appraisal mission. By mutual agreement with the authorities, the team therefore preferred to wait until the AML/CFT laws appeared over instead of reporting on a situation which in all likelihood would rapidly have become obsolete. This report hence reflects not only the situation at the time of the mission, but also all recent progress made by Mauritania with respect to AML/CFT.

3. The team of appraisers comprised Pierre-Laurent Chatain, financial expert (World Bank) and team leader; Isabelle Schoonwater, legal expert (World Bank); Marilyne Goncalves (World Bank), and Robert Nicolau, expert on criminal matters (consultants).

4. The assessment was conducted on the basis of the Forty Recommendations of 2003 and the Nine Special Recommendations of the Financial Action Task Force (FATF). Based on the AML/CFT methodology of 2004 and in light of the documents provided by the Mauritanian authorities, the team of experts analyzed and assessed the legislative and regulatory framework applicable to AML/CFT, the standards and professional guidelines, as well as the supervisory arrangements applicable to the financial and non-financial sectors for combating money laundering and the financing of terrorism. The team also evaluated the effective implementation and efficiency of AML/CFT mechanisms.

5. This detailed report also draws on information gathered in the course of discussions with representatives of the public sector (Central Bank, Ministry of Finance, Central Directorate of Customs, and Ministries of the Interior, Defense, and Justice) and the private financial sector (banks, savings institutions, insurance) and private non-financial sector (notaries, lawyers and NGOs). The discussions were conducted in accordance with the assessment methodology as validated in 2004 by the Executive Boards of the World Bank and the IMF.

6. In addition to a detailed analysis of the Mauritanian AML/CFT arrangements, this report contains a number of compliance ratings which make it possible to measure, for

each standard addressed by this assessment, the degree to which Mauritania is in compliance with the international standards applicable in the area of anti-money laundering and combating the financing of terrorism. In this connection, it appeared at the end of this mission that a number of criteria were not yet in compliance or were so only partially.

7. The mission wishes to thank the Mauritanian authorities for their warm welcome, their availability, and the spirit of openness and collaboration which prevailed throughout the appraisal mission. We wish to express our gratitude in particular to Mr. Zein Ould Mohamed Ould Zeidane, Governor of the Central Bank of Mauritania (BCM), and his two primary advisors, Mr. Ahmed Salem Ould El Hacem, Advisor on combating money laundering, and Mr. Brahim Ould Chadli, Advisor responsible for the banking and financial sector.

## B. SUMMARY OF ASSESSMENT

### 1. BACKGROUND

8. Mauritania is a vast African country, two-thirds of whose territory is covered by desert. It borders four countries (Morocco, Algeria, Mali, and Senegal), and derives most of its revenue from the extraction of iron ore from deposits located in the northern part of the country. The discovery of sizable petroleum deposits,<sup>1</sup> which began to be extracted in 2006, will probably have a significant impact on the country's future economic growth, which registered 5 percent in 2005. Mauritania also has significant gold and diamond reserves, for which several exploration permits have been issued.<sup>2</sup>

9. At the regional level, although Mauritania is geographically a part of West Africa, it is no longer a member of the regional bodies, namely ECOWAS (Economic Community of West African States) and WAEMU (West African Economic and Monetary Union).

10. Politically, Mauritania underwent a radical change in 2005. The coup d'état of August 3, 2005 brought new authorities into power, namely a Military Council for Justice and Democracy (CMJD) chaired by Colonel Ely Ould Mohamed Vall, and a Government headed by Mr. Sidi Mohamed Oulda Boubacar, former Prime Minister and most recent ambassador to France prior to the change of government on August 3, 2005.

11. Institutionally, the administrative organization is still characterized by a lack of clarity as regards missions and functions, the allocation of which frequently lacks logic and results in overlaps, in particular between the ministerial departments, the central administration, and the autonomous agencies. There is virtually no coordination mechanism on the national or international levels. In the area of **economic governance**, the Mauritanian authorities have a far-reaching program of reforms aimed at promoting, among other things, greater transparency, enhanced public expenditure control, and more effective efforts to prevent the embezzlement of public funds and corruption.

12. With respect to **corruption** specifically, in 2005 the Military Council for Justice and Democracy (CMJD) established an Interministerial Committee on Good Governance (CIBG), with a mandate to assess the situation and propose a national strategy to combat corruption. The CIBG's conclusions, published in a November 2005 report, are unambiguous. The authors of the report point out, among other things, that corruption has not been the target of vigorous public action, debate, or in-depth reflection. This has been evidenced in the persistence and spread of lax practices at all levels of political, economic, and social life. As the CIBG puts it, *"the non-exhaustive nature of the legal and judicial framework governing corrupt practices and the other forms of economic and financial crime, on the one hand, and the fact that these are not explicitly and firmly*

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<sup>1</sup> Assessed by the Woodside Petroleum Company at approximately 142 million barrels.

<sup>2</sup> Thirty-three for diamonds and twenty-four for gold.



*taken into account by public policies, on the other hand, have been at the root of their persistence and spread."*

13. According to the CIBG, combating corruption and the other forms of economic crime calls for the strengthening of legal mechanisms,<sup>3</sup> the firm commitment of the State, enhancement of the accountability of, and capacity building in, civil society, and the promotion of ethics, among other things. Noteworthy among the specific measures proposed by the CIBG are the adoption of implementing provisions for existing laws (in particular the criminal code of 1972) and the creation of a high authority for coordinating the fight against corruption at the national level, bringing together the State, the private sector, and civil society. It bears noting that in October 2005, a State Inspector's Office, under the direct oversight of the Prime Minister, was established by decree. This autonomous entity serves as a mechanism for preventing and combating corruption, and is also vested with monitoring powers. According to the Mauritanian authorities, an assessment for the initial months of 2005 shows significant results (repayment of embezzled funds and return of State property). The local authorities have also indicated that since that time, there has been greater adherence to public expenditure procedures.

14. According to the Final Report of the Interministerial Committee on Justice of November 2005, the **legal system** is also criticized quite heavily for its inefficiency, lack of professionalism, and endemic corruption. This report provides a particularly unfavorable and unequivocal assessment of the status quo in this regard. It further indicates that the court system is in a state of disrepair (p. 13 of the report) owing to a lack of authority, credibility, resources, and competence. Given this finding, the Military Council for Justice and Democracy (CMJD) charged an Interministerial Committee with taking stock of the situation of Mauritania's court system and proposing measures with respect to: (i) affirming and guaranteeing the independence of justice; (ii) streamlining court organization; (iii) modernizing law and making it more cohesive; (iv) training and further enhancing the skills of court personnel; and (v) introducing appropriate infrastructures. Recent progress has been noted in the areas of the redeployment of personnel (the new law on the status of judges has been adopted) and the structure of the judiciary. According to the Mauritanian authorities, the Department of Justice is trying to update its arsenal of regulations and training documents. It is clear, however, that the current situation with respect to the Mauritanian judiciary explains in large measure the assignment of low ratings given by this mission to a number of criteria, the effective implementation of which seems impossible at the moment given the problems mentioned above.

15. The national **legal system** has undergone multiple reforms aimed at creating an environment conducive to business growth. This explains why indebtedness law, commercial law, civil procedure, investment law, etc., have been completely rewritten over the past decade or so. However, the regulatory provisions required to implement these laws have not all been adopted, financing has not been lined up for the institutions established, the new laws have neither been disseminated nor been the subject of outreach efforts, and magistrates have been trained only belatedly.

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<sup>3</sup> We note that the June 2003 United Nations Convention Against Corruption was ratified by Mauritania.

## **2. LEGAL ARRANGEMENTS AND CORRESPONDING INSTITUTIONAL MEASURES**

16. On the legislative and regulatory front, Mauritania has made considerable progress since the time of the appraisal mission, given that Anti-Money Laundering Law No. 2005-048 was drafted and subsequently approved on July 27, 2005 by the National Assembly and the Senate. This law effectively extends the scope of Law No. 93/37 of July 20, 1993 on combating the production of, trafficking in, and illegal use of drugs, which criminalized acts of money laundering only when they were linked exclusively to traffic in psychotropic substances.

17. An additional Law No. 2005/047 on combating terrorism was also passed on the same day. Moreover, a draft decree on the organization and functioning of the Financial Information Analysis Commission (CANIF) was approved by the Council of Ministers on April 12, 2006. Still in the regulatory area, it bears recalling that on September 20, 2001, the BCM adopted Instruction No. 007/GR/2001 (which was updated in 2006), requiring banks strictly to enforce United Nations Security Council Resolution No. 1267 on freezing the funds and financial assets of individuals or entities possibly financing terrorist or criminal activities and those having ties of any kind to same. This instruction is accompanied by an annex listing entities or individuals identified as terrorists.

18. Mauritania has also ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Vienna Convention) and signed and ratified on January 20, 2005 (Law No. 2005-006) the Convention against Transnational Organized Crime, 2000 (the Palermo Convention). Mauritania has also ratified the United Nations Convention of 1999 for the suppression of the financing of terrorism. Also on the international level, Mauritania participates in the work of the 5+5 Group, a body of the Conference of the Interior Ministers of the Western Mediterranean<sup>4</sup> (CIMO) which deals, among other things, with issues pertaining to money laundering, terrorism, and its financing. An Interpol seminar on the topic of terrorism was also held in Nouakchott in September 2004. Furthermore, the country sought and was granted membership in the FATF Group for the Middle East and Northern Africa (MENAFATF) in order to bolster its regional cooperation with respect to AML/CFT. Preparations are also being made for membership in GIABA, in this instance as an observer. It is fitting to acknowledge that, while Mauritania is economically and financially independent of ECOWAS, it nevertheless maintains special ties with its member countries.

19. In the institutional sphere, an ad hoc Interministerial Commission chaired by the Central Bank of Mauritania (BCM) has been established. It includes representatives from the Ministries of Interior, Justice, Defense, Customs, the Gendarmerie, and the then two special advisors of the BCM Governor. The mission of this Commission is to draft all the legal provisions relating to anti-money laundering and combating the financing of terrorism, to define the AML/CFT strategy for the future, and to coordinate the establishment of future operational structures (such as CANIF, for example). It is also

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<sup>4</sup> Created in 1995, CIMO gathers together each year the Interior Ministers of Morocco, Algeria, Libya, Tunisia, Italy, Spain, Portugal, Malta, and France.

tasked with identifying those sectors in which external technical assistance may be necessary. It is this Commission that drafted the aforementioned Laws No. 2005-047 and 2005-048.

20. In the structural sphere, the Directorate-General of National Security has added a Directorate of Economic and Financial Police with special responsibility for combating financial crime. Indeed, a decree dated July 25, 2004 calls for the creation of a Directorate for Combating Financial Crime in the Ministry of Interior. This new structure, to be staffed by about 50 persons, 10 of whom are supervisors, is now being set up, and will have jurisdiction over money laundering (see *infra*). At the same time, an Inspection and Ethics Directorate was created, demonstrating the willingness to monitor the activities of the police forces from the standpoint of general good governance. Moreover, a new Director of Training and Personnel has been designated to introduce a recruitment plan accompanied by an initial and continuing training program, indicating the desire to move toward greater professionalism among law and order forces.

### **3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS**

21. The fact remains that combating money laundering and the financing of terrorism is a new concept in the Islamic Republic of Mauritania, and work in this area must be started from scratch. In most sectors, a mindset has to be shaped and a new system built around the new legal provisions. In this regard, the authorities have already started awareness-building activities among the main sectors affected by the new Law No. 2005-048.<sup>5</sup> The culture of oversight must be significantly strengthened, particularly in the financial sector and, specifically, the banking sector. The latter, which includes nine banks, does not yet have appropriate information systems that enable it to put effective detection and surveillance tools in place. Anti-money laundering internal procedures have not yet been outlined<sup>6</sup> and expertise within auditing services is not adequate, as evidenced by the numerous reminders issued by the BCM related to violation of prudential regulations.<sup>7</sup> It is therefore clear that financial institutions should get fully on board insofar as the new organizational, structural, functional, and legal implications of the new Mauritanian anti-money laundering system are concerned.

22. With regard to AML/CFT supervision within the financial institutions, the BCM has full authority to stand as an autonomous institution. Indeed, it is simultaneously the licensing, regulatory, supervisory, and sanctioning authority. As noted in the FSAP report, however, there are two factors which limit this independence in practice and threaten to affect its capacity to issue dissuasive measures and ensure that they are observed. The first stems from the fact that the Governor may be removed from office “*ad nutum*” despite the fact that he is appointed for a four-year term; the second pertains to the absence of legal protection of the oversight authority and its staff against any legal

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<sup>5</sup>An awareness-building seminar in Nouakchott hosted by the BCM in November 2005 brought together more than 50 participants from the administrative (police, justice, army, customs), financial (banks, insurance, MFIs), and nonfinancial sectors (notaries, lawyers, NGOs).

<sup>6</sup> The BCM is preparing an Instruction so that banks can implement internal AML/CFT procedures.

<sup>7</sup> In relation to the risk spread ratio.

actions that may be initiated against them for actions carried out in good faith during the exercise of their functions.<sup>8</sup>

23. Moreover, the BCM's operational capacities for supervision should be strengthened. This should include, among other things, continuation of the ambitious selection and training program recently launched by the BCM. In the justice sector, it is necessary for judges to be specially trained to hear financial crime cases. At the same time, the police and customs forces also require training and specialization in tracking money laundering and terrorist financing operations. According to the Mauritanian authorities, provisions have already been made for multidisciplinary and multisectoral training as part of a national action plan, the first phase of which is scheduled to take place during the last quarter of this year.

24. The mission recommends that the National Financial Information Commission (CANIF) be set up as soon as possible, as it will constitute the core of the preventive mechanism for the future. A presidential decree governing the functioning of CANIF has recently been adopted and will take effect shortly. In addition, Mr. Brahim Ould Chadli, advisor to the Governor of the BCM, has been appointed as the Commission's secretary general. A building to house CANIF has already been identified. Finally, a broad awareness-raising and training program should begin soon.

#### **4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

25. Law No. 2005-048 stipulates that “*designated non-financial businesses and professions shall, subject to the responsibility of their supervisory authority, exercise due diligence in order to know their customers and detect suspicious transactions.*” It is thus clearly established that DNFBPs are required to exercise due diligence with respect to their customers. However, it must be observed that no other provision of the law delineates the practical modalities and conditions under which this duty is to be carried out. Moreover, Law No. 2005-048 does not explicitly establish the record-keeping obligations for DNFBPs. According to the Mauritania authorities, CANIF will take the necessary steps, with regard to these entities, to outline practical and appropriate measures, including those related to record-keeping.

26. On the other hand, Law No. 2005-048 quite explicitly establishes the obligation incumbent on the nonfinancial professions to report suspicious transactions. Indeed, the text provides that the persons in question, namely lawyers, notaries, statutory auditors, accountants, dealers in precious stones and precious metals, art dealers, real estate agents, travel agents, and nongovernmental organizations who suspect that funds are the proceeds of an offense of money laundering or terrorist financing, or who have knowledge of a fact which might indicate such infractions, are required to so report immediately to CANIF. It should, however, be borne in mind that since CANIF is not

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<sup>8</sup> According to the authorities, the draft banking law which is being prepared will take these factors into account.

truly operational, DNFBPs are not able, from a practical standpoint, to report their suspicions.

27. As regards the conditions for supervising DNFBPs, the professions of accountant, lawyer, and notary are regulated and supervised by their respective professional associations. These self-regulation authorities are thus tasked with drawing up rules on the prevention and detection of money laundering and terrorist financing and monitoring the proper application of such rules by their members. In practice, however, these authorities have yet to take any measures along these lines or take action to enhance awareness within their professions.<sup>9</sup> The authorities have indicated to the mission that, insofar as these professions are concerned, CANIF will launch their awareness-raising program and will monitor implementation of their AML/CFT internal plans. This activity should, in principle, take place prior to the end of 2006 in the context of application of the implementing provisions.

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

28. Law No. 2000-05 of March 15, 2000 on the commercial code establishes the legal regime for commercial companies and the conditions under which they are created/registered. General partnerships, limited partnerships, limited liability companies, and joint-stock companies attain standing as legal persons upon their listing in the commercial registry. Listing in the commercial registry is required for all individuals and legal persons, whether Mauritanian or foreign, engaged in commercial activity in Mauritanian territory. Trusts and other legal arrangements are not used in Mauritania. With regard to accurately identifying Mauritanian and foreign beneficial owners, the legal provisions in force make it possible in theory to obtain all the necessary information. However, the commercial registry introduced six years ago is still not fully operational, the implementing decree with respect to its operating modalities was only very recently adopted (March 9, 2006), and the resources allocated for its operations are insufficient. This situation significantly hampers the possibility of knowing the corporate structures of legal persons and learning the identity of the directors and beneficial owners.

29. With regard to nonprofit organizations, Law No. 2005-048 contains a series of provisions relating to nonprofit associations and organizations. Accordingly, any nonprofit association or organization seeking to gather or receive funds, or to grant or transfer funds, must be listed on the registry of associations in accordance with the procedures outlined by the competent authorities. Furthermore, the law imposes strict standards with respect to accounting. For example, nonprofit associations or organizations are obligated to maintain their accounts in accordance with the standards currently in force, and to submit their financial statements for the preceding year to the authorities designated for the purpose within four months following the end of their

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<sup>9</sup> It should, however, be noted that representatives of the notaries, lawyers, and NGOs participated in an awareness-building seminar on the new Law No. 2005-048 held in Nouakchott by the BCM in December 2005.

financial year. Nonprofit associations or organizations are required to deposit, in a bank account maintained with an authorized banking institution, all amounts of money remitted to them as donations or in the context of whatever transactions they may carry out. With respect to donations in particular, which represent a significant risk with regard to ML/FT, Law No. 2005-048 provides that any donation made to a nonprofit association or organization in an amount equal to or exceeding a sum established by instruction of the Governor of the Central Bank is to be recorded in a registry maintained for this purpose by the association or organization; this registry lists the donor's complete address and contact information as well as the date, nature, and amount of the donation. The law stipulates that any cash donation in an amount equal to or exceeding a sum established by instruction of the Governor of the Central Bank shall be reported to CANIF. Finally, the law sets out a range of sanctions in the event of failure to comply with the standards described above.

30. It must be noted that in practice, however, the provisions described above have yet to be applied. Several aspects of the process need to be clarified in BCM instructions. In this regard, the Mauritanian authorities have informed the mission that the BCM Instruction was being drafted.

## **6. NATIONAL AND INTERNATIONAL COOPERATION**

31. The conditions for national and international cooperation with respect to AML/CFT are unsatisfactory in Mauritania, for both legal and institutional reasons.

32. From a legal standpoint, the wording of Articles 29 and 33 of Law No. 2005-048 creates ambiguity. In accordance with Article 29 of Law No. 2005-048 pertaining to the powers of CANIF, the latter may exchange information relating to its mission with counterpart units in foreign countries, subject to reciprocity, whenever the facts in question are the subject of legal proceedings in Mauritania. In this case, the exchange of information is possible only with the approval of the competent judge. Article 29 therefore restricts the exchange of information to information that is the subject of court proceedings in Mauritania, which explains the need for the approval of the judge presiding over the case. Information other than the above thus cannot be exchanged with counterpart units, thus removing from cooperation between FIUs a considerable range of information. However, under Article 33 of Law No. 2005-048 pertaining to relations between CANIF and FIUs, CANIF may, subject to reciprocity, exchange information with its foreign counterparts when these foreign counterparts have the same status as CANIF, are subject to similar obligations with respect to professional secrecy, and offer the same guarantees with respect to protection of the rights of third parties. The wording of this article is therefore much less restrictive than the wording of Article 29. Taken together, these two articles will undoubtedly lead to problems in interpretation.

33. In addition, the cooperation between financial supervisors and their foreign counterparts is highly limited. Indeed, there is no system for cooperation and information exchange either between the various national prudential authorities (the BCM for financial institutions, the Ministry of Interior and the Ministry of Trade for insurance activities) or between these authorities and foreign bank supervision authorities. These

authorities should be authorized by law to enter into information exchange agreements subject to confidentiality in order to meet the requirements of supervising the institutions under their respective authority. With regard to the latter, the local authorities have informed the mission that the draft banking law currently being finalized introduces the principle authorizing oversight authorities to conclude cooperation and information exchange agreements with foreign supervisors.

34. With regard to international legal cooperation, Law No. 2005-048 organizes cooperation in the area of anti-money laundering and combating the financing of terrorism. The mechanism established by the law is applicable in instances other than those in which Mauritania is party to a bilateral agreement with the requesting country. Thus, by virtue of Article 65 of Law No. 2005-048, the Mauritanian authorities undertake to cooperate with the authorities of other States for purposes of exchanging investigatory and prosecutorial information and information relating to measures to protect and confiscate instruments and proceeds associated with money laundering and terrorist financing, as well as for extradition purposes. In practice, however, this cooperation has not yet functioned because Law No. 2005-048 is so recent.

35. In this regard, the Mauritanian authorities have noted that the provisions of the CPC and bilateral legal agreements have always been in effect in the area of cooperation for purposes of information exchange, investigation, and proceedings targeting conservatory and confiscation measures.

## **7. OTHER ISSUES**

36. The Mauritanian authorities are cognizant of the urgency of rapidly putting in place a preventive and repressive arsenal of AML/CFT tools that will enable them to protect themselves against the economic, political, and social risks inherent in financial crime. Indeed, a number of positive developments should be highlighted, and bear witness to the recent enhanced awareness of a genuine threat resulting from the country's economic development.

37. In conclusion, the effective implementation of the new AML/CFT system will to a large extent depend on the capacity of the national authorities to reform the country's administrative and judicial structures. The AML/CFT policy should also be a part of the broader strategy for promoting good governance. In addition, it would be advisable to allocate the budgetary resources required for the implementation of this ambitious reform policy.

## **C. ASSESSMENT REPORT**

### **1. GENERAL INFORMATION ON MAURITANIA**

#### **1.1 GENERAL BACKGROUND**

38. Mauritania, a vast country covering 1.03 million square kilometers, is located on the northwest coast of Africa. It is delimited by over 700 kilometers of Atlantic coast and shares its borders with Morocco and Algeria to the north, Mali to the east, and Senegal to the south where the Senegal River is on the border.

39. Under Mauritania's constitution, it is an Islamic Republic. Shortly after this mission was completed, there was a change in political regime bringing to power Mr. Ely Ould Mohamed Vall, President of the Military Council for Justice and Democracy. The parliamentary bodies have not met since the change of power. Consequently, some of the comments set forth below are indicative, and represent the status of institutions prior to the regime change of July 2005.

40. Mauritania has a constitution approved by referendum in accordance with law on July 20, 1991. Overall, the legal provisions governing political, economic, and social activities are outgrowths of the constitution, which establishes the broad outlines of the national legal orientation. The Mauritanian legal order is characterized by a dualistic legal tradition. It is influenced both by the Arab-Islamic legal system and the Romano-Germanic legal system (Mauritanian institutions and criminal procedures are based on the French model, including for criminal procedures).

41. Legislative power is vested in the parliament, which has two representative assemblies: the National Assembly and the Senate. Laws are introduced jointly by the members of parliament and government. All laws that have been adopted and promulgated are published in the national *Journal officiel* (bimonthly). Practical rules regarding implementation are generally determined by regulatory provisions (decrees, orders).

42. Executive power is vested in a Government headed by Mr. Sidi Mohamed Ould Boubacar, the former Prime Minister and most recent Mauritanian ambassador to France prior to the change of government on August 3, 2005. He is under the authority of the Head of State, Colonel Ely Ould Mohamed Vall, the President of the Islamic Republic of Mauritania. With a view to building capacities conducive to sustained development, the State's various administrative institutions are supported by good governance programs established with donors.

43. The organization of the judiciary is governed by Law No. 99-039 of July 24, 1999, which identifies the various jurisdictions and their respective authorities. The principle of dual jurisdiction is affirmed by this law, as are rights to a defense and equality before the courts. The Supreme Court is the highest of all judiciary institutions, and its decisions are binding on all other jurisdictions in the country. It adjudicates



appeals against judgments and decisions handed down in final instance by the national courts. On an exceptional basis, in administrative matters, it may hear cases in the first and last instance that are assigned to it by law, in particular cases relating to expropriations in the public interest. All judgments and decisions handed down by court jurisdictions are explained and pronounced publicly, failing which they are null and void. They are enforceable throughout the entire national territory. Foreign court decisions and documents must be the subject of application for enforcement of judgment before the courts of instance for the location where they are to be enforced.

44. Other institutions also contribute to the proper functioning of the Republic, including the Audit Court, the Constitutional Council, the High Islamic Council, and the High Court of Justice.

45. It is important to stress that the functioning of the Mauritanian justice system, notwithstanding a number of reforms, is harshly criticized by local stakeholders. It is affected by profound and multifaceted crises: a crisis of authority first, as court decisions are rarely enforced, inter alia owing to the intervention of the public authorities; a crisis of credibility, principally because of the increasing corruption among judges; a resource crisis, in that the administration of justice is allocated less than 1 percent of the overall State budget; and lastly, a crisis of competence, attributable to the lack of professionalism of judges.<sup>10</sup> Moreover, it should be noted that this situation explains in large measure the low ratings assigned by this mission to a number of criteria, the implementation of which seems impossible at the moment given the problems prevailing in the judicial sector. It bears noting that, on the initiative of the Military Council for Justice and Democracy, an Interministerial Committee has been charged with preparing a status report on the Mauritanian court system and proposing corrective measures aimed at streamlining the court system and restoring its authority. In this regard, the local authorities have indicated to the mission that efforts to combat corruption within the justice system have already gotten off to a positive start and represent a priority for the transition government. Significant progress has been made in the area of training with the holding of several seminars and workshops in 2005-2006 (for example, the April 2006 workshop on the ratification and legislative incorporation of standard instruments to combat terrorism and transnational organized crime). From a budgetary standpoint, despite the improvement in work done by the Government, the authorities recognize that an action plan is needed for the justice system and that such a plan should accord importance to capacity building.

46. The Mauritanian economy, still heavily protected and supervised by the State in the early 1980s, went through profound changes under structural adjustment programs with the IMF and World Bank. The industrial sector continues to be dominated by mining activity, for the most part carried out by the National Industrial and Mining Company (SNIM). Moreover, the discovery of sizable petroleum deposits, from which extraction began in 2006, will surely bring about profound changes in national economic life and generate extremely large capital flows. Mauritania is no longer a member of ECOWAS or of the West African Monetary Union (WAMU), which it left in 1973. Since that time it

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<sup>10</sup> In this connection, see the final report on justice prepared by the Interministerial Committee on Justice, November 2005, p. 6.

has had its own national currency, the ouguiya, which is issued by the BCM established by Law No. 73-113 of May 30, 1973 (US\$1 = UM 261; UM 1 = US\$0.0038).

47. After a period of strict controls, the foreign exchange system was reformed a number of years ago, leading to the creation of many exchange bureaus and the gradual liberalization of foreign exchange transactions. Current transactions are completely unrestricted: for imports, the only formality to be observed is prior declaration to the public authorities. Exports are not subject to prior formalities, and export proceeds are freely negotiable on the market. For capital transactions, all constraints on capital movements have been eliminated. Transfers of the dividends and interest generated by foreign direct investment are unrestricted. This reform led, in April 2000, to the establishment of an expanded foreign exchange market which covers all exchange operations for the exchange bureaus and commercial banks. This was followed by residents being authorized to open accounts in foreign exchange.<sup>11</sup>

## **1.2 General situation as regards money laundering and terrorist financing**

48. Efforts to combat money laundering and terrorist financing are a new issue in Mauritania. Indeed, the AML law has been in force for only slightly over a year (see above). The repressive mechanism (Police, Courts, Customs), long lacking in suitable normative and structural instruments, is still not operational.

49. The overall strategy for combating the financial aspects of organized crime remains to be developed. In this connection, the mission recommends that the Mauritanian authorities continue their efforts along these lines, especially since new developments are fueling some concerns.

50. The discovery of sizable petroleum deposits and the anticipated financial impact of this development are already luring foreign investors; the local banks will be called upon to take part in large-scale financial transactions, involving major foreign economic interests, with respect to which the banks in question will need to exercise great diligence; the fact of the matter is, however, that at least some of them are ill prepared to exercise the proper surveillance over the origin of funds.

51. According to police sources, ordinary criminality has grown considerably: trafficking in vehicles stolen mostly in Europe, parallel networks, and the provision of logistical support for organized international drug traffickers have all become commonplace.

52. Judging from the official data on drug seizures, the country appears to have been little affected by the phenomenon:<sup>12</sup> according to the information gathered by the mission, the actual situation is different. The port of Nouadhibou appears recently to have become the transshipment point for cocaine from South America intended for the European market. What is more, apart from the roughly ten civil servants in the Central

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<sup>11</sup> Source: BCM.

<sup>12</sup> Annual seizures: 30 to 40 kilograms of cannabis, 30 to 40 grams of cocaine, and 30 to 40 grams of heroin.

Office for Combating Illegal Drug Trafficking (OCLTIS) present in Nouakchott, there are no other specialized staff working at any of the land, sea, or airport frontiers. Nevertheless, Mauritania does have a complete legislative and regulatory arsenal for combating the problem: the creation in 1990 of the National Commission to Combat Drug Trafficking, the creation of the OCLTIS in 1992, and the promulgation on July 20, 1993 of the law on repressing the production of, trafficking in, and illegal use of narcotic drugs and psychotropic substances. In addition, Mauritania has signed the three United Nations conventions on the subject.

53. While Mauritania has always been regarded as a peaceful country, the emergence of some radical fundamentalism is raising serious concerns within the Government. The arrest of a purported Al Qaeda militant threatening to carry out an attack during the Paris-Dakar Rally or the recent attack on a gendarme post for which the Salafist Group for Call and Combat of Algeria (GSPC)<sup>13</sup> are, in the view of the local authorities, signs of a serious threat. On May 12, 2005, the Mauritanian police conducted searches of about ten mosques in the capital city as part of a campaign to investigate Islamic militants. Previously, seven Islamists had been arrested in April and identified as members of a “Salafist jihadist” group affiliated with Al Qaeda, and were charged with “formation of a criminal group.” The Mauritanian legal authorities also issued an international arrest warrant targeting two other members of the group who were in flight and who, along with the seven others charged, had just received eight months of training in “jihadist” camps in Algeria and Mali with the intent of going to fight in Iraq. It also bears noting that half the personnel of the Security Directorate have lately been devoted to combating terrorism. In this connection, it bears recalling that, in September 2004, Nouakchott hosted the meeting of Interpol’s Fusion Task Force devoted to the exchange of operational information as regards terrorism.

54. The other point worth noting is the presence of a particularly large informal sector. In fact, the use of banking services by the Mauritanian population remains extremely low despite efforts by the public authorities to develop other means of payment such as checks. The conventional banking network is therefore used by a small number of customers, most of whom are involved in commercial activities. In addition, most banks are engaged in a “single product” activity (financing of international trade) and show no interest in retail banking. Alternative systems for the transfer of funds generate brisk business in this segment of the informal economy. In fact, there is a sizable and very active alternative network for money transfers operating between Mauritania and the Middle East and Asia. These networks (which bear all the hallmarks of the *Hawalas* found in Afghanistan and Pakistan) are used by the population who are offered, through a host of clandestine operators, an easy, fast, and simple way to transfer money from overseas to Mauritania and vice versa. These informal networks are composed of persons who, most often, are working alone. The existence of the networks raises a number of issues from the dual standpoint of regulation and criminality. Informal currency exchange activity is also extremely widespread.

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<sup>13</sup> In June 2005, 15 Mauritanian soldiers were killed in an attack on a military base on the border of Mali, Algeria, and Mauritania. The GSPC claims to be affiliated with Al Qaeda.

### **1.3 Overview of the financial sector and of designated non-financial businesses and professions**

#### **1.3.1 The Mauritian financial sector**

55. The Mauritanian Government divested itself of its equity interests in primary banks a number of years ago. Its shares in those banks were resold to Mauritanian private interests. The State also sold its shares in the sole Islamic bank, BAMIS. At present, the State's holdings in primary banks are limited to its 50 percent equity position in Chinguetti Bank. Moreover, following the deregulation of the banking sector, three banks were established: the BCI (*Banque pour le Commerce et l'Industrie*), the GBM (*Générale de Banques de Mauritanie*), and the BACIM Bank.

56. Accordingly, the Mauritanian banking sector currently includes, in addition to the BCM, Mauripost, and nine commercial banks (Chinguitty Bank, Banque Mauritanienne pour le Commerce International-BMCI, Banque Al Baraka, Banque Nationale de Mauritanie-BNM, Crédit Agricole, Banque de l'Habitat, Mauritanie leasing, Union Nationale des Coopératives agricoles-UNACEM, Union Nationale des Coopératives de crédit à la pêche-UNCOPAM). Nevertheless, the level of bank coverage of the public is quite low, and 80 percent of commercial transactions are conducted in cash.

57. The financial landscape further includes 67 savings and loan cooperatives operating in two main networks: PROCAPEC and CREDIT OASIS, which offer a limited range of services. This sector has undergone significant changes in recent years, the main stages of which are described below. To consolidate the emergence of microfinance as a tool particularly well suited to combating poverty, the Mauritanian Government has established a regulatory framework that is expected to make it possible to increase microfinance activities, and introduced mechanisms for the monitoring of such institutions by their supervisory body, in this case the BCM. In this connection, the legal provisions specific to the savings and loan cooperatives were issued (Law No. 98-008 of January 21, 1998 and Instruction No. 001/GR/99 of January 21, 1999). Moreover, APROMI, the Association of Microfinance Professionals and Operators, was established to represent the sector vis-à-vis the public authorities and donors. This association issued an ethics code enforced by APROMI through its Ethics Council. In particular, this code mandates that MFIs observe the regulations in force. Nevertheless, the microfinance sector continues to be underdeveloped and dependent on subsidies. Furthermore, it is relatively exposed to the risk of money laundering. Some NGOs sometimes open their accounts with MFIs, which do not have appropriate human and financial resources and could therefore be used over time as channels for money laundering.

58. The insurance sector plays a limited role within the Mauritanian financial sector.<sup>14</sup> A monopoly for many years under the Mauritanian Insurance and Reinsurance Corporation (a State-owned company that has been liquidated), the insurance sector was

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<sup>14</sup> The total volume of annual premiums is limited to about US\$10 million.

deregulated in 1993. In fact, since that date Mauritania has implemented a reform focused basically on divestment by the State and the creation of conditions conducive to the development of private enterprise. In the insurance sector, Law No. 93-40 of July 20, 1993 introducing the Insurance Code lifted the monopoly and opened the insurance sector to the private sector. While Mauritania had only one insurance company in 1993, it now has eight, of which seven are in operation (these are: AGM-Assurances Générales de Mauritanie; ATLANTIC LONDONGATE; Compagnie d'assurances et de Réassurance; **NASR**-Nationale d'Assurance et de Réassurance; SAAR-Société Anonyme d'Assurance et de Réassurances; and TAAMIN-Société d'Assurance Islamique).

59. There are no companies of international standing in the insurance sector. Company shareholders are thus local, with the special characteristic of being part of financial and industrial groups, in which cross-holding of equity and preferential treatment practices are commonplace.

60. The foreign exchange sector has changed considerably in the last few months. Until 2004, Mauritania had over a hundred exchange bureaus. In response to this situation, the BCM decided to restructure the sector by promoting mergers and increasing the minimum capital requirements. The sector now has 10 exchange companies authorized by the BCM. These are: El Mourabitoune Change S.A, El Mithagh Change S.A, Société Internationale de Change (SIC), Groupement des Bureaux de Change du Trarza (GBCT), Mauritanienne de Change (MC), Africa Change, Groupement National de Change (GNC), Cambistes associés (CASA), Top Change, and Delta Change. These companies, with the banks and their authorized agents, are the only intermediaries permitted to engage in foreign exchange operations in accordance with the regulations in force. As a consequence, there is an immense informal sector of cash exchange dealers operating in Nouakchott. Lastly, it bears noting that Mauritania does not have a stock market.

### **1.3.2. Nonfinancial sector**

61. Mauritania has roughly fifty associations and about the same number of national or international NGOs focused on cultural, religious, humanitarian, or medical activities. The legal and accounting professions are made up principally of lawyers, notaries, and chartered accountants (for additional details, see Chapter 4.4). The profession of notary in Mauritania was created by means of Law No. 97-019 of July 16, 1997. There are three notaries in all of Mauritania. They are public officials, appointed by decree of the Minister of Justice and are under the oversight Attorney General of the Court of Appeal of their jurisdiction. A National Order of Notaries was also established to exercise disciplinary control over the profession. The profession of attorney is governed by Law No. 0076-2005 of January 20, 2005, amending Law No. 024-95 of July 19, 1995 organizing the National Order of Attorneys. The National Order of Attorneys is the national body responsible for the regulation, supervision, and oversight of rules governing the profession. The accounting profession was reformed by means of Decree No. 97-018 of March 1, 1997. The National Order of Accountants is responsible for regulation, supervision, and disciplinary oversight, under the tutelage of the Ministry of

Finance. The nonfinancial sector has been made aware of the new AML system. Indeed, at the initiative of the BCM, a seminar was held in Nouakchott in December 2005, with participation from the World Bank and French experts. Some fifty individuals from various professions (lawyers, notaries, NGOs, accountants) participated in the conference and discussed the new challenges posed by Law No. 048-2005 of July 27, 2005.

#### **1.4 Overview of commercial law and mechanisms applicable to legal persons and legal structures**

62. Law No. 2000-05 of March 15, 2000 on the commercial code establishes the legal regime for commercial companies and the conditions under which they are created/registered. General partnerships, limited partnerships, limited liability companies, and joint-stock companies become legal persons upon their listing in the commercial registry. Listing in the commercial registry is required for all individuals and legal persons, whether Mauritanian or foreign, engaged in commercial activity in Mauritanian territory. The rules on establishing corporations, set forth in the Commercial Code in Articles 500 et seq., define the conditions on constituting capital, and particularly the rules for seeking funds from the public, the role of commissioners of contributions, advertising measures, the conditions surrounding contributions in kind under the control of a commissioner of contributions, etc.

63. In accordance with Law No. 2000-05, the commercial registry is made up of local registries and a central registry. The local registry (Article 30) is maintained by the clerk of the competent court. Maintenance of the commercial registry and the observance of the prescribed formalities that must be met for registration are overseen by the president of the competent court or by a judge named for the purpose each year. The central commercial registry is maintained by the competent administrative agencies. The operating modalities of those agencies are defined by decree. The central commercial registry is public.

64. In theory, therefore, the conditions for establishing business corporations are strictly defined by the Commercial Code. However, the mission was unable to obtain further clarifications as to the number of registered companies or the quality of the information recorded in the commercial registry, as it is not yet operational. Moreover, as numerous activities are carried out in the informal sector, the practical reach of the company registration tools is limited.

#### **1.5 Overview of the preventive strategy for preventing money laundering and the financing of terrorism**

##### ***a. AML/CFT Strategies and Priorities***

65. The Mauritanian authorities, under the active and firm leadership of the BCM, have taken a number of major initiatives, such as the drafting and passage of Laws No. 2005-047 and No. 2005-048. Supplementary texts are currently being prepared (draft

instruction for banks, for example). The authorities also intend rapidly to introduce the necessary structures for preventing (CANIF) and combating ML/FT. This approach is based on objective perception of the risks posed to the country by financial crime in general. This said, however, it is premature to pass judgment on the effectiveness of this approach, which has only recently begun to be introduced.

***b. Institutional framework for preventing money laundering and the financing of terrorism***

66. The main institution in charge of anti-money laundering is CANIF, the functions of which are defined by Article 29 of Law No. 2005-048. An implementing decree of April 12, 2006 delineates its powers (see *infra*). It is tasked with receiving suspicious transaction reports from the professionals required to submit them and analyzing those reports, in particular by gathering all necessary information. In pursuit of its mission, CANIF may obtain, from any public authority and any other individual or legal person on the list of reporting entities, any information or documentation referred to in the articles of the 2005 law pertaining to customer identification, the beneficial owners, the parties issuing orders, and transactions. It informs the relevant public prosecutor whenever the facts might establish the offense of money laundering. It is also responsible for verifying the application of the AML/CFT mechanism to the persons subject to it, as well as to professions and businesses not accountable to a supervisory authority. CANIF has access on request to the databases maintained by the public authorities. It may, subject to reciprocity, exchange information with counterpart units abroad when those units are subject to the same rules as regards confidentiality.

67. The BCM is the supervisory body for banks and exchange bureaus; it is the BCM that is charged with oversight over the proper observance of AML/CFT standards within the institutions subject to its control.

68. Within the police forces, a specialized unit responsible for investigating AML and financial crime cases more generally has been created within the Directorate-General of National Security. A decree of July 25, 2004 created a central directorate known as the Central Directorate for Combating Economic and Financial Crime (DCLDEF). In accordance with that decree, the directorate is responsible for identifying and enforcing economic, commercial, or financial offenses associated with specialized or organized crime (money laundering). The DCLDEF also has jurisdiction over violations of business law, such as offenses against company law, false business accounting, tax fraud, public corruption, and unlawful agreements. Its scope of intervention also covers the embezzlement of public funds, influence peddling, corruption, international swindling, counterfeiting, industrial and artistic forgery and counterfeiting, and cybercrime.

69. The National Gendarmerie, a unit of the Ministry of Defense, is organized into nine territorial companies and 46 territorial brigades and gendarme posts, and is responsible for administrative and judiciary law enforcement. A project to establish a criminal research section in Nouakchott is currently under way. The National Gendarmerie will have jurisdiction throughout the entire country. While rural areas come

under the auspices of the National Gendarmerie, urban areas are covered by the *Sûreté Nationale*. It is headed by a director with ministerial rank, and is organized into a directorate-general, central directorates, and 13 regional directorates established in each wilaya. It is responsible in particular for territorial surveillance, internal security, policing foreigners, and seeking out and attesting to violations of the criminal laws. Officers of the National Guard, which is part of the army, may be vested with the authority of police officers. The Guard carries out a number of missions, including general policing.

70. It should be mentioned that the various sectors referred to above have not yet had occasion to become involved in AML cases owing to the recent introduction of Law No. 2005-048. Moreover, training activities will be absolutely necessary if the various competent authorities are to meet the challenge represented by AML/CFT. In this respect, Mauritania has received, and continues to receive, technical assistance from its partner countries, in this instance from France.

*c. Approach taken to risks*

71. It is too early to focus on the approach to the risk of money laundering. This said, the Mauritanian authorities have certainly become aware of the need to combat ML/FT, as illustrated by the passage of Law No. 2005-048. No risk-based approach that might provide justification for easing surveillance measures in some instances and, to the contrary, explain some hardening, has yet been developed. The national authorities appear to be focused on combating terrorism and its financing.

*d. Progress since the last assessment*

72. Not applicable. Before the current mission, Mauritania had not undergone an AML/CFT assessment either from the World Bank or IMF, or from a regional group such as the FATF.



## D. DETAILED ASSESSMENT

### 2. LEGAL SYSTEM AND CORRESPONDING INSTITUTIONAL MEASURES

#### Laws and Regulations

#### 2.1 Criminalization of money laundering (R.1, R.2, and R.32)

##### 2.1.1 *Description and Analysis*

##### (C. 1.1, 1.3 et 1.4) Relevant legal provisions:

**73. Legal framework.** By adopting, after the visit of the World Bank’s mission, Law No. 2005-048, Mauritania provided itself with a legal arsenal with respect to AML/CFT. This law repeals the provisions of Law No. 93/37 of July 20, 1993 regarding suppression of the production, trafficking in, and use of drugs, Article 6 of which defined laundering of proceeds derived from drugs. In fact, this article stated that “*persons who, by any fraudulent means, facilitate or attempt to facilitate the falsified justification of the origin of funds or property of the perpetrator of one of the offenses [linked to drug trafficking], or those who knowingly assist with any operation related to the placement, concealment, or conversion of the proceeds of such an offense shall receive a prison sentence of 10 to 40 years and a fine of UM 10,000,000 to 100,000,000.*” However, no one has ever been convicted in Mauritania on the basis of Article 6 of Law No. 93/37.

**74. The criminalization of money laundering:** Article 2 of Law No. 2005-048 defines the crime of money laundering as:

- the conversion, transfer, or manipulation of any funds or property constituting the proceeds of any crime or offense with a view to hiding or disguising the illegal origin of the said funds or property, or helping any person implicated therein to avoid the legal consequences of his or her acts;
- the masking or disguising of the nature, origin, placement, disposition, movement, or real ownership of any funds or property constituting the proceeds of any crime or offense;
- the acquisition, holding, use, and recycling of any funds or property by a person who knows or suspects that the property in question constitutes proceeds from a crime or offense.

**75.** As regards the **types of property to which the crime of money laundering is applicable**, the Preliminary Title of Law No. 2005-048, “Definitions,” stipulates that the term “property” covers “*all types of assets, whether corporeal or otherwise, movable or immovable, tangible or intangible, fungible or nonfungible, as well as the legal instruments or documentation attesting to the ownership of such assets or the rights associated therewith.*” Furthermore, the aforementioned law stipulates that “funds” designate “*assets of any kind, including inter alia banknotes, bank credit balances, bank checks, travelers checks, payment orders, shares, securities, drafts and letters of credit, as well as the legal instruments or documentation (including same in electronic or digital*

*form) which establish a right of ownership or interest in such assets.”* Consequently, the offense of money laundering criminalized by Article 2 of Law No. 2005-048 does indeed apply to all types of property, independent of its value, which directly or indirectly represents the proceeds of an offense or crime. In addition, it is important to point out that Law No. 2005-048 contains no provision requiring that the perpetrator of the predicate offense be the subject of prosecution or indictment in order to prove that the property constitutes the proceeds of crime. Consequently, pursuant to Law No. 2005-048, the requirement imposed, from an evidentiary standpoint, is that the criminal file related to the offense of money laundering establish that the property is indeed derived from the commission of a crime or offense. The judicial authority must therefore establish, through sufficient forms of evidence, the existence of this crime or offense. Mauritanian law does not impose any requirement in terms of prior conviction or proceedings with respect to the predicate offense.

**76. The scope of predicate offenses** under Law No. 2005-048 is particularly broad, as the law refers to all crimes and offenses. As the Mauritanian legal system classes infractions in three levels (violations, offenses, and crimes) on the basis of the severity of the penalties applied, the system covers all infractions subject to a penalty of imprisonment for at least 11 days (Article 34 of the Mauritanian Criminal Code - CC). It should be noted that the Mauritanian Law does not contain a text with regard to insider trading felony.

77. Accordingly, coverage includes:

- Counterfeiting (Article 129 of the Criminal Code - CC), the forgery of State seals, banknotes, public securities, and hallmarks, stamps, and seals (CC Articles 135, 136, and 137), falsification of public records or notarized instruments (CC Articles 141 and 142), and falsification of private, commercial, or bank instruments (CC Articles 147, 148, and 149);
- The corruption of civil servants or the employees of private enterprises (CC Articles 171, 172, 173, and 174);
- Organized crime (CC Article 246);
- Assassination (CC Article 272) and assault and battery (CC Article 278);
- Procuring (CC Articles 311 and 313 et seq.);
- Unlawful arrest and confinement of persons (CC Article 319);
- Robbery (CC Articles 351 et seq.);
- Extortion (CC Article 371);
- Forgery (CC Article 392);
- Receiving stolen goods, fraud and trust abuse (CC Article 435);
- Illegal trafficking in narcotic drugs and psychotropic substances (Law No. 93-37 of July 20, 1993 on suppressing the production of, trafficking in, and illegal use of narcotics and psychotropic substances);
- Trafficking in human beings: Law of July 2003 on combating trafficking in human beings. This text makes any person found guilty of trafficking in human beings for purposes of exploitation through the use of force, through deception, or through unlawful inducement subject to a penalty of up to ten years of forced labor;

- Arms trafficking (Law No. 2005-006 of January 20, 2005 ratifying the Palermo Convention and its additional protocols);
- Trafficking in migrants (Law No. 2005-006 of January 20, 2005 ratifying the Palermo Convention and its additional protocols);
- Contraband;<sup>15</sup>
- Piracy (according to the authorities, piracy is included in the conventions on terrorism that have been ratified by Mauritania).<sup>16</sup>
- Environmental crimes leading to earth pollution

**78. Acts committed outside Mauritanian territory:** the Preliminary Title of the AML law, “Definitions,” defines as the “initial offense” (predicate offense) of money laundering any crime or offense, even if committed in a third country, which enabled its perpetrator to procure property or income. Consequently money laundering may occur when the laundered funds are derived from a criminal act or offense under Mauritanian law, even when it is committed outside national territory. The criterion applied by Law No. 2005-048 is the qualification of an act under Mauritanian law, rather than its qualification by the law of the country in which it was committed.

**79. Application of the offense of money laundering to persons committing the predicate offense:** Law No. 2005-048 does not expressly include the possibility of convicting a person both for the underlying offense initially, and then subsequently for laundering the proceeds therefrom. To the extent that money laundering constitutes an infraction requiring positive acts of concealment, distinct from the predicate offense, in order to mask the fraudulent origin of the funds or property, it seems legally possible, subject to the sovereign interpretation of Mauritanian courts in this regard, for one and the same individual to be the perpetrator both of an predicate offense and an offense of money laundering. This question of jurisprudence will have to be addressed by the Mauritanian courts in order more clearly to delineate those cases in which the money launderer may also be the perpetrator of the predicate offense. However, as regards conviction for multiple offenses, CC Article 5 stipulates that *“in the event of the simultaneous existence of several crimes or offenses, only the harshest penalty shall be applied.”*

**80. Ancillary offenses:** Mauritanian law makes provision for appropriate ancillary offenses to the offense of money laundering. Article 44 of Law No. 2005-048 includes both attempts at and complicity in money laundering. Apart from these provisions, the penal code provides for attempts and complicity, under the same terms, in Articles 22, 53, and 54 respectively. In such situations, the sanctions are the same as those imposed for actual commission of the offense. Attempts cover the start of the execution of the act, which only failed to take place because of circumstances beyond the control of the perpetrator. Complicity covers perpetrators who, through donations, promises, threats, abuse of authority or power, or machinations or other culpable deception, caused the act or gave instructions to commit it; persons who procure arms, instruments, or any other

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<sup>15</sup> According to the authorities, contraband is a customs offense provided for and sanctioned under the Customs Code.

<sup>16</sup> The mission has not, however, obtained a copy of these documents.

resources knowing their intended use; those who knowingly aid or abet the perpetrator with actions aimed at preparation, facilitation, or execution. These definitions are consistent with the conditions stipulated in FATF recommendations. Furthermore, organized crime is also applicable in money laundering offenses. Indeed, CC Article 246 defines organized crime as *“any association formed, regardless of its duration or the number of its members, with the established aim of preparing or committing crimes against persons or property.”* In addition, Article 249 provides that *“all other individuals carrying out services of any kind in criminal gangs and who knowingly and voluntarily abetted such gangs [...] with the instruments of the crime [...] shall be punishable by servitude.”*

**81. Intentional element:** Mauritanian law requires that the intentional element be proven for the offense of money laundering to exist, to which end Article 2 of Law No. 2005-048 provides that the intentional element may be inferred from objective factual circumstances.

**82. Criminal liability of legal persons:** Chapter V of Law No. 2005-048, “criminal liability of legal persons,” extends criminal liability with respect to money laundering to legal persons. Article 60 of the law provides that *“legal persons other than the State on behalf of which, or for the benefit of which, an offense of money laundering, financing of terrorism, or terrorist acts as described in this law have been committed by one of their bodies, managers, or representatives acting in that capacity, shall be punishable by a fine ranging from twice to three times that incurred by individuals, without prejudice to the conviction of said individuals as perpetrators of or accomplices to the same acts.”*

**83. Penalties for the offense of money laundering:** Law No. 2005-048 provides for effective, proportionate, and dissuasive penalties for acts of money laundering by individual or legal entities. In fact, Article 44 of Law No. 2005-048 stipulates that individuals found guilty of money laundering shall be punished by imprisonment for a period of one (1) to five (5) years and a fine of one to three times the value of the property or funds involved in money laundering operations. Attempts to engage in money laundering or aiding or abetting money laundering are subject to the same penalties.

84. In addition, Article 47 of the law also provides for the application of **additional penalties** for money laundering offenses, namely:

(1) prohibitions

- permanent banishment from national territory, or temporary banishment for a period of one (1) to five (5) years of any foreigner convicted;
- prohibition of one (1) to five (5) years on staying in certain administrative jurisdictions;
- ban on leaving national territory and cancellation of passport for a period of six (6) months to three (3) years;
- loss of civil rights for a period of six (6) months to three (3) years;
- prohibition on operating motor vehicles, sea craft, and aircraft, and suspension of relevant permits or licenses, for a period of three (3) to six (6) years;
- permanent prohibition, or prohibition for a period of three (3) to six (6) years, on

- exercising the profession or activity involved in the commission of the offense;
  - prohibition on exercising a public function;
  - prohibition on issuing checks other than those entitling the drawer to withdraw funds from the drawee or checks which are certified, and prohibition on using payment cards, for a period of three (3) to six (6) years;
  - prohibition on owning or bearing a weapon that requires a license for a period of three (3) to six (6) years;
- (2) confiscation of the property or thing used in or intended to be used in committing the offense, or of the thing which constitutes the proceeds from the offense.

85. In addition, Article 45 of Law No. 2005-048 delineates **aggravating circumstances** under which the penalties applicable to money laundering are doubled. These circumstances are:

- (a) when the offense is committed by making use of the facilities derived from exercising a professional activity
- (b) when the perpetrator of the offense is a repeat offender. Convictions handed down abroad are taken into account in establishing recidivism.

86. With regard to the penalties applicable to legal entities, Law No. 2005-048 provides for a fine ranging from double to triple the amount imposed on individuals, without prejudice to conviction of such individuals as perpetrators of or accomplices to the same acts. Furthermore, Article 60 of Law No. 2005-048 also provides for the possibility of taking the following action with respect to legal entities:

- Confiscation of the property used or intended to be used to commit the offense, or property which constitutes the proceeds therefrom;
- Placement under court supervision for a period of up to five years;
- Permanent prohibition, or prohibition for a period of up to five years, from directly or indirectly engaging in one or more of the professional or corporate activities in connection with which the offense was committed;
- Permanent closure, or closure for a period of up to five years, of all or one of the facilities of the enterprise used to commit the criminal acts;
- Dissolution of the entities, wherever they were created to commit the offenses in question;
- Posting of the decision handed down, or its dissemination in the written press or by any audiovisual communication means, at the expense of the legal person convicted.

87. In addition, Article 61 of the law also includes **additional penalties** applicable to legal persons, namely the permanent prohibition, or prohibition for a period of up to five years, from bidding on government procurement contracts. Furthermore, as stipulated in Article 60 of Law No. 2005-048, the criminal liability of legal persons does not preclude the institution of parallel proceedings against individuals who acted as perpetrators of or accomplices to the same acts.

**88. Statistics and analytical tools.** Because the AML/CFT system is of recent vintage, Mauritania does not yet have statistics or analytical tools.

### **2.1.2 Recommendations and comments**

89. The following points of the law should be amended and clarified by the lawmaker, in order to avoid leaving excessive room for interpretation by the courts:

- The law should expressly stipulate that it is not necessary for the perpetrator of the predicate offense to be the target of proceedings or to be convicted in order to prove that the property constitutes the proceeds of a crime.
- The law should expressly allow for conviction of an individual initially for the underlying offense and subsequently for the laundering of the proceeds derived therefrom.

90. The Mauritanian authorities should obtain the analytical and statistical tools to ascertain the effectiveness of their AML/CFT legislation.

### **2.1.3 Compliance with Recommendations 1 and 2**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.1</b>	<b>PC</b>	A number of points of Law No. 2005-048 should be clarified, in order to avoid leaving excessive room for interpretation by the courts. Absence of effective implementation owing to the recent nature of the law.
<b>R.2</b>	<b>PC</b>	idem
<b>R.32</b>	<b>NC</b>	Absence of statistics and analytical tools related to money laundering and the financing of terrorism.

## **2.2 Criminalization of the financing of terrorism (SR.II and R.32)**

### **2.2.1 Description and Analysis**

91. The Mauritanian authorities have prepared two laws, one on anti-money laundering and combating the financing of terrorism, passed on July 27, 2005 (Law No. 2005-048), and the other one combating terrorism, passed on July 26, 2005 (Law No. 2005-047).

92. Article 3 of Law No. 2005-048 defines terrorist acts by making reference to Article 3 of Law No. 2005-047, which provides the following definition of FT: *“the financing by any person of a terrorist undertaking by providing, gathering, or managing funds, securities, or property of any kind, or by providing advice to that end, with the intent of having such funds, securities, or property used, or knowing that they are intended to be used, in whole or in part, to commit any of the acts of terrorism listed in the indented section of this article.”*

93. In the law on terrorism, the definition of terrorist act was developed by establishing a list of actions which become terrorist when they relate to an individual or collective undertaking aimed at disrupting public order through intimidation or terror. That list includes among other things receiving the proceeds of terrorism, and participation in a group of persons formed to commit acts of terrorism (in this connection see Articles 3, 4, 5, and 6 of Law No. 2005-047).

94. The definition of the financing of terrorism is in compliance with Special Recommendation II and, in particular, with the terms of Article 2 of the United Nations Convention for the Suppression of the Financing of Terrorism of 1999. Consequently, the offense extends to any person who knowingly furnishes or gathers funds by any means, whether directly or indirectly, in the knowledge that they will be used in whole or in part to carry out a terrorist act, or by a terrorist organization or a terrorist.

**95. The offense of FT** can be deemed to exist whether or not the funds were effectively used in the commission of a terrorist act, or whether or not they were effectively linked to a specific terrorist act.

96. **Complicity** in the financing of terrorism is repressed (Article 49). As already mentioned in the context of developments related to money laundering, Articles 53 and 54 of the Mauritania Penal Code include general definitions of complicity. The 2005 law summarizes these provisions; the comments in 2.1.1. also apply here. **Associations or understandings with a view to financing terrorism are also included.** Moreover, aggravating circumstances are covered and have the consequence of increasing the penalty incurred by up to double whenever the offense was perpetrated as part of a criminal organization (Article 51), which is defined in the glossary in Article 1 of Law No. 2005-048. The actions referred to in Article 2(5) of the 1999 Convention are covered by the law.

**97. The liability of legal persons** is established by the law (Article 60) and the liability of both the legal person and the individuals involved is possible (cf. comments in 2.1.1.).

**98. Ancillary offense. Law No. 2005-048 does not expressly repress cover attempts to finance terrorism.** This situation poses a problem because, in accordance with the terms of Article 2 of the Mauritanian Criminal Code, only attempts at felony crimes are automatically repressed, while for lesser offenses, CC Article 2 mandates that attempts must be expressly covered by law. As terrorist financing is punished under Article 49 of Law No. 2005-048 by imprisonment for one to five years, the infraction is categorized as an offense in accordance with CC Article 34. It must therefore be assumed that, in the absence of an express provision in the 2005 law, attempted FT is not punishable in the absence of aggravating circumstances. In the latter case, in accordance with Article 51 of Law No. 2005-048, penalties are doubled, making the infraction a felony crime. Under these circumstances, aggravated FT attempts are punishable. On this point, to sum up, attempts are thus not punishable only for simple attempts at terrorist

financing, but are [also] in the event of aggravating circumstances (Article 51). There is thus a gap in this area as regards Special Recommendation II.

99. With regard to the **funds in question**, reference should be made to Article 1 of Law No. 2005-048 which defines them as assets of every kind, including banknotes, bank credits, bank checks, travelers checks, money orders, shares, securities, bonds, drafts, and letters of credit, as well as legal documents or instruments (including electronic or digital) evidencing title to or interest in such assets. Consequently, this definition is in compliance with the requirements of RS.II.

**100. Terrorist financing as the predicate offense of money laundering.** With reference to the definition of money laundering (Article 2), the financing of terrorism may be a predicate offense of money laundering inasmuch as the definition of ML refers to the proceeds of any crime or offense.

**101. Territorial jurisdiction.** With regard to territorial jurisdiction, the principles customarily accepted in Romano-Germanic legal systems should be applied in the absence of clarification in the criminal code or criminal procedures code. Accordingly, whenever a portion of the acts constituting offenses of terrorist financing or money laundering is committed in Mauritania, the Mauritanian courts may exercise jurisdiction over all the acts. Prosecution may therefore be initiated in Mauritania for acts partially committed abroad. Moreover, regardless of the location of the perpetrator(s), the applicable criterion is the place where all or a portion of the acts were committed. It is therefore not important whether the perpetrator(s) of the offense are in the country. Furthermore, it is also not important whether or not the perpetrators are at the location where the act of terrorism occurred or was intended to occur.

102. Article 70 of the 2005 law reiterates these territorial jurisdiction rules, further stipulates that international conventions must be applied, and indicates that Mauritanian law applies when the offense is committed on board a Mauritanian flag vessel or aircraft registered in accordance with Mauritanian legislation.

**103. Intentional element.** The requirements of Recommendation 2 are also met for the financing of terrorism, in that the **intentional element** may be inferred from objective factual circumstances, in keeping with the general principles of Mauritanian criminal law, in the absence of a clarification in Article 3, as distinguished from Article 2 with respect to money laundering.

**104. Penalties.** Other legal recourse, in particular as regards actions under civil law, remains possible in accordance with terms defined by Mauritanian law. Finally, individuals and legal persons are subject to proportionate penalties, the effectiveness of which cannot as yet be measured given to the recent passage of the law and the fact that it has not been applied. Under the terms of Articles 49 and 51, for example, the penalties called for are one to five years of imprisonment and a fine of UM 5 million to UM 15 million (US\$19,000 to US\$57,000), sentences which, for individuals, can be doubled in the event of aggravating circumstances. The imposition of dual penalties for the same



offense (the fact that the financing of terrorism only is an offense and becomes a crime in the case of aggravating circumstances) is likely to complicate the work of judges. Furthermore, the five-year period provided for in the case of financing only is a limited dissuasive factor.

105. For legal persons, the penalty established is a fine of two to three times the fine incurred by individuals, without prejudice to convicting the latter of perpetrating or aiding and abetting such acts (Article 60). Legal persons may also be sentenced to one or several of the penalties listed in the same article: permanent or temporary prohibition from directly or indirectly engaging in one or more professional or corporate activities with respect to which the offense was committed, placement under court supervision for a period of up to five years, permanent closure, or closure for a period of up to five years, of one or more of the entities involved, the confiscation of property used or intended to be used to commit the offense or property which constitutes the proceeds therefrom, dissolution of entities when they were created in order to commit the criminal acts, the posting of the decision handed down, or its dissemination in the written press or by any audiovisual communications means, at the expense of the legal person convicted. The permanent prohibition, or prohibition for a period of up to five years, from bidding on Government procurement contracts, is also possible (Article 61).

106. As regards compliance with Recommendation 32, Mauritania does not have detailed statistics with respect to offenses associated with FT. In the absence of adequate structural and financial resources, the statistical studies conducted by the Ministries of Justice, Interior, and Defense are insufficient for assessing the full scope of the problem. In this connection, it should be noted that among the functions assigned to CANIF (Article 29) is the task of developing a statistical and analytical tool for use in its activities and for assessing changes in the typologies of money laundering and terrorist financing. Because the AML/CFT system is of recent vintage, it has not yet been possible to carry out this task.

### ***2.2.2 Recommendations and Comments***

107. The law on money laundering and terrorist financing, in conjunction with the law on combating terrorism, are in compliance with the requirements of Special Recommendation II, with the exception that there is no coverage of attempts to finance terrorism that are not ranked as criminal felonies. The lawmaker should therefore expressly provide for the repression of attempted financing of terrorism regardless of the existence of aggravating circumstances.

108. With respect to compliance with Recommendation 32, the system has yet to be developed. On the structural level, the authorities are invited to create a research and statistics unit with jurisdiction in organized crime matters within the various administrative partners: Customs, Police, Courts. The pooling of data for purposes of the relevant analysis, probably through CANIF, would also be worthwhile.

109. On the financial level, it would appear to be highly desirable to provide the competent agencies with adequate budgetary resources.

110. An interministerial body should also be created, including representatives from the various institutional and professional stakeholders, to coordinate CFT and report on such efforts on a regular basis.

### 2.2.3 Compliance with Special Recommendation II and R.32

	Rating	Summary of factors justifying the rating assigned
SR.II	PC	Provisions are not made for all attempts at financing terrorism, except in the case of aggravating circumstances. Lack of implementation of the AML/CFT system
R.32	NC	Insufficient financial and structural resources in the administrations concerned.

## 2.3 Freezing, seizure, and confiscation of proceeds from crime (R.3 and R.32)

### 2.3.1 Description and Analysis

**111. Definition of the property and proceeds subject to freezing, seizure, and confiscation measures.** Law No. 2005-048 provides the following definitions (Article 1):

- for proceeds from crime: *“any property, any funds, or any economic advantage directly derived from a criminal felony or offense...”*;

- for property: *“all types of assets, whether corporeal or otherwise, movable or immovable, tangible or intangible, fungible or nonfungible, as well as the legal instruments or documentation attesting to the ownership of such assets or the rights associated therewith.”*

- for freezing: *the measure consisting in provisionally deferring execution of a transaction or prohibiting or limiting the transfer, modification, transformation, alienation, or movement of property or funds pursuant to a decision or directive handed down by a competent authority”*;

- for seizure: *“the power of a competent authority, under court supervision, to provisionally assume stewardship or take control of property”*;

- for confiscation: *permanent dispossession of property, pursuant to decision by a competent court, supervisory authority, or any other competent authority.”*

**112. Confiscations:** In the case of confiscation, Law No. 2005-048 provides for two possibilities, one covered in Article 47 and the other, in Article 64. Article 47 on money laundering makes it possible to sentence individuals to the confiscation of the property or object used or intended to be used in committing the offense, or the proceeds therefrom.

For legal persons, Chapter V of Law No. 2005-048 provides that they may be sentenced to confiscation of the property used or intended to be used in committing the offense, or of the property constituting the proceeds therefrom.

113. Article 64 calls for mandatory confiscation by the State of:

- funds and property that are the subject of the offense, including income and any advantages derived therefrom and property and securities replacing them, regardless of the person to which they belong, unless the owner thereof establishes that they were acquired by effectively paying a fair price or exchanging services corresponding to their value or by any other lawful means, and was unaware of the illegal origin thereof;
- instrumentalities used in committing the offense;
- funds and property used in or intended for use in committing the offense.

114. Article 64 also states that the courts have the power to order the confiscation of:

- property derived directly from the offense of money laundering or the financing of terrorism, property and securities replacing them, and any income from such gains invested;
- property belonging directly or indirectly to a person convicted of money laundering or the financing of terrorism when there are any concrete indications that the property derives from the offense for which the person was convicted and the latter is unable to prove otherwise.

If the property referred to in the first two paragraphs cannot be located among the convicted party's assets, the court shall have the property appraised and the confiscation will apply to the equivalent amount of money. [...].

**115.** In conclusion, Law No. 2005-048 covers cases of mandatory confiscation in tandem with optional confiscation measures. The coexistence of these two articles, which should be combined, is likely to complicate the work of judges.

**116. Freezing of assets:** this possibility arises in the context of the powers vested in CANIF, in this instance by Article 36. That article provides that in emergency and serious situations (a concept not defined in the law, however), CANIF alerts the prosecutor who may, in the absence of opposition to the transaction sought by CANIF, block funds, accounts, and securities for a period of not more than eight days.

**117. Seizure:** The Mauritanian criminal procedures code provides not only for identifying the proceeds of the offense but also for the instruments used in its execution. Article 40 makes it possible for the courts to order the seizure of the instruments and documents mentioned in the same article (bank accounts, access to network and information technology services, audio and video recordings of acts and conversations, certified instruments or instruments under private seal, financial and commercial banking

records). Article 43 provides that the seizure and conservatory measures shall be governed by the procedures set forth by the Criminal Procedures Code. Lifting of these measures may be ordered by the examining magistrate under conditions prescribed by law. Finally, Article 59 provides that the competent authorities may seize the property relating to the offense under investigation in accordance with the procedures set forth by the Criminal Procedures Code. In this connection and in general terms, in the context of a court proceeding, the Prosecutor of the Republic (CPC Article 36), the examining magistrate (CPC Article 63), police officers (CPC Title I, Section II, Chapter 1) may conserve evidence and anything which may serve to demonstrate the truth, seize instruments usable in perpetrating the offense or were intended for use in committing it, and anything which appears to be the proceeds of the crime (CPC Articles 47, 49, 66, 68, 73, 82, 84, 87, and 90). In more general terms, property may be confiscated even if in the possession of a third party, provided that the link with the offense(s) has been established.

118. The 2005 law permits: (i) confiscation of laundered property which constitute the proceeds of offenses; (ii) confiscation of the resources used and intended to be used in perpetrating the offense, and, more generally, any property or security resulting from money laundering, terrorist financing, and the related predicate offenses; (iii) seizure of property not directly linked to the offenses, by means of the possibility of confiscating the estimated equivalent value of fraudulent property, by the confiscation of property used to replace the direct proceeds of offenses, and especially by the confiscation of property for which the owner has failed to prove the legal origin (reversal of the burden of proof); (iv) seizure of the proceeds from investment of fraudulent sums (Article 64).

**119. Conservatory measures.** Mauritania's legal texts call for conservatory measures in order to prevent the disappearance of proof, evidence, and proceeds from infractions, essentially during the phase of judicial investigation organized by the Criminal Procedures Code and Articles 40, 43, and 59 of the 2005 law, but also during the phase of CANIF jurisdiction. Effectively, in emergency and serious circumstances, CANIF may approach the competent Prosecutor of the Republic. The latter must order a halt to execution of the transaction, but may also, on that occasion, order the blocking of funds, accounts, or securities for an additional period not to exceed eight days in length (Article 36). In an emergency, either during the judicial investigation or during exercise of CANIF's prerogatives, blockages or seizures may be declared *ex parte* and/or without prior warning.

120. As indicated above, the provisions with respect to seizure have been mentioned in several articles of Law No. 2005-048 (Articles 40 and 43) and in the CPC. The same applies to confiscations (Articles 47, 60, and 64). The coexistence of different articles on the same subject and the fact that they are scattered throughout the law and the CPC make it difficult to enforce and implement this provision.

**121. Protection of the rights of good-faith third parties.** The rights of third parties are protected by the possibility of contesting asset confiscation or freeze measures as well as seizures (Articles 53, 57, and 43, respectively), in accordance with the requirements of the Palermo Convention in this regard.

122. Under Mauritanian law it is not possible, via contractual or other arrangements, to reduce to zero the conservatory possibilities of seizures or freezes or sentences to confiscate the proceeds of fraud.

**123. Burden of proof.** The Mauritanian system includes a mechanism for the partial reversal of the burden of proof as regards providing proof of the origin of suspicious assets (Article 64, see above).

Insufficient time has passed since the law was approved to provide a statistical and analytical assessment of the effectiveness of measures involving confiscation, freezes, suspensions by CANIF, and seizures. No data on this subject were provided by the authorities.

**124. Monitoring of decisions.** The monitoring of decisions is not ensured owing to the newness of the law, but also because of the absence of specific provisions entrusting particular units with the task of evaluating and monitoring such measures, in particular Justice for analyzing court decisions, or other administrations for asset freezing especially. CANIF is tasked with a monitoring mission, but here again the recent development of the AML/CFT system does not permit assessment of the effectiveness of that mission.

### **2.3.2 Recommendations and Comments**

125. Superfluous provisions related to both confiscation and seizure should be reviewed in order to tackle each point separately, with the ordinary law provisions appearing in the CPC being separated from those supplementing and falling within the scope of Law No. 2005-048. These provisions should be clarified in such a way that they do not appear several times in different articles.

126. The courts and administrations concerned should be required to keep accurate statistics that lend themselves to analysis in order to provide information on seizure, confiscation, or freezing. Transmission of this information to CANIF should also take place so that this unit can properly fulfill its mission of the centralization of data related to terrorism financing.

### **2.3.3 Compliance with Recommendations 3 and 32**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.3</b>	<b>PC</b>	The ambiguities of the wording in the various articles of Law No. 2005-048 justify the rating assigned.
<b>R.32</b>	<b>NC</b>	No obligation exists regarding the keeping of precise statistics that can be analyzed in order to ensure the provision of information on measures related to seizure, confiscation, and freezing.

## **2.4 Freezing of terrorist assets (SR.III & R.32)**

### **2.4.1 Description and Analysis**

127. As regards freezing, Article 56 indicates that the competent authority may, by administrative decision, order the freezing of the funds and property of persons and organizations listed by the United Nations Security Council pursuant to the United Nations Charter. The competent authority is not identified in Law No. 2005-048 and the glossary in Article 1 refers to other documents, which are non-existent in this case. Lastly, here, Article 56 provides for only one possibility for this competent authority, while the procedures stipulated by the United Nations are mandatory. In this regard, no distinction is made between the procedure that should be applicable under Resolution 1267, which requires countries to freeze immediately the property of Al Qaeda and others listed by the United Nations and the one that must be in place under Resolution 1373, which must allow the immediate freezing of terrorist assets of persons identified by the country as being linked to terrorism.

128. Article 57 provides a procedure for appealing these measures, stipulating that any persons or organizations maintaining that they are not the person mentioned on the list may contest the action before the authority authorizing the freeze. In addition, Article 58, entitled “Conservatory Measures,” provides that the examining magistrate may unilaterally or at the request of a competent administration order all conservatory measures, including the freezing of funds, at the expense of the State. The lifting of these measures may be ordered at any time at the request of the Public Prosecutor or, after consultation with the latter, at the request of the competent administration or owner. The wording of Article 58 raises the issue of the legal basis for this procedure. In fact, in the absence of clarification of the conditions under which this procedure is triggered, and in particular in the absence of reference to Resolutions 1267 et seq. and 1373, it is not possible to establish a link with the requirements of the resolutions mentioned, especially since the latter impose immediate application provisions that are administrative in nature. Furthermore, in this regard, the intervention of the judicial authority and the use of the term “investigation” are a source of confusion. In their current form, the provisions commingle the requirements under United Nations resolutions and those pertaining to the means of coercion, seizure, investigation, and confiscation.

129. In the area of the freezing or seizing of the assets of terrorists on legal grounds other than United Nations resolutions, the provisions of the 2005 law are common to money laundering and the financing of terrorism. This is the case for Article 40 on investigatory measures including confiscation, the seizure provided for in Article 43, confiscation as a supplementary and optional penalty for legal persons (Article 60), and Article 64 as regards mandatory supplementary penalties. These provisions have already been described above. In contrast, Chapter IV, which deals with the financing of terrorism and terrorist acts, contemplates confiscation in its Article 53, the freezing of funds in its Articles 56 and 58, and seizure in Article 59. As regards confiscation, Article 53 on terrorist acts and the financing of terrorism provides that, in the event of conviction for the offense of terrorist financing, confiscation of the funds and property used to

commit such offenses as well as the proceeds from these offenses will be ordered. Confiscation is thus mandatory in this instance.

130. When the funds and property to be confiscated cannot be represented, confiscation may be ordered in terms of value. Any person claiming to have a right to a property or funds that have been subject to confiscation may appeal to the court that handed down the confiscation decision for one year beginning on the day of the decision.

131. As regards freezing, Article 59 stipulates that the authorities may seize property or funds related to the offense under investigation in accordance with the procedures set forth in the Criminal Procedures Code. The developments referred to above (R.3) with respect to investigative powers under the Criminal Procedures Code are applicable here.

132. Article 58, entitled “*conservatory measures*” merits the following comments. The context of the initial seizure by the examining magistrate in the case is unclear and not detailed. Indeed, in this instance the magistrate appears to be intervening in a nonjudicial procedure. This judicial or administrative context should be delineated in detail, and the grounds for the seizure by this magistrate should be clarified, as should any procedural act, especially in a dissuasive situation. The interrelationship between this article and Article 56 is also not indicated. Finally, in both provisions the concepts of competent authorities or administrations are not clearly delineated.

133. Beyond Law No. 2005-048, the mission is not sufficiently informed about the Mauritanian authorities’ possibility of freezing the assets of terrorists and other persons designated by the United Nations Committee on Sanctions against Al Qaeda and the Taliban in implementation of resolution S/RES/1267 (1999) and subsequent resolutions, or on the effectiveness of possible ad hoc measures in place in Mauritania and which should be taken by any member of the United Nations.

134. As regards adequate measures permitting the seizure of the assets of terrorists or other persons designated in implementation of S/RES/1373 (2001), the mission notes that these resolutions were implemented by means of a BCM Instruction (07/GR/2001), which was updated in 2006. From a practical standpoint, however, the mission was not able to obtain all the information necessary, in particular on the manner in which Mauritanian Banks have effectively followed up on the aforementioned instruction or on the cooperation modalities applicable following receipt of requests from foreign countries. Likewise, the mission has little information about Mauritania’s capacity to respond effectively to asset freeze requests received from foreign countries. In this regard, the authorities have indicated that the procedure for asset freeze requests from foreign countries under United Nations Resolution 1373 is an automatic one. However, no case has been submitted to date as indicated by the authorities in their 2005 report addressed to the United Nations on Security Council sanctions. Finally, the authorities have indicated that to date, no national list exists identifying those persons or entities whose assets should be frozen or seized.

135. It bears noting that in accordance with the terms of Article 65, Mauritania undertakes to cooperate effectively with third countries, especially as regards conservatory measures, confiscations, and for extradition with respect to AML and CFT. In addition, Article 76 of the same law also addresses freeze measures, stipulating that the competent judicial authority may, at the request of the requesting State, take all conservatory measures [including those of temporary detention] and seizure measures compatible with national legislation. Finally, Article 87 provides the possibility for the Mauritanian authorities to order confiscation in response for a request for mutual legal assistance to that end. In the absence of the property, the decision may impose the obligation to pay a corresponding amount. Moreover, Article 88 covers the case of requests for conservatory measures for purposes of preparing for a confiscation. On the assumption of positive investigations making it possible to circumscribe the existence of the funds, this provision makes it possible to take conservatory measures that are sufficient to permit the requesting country to ensure that the funds thus discovered are blocked.

#### **2.4.2 Recommendations and Comments**

136. Clear and precise procedures should be put in place for both the application of Resolution 1267 et seq. and Resolution 1373 et seq.

- In particular, the competent authorities should be clearly identified;
- United Nations lists should be systematically disseminated;
- A specific mechanism for monitoring the measures adopted should be put in place;
- Administrative and judicial procedures related to asset freezes should be clearly outlined and should have distinct roles;
- Article 58 on “conservatory measures” in particular should be clarified, all to introduce pragmatic procedures devoid of ambiguity.

#### **2.4.3 Compliance with Special Recommendation III and R.32**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>SR.III</b>	<b>PC</b>	The texts lack clarity and it is not possible to measure their effectiveness. The provisions making it possible to apply United Nations resolutions S/RES 1373 (2001) and S/RES 1267 (1999) and related resolutions are not sufficiently specific and clear.
<b>R.32</b>	<b>NC</b>	There are no monitoring and analysis tools for these specific measures.

### **2.5 The Financial Intelligence Unit and its functions (R.26, 30 & 32)**

#### **2.5.1 Description and Analysis**

**137. The functions of CANIF** are described in Law No. 2005-048 as follows:

*CANIF is an administrative unit with financial autonomy and autonomous decision-making authority as regards matters within its jurisdiction. Its mission is to collect,*



*analyze, and process financial information on money laundering and terrorist financing channels.*

In this regard, this unit, as defined by the law, corresponds to the definition of an FIU as set forth in Recommendation 26.

It has powers which may be classified under the following headings:

(a) Receipt, analysis, and dissemination powers:

138. CANIF:

- *is responsible in particular for receiving, analyzing, and processing information which can establish the origin of transactions or the nature of operations covered by the suspicious transaction reports that subject entities are required to submit;*
- *receives all worthwhile information necessary for the performance of its mission, especially information provided by the oversight authorities as well as by police officers;*
- *may request that subject persons, as well as any other individual or legal entity, communicate the information they have which may shed light on suspicious transaction reports;*
- *May exchange information relating to its mission with counterpart units of foreign countries, subject to reciprocity, when the same acts are subject to legal proceedings in Mauritania, and to so advise the competent magistrate, who must approve the information exchange. The exchange may also not occur when the transmission of the information in question would run counter to public policy and the fundamental interests of the nation;*

139. On the latter point, ambiguity arises upon comparison of the provisions of Article 29 mentioned above with the provisions of Article 33 of Law No. 2005-048. Article 29 restricts the exchange of information to that which is the subject of legal proceedings in Mauritania, while under Article 33 of Law No. 2005-048 regarding relations between CANIF and foreign FIUs, CANIF may, on a reciprocal basis, exchange information with its foreign counterparts when the latter have the same status as CANIF, are subject to similar obligations with respect to professional secrecy, and offer the same guarantees with respect to the rights of third parties. The wording of this article is therefore much less restrictive than the wording of Article 29. The Mauritanian authorities have adopted a broad interpretation of Article 33. In their view, pursuant to Article 33, there is no restriction on the exchange of information with other FIUs, and Article 29 only relates to situations where a case has already been prosecuted which, from a logical standpoint, would require a judge's prior approval. Taken together, these two articles will certainly lead to difficulties in interpretation.

The conventional reservation with respect to public policy does not call for any comments.

(b) Dissemination power:

- *sends the case forward to the competent Prosecutor of the Republic, once CANIF analysis has confirmed the presumption of a criminal offense;*

140. The judiciary sector is therefore the sole addressee of the unit's analyses in Mauritania.

(c) Oversight power:

141. CANIF:

- *is responsible for verifying application of the system to combat money laundering and the financing of terrorism put in place by subject persons as well as by businesses and professions not covered by a supervisory authority.*

142. CANIF is given oversight authority over the AML/CFT system applied by all subject parties, whether or not they are subject to a supervisory authority.

- *conducts regular inspections of the compliance of said individuals and legal persons in order to improve the level and quality of STRs for analytical purposes;*

143. Thanks to this function, CANIF contributes to improving and harmonizing the methods and practices for the suspicious transaction reports received from the subject sectors.

(d) Other functions:

144. CANIF is also assigned other functions. It:

- *Conducts or arranges for the conduct of periodic studies on the evolution of techniques used for purposes of money laundering and the financing of terrorism.*
- *Expresses its views on the implementation of the State's AML/CFT policy in Mauritanian territory;*
- *Proposes any measure necessary to strengthen the effectiveness of AML/CFT efforts;*
- *Prepares periodic reports and an analytical report, which analyze developments with respect to AML/CFT activities domestically and internationally, and assess the STRs received. The model for this report will be defined by instruction of the Governor of the Central Bank;*

145. These four items establish CANIF as the coordinating body for steering and analyzing the AML/CFT system. CANIF is also responsible for analyzing typologies and changes in money laundering and terrorist financing. They also establish CANIF as an entity that can propose changes.

**146. Budget.** The financing of CANIF, referred to in Article 32, comes from the State budget, allocations received from the BCM, subsidies, grants, and gifts from other State organs, and financial support from development partners.

**147. Confidentiality rules.** In addition to the above functions, the law imposes an obligation of confidentiality on the members of the unit and all other participants, who must also take an oath before assuming their office. Information may not be used for purposes other than those provided by law (Article 30).

**148. Suspension of execution.** In accordance with the terms of Article 36, CANIF may, on the grounds of emergency or gravity, and if it deems it necessary, approach the prosecutor to have him block the execution of an operation before the end of the execution delay mentioned by the reporting party. The prosecutor, approached by CANIF, may order the blocking of funds, accounts, or securities for a period in addition to that indicated in the foregoing article, which may not exceed one week.

**149. Internal organization and functioning of CANIF.** Article 31 on the organization and functioning of CANIF indicates that the status, organization, and operating modalities of CANIF are established by decree. An internal by-law approved by the Governor of the Central Bank should establish the internal operating rules of CANIF. Subsequent to the mission, a decree was approved on April 14, 2006 in Council of Ministers. In accordance with the terms of this decree, CANIF is defined as a body with administrative autonomy and functional financial autonomy, which is placed under the authority of the Governor of the Central Bank of Mauritania. It is a collegial authority with a deliberating body, an operational unit, and a general secretariat. The deliberating body, known as the “Orientation and Coordination Council,” has the missions, under the Governor’s authority, of defining general guidelines, studying programs to combat money laundering and the financing of terrorism, preparing general directives that are likely to enable bank and nonbank financial institutions to detect and report suspicious operations and transactions, proposing any necessary legislative, regulatory, or administrative reform, defining research, training, and studies activities, and studying proposed cooperation agreements between CANIF and its counterparts in foreign countries.

150. This Council may be consulted by the Government. Its composition is interministerial: it includes the Governor of the Central Bank and representatives from Foreign Affairs, National Defense, Justice, Interior, Post and Telecommunications, Finance, and Customs. Also participating are the director of the department to combat economic and financial crime, the director of banking supervision, and two members proposed by the Governor. The members of the Council are appointed by decree in Council of Ministers, and their duties are subject to termination in the same manner. Members swear an oath before assuming their duties.

151. A quorum for deliberations is deemed to exist if at least six members of the Council are present. The general secretariat work for the CANIF Council is carried

out by a secretary general named by decree in Council of Ministers, on the proposal of the Orientation Council. The secretariat is responsible for preparing for the decisions of the Orientation Committee and ensuring their implementation, for steering the operational unit, for preparing and negotiating draft cooperation agreements, and for managing the operating resources of CANIF. The secretariat has the authority to engage in exchanges with domestic and foreign administrations whose charters and missions are similar.

152. The secretary general attends Council meetings in an advisory capacity. The **operational unit** within the General Secretariat performs the analytical work, exercises the communication rights, and gathers any information of value to the conduct of its mission. This is the unit which forwards cases to the Public Prosecutor following authorization by the Council. The operational unit is also interministerial in its composition, including one magistrate. For now, this organization offers sufficient written guarantees of the independence of members of the unit and decision-making. Independence and confidentiality, as a gauge of the effective functioning of the unit, should nevertheless be tested.

153. The decree also organizes the missions of analyzing AML/CFT trends and activities.

154. The decree thus specifies the operations of CANIF and represents a step forward in the establishment of the FIU. The regulations governing staff and members are clearly delineated, which is a pledge of organization, as are the confidentiality obligations. The decision-making process is also addressed, thus providing CANIF with a clear functional structure that should probably be assessed as the unit is being established operationally and functioning on a daily basis. The decree indicates that the jurisdiction of CANIF members and staff is subject to supervision. Furthermore, training activities, in particular through the Central Bank with assistance with international partners, have already been conducted and are expected to continue in the near future.

### ***2.5.2 Recommendations and Comments***

155. The competing Articles 29 and 33 of Law No. 2005-048 dealing with international exchange of information between CANIF and its foreign counterparts need to be clarified. The unit should now be operating in particular with the decree newly endorsed by the Council of Ministers.

156. It is recommended that CANIF promptly be granted the budgetary, human, and logistical resources essential to its operation.

157. CANIF should also establish mechanisms for cooperation with regulators and institutional partners, in order to optimize its analyses and establish an information flow that is protected by strict rules of confidentiality.

- Initial and ongoing training activities should be implemented not only for CANIF employees but also for other entities subject (banks, exchange bureaus, MFIs, external auditors, other professional services).

158. It would also be highly desirable for the units concerned (CANIF, Interior, Customs, and Justice) to be provided with the necessary statistical instruments and that a procedure for cooperation and information exchange in this area be put in place to ensure the sharing of data and the mutual strengthening of capabilities. Similarly, CANIF should also undertake, as soon as possible, in conjunction with the other administrations concerned, a study focusing specifically on the risks of money laundering associated with certain areas, among them real estate, luxury vehicles, and exchange bureaus.

### ***2.5.3 Compliance with Recommendations 26, 30, and 32***

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.26</b>	<b>PC</b>	The unit has adequate powers under the laws and regulations but is not yet operational.
<b>R.30</b>	<b>NC</b>	CANIF does not yet have the personnel needed, nor does it have sufficient financial resources.
<b>R.32</b>	<b>NC</b>	The texts provide for the tools but that are not yet functioning, in that the unit is not yet operational.

## **2.6 Law Enforcement, prosecutions, and other competent authorities—The legal framework for investigations and prosecutions and the confiscation and seizure system (R.27, 28, 30, and 32)**

### ***2.6.1 Description and Analysis***

159. With regard to the Judicial sector, Mauritania's law is of Romano-Germanic inspiration and closely resembles that of a country like France. Accordingly, it should be made clear that criminal investigations are conducted under the auspices of magistrates, either from the public prosecutors (Prosecutors of the Republic) or from the head office, in this instance the examining magistrates, who do not participate in rulings on the cases they have examined. In this capacity, they supervise the criminal investigations they entrust to the police units, and also participate directly in them.

160. The Criminal Procedures Code strictly defines criminal investigation powers and, in particular, the possibilities for requisitions, seizures, hearings, surveillance, dissuasive measures such as the arrest of suspects, and the formalism of investigative acts. The Criminal Code, which covers the bulk of the offenses, is, furthermore, to be strictly interpreted in the same manner as the laws setting forth criminal provisions (such as Law No. 2005-048). The Mauritanian authorities are aware of the fact that there are insufficient human resources available to the judicial sector for properly carrying out its missions. Judicial personnel include magistrates, clerks, and court secretaries. There are 173 magistrates, 73 chief clerks, 71 clerks, and 54 court secretaries.

161. There are 53 Moughataa courts (municipal level), 13 wilaya courts, and three courts of appeal. The largest court is that of Nouakchott, followed by those of Hodh Charghi, Brakna, Gorgol, Assaba, Hodh Gharbi, and others. The authorities are contemplating a reform of the personnel regulations for magistrates, of initial and in-service training, and of the allocation of staff in response to needs. A study provided to the mission dealt with the conduct of an audit of the existing situation and set forth various targeted proposals.

162. No statistical and analytical tools for examining criminality are in place owing to the lack of financial and human resources for the judicial sector, but also within the units responsible for police work because of the lack of training in conducting such investigations.

163. In terms of security forces, Mauritania has the following staff: the Directorate-General of National Security [*Sûreté Nationale*], which has approximately 3,200 police officers assigned to the urban zone. Rural zones come under the auspices of the National Gendarmerie, which has 1,900 military officers. The Gendarmerie is organized into nine territorial companies and 46 territorial brigades and gendarme posts and is responsible for administrative and judiciary law enforcement. *Sûreté Nationale* is organized into a directorate-general, central directorates, and 13 regional directorates established in each wilaya. It is responsible for:

- Administering and coordinating police services;
- Maintaining and restoring law and order;
- Territorial surveillance;
- Policing foreigners;
- Monitoring the movement of individuals;
- Internal security and the drafting and enforcement of laws and regulations pertaining to law and order;
- Identifying and verifying violations of criminal laws;
- Arresting persons who commit offenses, pursuant to the provisions of the Criminal Procedures Code;
- Enforcing regulations pertaining to meetings, demonstrations, gatherings, the press, publications, gambling, markets, and arms and munitions control.

164. *Sûreté Nationale* consists of seven central directorates:

165. The **Oversight Directorate** is responsible, in general terms and on an ongoing basis, for the inspection, supervision, and monitoring of the various central and territorial units of the national police. It plays both a training and suppressive role.

166. The **Directorate of Personnel** and the training and management of personnel.

167. The **Directorate of State Security**. This directorate is responsible for the research, use, and centralization of State security intelligence. In particular, it is responsible for mobilization of the resources necessary for the suppression of State security offenses.

168. The **Directorate of Territorial Surveillance** is responsible for the protection of national territory, both internal and external, against foreign interference. It is also responsible for policing foreigners, issuing passports, visas, and other travel documents, and for the air force and border police. It consists of three services:

- The foreigner policing and intelligence service;
- The air force and border police service;
- The passport and visa service.

169. The **Directorate of Law Enforcement and Public Security** ensures that all forms of criminal activity are investigated and repressed. It ensures coordination among the various police services. It is responsible for forensic identification, the central database, and the dissemination of information. Under the oversight of the Director General for National Security, it serves as the national central bureau (BCN) for the International Criminal Police Organization (ICPO/INTERPOL). In the area of public safety, it is responsible for the oversight and supervision of the decentralized police. It includes:

- The Central Office for Combating Illegal Drug Trafficking;
- The National Technical and Forensic Science Police; and
- The Stolen Vehicle Research Brigade.

170. The **Directorate of Materials and Financial Affairs** is responsible for managing and monitoring all the equipment and financial resources of the national police.

171. The **Directorate of the National Police School** is responsible for the professional training of police and refresher training and upgrading of skills. It consists of three services.

172. The **Telecommunications Service**, which ensures the operation and maintenance of the radio network of the *sûreté nationale* and the operational inter-police cooperation service, under the direct oversight of the directorate-general of national security (DGNS).

173. An **Identity Card Service**, under the DGNS, has just been established and is staffed with approximately 40 inspectors headed by two engineers and four commissioners.

174. Lastly, a **Special Law Enforcement Group (GSMO)**, consisting of six companies, serves as a reserve entity which is at the disposal of the directorate-general.

### **2.6.2 Recommendations and Comments**

175. Improvements should be made in the training of magistrates, police officers, and customs agents in the special area of AML/CFT, on the one hand to enhance the skills of the personnel concerned, and on the other to strengthen institutional cooperation with CANIF.

### 2.6.3 Compliance with Recommendations 27, 28, 30, and 32

	Rating	Summary of factors justifying the rating assigned
<b>R.27</b>	<b>PC</b>	Lack of experience of units responsible for organized crime. CANIF not yet operational.
<b>R.28</b>	<b>LC</b>	The procedural tools and authorities do exist in the CPC, but have not yet been used with respect to AML/CFT.
<b>R.30</b>	<b>PC</b>	The ad hoc structures are currently being reorganized, and the lack of resources hampers the proper functioning of the system.
<b>R.32</b>	<b>NC</b>	Lack of statistical tools.

## 2.7 Declarations of cross-border cash transactions (SR.IX and R.32)

### 2.7.1 Description and Analysis

176. Oversight of foreign currency circulation is governed by a 2002 joint order issued by the Minister of Finance and the Governor of the BCM. Pursuant to this order, any transaction involving the importation of foreign currency by a foreigner is subject to declaration to the customs service, provided that the value is equal to or higher than US\$3,000. Mauritians or residents of Mauritania are exempt. However, Mauritians or persons residing in the country cannot export foreign currency valued at US\$3,000 or more unless they receive prior authorization from the BCM.

177. The customs service is responsible for monitoring the movement of currency at borders (both ports and airports). In accordance with the authority vested by the Customs Code, the competent services are authorized to seize funds that have been illegally imported or exported (Article 206 of the customs code), especially when the funds in question are derived from money laundering or intended for the commission of terrorist acts. The customs service is also authorized to monitor and seize packages sent via the postal service (Article 53). It also bears noting that the police can also be asked to participate in operations targeting criminal rings. In addition, penalties for customs offenses are provided for in Article 291 et seq. of the Customs Code.

178. Despite an appropriate regulatory framework and satisfactory coercive powers, Mauritania does not have the customs officials necessary to control transborder cash flows. The vastness of the country and its numerous borders with neighboring countries, the ineffective nature of police checks at airports (the country has four), and the lack of trained customs officials constitute a serious handicap. In addition, statistical and analytical tools are not available.

### 2.7.2 Recommendations and Comments

179. AML/CFT awareness-raising and training activities targeting customs officials and the police should be carried out, and checks should be stepped up, particularly at ports and airports. Initiatives in this direction have already been undertaken with the



assistance of the French Cooperation [*coopération française*]. These initiatives should be continued and even expanded.

180. Statistical data accounting tools on the movement of currency should be put in place. A database should also be established, within the BCM, among others.

### 2.7.3 *Compliance with Special Recommendation IX and Recommendation 32*

	Rating	Summary of factors justifying the rating assigned
<b>SR.IX</b>	<b>PC</b>	Shortage and lack of training of customs officials are preventing effective implementation of the recommendation.
<b>R.32</b>	<b>NC</b>	Absence of statistical and analytical tools.

## 3. **PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS**

### 3.1 **Risk of money laundering and terrorist financing**

181. The anti-money laundering and terrorist financing mechanism applies to all persons or entities operating in the financial sector, including the Central Bank of Mauritania, which is subject to AML/CFT regulations, along with financial institutions. Law No. 2005-048 does not provide for a risk-based approach; consequently no provisions are made for a reduced level of due diligence with respect to AML/CFT, regardless of the nature or amount of the transaction, nor is any person exempt from observance of these preventive regulations.

### 3.2 **Customer Due diligence (R.5 to R. 8)**

#### 3.2.1 *Description and Analysis*

#### **Due diligence in the banking sector**

182. It is important to note here that Law No. 2005-048 was adopted two months after the mission; consequently, it was not possible to assess fully the effectiveness of the preventive mechanism implemented in banks and other financial (and nonfinancial) institutions.

**183. R.5 Anonymous accounts.** Law No. 2005-048 does not explicitly prohibit holding anonymous accounts or accounts under obviously fictitious names. The only reference to fictitious accounts identified by the mission is found in BCM Instruction No. 003/GR/99 setting forth the terms of reference for external auditing in banks, financial institutions, and mutual or cooperative savings and loan institutions. Section 4.2 on the work that external auditors must perform indicates that auditors shall “*verify the accounting system in place for the opening of accounts in order to prevent the use of fictitious accounts.*” This said, it appears that the fictitious accounts to which the instruction refers pertain more to internal accounts of the banks concerned than they do to

customer accounts opened under fictitious names. This point should be clarified by the BCM. The Mauritanian authorities have informed the mission that fictitious accounts are prohibited under BCM regulations with respect to both internal and customer accounts. Clarification will be provided in the draft banking law being prepared.

**184. Customer identification procedures.** Customer identification by banks and financial institutions is the subject of special provisions. Thus, Article 9 of Law No. 2005-48 stipulates that financial institutions<sup>17</sup> must be sure of the identity and address of their customers prior to opening an account, taking custody of securities, instruments, or bonds, assigning a safe deposit box, or establishing any other business relationship. The law adds that the identity of an individual is verified by the presentation of the original of a valid national identity card bearing a recent photograph, and that a copy of it is made. At this juncture, it should be stressed that prior to law 2005-048, Article 1023 of the commercial code already required banks to obtain identification from individuals and legal persons, whether resident or foreigner, before opening any account. This article also specified the documents to be requested from customers. The law regarding the exchange rate system in Mauritania also identifies for banks the status of national, foreign, resident, and non-resident as well as the documents required for each category of customer to open bank accounts.

185. The business and home addresses of customers are verified by the presentation of any document that can attest to same. An individual with a sole proprietorship business must also provide documentation attesting to his or her listing in the Commercial Registry. The law does not, however, indicate whether financial institutions are authorized, based on the conditions set forth in R.5 (criterion 5.14), to supplement verification of actual customer and owner identification subsequent to the establishment of a business relationship.

186. A legal person is identified by producing the original of the charter or any other documentation establishing that it has been legally listed in the Commercial Registry and that it does in fact exist. There is no indication as to whether the banker must make copies of the documents.

**187. Existing customers.** Law No. 2005-048 does not address the issue of adhering to identification standards for existing customers.

**188. Identification of the beneficial owner.** According to the last paragraph of the same Article 9, financial institutions must verify, under the same terms as in item 2 of this article, the genuine identity and address of the managers, employees, and agents acting on behalf of third parties. They must provide the original documents attesting to the delegation of authority or power of lawyer granted to them, as well as the identity and address of the owner.

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<sup>17</sup> These are, according to Article 1 of the law on banks and financial institutions, the financial services of the Post Office, the Deposit and Consignment Fund, insurance and reinsurance companies, insurance brokers, mutual or cooperative savings institutions, and licensed exchange bureaus.

189. The customer identification standards are also applied to alternative fund transfer systems. Indeed, according to the provisions of Article 24 of Law No. 2005-048 relating to customer identification, suspicious transaction reports, and record-keeping are applicable to alternative fund transfer systems. Failure to observe identification requirements is punishable by modest fines ranging from UM 300,000 to UM 600,000 (equivalent to US\$1,140 and US\$2,290, respectively) and of UM 1 million in the event of a repeat violation (about US\$3,824).

**190. Occasional customers.** Strict identification standards are also provided for occasional customers. Article 11 of Law No. 2005-048 stipulates that the identification of occasional customers is required under the conditions described in paragraphs 2 and 3 of Article 9 whenever the financial entity suspects that the funds used in an operation or an attempted operation may be linked to the commission of a money laundering or terrorist financing offense. The same holds true in the event of repetition of separate operations for an amount, for each operation, that is equal to or exceeds a threshold set by Instruction of the Governor of the Central Bank, or when the legal provenance of the amounts involved is not certain. However, this threshold has still not been stipulated. Moreover, Law No. 2005-048 does not explicitly state whether information on the identity of the parties issuing orders to accompany electronic transfers is also applicable to occasional parties issuing orders (Article 26 of the law).

**191. Foreign customers.** The question of non-Mauritanian or nonresident customers is not addressed in Law No. 2005-048.

**192. Inability to identify the beneficial owner.** Article 13 of Law No. 2005-048 calls for special diligence measures whenever doubt remains as to the true identity of the customer. Thus, in the event that the customer is not acting on his own behalf, the financial entity must use all means to identify the person on whose behalf he is acting. Following such verification efforts, if the financial entity is unable to comply with the obligations arising from the identification procedure provided by this law, or if there are doubts as to the true identity of the customer or the beneficial owner, the reporting entity should refrain from opening an account, initiating or continuing business relationships, or carry out an operation. The financial entity suspends the relationship and reports its suspicion in accordance with the procedure set forth by Articles 34 and 35 of the law. Law No. 2005-048 adds that no customer may invoke professional secrecy in order to refuse to communicate the identity of the beneficial owner.

193. As regards the identification of persons that may have a tie with terrorist groups, BCM Instruction No. 007/GR/2001 of September 20, 2001 issued in application of UN Security Council Resolution No. 1333 of December 19, 2000 requires that banks *“rigorously conduct the necessary checks of the accounts of their customers in order to identify the origin of the funds and, where appropriate, of their ties with individuals possibly engaged in financing terrorist or criminal activities.”* The instruction adds that banks are *“required immediately to cease any commercial activity with, and to freeze the funds and financial assets of, the individuals or entities included on the UN list....”*

However, the BCM has not conducted any on-site inspection to ensure that this instruction has effectively been applied.

**194. R.6. Politically Exposed Persons.** Law No. 2005-048 contains explicit provisions with regard to Politically Exposed Persons (PEPs). Article 10 indicates further that financial institutions must not only perform CDD measures required under R. 5 mentioned above, but must also put in place an enhanced surveillance system for their business relationships with politically exposed persons or their closest associates. Financial institutions must take reasonable measures to identify the origin of their fortunes or funds. Law No. 2005-048 does not, however, indicate whether these surveillance measures extend to the property of customers, nor does it make provisions for the establishment of a business relationship with a PEP to be subject to the authorization from the senior management prior approval. Also, the law does not call for enhanced and ongoing monitoring of the relationship in those instances where financial institutions have business relations with a PEP.

195. Article 1 of Law No. 2005-048 also defines the concept of politically exposed person (PEP). This category is deemed to include any person who carries out or has carried out important public functions in a foreign country (head of State, high level political figure, head of a political party, high-ranking position among public authorities, director of a major public enterprise, magistrate, or high-ranking dignitary).

196. **Other preventive obligations.** Law No. 2005-08, as currently worded, imposes on banks and other financial institutions the obligation to ascertain the true identity and address of officials, employees, and agents who act on behalf of others. However, in the case of legal persons, the law is silent on the obligation that should be imposed on financial institutions to take every reasonable step to understand the ownership or control structure of customers. Also, there is no explicit obligation to obtain information on the purpose and intended nature of the business relationship. The law also indicates that financial institutions should put in place a system of ongoing surveillance but does not provide specific information on the obligation to ensure that transactions are consistent with the bank's knowledge of its customers, their commercial activities, risk profile, and source of funds, where appropriate.

197. The customer identification system as just described above has a number of shortcomings:

198. - the commercial registry and company registry is not extremely reliable and has not yet been fully computerized, raising doubts as to the relevance of the documents submitted by legal persons;

199. - few companies produce balance sheets; the banks are therefore frequently unable to check the real economic activity of a legal person and to ensure that there is consistency between the transactions carried out by their customers and their business activity;

200. - Mauritania has not introduced a preventive system using the risk-based approach, permitting banks to apply simplified due diligence measures when risks are low;

201. - finally, despite the authorities' efforts to promote the use of checks, the widespread use of bearer instruments that favor anonymity (bearer checks or bearer cash receipts payable in cash at the teller window) constitute a significant risk from the money laundering standpoint. In conclusion, the new current laws as well as the above mentioned deficiencies do not allow to consider the current procedures practically efficient, despite the huge efforts exerted by Mauritania to obtain precautionary tools in line with the standards.

**202. R.7.** As regards due diligence measures applicable to cross-border correspondent banking relationships, Law No. 2005-048 does not require the exercise of special due diligence with regard to operations of financial establishments or institutions that are not subject to sufficient requirements with respect to customer identification or transaction oversight. There is no obligation to evaluate the controls put in place by the client institution as regards AML/CFT, nor is there an obligation to obtain the authorization of senior management before entering into a new correspondent banking relationship. Furthermore, the law does not call for specific due diligence measures over payable-through accounts. In addition, in the absence of specific instructions from the BCM in particular, subject institutions have few indications on how in practice to conduct their due diligence on transactions from foreign banks not subject to the same AML/CFT requirements. In addition, and contrary to the provisions of the law, no instruction has been issued to date to establish modalities regarding specific due diligence measures to be applied by financial institutions to PEPs.

**203. R.8.** Mauritanian law does not include any special measure relating to money laundering threats that may arise from the emergence of new technologies that might favor anonymity. It also contains no provision relating to non-face to face transactions. This said, discussions with Mauritanian bankers indicate that business relationships are always established in the physical presence of the parties and that the opening of accounts remotely is not a common practice.

#### **Due diligence in other financial sectors**

**204. Due diligence at the BCM.** It is important to note that the provisions of Titles II (prevention of ML/FT) and III (detection of money laundering) of Law No. 2005-048 also apply to the BCM pursuant to the terms of Article 6.

**205. Due diligence in the insurance sector.** The insurance sector is explicitly covered by Law No. 2005-048. Article 6 defining the professions subject to the standards for preventing and detecting money laundering makes reference to financial institutions, which are defined in Article 1 of the law as including, among others, insurance and reinsurance companies, credit insurance and reinsurance brokers, and financial institutions and other financial intermediaries. This said, however, the Ministry of Finance responsible for the regulation and surveillance of the sector has not issued any AML/CFT instruction stipulating, for this specific sector, the conditions under which it

must meet its new obligations. In conclusion, the standards for identification and for due diligence more generally should be disseminated to the insurance sector.

**206. For exchange bureaus,** Law No. 2005-048 states that the provisions of Title II concerning customer identification requirements in particular and due diligence in general also apply to exchange bureaus. Article 1 of the law states that authorized currency dealers are effectively among the persons subject to the AML provisions. In theory, therefore, the profession must comply with the due diligence and customer identification measures. As indicated earlier, the mission was not able to ascertain the practical effectiveness of the preventive mechanism in the case of exchange bureaus, given that Law No. 2005-048 was approved after the team's visit. It should also be noted that the existence of an active informal currency trading sector poses a number of risks with respect to ML/FT and reduces the practical scope of the formal sector's obligations with respect to due diligence.

207. In the absence of a **securities exchange sector**, the question of market intermediaries being required to observe customer identification requirements does not apply.

### **3.2.2. Recommendations and Comments**

The Mauritanian authorities are called upon to:

- 208. Prepare and publish, as soon as possible, a BCM instruction clarifying, with respect to the financial institutions under its oversight, the conditions for applying Law No. 2005-048 with respect to AML/CFT. This draft instruction should, among other things, require that credit institutions determine the source of the funds paid in by an individual and identify their beneficial owners as well as the persons controlling such funds. This instruction could also specify whether financial institutions are authorized, under the conditions set forth in R. 5 (criterion 5.14), to supplement customer identity checks and actual ownership subsequent to the establishment of a business relationship. The instruction should also instruct banks to obtain information on the objective and nature of the business relationship before establishing such relationship with a customer. Similarly, with respect to ongoing due diligence, clarification should be provided of the manner in which customer transactions should be exercised, in particular in those instances where it is necessary to verify the consistency of transactions with the bank's knowledge of customers, their commercial activities, risk profile, source of funds, where appropriate. This instruction should also lead banks to introduce enhanced due diligence measures for customers in the high-risk category (non-resident customers, see below: private banking customers). The Ministry of Finance responsible for insurance should also adopt a similar instruction applicable to insurance and reinsurance companies).
- 209. Clarify the question of foreign or nonresident customers which is not addressed in the law. In this connection, it is suggested that a BCM instruction

state, for example, that *“nonresident customers who are unable personally to attend an identification meeting must, just as resident customers, be subject to permanent identification and oversight.”* It could be added that *“credit institutions should consider the possibility of independent verification by a third party of known repute.”* It would also be worthwhile to add a range of requirements such as the institutions’ obligation to authenticate the documents submitted, or to make the acceptance of any new nonresident customers subject to approval by a senior manager, where necessary. With respect to professional secrecy, the text could beneficially indicate that *“if the customer is a lawyer, a public or private accountant, an individual with delegated authority for public acts, or an agent involved in the capacity of financial intermediary, he may not invoke professional secrecy in order to refuse to communicate the identity of the true transactor.”*

- 210. Instruct banks and other financial intermediaries to update the files of long-standing customers; it is important to verify that all the data on customer identity, addresses, and economic activity are accurate, in accordance with the new legal requirements pursuant to Law No. 2005-048.
- 211. Include exchange bureaus in the BCM draft instructions to ensure that the profession has detailed information on the conditions for carrying out due diligence.
- 212. Remind the banks of the obligation to know the ownership and control structure of a customer that is a legal person, given that these requirements are not observed in practice.
- 213. As provided in Article 10 of the law, an Instruction from the Governor of the Central Bank should establish as soon as possible the modalities applicable to the specific due diligence measures applicable to PEPs.
- 214. In the case of PEPs, it would be helpful to indicate that when financial institutions have business relationships with a PEP, due diligence with regard to the relationship should be enhanced and should take place on an ongoing basis.
- 215. Because the BCM is included among the institutions subject to the requirements for preventing and detecting ML/FT, it would be appropriate for it to draft its own internal AML/CFT regulations.
- 216. It would be useful to indicate in a document (a BCM Instruction) that the opening and holding of anonymous accounts is strictly prohibited.

### 3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors justifying the rating assigned
<b>R.5</b>	<b>NC</b>	<p>Lack of an instruction making clear to the sectors covered, banks, exchange bureaus, and insurance in particular, the conditions for carrying out customer due diligence.</p> <p>No obligation to obtain information on the purpose and intended nature of the business relationship.</p> <p>No threshold established for occasional transactions.</p> <p>Anonymous accounts not explicitly prohibited per Law n. 2005-048.</p> <p>The identification of legal persons is complicated by the unreliability of the commercial and company registry. Absence of balance sheets for enterprises allowing for checking the consistency of financial operations with ongoing business.</p> <p>The question of the identification of foreign or non resident customers is not addressed in the law 2005-048.</p>
<b>R.6</b>	<b>PC</b>	<p>The law is in compliance with the standards, but there is no BCM instruction clarifying for financial institutions the conditions applicable to carrying out due diligence with respect to PEPs. This renders the provision inoperative.</p>
<b>R.7</b>	<b>PC</b>	<p>Lack of an obligation to evaluate the controls introduced by banking correspondents and to obtain the authorization of senior management before entering into new correspondent banking relationships.</p>
<b>R.8</b>	<b>NC</b>	<p>Lack of regulations regarding new or emerging technologies conducive to anonymity.</p>

## 3.3 Third parties and other providers (R.9)

### 3.3.1 Description and Analysis

217. Law No. 2005-048 has almost nothing to say in this regard. The only reference to third parties is in Article 24, which deals with alternative fund transfer systems. It states without further elaboration that “*transactions made through such services may involve one or more intermediaries and a third party receiving the final payment.*” In this regard, the local authorities have noted that given the modest size of the economic base and the small number of entities subject, it was not necessary to adopt a legal provision on this matter.

### 3.3.2 Recommendations and Comments

218. It would be useful if implementing provisions such as a BCM circular indicate that credit institutions may rely on third parties to perform the due diligence requirements to be met when, because of their size or organization, they are not in a position to establish a unit specialized in this function. The draft instruction should, however, indicate the conditions, namely those set forth in FATF Recommendation 9. The authorities responsible for the oversight of insurance companies (Ministry of Finance) are



also invited to publish an instruction setting forth the conditions under which insurance and reinsurance companies may rely on third parties.

### **3.3.3 Compliance with Recommendations 5 to 8**

	Rating	Summary of factors justifying the rating assigned
<b>R.9</b>	NC	Absence of any provisions governing the conditions for relying on third parties.

## **3.4 Professional secrecy of financial institutions (R.4)**

### **3.4.1 Description and Analysis**

219. Article 41 of Law No. 2005-048 on lifting professional secrecy provides that, notwithstanding all legislative or regulatory provisions to the contrary, professional secrecy may not be invoked by the persons subject to the law (identified in Article 6, namely the financial and non-financial professions) in order to refuse to provide information to the control authorities and CANIF or to make the reports required by said law. The same holds true as regards the information sought in the context of a court-ordered investigation into acts of money laundering or terrorist financing.

220. It is absolutely clear that financial institutions in the broadest sense cannot shield themselves behind banking secrecy in order to impede the application of the AML law.

### **3.4.2 Recommendations and Comments**

### **3.4.3 Compliance with Recommendation 4**

	Rating	Summary of factors justifying the rating assigned
<b>R.4</b>	C	

## **3.5 Record-keeping and rules applicable to electronic transfers (R.10 and SR.VII)**

### **3.5.1 Description and Analysis**

**221. R.10.** With regard to **record-keeping**, Law No. 2005-048 contains provisions that require credit establishments and financial institutions to keep, in all cases, a written record of the proof of their customers' identity and documents relating to transactions. Article 15 stipulates that "*financial institutions shall keep the records and documents on customer identity for at least ten years after the closure of accounts or the termination of relationships with them. They shall also retain the records and documents relating to operations carried out for at least ten years from the end of the financial year in which said operations occurred.*"

222. This record-keeping obligation applies under the same conditions to insurance companies, the financial offices of the Post Office, mutual institutions, and licensed exchange bureaus. In the case of the latter, in addition to the legal due diligence provision set forth in Law No. 2005-048, the regulations call for the maintaining of purchase and sales records with the names of customers, the amounts bought or sold, and the supporting documents for transactions. These records and supporting documents are provided to BCM inspectors in the event of an audit.

223. Article 16 of Law No. 2005-048 adds that the records and documents relating to the identification requirements set forth in Articles 9 to 13 of Law No. 2005-048, the retention of which is mentioned in the aforementioned Article 15, are to be provided by the subject persons, at the request of the judicial authorities, to the competent supervisory authorities and CANIF.

224. Article 24 of Law No. 2005-048 stipulates that the record-keeping requirements also apply to “alternative funds transfer systems.”

225. The individuals who spoke with the mission indicated that they did in fact keep identification documents as well as accounting records and other documents.

**226. SR.VII. Wire transfers and operations with foreign countries.** Mauritania has several institutions that specialize in electronic wire transfers and overseas transactions such as Western Union and MoneyGram. For such activities, Article 26 of Law No. 2005-048 provides that any cross-border electronic transfer must include precise information regarding the originator, including his address, telephone number, and, where appropriate, his account number (in the absence of an account number, a unique reference number for the transfer). Article 26 further provides that any domestic electronic transfer must include the same data as for cross-border transfers, unless all the information relating to the originator can be made available to the financial institutions, beneficiary, and competent authorities by other means.

227. The implementing modalities for this Article 26 have yet to be clarified in an instruction from the BCM Governor.

### **3.5.2 Recommendations and Comments**

- 228. The BCM should rapidly issue an instruction setting forth the implementation modalities of Article 26 of Law No. 2005-048 on electronic wire transfers. The BCM should also ask financial institutions, including alternative funds transfer systems, to implement enhanced surveillance and monitoring for purposes of detecting suspicious funds transfers lacking complete information on the originator. These instructions should extend to worldwide money transfer services providers such as Western Union or MoneyGram.
- 229. Include in a legal provision the obligation to keep not only identification data and accounting records, but business correspondence as well.

### 3.5.3 Compliance with Recommendation 10

	Rating	Summary of factors justifying the rating assigned
<b>R.10</b>	<b>PC</b>	Absence of AML/CFT instructions for exchange bureaus. Insufficient information systems applied currently by banks to follow up all transactions in order to provide information in their regard to the judicial system or the national Mauritanian committee for financial investigation or regulatory authorities, if deemed necessary.
<b>SR.VII</b>	<b>PC</b>	The BCM Governor's instruction establishing the modalities for implementing Article 26 of Law No. 2005-048 has still not taken effect.

## 3.6 Monitoring of transactions (R.11 and 21)

### 3.6.1 Description and analysis

#### **230. R 11.1. Cases in which it is mandatory to pay special attention to transactions.**

Article 13 of Law No. 2005-048 stipulates that when a transaction is carried out under “unusually or unduly complicated conditions” or appears to have no economic justification or lawful purpose, the subject persons referred to in Article 6 (financial institutions in the broad sense) are required to inform themselves of the origin and destination of the funds as well as the purpose of the transaction and identity of the persons concerned.

**231. (Criteria 11.2 and 11.3—Due diligence to be applied.)** The same article states that banks and other subject persons are also required to write a “confidential report” containing all worthwhile information on the modalities of the transaction, the identity of the originator, and, where appropriate, the persons concerned by the transaction. This report is kept under the conditions specified in Article 15 of the law, i.e., for 10 years, and must be made available to judicial authorities and oversight authorities. Under the law, “if suspicions are confirmed,” it is mandatory to forward the report in question to CANIF. The latter provision introduces a certain degree of confusion, which is not obvious, between the obligation to report suspicious transactions as provided for in Article 34 et seq. of Law No. 2005-048 and the obligation set forth in Article 13 to transmit the “confidential report” to CANIF if suspicions are confirmed. The mission interprets Article 13 as imposing an obligation on banks and all other institutions subject (including designated non-financial professions) to prepare a special file for transactions which, despite their complex or unusual nature, are not, however, suspicious, given the information in the possession of the bank or any other professional mentioned in Article 6 of Law No. 2005-048. The latter do, however, have a due diligence obligation with respect to these transactions and must transmit an STR to CANIF in the event that afterwards new information comes to light that gives rise to suspicions. This is the interpretation by the mission of Article 13. Clearer wording of this article would, however, have been helpful.

232. Neither the law nor any other provision clarifies the concept of complex “transaction carried out under unusually or unduly complicated conditions.”

**233. R.21. Special attention to business relationships in countries that do not apply or insufficiently apply FATF recommendations.** Law No. 2005-048 is silent on the special diligence which must be observed with respect to operations with companies or financial institutions which are not subject to sufficient obligations as regards customer identification or controls on transactions. No legal or regulatory provisions clarify how this diligence is to be carried out and the modalities for so doing.

### **3.6.2 Recommendations and Comments**

- 234. There should be greater clarification of the concept of “a transaction carried out under unusually or unduly complicated conditions”. An instruction which includes specific examples would be worthwhile.

### **3.6.3 Compliance with Recommendations 11 and 21**

	Rating	Summary of factors justifying the rating assigned
<b>R.11</b>	<b>PC</b>	The concept of a complicated, unusual or unjustified transaction is not defined.
<b>R.21</b>	<b>NC</b>	Law No. 2005-048 is silent on the special diligence to be observed with respect to operations with companies or financial institutions that are not subject to sufficient obligations as regards customer identification or controls on transactions.

## **3.7 Suspicious transaction reports and other reports (R.13, 14, 19, and 25, and SR.IV)**

### **3.7.1 Description and Analysis**

**235. Suspicious transaction reports.** Pursuant to Article 34 of Law No. 2005-048, the persons mentioned in Article 6 (in particular, financial institutions) who suspect that funds constitute proceeds from a money laundering or terrorist financing offense, or who have information that might point to such offenses, are required promptly to file a report with CANIF, using the model report established by Instruction of the Central Bank Governor. Article 13 of the same law also states that when a transaction takes place under “unusually or unduly complicated conditions”, or does not seem to have any economic or lawful purpose, the persons subject to the law are required to draft a “confidential report” containing all the useful information on its modalities and on the identity of the originator of the operation and, as appropriate, of the persons involved in the transaction. Under the law, “in the event of confirmed suspicions,” the report in question “must be transmitted to CANIF.” With regard to the latter, neither the law nor any implementing provisions clarify the concept of “confirmed suspicions” or the specific modalities for submitting the report. Also, no indication is provided of whether the reporting entity must provide the report only (the form and content of which are not explained in detail) or whether, in

support of this submission, the entity should also complete and submit an STR to CANIF.

236. Furthermore, the law does not indicate whether attempted transactions should be reported, regardless of the amount involved. Also, Law No. 2005-048 does not provide for the obligation to report suspicious transactions, whether or not these transactions are also considered to involve tax-related matters.

**237. Report contents.** The same article indicates that the suspicious transaction reports (STRs) submitted to CANIF must contain at least the following information:

- (a) The identity and other identifying details of the reporting entity, including the name and contact information of the officer in charge of the report;
- (b) The identity and other identifying details of the customer and, where appropriate, the beneficial owner of the transaction;
- (c) The type of transaction (or activity) reported to be suspicious and the relevant details (amount, currency, date, and stakeholders), including the account number and details on the account holder;
- (d) A brief description of the reasons and special circumstances justifying the suspicions.

238. The law adds that the aforementioned officers in charge are required immediately to inform their managers of the same transactions once they become aware of them.

239. The aforementioned individuals and legal persons are required to report these transactions to CANIF even if it proved impossible to suspend their execution or if the suspicion arose after they had been completed. STRs are confidential and may not be communicated to the owner of the amounts of money or the originator of the transactions.

240. As regards the form of transmitting STRs, they are submitted to CANIF by the individuals and legal persons referred to in Article 6 by any means that leaves a written trace. Reports made by telephone or by any means, including electronically, must be confirmed in writing within a firm deadline of 24 hours. STRs shall indicate, where appropriate:

- (a) The reasons why the transaction has already been executed;
- (b) The deadline within which the suspicious transaction should be executed.

**241. Protection of reporting parties.** Article 38 of Law No. 2005-048 provides an immunity arrangement in the case of reports filed in good faith. It is effectively stipulated that no prosecution may be initiated for a violation of banking or professional secrecy, no legal action for civil or criminal liability taken, and no professional or administrative sanction applied against the persons, managers, or officers in charge of the entities referred to in Article 6 who, in good faith, conveyed the information or filed the reports called for under said law or who blocked the execution of a transaction in the context of the provisions of Article 36.

**242. Confidentiality of the report.** Article 46 of the AML law calls for a penalty of either imprisonment for six months to two years, or a fine of UM 50,000 (or US\$191) to UM 500,000 (about US\$1,910), or both, for persons and managers or officers in charge of the entities designated in Article 6 who intentionally provide the owner of the sums or the originator of the transactions referred to in that article with revelations about the report they are required to submit or the subsequent steps taken in respect thereof.

**243. Guidelines.** Mauritania has not yet implemented guidelines on application of the national AML/CFT measures by the parties subject to the law.

**244. Centralization of data.** Mauritania didn't consider the implementation of a system whereby banks and other financial institutions would report all domestic and international currency transactions above a fixed amount to a central national agency.

### **3.7.2 Recommendations and Comments**

- 245. Write and disseminate to the persons subject to the law guidelines specifying the conditions under which suspicious transaction reports should be prepared and forwarded to CANIF.
- 246. Develop a standard STR form in order to standardize and unify reporting practices.
- 247. Indicate in the law that attempted transactions should be reported, regardless of the amount involved.
- 248. Provide for the obligation to report suspicious transactions, regardless of whether these transactions are also considered to involve tax-related matters.
- 249. Clarify the notion of “confirmed suspicions” in the context of the submission of the confidential reports provided for in Article 13 of Law No. 2005-048. Also, the conditions under which the persons subject must transmit these reports to CANIF should be stipulated. Specifically, it should be indicated whether the report itself is an STR or serves as one, or whether an STR should be submitted in support of a confidential report.

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

	Rating	Summary of factors justifying the rating assigned
<b>R.13</b>	<b>PC</b>	The mechanism for reporting suspicions is not really operational. This explains the rating assigned.
<b>R.14</b>	<b>PC</b>	Idem.
<b>R.19</b>	<b>NC</b>	Lack of any consideration on the possibility of implementing a system of

		declaration for the financial transactions above a fixed threshold
<b>R.25</b>	<b>NC</b>	Absence of guidelines in all sectors (banks, insurance, exchange bureaus, microfinance). The Instruction from the Banking and Financial Supervision Commission (CSBF) is still in draft form.
<b>SR.IV</b>	<b>PC</b>	The mechanism for reporting suspicions is not yet operational. This explains the rating assigned.

### **3.8 Internal controls, compliance, auditing, and branches abroad (R.15 and 22)**

#### **3.8.1 Description and analysis**

**250. Recommendation 15: Internal controls, compliance, and auditing.** With respect to internal controls, Mauritania has precise rules as to the obligation incumbent on financial institutions to have internal AML programs calling in particular for the centralization of information on the identity of customers and originators, ongoing training programs for employees, and the establishment of an internal control mechanism to ensure the application and effectiveness of the measures adopted. Article 17 of the AML law stipulates that banks are required to develop harmonized programs for the prevention and detection of money laundering and the financing of terrorism.

251. These programs include, among other things:

- The establishment of a suitable control mechanism for applying the provisions of said law, including in particular the detection and reporting of suspicious transactions to CANIF;
- The designation of internal managers (contact persons) responsible for the application of AML/CFT programs. An Instruction from the Central Bank Governor will define protective regulations for the AML/CFT contact persons in financial institutions;
- The centralization of information on the identity of customers, originators, agents, and beneficial owners;
- The treatment of suspicious transactions; and
- The ongoing training of staff in the area of AML/CFT.

252. Moreover, the BCM has issued Instruction No. 006/GR/2000 of December 31, 2000 requiring banks to introduce an internal control system made up of a set of mechanisms aimed at verifying that the transactions carried out by the institution, as well as the internal organization and procedures, are in compliance with the legal and regulatory provisions in force. Article 3 of this instruction further stipulates that the design of the internal control system is the responsibility of the management of each bank, which, to this end, must (i) identify all internal and external risk sources; (ii) define adequate internal control procedures; and (iii) provide the human and material resources required to implement internal controls. Despite the fact that this instruction predates Law No. 2005-048, it is altogether clear that banks must incorporate AML/CFT risk into

the internal architecture of their internal controls as defined in the aforementioned BCM instruction.

253. It should also be noted that another BCM Instruction, No. 003/GR/99 of July 8, 1999 setting forth the terms of reference for external auditing, establishes the obligations of external auditors as regards control in particular. The text stipulates that the audit must address in particular the quality of the internal control procedures and organization put in place.

254. On the practical level, however, the mission identified a number of inadequacies with respect to control: some credit establishments, with the exception of subsidiary banks of major foreign groups, do not yet have computerized tools for the surveillance and detection of unusual/doubtful or complex transactions. With few exceptions, there is still no AML contact person in banks. Legislation does not cover whether the internal AML/CFT official and other staff members concerned have timely access to identification data on customers and other due diligence information, to transaction documents, and to other pertinent information. The observance of customer due diligence requirements and the mechanism for suspicious transaction reporting are not yet in general use. External auditors have not become familiar with the issues relating to money laundering and terrorist financing. Lastly, the legislation does not explicitly provide for the obligation, on the part of financial institutions, to implement appropriate procedures when employees are being hired, in order to ensure that this process is carried out in accordance with strict criteria.

255. In the insurance sector, there are neither regulations nor internal procedures aimed at preventing the use of insurance companies for ML/FT purposes. The same applies to exchange bureaus.

256. For mutual savings and loan institutions, the laws and regulations in force<sup>18</sup> impose a number of obligations. MFIs, one of the categories of credit establishments defined by the law, are subject in that capacity to the prudential and management rules issued by the BCM. MFIs must have a manual or procedures. They must also have a management information system and have an Oversight and Control Committee, designated to ensure in particular the observance of legal and regulatory provisions and the compliance of transactions with the rules of the profession. They are further required to have their accounts certified by external auditors. The BCM is responsible for the ongoing oversight of MFIs. This off-site and on-site supervision is carried out in accordance with the Banking Law (Article 42 of Law No. 98-008).

257. It must be noted, however, that compliance with the aforementioned standards is unsatisfactory in practice. According to the BCM, several MFIs are poorly managed and none comply with the obligation to submit accounting documents, statements of risks and

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<sup>18</sup> Law No. 98-008 of January 28, 1998 governing Mutual or Cooperative Savings and Loan Institutions; Law No. 95-011 of July 17, 1995 regulating the banking profession; Instruction No. 001/GR/1999 of January 21, 1999 establishing the implementation conditions for Law No. 98-008 and the Ethics Code.



prudential ratios, from which it may be inferred that the application of standards with respect to internal control, compliance, and auditing remains insufficient.<sup>19</sup>

**258. Recommendation 22.** Law No. 2005-048 does not impose on financial institutions the obligation to ensure that their overseas branches and subsidiaries observe AML/CFT measures in accordance with the obligations set forth in Mauritanian law.

### **3.8.2 Recommendation and Comments**

- 259. Prepare and disseminate a circular implementing Law No. 2005-048 that explains to banks and other financial institutions the conditions for applying the law with respect to supervision and surveillance.
- 260. Recommend to banks that they appoint an internal “anti-money laundering” official with responsibility for implementing these instructions as well as the procedures to be followed for reporting suspicious transactions to CANIF. The same comment applies to the insurance sector. The Ministry of Commerce is called upon to issue all necessary instructions to insurance companies for the same purposes.
- 261. Provide incentives to banks to introduce an automated “early warning” system enabling them to target customers engaging in transactions that have potentially suspicious or unusual characteristics and hence call for special diligence, for example: currency transactions exceeding a particular threshold; funds deposited or withdrawn at a rapid pace; identification of transactions which, while not suspicious in and of themselves, are “unusual” by comparison with the customer’s profile; identification of behaviors that deviate from the model for a reference group.
- 262. Supplement Instruction No. 006/GR/2000 on internal control by including ML/FT risk on the list of risk families to be covered by the banking risk surveillance mechanism.

### **3.8.3 Compliance with Recommendations 15 and 22**

	Rating	Summary of factors justifying the rating assigned
<b>R.15</b>	<b>PC</b>	The implementation by banks of the obligations with respect to AML/CFT internal monitoring is still incomplete. The BCM has not yet issued an implementing circular in this area. The legislation does not specifically impose on financial institutions the obligation to implement appropriate procedures when hiring employees in order to ensure that this process takes place in accordance with strict criteria.
<b>R.22</b>	<b>NC</b>	Lack of legal provisions.

<sup>19</sup> In this regard, the BCM also notes that since the end of the inspection mission of mutual institutions conducted in 2005, the transmission of documents and the information required from the BCM has taken place on a more regular basis.

### 3.9 Shell banks (R.18)

#### 3.9.1 Description and Analysis

263. Article 7 of Law No. 2005-048 provides for the State to organize the legal framework so as to guarantee the transparency of economic relations, in particular by ensuring that company law and the legal mechanism for the protection of property do not permit the establishment of fictitious or shell entities. Mauritanians authorities indicated to the assessment team that this provision applies to the banking sector and that there is no shell bank operating in the country.

#### 3.9.2 Recommendations and Comments

- 264. It would be beneficial for a circular to provide that credit establishments must refuse to enter into or continue correspondent banking relationships with shell banks. Along the same lines, it should be added that credit establishments must ensure that the financial institutions among their customers abroad do not authorize shell banks to make use of their accounts.

#### 3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors justifying the rating assigned
R.18	C	

#### Regulation, supervision, control, and sanctions

### 3.10 Supervision and control system. Competent authorities and self-regulation organizations Role, responsibilities, and powers (including sanctions) (R.17, 23, 29, and 30)

#### 3.10.1 Description and Analysis

**265. Recommendations 17, 29, and 30: Regulation, supervision, control, and sanctions.** As a general rule, the Central Bank of Mauritania is responsible for surveillance over banks, microcredit institutions, and exchange bureaus. It has the broadest possible information powers, as it may seek from subject institutions any information, clarifications, or explanations needed for the performance of its mission. Article 41 of Law No. 2005-048 provides that, notwithstanding any legislative or regulatory provisions to the contrary, professional secrecy may not be invoked by the persons referred to in Article 6, including banks, in order to refuse to provide information to the supervisory authorities. The BCM also has investigatory powers pursuant to the Banking Law No. 95-011, Articles 26 et seq. of which provide that the BCM conducts ongoing oversight over banks and financial establishments and, in that capacity, may (i) analyze the documents, statements, and reports that banks are required to submit to it, and (ii) conduct on-site inspections with “unlimited investigatory powers.” To perform these

inspections, the BCM may have its representatives accompanied by technical specialists of its choice who are not BCM staff members. It may also engage an auditing firm to conduct an inspection mission on its behalf. As regards the oversight of ML/TF, Article 29 of the Law No. 2005-048 entrusts the CANIF with the task to verify that subject entities comply with AML/CFT requirements, -including persons or professions that do not have any supervisory authority-. Moreover, the same Article 29 stipulates that CANIF is responsible for carrying out an on-going compliance surveillance over the subject entities in order to strengthen the overall quality of STRs. Thus, the question which must be asked is how the oversight power entrusted to the CANIF and the supervisory power allotted to the BCM are going to be articulated. The mission considers that, as prudential authority, the BCM is still competent to monitor AML/CFT compliance in banks, notwithstanding the power of control entrusted to the CANIF as set forth in Article 29. As for the CANIF, the Unit is legally vested with the power to verify that the law 2005-048 is properly and correctly implemented in all sectors. The Mauritanian authorities are called upon to clarify the conditions in which both institutions (CANIF and BCM) will exercise their respective mandate to avoid any overlaps as well as to promote a better use of resources.

266. As regards the power to impose sanctions, under Article 42 of Law No. 2005-048, whenever, owing to a serious lack of due diligence or a flaw in the organization of the internal procedures for preventing money laundering or terrorist financing, an individual or legal person (credit establishment in particular) referred to in Article 6 has failed to fulfill one of the obligations incumbent upon him or it under Titles II and III and Articles 34 and 35 of this law, the competent authority may automatically take action as provided under the professional and administrative regulations in force.

267. While the aforementioned law does not so indicate specifically, in the event of a failure by an institution to observe its legal obligations with respect to AML, the BCM could, depending on the severity of the failure, impose one or several of the disciplinary sanctions provided in the Banking Law No. 95-011. Its Article 30 stipulates that if a credit establishment has violated one of the legal or regulatory provisions relating to its activity, the BCM may pronounce one or more disciplinary sanctions ranging from a simple warning to withdrawal of its license, and including censure, prohibition of performing certain operations, appointment of a provisional administrator, and forced liquidation. The law also indicates that the bank's managers (presidents, general managers, department heads) shall incur prison sentences of one month to two years, and a fine of UM 1 million to UM 5 million (roughly US\$3,820 to US\$19,120) in the event they provide the BCM with inaccurate information in bad faith.

268. The BCM is organized as described below for purposes of carrying out its prudential authority. The Supervision Directorate has two departments, one in charge of off-site supervision and the other in charge of on-site supervision. Surveillance over MFIs has been entrusted to the Specialized and Mutual Financial Establishments Unit, which has two sections. After a recent sizable cutback in staffing (the two departments used to employ over 60 staff unevenly distributed among the various units), the supervision units now include only 24 persons, including 14 inspectors. The banks active

in Mauritania are inspected at least once a year, in accordance with a program established by the BCM staff and approved by the Governor. This said, there are weaknesses that should be noted:

269. No investigation into the risk of money laundering or terrorist financing has been conducted in the banking establishments or exchange bureaus; the same holds true for the MFIs, which, moreover, have never been the subject of any former of on-site investigation for any kind of prudential risk. In this regard, some have pointed out that the MFI sector is relatively exposed to the risk of money laundering. In fact, some NGOs sometimes open their accounts with MFIs, which do not have appropriate human and financial resources and could therefore be used over time as channels for money laundering.

270. - The BCM inspectors lack the training and methodological tools necessary for combating money laundering; AML/CFT training sections were, however, held in December 2005 to prepare BCM inspectors for the first on-site AML/CFT investigations;<sup>20</sup>

271. - The human and budgetary resources allocated to the Specialized and Mutual Finance Establishments Unit with special responsibility for MFI surveillance are still inadequate (only 2 staff);

272. - The BCM Governor may be removed from office “ad nutum” even though he is appointed for a four-year term; moreover, there is no legal protection of the supervisory authority and its personnel against suits which may be lodged against them for acts performed in good faith in the exercise of their duties.

**273. The Ministry of Commerce is the supervisory body for insurance companies.**

The insurance companies are placed under the surveillance of the Insurance Control Directorate (DCA). This oversight is conducted mostly off-site. While insurance companies are obligated to submit periodic financial statements to the supervisory authority, which reviews them, they are not subject to comprehensive on-site supervision. It must also be recognized that DCA staff is particularly limited (the director and 2 agents), and the three of them have not yet received the training needed to supervise compliance with AML/CFT rules in the sector. Furthermore, the DCA has never made use of its power to sanction provided for under Article 330 of the Insurance Code (alerts, warnings, prohibition of certain transactions, replacing or restricting the powers of managers, fines, withdrawal of licenses).

**274. Recommendation 23: Access to the banking profession and surveillance.** Law No. 95-011 on the activity and supervision of credit establishments determines the conditions that must be met by the founders, directors, and representatives of banks and credit establishments.

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<sup>20</sup> The World Bank led a seminar for all BCM inspectors providing refresher training on the new legislative framework and presenting the supervision techniques introduced in respect of AML/CFT.

275. Pursuant to Article 8 of that banking law, applications for authorization to establish any bank or financial institution under Mauritanian law are submitted to the BCM. The BCM must assess the quality of the major contributors of capital and the integrity, qualifications, and professional experience of the proposed directors. The conditions applicable to access to the banking profession are thus rigorous in accordance with the legal and regulatory provisions in force. For example, in support of the license application, in addition to providing the draft charter as well as the business activity projections for a five-year period, candidates must meet the required “fit and proper” obligations (by providing notably an extract from court records) and include the CVs of the main founders and directors. Furthermore, pursuant to Article 9 of the banking law, no one may administer, direct, or manage a credit establishment in any manner if he or she has been declared bankrupt or convicted of theft and lacks the professional and moral qualifications necessary for the profession.

276. As regards bank licensing and ownership structure, the mission noted the absence of a requirement that the BCM identify the source of the initial capital and request the non-objection of the supervisory authority of the country of origin in the event of an application to open a foreign bank, agency, or branch. However, the BCM has pointed out that the shareholders of banks that are being established deposit their capital contributions in an open account in the Central Bank’s records prior to the start of operations. In the case of branches or agencies of foreign banks operating in Mauritania, capital contributions take the form of bank transfers ordered by top-ranking and very well-known banks.

**277. Access to the profession of insurer.** The conditions for access to the **profession of insurer** are governed by Law No. 92-40 of July 20, 1993 establishing the Insurance Code. Article 204 sets forth the criteria for granting or denying a license. The code indicates that to grant or deny a license, the DCA considers, among other criteria, the integrity and qualification of the candidates for licensing. Article 205 further stipulates that, in the case of Mauritanian enterprises, any application for licensing must include, among other things, the list of managers, the president, board members, the members of the supervisory board, and directors, with the full name, nationality, and date and place of birth of each. Article 205 further indicates that the above-mentioned persons must also produce an extract from the court record that is no more than three months old or an equivalent document issued by the competent judicial or administrative authorities. For foreign nationals, the license application must also include documentation to the effect that they are in compliance with the laws and regulations on the status and criminal record of foreigners. Finally, the minimum capital requirements are quite low.<sup>21</sup>

**278. Microfinance networks and other Decentralized Financial Institutions (DFIs)/authorization conditions and supervision.** With a view to consolidating the emergence of microfinance as a particularly valuable poverty reduction tool, the Mauritanian Government has introduced a regulatory framework conducive to the development of microfinance activities and established mechanisms for the supervision of these activities by the supervisory authority, in this case the Central Bank. The

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<sup>21</sup> UM 80 million, or about US\$300,000.

regulatory framework is provided by three basic legal and regulatory texts: Law No. 95-011 of July 17, 1995 organizing the banking profession; Law No. 98-008 of January 28, 1998 governing Mutual or Cooperative Savings and Loan Institutions; and BCM Instruction No. 001/GR/1999 of January 21, 1999 implementing the credit, legal, and administrative aspects of Law No. 98-008. This instruction also introduced a number of standards that cooperatives must observe.

279. Licenses for mutual or cooperative savings and loan institutions are issued by the BCM (Article [...] of Law No. 98-008). The license application file must include a number of documents, in particular:

- The list of members, including their full names, national identity card numbers, and domicile;
- Certification of integrity (extract from court records or any equivalent documents) in the name of each member of the board of directors, supervisory council, credit committee, and manager;
- A copy of the charter registered with the clerk of the court, as well as the list of directors and managers indicating their profession and domicile.

280. Any failure to observe the principles set forth above shall be punishable by a fine of up to 5 times the amount of the offense, which may be combined with disciplinary measures such as withdrawal of the license by the BCM.

281. The BCM is responsible for the off-site and on-site supervision of MFIs (Article 9 of Law No. 98-008 of January 28, 1998 and Article 21 of Instruction No. 001/GR/1999 of January 21, 1999). In performing these functions, the BCM has broad powers (Article 22). Without prejudice to the criminal sanctions applicable by the competent courts, the sanctions that may be imposed on MFIs by the BCM for failure to observe legal or regulatory provisions range from warning to closure, and include warning, fines (of up to five times the amount of the offense, payable to the Treasury), the suspension of one or more managers, and the appointment of a provisional administrator. To date, however, no on-site inspection has occurred at any MFI in order to assess its level of compliance with regard to the new AML/CFT standards.

**282. Exchange bureaus.** Individuals or legal persons customarily engaged in carrying out exchange bureau operations are required, before beginning their activity, to submit an activity report to the BCM for purposes of obtaining authorization to open and operate pursuant to the national legislation in force. The BCM is responsible for the supervision of exchange bureaus. To date, no ML/FT inspections have been focused on the profession.

**283.** There is no **stock exchange** in Mauritania.

**284. Recommendation 25.** The competent authorities have not yet disseminated guidelines to the businesses and persons subject to Law No. 2005-048.

### **3.10.2 Recommendations and Comments**

- 285. Pursuant to Article 29 of the Law No 2005-048, the CANIF is responsible for monitoring AML/CFT compliance in all sectors. As the prudential authority for banks, the BCM is also vested with the power to assess AML/CFT compliance in the banking sector. As far as the assessment of AML/CFT compliance is concerned, the Mauritanian authorities are called upon to clarify the conditions in which both institutions (CANIF and BCM) will exercise their respective mandate to avoid any overlaps as well as to promote a better use of resources. In this respect, the BCM is called upon to include the issues of money laundering and the financing of terrorism in its action plan in order to (1) supervise the proper application of the legal and regulatory provisions in this area, (2) ensure that the banks have, with respect to AML/CFT, adequate resources for prevention, detection, and reporting, and (3) verify that banks have personnel who are qualified and trained in preventing and detecting money laundering operations. To this end, the BCM could, in the course of 2006, launch a series of on-site inspections in the nine local banks and authorized exchange bureaus in order to test the proper application of the new system emerging from Law No. 2005-048. This process will make it possible to assess the extent to which the new legal arsenal is being applied and, as appropriate, identify the implementation problems that any new regulation will necessarily raise. On-site missions should also be arranged at microfinance institutions in order to assess their level of exposure to the risk of money laundering and to ensure the sound application of preventive measures.
- 286. In tandem with or as part of this process, a program of targeted investigations should also be initiated without delay in Mauritanian banks in order to ensure that persons suspected of terrorism by the United Nations or other foreign organizations are not among the customers of local banks. In 2001, the BCM issued an instruction requiring that banks strictly apply the United Nations resolutions of December 19, 2000 and September 28, 2001. However, this instruction has not been subsequently updated. Moreover, its actual application has not been tested by the BCM.
- 287. The strengthening of on-site supervision should also be accompanied by a methodology effort. BCM staff should examine the possibility of developing a methodological guide for use by on-site inspectors in order to guide their work and ensure the uniform application of their supervision. This guide should, of course, be based on the new system introduced by the law as well as on forthcoming instructions from the Central Bank.
- 288. Training inspectors should also constitute a priority line of action. Given that they lack experience in the area of anti-money laundering and combating the financing of terrorism, it is recommended that the BCM provide them the necessary training. This need is all the greater because the BCM intends to recruit additional inspectors in order to strengthen its operational capacity. Training seminars should be scheduled as soon as possible. This recommendation applies

as well in the insurance sector. The DCA should take all necessary steps to train its inspectors in the supervision of ML/FT risk in this sector.

- 289. It would also be worthwhile for the BCM to directly send copies of its follow-up letters to the statutory auditors and external auditors of the banks subject to its supervision rather than leaving this solely up to the initiative of bank managers, especially whenever the letters deal with failures to observe AML/CFT standards.
- 290. Supervision of international wire transfer companies of the Western Union or MoneyGram type would appear to be highly desirable. These companies, which are not subject to prudential supervision by the BCM, have signed contracts to provide services with the major local banks. According to the information gathered by the mission, these firms do not customarily perform due diligence measures.

### **3.10.3 Compliance with Recommendations 17, 23 (criteria 23.2, 23.4, 23.6-23.7), 29 and 30**

	Rating	Summary of factors justifying the rating assigned
<b>R.17</b>	<b>LC</b>	In theory, the sanctions are dissuasive, but it is too early to assess the effectiveness of the approach.
<b>R.23</b>	<b>PC</b>	Absence of effective supervision of banks, insurance companies, and exchange bureaus as regards AML obligations.
<b>R.25</b>	<b>NC</b>	Absence of guidelines in all sectors (banks, insurance, exchange bureaus, microfinance). The Instruction from the Banking and Financial Supervision Commission (CSBF) is still in draft form.
<b>R.29</b>	<b>PC</b>	The supervision powers are in compliance with standards, but the country does not yet have the necessary experience with controlling money laundering.
<b>R.30</b>	<b>PC</b>	Insufficient resources allocated to supervisory bodies in terms of training, equipment, and technological resources.
<b>R.32</b>	<b>NC</b>	Absence of statistics.

## **3.11 Services for the transmission of money or value (SR.VI)**

### **3.11.1 Description and Analysis**

291. For **alternative remittance systems**, Article 24 of Law No. 2005-048 provides that any individual or legal person not authorized to function as a financial institution within the meaning of the banking law or any other applicable law and which engages, on behalf or in the name of another individual or legal person, in money or value transfer operations within the meaning of the following paragraph, whether regularly or periodically as principal activity or in conjunction with another activity, must be authorized to do so by the Central Bank of Mauritania. The same Article 24 defines a fund or value transfer service as a financial service which accepts cash, checks, or any



other value payment or deposit instrument in one location and pays an equivalent amount in cash or any other form to a recipient located in another geographical area by means of a communication, message, transfer, or clearing system to which the fund or value transfer service belongs. Transactions made through such services may involve one or more intermediaries and a third party receiving the final payment.

292. Law No. 2005-048 further provides a range of sanctions for those illegally engaging in funds transfer operations. Thus, Article 25 stipulates that those who carry out funds transfers transactions without prior authorization shall be punishable by imprisonment for 3 months to one year and a fine of UM 300,000 to UM 1,000,000 (US\$1,140 and US\$3,820, respectively). Attempts and abetting transfers are punishable in the same way as the offense itself. Legal persons may also be sentenced to:

- Permanent prohibition or prohibition for a maximum of two years from directly or indirectly engaging in certain professional activities;
- Permanent closure or closure for up to five years of their establishments involved in committing the offense;
- A fine of up to UM 2 million (US\$7,640).

293. Article 24(3) of Law No. 2005-048 stipulates that requirements regarding the customer identification, suspicious transaction reports, and record-keeping provided for by the law shall be applicable to the above-mentioned transmission services.

294. To date, no ML/FT inspections have been focused on the profession. However, Law No. 2005-048 does not make it mandatory for each system for the transfer funds or authorized amounts to keep an up-to-date list of its agents, to be made available to the competent authorities. The BCM instruction to establish the modalities for application of the aforementioned Article 24 has not yet been issued.

### ***3.11.2 Recommendations and Comments***

- 295. Step up supervision in the Western Union and MoneyGram networks to verify the proper observance of AML standards.
- 296. Draft a BCM Instruction to establish the implementing conditions for the preventive regulations applicable to alternative systems for the transfer of funds.

### ***3.11.3 Compliance with Special recommendation VI***

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>SR.VI</b>	<b>PC</b>	<p>Lack of controls on specialized institutions.</p> <p>Lack of obligation for alternative systems for the transfer of funds to keep an updated list of agents, to be made available to the competent authorities.</p> <p>Lack of a BCM instruction establishing the modalities for the application of Article 24.</p>

#### **4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

##### **4.1 Due diligence and record-keeping requirements (R.12)**

(application of R.5 to R.10)

###### **4.1.1 *Description and Analysis***

**297. Sectors covered by the AML/CFT system:** Law No. 2005-048 on combating money laundering and the financing of terrorism, in Article 6 on “Subject Persons,” makes designated nonfinancial businesses and professions subject to the provisions of Title II (Prevention) and Title III (Detection) of the law. These are:

- Members of the independent legal professions, including lawyers, notaries, statutory auditors, accountants, and auditors, when they prepare or carry out operations for their customers or assist them, outside court proceedings, in the context of the following activities:

- Buying and selling of any property, including real estate, business enterprises, or goodwill;
- Managing of the money of third parties or other assets belonging to the client;
- Opening or managing bank, savings, or securities accounts;
- Creating, operating, or managing legal persons or arrangements;

298. Law No. 2005-048 does not provide for the organization of contributions for the establishment, operation, of management of companies for legal and accounting professionals.

- Dealers in precious metals and dealers in precious stones when customers carry out financial transactions equal to or exceeding a threshold set by Instruction of the Central Bank Governor (Instruction not adopted);
- Dealers in high-value art objects when customers carry out financial transactions equal to or exceeding a threshold set by Instruction of the Central Bank Governor;
- Real estate agents when they are involved in transactions for their customers concerning the buying and selling of real estate;
- Travel agencies, with respect to which the supervisory authorities must prepare a guide for vulnerable operations; and
- Nongovernmental organizations, associations, and cooperatives.

299. *Casinos:* Law No. 2005-048 does not cover casinos, which are prohibited in Mauritania.

300. Providers of services to companies and trusts. Law No. 2005-048 does not cover providers of services to trusts, as this type of legal arrangement does not exist in Mauritania based on the information compiled by the mission. With regard to the providers of services to companies, the pertinent activities set forth in R.12 are traditionally carried out in Mauritania by members of independent legal professions and are covered by Law No. 2005-048.

301. With the exception of the accounting and legal professionals in instances where they prepare or carry out transactions for their customers in the context of the organization of contributions for the establishment, operation, or management of companies, Law No. 2005-048 covers all the nonfinancial professions mentioned in R.12. This law even goes further, given that travel agencies and NGOs are also subject to AML/CFT measures.

302. **Customer due diligence:** Article 14 of Law No. 2005-048 stipulates that “*designated nonfinancial businesses and professions must, under the auspices of their supervisory authority, take due diligence measures aimed at knowing their customers and detecting suspicious transactions.*” Article 14 thus clearly expresses the principle whereby DNFBPs are subject to customer due diligence; however, no provision of the law establishes the modalities for fulfilling this duty. This article does not make reference to the various articles of the law relating to customer due diligence measures applicable to financial institutions (articles 8 to 13). In that the provisions of Law No. 2005-048 on the conditions for implementing customer due diligence and identification refer to financial institutions only, it must be concluded that these measures are not applicable to DNFBPs and that Law No. 2005-048 leaves the task of establishing the modalities for implementation of this due diligence requirement on the part of DNFBPs up to the supervisory authorities.

303. This approach is inconsistent with R. 12 that requires that the basic obligations of customer due diligence be set out in law or regulation; while the modalities of implementation of the obligations can be prescribed by self-regulatory bodies in order to account for the specificities of each profession. Moreover, delegating to each self-regulatory authority the responsibility for organizing due diligence requirements and determining the know-your-customer measures that must be taken by their members raises the risk of having a lack of harmonization and of implementing disparate rules for the various categories of subject persons, thereby weakening the system established by Law No. 2005-048;

304. Some DNFBPs, including real estate agents, dealers in precious stones, and dealers in precious metals, have no self-regulatory authority. While Article 29 on the functions of CANIF assigns it the responsibility of “*verifying the application of the system*” for AML/CFT to the DNFBPs that have no supervisory authority, the same article does not specifically mandate that CANIF is in charge of organizing the various implementing modalities for the due diligence requirements these DNFBPs must observe. Consequently, in the absence of receiving instructions from CANIF, some DNFBPs would not be able to implement the AML/CFT system.

305. **Record-keeping requirements:** Law No. 2005-048 does not explicitly establish record-keeping requirements for DNFBPs. First, the aforementioned Article 14 makes no reference to record-keeping requirements for DNFBPs, and mentions only the due diligence requirements and the reporting of suspicious transactions. Second, the record-keeping requirements referred to in Chapter III, Article 15, pertain only to financial institutions and make no mention of DNFBPs. Finally, only Article 16 on the obligation

to provide documentation implicitly makes reference to the obligation incumbent on DNFBPs to conserve the documentation gathered as part of due diligence. Article 16 effectively stipulates that *“the records and documents relating to the identification requirements set forth in Articles 9 to 13, the retention of which is mentioned in Article 15, are to be provided by the persons identified in Article 6, at the request of the judicial authorities, to the competent supervisory authorities and CANIF.”* However, it bears noting that while this article is aimed at the subject persons identified in Article 6, which include DNFBPs, the other articles referred to pertain only to financial institutions, leaving room for doubt about whether DNFBPs are subject to the record-keeping requirement. Thus, contrary to the requirements of R.10 Law No. 2005-048 does not clearly establish the record-keeping requirement for DNFBPs.

**306. In terms of implementation,** the supervisory authorities visited by the mission, as well as their members, have not as yet begun to implement the provisions of the law. These authorities have not to date taken any measure setting forth the implementation modalities for the due diligence their members are required to observe. Furthermore, the same lack of application of the law may be observed among DNFBPs, which have no supervisory authority.

#### **4.1.2 Recommendations and Comments**

- 307. In Article 6 of Law No. 2005-048, “persons subject” to the law should be amended to make legal and accounting professionals subject to AML/CFT provisions, when they prepare or conduct transactions for their customers in the context of the organization of contributions for the establishment, operation, or management of companies.
- 308. The Mauritanian authorities should establish, as soon as possible, thresholds beyond which dealers in precious stones and precious metals as well as dealers in high-value art objects are required to apply AML/CFT provisions.
- 309. Article 14 of Law No. 2005-048 should be amended to clearly state which measures must be taken by DNFBPs to comply with their due diligence requirement. This could be done by adding a reference in Article 14 to the various articles explaining the due diligence measures to be taken by financial institutions. This approach would also make it possible to deal with the absence of any provision on the application of due diligence by DNFBPs not subject to a supervisory authority, by specifically delineating the due diligence requirement. The following due diligence measures, among others, apply to DNFBPs:
  - Obligation to undertake customer due diligence measures when (1) establishing business relations; (2) carrying out occasional transactions above the applicable threshold or via wire transfers; (3) there is a suspicion of money laundering or terrorist financing; (4) they have doubts about the veracity or adequacy of previously obtained customer identification data;
  - Identifying and verifying the identity of customers;
  - Identifying beneficial owners;

- Obtaining information on the envisioned objective and nature of business relationships;
- Exercising ongoing due diligence with regard to business relationships and carrying out a careful review of transactions conducted during the entire course of a business relationship;
- Establishing enhanced due diligence measures with respect to politically exposed persons;
- Paying special attention to the threats of money laundering inherent in new technologies and all complicated transactions in amounts that are unusually high and all kinds of unusual transactions that have no apparent economic or lawful purpose.

310. Law No. 2005-048 should be amended to make DNFBPs subject to record-keeping requirements.

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

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
R.12	<b>NC</b>	<p>The circumstances under which legal and accounting professionals are required to comply with due diligence procedures are only partially covered in Law No. 2005-048.</p> <p>Law No. 2005-048 does not include specific measures organizing due diligence on the part of DNFBPs.</p> <p>Lack of record-keeping requirement for DNFBPs.</p> <p>Law not implemented in practice.</p>

## **4.2 Suspicious transaction reports (R. 16)**

(application of R.11 and 21)

### **4.2.1 Description and Analysis**

311. Law No. 2005-048 makes the non-financial professions subject to the **requirement to submit suspicious transaction reports**. To this end, Article 34 of the law provides that the persons referred to in Article 6 which suspect that the funds constitute proceeds from an offense of money laundering or terrorist financing, or which have knowledge of a fact which might indicate such offenses, are required promptly to file a report with CANIF, using the model report established by Instruction of the Central Bank Governor. As noted above (in item 4.1), the Article 6 under reference includes (1) members of the independent legal professions, including lawyers, notaries, statutory auditors, and accountants; (2) dealers in precious stones and precious metals; (3) art dealers; (4) real estate agents; (5) travel agents; and (6) nongovernmental organizations.

312. The law further provides that notaries, lawyers, statutory auditors, and accountants are not required to submit a suspicious transaction report if the information

in their possession was received in the course of evaluating the legal position of their client or in carrying out their duty of representing said client in the context of a legal or administrative matter.

313. The reporting obligation on the part of DNFBPs is indeed covered in Law No. 2005-048; however, since CANIF is not yet operational, the persons subject to the Law 2005-048 are not in a position to fulfill this obligation.

314. Furthermore, as is the case with financial institutions, DNFBPs are exempt from civil, criminal, and administrative liability when they transmit information or file suspicious reports (Article 38 of Law No. 2005-048) in good faith. Furthermore, the prohibition on warning a customer that a report or information related to that person has been communicated or provided to CANIF, covered in Article 34 of Law No. 2005-048, also applies to DNFBPs.

315. With regard to the obligation to implement internal programs to prevent and detect money laundering and terrorist financing provided for in Article 17 of Law No. 2005-048, the legislation covers only financial institutions and does not apply to DNFBPs.

316. As noted above with respect to financial institutions, Law No. 2005-048 does not instruct DNFBPs to pay close attention to their business relationships and transactions with individuals and legal persons residing in countries that do not apply or apply insufficiently FATF recommendations.

#### ***4.2.2 Recommendations and Comments***

317. The Mauritanian authorities are called upon to establish CANIF as soon as possible in order to enable DNFBPs to report their suspicions in accordance with the law.

318. Law No. 2005-048 should be amended to extend the obligation to implement and maintain internal AML/CFT programs to DNFBPs. These programs should include:

- Internal policies, procedures, and controls, including provisions related to control and compliance as well as appropriate procedures for hiring employees;
- An ongoing training program for employees;
- An internal control mechanism to ensure the effectiveness of the system.

319. Law No. 2005-048 should be amended to impose on DNFBPs the obligation to pay close attention to their business relationships and transactions with individuals and legal persons residing in countries that do not apply or apply insufficiently FATF recommendations.

#### 4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors justifying the rating assigned
<b>R.16</b>	<b>NC</b>	The obligation to report suspicious transactions is covered by the legal and regulatory texts, but the lack of an operational CANIF makes it impossible to comply with this obligation for the time being. Absence of the obligation on the part of DNFBPs to implement internal AML/CFT programs. Absence of the obligation on the part of DNFBPs to pay close attention to their business relationships and transactions with individuals and legal persons residing in countries that do not apply or apply insufficiently FATF recommendations.

### 4.3 Regulation, supervision, and control (R.17, 24-25)

#### 4.3.1 Description and Analysis

320. Article 14 of Law No. 2005-048 requires DNFBPs to exercise due diligence to know their customers and detect suspicious transactions under the auspices of their supervisory authority. In Mauritania, the professions of accountant, lawyer, and notary are regulated and supervised by their respective professional associations; these self-regulation authorities are therefore in charge of developing rules for preventing and detecting ML and FT and monitoring their proper application by their members.

**321. The profession of accountant** was reformed by Decree No. 97-108 of March 1, 1997. Access to the profession requires, first, obtaining a degree in accountancy and, second, completing a three-year internship. The National Order of Accountants is the authority responsible for regulation, supervision, and disciplinary control under the auspices of the Ministry of Finance. The Order's Council has prepared an ethics code and internal by-laws for the profession (Article 4 of the decree in question) and supervises the exercise of the profession. Decree No. 97-018 established a National Disciplinary Board, comprising the Minister of Finance, the Prosecutor General before the Supreme Court, a Counselor from the Audit Board, as well as two accountants. This board has the authority to impose disciplinary sanctions ranging from reprimands to removal from the roster of the Order. As regards the supervision and control of compliance with Law No. 2005-048, the National Council of Accountants has not as yet taken any measure to ensure that those subject to its supervision are fulfilling their obligations to exercise due diligence and report suspicious transactions.

**322. The profession of lawyer** is governed by Law No. 0076-2005 of January 20, 2005, which amends Law No. 024-95 of July 19, 1995 organizing the National Order of Lawyers. The National Order of Lawyers is the national authority responsible for regulation, supervision, and control of the rules governing the profession. The Order issues disciplinary rules, ensures that the rules are observed, and imposes the applicable sanctions for violations of them. The Order may impose disciplinary sanctions ranging from warnings to being removed from the Bar. The Order of Lawyers has not yet taken

any specific measure to organize the requirements to exercise due diligence and report suspicious transactions.

**323. The profession of notary** in Mauritania was created by Law No. 97-019 of July 16, 1997. There are but three notaries in the entire country, who are public officials appointed by order of the Minister of Justice and are accountable to the General Prosecutor at the Court of Appeal of their jurisdiction. A National Order of Notaries was also created in order to exercise disciplinary control over the profession.

324. The status of the profession of notary requires special attention because two different mechanisms for the preparation of bills of sale for realty are currently, contrary to law, in place at the same time: one, which is bona fide and is issued by notaries, which according to the law have sole jurisdiction; and the other, which is private in nature and is issued by religious authorities, the Imams, who prior to the 1997 law had jurisdiction in this area and who, despite the new legislative framework, are continuing to exercise their former powers. According to the representatives of the profession with whom the mission met, the Imams continue to draw up over 90 percent of bills of sale for realty, meaning that almost all real estate transactions in Mauritania are carried out illegally. This situation is of even greater concern now that the discovery of oil will lead to an increase in foreign investment, in the real property sector in particular. In this context, it would appear to be essential that the sector be efficiently supervised.

**325. DNFBPs not subject to a supervisory authority:** Article 29 of Law No. 2005-048 on the functions of CANIF indicates that it has “*responsibility for verifying application of the system to combat money laundering and the financing of terrorism put in place by subject persons as well as by businesses and professions not covered by a supervisory authority.*” Accordingly, in the case of dealers in precious stones, dealers in precious metals, art dealers, real estate agents, and travel agents, professions which, according to the mission’s various discussions locally, are not subject to any supervisory authorities, it would be CANIF’s responsibility to organize their supervision with respect to AML/CFT. However, because CANIF has not yet been created, these professions are not yet subject to adequate and effective supervision.

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

326. The self-regulation organizations (Order of Lawyers, Order of Accountants, Order of Notaries) should, as soon as possible, organize supervision of their members’ compliance with AML/CFT legislation. To this end, it would be advisable for them to issue guidelines aimed at helping the professions concerned fulfill their new obligations.

327. In the case of the entities for which CANIF should be supervising the proper application of the AML/CFT law, it seems imperative for:

- the Mauritanian authorities to create CANIF as soon as possible;
- CANIF to be provided with sufficient financial, human, and technical resources to carry out its supervisory functions;



- Practical modalities be established for the exercise of this oversight, namely by organizing off-site and on-site supervision; and
- CANIF has the power to impose adequate sanctions.

#### **4.3.3 Compliance with Recommendations 17, 24, and 25**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.17</b>	<b>NC</b>	Lack of supervision by the self-regulation authorities of their members' observance of Law No. 2005-048. The self-regulation authorities have adequate disciplinary and sanctioning powers, but these are not used with respect to AML/CFT. CANIF not in place to supervise the DNFBPs not subject to a supervisory authority. CANIF has no power to impose sanctions.
<b>R.24</b>	<b>NC</b>	Idem
<b>R.25</b>	<b>NC</b>	Idem

#### **4.4 Other designated non-financial businesses and professions modern and secure transfer techniques (R.20)**

##### **4.4.1 Description and Analysis**

328. Under its Article 6, travel agencies are regarded as persons subject to Law No. 2005-048. This article also indicates that their supervisory authorities are to prepare a guide on transactions that pose risks. In addition, nongovernmental organizations, associations, and cooperatives are also subject to the AML/CFT system introduced by Law No. 2005-048. As regards these other DNFBPs, the mission was unable to gather information on the practical implementation of Law No. 2005-048. Nor has Mauritania performed an analysis of the risks that might be faced by other professions that may be exposed to a significant money laundering risk. It should be noted, however, that there are hardly any such professions; gaming operations are prohibited. There are no dealers in high-value assets or luxury products extant as a profession.

329. Mauritania has made significant efforts to promote modern and secure techniques of money management, but the practical implications of them remain limited. The country does not yet have a comprehensive and sufficiently up-to-date legal framework to support a modern payments system. The existing legal framework, consisting largely of the Commercial Code, covers traditional types of payment such as checking, but does not provide a legal framework suitable for electronic means of payment. At the time of the mission, in Mauritania there were only about 12,000 personal cards issued by three banks, and there were usable only for withdrawals at the proprietary ATMs of each issuing bank. The use of cash for making payments is thus overwhelmingly preponderant. The authorities note, however, that the legal framework of the payments system, which is limited to the Commercial Code, will be expanded to include a new law, whose drafting is at a very advanced phase and focuses on electronic commerce and the electronic payments system. The provisions of this law should, in principle, reduce the vulnerability

of certain economic sectors through less frequent use of cash as the preferred means of payment.

330. It is noteworthy that the BCM played an active role in the May 2005 creation of the Mauritanian Interbank Electronic Transactions Group (GIMTEL), an Economic Interest Group made up of the Banks and Mauripost. In the absence of any law on automated means of payment, the legal framework for same is established by a BCM instruction.

331. The GIMTEL interbank network is scheduled to begin operation in May 2006, with the objective of rapidly issuing 50,000 national smartcards. These cards will allow withdrawals from the anticipated 25-30 new ATMs, which will be added to the 15 existing private ATMs, as well as payments at 300-500 merchants throughout the country. The subsequent phase will be opening to international activity through joining the Visa network, leading first to the acceptance of cards issued abroad for payments in Mauritania, and then to the issuance of Mauritanian cards that can be used abroad. In a more distant future, the GIMTEL network will have the technical capacity to support a remote clearing system.<sup>22</sup>

#### **4.4.2 Recommendations and Comments**

332. The mission recommends that the authorities continue their efforts to promote the usage of electronic cash and thereby reduce the use of cash.

#### **4.4.3 Compliance with Recommendation 20**

	Rating	Summary of factors justifying the rating assigned
<b>R.20</b>	<b>PC</b>	The country has not analyzed the degree of exposure to ML/FT risk of the other designated non-financial professions.

### **5. LEGAL PERSONS, ARRANGEMENTS AND NPOS**

#### **5.1 Legal persons—Access to information on beneficial ownership and control (R.33)**

##### **5.1.1 Description and Analysis**

333. In Mauritania, any individual can establish a private company. Similarly, foreign economic operators who wish to invest in Mauritania must establish their company or join partners of companies established in the country. Law No. 2000-05 of March 15, 2000 on the commercial code establishes the legal regime for commercial companies and the conditions under which they are created/registered. General partnerships, limited partnerships, limited liability companies, and joint-stock companies attain legal person status upon their listing in the commercial registry. Listing in the commercial registry is

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<sup>22</sup> Source: FSAP report.

required for all individuals and legal persons, whether Mauritanian or foreign, engaged in commercial activity in Mauritanian territory.

334. Foreigners have easy access to capital. The Investment Code does not impose any restrictions based on the origin of the investment. Specifically, various share options are open to investors such as capital contribution with a view to the establishment, participation in, or takeover of a company. Consequently, any investor is free, provided that he complies with the regulations of corporate law, to establish or gain access to the capital of a private company in Mauritania.

335. In accordance with Law No. 2000-05, the commercial registry consists of local registries and a central registry. The local registry (Article 30) is maintained by the clerk of the competent court. The maintenance of the commercial registry and compliance with the prescribed formalities for making the entries that are to be made in it are supervised by the president of the competent court or by a judge designated each year for the purpose. The central commercial registry is maintained by the competent administrative agencies. The operating modalities of the administrative agencies concerned are defined by decree. The central commercial registry is public (Article 34). However, it may be consulted only in the presence of the official responsible for maintaining it. The purpose of the central registry is to:

- Centralize, for the country as a whole, the information included in the various local registries;
- Issue certificates of registration with respect to the names of businesses, trade names and trademarks, as well as certificates and copies with respect to the entries made therein; and
- Publish, at the beginning of each year, a compendium of all information on the names and trademarks of businesses as well as certificates and copies with respect to the other entries made therein.

336. Pursuant to Article 47 of Law No. 2000-05, commercial firms must provide certain information in their registration declarations, in particular the following:

- The full names of partners, other than shareholders and limited partners, their date and place of birth, the nationality of each, and the national identity card number, and for nonresident foreigners also the passport number or number of any other identifying document used in lieu thereof;
- The trade name or corporate name of the company; its corporate purpose, and the activity in which it is engaged;
- The head office and, where appropriate, the locations in which the company has branches in Mauritania or abroad;
- The names of partners or third parties authorized to administer, manage, and sign for the company, their date and place of birth, the nationality of each, and the national identity card number, or for resident foreigners number of their residency permit, or for nonresident foreigners their passport number or the number of any other identifying document used in lieu thereof;
- The legal form of the company and the amount of its share capital.

337. The following must also be declared for purposes of listing in the commercial registry:

- The full names, date and place of birth of managers, members of administrative, leadership or management bodies, appointed during the life of the company, their nationality as well as the number of their national identity cards or, for resident foreigners, that of the residency permit or, for nonresident foreigners, their passport number or the number of any other identifying document used in lieu thereof.

338. Any inaccurate reporting in bad faith provided for purposes of entry into the commercial registry shall be punishable by imprisonment for one month and a fine of UM 10,000 to UM 50,000, or by one of these two penalties.

339. Although the legislation governing the modalities for formation and registration are in theory satisfactory in the sense that they ensure sound transparency from the shareholder's standpoint, in practical terms, the absence of an operational commercial registry renders this mechanism completely ineffective. The commercial registry introduced six years ago is still not fully operational owing to the fact that the implementing decree with respect to its operating modalities was adopted only on March 9, 2006 and to the scant resources allocated to its operations. Even the implementing provisions opening the way toward introducing third-party maintenance have yet to be produced. In addition, the fines called for in the event of the provision of false information have little dissuasive force (US\$38 to US\$190).

340. This situation produces another important practical effect. The earlier analysis of Recommendation 5 (section 3.2.1.) states that the identification of a legal person is established by showing the original of the charter or any other documentation establishing that it has been legally listed in the Commercial Registry and that it does in fact exist. In the absence of a Commercial Registry, the conditions for verifying the identity of legal persons who show up at the branches of banks cannot be fully met.

341. For **associations**, see item 5.3 infra.

### ***5.1.2 Recommendations and Comments***

342. The mission recommends that the authorities provide the implementing provisions required for making the commercial registry operational as soon as possible.

### ***5.1.3 Compliance with Recommendation 33***

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.33</b>	<b>NC</b>	The commercial registry is not yet operational. The conditions related to transparency which should take precedence in the case of companies are therefore not guaranteed.

## **5.2 Legal persons—Access to information on beneficial ownership and control (R.34)**

### **5.2.1 Description and Analysis**

343. It is not possible under Mauritanian law to create trusts and other comparable legal arrangements. Based on the information compiled by the mission, there are no foreign trusts in the country.

### **5.2.2 Recommendations and Comments**

### **5.2.3 Compliance with Recommendation 34**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.34</b>	<b>N/A</b>	

## **5.3 Non-profit organizations (SR.VIII)**

### **5.3.1 Description and Analysis**

344. Law No. 2005-048 contains a number of provisions relating to nonprofit associations and organizations. Article 18 provides that any nonprofit association or organization seeking to gather or receive funds, or to grant or transfer funds, must be listed on the registry of associations in accordance with the procedures outlined by the competent authorities. The initial request for registration must include the full names, addresses, and telephone numbers of every person tasked with assuming responsibility for the functioning of the association, and in particular the president, vice president, general secretary, board members, and treasurer as appropriate. Any change in the identity of the responsible persons must be brought to the attention of the authority responsible for maintaining the registry.

345. Furthermore, the law imposes strict standards with respect to accounting. Thus, Article 21 stipulates that nonprofit associations or organizations are obligated to maintain their accounts in accordance with the standards currently in force, and to submit their financial statements for the preceding year to the authorities designated for the purpose within four months following the end of their financial year. Nonprofit associations or organizations are required to deposit, in a bank account maintained with an authorized banking institution, all amounts of money remitted to them as donations or in the context of whatever transactions they may carry out.

346. With respect to donations in particular, which represent a significant risk with regard to ML/FT, Law No. 2005-048 provides that any donation made to a nonprofit association or organization in an amount equal to or exceeding a sum established by instruction of the Governor of the Central Bank is to be recorded in a registry maintained for this purpose by the association or organization which lists the donor's complete address and contact information as well as the date, nature, and amount of the donation.

347. The registry is saved for 10 years and provided upon request to any authority responsible for the supervision of nonprofit organizations as well as, upon formal request, to police officers conducting a criminal investigation.

348. Article 20 adds that any cash donation in an amount equal to or exceeding an amount set by Instruction of the Central Bank Governor shall be reported to CANIF in accordance with modalities defined by Instruction of the Central Bank Governor. Moreover, any donation shall also be reported to CANIF when the funds are suspected of being related to a terrorist undertaking, to the financing of terrorism, or to money laundering.

349. Finally, the law sets out a range of sanctions in the event of failure to comply with the standards described above. Indeed, Article 22 provides that any violation of the provisions of this chapter is punishable by a fine of a maximum of UM 1 million (or about US\$3,800) and/or by a temporary prohibition on engaging in the activities of the association or organization for a maximum of twelve (12) months. Furthermore, in accordance with Article 23, and notwithstanding criminal prosecution, the Minister of the Interior may, by administrative decision, order a temporary ban on or the liquidation of nonprofit associations or organizations in accordance with the provisions of Law No.64/098 of June 9, 1964 as amended.

350. Article 3 of the aforementioned Law No. 64.098 of June 9, 1964 pertaining to associations, amended by Law No. 73.007 of January 23, 1973 and Law No. 73.157 of July 2, 1973, further states that authorization cannot be granted to an association to engage in business whose objective may be illegal, in violation of laws, or intended to undermine national territorial integrity or the republican structure of the Government. The Minister of the Interior may also dissolve, by means of a well-founded decision, any association which, for example, receives subsidies from overseas with the aim of harming national interests. Any person who continues to manage groups that have in fact been dissolved is subject to a prison sentence ranging from one to three years.

351. In practice, however, the provisions described above have not yet been applied. Several aspects of the process need to be clarified in BCM instructions. The provisions in question have yet to be adopted. Furthermore, given the recent nature of Law No. 2005-048, the authorities are not in a position to adopt specific measures to ensure that the funds or other assets collected or transferred through non-profit entities are not diverted to support terrorist activities or organizations.

### **5.3.2 Recommendations and Comments**

- 352. The legal and regulatory provisions applicable to nonprofit organizations enable the Mauritanian authorities to check the identity of the members of associations and apply sanctions should the rules not be observed. However, officials of the Ministry of Interior responsible for supervising associations have not all been made aware of the issues relating to money laundering and the financing of terrorism. The checks conducted on associations are not

carried out with a view to determining whether they might be being used for criminal purposes. The NGO sector should also be made aware of the risks. We note in this regard that awareness-raising in the relevant administrations has already started with a December 2005 seminar, which was organized by the BCM in conjunction with the World Bank and the French Cooperation, and should be continued in a more targeted manner in 2006.

- 353. The BCM is invited to issue the necessary instructions called for in Articles 19 and 20 of Law No. 2005-048.

### **5.3.3 Compliance with Special Recommendation VIII**

	Rating	SUMMARY OF FACTORS JUSTIFYING THE RATING ASSIGNED
<b>SR.VIII</b>	<b>PC</b>	Lack of specific measures for ensuring that funds or other assets collected or transferred through non-profit entities are not diverted to support terrorist activities or organizations.

## **6. NATIONAL AND INTERNATIONAL COOPERATION**

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

#### **6.1.1 Description and Analysis**

354. On the institutional level in turn, an ad hoc Interministerial Commission chaired by the Central Bank of Mauritania (BCM) has been established. It includes representatives from the Ministries of Interior, Justice, Defense, Customs, the Gendarmerie, and the two special advisors of the BCM Governor. The mission of this Commission is to draft all the legal provisions relating to anti-money laundering and combating the financing of terrorism, to define the AML/CFT strategy for the future, and to coordinate the establishment of future operational structures (such as CANIF, for example). It is also tasked with identifying those sectors in which external technical assistance may be necessary.

355. Apart from this rare example of coordination between authorities, there is no system for cooperation and the exchange of information either between the various national prudential authorities (the BCM for financial institutions, the Ministry of Interior and Ministry of Commerce for insurance activities) or between them and foreign banking supervision authorities. These authorities should be authorized by law to enter into information exchange agreements subject to confidentiality in order to meet the requirements of supervising the institution under their respective authority.

### **6.1.2 Recommendations and Comments**

356. The above-mentioned Interministerial Commission should strengthen its national coordination role in order to ensure that the new mechanisms resulting from Law No. 2005-048 have been properly adopted by the various sectors concerned.

357. Persons involved with AML/CFT should develop operational cooperation mechanisms. These mechanisms should cover coordination among the authorities responsible for criminal proceedings and CANIF, as well as among CANIF, the criminal prosecution authorities, and the surveillance authorities (BCM, Ministry of Finance, Commerce, and the Interior).

358. The various AML/CFT officials should also develop procedures that permit regular verification of the effectiveness of their mechanisms and the keeping of up-to-date and comprehensive statistics.

### **6.1.3 Compliance with Recommendation 31**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.31</b>	<b>PC</b>	Absence of effective implementation of an intergovernmental cooperation mechanism, except of the ad hoc committee supervised by the central bank of Mauritania.
<b>R.32</b>	<b>NC</b>	No structure makes it possible to maintain statistics and to examine the effectiveness of internal AML/CFT systems.

## **6.2 The conventions and special resolutions of the united nations (R.35 and SR.I)**

### **6.2.1 Description and Analysis**

#### **Recommendation 35**

**359. International conventions:** Mauritania is a State Party to the Vienna Convention, which it ratified on July 1, 1993.

360. On July 22, 2005, Mauritania accepted the United Nations Convention Against Transnational Organized Crime (Palermo Convention) as well as its two additional protocols (ratification in progress) and ratified this Convention and its protocols by means of Law No. 2005-006 of January 20, 2005.

361. Mauritania accepted the Mérida Convention and the Convention of the African Union Against Corruption (dates not provided to the mission).

362. Mauritania is a State Party to the United Nations International Convention for the Suppression of the Financing of Terrorism, which it ratified on April 1, 2003.



363. As regards the implementation of international conventions, Law No. 2005-048 largely meets the requirements posed by the Vienna Convention and the United Nations International Convention for the Suppression of Terrorism (see Section 2).

**Special Recommendation I. See item 2.4 (freezing of assets used for FT).**

#### **6.2.2 Recommendations and Comments**

364. The Mauritanian authorities are called upon to:

- Implement the provisions of the Palermo Convention;
- Implement specific procedures for the application of Resolution 1267 et seq. and Resolution 1373. The competent authorities should, among other things, be identified. These procedures should establish a mechanism for follow up and ensure effective international cooperation;
- Disseminate United Nations lists on a systematic basis and implement specific criteria regarding the lists resulting from Resolution 1373.

#### **6.2.3 Compliance with Recommendation 35 and Special Recommendation I**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.35</b>	<b>LC</b>	Absence of information on the implementation of the Palermo Convention, ratified in January 2005.
<b>SR.I</b>	<b>NC</b>	Absence of dissemination of the lists drawn up pursuant to Resolution 1267 et seq. and Resolution 1373. Absence of procedures for the implementation of these resolutions.

### **6.3 Mutual Legal assistance (R.32, 36-38, SR.V)**

#### **6.3.1 Description and Analysis**

**365. Legal framework:** Law No. 2005-048 organizes international legal cooperation with respect to AML/CFT. The mechanism established by the law is applicable in instances other than those in which Mauritania is party to a bilateral agreement with the requesting country (the mission has not been provided with these conventions).

366. Thus, by virtue of Article 65 of Law No. 2005-048, the Mauritanian authorities undertake to cooperate with the authorities of other States for purposes of exchanging investigatory and prosecutorial information and information relating to measures to protect and confiscate instruments and proceeds associated with money laundering and terrorist financing, as well as for extradition purposes.

## Recommendation 36 and Special Recommendation V

**367. Range of mutual assistance measures with respect to AML/CFT:** In compliance with R.36 and SR V., the aforementioned law proposes the widest possible range of mutual legal assistance in AML/CFT investigations, prosecutions, and related proceedings. However, because the law is a recent one, it is not possible to assess the practical effectiveness of the Mauritanian mechanism in this regard.

Article 77 of the law stipulates that mutual legal assistance may include, among other things:

- The taking of statements or depositions;
- The provision of assistance in making persons detained or other persons available to the competent authorities of the requesting country for investigation purposes;
- Providing legal documents;
- Searches and seizures;
- The inspection of objects and premises;
- Providing incriminating information and objects; and
- Providing originals or certified true copies of relevant documents and records, including bank statements, accounting documents, records showing the operation of a business or its commercial activities.

368. In addition, as regards the contents of a request for mutual assistance, the requirements are such as to allow for effective cooperation in that they include traditional components, namely:

- Name of the authority requesting the measure;
- Name of the required court authority;
- Description of the measure requested;
- A statement of the facts constituting the offense and the applicable legislative provisions, unless the sole purpose of the request is the provision of records of proceedings or court decisions;
- Any known fact that will help identify the persons concerned, including their civil status, nationality, address, and profession;
- Any information necessary for locating the instruments or property in question;
- A detailed statement of any procedure or special request that the requesting State would like to see pursued or carried out;
- An indication of the time by which the requesting State would like to have the request carried out; and
- Any other information necessary for properly fulfilling the request.

369. In addition, Article 79 of Law No. 2005-048 provides a list of the **grounds for refusal to honor a request for mutual assistance**. Here again, the Mauritanian system is consistent with customary legal principles applicable in this area in most countries. A request for mutual assistance may be denied only if:

- It was not made by a competent authority pursuant to the legislation of the requesting country or was not duly submitted;

- Enforcement would pose the risk of jeopardizing public order, sovereignty, security, or the fundamental principles of law;
- The facts to which it pertains are the subject of criminal prosecution or have already led to a court decision in Mauritania;
- The measures requested or any other measures with analogous effects are not, under national legislation, authorized or applicable to the offense referred to in the request;
- The measures sought may not be ordered or enforced owing to limitation of the offense of money laundering or the financing of terrorism pursuant to national legislation or the legislation of the requesting country;
- The decision whose enforcement is sought is not enforceable under national legislation or lost its enforceability by reference to the legislation of the requesting country;
- The foreign decision was handed down in conditions which do not provide adequate guarantees as regards the rights of the defense;
- There are serious reasons to believe that the measures sought or decision requested are aimed at the person concerned only because of his or her race, religion, nationality, ethnic origin, political opinions, gender, or status.

**370. Tax matters:** Law No. 2005-048 does not contain any provision that would make it possible to refuse a request for mutual assistance on the sole ground that the offense is also considered to involve tax matters.

**371. Professional secrecy:** Law No. 2005-048 does not provide that professional secrecy can be invoked in order to refuse a request for mutual assistance.

372. According to information compiled by the mission, in the event of receipt of international letters rogatory, the judge in question may decide to use any investigative service to prepare the documents sought by the requesting country. The Mauritanian system therefore allows the authorities in charge of investigating money laundering, terrorist financing, and other corresponding underlying offences to be used to respond to a request for legal assistance. Furthermore, when a case spans several jurisdictions, judges may decline jurisdiction in favor of selection of the one that allows for the investigation to be conducted most effectively.

### **Recommendation 37**

**373. Dual criminality rule:** the dual criminality requirement with respect to requests for legal assistance is not stipulated in Law No. 2005-048, a situation that makes for particularly broad scope in the area of legal assistance.

## **Recommendation 38**

**374. Effective and timely response to mutual legal assistance requests:** The system introduced by the law enables the Mauritanian authorities to respond to requests for mutual assistance from foreign countries for a broad range of legal actions, including with respect to identification, freezing, seizure, and confiscation. For lack of data, however, the mission is unable to assess the effectiveness and timeliness of responses to requests for mutual assistance.

375. When a mutual legal assistance request has the effect of handing down a confiscation decision, Article 87 of Law No. 2005-048 provides that the competent Mauritanian court shall rule when approached upon referral by the competent authority of the requesting State. The same article further stipulates that the confiscation decision must target property that constitutes the proceeds or means used or intended for use in committing an ML/FT offense and is situated in Mauritanian territory. If the property cannot be located, the law provides that the decision should consist in the obligation to pay an amount of money equivalent to the value of the property mentioned in the mutual assistance request. In addition, for requests for conservatory measures for purposes of preparing a confiscation, Law No. 2005-048 provides that when the aim of the mutual assistance request is to seek the proceeds from the offenses covered by the law and situated in Mauritanian territory, the competent legal authority may conduct investigations and communicate the results to the competent authority of the requesting State. If these investigations lead to probative results, the competent legal authority shall, at the request of the competent authority of the requesting State, take any measure appropriate for preventing the sale or alienation of the proceeds in question, pending a final decision by the competent authority of the requesting State.

**376. Structures for managing and sharing funds:** The mutual assistance system developed by Law No. 2005-048 does not provide for the establishment of a fund for seized assets in which all or part of the confiscated property would be deposited and used for law enforcement, health, or education. The aforementioned law also does not contemplate the sharing of confiscated assets with other countries.

## **Recommendation 32**

**377. Statistics:** The Mauritanian authorities do not keep complete statistics on questions relating to the effectiveness and proper functioning of AML/CFT systems, or even on the number of mutual assistance requests received or sent out.

**378. List of bilateral and multilateral conventions on legal cooperation:**

- General convention on cooperation in criminal matters, signed with Guinea-Bissau;
- General convention on cooperation in criminal matters, signed with Guinea on April 20, 1965;
- Legal convention with Mali, signed July 25, 1963;

- General convention on legal cooperation with Morocco, signed September 20, 1972;
- Legal convention among the countries of the Arab Maghreb Union (UMA), signed in Tripoli on March 9 and 10, 1991;
- Agreement on criminal matters with France, signed June 19, 1961;
- Four conventions on legal cooperation with Spain are being prepared (mutual assistance in criminal matters, mutual assistance in civil matters, extradition, transfer of convicted persons);
- Antananarivo Convention of September 12, 1961, allowing for improved cooperation among the Republics of Madagascar, Cameroon, Central African Republic, Congo, Côte d'Ivoire, Gabon, Niger, Benin, Burkina Faso, Senegal, and Chad. This cooperation includes provisions relating to international mutual assistance in criminal matters and extradition.

### **6.3.2 Recommendations and Comments**

- 379. The rules put in place by Law No. 2005-048 are in compliance with the requirements of international standards. The practical implementation of the system has not yet been assured, however.
- 380. The Mauritanian authorities should introduce statistical tools in order to know the amounts seized and confiscated, and, more generally, accurately take stock of international requests for mutual assistance.
- 381. A structure for managing funds seized, both in the context of international cooperation but also for national activity, could be envisaged.

### **6.3.3 Compliance with R. 32, 36 to 38, and Special Recommendation V**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.36</b>	<b>LC</b>	The legislation is likely to facilitate sound international AML cooperation; however, the absence of data on the practical implementation of the system justifies the rating assigned.
<b>R.37</b>	<b>LC</b>	Idem
<b>R.38</b>	<b>LC</b>	Lack of information for use in assessing the effective and timely response to mutual assistance requests. Absence of a structure for managing or sharing funds.
<b>SR.V</b>	<b>LC</b>	The legislation is likely to facilitate sound international AML cooperation; however, the absence of data on the practical implementation of the system justifies the rating assigned.
<b>R.32</b>	<b>NC</b>	Lack of statistics on mutual assistance requests received and sent out.

## **6.4 Extradition (R.32, 37, & 39, & SR.V)**

### **6.4.1 Description and Analysis**

#### **Recommendation 39**

382. Chapter IV of Law No. 2005-048 lays down the rules on extradition for the offenses of money laundering and the financing of terrorism.

Article 93 of the law indicates that the following are subject to extradition:

- Individuals being prosecuted for money laundering and terrorist financing, regardless of the length of the penalty incurred in national territory;
- Individuals who have been definitively convicted of the offenses of money laundering and the financing of terrorism, with it being necessary to take the length of the sentence handed down into account.

383. Law No. 2005-048 establishes a simplified procedure when the extradition request involves money laundering and terrorist financing. Its Article 94 stipulates that the request is to be addressed directly to the Prosecutor General of the Republic with the Supreme Court, with an information copy to the Ministry of Justice.

384. The request must be accompanied by:

- The original or certified true copy of either an enforceable decision to convict, or an arrest warrant, or of any other instrument with the same force, issued in the form prescribed by the law of the requesting State and providing a precise indication of the time, place, and circumstances of the acts constituting the offense and the nature thereof;
- A certified true copy of the applicable legal provisions, indicating the penalty applied;
- A document identifying the individual sought as accurately as possible, and providing all other information usable in determining his or her identity, nationality, and location.

385. Law No. 2005-048 also makes it possible in emergencies for a requesting State to request the provisional arrest of an individual sought for an ML/FT offense pending the submission of a request for extradition.

386. Law No. 2005-048 contains no provision expressly forbidding the extradition of Mauritanian nationals. In any event, Article 596 of the Criminal Code stipulates that:

- Any Mauritanian who, outside the national territory, has engaged in an act deemed a felony crime under Mauritanian law may be prosecuted and judged by the Mauritanian legal system;
- Any Mauritanian who, outside the national territory, has engaged in an act deemed a crime by Mauritanian law may be prosecuted and judged by the Mauritanian legal system if the act is punishable by the legislation of the country in which it was committed.

387. Article 597 adds that “*whoever, within Mauritanian territory, has aided or abetted a felony crime or crime committed abroad may be prosecuted and judged by the Mauritanian legal system if the act is punishable by the foreign law and Mauritanian law, subject to the requirement that the act deemed a felony crime or crime has been proven by a final decision in the foreign jurisdiction.*” Consequently, Mauritanian legal provisions do permit, in cases in which the country would not extradite its own nationals, prosecution for an offense committed abroad.

### **Recommendation 37**

388. As regards **dual criminality**, Article 93 of the aforementioned Law No. 2005-048 provides that “*the ordinary law rules with respect to extradition are not waived, in particular those relating to dual criminality.*” Thus, when the extradition request involves a money laundering and terrorist financing offense, the dual criminality role posited by Article 597 of the Criminal Code applies. Article 597 requires that the act giving rise to the offense be criminalized both by Mauritanian law and the foreign law; the sole requirement that both countries criminalize the conduct underlying the infraction is in line with R.37.

### **Recommendation 32**

**389. Statistics:** The Mauritanian authorities do not keep complete statistics on questions relating to the effectiveness and proper functioning of AML/CFT systems, or even on the number of mutual assistance requests received or sent out.

#### **6.4.2 Recommendations and Comments**

390. The Mauritanian authorities should introduce statistical tools enabling them to take stock accurately of the extradition requests received and sent out.

#### **6.4.3 Compliance with R. 32, 37 and 39, and Special Recommendation V**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.39</b>	<b>LC</b>	The rating assigned is justified by the lack of data on the practical implementation of the system.
<b>R.37</b>	<b>LC</b>	Ibidem.
<b>SR. V</b>	<b>LC</b>	The rating assigned is justified by the lack of data on the practical implementation of the system.
<b>R.32</b>	<b>NC</b>	Lack of statistical tools.

## **6.5 Other forms of international cooperation (R.32 & 40, & SR.V)**

### **6.5.1 Description and Analysis**

392. The conditions for domestic and international cooperation with respect to AML/CFT are unsatisfactory in Mauritania, for both legal and institutional reasons.

393. Article 33 reconsiders the international exchange of information among counterpart units mentioned earlier in the analysis of Article 29 (see section 2.5 analyzing the powers of CANIF). Article 33 organizes exchanges subject to the usual reservations of reciprocity, identification of missions, and protective measures, without the need for a protocol of agreement, as does Article 29, but does not include one of the restrictive conditions of Article 29, namely, the fact that the mere transmission of information could lead to the institution of judicial proceedings. In this case, the exchange of information is possible only with the approval of the competent judge. The exclusion of this condition in Article 33 considerably widens the scope for the transfer of information and thus makes it more compatible with the effectiveness requirement set forth in international standards in this regard, whether they pertain to FATF recommendations or to the principles set forth by the Egmont group. Taken together therefore, the wording of these two articles is ambiguous, a situation that should be rectified. The restriction of exchanges only to information that is the object of legal proceedings hampers the operational efficiency of a financial intelligence unit whose actions by definition often precede the judicial phase. When a matter has already progressed to the stage of judicial proceedings, the judge has certainly approved transmission in order to avoid jurisdictional conflicts.

394. In addition, the cooperation between financial supervisors and their foreign counterparts is highly limited. Indeed, there is no system for cooperation and information exchange either between the various national prudential authorities (the BCM for financial institutions, the Ministry of Interior and the Ministry of Trade for insurance activities) or between these authorities and foreign bank supervision authorities. These authorities should be authorized by law to enter into information exchange agreements subject to confidentiality in order to meet the requirements of supervising the institution under their respective authority. In this regard, the BCM notes that the draft banking law currently being finalized institutes the principle authorizing oversight authorities to enter into cooperation and information exchange agreements with foreign supervisors for purposes of monitoring the establishments they oversee.

395. With regard to international legal cooperation, Law No. 2005-048 organizes cooperation in the area of anti-money laundering and combating the financing of terrorism. The mechanism established by the law is applicable in instances other than those in which Mauritania is party to a bilateral agreement with the requesting country. Thus, by virtue of Article 65 of Law No. 2005-048, the Mauritanian authorities undertake to cooperate with the authorities of other States for purposes of exchanging investigatory and prosecutorial information and information relating to measures to protect and confiscate instruments and proceeds associated with money laundering and terrorist financing, as well as for extradition purposes. In practice, however, this cooperation has not yet functioned because Law No. 2005-048 is so recent.



### **6.5.2 Recommendations and Comments**

396. The national authorities should adopt new laws authorizing supervisors to collaborate with their foreign counterparts with a view to strengthening prudential cooperation at the international level.

### **6.5.3 Compliance with R 32 and 40, and Special Recommendation V**

	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>R.40</b>	NC	Lack of intensive cooperation of financial sector supervisors with their foreign counterparts.
<b>SR.V</b>	NC	Ibid.
<b>R.32</b>	NC	Absence of statistics.

## **7. OTHER ISSUES**

None.

### **7.1 other relevant aspects**

None.

### **7.2 general framework of the AML/CFT system (see also section 1.1)**

## **TABLES**

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

**Table 2: Recommended Action Plan for Improving the AML/CFT system**

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

**Table 1. Ratings of Compliance with FATF Recommendations**

C: Compliant

NC: Noncompliant

LC: Largely compliant

PC: Partially compliant

<b>40 Recommendations</b>	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
<b>Legal system</b>		
1. Offense of money laundering	<b>PC</b>	The legal and regulatory provisions are compliant with standards overall, but implementation is lacking.
2. Intent and criminal liability of legal persons	<b>PC</b>	Idem
3. Confiscation and provisional measures	<b>PC</b>	The ambiguous wording of the various articles of Law No. 2005-048 justifies the rating assigned.
<b>Preventive measures</b>		
4. Laws on professional secrecy	<b>C</b>	
5. Customer due diligence	<b>NC</b>	<p>Lack of an instruction making clear to the sectors covered, banks, exchange bureaus, and insurance in particular, the conditions for carrying out customer due diligence.</p> <p>No obligation to obtain information on the purpose and intended nature of the business relationship.</p> <p>No threshold established for occasional transactions.</p> <p>Anonymous accounts not explicitly prohibited per Law n. 2005-048.</p> <p>The identification of legal persons is complicated by the unreliability of the commercial and company registry. Absence of balance sheets for enterprises allowing for checking the consistency of financial</p>

		<p>operations with ongoing business.</p> <p>The question of the identification of foreign or non resident customers is not addressed in the law 2005-048.</p>
6.Politically exposed persons	<b>PC</b>	<p>The law is in compliance with the standards, but there is no BCM instruction clarifying for financial institutions the conditions applicable to carrying out due diligence with respect to PEPs. Its absence makes the provision inoperative.</p>
7.Correspondent banking relationships	<b>PC</b>	<p>Lack of an obligation to evaluate the controls introduced by banking correspondents and to obtain the authorization of senior management before entering into new correspondent banking relationships.</p>
8.New technologies and non-face to face business relationships	<b>NC</b>	<p>Absence of regulations concerning new or emerging technologies favor anonymity.</p>
9.Third parties and intermediaries	<b>NC</b>	<p>Virtual absence of any provisions governing the conditions for relying on third parties.</p>
10.Record-keeping requirements	<b>PC</b>	<p>Absence of AML/CFT instructions for exchange bureaus.</p> <p>Insufficient information systems applied currently by banks to follow up all transactions in order to provide information in their regard to the judicial system or the national Mauritanian committee for financial investigation or regulatory authorities, if deemed necessary.</p>
11.Unusual transactions	<b>PC</b>	<p>The concept of a complicated, unusual or unjustified transaction is not defined.</p>
12.Designated non-financial businesses and professions—R.5, 6, 8-11	<b>NC</b>	<p>The circumstances under which professionals of the legal and accounting professions must comply with due diligence requirements are only partially covered in Law No. 2005-048.</p> <p>Law No. 2005-048 does not include specific measures organizing due diligence requirements for DNFBPs.</p> <p>Lack of record-keeping requirement for DNFBPs.</p> <p>Law not implemented in practice.</p>
13.Suspicious transaction reports	<b>PC</b>	<p>The suspicious transaction mechanism has not really taken effect. This explains the rating assigned.</p>
14.Protection of reporting parties and prohibition on alerting customers	<b>PC</b>	<p>Idem.</p>

15.Internal controls, compliance, and auditing.	<b>PC</b>	Banks have only partially implemented internal AML/CFT controls. The BCM has not yet issued an implementing circular in this area. The legislation does not explicitly provide for the obligation, on the part of financial institutions, to implement appropriate procedures when employees are being hired in order to ensure that this process is carried out in accordance with strict criteria.
16.Designated non-financial businesses and professions—R.13-15 & 21	<b>NC</b>	<p>Absence of the obligation for DNFBPs to implement internal AML/CFT programs.</p> <p>Absence of the obligation for DNFBPs to pay close attention to their business relationships and their transactions with individuals and legal persons residing in the country who do not apply, or apply insufficiently, FATF recommendations.</p>
17.Penalties	<b>NC</b>	<p>Lack of supervision by the self-regulation authorities of their members' observance of Law No. 2005-048.</p> <p>The self-regulation authorities have adequate disciplinary and sanctioning powers, but these are not used with respect to AML/CFT.</p> <p>CANIF not in place to supervise the DNFBPs not subject to a supervisory authority. CANIF has no power to impose sanctions.</p>
18.Shell banks	<b>C</b>	
19.Other forms of reporting	<b>NC</b>	Lack of any consideration on the possibility of implementing a system of declaration for the financial transactions above a fixed threshold
20.Other non-financial businesses and professions and modern fund management techniques	<b>PC</b>	The country has not analyzed the degree of exposure to ML/FT risk of the other designated non-financial professions.
21.Special attention to countries posing the greatest risks	<b>NC</b>	Law No. 2005-048 is silent on the special diligence which must be observed with respect to operations with companies or financial institutions that are not subject to sufficient obligations as regards customer

		identification or controls on transactions.
22.Branches and subsidiaries abroad	NC	Lack of legal provisions.
23.Regulation, supervision, and oversight	PC	Absence of effective supervision of banks, insurance companies, and exchange bureaus as regards AML obligations.
24.Designated non-financial businesses and professions—regulation, supervision, and oversight	NC	The self-regulation authorities have adequate disciplinary and sanctioning powers, but these are not used with respect to AML/CFT.
25.Guidelines	NC	Absence of guidelines in all sectors (banks, insurance, exchange bureaus, microfinance). The Instruction from the Banking and Financial Supervision Commission (CSBF) is still in draft form.
<b>Other institutional measures</b>		
26.Financial Intelligence Unit	PC	The unit has adequate powers under the laws and regulations but is not yet operational.
27.Criminal prosecution authorities	PC	Lack of experience of units responsible for organized crime. CANIF not yet operational.
28.Powers of competent authorities	LC	The procedural tools and authorities do exist in the CPC, but have not yet been used with respect to AML/CFT.
29.Supervisory authorities	PC	The supervision powers are in compliance with standards, but the country does not yet have the necessary experience with controlling money laundering.
30.Resources, integrity, and training	NC	CANIF still does not have sufficient personnel or financial resources.
31.National cooperation	PC	Absence of effective implementation of an intergovernmental cooperation mechanism, except of the ad hoc committee supervised by the central bank of Mauritania.
32.Statistics	NC	Absence of statistics.
33.Legal persons—Beneficial ownership	PC	The commercial registry is not yet operational. The transparency conditions that should exist with respect to companies are therefore not guaranteed.
34.Special legal arrangements-Beneficial ownership	NA	
<b>International cooperation</b>		
35.Conventions	LC	Lack of information on implementation of the Palermo Convention, which was ratified in January 2005.
36.Mutual legal assistance	LC	The legislation is likely to facilitate sound international AML cooperation; however, the

		absence of data on the practical implementation of the system justifies the rating assigned.
37.Dual criminality	<b>LC</b>	Idem
38.Legal mutual assistance with confiscation and freezing	<b>LC</b>	Lack of information for use in assessing the effective and timely response to mutual assistance requests. Absence of a structure for managing or sharing funds.
39.Extradition	<b>LC</b>	The rating assigned is justified by the lack of data on the practical implementation of the system.
40.Other forms of cooperation	<b>NC</b>	Lack of cooperation between supervisors and their foreign counterparts.
<b>Nine Special Recommendations</b>	<b>Rating</b>	<b>Summary of factors justifying the rating assigned</b>
SR.I Application of UN instruments	<b>NC</b>	Absence of dissemination of the lists drawn up pursuant to Resolution 1267 et seq. and Resolution 1373. Absence of procedures for the implementation of these resolutions.
SR.II Criminalization of the financing of terrorism	<b>PC</b>	Attempts are not covered in all cases of terrorist financing, except in the case of aggravating circumstances. No implementation of the system emerging from the new law.
SR.III Freezing and confiscation of terrorist funds	<b>PC</b>	The texts lack clarity and it is not possible to measure their effectiveness. The provisions making it possible to apply United Nations resolutions S/RES 1373 (2001) and S/RES 1267 (1999) and related resolutions are not sufficiently specific and clear.
SR.IV Suspicious transaction reports	<b>PC</b>	The mechanism for reporting suspicions is not yet operational. This explains the rating assigned.
SR.V International cooperation	<b>LC</b>	The legislation is likely to facilitate sound international AML cooperation; however, the absence of data on the practical implementation of the system justifies the rating assigned.
SR.VI AML/CFT obligations applicable to money or value transfer services	<b>PC</b>	Lack of controls on specialized institutions. Lack of obligation for alternative systems for the transfer of funds to keep an updated list of agents, to be made available to the competent authorities. Lack of a BCM instruction establishing the modalities for the application of Article 24.

SR.VII Rules applicable to electronic transfers	<b>PC</b>	Lack of sufficient provisions in the law.
SR.VIII Nonprofit organizations	<b>PC</b>	Lack of specific measures for ensuring that funds or other assets collected or transferred through non-profit entities are not diverted to support terrorist activities or organizations.
SR.IX Fund couriers	<b>PC</b>	Staffing shortages and a lack of training in customs offices are hampering effective implementation of the recommendation.

**Table 2: Recommended Action Plan for Improving the AML/CFT system**

<b>FATF 40 + 9 Recommendations</b>	<b>Main measures recommended</b>
<b>Legal system and institutional measures</b>	
Scope of the criminal offense of money laundering (R.1, R.2 and 32)	<ul style="list-style-type: none"> <li>• Create computerized and centralized criminal records.</li> <li>• Create computerized databases for the collection of information by the police, customs, and court system that allows for the centralization, among other things, of information and the compilation of reliable data.</li> </ul>
Freezing, seizure, and confiscation of proceeds from crime (R.3 et R.32)	<ul style="list-style-type: none"> <li>• Put in place statistical tools that permit the compilation of quantitative and descriptive information on assets seized.</li> </ul>
Criminalization of terrorist financing (SR.II and R.32)	<ul style="list-style-type: none"> <li>• Preparation by lawmakers of clear provisions to suppress attempts to finance terrorism.</li> <li>• In terms of compliance with Recommendation 32, improve the system from a structural point of view (research and statistical services with expertise in organized crime, in particular, money laundering and the financing of terrorism within the different administrative entities that work together: customs, police, courts, CRF, sharing of data for the relevant analyses (probably through CANIF), and from a financial point of view (adequate budget and sharing of expertise in order to avoid loss of information and the compartmentalization of analyses).</li> <li>• Establish an interministerial entity that includes representatives of the various institutional stakeholders as well as professionals, with a view to coordination of the policy to combat FT as well as the preparation of periodic assessments.</li> </ul>
Freezing of terrorist assets (SR III)	<ul style="list-style-type: none"> <li>• Implement specific procedures in order to apply the United Nations resolutions on the freezing of the assets of terrorists and other suspects. These administrative and judicial procedures should be clearly set forth in laws and regulations, taking into account the effectiveness of the mechanism, which should provide for the monitoring of these measures.</li> </ul>
Financial Intelligence Unit (R.26, R.30, and R.32)	<ul style="list-style-type: none"> <li>• Establish an FIU and ensure that it is operational.</li> <li>• Provide the FIU with adequate human, technological, and budgetary resources to accomplish its mission.</li> <li>• Compile data on the number of suspicious transaction reports (STRs) received, investigated, and turned over to the Public Prosecutor.</li> </ul>
Law enforcement, prosecution, and other competent authorities (R.27, R.28, R.30,	<ul style="list-style-type: none"> <li>• Train magistrates to combat organized financial crime.</li> <li>• Provide the judicial authorities with adequate financial, human, and technical resources. Increase, in particular,</li> </ul>



and R.32)	<p>human resources, the number of magistrates and clerks of the courts, as well as the material resources that allow for more effective management of daily court-related tasks.</p> <ul style="list-style-type: none"> <li>• Establish a system for the collection of statistical data on the proceedings conducted and on convictions.</li> </ul>
<b>Preventive measures applicable to financial institutions</b>	
Due diligence; customer identification and record-keeping requirements (R5, 6, 7, 8 and 10)	<ul style="list-style-type: none"> <li>• Draft and disseminate to the relevant sectors (banks, insurance companies, exchange bureaus) clear and detailed instructions specifying the conditions for enforcement of Law No. 2005-048.</li> <li>• Conduct a financial sector risk analysis in order to determine the categories of customers and the types of transactions associated with a high risk of money laundering.</li> <li>• Encourage banks and other financial institutions to update files on their long-standing customers (both individuals and legal persons).</li> <li>• Encourage all banks to prepare internal instructions regarding due diligence with respect to customers (policy of acceptance of customers, identification of customers, rules for record-keeping and the filing of information).</li> <li>• Remind banks of the obligation to understand the ownership and oversight structure of customers that are legal persons, given that in practice, these instructions are not followed.</li> <li>• As Article 10 of the law stipulates, an Instruction should be issued by the Governor of the Central Bank setting forth, as soon as possible, the oversight procedures specifically applicable to PEPs. In particular, this Instruction should define the concept of PEPs.</li> <li>• It would be helpful if, in the case of exchange bureaus, an Instruction were to be issued by the BCM indicating that they are responsible for recording all transactions in chronological order, along with their nature and amount, the first and last names of customers, and well as the number of documents submitted, in a register that is numbered and initialed by the appropriate administrative authority, and for keeping this register for a period of 10 years after the last transaction has been recorded.</li> </ul>
Third parties (R9)	<ul style="list-style-type: none"> <li>• The authorities are urged to publish an instruction indicating, among other things, the conditions under which lending institutions may use third parties.</li> </ul>
Banking secrecy or	

confidentiality (R.4)	
Electronic transfer of funds (SR.VII)	<ul style="list-style-type: none"> <li>• Adopt a directive specifying the procedures for enforcement of Article 26 of Law No. 2005-048.</li> </ul>
Monitoring of transactions (R.11)	<ul style="list-style-type: none"> <li>• Stipulate to banks and other financial institutions the conditions for enforcement of Article 13 of Law No. 2005-0048 on the monitoring of transactions that are unusually or unduly complex.</li> <li>• Encourage banks to draft internal guidelines for the ongoing monitoring of accounts and transactions; define the role of internal oversight entities (inspection and audit) with respect to combating money laundering and terrorist financing.</li> <li>• Draft provisions regarding transactions with the residents of countries where application of the recommendations is either non-existent or lax.</li> <li>• Supplement directive 006/GR/2000 on internal oversight by including in it the risk of ML/FT on the list of categories of risks to be covered by the risk-monitoring mechanism for banks.</li> </ul>
Shell banks (R.18)	
Regulation and surveillance, competent authorities and their powers (R.17, R.23, R.29, R.30)	<p>The BCM is urged to:</p> <ul style="list-style-type: none"> <li>• Monitor the proper application of the legal and regulatory provisions by the entities to which these provisions apply (banks, financial institutions, exchange bureaus, microfinance institutions).</li> <li>• Ensure that in this area, banks have adequate resources for prevention, detection, and reporting.</li> <li>• Verify that banks have trained and qualified staff in order to prevent and detect money laundering operations.</li> <li>• The same recommendation is being made for the insurance sector.</li> </ul>
Guidelines (R.25)	<ul style="list-style-type: none"> <li>• Draft detailed instructions for banks, other financial institutions, and exchange bureaus in order to help them apply national AML/CT measures.</li> </ul>
Suspicious transactions reporting (R.13, R.14, R.19, R.25 et SR.IV)	<ul style="list-style-type: none"> <li>• Draft a printed standard STR form and circulate it among all the relevant sectors with clear instructions on how it should be used.</li> <li>• Draft guidelines to help financial institutions identify the different types of suspicious financial transactions of customers (typology exercise).</li> <li>• Explain to the relevant sectors the laws and other obligations applicable to money laundering and terrorist financing and give advice to financial institutions on how they can comply with these laws and meet these obligations.</li> </ul>

Regulation and monitoring (R.23, 29 et 32)	<p>The BCM is encouraged to:</p> <ul style="list-style-type: none"> <li>• Monitor proper application of the legal and regulatory provisions on this subject.</li> <li>• Ensure that banks have, in this area, adequate means for prevention, detection, and reporting.</li> <li>• Verify that banks have trained and qualified staff to prevent and detect money laundering operations.</li> <li>• Provide CSBF [Banking Supervision Commission] inspectors with suitable training related to the monitoring of money laundering.</li> <li>• Develop the methodological AML tools for inspectors that will guide them in the work of monitoring documents on-site.</li> <li>• The same recommendations are being made for the insurance sector.</li> <li>• A program of targeted investigations should also be undertaken as soon as possible by Mauritanian banks in order to ensure that individuals suspected of terrorism by the United Nations or other foreign organizations are not among the customers of Mauritania's banks.</li> </ul>
Services for the transmission of money or value (SR.VI)	<ul style="list-style-type: none"> <li>• Monitor observance of the AML/CFT rules with respect to alternative networks for the remittance of funds.</li> </ul>
<b>Preventive measures applicable to designated non-financial businesses and professions</b>	
Identification of customers and record-keeping (R.12)	<ul style="list-style-type: none"> <li>• Amend Article 14 of Law No. 2005-048 in order to specify the measures that must be adopted by DNFBPs for purposes of due diligence. This could be done by adding a reference in Article 14 to the different surveillance measures to be adopted by financial institutions or by listing specifically the various measures to be taken to fulfill this obligation. Moreover, such an approach would compensate for the absence of a provision regarding the practicing of due diligence by those DNFBPs that do not come under a supervisory authority by setting forth clear due diligence requirements.</li> <li>• Amend Law No. 2005-048 in order to make DNFBPs subject to record-keeping requirements.</li> </ul>
Reporting of suspicious transactions (R.16)	<ul style="list-style-type: none"> <li>• Establish CANIF as soon as possible so that DNFBPs can report their suspicions in accordance with the conditions set forth in the law.</li> </ul>
Internal control, compliance, and auditing (R.16)	<ul style="list-style-type: none"> <li>• Call on the self-regulating organizations (lawyer's associations, public accountants' associations, and notaries' associations), to make arrangements, as soon as possible, to ensure compliance with AML/CFT</li> </ul>

	<p>legislation by the relevant persons or entities. In this regard, it would be helpful for these entities to issue guidelines aimed at helping the professions in question fulfill their new obligations.</p> <p>With regard to those entities for which CANIF must oversee proper enforcement of the AML/CFT law, it is essential that:</p> <ul style="list-style-type: none"> <li>• Mauritanian authorities establish CANIF as soon as possible;</li> <li>• CANIF is provided with adequate financial, human, and technical resources to engage in monitoring activities;</li> <li>• Practical procedures are drawn up for this monitoring, namely the on-site monitoring of documents; and</li> <li>• CANIF is vested with adequate authority to impose sanctions.</li> </ul>
Regulation, supervision, and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> <li>• Indicate which authorities are responsible for monitoring compliance with AML standards in the case of nonfinancial businesses and professions.</li> <li>• Ensure that the self-regulating organizations concerned actually monitor fulfillment by the relevant persons or entities of their new obligations.</li> <li>• Ensure that self-regulating organizations establish guidelines to help the relevant persons or entities apply and fulfill their obligations.</li> </ul>
<b>Legal Persons, Legal Arrangements, and Non-Profit Organizations</b>	
Legal persons (R.33)	<ul style="list-style-type: none"> <li>• Adopt the necessary implementing regulations in order to make the commercial register usable within a reasonable timeframe.</li> </ul>
NPOs (SR.VIII)	<ul style="list-style-type: none"> <li>• Greater regulation of the sector</li> <li>• Strengthened controls</li> </ul>
<b>National and international cooperation</b>	
National cooperation and coordination (R.31)	<ul style="list-style-type: none"> <li>• Organize cooperation procedures among the different services and institutions working in the area of money laundering and terrorist financing (memoranda of agreement for the exchange of information, confidentiality ...).</li> </ul>
International Conventions and United Nations resolutions (R.35 and SR.I)	<p>The Mauritanian authorities are encouraged to:</p> <ul style="list-style-type: none"> <li>• Ratify, as soon as possible, the Palermo Convention and its Additional Protocols;</li> <li>• Make provisions for the systematic circulation of United Nations lists to financial institutions. The same applies to entities designated by other countries; and</li> <li>• Ensure proper application of the aforementioned</li> </ul>

	instruments.
Mutual Legal Assistance (R.32, 36-38, SR.V)	<ul style="list-style-type: none"> <li>• The rules established by Law No. 2005-048 are in keeping with international standards. The practical implementation of these rules is not, however, guaranteed.</li> <li>• The Mauritanian authorities should put in place statistical tools for determining amounts that have been seized and confiscated, and more generally for preparing an accurate list of requests for international mutual legal assistance.</li> <li>• Consideration could be given to the establishment of an entity for managing funds seized, in the context of both national activities and international cooperation.</li> </ul>
Extradition (R.32, 37 et 39, SR.V)	<ul style="list-style-type: none"> <li>• The Mauritanian authorities should put in place the statistical tools for obtaining an exact record of extradition requests received and sent.</li> </ul>
Other forms of cooperation (R.32 and 40, SR.V)	<ul style="list-style-type: none"> <li>• Adopt new laws authorizing supervisors to collaborate with their foreign counterparts in order to strengthen international prudential cooperation.</li> </ul>
<b>Other subjects</b>	
Other pertinent measures and topics within the framework of the AML/CFT law	<ul style="list-style-type: none"> <li>• Implement all planned reforms pertaining to good governance and combating corruption.</li> </ul>