MENAFATF
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GAFIMOAN
Middle East and North Africa
Financial Action Task Force

1st Enhanced Follow-Up Report for the People's Democratic Republic of Algeria

Technical Compliance Re- Rating Request

Anti-Money Laundering and
Combating the Financing of Terrorism

May 2024

the People's Democratic
Republic of Algeria

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This document contains the 1st Enhanced FUR for the People's Democratic Republic of Algeria, which includes a TC re-rating request for ten recommendations (11, 12, 14, 18, 21, 22, 23, 26, 27, 28). This report reflects Algeria's efforts since adopting the MER in May 2023. The 38th MENAFATF plenary has adopted this report, provided that the People's Democratic Republic of Algeria remains in the Enhanced FU process and submits its 2nd Enhanced FUR in the 40th plenary meeting in May 2025.

The first enhanced follow-up report for Algeria

(With a Technical Compliance Re-rating)

First: Introduction:

1. Algeria was evaluated within the second round by the MENAFATF pursuant to FATF's 40 recommendations and the 11 Immediate outcomes adopted in 2012, and the MER was prepared according to the methodology adopted in 2013. The MER for Algeria was approved at the MENAFATF 36th Plenary, which was held in Bahrain in May 2023. It was decided, as per the procedures, that Algeria shall be subject to the enhanced follow-up process.
2. According to the MER of Algeria, it was rated "Compliant" in (2) recommendations, "Largely Compliant" in (9) recommendations, and "Partially Compliant" in (17), "Non-Compliant" in (11) recommendations and "Not Applicable" in One recommendation of the 40 recommendations, and the report also showed that the country's evaluation as (Substantial level of effectiveness "SE") in (2) IOs, and (Moderate level of effectiveness "ME") in (3) IOs, and (Low Level of effectiveness "LE") in (6) IOs out of the 11 IOs in the effectiveness evaluation.
3. The following are brief of TC and EC ratings:

Table (1): TC ratings

Recommendation 1	Recommendation 2	Recommendation 3	Recommendation 4	Recommendation 5	Recommendation 6	Recommendation 7	Recommendation 8	Recommendation 9	Recommendation 10
NC	PC	LC	LC	C	PC	NC	NC	PC	PC
Recommendation 11	**Recommendation 12**	**Recommendation 13**	**Recommendation 14**	**Recommendation 15**	**Recommendation 16**	**Recommendation 17**	**Recommendation 18**	**Recommendation 19**	**Recommendation 20**
PC	NC	NC	PC	NC	NC	N/A	PC	NC	LC
Recommendation 21	**Recommendation 22**	**Recommendation 23**	**Recommendation 24**	**Recommendation 25**	**Recommendation 26**	**Recommendation 27**	**Recommendation 28**	**Recommendation 29**	**Recommendation 30**
PC	PC	PC	NC	NC	PC	PC	PC	LC	LC
Recommendation 31	**Recommendation 32**	**Recommendation 33**	**Recommendation 34**	**Recommendation 35**	**Recommendation 36**	**Recommendation 37**	**Recommendation 38**	**Recommendation 39**	**Recommendation 40**
LC	PC	C	PC	PC	PC	LC	LC	LC	NC

Note: There are five Possible ratings for Technical Compliance (Compliant, Largely Compliant, Partially Compliant, Non-Compliant and Not Applicable)

Reference: People's Democratic Republic of Algeria's MER.

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%D9%87%D9%88%D8%B1%D9%8A%D8%A9%20%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A6%D8%B1%D9%8A%D8%A9%20%D8%A7%D9%84%D8%AF%D9%8A%D9%85%D9%82%D8%B1%D8%A7%D8%B7%D9%8A%D8%A9%20%D8%A7%D9%84%D8%B4%D8%B9%D8%A8%D9%8A%D8%A9.pdf

Table (2): Effectiveness Ratings

IOs.	1	2	3	4	5	6	7	8	9	10	11
Compliance Rating	LE	ME	LE	LE	LE	ME	ME	SE	SE	LE	LE

Note: There are four Possible ratings for Effectiveness (High, substantial, moderate and low levels of effectiveness)

Reference: People's Democratic Republic of Algeria's MER.

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4. Based on the TC ratings in the 40 recommendations and the level of effectiveness in the 11 IOs in the MER for Algeria, and in accordance with the procedures of the approved ME process, the decision of the MENAFATF 36th Plenary in May 2023 included placing Algeria in the Enhanced Follow-Up Process ("EFU"), provided that the first FUR will be submitted within the framework of the EFU process to the MENAFATF 38th Plenary in May 2024.

5. Within the first EFU process of Algeria, the Country submitted a TCrerating request for 10 recommendations (11, 12, 14, 18, 21, 22, 23, 26, 27 and 28). The TC with the four recommendations was analyzed by the review team, which consists of Ms. Fawzia Al Ali, The Executive Office of the AML/CFT of the United Arab Emirates, Captain Yaqoob Muftah, Financial Intelligence Center of Kingdom of Bahrain, and Mr. Sbetan Zayed, Financial Follow-up Unit of the State of Palestine. This was done with the support of members of the MENAFATF's Secretariat, namely Mr. Omar Rbeihat, Senior Officer of Mutual Evaluation, and Mr. Essameldin Barakat, ME expert.

Priority Actions:

6. Algeria's MER contained some shortcomings in the level of technical compliance to the 40 Recommendations and IOs regarding the effectiveness of AML/CFT system, also, in the Report, there where recommendations for taking remedial actions/corrective steps that the Country should prioritize, as follows:

   - Algeria should complete the risk assessment process at the national level to produce clear findings on the risks of money laundering and terrorist financing and make the results of this assessment widely available to the public and private sectors to form a starting point for a unified and comprehensive understanding of the risks.

- Algeria should consider amending the mechanism for implementing UNSCRs relating to combating terrorism and its financing, so as to allow them to be implemented within the country expeditiously and without delay, in addition to dispensing with the procedures that would negatively affect the effectiveness of the application of TFS. Also, consider making the necessary legislative amendments to introduce UNSCRs relating to combating the financing of proliferation into force within the country as soon as they are issued by the Security Council.

- The FIU should develop the procedures for handling STRs, take measures to address the delay in the analysis process and conduct an in-depth review of how reporting is prepared at the level of subject entities to determine the reasons for low or no reports, and the lack of reporting quality. As a basic initial step, setting up a feedback mechanism to provide useful feedback to the subject entities, in coordination with the supervisory authorities, to enhance awareness of the subject entities and enhance their compliance to the AML/CFT requirements, especially in the detection and reporting of suspicious transactions.

- LEAs should systematically conduct parallel financial investigations while examining the predicate offence to identify the money laundering crime and enhance their awareness and training them not to ignore financial evidence and ensure a "money tracing approach", especially in serious crimes with a cross-border dimension.

- The Algerian authorities, especially the investigative and judiciaries, must consider resorting to formal international cooperation to track, freeze, confiscate and recover the proceeds of crimes with a cross-border dimension (for example, resulting from drug trafficking), as well as activating mechanisms for formal and informal international cooperation to exchange information on crimes of terrorism and terrorist financing.

- Regulatory authorities should include in licensing and registration controls clear procedures to ensure that fit and proper tests are effectively applied to prevent criminals or their accomplices from owning controlling ownership shares in financial and non-financial institutions or assuming a management function there. The supervisory authorities should enhance their understanding of ML/TF risks, develop an effective risk-based supervisory approach, enforce administrative penalties in the event of non-compliance, and activate supervision over insurance companies and brokers and all DNFBPs regarding AML/CFT requirements.

- Algeria should continue efforts by introducing amendments (as quickly as possible) to the AML/CFT Law and address shortcomings, especially with regard to the implementation of TFS related to the financing of terrorism, proliferation financing, non-profit organizations, and preventive and supervisory measures. Developing and implementing continuous training and awareness programs for the subject entities to raise awareness of the risks to which they are exposed (particularly with regard to TF risks), and requesting them to conduct self-assessment of the risks on an ongoing basis.

- Algeria should evaluate the risks of abusing legal persons in money laundering and terrorist financing in order to determine how legal persons are abused and determine the level of risks it faces, as well as the type of legal person and activity that is most often abused in money laundering and terrorist financing operations.

- The Algerian authorities must conduct a comprehensive assessment and study of the NPOs sector in order to identify the sub-group of NPOs vulnerable to abuse in TF operations, determine the nature of the threats posed by terrorist entities or groups to the sector and how terrorist groups abuse the sector, and take measures aimed at mitigating the threat of TF in a way that does not hinder or disrupt legitimate charitable activities, and implement awareness programs to raise awareness among NPOs and donor groups about the threats that terrorist entities can pose to the sector, and the measures that NPOs can take to protect against those threats.

Second: Overview on the achieved progress in implementing the Recommendations requested for re-rating:

8. This section reviews the measures taken by Algeria to comply with the recommendations that it requested be re-rated, as Algeria addressed some of the compliance and technical shortcomings identified in the MER in relation to recommendations (11, 12, 14, 18, 21, 22, 23, 26, 27 and 23). As a result, some TC ratings recommendations were rerated.

General Clarification:

The FIU also issued Instruction No. 1 of 2023 related to the AML/CFT obligations on DNFBPs in order to cover group of recommendations of the FATF's, i.e. Recs. 22 and 23. The FIU also issued Instruction No. (2) of 2023 for financial institutions, to cover a set of recommendations and criteria of the FATF, including the criteria of recommendations (12) and (18). The FIU also issued Instruction No. (3) of 2023 related to the obligations of those subject towards PEPs, to

cover a set of recommendations, including recommendations (12) and (22). The FIU based its issuance of these instructions on Law No. 05-01 of 2005 amending and supplementing AML/CFT Law and Bylaw No. 22-36 of 2022, which defines the functions, organization and operation of the FIU. However, the review team did not consider these instructions as binding means due to the lack of all the necessary elements in the binding means according to the evaluation methodology, and therefore the provisions contained therein were not analyzed and results were not reached that are reflected in the evaluation of the ratings granted to the recommendations subject of the re-rating request. Below are the most important elements, which must be met by the evaluation methodology with regards to binding means, and the reasons why the instructions issued by the FIU are not considered binding means:

First - Binding Means according to the Evaluation Methodology:

The term "Binding Means" refers to regulations, guidelines, instructions, or other documents or mechanisms that specify binding AML/CFT requirements in a mandatory manner and impose penalties for non-compliance, and are issued by or approved by a competent authority. Penalties for non-compliance must be effective, proportionate and dissuasive.

Second - Reasons for not considering FIU's Instructions Binding Means:

(A) Regarding the methodology's requiring the availability of binding means and be issued or approved by a competent authority:

The Country based the extent to which the FIU's instructions are binding and their issuance by a competent authority on a number of articles contained in both amended and supplemented Law 05-01 of 2005 regarding AML/CFT, and Executive Decree No. (22-36) of 2022, which defines the functions of the FIU, its organization and operation. Below we provide a comment on the validity of this basis:

1) <u>Relying on Law 05-01 of 2005 amended and supplemented, concerning AML/CFT:</u>

Article 10-bis of this law states that authorities that have powers of control or/and supervision or/and oversight over subject persons shall enact regulations and monitor their respect by those subject to them in the field of AML/CFT/CPF, and helping those subject to respect the obligations stipulated for under this law and the Bylaws and instructions related to. The same law defines control, oversight and/or supervisory authorities as "the specific competent authorities responsible for ensuring that financial institutions and DNFBPs comply with the AML/CFT/CPF of WMDs requirements". The same law also defined the subject persons as "Financial institutions and designated non-financial institutions and professions which are required to implement preventive measures, including reporting suspicion, as provided for by this law, the regulations and the instructions issued by "the control, oversight and/or supervisory authorities".

<u>It is worth noting that Article 3 bis of the aforementioned law specifies the names of all control, supervision and/or oversight authorities over all financial institutions and DNFBPs. This article also gives only the FIU the powers to monitor and supervise those subject to it who do not have a [supervisory] authority specified in accordance with the law. Therefore, the FIU does not have the power to supervise the financial institutions and</u>

DNFBPs mentioned in the applicable law, as the same article included naming the supervisory authorities over all of these entities.

It is clear from the above that according to Law 05 01, the powers to issue instructions are available to control, oversight and supervision authorities only, in addition to restricting those subject to the regulations and instructions issued by those authorities, and therefore the law does not give powers to the FIU to issue instructions to financial institutions or DNFBPs.

Executive Decree No. 23-430 was issued based on the contents of Article (10) bis of the aforementioned law, stipulating that the conditions and modalities for implementing this article, when necessary, shall be determined by Decree. This Decree specifies the conditions and modalities for the aforementioned authorities to exercise their duties in the field of AML/CFT/CPF towards those subject thereto. Article (2) thereof stipulates that each of the control, oversight, and/or supervisory authorities stipulated in the law shall be responsible for issuing AML/CFT/CPF regulations for those subject to its jurisdiction and supervision, in accordance with applicable legislation and ratified international and regional agreements.

It is clear from the above that, according to Executive Decree No. 23-430, issuing instructions to financial institutions and DNFBPs falls within the powers of the control, oversight and supervision authorities over those institutions and is not within the jurisdiction of the FIU.

2) **Reliance on Executive Decree No. (22-36) of 2022 which determines the functions, organization and operation of the FIU.**

In response to what the Country reported that the instructions issued by the FIU were based on this Decree issued based on Article 4 bis of Law 05-01, which referred the identification of tasks and powers of the FIU to the Decree, we provide the following:

Article (4) of the Decree specified the tasks of the FIU, which are mainly related to receiving STRs, processing them, receiving and processing confidential reports, reporting the information to the security and judicial authorities and sending it to the public prosecutor, in addition to the two tasks that the Country referred to as the basis for the FIU's issuance of instructions. Article (4) stipulates these two tasks as follows:

- Proposing any legislative or regulatory text whose subject is AML/CFT.
- Establishing the necessary procedures to prevent and detect all forms of ML/TF.

The Algerian authorities explained in their response that the regulatory texts that the FIU can take the initiative to propose are mainly executive decrees, because the rest of the regulatory texts remain at the power of other authorities to propose (presidential decrees, ministerial decisions, joint ministerial decisions, decisions).

In response to the above, it is clear, according to the first task referred to in Executive Decree No. (22-36), that the FIU's power is limited only to proposing legislative or regulatory texts (represented in executive decrees) and there is no power for the FIU to issue any secondary legislation or instructions.

As for the second task of establishing the necessary procedures to prevent and detect all forms of ML/TF, which the Country indicated that the FIU issued instructions within the framework of establishing these procedures, the review team believes that this mentioned task cannot be relied upon when speaking of the FIU's issuance of instructions for several reasons; which can be summarized as follows:

- The explicit legal basis for issuing regulations related to combating money laundering and terrorist financing was imposed in Article 10 bis of Law 05-01, and this power has exclusively identified the control, oversight and/or supervision authorities.
- The text of the aforementioned task contained in Executive Decree No. (22-36) does not indicate a clear power for the FIU to issue instructions to those subjects thereto, while it refers to (establishing the necessary procedures) without explicitly indicating what these procedures are, and whether what is meant are the FIU's procedures itself, or procedures related to other authorities, and what are those authorities? On the other hand, the decree related to the powers of control, supervision, and oversight explicitly and clearly specified in its articles (1, 2, 3, 4, 6, 7, 8, 13) that those authorities [control, supervision, and oversight] are responsible for issuing such instructions. The team do not agree with the Country's reasoning that the aforementioned task stating the power to establish procedures is compatible with the obligations of those subject to due diligence, especially since Decree 23-340 has given the power to issue these procedures explicitly and clearly to the control, supervision and oversight authorities and not to the FIU, as Article (3) indicates. It is explicitly stated that those authorities issue regulations related to (among other things) due diligence measures, as well as those related to programs to combat money laundering and terrorist financing. Article (15) also indicates that those authorities must coordinate with the FIU when preparing these regulations, programs, and instructions, and this means; the role of the FIU is to share opinions and coordinate with the authorities, while the power to issue remains with those authorities.

It is clear from the above that there is no legal basis in Executive Decree No. (22-36) of 2022 for the FIU to issue instructions to financial institutions and DNFBPs.

3) **The extent to which instructions adopted by a competent authority**

The Country did not provide any evidence of the existence of official adoption the instructions issued by the FIU by the control, oversight and supervision authorities. The review team was provided with screenshots indicating that the supervisory authorities recently published these instructions on their official websites. The team does not agree with what the Country argued that those authorities circulated the aforementioned instructions to those subject to them and their publication confirm their adoption of those instructions, because there are no instructions, correspondence or notifications - whether in written form or electronic form - directed by the control, supervision and oversight authorities

to financial institutions and DNFBPs indicating in a formal and clear manner their adoption of the instructions issued by the FIU and also indicates the penalties that will be applied in the event of violating each obligation.

It is clear from the above that the instructions issued by the FIU were not adopted by a competent authority

(B) Regarding the methodology's requirement to impose effective, proportionate and dissuasive penalties for non-compliance

The instructions issued by the FIU included that non-compliance with the instructions would be punished with penalties stipulated in the laws in force, without any legal basis for the FIU to impose penalties, as Executive Decree No. (22-36) of 2022, which the Country relied on in establishing the powers of the FIU, did not include, in setting the instructions, penalties, nor does this include Law 05-01 of 2005, amended and supplemented, regarding AML/CFT, or any other law or decree.

With regard to Executive Decree No. 23-430, which specifies the conditions and modalities for exercising the control, oversight and/or supervisory authorities' duties in the field of AML/CFT/CPF towards those subject thereto, it includes the power to impose sanctions by those authorities on those subject thereto, and in view of what previously mentioned, Article 3 bis of Law 05-01 gave the FIU control and supervision powers only for those subject thereto who do not have a specific supervisory and oversight authority. However, it specified the names of all control and/or supervision authorities and/or supervision over all financial institutions, DNFBPs. The FIU does not have the powers to control and supervise any of the financial institutions and DNFBPs in accordance with the applicable law, and therefore it does not have the authority to impose penalties as per the instructions issued thereby to those institutions.

The Country did not provide evidence of the possibility of imposing effective, proportionate and dissuasive sanctions on financial institutions or DNFBPs for non-compliance with the FIU's instructions, nor did it provide any convincing evidence that effective, proportionate and dissuasive sanctions had been imposed in practice (contrary to what was required by the evaluation methodology). as its response in this area was limited to the fact that the oversight and supervision authorities circulated them to those subject to them and published them on their official websites confirms that these authorities have adopted those instructions, and that is sufficient for them to become effective and binding on those subject to their supervision, and when that is the case, they apply penalties against those who violate them.

It was previously commented that the review team did not consider the circular and publication to be considered an official adoption, and therefore the penalties to be imposed within the powers of supervisory authorities do not automatically apply in the event that the entities subject to their supervision violate the instructions issued by the FIU.

It is also not clear that the FIU's instructions include any explicit and clear links between violating specific obligations under these instructions and penalties specified by law or specified by oversight and supervision authorities, in contravention of what was included in the evaluation methodology, which stipulates that there be clear links between the requirements and available penalties, and that these penalties must be effective, proportionate, and dissuasive.

In addition to what the reviewer team explained that there is no legal basis for imposing sanctions on financial institutions and DNFBPs, the Country did not provide evidence that the requirements of the methodology have been

met, namely that, in all cases, it should be clear that financial institutions and DNFBPs realize that penalties will be imposed thereupon in the event of non-compliance and that it must know what those penalties are. The mere circulating and publishing of instructions on the official websites of the supervisory authorities cannot be considered sufficient and does not replace the issuance of clear instructions or correspondence from the supervisory authorities that clearly indicate its approval of all instructions issued by the FIU and clearly indicate the penalties that will be applied in the event that the entities subject to its supervision violate each of the obligations contained in those instructions.

It is clear from the above that there is no legal basis for imposing effective, proportionate, and dissuasive penalties that are applicable upon non-compliance with the instructions issued by the FIU.

All of the above shows that the conditions for binding means are not met in accordance with the evaluation methodology in the instructions issued by the FIU

Recommendation 11 - Record Keeping (PC)

9. As stated in the MER of the People's Democratic Republic of Algeria, Law No. 05-01 of 2005 and its amendments meets some of the requirements of this recommendation. The shortcomings are that it does not explicitly stipulate that financial institutions are required to retain all records obtained through due diligence measures in particular, and the fact that legal obligations on financial institutions does not include taking all the due diligence measures stipulated in Recommendation (10). It is also not explicitly clear that transaction records are sufficient to allow the reconstruction of individual transactions, nor has the principle of speed been stipulated with regard to requiring financial institutions to make the retained documents, which are limited only to documents related to the customer's identity and addresses, available to the competent authorities.

10. To address the shortcomings mentioned in the MER, Algeria indicated that Law No. 05-01 of 06 February 2005 relating to AML/CFT was amended by Law No. 23-01 of 07 February 2023, as Articles 10 bis, 07 and 14 stipulated the imposition of a clear legal obligation on all subjects, including financial institutions, to retain all records obtained during due diligence measures. It also imposed a set of legal obligations on subjects to retain records, accounting books, and other documents maintained by them on physical or electronic media for a period of five years (5) at least from the date of implementing local or international transactions or closing the account. The law also indicated that all records obtained through CDD measures must be retained. So that records, accounting books and other documents maintained physically or electronically allow them to reconstruct the processes (transactions) to provide evidence, if necessary, in the framework of judicial prosecutions related to criminal activity. The law also obligated - under Article 22 thereof - all those subject to it, including FIs, to provide the specialized authority, the competent authorities, and the supervisory and oversight bodies, with the necessary documents and information to carry out their duties within the deadlines determined by such authorities.

11. Based on the above, it became clear that Algeria, through the legal amendments referred to above, established a clear legal obligation towards all subjects, including FIs, to retain all records obtained through due diligence measures. It also became clear that "subjects must only retain for a period of five years." - at least - from the date of executing the transaction, whether local or international, or closing the account, with records, accounting books, and other documents kept by them on physical or electronic media in order to refer back to them to know the needs of tracking the various stages of transactions or financial transactions that were carried out or were completed, and to identify all participants and ensure their authenticity, also to reconstruct transactions to provide evidence, if necessary, within the framework of judicial prosecutions related to criminal activity", However, the text of the Article pertains to documents obtained in the context of CDD measures and does not explicitly include the obligation to retain records obtained through these measures, which the AT considered to be broader and more comprehensive than the duty of due diligence. This opinion was also adopted by the review team. Additionally, the text of the article does not include the obligation to retain account files, commercial correspondence, and the results of any conducted analysis.

12. However, it turned out that the amendments and supplements to Law 05-01, which were included in the texts of the articles of Law No. 01-23 mentioned above, did not address most of the shortcomings related to the due diligence measures referred to in Recommendation 10, which are directly related to the requirements of C.11.2, as it was not clear how to address the shortcomings mentioned in the MER relate to not defining the concept of ultimate actual control, and if it includes cases of indirect ownership or control, it would make the subject able to determine the identity of the BOs. . The review team believes that although the text of Article 7 of the law indeed aligns with Criterion 10-5, the amendment of Article 4 of the law, which introduced a new definition of the beneficial owner, has resulted in a very significant new deficiency related to this Criterion. This new deficiency replaces the previous one noted by the AT regarding the definition (specifically the concept of ultimate effective control). The new definition contradicts the previous one, which was the basis of the assessment, and is largely inconsistent with the definition in the Methodology. It focuses solely on concepts of possession and control instead of ownership and control, thus introducing a new deficiency across all Criteria and related Recommendations.

13. The Law pointed out a legal obligation towards all subjects, including FIs, that "subjects must only retain for a period of five years." - at least - from the date of executing the transaction, whether local or international, or closing the account, with records, accounting books, and other documents kept by them on physical or electronic media in order to refer back to them to know the needs of tracking the various stages of transactions or financial transactions that were carried out or were completed, and to identify all participants and ensure their authenticity, also to reconstruct transactions to provide evidence, if necessary, within the framework of judicial prosecutions related to criminal activity." Although the purpose of retaining documents has become clear, **the clarity of the obligation** to maintain

customer records to the extent that they can be relied upon as evidence to prosecute criminal activity **has not been established**. This was considered a minor deficiency affecting the outcome of the Criterion 11.3

14. **Conclusion:** As part of addressing the deficiencies mentioned in the MER, the country took several measures, including the amendment of law No.05-01 dated 6 February 2005 on the prevention and fight against money laundering and the financing of terrorism by Law 23-01 dated 7 February 2023, which included art.10 bis 07 and amended art.14 so that they both included new provisions to address the deficiencies. In this context, art. 10 bis 07 stipulated that "subject entities must maintain, for at least five years from the completion date of the transaction, either local or international or from the date of closing an account, the accounting registers and books and other documents they keep on physical or electronic means, in order to refer back thereto in order to know the needs of the different steps of transactions and financial operations carried out or made through identifying all participants therein and make sure they are correct as well as to reconstruct transactions for the purpose of providing evidence, if so required, within the framework of judicial pursuits related to criminal activities". However, the text of the new amended law pertains to documents obtained in the context of CDD measures and does not explicitly include the obligation to retain records obtained through such measures. Additionally, the new law does not include the obligation to retain account files, commercial correspondence, and the results of any conducted analysis. Moreover, the law introduces a new definition of the beneficial owner, which has led to a very significant new deficiency, as it focuses solely on concepts of possession and control instead of ownership and control. Furthermore, the extent of the application of the principle of expediency through the measures taken by Algeria has not been clarified. The deficiencies mentioned in Recommendation 10 regarding the lack of legal obligation for financial institutions to implement all required CDD measures remain**. And based on the above, the compliance rating of Recommendation 11 is PC.**

Recommendation 12 (Politically exposed persons "PEPs") (Non Compliant):

15. It was stated in the MER that the definition of PEPs according to the provisions of Law No. 05-01 of 2005 and its amendments was limited to foreign persons only, without this definition being extended to include local PEPs and persons entrusted to them or to whom prominent tasks were entrusted by an international organization. This has led to the absence of special procedures for the aforementioned categories, in addition to the absence of special instructions for obtaining the approval of senior management before establishing or continuing a business relationship with regard to current clients with regard to PEPs. Moreover, there are no procedures related to PEPs who benefit from insurance policies. All of them are considered substantial shortcomings.

16. To address the shortcomings mentioned in the MER, Algeria indicated that Law No. 05-01 of 06 February 2005 relating to AML/CFT was amended pursuant to Law No. 23-01 of 07 February 2023, as Article 07 bis required the subjects to the establishment of an appropriate risk management system that enables them to determine whether a potential customer, current customer, or BO is a PEP. Financial institutions have also become obligated to obtain

the approval of senior management before establishing or continuing a business relationship with PEPs. Financial institutions, including those working in the field of stock exchange and insurance, are committed to taking reasonable measures to determine the source of wealth, the source of funds, or the BOs representing risks, and to the necessity of conducting continuous follow-up of the business relationship.

17. Algeria also indicated that, it reviewed the definition of the term (PEPs) in accordance with the FATF requirements, so that Article 04 of Law 05-01, as amended, defined it as every Algerian, foreigner, elected or appointed, who has exercised or is practicing in Algeria or abroad senior positions, legislative, executive, administrative or judicial, as well as senior officials in political parties. Article 4 also included in its definition the PEPs from international organizations, which the article defined as persons who exercise or have exercised important functions with or for the benefit of an international organization. Article 07-bis of the same Law obligated the Subject entities of the necessity to obtain permission from the decision-making authority of the legal person before entering or continuing the business relationship therewith.

18. It also added, The Executive Decree was issued specifying the conditions and modalities for how supervision and/or control authorities exercise their tasks in the field of prevention and combating money laundering, terrorist financing and financing the proliferation of weapons of mass destruction, towards those subject thereto.

19. Article 3 of Executive Decree No. 23-430, which specifies the conditions and modalities for exercising the powers of control, supervision, and/or oversight, and their obligations in AML/CFT/CPF, stipulates that "the regulations issued thereby include the powers of control, supervision and/or oversight include the CDD measures that must be taken in the field of AML/CFT/CPF, especially with regard to PEPs and their family members and persons close to them," as the article specifies the most important obligations that must be met by the control, supervision and/or oversight authorities and by which they must enact regulations regarding them, including, in application of Law 23-01, due diligence measures to also include family members of PEPs and those close to them.

20. Based on the above, it is clear the Algeria, through legal amendments as indicated above, put in place a law that include an amendment of the PEPs definition, as follows "any Algerian or foreign person, elected or recruited, who holds or used to hold important legislative, executive, administrative, or judicial positions in Algeria or abroad, as well as important political party officials." The said amendment included the creation of a new definition named PEPs of international organizations, which refers to "persons who hold or used to hold important positions at or for an international organization. This amendment did not address all the deficiencies mentioned in the MER, because it did not include persons who are or have been entrusted with prominent functions by an international organization. These persons were mentioned in another definition named "PEPs of international organizations", while the obligations contained in art. 7 bis focused on the first definition of PEPs, and did not address the second definition, indicating the invalidity of the legal drafting. Art. 7 bis dealt with PEPs, while the definition contained in the law distinguished between a PEP who is a local person and a foreigner, and a PEP of international organizations.

21. The Republic of Algeria amended the law whereby FIs are now required under art. 07 bis to obtain senior management approval before establishing or continuing a business relationship, for customers identified as domestic and foreign PEPs. On this note, the last paragraph of art. 07 bis stipulated that "subject entities (including FIs) should obtain an authorization from the decision-making panel of the legal person, before establishing or continuing the business relationship with the legal person. Besides, the article indicated above did not include PEPs in international organizations, which is seen as a deficiency, since the obligation to require that the approval of the senior management be obtained before establishing the business relationship could not be perceived, considering the ambiguity of the concept of the political customers.

22. The Country, through the amended Law, stated that "subject entities should have an appropriate risk management system that enables them to determine whether the potential customer, actual customer or beneficial owner is a politically exposed person, take all reasonable measures that enable the identification of the origin of funds, and ensure strict and continuous monitoring of the business relationship. Nonetheless, subject entities should obtain an authorization from the decision-making panel of the legal person, before establishing or continuing the business relationship with the legal person." The Country did not provide anything to support resolving the shortcomings related to knowing the source of wealth, and the amended law did not address that. Rather, it merely obligated taking reasonable measures to determine the origin of the funds.

23. Algeria also issued Executive Decree No. 23-430, which specifies the conditions and modalities for how supervision and/or control authorities exercise their tasks in the field of prevention and combating money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction, in relation to those subject thereto stipulates, under Article 3 thereof, that "regulations issued by the supervision and/or control authorities, especially due diligent measures to be taken in the field of prevention and combating money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, especially related to PEPs, their families and persons close thereto". According to the aforementioned Executive Decree, the Decree aims to determine the conditions and modalities for the control/supervision/or oversight authorities to issue regulations in the field of AML/CFT/CPF, and to monitor the extent of their respect by those subject to them and assist them to respect their relevant obligations, and accordingly, what is stated in Article 3 referred to above is directed to the supervisory authorities to assist them in issuing the necessary instructions. The criterion is not considered Met until the instructions are issued by the competent supervisory authorities and directed to all financial institutions legally subject to their supervision.

24. **Conclusion:** The PEP definition is considered inconsistent with the FATF requirements. Besides, it did not address all the deficiencies mentioned in the MER, because it did not include persons who are or have been entrusted with prominent functions by an international organization. These persons were mentioned in another definition named "PEPs of international organizations", while the obligations contained in art. 7 bis focused on the first definition of PEPs, and did not address the second definition, indicating the invalidity of the legal drafting. Art. 7 bis dealt with

PEPs, while the definition contained in the law distinguished between a PEP who is a local person and a foreigner, and a PEP of international organizations. The country made the amendment contained in art. 7 bis to achieve the principle of ensuring strict and continuous monitoring of the business relationship. Subject entities should obtain an authorization from the decision-making panel of the legal person, before establishing or continuing the business relationship with the legal person. There still remains the part concerning art. 7 bis which only provides for (the origin of funds) without clearly providing for the identification of both the source of funds and the source of wealth. The country tackled the most important measures that should be taken, in its response concerning the establishment of appropriate measures to determine whether the potential customer, the actual customer, or the beneficial owner is a PEP, according to the risk-based approach, through several CTRF Instructions. It did not appear that there is a legal basis for the CTRF to issue instructions for FIs, pursuant to law No.05-01, as art. 10 bis thereof grants control, supervisory and monitoring authorities the power to promulgate regulations and oversee compliance therewith. The same law also defined subject entities as being the financial institutions and DNFBPs which are required to implement preventive measures, including reporting suspicion, as provided for by this law, the regulations and the instructions issued by "the control, monitoring and/or supervisory authorities". Therefore, the CTRF instructions were not taken into account. **And based on the above, the compliance rating of Recommendation 12 is PC**

Recommendation 14 - (Money Value or Transfer Services "MVTS") (PC)

25. It was stated in the MER that banks and financial institutions subject to the supervision of the Banking Commission are subject to licensing and are exclusively allowed to obtain the status of intermediaries to provide services for processing foreign trade and exchange operations. As for the financial departments of the Algerian Post, they are qualified to provide postal transfer services under the so-called "Allocation system", while it remains unclear whether it is prohibited for any natural or legal person who is not registered or licensed to provide MVTS. On the other hand, it is not clear that Algeria has taken the necessary measures to identify unlicenseed or unregistred MVTS, and it is not clear if there is a sufficient legal basis for applying dissuasive and proportionate penalties against these persons, and it is not clear that Algeria has established requirements for licensing or registering MVTS agents or required them to include their agents in AML/CFT programs and to monitor them regarding compliance with these programs.

26. To address the shortcomings mentioned in the MER, Algeria referred to the issuance of Law No. 23-09 containing the Monetary and Banking Law dated 06/21/2023, which included new provisions according to which the aforementioned shortcomings were addressed. Whereas according to Algerian legislation and in accordance with the FATF's definition of Money or Value Transfer Services ("MVTS"), financial institutions authorized to provide

these services in accordance with Articles 75 and 76 are obligated to obtain Licensing and accreditation to provide these services in accordance with Articles 89 and 100 of the above-mentioned law. Under Article 83, it is prohibited for every unlicensed and unaccredited natural or legal person to provide MVTS, and under Article 116, the Banking Committee, in accordance with its powers, examines violations committed by persons who carry out the activities of the subject without being accredited, and the stipulated disciplinary penalties are applied to them in Article 151 of the above-mentioned law.

27. Banks and financial institutions are subject to the supervision of the Banking Committee with regard to AML/CFT procedures in accordance with the provisions of Articles 116 and 121 of Law No. 23-09 containing the Monetary and Banking Law, and Article 10 bis 3 of Law No. 01-05 of 2005, amended and supplemented. According to Algerian legislation and under Articles 75 and 76, financial institutions subject to the supervision of the Banking Committee are exclusively authorized to provide these services in accordance with Articles 89 and 100 of the Monetary and Banking Law, in addition to amending Law No. 0501 - dated 06 February 2005, where Article (10 bis 3) includes the financial departments of Algeria Post, to which the regulations adopted by the Monetary and Banking Council and the guidelines of the Bank of Algeria in the field of AML/CFT apply (Article 10 bis 2 of Law No. 05-01 of 2005 amended and supplemented).

28. Based on the above, it is clear that Algeria has issued new Law No. 23-09 containing Monetary and Banking Law dated 21 June 2023 which repealed the Cash and Load Order no. 03-11 amended and supplemented. According to art. (75) of the new Monetary and Banking Law, only banks are authorized to engage, as their usual profession, in all the operations set forth in art. 68 to 70, 72, 76 and 77 of the same law, including as set forth in art. 68 which provides for placing all means of payment at the disposal of customers and managing these means. In this context, art. 74 clarified that all instruments enabling any person to transfer money, regardless of the supporting reason or technical method used, including electronic currency, are considered as means of payment, which means that this article covers the concept of money or value transfer. Except for the foregoing, art. (76) enabled payment service providers to offer payment services provided by banks, provided that the list of payment services is determined by virtue of a regulation issued by the monetary and banking board, but this regulation has not been issued yet; therefore, payment service providers cannot provide their services.

29. While the prohibition was limited to some banking activities, excluding money or value transfer services (MVTS) in accordance with the previous cash and credit order, article (83) of the new Monetary and Banking Law expressly prohibits any natural or legal person, other than banks and financial institutions, from carrying out operations routinely conducted by banks and financial institutions under art. 75 to 77 of the same law, and since art. (75) referred to all banking operations (including those referred to in art. 68), this means that the scope of prohibition now includes MVTS providers, and criminal sanctions represented in imprisonment from two to five years and a fine ranging from two hundred thousand Algerian dinars to five hundred thousand Algerian dinars, equivalent to

approximately 1500 US dollars to 3700 US dollars, as referred to in art. (151) of the new Monetary and Banking Law, apply to violators. The competent judicial authority can order the closure of the institution that committed the violation, and order that the entire judgment or an extract thereof be published in the newspapers of its choice, and displayed in the places it determines. Taking into account that the provision of these services is limited to banks only, especially in light of the failure to grant a permit to financial institutions "subject to the supervision of the Banking Commission" to act as intermediaries to provide payments and transfers for current international transactions (taking into account the possibility of providing postal transfer services by the Algerian Post as well (This is explained in the MER, where this is subject to a system called the Allocation system, which is consistent with the requirements of the Recommendation).

30. According to art. (116) of the new Monetary and Banking Law, the Banking Committee is mandated to examine violations committed by persons practicing the activities of the subject entities without being accredited, and here the activities of the subject entities mean the activities of all institutions subject to the supervision of the Banking Committee (banks, FIs, independent intermediaries, exchange offices and payment service providers), including the activities of providing money or value transfer services. The country also issued executive decree No. (23/50) on establishing an operational committee to coordinate AML/CFT policies and operations, headed by the CTRF, with the membership of the Ministry of Interior, local communities, Urban Development, the Ministry of Justice, the National Gendarmerie, the General Directorate of National Security, the Bank of Algeria, the General Directorate of Customs, the General Directorate of Taxes and the General Directorate of National Property. pursuant to this decree. In order to implement the provisions of Article (116) referred to above, the Operational Committee for Coordination of Policies and Operations, headed by the FIU, established a multi-sectoral written mechanism to identify unlicensed MVTS, related to taking measures (collecting data and information about unlicensed MVTS from the entities represented by the committee, each according to their jurisdiction, and collecting data and information about unlicensed MVTS, from the entities not represented by the committee, each according to their jurisdiction, represented by the rest of the supervision and oversight authorities, and LEAs not represented by the committee (such as those related to combating cybercrimes), and counterpart supervision and oversight authorities. Inform the Banking Committee of this matter in its capacity as the competent authority under art. (116) referred to above, so that it takes the necessary measures to prosecute them. Notwithstanding the importance of this mechanism, it is not clear whether it is sufficiently relied on to take the necessary measures to identify unlicensed MVTS providers and to apply proportionate and dissuasive sanctions against them, especially since it did not clarify the measures that LEAs can take in this regard, along with the country's failure to provide data on any practical measures or sanctions, which were taken, either before or after the issuance of the mechanism.

31. Art. (151) of the new Monetary and Banking Law includes a set of penal sanctions that can be applied to unaccredited providers of the activities of subject entities (including the MVTS activities), as the violator who is

acting either for his own account or for the account of a legal person, shall be punished with imprisonment from two to five years and a fine ranging from two hundred thousand Algerian dinars to five hundred thousand Algerian dinars, equivalent to approximately 1500 US dollars to 3700 US dollars, and the competent judicial authority can order to close the institution that committed the violation, and order that entire judgment or an extract thereof be published in the newspapers of its choice, and displayed in the places it determines. This range of sanctions is considered proportionate and technically dissuasive. In addition to the foregoing, and according to art. (116) of the same law, the Banking Committee may apply the disciplinary sanctions set forth in the Monetary and Banking Law against those who commit these violations, without prejudice to other penal and civil prosecutions. The article did not explicitly indicate the disciplinary actions that can be taken in this regard, while the country reported that what is meant by this is the scope of the disciplinary sanctions applicable to subject entities under the provisions of art. (126) of the aforementioned law, in the event where any subject entity violates one of the legislative or regulatory provisions related to their activity or did not comply with an order or did not take the warning into account. By reviewing this article, we notice that it dealt with the scope of disciplinary sanctions that can be applied to licensed entities (such as warning, reprimand, termination of functions, temporary suspension, withdrawal of accreditation and some financial sanctions..). Therefore, it is unclear how the Banking Committee can practically apply this scope of sanctions to non-subject entities, especially with regard to financial sanctions and those related to preventing the exercise of functions, withdrawing accreditation and arresting persons, since the Banking Committee does not have control over this matter.

32. Although the Algerian law does not allow the provision of MVTS by agents, this criterion was considered "applicable for evaluation purposes" and it was assessed during the mutual evaluation process because there was not enough prevention at the time, which opens the door for agents to enter the market technically (even if they are not practically present) because no requirements related to agents were imposed. Following the legislative amendments, it is clear that the Monetary and Banking Law No. (23-01) limits the possibility of providing MVTS to banks and payment service providers (inactive to date), taking into account the possibility of providing postal remittance services by Algeria Post (as indicated in the MER), under what is known by the allocation system. Therefore, prohibition from providing these services without a license has become complete and is penalized, given that the law does not regulate or allow the provision of these services through agents.

33. **Conclusion:** Algeria addressed most of the deficiencies in R.14, by promulgating a new law No. (23-09) on the Monetary and Banking Code, which expressly prohibited any natural or legal person, other than banks and financial institutions (which are subject to the licensing and accreditation system by the Monetary and Banking Council under Chapter IV of the new law) from carrying out operations routinely conducted by banks and financial institutions, which include activities of MVTS providers. The Banking Committee was mandated to examine violations committed by persons practicing these activities without being accredited. For this purpose, the country

took measures to identify unlicensed MVTS providers and to assist the Banking Committee in this examination, such as the establishment of an operational committee to coordinate AML/CFT policies and operations which resulted in a multi-sectoral mechanism that ensures the exchange of information between all entities in the country, for this purpose, in order to prepare a list of natural and legal persons providing these services without license, so that they can be prosecuted, although the mechanism does not clearly guarantee the measures that LEAs can take, mainly that the country did not provide data on the measures taken or the sanctions applied in this regard. The Banking Committee can initiate criminal and civil prosecutions with the judicial authorities against the unlicensed providers of these activities and services in order to apply dissuasive and proportionate sanctions against them. The sanctions range between imprisonment from two to five years and a fine from two hundred thousand Algerian dinars to five hundred thousand Algerian dinars, (1500 to 3700 US dollars). The competent judicial authority can order the closure of the institution that committed the violation, and order that the entire judgment or an extract thereof be published in the newspapers of its choice, and displayed in the places it determines. Besides, the Algerian law did not regulate or allow the provision of MVTS by agents. **And based on the above, the compliance rating of Recommendation 14 is "Largely Compliant".**

Recommendation 18 (Internal Controls, Foreign Branches and Subsidiaries) (Partially Compliant):

34. It was stated in the MER that all financial institutions are required to develop and implement programs that ensure internal control and continuous training for their employees within the framework of AML/CFT. The main shortcomings are the absence of any obligations on all financial institutions related to test procedures to ensure the existence of high fitness standards when appointing employees, the absence of obligations related to the implementation of AML/CFT programs at the group level, and the absence of any obligations on insurance companies and brokers related to arrangements for managing compliance with AML/CFT programs, including appointing a compliance officer at the management level, and not obligating them to (Alongside brokers in stock exchange operations) establish an independent audit unit concerned with testing the AML/CFT system. In addition to no obligations on exchange offices related to all the criteria of this recommendation

35. To address the shortcomings referred to above, Algeria took a number of measures, as Law No. 0501 - dated 06 February 2005 relating to AML/CFT as amended by Law No. 23-01 dated 07 February 2023, as Article 10 bis 1 stipulated an obligation on the subjects, including exchange offices, and within the framework of AML/CFT, to develop and implement programs that ensure internal control, and take into account the risks arising therefrom, the importance of commercial activity and the continuous training of their employees. Article 10 bis 2 also stipulated and obligated the control, supervision and oversight authorities followed by those subject thereto to develop programs and practical measures based on the risk-based approach and monitor their implementation. These programs must include a system for detecting suspicious operations and transactions, including identifying

those responsible from among its managers and assigned employees to respect the reporting obligation. Article 10-bis-1 obligated those subject to the necessity of developing programs that ensure continuous training for their employees. Article 10-bis-2, Paragraph A, obligates the control and supervision authorities, including the exchange offices, to develop programs for the benefit of the subjects and monitor their implementation, which among other things includes: - Internal audit rules to ensure the effectiveness of the applicable system.

36. Pursuant to Articles 10 bis 2 and 10 bis 8 of the law, it was imposed on supervisory and oversight authorities and those subject alike regarding the application of programs to the branches and subsidiaries in which the group owns a majority. It is the responsibility of the supervisory and control authorities to ensure that financial institutions, their branches and subsidiaries abroad implement procedures consistent with this law as permitted by the laws and regulations of the host country. As for financial institutions, it is their responsibility to ensure that the subsidiaries or branches abroad in which they own a majority stake adopt and implement measures consistent with the provisions of this law, to the extent permitted by local laws and regulations, and to inform the supervisory authorities when the regulations of the countries in which they operate do not allow these measures to be applied. Also ensure that the subsidiaries or branches in which the majority of the capital is owned and located abroad apply information exchange policies and procedures. Article 10 bis 8 of Law 23-01 imposed obligations on those subject thereof, as it imposed on those subject to the obligation to ensure that its foreign branches and subsidiaries in which it owns a majority apply measures to combat money laundering and terrorist financing in accordance with the requirements imposed in the home country, when the minimum AML/CFT requirements of the host country are less strict than those applied in the home country, to the extent permitted by the laws and regulations of the host country.

37. Based on the above, Algeria issued law No. (23-01) dated 7 February 2023 amending and supplementing Law (05-01) on the prevention and fight against money laundering and the financing of terrorism, following the amendments previously made to this law. According to Art. 10 bis 1 of the law, financial institutions should develop and implement, as part of combating money laundering, terrorist financing and the financing of proliferation, internal control programs that take into account the risks and importance of commercial activity, and continuous formation (training), provided that the conditions and the manner of applying this article are governed through the regulation, but it is not clear whether or not this regulation has been issued by the monitoring authorities. In parallel, it is not clear that the new amendment to the law on the prevention and fight against money laundering and the financing of terrorism has addressed the deficiencies associated with exchange offices, insurance companies and brokers, and the remaining types of FIs that were allowed to be established after the evaluation process (such as payment service providers), as art. (10 bis 2/a) of the law indicated that FI supervisors shall develop risk-based programs and procedures against money laundering and terrorist financing, also a system for detecting suspicious operations and transactions, including the designation of officials charged with fulfilling the obligation

to report suspicion, but this obligation has not been reflected on FIs, which means that there are no obligations for FIs related to establishing arrangements for the management of compliance with programs against ML/TF, including the appointment of a compliance officer at the management level. There are any obligations on all financial institutions linked to examination procedures to ensure the presence of high efficiency standards when hiring employees.

38. The recent amendment to art. (10 bis 1) of the law on the prevention and fight against money laundering and the financing of terrorism did not affect compliance with the recommendation with regards to requesting all subject entities to develop and implement internal control programs that take into account ongoing training of employees. Notwithstanding the cancellation of the cash and credit order No. (03-11), banks and FIs (which are subject to the supervision of the Banking Commission) are still required to appoint two account keepers who should be registered at the National Chamber of Account Keepers according to art. (111) of the new Monetary and Banking Law. Art. 23 of Regulation No. 12-03 is still in effect, and has not affected compliance with the criterion with respect to banks and FIs subject to the supervision of the Banking Commission, and the financial services of Algeria Post, as it stipulates that the account keepers must assess the conformity of internal procedures relevant for the prevention and fight against ML/TF for those institutions, compared to the practices conforming to the standards and caution practices in force, and they must send an annual report to the Banking Committee.

39. In parallel, it is not clear that the new amendment to the law on the prevention and fight against money laundering and the financing of terrorism has addressed the deficiencies associated with stock exchange intermediaries, exchange offices, insurance companies and brokers, and the remaining types of FIs that were allowed to be established after the evaluation process (such as payment service providers), as art. (10 bis 2/a) of the law indicated that FI supervisors shall develop risk-based programs and procedures against money laundering and terrorist financing, also internal rules for auditing, to verify the effectiveness of the applicable system, including the designation of officials charged with fulfilling the obligation to report suspicion, but this obligation has not been reflected on FIs, which means that there are no obligations for FIs related to the existence of an independent audit function to test the system.

40. Art. (10 bis 8) of the law on the prevention and fight against money laundering and the financing of terrorism indicates that subject entities must ensure that majority-owned subsidiaries or foreign branches are implementing policies and procedures for sharing information; however, this article did not indicate the nature of this information and whether it includes information required for the purposes of CDD and ML/TF risk management. Moreover, the article limited this obligation to subsidiaries and branches abroad, and not the entire scope of the financial group (regardless of its location and type). The same article also indicates that subject entities must ensure that majority-owned subsidiaries or branches abroad are adopting and implementing measures consistent with the provisions of this law, to the extent that domestic laws and regulations permit and that they inform supervisors when the

regulations of the countries where they operate do not permit the implementation of these measures. This means that this obligation now covers all FIs and is no longer limited to banks and FIs "which are subject to the supervision of the Banking Commission". Yet, this does not include that the financial group should be required to apply appropriate additional measures to manage the ML/TF risks, if the host country does not permit the proper implementation of the measures referred to in the law.

41. **Conclusion:** Algeria has not made sufficient legislative amendments to address the deficiencies of R.18, as it mainly drew upon an instruction issued by the CTRF which did not seem to have any legal basis; therefore, it cannot be considered an enforceable means for which a punishment can be imposed. It did not appear that the new amendment to the law on the prevention and fight against money laundering and the financing of terrorism addressed the deficiencies associated with the establishment of compliance management arrangements (including the appointment of a compliance officer at the management level) and the establishment of an independent audit function to test the system, for exchange offices, insurance companies and brokers and payment service providers Besides, FIs were not required to apply screening procedures for new employees. On the other hand, the new law requires all subject entities to develop and implement programs that ensure internal control that takes into account the ongoing training of employees.

42. The law requires subject entities to ensure that majority-owned subsidiaries or branches abroad (not the entire scope of the financial group) are implementing policies and procedures for sharing information; without indicating the nature of this information. In addition, it did not appear if it is possible to provide information to compliance and audit, functions, to ensure adequate safeguards on the confidentiality and use of information exchanged and safeguards to prevent tipping-off. The new amendment required all FIs to ensure that these foreign subsidiaries and branches adopt and implement measures consistent with the provisions of this law, to the extent that domestic laws and regulations permit and that they inform supervisors when the regulations of the countries where they operate do not permit the implementation of these measures. Yet, this does not include that the financial group is required to apply appropriate additional measures to manage the ML/TF risks, if the host country does not permit the proper implementation of the measures referred to in the law. **According to the above and since most shortcomings are not corrected/addressed, the level of compliance achieved in Recommendation 18 is "PC".**

Recommendation 21 - (Tipping-off and confidentiality) (PC)

43. It was mentioned in the MER that the law does not specifically cover the protection of directors of financial institutions, officials and employees when any information is disclosed in good faith, in the event of suspicion, or if the underlying criminal activity is unknown, regardless of whether the criminal activity actually occurred. The

absence of a provision prohibiting financial institutions, their directors, officers and employees from informing anyone other than the owner of the Funds.

44. To address the shortcomings mentioned in the MER, Algeria referred to amending Articles 23 and 24 of Law No. 0501-A of 06 February 2005 relating to AML/CFT. Article 23 added protection to financial institutions, their directors, officers and employees from any criminal or civil liability for violating banking or professional secrecy. Or those who, in good faith, sent the information or made the reporting as stipulated in this law to the competent authority, even if they were not aware of the nature of the original criminal activity or if the criminal activity subject of the suspicion report did not actually occur. Article 24 of the same law also indicated that natural and legal persons subject of the suspicion report, who acted in good faith, are exempted from any administrative, civil, or criminal liability. This exemption from liability remains in place even if the investigations do not lead to any results or the prosecutions end with decisions that there is no basis for prosecution, discharge, or acquittal."

45. Article 24 of the law mentioned above prohibited subjects or their managers from disclosing the existence of a suspicion report or related information sent to the competent authority. The prohibition is general and does not relate only to the owner of the funds. The same article also clarifies that this ban does not hinder the process of sharing information, so it states: "These provisions do not aim to prevent the placing at disposal of information issued by branches and related to customers." Accounts and operations, when necessary for the purposes of combating money laundering, the financing of terrorism, the financing of the proliferation of weapons of mass destruction, and for compliance and auditing operations.

46. Based on the above, Algeria - within the framework of addressing the shortcomings - amended Articles 23 and 24 of the above law, whilst article 23 still exempts directors and officers from liability only in case the banking and professional secrecy is violated, which is the same deficiency contained in the MER. It is worth mentioning that the criterion refers to exemption from liability in the event of a breach of any restriction on disclosure of information imposed by contract, or by any legislative, regulatory or administrative texts. The exemption indicated in art.24 did not explicitly mention that that subject directors and officers are exempted but rather stated the expression of natural and legal subject persons, which does not necessarily mean directors and officers. Subject entities like FIs and DNFBPs are basically natural and legal persons. In addition, the new text on this exemption is not different from the old text that the assessment team did not acknowledge as a full exemption of directors and officers from liability.

47. The text of Article 24 of the amended law was also amended, which prohibits the supervised entities or their managers from disclosing the existence of an STR or any related information sent to the concern authority. The violation of this prohibition in case

the supervised entities or their managers disclose to any party other that the owner of the fund result in penalties as stated in Article 10-bis (9) of the Law, which uses gradual method starting from warning up to terminating one or more persons or withdraw the license. In case of disclosing to the owner of the fund, the supervised entity will be subject to an additional penalty (other than the penalties stated in the Article 10-bis (9)), as stated in Article 33, which is a fine of DZD 2 million to DZD 20 million without prejudice to any severer penalties or other disciplinary actions. However, deficiencies remain regarding the absence of any provision indicating whether the prohibition impedes the sharing of information at the group level. Additionally, several issues mentioned in Recommendation 18, referred to by Criterion 22.2, are not addressed, most notably is that the text does not clearly include that it allows the exchange of information between all branches and subsidiaries in which the group owns a majority, and the text does not include that the information that can be shared is information and analysis of reports or activities that appear unusual (if so exists), and the text does not include permission to share this information with compliance, audit

and/or AML/CFT functions at the group level.

48. **Conclusion:** As part of the efforts made to cover the shortcomings associated with this recommendation, Algeria amended Articles 23 and 24 of Law No. 0501 of 06 February 2005 relating to AML/CFT by Law No. 23-01 of 07 February 2023, which exempts natural and legal persons subject to suspicion reporting who have acted in good faith from any administrative, civil, or criminal liability. This exemption from liability remains in place even if the investigations do not lead to any results or the prosecutions end with decisions that there is no basis for prosecution, discharge, or acquittal." Art. 24 of the same law stipulated that: "subject entities, their directors, or officers are prevented from disclosing the submission of an STR or any related information to the specialized entity. Failure to comply with this prohibition exposes those subjects to the penalties stipulated in Article 10 bis 9 of the law, while disclosure to the owner of the funds exposes the subjects, in addition to the penalties stipulated in Article 10 bis 9, to an additional penalty stipulated in Article 33. However, minor deficiencies remain regarding this recommendation. Article 23 still exempts managers and administrators from liability only in the case of violating banking and professional secrecy. It does not specify exemption from liability in the event of breaching any disclosure requirements imposed by contracts or any legislative, regulatory, or administrative provisions. Additionally, the new text of Article 24 does not explicitly state that the prohibition does not hinder the sharing of information **at the group level**. **Accordingly, and based on the foregoing, the country covered most of the deficiencies mentioned in the MER, therefore, R.21 is rated "largely compliant".**

Recommendation 22 - DNFBPs Customers Due Diligence (PC):

49. It was stated in the MER that the same guidelines issued by the FIU stipulated in Recommendation (10) are applied to DNFBPs. The shortcomings referred to in Recommendation (10) apply to DNFBPs and are primarily related to the failure of the obligations imposed on these professions to cover all due diligence measures stipulated in

Recommendation (10), in addition to the shortcomings related to Recommendations (11) and (12).) (15) which applies equally to DNFBPs. Failure to cover the relevant legislation and relevant chains of trust fund service providers may affect the extent to which Algeria meets this recommendation.

50. to address the shortcomings mentioned in the MER, Algeria indicated that the FIU issued Instruction No. 01/2023 dated 26/10/2023 related to the AML/CFT obligations of DNFBPs. The provisions of Articles 07, 07 bis, 9, 10, 10 bis, 10 bis 1, 10 bis 2, and 10 bis 04 of Law 05-01 addressed the shortcomings. These provisions were enshrined and supplemented by Articles 07 to 16 of the instruction. However, the reasons mentioned above were not taken into account

51. Based on the above, it is clear that - by virtue of law No.23-01 amending and supplementing law No.05-01 on the prevention and fight against money laundering and the financing of terrorism, Algeria provided a definition of the subject entities: "Financial institutions and designated non-financial institutions and professions which are required to implement preventive measures, including reporting suspicion, as provided for by this law, the regulations and the instructions issued by "the control, monitoring and/or supervisory authorities". The law also defined the designated non-financial institutions and professions as being: "Any natural or legal person engaged in activities other than those practiced by financial institutions, including regulated professions, in particular lawyers when they carry out transactions with financial characteristics on behalf of their clients, as well as notaries, judicial bailiffs, auction keepers, accountants, account keepers, certified accountants, brokers, customs agents, stock exchange intermediaries, real estate agents, company service providers, car dealers, gambling and games, as well as dealers in precious stones, precious metals, antiquities and artifacts, and natural and legal persons who, as part of their duties in particular, provide consulting and/or carry out operations that result in deposits, exchanges, employment, transfers or other movement of funds. Deficiencies related to the coverage of DNFBPs continue to affect compliance with criterion 22.1, as the country has not provided evidence demonstrating the inclusion of trust service providers, and according to paragraph 313 of the MER, there is no legal provision prohibiting the establishment or provision of trust services in Algeria.

52. The MER mentioned that gambling in Algeria is prohibited, pursuant to art. 612 of Order No. 75-58 of 1975. Although the amendment of law No.05-01 of 6 February 2005 on the prevention and fight against money laundering and the financing of terrorism by virtue of law No.23-01 of 7 February 2023 included art.10 bis 03, which expressly stated that authorities and entities, each within its competence, assume the supervisory and control functions provided for in the same law; And art.10 bis 03 mentioned that these authorities include the Ministry of Youth and Sports as a supervisory authority for gambling and casino games, this did not affect gambling games, as they are still prohibited.

53. The country reported that it has addressed the deficiencies mentioned in the MER, through the new amended law No. (23-01), where provisions of art. 07, 07 bis, 9, 10, 10 bis, 10 bis 1, 10 bis 2, and 10 bis 04 article 21 of law No.05-

01 addressed the deficiencies. In addition, instruction No. (1) of 2023 was issued and addressed the provisions that were supplemented by art. 07 to 16 of the Instruction and now cover all the obligations of non-financial institutions and professions. By reviewing the provisions of the above-mentioned articles of law No.05-01, in particular those indicated above by the country, and since the MER stated that the deficiencies associated with R.10 equally apply to institutions and DNFBPs, it was found that the deficiencies referred to in the MER which are represented in the absence of a prohibition on the subjects not to retain anonymous or fictitious accounts. Failure to designate a limit for occasional transactions exceeding the designated threshold, as no occasional transactions have been recorded and it has been stipulated that they will be regulated but this regulation has not yet been issued. The definition of the term "due diligence obligation" was not provided for by law so as to cover all due diligence measures set out in R.10, and nothing indicated that FIs are required to scrutinize transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the customer's activity and the risks he represents.

54. The law states that the information on the customer's identification and activity must be updated and whenever any change occurs thereto, without stipulating that this should be done in particular with respect to higher risk categories of customers. These obligations do not include the continuous updating of all data and information obtained under the due diligence measures set out in R.10. The new articles did not mention the need to implement due diligence measures toward legal arrangements, but only referred to natural and legal persons, and the same applies to the identification of the beneficial owner of legal arrangements, as the definition of the beneficial owner contained in the law was limited to the beneficial owner of legal persons. The law also indicated that a regulation will be issued to cover the criteria associated with R.10, but this regulation has not been issued. This has affected the ability to cover the deficiencies that were mentioned in the MER. The CTRF issued Instruction No. (1), but it was not taken into account for the reasons mentioned above.

55. The deficiency relating to the scope of coverage of DNFBPs affects compliance with the recommendation given that the country did not provide any evidence demonstrating the inclusion of trust service providers. According to paragraph 313 of the MER, there is no legal provision prohibiting the establishment or provision of trust services in Algeria. The deficiencies associated with R.11 and R. 12 which were analyzed in this report as described above equally apply to institutions and DNFBPs.

56. Based on the measures taken, the Republic of Algeria covered the deficiencies contained in the MER, whereby art. 10 bis 6 requires subject entities, including non-financial institutions and professions, to identify and assess the risks of money laundering, terrorist financing and proliferation financing that may result from the development of new products and new business practices, including new distribution mechanisms, or use of new or developing technologies for both new or pre-existing products. The article also indicated that this assessment should be undertaken prior to the launch of new products or new business practices or prior to the use of new or developing

technologies. Appropriate measures should be also implemented to manage and mitigate such risks and special and sufficient arrangements should be taken to prevent money laundering, terrorist financing and proliferation financing, when they engage in business relationships or conduct transactions with a dealer that does not actually exist with a view to identifying the identity.

57. **Conclusion:** Law No.23-01 amending and supplementing law No.05-01 addressed the deficiencies mentioned in R.22, yet, the deficiencies relating to R. (10, 11, 12) still affect the country's compliance with the requirements of R.22 and the failure to cover trust service providers by legislation and relevant guidelines may also continue to affect the extent to which Algeria meets the requirements of this Recommendation. Also, the customer definition did not include legal arrangements, which directly affected all the requirements related to this category of customers. **Based on the above, Algeria is rated PC with R.22**

Recommendation 23 - DNFBPs Other Measures (PC)

58. The MER stated that TCSPs are not covered by the relevant legislation and regulations (as previously described in Recommendation 22), so that shortcomings in the scope of coverage of DNFBPs negatively impact compliance with Recommendation 23, and the legislative framework does not cover most of the requirements of Recommendation 23 are that DNFBPs are not required to comply with the requirements related to internal control, high-risk countries, tipping-off, and confidentiality of reporting. add to that, obligations to report suspicious transactions do not cover trusts, nor do they cover the full range of predicate offences, particularly the criminalization of participation in the illicit trade in stolen goods.

59. To address the shortcomings contained in the MER, Algeria stated that, article 20 of Law 23-01, amending and supplementing Law 05-01, stipulates that those subject thereto, including DNFBPs, are obligated to inform the competent authority of every transaction suspected of relating to funds considered to have been obtained from a predicate offence or linked to money laundering, terrorist financing, or financing the proliferation of weapons of mass destruction. Reporting must be done as soon as suspicion occurs, even if it is not possible to postpone the implementation of these transactions or after their completion, and this includes attempts to conduct suspicious transactions. Regarding the shortcomings related to not specifying the value of the limit (threshold) applied to DPMS, Article 9 of the aforementioned Instruction determined, by virtue of a binding means, the value of the threshold applied to DPMS, equal to or more than two (02) million Algerian dinars or its equivalent in legally circulated currencies.

60. As for the shortcomings related to the scope of coverage of DNFBPs, which does not include trust fund service providers, it must be remembered that there are no independent professions in Algeria related to TCSPs, with the

exception of lawyers who can act as agents for legal persons in the formation of companies, and they are included under the obligatory reporting. Article 24 was amended, thus it removed any ambiguity in determining the obligations of those subject thereto in general, including DNFBPs. The article prohibited those subject thereto or their managers or officers from disclosing the existence of STR or information related thereto sent to the competent authority. The same article also clarified that this ban does not hinder the process of sharing information. The FIU issued Instruction No. 01/2023 dated 26/10/2023 related to the AML/CFT obligations of DNFBPs. Accordingly, the shortcomings mentioned were addressed.

61. Based on the above, Art. 20 of law No.05-01 amended and supplemented by law No.23-01 required subject entities to report to the specialized body represented by the CTRF any transaction suspected of involving funds generated from a predicate offense or associated with money laundering, terrorist financing or proliferation financing and they should report any transaction once the suspicion occurs even if the execution of transaction cannot be postponed or after the execution, including the attempted suspicious transactions. The law also defined "subject entities" as financial institutions and designated non-financial institutions and professions which are required to implement preventive measures, including reporting suspicion, as provided for by this law, the regulations and the instructions issued by "the control, monitoring and/or supervisory authorities". Not all shortcomings mentioned in the MER were addressed, whereas the CTRF Instruction No.1 of 2023 provided for the threshold applied with respect to DPMSs, but it was not taken into account for the reasons mentioned above. No texts were provided on the expansion of the scope of DNFBPs to cover trust service providers, and according to paragraph 313 of the MER, there is legal provision prohibiting the establishment or provision of trust services in Algeria. Algeria did not provide information indicating that the deficiency relating to the criminalization of illicit trafficking in stolen goods in Algeria was addressed (see R.3), which affects the compliance of non-financial institutions and professions with the reporting obligation.

62. As per the MER, the shortcomings apply to FIs and DNFBPs. When this recommendation in line with R18 was evaluated, and according to art. 10 bis 1 of the law, subject entities should develop and implement, as part of combating money laundering, terrorist financing and proliferation financing, internal control programs that take into account the risks and importance of commercial activity, and ongoing formation for their employees, provided that the conditions and the manner of applying this article are governed by a regulation, but the country did not provide information indicating that this regulation has been issued. Art.10 bis 2/a of the law indicated that supervisors shall develop risk-based programs and procedures against money laundering and terrorist financing, also a system for detecting suspicious operations and transactions, including the designation of officials charged with fulfilling the obligation to report suspicion, but this obligation has not been reflected on DNFBPs, which means

that there are no obligations for FIs related to establishing arrangements for the management of compliance with programs against ML/TF, including the appointment of a compliance officer at the management level. Although art. 10 bis 1 of the law requires all subject entities to take into account the ongoing training for employees, this law did not mention any obligations imposed on subject entities with respect to screening procedures to ensure high standards when hiring employees.

63. The CTRF issued Instruction No.1 of 2023 which included provisions aimed at covering some deficiencies of criterion 18.1, but it was not taken into account for the reasons mentioned above. The deficiencies referred to above in the analysis of R.18 equally apply to financial institutions and DNFBPs, given that regarding criterion (18.2) the law focused on subsidiaries or branches (abroad) and not the entire scope of the financial group (regardless of its location and type), and the law did not mention how the sharing of information at the level of the financial group includes information required for the purposes of CDD and ML/TF risk management. Moreover, the article limited this obligation to subsidiaries and branches abroad, and not the entire scope of the financial group. Regarding criterion (18.3), the deficiency relating to the financial group not being required to apply appropriate additional measures to manage the ML/TF risks, if the host country does not permit the proper implementation of the measures referred to in the law still applies.

64. With the exception of a circular on high-risk countries prepared by the Country on the concept of high-risk countries and their procedures, Algeria did not provide any clear mechanism to respond to the FATF's call for circulating lists of high-risk countries and countries under continuous follow-up, and it was not clear that any measures had been taken to address any of the related shortcomings related to this criterion, Algeria amended Articles 23 and 24 of Law No. 0501 of 06 February 2005 relating to AML/CFT pursuant to Law No. 23-01 of 07 February 2023, which included new provisions with the aim of addressing the shortcomings related to this recommendation. The shortcomings of R21 apply to this recommendation as analyzed above.

65. **Conclusion:** Law No. 23-01 amending and supplementing Law 05-01 addressed some of the shortcomings mentioned under R23. However, the legislation not covering the steps relevant to Trust Fund Service Providers may affect the extent to which Algeria meets this recommendation. The shortcomings related to not having texts related to the threshold applied to DPMS affect the rating of this criterion, as well as not criminalizing participation in illicit trade in stolen goods, (See R3). Also, it affects the extent of applying reporting obligations of FIs. However, there are still shortcomings related to R18 concerning obligations of internal supervision and R19 concerning high-risk countries. The shortcomings related to R21 did not mentioned exemption of liability in case of violation to any

other declaration restraints imposed by virtue of contracts or any legislations and regulations. It also did not explicitly mention exempting the subject managers and employees. **Based on the above, Algeria is rated PC R.23**

Recommendation 26 - Regulation and Supervision of Financial Institutions (PC):

66. It was stated in the MER that banks, financial institutions and exchange offices are subject to the supervision and regulation of the Bank of Algeria with regard to AML/CFT measures, and brokers in stock exchange operations are also subject to the supervision and regulation of the Stock Exchange Operations Regulatory Committee, and insurance and reinsurance companies are subject to the approval of the Minister of Finance and the supervision of the Insurance Supervision Committee. The authorities regulating these institutions take some legal and regulatory measures for these institutions, in varying degrees, to prevent criminals from possessing controlled shares in the aforementioned institutions, or being BOs of these shares, or assuming administrative positions therein, as the measures taken in the sectors of banks and financial institutions are considered better than in other sectors. However, these measures are not considered sufficient, as it is not clear whether the BOs of the controlling share can be determined, especially if the owner of that share is a legal person, nor is it clear the adequacy of the fit and proper tests that can be applied to the shareholders and the BOs of the controlling shares because it does not include verification of non-conviction records. The measures related to the licensing institutions in the stock market and insurance sectors do not include verifying the reputation and non-conviction record of the shareholders who own controlling shares in those institutions and the BOs of those shares, and no measures have been taken in this regard with relation to exchange offices, in addition to the lack of clarity of the measures taken by the licensing authorities to verify the extent to which shareholders, managers, or BOs are associated with criminals.

67. It also becomes clear to what extent the institutions in stock market sector and insurance companies and brokers are subject to supervision in accordance with basic principles. The Bank of Algeria is taking some measures to strengthen the risk-based supervision approach, but this remains limited in light of the insufficient cooperation between onsite and offsite supervision in implementing onsite and offsite supervision based on the risks of money laundering and terrorist financing, including the lack of clarity in determining the frequency and intensity of onsite and offsite supervision on the degree of risk, policies, internal controls and procedures associated with the institution or the group, the risk structure of the institution or the group, and on the distinctive features of financial institutions or the groups. In addition to the lack of clarity on how and the frequency the Bank of Algeria reviews the ML/TF risks structure in institutions. There was no evidence that the rest of the supervisory authorities applied any aspects related to ML/TF risk based regulatory (supervisory) approach.

68. To address the shortcomings mentioned in the MER, Algeria referred to the issuance of Law 23-09, which includes the monetary and banking law. Article 89 of the Monetary and Banking Law included provisions according to which licensing to establish banks, financial institutions, and exchange offices became linked to the results of the

investigation and fit and proper tests, as well as verifying the extent to which the shareholders, managers, or beneficial owners are related to criminals in accordance with the requirements of Article 87 of the same law, which stipulates that it is not permissible to anyone be a founder of a bank or financial institution or a member of its board of directors, or to, directly or through another person, undertake the management, or representation of a bank or financial institution, in any capacity, or be authorized to sign on its behalf, adding that these provisions also apply to exchange offices

69. Law No. 05-01 relating to AML/CFT was also amended by Law No. 23-01 of 07 February 2023, whereby Article 05 bis 03 imposed on the supervisory and oversight authorities to develop programs and applied measures based on the risk-based approach and follow up on the extent of compliance to its implementation. Article 10 bis 2 also specified the mechanisms, frequency, and intensity of offsite and onsite supervision over financial institutions or groups for the purposes of combating money laundering and terrorist financing. Article 10 bis 02, paragraph (b), of Law 05-01 obligated the supervisory and oversight authorities to develop programs and applied measures based on the risk-based approach, and to monitor the extent of compliance with their implementation. Article 10 bis 02 of the same law also specified the frequency and intensity of onsite and offsite supervision over institutions or financial groups for AML/CFT purposes on the basis of the money laundering, terrorist financing and proliferation financing risks, the internal control policies, processes and procedures of the subject or group of subjects, as identified in the framework of a diagnostic risk assessment conducted by the supervisory authority, in addition to the characteristics of subjects and financial groups, especially the diversity and number of subjects and the degree of secrecy granted to them under the risk-based approach. It was granted the authority to conduct a diagnostic assessment of those subject thereto, which allows it to review the assessment of the money laundering and terrorist financing risk structure of the financial institution or group, and like all assessments, this assessment is carried out periodically and whenever necessary.

70. Based on the above, Algeria issued Law No. (23-01) dated 07 February 2023, amending and supplementing Law (01-05) related to AML/CFT. It also issued a new Law No. (23- 09) containing the Monetary and Banking Law dated 21 June 2023, which repealed the amended and supplemented Monetary and Loan Order (Law) No. (03-11). In accordance with Article (10 bis) of the AML/CFT Law, the authorities that have powers to control, supervise, and/or monitor those subject to, and it enacts regulations and monitor their respect (application) by those subject thereto in the field of AML/CFT/CPF. Article (10 bis 3) explicitly specifies that some bodies are responsible for exercising this control, and by reading all of these articles with the provisions of Articles (116, 120) of the Monetary and Banking Law (23-09), it becomes clear that the following authorities control and supervise the AML/CFT requirements. The banking committee was identified explicitly for banks and FIs as well as financial departments of the Algerian Post and other similar FIs, exchange offices and agents, stock exchange operations regulatory

committee with relation to stock exchange brokers and the authority entrusted with insurance supervision. As for insurance companies, brokers and factoring institutions.

71. Algeria issued the monetary and banking law on 21 June 2023. Under this law, the provisions of Article (87) apply to exchange offices, payment service providers and independent brokers, and also apply to banks and financial institutions subject to the supervision of the Banking Committee, so that he/she cannot be a founder of these entities or a member of their board of directors, or shall assume, directly or through another person, its management, or representation, in any capacity, or be authorized to sign on its behalf if he/she is convicted (As per the same provisions referred to in the MER). Algeria issued Executive Decree No. 23/430, which specifies the conditions and modalities for exercising control, supervision and/or oversight powers in the field of AML/CFT/CPF towards those subject thereto. Article 9 thereof stipulates explicitly that every control, supervision and/or oversight authority must adopt and implement the necessary measures to prevent those convicted of a felony or misdemeanor related to violating the provisions of the Law on AML/CFT No. 05-01 or crimes associated thereto from owning controlling shares therein, or be the BOs thereof, or holding any of the management functions therein. It is understood from this that the scope of the article includes the crimes of money laundering, financing of terrorism, and financing of proliferation (which Law No. 05-01 is concerned with) and the rest of the predicate crimes associated with the crime of money laundering, that is, all crimes punishable by Algerian law, since Algeria takes a comprehensive criminalization approach of the predicate crimes associated to money laundering crimes. This includes acts of participation in the commission of crimes.

72. Banks are generally subject to the principles of the Basel Committee on Banking Supervision, which are generally consistent with the relevant principles. The Country has provided a set of data showing that intermediaries in stock exchange operations are subject to the principles of the International Organization of Securities Commissions. As for insurance intermediary companies, the Country has provided general information regarding the extent to which this sector is subject to regulation and supervision in accordance with the principles of the General Assembly of Insurance Supervisors, and in accordance with the provisions of Articles (5 bis 3 and 10 bis 2) of the new amendment under Law No. (23-01) related to AML/CFT, the supervisory authorities over financial institutions must develop applied and practical programs and measures based on the risk-based approach to combat money laundering, financing of terrorism, and financing of the proliferation of weapons of mass destruction, and follow up and monitor the extent of compliance with their implementation. This supervision depends primarily on the national sectoral ML/TF/PF risks.

73. In accordance with Article (10 bis 2/b) of the new amendment under Law No. (23-01) related to AML/CFT, the frequency and extent of oversight and supervision activities (including onsite supervision) carried out by the authorities supervising financial institutions in the framework for AML/CFT/CPF, based on ML/TF/PF as well as policies and operations of supervision and internal measures of the subject(s), it also is identified within the

framework of the supervisory authorities. ML/TF/PF Risks Characteristics of subjects and financial groups, especially the diversity and number of subjects and the degree of (confidentiality) granted to them under the risk-based approach. However, it is not clear what is meant by the degree of confidentiality granted thereto them, while the Country indicated that this is just a typo, and what is meant is the degree of (freedom) of action. However, the review team believes that this typo changes the intended meaning and slightly affects compliance with paragraph (c) of this subcriterion.

74. Article (7) of Executive Decree No. 23/430 requires control, oversight, and/or supervision authorities to develop supervisory programs based on a risk-based approach. This supervision relies primarily on offsite and onsite inspections, including examining any documents or information or records that are necessary to carry out the tasks of the supervisory authority based on the risk assessment it adopts. The article requires that this supervision be carried out at least once a year, which may allow the information that the supervisory authority relies on in conducting the risk assessment to be up to date, and thus the possibility of reviewing the risk assessment on a periodic basis, although there is no explicit provision to that effect. There is no evidence that explicitly requires the supervisory authority to review the assessment of the money laundering and terrorist financing risk structure of the institution or group when there are important events or developments in the financial institution or group's management and operations.

75. **Conclusion:** Algeria made a number of legislative amendments that addressed most of the shortcomings in Recommendation 26 without affecting the two criteria (26.1 and 26.2) that were rated (Met) during the ME process, especially with regard to taking the necessary legal measures to prevent criminals or their associates from owning controlling shares in any financial institution, or being the beneficial owners of these shares. Banks and brokers in stock exchange operations are subject to the Basel Committee Principles on Banking Supervision and the IOSCO Principles, respectively, which are generally consistent with the relevant principles, while the Country has provided general information on the extent to which insurance companies and brokers (low-risk sector) are subject to regulation and supervision in accordance with the relevant IAIS Principles which shows the inadequacy of applying these principles. Algeria has addressed the shortcomings related to determining the frequency and extent of oversight and supervision activities (including onsite supervision) carried out by the authorities supervising financial institutions within the framework of AML/CFT/CPF, to become based on the money laundering and terrorist financing risks present in the country and those identified by the supervisory authority, in addition to the policies, supervisory processes, internal procedures, and characteristics of the financial institutions subject to supervision, especially their diversity and number. On the other hand, there are still some minor shortcomings related to the lack of clarity in determining the frequency of supervision based on the degree of freedom of action granted to the financial institution in accordance with the risk-based approach, in addition to the

failure to infer what explicitly requires the supervisory authority to review the assessment of the money laundering and terrorist financing risk structure of the financial institution or group, either periodically (although it is possible to rely on the outputs of periodic inspections to do this) or when there are important events or developments in the management and operations of the institution or financial group. **According to the above and since most shortcomings are addressed, especially those of most importance, the level of compliance in R.26 is "Largely Compliant".**

Recommendation 27 (Powers of supervisors) (PC)

76. It was stated in the MER that the supervisory authorities over financial institutions have the powers to monitor and follow up on the compliance of the institutions subject to their supervision with regard to AML/CFT requirements, and they can apply a set of administrative and financial penalties to those who are not in compliance, but it is not clear whether the supervisory authorities apply all penalties when the subjects fail to comply with the AML/CFT requirements in Recommendation 6 and 9 - 21 in accordance with the requirements of Recommendation 35. This is in addition to the lack of clarity as to what penalties are available for dealing with the financial services of Algerian Post and exchange offices in the event of failure to comply with AML/CFT requirements as well as the authroity entrusted with applying those penalties.

77. to address the shortcomings contained in the MER, Algeria indicated that it amended Article 22 of Law No. 0501 of 06 February 2005 relating to the prevention and combating of money laundering and terrorist financing by Law No. 23-01 of 07 February 2023, accordingly, the aforementioned shortcomings were addressed. Article 22 included an obligation on those subject to providing any information related to following up on compliance with the requirements of combating money laundering and the financing of terrorism, stipulating that "the subjects must provide the competent authority, and the supervisory and control authorities, within the deadlines they [authorities] specify, with all necessary information and documents to exercise their obligations as stipulated for in this law." This obligation includes all subjects, whether financial institutions or DNFBPs.

78. In the event of failure of the subject to comply with the requirements of combating money laundering and terrorist financing, the supervisory authorities have the authority to impose sanctions in accordance with Recommendation 35, so that, pursuant to Article 10 bis 01 of the same law, authorities with powers of supervision and/or control may take disciplinary measures and/or appropriate sanctions or punishments in the event that those subject thereto breach the provisions of the law and/or the provisions taken to implement it, while Article 10 bis 09 specifies the penalties that can be imposed on those subject thereto in case of failure to comply with the requirements of combating money laundering and the financing of terrorism, represented in (Warning, reprimand, prohibition from performing certain operations and other types of restrictions on the exercise of activity, temporary

suspension of one or more managers and/or agents, termination of the duties of one or more of these persons, withdrawal of accreditation (license)), and in the event that special legislative or regulatory texts are available imposing more severe penalties. As for the competent authority applying these penalties against financial departments of the Algerian Post and the exchange offices, they are specified in Article 10 bis 3 of the Banking Committee.

79. Based on the above, the legislative amendments, whether by issuing Law No. (23-09) containing the Monetary Law and repealing the Monetary and Loan Order No. (03-11), or amending the Law on AML/CFT, did not affect the extent of Algeria's compliance to determining the supervisory authorities. Whereby they supervise financial institutions and are responsible for enacting AML/CFT/CPF regulations, and monitoring their compliance. They also have the powers to monitor the extent to which financial institutions respect the duties stipulated in the law and its bylaws. The legislative amendments, whether issuing Law No. (23-09) containing the Monetary Law and repealing Monetary and Loan Order No. (03-11), did not affect the monitoring of the extent to which financial institutions respect the duties stipulated in the law and its bylaws, including on-site monitoring (inspection).

80. According to Article (22) of the new amendment under Law No. (23-01) related to AML/CFT, those subject thereto (including all financial institutions) must provide the supervisory authority with all documents and information necessary to exercise its tasks stipulated for under the Law. It cannot take professional or banking secrecy as pretext not to respond to requests from supervisory authorities, and this article expands to give this power to the rest of the specialized bodies and competent authorities in addition to the supervisory authorities.

81. Article (10 bis 2/c) of the new amendment under Law No. (23-01) related to AML/CFT, grants the supervisory authorities the power to take disciplinary measures and/or proportionate penalties within the framework of AML/CFT/CPF. Article (10 bis 9) stipulates that these authorities have the powers to impose one of the following disciplinary penalties on those subject thereto (including all financial institutions) and/or their managers and/or employees, upon violation of the provisions of the Law and/or Bylaws, or wherever they do not comply with an order, or do not take into account the warning received. These penalties include warnings, reprimands, prohibition from performing some operations and other types of restrictions on activity, temporary suspension of one or more managers and/or employees, and termination of one or more of these persons as well as withdrawal of accreditation (license). The supervisory authorities can impose any more severe penalties if they have any legislative or regulatory texts related to that, and by reviewing the legislation related to the supervisory authorities, it becomes clear that they can impose a set of other disciplinary and financial penalties

82. **Conclusion:** Algeria made legislative amendments that addressed most of the shortcomings in Recommendation 27 without affecting the two Criteria (27.1 and 27.2) that were rated as (Met) during the ME process. The new amendment required under Law No. (23-01) related to AML/CFT all financial institutions that they must provide

the supervisory authority with all the documents and information necessary to carry out their duties stipulated for under the Law. They cannot take professional or bank secrecy as pretext upon receiving requests from the supervisory authorities. The law also gave the supervisory authorities the power to take disciplinary measures and/or proportionate penalties within the framework of AML/CFT/CPF against violating financial institutions, it is also clear that all supervisory authorities can take a set of other disciplinary and financial penalties contained in their legislative or regulatory texts. The only shortcoming remains the inability of the Banking Committee to impose administrative financial penalties on the financial departments of Algeria's Post, limiting that to disciplinary penalties that can be applied under the provisions of AML/CFT Law. However, the review team believes that this shortcoming does not constitute a significant and essential weight, since the Algerian Post is essentially a public institution, and criminal financial penalties apply to it under Articles (31 to 34) of Law (05-01). **According to the above, and since most shortcomings are addressed, the level of compliance in R.27 is "Largely Compliant".**

Recommendation 28 - Regulation and supervision of DNFBPs (PC):

83. It was stated in the MER that gambling is prohibited in Algeria. Lawyers are subject to the supervision of the Bar Association Council, the National Chamber of Notaries is responsible for monitoring notaries under the supervision of the Ministry of Justice, and the real estate agency is subject to the supervision of the Ministry of Housing, Urbanism and the City, and these bodies have supervisory powers to follow up on the obligations of those subject to AML/CFT requirements and taking disciplinary penalties when they breach these obligations, while not implementing risk-based supervision. These professions are subject to satisfactory Fit and Proper Tests. It is not clear who are the competent authorities to supervise and approve DPMS and the powers granted to them to impose disciplinary measures and implement risk-based supervision, in addition to the fit and proper tests that apply to DPMS

84. To address the shortcomings mentioned in the MER, Algeria referred to the amendment of Law No. 0501 - dated 06 February 2005 relating to AML/CFT by Law 23-01 dated 07 February 2023, as Article 10 bis addressed the aforementioned shortcomings, The article specifies the regulatory, oversight, and/or supervisory authorities for financial institutions, as well as DNFBPs, including the regulatory, oversight, and/or supervision authorities for DPMS. The Country also confirm that there are no independent professions in Algeria related to TCSPs, with the exception of lawyers who can act as agents for legal persons in the formation of companies. Article 10 bis addressed the above-mentioned shortcoming, as the article specified the supervisory, and/or control authorities over financial institutions, as well as DNFBPs, including all the subjects. The competent authority has been identified as the control and/or supervision authority for subject persons who do not have a specific supervisory and control authority as per the law.

85. The Country also issued Executive Decree No. 23-430 specifying the conditions and modalities for how supervision and/or control authorities exercise their tasks in the field of prevention and combating money laundering, terrorist financing and financing the proliferation of weapons of mass destruction, towards those subject thereto. Article 9 of the Executive Decree stipulates the conditions and modalities for exercising supervision and/or control powers, their tasks in the field of prevention and combating money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, towards the subjects "every control and/or supervision authority shall adopt and implement the necessary measures to prevent those convicted of a felony or misdemeanor related to violating the provisions of Law 05/01 or crimes related thereto from owning controlling shares therein or being the BOs thereof, or from assuming one of the management functions therein. This includes DPMS companies, or to be the BOs thereof, or to hold a management position therein.

86. Article 10 bis 09 also specifies the penalties that can be imposed on those subject to failure to comply with the AML/CFT requirements, which are (warning, reprimand, prevention from carrying out certain operations and other types of restriction from practicing the activity, temporary suspension of the course of action and/or one or more assistants, terminating the duties of one or more of these persons, withdrawing license), including DPMS.

87. Based on the above, Law No. 05-01 of 06 February 2005 relating to AML/CFT was amended by Law 23-01 of 07 February 2023, Article 10 bis 03 was included, which explicitly included that the authorities and bodies, each within its jurisdiction, are entrusted with supervision and control tasks as stipulated in the same law. Among these authorities is the Ministry of Youth and Sports as a regulatory authority for bets, games and casinos. However, this amendment did not remove the ban, as this article did not include a provision to allow gambling activity, nor was the aforementioned applicable legislative texts that explicitly prohibit this activity amended.

88. Based on the measures taken by the Republic of Algeria, the bodies regulating and supervising DPMS have been identified (the General Directorate of Taxes) and all DNFBPs (the National Bar: For lawyers, the National Chamber of Notaries: For notaries, the National Chamber of judicial bailiffs: For judicial bailiffs, the National Accounting Council: For accounting experts, the Ministry of Housing, Urbanism and the City: For real estate agents, the Ministry of Culture and Arts: For dealers of valuables and art objects) under Article 10 bis 3 of the Law These authorities have supervisory powers, including enacting regulations and monitoring their respect by those subject to them in the field of AML/CFT/CPF, and helping those subject to respect the obligations stipulated for under this law and the Bylaws and instructions related to. Article 10 bis-2a included that these entities should develop programs and practical measures based on a risk-based approach with relation to AML/CFT/CPF, and monitor their implementation. These programs and measures must include, in particular, monitoring the extent to which those subject to respect the duties stipulated in this law and its bylaws, including on-site monitoring.

89. Article 9 of the Executive Decree 23-430 stipulates the conditions and modalities for exercising supervision and/or control powers, their tasks in the field of prevention and combating money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, towards the subjects "every control and/or supervision authority shall adopt and implement the necessary measures to prevent those convicted of a felony or misdemeanor related to violating the provisions of Law 05/01 or crimes related thereto from owning controlling shares therein or being the BOs thereof, or from assuming one of the management functions therein. It is clear from the analysis of the aforementioned article that it relates only to those convicted of violations related to the provisions of Law 05-01, which is much narrower than the scope of C.24-4-B. The aforementioned article also obligates the supervisory authorities to adopt and implement the necessary measures in this area, but the issuance of these measures is not clear.

90. Article (10 bis 2/c) of the new amendment under Law No. (23-01) related to AML/CFT, grants the supervisory authorities the power to take disciplinary measures and/or proportionate penalties within the framework of AML/CFT/CPF. Article (10 bis 9) stipulates that these authorities have the powers to impose one of the following disciplinary penalties on those subject thereto (including all financial institutions) and/or their managers and/or employees, upon violation of the provisions of the Law and/or Bylaws, or wherever they do not comply with an order, or do not take into account the warning received. These penalties include warnings, reprimands, prohibition from performing some operations and other types of restrictions on activity, temporary suspension of one or more managers and/or employees, and termination of one or more of these persons as well as withdrawal of accreditation (license). Given that Article 10 bis-3 of the aforementioned law specifies the General Directorate of Taxes as the supervisory authority over DPMS, the two aforementioned articles apply to the Directorate, and it has the powers to apply the disciplinary measures referred to in Article 10 bis-9 on DPMS.

91. Algeria has addressed some of the shortcomings referred to in the MER, as Article 10 bis-2-a of the new amendment under Law No. (23-01) related to AML/CFT includes the powers of all supervisory authorities to establish programs and practical measures based on the risk-based approach to AML/CFT/CPF of WMDs and monitoring their implementation. In accordance with Article (10 bis 2/b) of the aforementioned law, the frequency and extent of monitoring and supervision activities (including on-sites) carried out by the authorities supervising subject entities, including DNFBPs, are determined within the AML/CFT/CPF framework based on:

    a) The risks of money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, and the internal control policies, processes and procedures of the subject(s), as identified in the framework of a diagnostic risk assessment conducted by the supervisory authority.
    b) The ML/TF/PF risks, and the characteristics of the subjects and financial groups, especially the diversity and number of subjects and the degree of secrecy granted to them under the risk-based approach.

Given the lack of clarity in the relationship between the degree of confidentiality granted to those subjects and the basis for determining the frequency and extent of supervisory activities over them, and upon inquiry from the Country, it indicated that this is merely a typo error in the law resulting from the similarity of the letters in the Arabic

language of the word "confidentiality" with the word "freedom," and that the article should have stated "the degree of discretion/freedom granted to those subject to the risk-based approach" as one of the characteristics that determine the frequency and extent of supervision activities over them. However, the review team believes that this typo error has changed the intended meaning, and slightly affects the extent of compliance with C.28.5. However, the review team believes that this typo changes the intended meaning and slightly affects compliance of Criterion 28.5.

92. Article (7) of Executive Decree No. 23/430 requires control, oversight, and/or supervision authorities to develop supervisory programs based on a risk-based approach. This supervision relies primarily on offsite and onsite inspections, including examining any documents or information or records that are necessary to carry out the tasks of the supervisory authority based on the risk assessment it adopts. The article requires that this supervision be carried out at least once a year, which may allow the information that the supervisory authority relies on in conducting the risk assessment to be up to date, and thus the possibility of reviewing the risk assessment on a periodic basis.

93. The Para. 418 of the MER stated that there are no independent professions in Algeria related to TCSPs, with the exception of lawyers who can act as agents for legal persons in the formation of companies. Furthermore, although corporate service providers have been limited to lawyers, the state has not provided any indication of adding trust service providers to the scope of DNFBPs. There is an absence of any legal provision prohibiting the establishment or provision of investment trust services in Algeria in accordance with paragraph (313) of the MER.

94. **Conclusion:** In the context of addressing deficiencies associated with this recommendation, Algeria enacted legislative amendments to address most of the deficiencies related to this recommendation as indicated in the MER. Regulatory and supervisory authorities overseeing traders of precious metal and stones (the General Tax Directorate) and all DNFBPs have been identified. These amendments included to provide sufficient supervisory powers entrusted to those authorities, including enacting regulations and monitoring their respect by those subject to them in the field of AML/CFT/CPF, and helping those subject to respect the obligations stipulated for under this law and the Bylaws and instructions related to. These entities should develop programs and practical measures based on a risk-based approach with relation to AML/CFT/CPF, and monitor their implementation. Monitor the extent to which those subject to this law respect the duties stipulated in this law and its bylaws, including on-site monitoring. Which specified the conditions and modalities for how oversight, supervision and/or control authorities exercise their tasks in the field of prevention and combating money laundering, terrorist financing and financing the proliferation of weapons of mass destruction, towards those subject thereto. However, the typo error in the law, as mentioned above, where the word "secrecy" was replaced with "freedom," and the exclusion of trust service providers, slightly affects the compliance rating for this recommendation**. According to the above and since most shortcomings are addressed, the level of compliance in R.28 is "Largely Compliant".**

Third: Conclusion

95. After analyzing all the supporting information and documents by the review team submitted by the authorities in the Algeria and attached to their TC rerating request for recommendations (11, 12, 14, 18, 21, 22, 23, 26, 27 and 28), the team summarizes the following:
    - To upgrade the rating from "PC" to "LC" for Recommendations (14, 21,26, 27 and 28)
    - To upgrade the rating from "NC" to "PC" for Recommendation 12.
    - Recommendations (11, 18, 22 and 23) Remain at "PC".

96. Compliance ratings after re-rating can be summarized as follow:

Table (2): TC ratings as of May 2024

Recommendation 1	Recommendation 2	Recommendation 3	Recommendation 4	Recommendation 5	Recommendation 6	Recommendation 7	Recommendation 8	Recommendation 9	Recommendation 10
NC	PC	LC	LC	C	PC	NC	NC	PC	PC
Recommendation 11	**Recommendation 12**	**Recommendation 13**	**Recommendation 14**	**Recommendation 15**	**Recommendation 16**	**Recommendation 17**	**Recommendation 18**	**Recommendation 19**	**Recommendation 20**
PC	PC	NC	LC	NC	NC	N/A	PC	NC	LC
Recommendation 21	**Recommendation 22**	**Recommendation 23**	**Recommendation 24**	**Recommendation 25**	**Recommendation 26**	**Recommendation 27**	**Recommendation 28**	**Recommendation 29**	**Recommendation 30**
LC	PC	PC	NC	NC	LC	LC	LC	LC	LC
Recommendation 31	**Recommendation 32**	**Recommendation 33**	**Recommendation 34**	**Recommendation 35**	**Recommendation 36**	**Recommendation 37**	**Recommendation 38**	**Recommendation 39**	**Recommendation 40**
LC	PC	C	PC	PC	PC	LC	LC	LC	NC

Note: There are five Possible ratings for Technical Compliance (Compliant, Largely Compliant, Partially Compliant, Non-Compliant and Not Applicable)

97. Based on the above, Algeria obtained "Compliant" in 2 recommendations: "LC" in 14, "PC" in 13, "NC" in 10 and "N/A" in 1 recommendation of the 40 recommendations as a result of the re-rating request within the 1st EFUR. Accordingly and as per MENAFATF applicable procedures; Algeria shall remain in the ICRG process; provided that it submits its 2nd EFUR to the 40th Plenary to be held in May 2025.