



MUTUAL EVALUATION REPORT OF PERU



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ABBREVIATIONS AND ACRONYMS

DNFBP	Designated Non-Financial Business and Professions
APCI	Peruvian International Cooperation Agency
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
MLA	Mutual Legal Assistance
BO	Beneficial owner
CCFFAA	Joint Command of the Armed Forces of Peru
CAN	High-Level Anti-Corruption Commission
CONTRALAFT	Multi-Sectoral Executive Committee against ML/TF
CODEVRAEM	Multi-Sectoral Commission for the Pacification and Social Economic Development in the VRAEM
CMLTI	Permanent Multi-Sectoral Commission for the Fight against Illegal Logging
CODEHUALLAGA	Multi-Sectoral Commission for the Pacification and Social Economic Development in the Area of Huallaga
DEVIDA	National Commission for Development and Life without Drugs
UNSC	United Nations Security Council
CONSUF	Foundations Surveillance Council - Ministry of Justice and Human Rights
CGR	Comptroller General of the Republic
CPP	Code of Criminal Procedure
CDD	Customer Due Diligence
DIRANDRO	Anti-Drugs Directorate
DIRCOTE	Counter-Terrorism Directorate
DIRILA	Money Laundering Investigation Directorate
DGCO	General Direction against Organized Crime
DIGIMIN	General Intelligence Directorate
DINI	National Intelligence Directorate
RBA	Risk-Based Approach
NRA	National Risk Assessment
FPWMD	Financing of the Proliferation of Weapons of Mass Destruction
TF	Terrorist Financing
FECOR	Specialised Prosecutor's Office against Organised Crime
FISLAAPD	Specialised Prosecutor's Office against Money Laundering and Asset Forfeiture
GIZ	German Cooperation - Gesellschaft für International Zusammenarbeit
FIs	Financial Institutions
INEI	National Statistical System
ML	Money Laundering
MINCETUR	Ministry of Foreign Trade and Tourism
MINDEF	Ministry of Defence
MEF	Ministry of Economy and Finances
MINEM	Ministry of Energy and Mines
MINJUSDH	Ministry of Justice and Human Rights
PRODUCE	Ministry of Production



MRE	Ministry of Foreign Affairs
MTC	Ministry of Transport and Communications
MININTER	Ministry of Domestic Affairs
PPO	Public Prosecutor's Office
NCPC	New Criminal Procedural Code
CO	Compliance Officer(s)
NPOs	Non-Profit Organisations
TOSP	Terrorist Organisation Shining Path
PEP	Politically Exposed Person(s)
PJ	The Judiciary
PNP	National Police of Peru
PCM	Presidency of the Council of Ministers
PRONABI	National Seized Property Program
TR	Transactions Record(s)
STR	Suspicious Transaction Report(s)
UNSCR	United Nations Security Council Resolution(s)
TFS	Targeted Financial Sanctions
RI	Reporting Institutions
SBS	Superintendence of Banks, Insurance and Pension Fund Managers (PFM)
SMV	Superintendence of the Securities Market
SUNAT	Customs National Superintendence and Tax Administration
SUCAMEC	National Superintendence for the Control of Security Services, Firearms, Ammunition and Explosives for Civil Use
SUNARP	National Superintendence of Public Registries
TID	Drug trafficking
FIU	Financial Intelligence Unit
VRAEM	Valley of the Apurimac, Ene and Mantaro Rivers

EXECUTIVE SUMMARY

1. This report summarises the Anti Money Laundering/Terrorist Financing (AML/CFT) measures in place in the Republic of Peru as at the date of the on-site visit conducted between May 21 to June 1, 2018. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the Peruvian AML/CFT System and recommends how the system could be strengthened.

Key findings

- Peru identifies, assess and understands to a certain degree the risk of Money Laundering and Terrorist Financing (ML/TF). As a result of the 2016 ML/TF National Risk Assessment (NRA 2016), and from the information collected during the on-site visit, different levels of ML/TF risk comprehension within the AML/CFT system can be observed. Jointly, an understanding on how these threats may impact on the AML/CFT system cannot be observed. The aforementioned can be limiting the ability to implement specific mitigation actions and/or policies.
- The two national plans against ML/TF, and the national policy against ML/TF prove a strong political commitment by the Peruvian State on ML/TF. In relation to compliance with the 2011 National Plan, important progress was made in the strengthening the AML/CFT system in terms of regulatory framework, training, and supervision efforts. However, the country still needs to develop multi-disciplinary teams for the investigation of complex crimes, and to strengthen experts and advisors for the investigation of ML/TF offences, since the measures defined in the plan mentioned were only partially executed.
- An important volume of financial intelligence developed and provided by the Financial Intelligence Unit (FIU) to the different competent authorities through different products is observed, with a high-appraisal of said information, revealing coverage of the operational needs of competent authorities, in particular for preliminary investigations.
- In the ML/TF detection phase in Peru, an important volume of Suspicious Transaction Reports (STRs) was produced, which was subjected to an operational and strategic analysis. The background on the quality of the STRs provided by the FIU shows a high-quality level. However, the information provided by Reporting Institutions (RIs) during the on-site visit (banks, notaries, casinos, remittance companies, and currency exchange offices) indicates that there is important room for improvement in relation to their quality, which could be overloading the FIU in terms of analysis of information and reducing the amount of available time to conduct financial intelligence processes.
- In general, there is a legal framework which is adequate for the fight against ML, however, in practice, it is necessary to strengthen the policy to prioritize ML investigations, and to conduct parallel financial investigations.
- Even when it has a ML specialised prosecutor's office, it is necessary to increase resources and strengthen the operational and management capacity within the Public Prosecutor's Office (PPO) that impacts on the effectiveness of the fight against ML.
- There is an adequate legal framework for the confiscation of assets, instrumentalities and proceeds of crime.
- The results of confiscations and asset forfeiture actions are limited in number. Based on available information, the outcomes keep certain coherence with the ML/TF risks in Peru; this is particularly more evident based on the threats identified in the 2016 NRA.
- Peru has a regulatory framework in place to investigate, prosecute and convict TF and related conducts.

- There is, to a certain extent, a common view and understanding in relation to TF and its risk level in Peru.
- Peru has a mechanism in place to implement Targeted Financial Sanctions (TFSs) related to TF and Financing of Proliferation of Weapons of Mass Destruction (FPWMD). Even when no matches were found, the mechanism has been tested and it seems to be adequate and shows no delays.
- RIs show to be aware of the obligations related to the implementation of TFSs related to TF and FPWMD and have participated in simulations coordinated by the FIU.
- Peru has made efforts to monitor Non-profit Organisations (NPOs). One sector of NPOs has been included under a targeted ML/TF prevention regime. The FIU made a diagnosis of NPOs, which does not meet all the requirements set forth by R.8.
- The financial sector (mainly banks, insurance companies, micro-finance companies) showed to have a better understanding of the risks of ML/TF. The understanding that Designated Non-Financial Businesses and Professions (DNFBPs) have is minor. However, despite the efforts made to identify and understand the risks, there are still important weaknesses in their proper identification, taking into account each sector's context and the geographic area they operate in. It is estimated that the understanding of TF risk is limited. RIs did not show the risk exposure level or the way they can be misused. As a consequence, actions tending to mitigate such risk cannot be carried out.
- The understanding of the ML/TF risks by RIs, in some cases, differ from the understanding by authorities, based on the 2016 NRA. For instance, casinos perceive that their activity has a low exposure to ML/TF. There are sectors, mainly within DNFBPs (such as casinos and slot machines operators) that taking into account the geographic context of the country, the high economic informality, threats such as corruption, and other associated ML risks, have still not comprehensively understood the ML/TF risks they are exposed to.
- Even if the different RIs have made progress in the implementation of their AML/CFT monitoring systems, some FIs (certain Fund Transfer Companies (ETF)) and DNFBPs (some notaries and casinos), still do not have an internal monitoring system in place capable of issuing sufficient alerts to detect unusual transactions. Moreover, in certain cases, they are not making an analysis and assessment process in relation to suspicious transactions to file STRs, and in other cases, it is not made in the 24-hour period required based on the sample of ML/TF prevention handbooks.
- Even if supervisors, mainly the FIU and the Superintendence of Banks, Insurance and PFM (SBS), are implementing risk-based supervision (RBA), the scope of supervision is at different development levels. In the case of the SBS, within the framework of supervisions made, in general, there is an understanding of the ML/TF risks supervised institutions are exposed to. The FIU has made actions to conduct an RBA supervision and is implementing the last updated methodology of 2017 and 2018. As for the rest of the supervisors (Ministry of Transport and Communications (MTC), Ministry of Foreign Trade and Tourism (MINCETUR), Superintendence of the Securities Market (SMV)) RBA supervision should still be developed.
- During the authorities' supervision procedures (except for the FIU), criteria that reflect the 2016 NRA and sectoral risk assessments' (SRA) outcomes are not clearly defined, including the incorporation of such information in the rating of the RI's risks, except those relating to risks associated to geographic areas.
- In general, supervision procedures (except for the SBS), particularly on-site supervisions, are focused on the review of policies, handbooks, and procedures of the ML/TF prevention system of RIs. Observations and recommendations (remedial actions) made by supervisors are mainly derived from a compliance supervision. The sample of on-site supervision reports reflect, in general, considerations in relation to Handbook of ML/TF prevention, procedures, code of

conduct, records of transactions (TRs) of RIs, and there are no mentions in relation to ML/TF risks management and the application of an RBA by RIs.

- The SBS has the mechanisms in place for the granting of licenses and registration with the aim of preventing criminals and their associates from owning a financial entity or occupying an administrative function.
- Savings and Credit Cooperatives (CAC) have affiliation mechanisms, but there are no mechanisms in place for the regulation, granting of licenses, and authorisation of transactions, which enable criminals or their associates to be BO of a significant share of a CAC¹.
- In relation to RIs supervised on AML/CTF by the FIU, an important effort has been made to register activities considered RI. However, even if there are mechanisms in place to verify the moral suitability of directors, managers, and workers, there is still no mechanism to prevent criminals and their associates from being BO of a significant share of the RI.
- Supervisors have used different tools, such as guidelines, trainings, answer to inquiries, direct feedback, etc. to raise awareness on the identified risks, as well as on the obligations on the matter. However, these tools do not seem to result in awareness in relation to the importance to send quality STRs, since in some sectors, particularly DNFBPs, a lack of understanding of the preventive system is perceived.
- Certain RIs, such as lawyers and accountants, are not under supervision yet.
- Supervision authorities in Peru have the legal powers and a regulatory framework that contemplates a wide range of fines to be applied in order to correct the lack of implementation and proper compliance with the prevention and detection measures. However, based on the sample of reports and information submitted, recommendations, remedial actions, and sanctions are addressed to merely formal non-compliance with the preventive system.
- With the exception of the FIU and the SBS, the identification and understanding of ML/TF vulnerabilities faced by legal persons and arrangements is uneven among the other relevant authorities.
- In general, the information on the creation and types of legal persons and arrangements contained in the Public Registries System of Peru is available, however, even when there are public investment projects under implementation, such as the “IRCN²,” there is still room for improvement in relation to the automatization of information access and its update on a timely manner. Based on the information gathered during the on-site visit, the assessment team learned about the challenges to conduct expedite and accurate consultations, in particular on the BO of legal persons and arrangements. At the time of the on-site visit, there was no timely access to information relating to the BO information of legal persons³.
- In relation to legal persons with complex corporate structure, the information on the BO is not timely gathered, since the tools that allow relevant actors to understand the complex corporate

¹ After the on-site visit, it was passed the Law No. 30822 that amends the Law No. 26702, General Law on the Financial System and Insurance and SBS Organic Law in relation to the regulation and supervision of CACs. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in the follow-up processes before GAFILAT.

² Public Investment Project entitled “Registration with National Competence” that aims at amending mainly the information system, in order to improve registration and publicity services at the national level through the modernisation of the technological platform.

³ After the on-site visit, Legislative Decree No. 1372 was passed, which regulates the obligation of legal persons and / or legal entities to inform the identification of their BO. However, this information is outside the scope of this Mutual Evaluation, whose scope is limited to the last day of the on-site visit date, so the scope of this regulation will be analyzed in the GAFILAT follow-up processes.

structures and how they operate do not allow to properly identify the persons who exercise the control over such legal persons.

- Peru generally provides constructive and quality mutual legal assistance (MLA). The MLA mechanisms and those of international cooperation have been useful for the requesting states and also internally. Peru's approach in relation to MLA and international co-operation is generally collaborative and proactive.
- The country is active in pursuing MLA in relation to domestic cases with transnational elements.
- The PNP and the FIU have the capacity to make co-operation requests to its counterparts. The principal means or mechanisms for the transmission and execution of requests are agreements signed with other countries; the principle of reciprocity also prevails.
- Competent authorities are sufficiently co-ordinated to handle MLA requests processed by the UCJIE.

Risk and General Situation

2. Peru is faced to a series of threats to the AML/CFT system as sources of proceeds of crime, such as: Illegal trafficking of drugs (TID), corruption, illegal mining, organised crime with structures related to human and migrants trafficking, assassination, and smuggling. The proceedings of these crimes infiltrate into the formal and informal economies. Banks, which dominate the financial sector and handle the largest number of transactions conducted in the country and their interconnection with the international financial system, seem to be the most exposed, but other activities from the financial sector, such as currency exchange offices and remittance companies, are also vulnerable to ML activities. 60% of the Peruvian economy is informal, and the high use of cash is considered an important vulnerability, since it significantly increases the risk that the proceeds of crime may be placed in the regulated formal economy.

3. DNFBPs, particularly notaries and real estate and construction agents, seem to be involved in a high volume of vulnerable transactions that bear a high risk. In general, the methods to launder assets derived from the threats identified include the use of shell companies and institutions, such as CAC, the buying and selling of real estate property and property of high-value, and smuggling. The TF risk seems to be relatively low from the point of view of the external threat, although potential cases have been detected. From the point of view of the domestic threat, there is the phenomenon related mainly to terrorist activities conducted by the remains of the shining path, and similar ideologies.

Overall Level of Effectiveness and Technical Compliance

4. The AML/CFT regime of Peru has improved significantly since its last evaluation. It has a sound legal and institutional framework to fight against ML/TF and the FPWMD. In relation to effectiveness, Peru has reached a substantial level on financial intelligence, implementation of TFS in relation to TF and FPWMD and on international cooperation. In other areas, it requires considerable and fundamental improvements.

Assessment of risks, coordination and policy setting (Chapter 2 – IO.1; R.1, R.2, R.33)

5. Peru has made an important effort to understand ML/TF risks since the 2010 ML/TF National Risks Diagnosis (Diagnosis 2010) and the 2016 NRA. However, even if threats are identified, there is lack of understanding of how ML threats may impact on the AML/CFT system, which limits up to a certain degree the ability to define specific and effective mitigation actions and/or policies.

6. The two national plans against ML/TF and the national policy against ML/TF prove a strong political commitment and a co-ordinated work by competent authorities in the framework of the Multi-Sectoral Executive Committee against ML/TF (CONTRALAFT) for the fight against ML/TF. Given that the 2018-2021 National Plan against ML/TF (2018 National Plan) is under full execution, it is not possible yet to assess if the AML/CFT policies and plans defined contribute to the system's effectiveness and to mitigate ML/TF risks. Moreover, in relation to compliance with the 2011 National Plan against ML/TF (2011 National Plan), an important progress has been made in relation to the strengthening of the AML/CFT system, in terms of its regulatory framework related to training and efforts on supervision, but the impact on actions and operability of the different competent authorities on AML/CFT matters is still pending to be seen.

7. There is a co-ordination by the FIU with the RIs to promote the conduction of sectoral ML/TF risk analysis. However, there are no evidences on the construction of a common understanding of the ML/TF risks, including all competent authorities and the private sector, which may be limiting the country's ability to implement specific mitigation actions and/or policies.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 – IO 6-8; R.3, R.4, R.29-32)

8. The FIU is the national centre in charge of receiving, analysing, handling, assessing, and disseminating information for the detection of ML and TF. The FIU receives STRs and Transaction Records (TRs), it has access to different open and closed databases, and has the power to request relevant information to RIs and collaborating public entities. In relation to the information subject to bank and tax secrecy, the FIU has the power to lift reserves with judicial authorization for information that is not contained on the TR that the banks send to the FIU⁴

9. The FIU receives STRs from most RIs, except for lawyers and accountants, which were recently incorporated to the system. The FIU produces an important volume of financial intelligence and disseminates it to competent authorities; said information supports the operational needs of the authorities. The existence of co-operation and information exchange between the FIU and competent authorities was verified.

10. There are investigations, prosecutions, and convictions for ML, according to some ML threats, however, the results are not proportionated in magnitude with respect to the risk level to which Peru is exposed to. Most ML convictions are related to the predicate offence of TID, and, to a lesser extent, other crimes. ML cases are identified for investigation, but it is not clear that in the investigation of complex cases the recovery of assets and financial dismantling of criminal networks is being pursued, in most cases.

11. There is an adequate legal framework for the recovery of assets, instrumentalities and proceeds of crimes; however, confiscation of assets and instrumentalities of crime in terms of results is modest, this seems to be more evident based on the threats identified in the 2016 NRA. It is not clear that there is awareness among law enforcement authorities on the importance to trace and confiscate assets of criminal structures. There are many provisional measures available to competent authorities, including the capacity to freeze assets by the FIU; however, the results in terms of confiscation and asset forfeiture are limited.

⁴ The FIU accesses and requests information from the RIs regarding the economic operations carried out by natural or legal persons that exceed the specific thresholds established in the current sectoral regulations or, when individual operations for amounts equal to or greater than US \$ 10,000 (or its equivalent in national currency or other currencies) and, multiple operations carried out during a calendar month that together equal or exceed US \$ 50,000 (or its equivalent in national currency or other currencies)).



Likewise, there are few confiscation cases related to cross-border movements falsely declared or not declared.

Terrorist Financing and Financing of Proliferation (Chapter 4 – IO9-11; R.5-8)

12. Peru has an institutional structure to investigate, prosecute and convict TF and related behaviours. A common view and understanding of the TF phenomenon by competent authorities was not observed.

13. In relation to TF identification and investigation, limitations are found as regards the co-operation and TF information exchange between competent authorities. Actions specifically focused on the investigation of TF cases are not observed either. The sanctions applied by the country for TF are effective, proportionate and dissuasive to a certain degree. It should be mentioned that the country has used the figure of the cooperating witness in the framework of investigations for such crime.

14. Peru has a mechanism to implement TFS related to TF. Even when no matches were found, the mechanism has been tested and it seems to be adequate and implemented without delay. In the framework of United Nations Security Council Resolution (UNSCR) 1373, persons have not been designated. The country has adopted measures to address TF risks in line with the risk profile, to a certain degree.

15. Efforts have been made to assess TF risks of NPOs, although the assessment of NPO is not in line with the requirements of R.8. Monitoring and supervision of the sector has begun.

16. Peru has a system in place to comply with TFS under the Sanctions Committees relevant to the FPWMD, which is similar to TF. RIs seem to be aware of the obligations related to the implementation of TFSs on this matter, and authorities monitor compliance with the obligations of RIs.

Preventive Measures (Chapter 5 – IO4; R.9-23)

17. In general, financial institutions (FI), particularly banks and micro-finance institutions, have a better knowledge of the main ML threats; however, for other RIs in the financial sector, the knowledge is lower. Likewise, it is estimated that the understanding of risks by certain DNFBPs, such as lawyers and accountants, is limited, probably due to their recent incorporation as RIs.

18. Even when some FIs comply with their obligations in relation to the identification of customers and the enhanced measures based on their risks, particularly DNFBPs do not apply measures based on the risk and limit their actions to the risk scenarios required by their regulations.

19. There has been an increase in the number of STRs in the last years, as well as in the number of RIs. However, improvements are necessary in relation to the due application of the obligation to report STRs, since it seems that RIs submit a large number of STRs which are reactive, based on information from the media and/or criminal investigations, rather than as a result of implementing the preventive system.

Supervision (Chapter 6 – IO3; R.26-28, R.34-35)

20. Supervisors from the financial sector conduct actions to grant licenses and authorise FI, that are in general, adequate; however, there are no such mechanisms for the CAC. In relation to DNFBPs, the FIU has made an important effort to register the activities considered as RIs; however, there are still sectors to be registered, and fit and proper mechanisms need to be developed for DNFBPs.

21. In general, supervisors seem to understand ML/TF risks in relation to their RIs and they select the institutions to be supervised based on their risk. However, the application of a risk-based approach in supervision is still under development, since supervision seems to be focused on the verification of the current legal framework, which is in line with the recommendations and/or sanctions applied in the framework of sanctioning processes, wherein mainly formal observations are detected. Supervision for lawyers and accountants and RIs supervised by the MTC should still be developed.

22. In general, efforts to increase feedback to RIs is acknowledged, especially in relation to STR obligations, but this does not seem to bear a higher awareness on the importance of filing quality STRs, since some sectors, particularly DNFBPs, show a lack of understanding of the preventive system.

Transparency of Legal Persons and Arrangements (Chapter 7 – IO5; R.24-25)

23. The FIU made an effort to identify and understand ML/TF risks of legal persons, however, there are no clear and co-ordinated actions for the understanding of risks by relevant authorities and the private sector. There is public and mostly automatized information on the basic elements of legal persons and arrangements; however, concrete actions to guarantee that said information is kept up-to-date cannot be appreciated, and in some cases, given that the systems vary among institutions, they prevent relevant authorities from obtaining information in a more efficient and timely manner. The information on the BO cannot be timely and effectively accessed by competent authorities since, especially in the case of legal persons with a complex corporate structure, the information on the BO is not timely available. In the case of legal arrangements, measures adopted by Peru such as the fact that only FI can be trustees, reduces their exposure to ML/TF risks.

International Cooperation (Chapter 8 – IO2; R.36-40)

24. Peru has a legal framework that allows to provide MLA and extradition constructively and under good quality. It should be noted that Peru is proactive in relation to the pursue MLA in national cases with transnational elements, and the requests are generally accurate and clear.

25. Competent authorities, particularly the FIU, provide timely constructive and quality co-operation. Competent authorities and supervisors regularly exchange information with their foreign counterparts. Authorities are capable of providing international co-operation in relation to basic and BO information of legal persons and arrangements. However, access to this information may limit the provision of international co-operation.

Priority Actions

- Improvements in the identification and assessment of ML risks in Peru, that would allow to identify how proceeds of crimes related to the threats identified violate the AML/CFT system, and which are the sectors with higher ML/TF risks. For instance, in the case of drug trafficking, identify if assets generated by this threat are sent abroad and how, and for those laundered in Peru, what the mechanisms used are (formal and informal markets, to mention only one example.)
- Generate the environment to promote a common understanding of the TF risk in Peru, its financing sources, legal or illegal, its size and impact.
- Develop a ML/TF risk analysis of economic activities that report to the FIU and that play a role in the prevention and detection of ML/TF, with the aim of enhancing the understanding of the risks and the application of an RBA. In this sense, it is important to strengthen the SRA of the financial sector and

develop the SRA of the DNFBBs, especially considering the level of informality of the Peruvian economy that increases the level of exposure of DNFBBs to be used a ML mechanism.

- In relation to the PPO: substantially improve the use of financial intelligence information on ML/TF investigative proceedings and predicate offences investigations, contributing to the system's effectiveness.
- In relation to the FIU: automatizing the STR quality indicator system created to increase the amount of time analysts have to conduct financial intelligence procedures. Likewise, generate a ML/TF systematised and risk-based plan to prioritise the feedback actions on the quality of STRs to RIs.
- It is necessary to provide the PPO with resources in terms of technical capacities, as well as training for the operational and management staff, in order to have the necessary tools to: i) prioritise ML investigations and ii) to conduct parallel financial investigations.
- Training at all levels, specially judges that require higher specialization levels with a view to achieving more ML prosecutions and greater success in convictions.
- Develop more investigations and prosecutions in line with the threats and risk profile of Peru.
- Boost the capacities of the PNP, customs agents, and prosecutor's offices to increase their effectiveness in the identification, seizure, and confiscation of property, with a greater allocation of technical human resources, training and awareness on the importance to pursue the illicit property.
- Analyse the risks represented by the financing of individuals, organisations, acts, or other terrorist activities that are outside of Peru, as well as further analyse the activities other than illegal trafficking of drugs that may be used for TF purposes, even legal ones.
- Adopt actions so that the provisions of the 2018 National Plan and Policy against ML/TF may be materialised with concrete results of final confiscation and asset forfeiture of criminal assets and pursue cases with a view on tracing criminal assets, and obtaining their final recovery based on the threats and risk profile of Peru.
- Improve the capacities of investigation authorities (PPO and DIRCOTE) related to the processing of TF cases through training and greater allocation of resources and tools.
- Develop TF measures different than those designed for ML, with a specific focus on the strengthening of the TF prevention, investigation, and suppression regime, with the understanding that the risks, investigation authorities, and the nature of cases differ from those of ML.
- Re-assess the NPOs sector in compliance with the provisions of R.8, with the objective of identifying the TF vulnerabilities and increasing awareness raising efforts in the NPOs sector and its supervisors.
- Further work in the dissemination and understanding by the financial sector and DNFBBs of ML/TF risks resulting from the main threats identified in the 2016 NRA and different SRAs of the country.
- RIs should strengthen their monitoring systems. FIs, ETF and DNFBBs, such as notaries and casinos, should adjust their ML/TF prevention handbooks to comply with the criterion of timeliness for the filing of STRs.
- RIs, both FIs as DNFBBs, should receive more feedback and guidelines from the FIU in relation to, for instance, improvement of automatization procedures, optimisation of alerts to allow the detection and timely filing of quality STRs.
- Increase awareness raising efforts related to TF risks among different authorities and RIs, so that they are acquainted with, and have a better understanding of the risks they might be exposed to.
- Establish mechanisms to prevent criminals or their associates from being professionally accredited or being the BO of a significant share of DNFBBs or FIs (CAC, currency exchange offices, loans and pawn, and NPOs that grant loans.)
- Implement mechanisms that help RIs to analyse alerts and unusual transactions for the timely filing of STRs.

- Improve the risk-based approach of supervision to make an impact on the application of the RBA by RIs. The enforcement of recommendations, remedial actions, and sanctions should be proportionate and dissuasive.
- Start the supervision process of remittance and postal drafts by the MTC, as well as the supervision of lawyers and accountants.
- Conduct a comprehensive inter-agency study using the existing platform and structure of the CONTRALAFIT, where all relevant authorities and RIs, both financial and non-financial, analyse, study, and determine the ML/TF risks per type of legal person and arrangement that operates in the country. The aforementioned, taking into account the specific regulatory and operational characteristics of said legal entities and the context they operate in within the Peruvian economy.
- Continue with the efforts to implement the IRCN programme, and any other project that aims at modernising the consultation means and databases with automatization components for processes that ultimately facilitate obtaining basic and BO information, in an adequate, accurate, updated, and timely basis on all types of legal persons and arrangements in Peru.
- Work in the prioritisation and implementation of a series of specific actions that help registries to keep information duly updated.
- Work in the strengthening of systems approved in the entire country with a technological component that may be fed by competent authorities with input from authorities from all levels of government and the private sector.
- Work in standardisation processes in relation to the contents, forms, fields, and other structural aspects of the different registries so that data contained in these platforms be easy to read and allow competent authorities to consult them, and thus obtain data in an adequate, accurate, updated, and timely basis in relation to BO of legal persons and arrangements.
- Address technical deficiencies in relation to knowledge and access to information on the BO, including the sanctions regime⁵. Afterwards, articulate actions that facilitate timely access to BO information.
- Conduct training and outreach activities in relation to certain actors of the private sector (particularly, non-financial sectors, such as NPOs, real estate developers, and accountants) for them to know and understand complex corporate structures and their functioning. This outreach will allow to know the risks associated to these complex legal persons and their relationship with ML/TF crimes.
- Address weaknesses in relation to access to BO information of legal persons and arrangements to ensure satisfactory and timely response to international co-operation requests.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

⁵ After the on-site visit, the Legislative Decree No. 1372 was approved; it regulates the obligation of legal persons and/or arrangements to report the identification of their BO. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in the GAFILAT follow-up process.

IO1 Risk, policy, and co-ordination	IO2 International co-operation	IO3 Supervision	IO4 Preventive measures	IO5 Legal persons and arrangements	IO6 Financial intelligence
Moderate	Substantial	Moderate	Moderate	Low	Substantial
IO7 ML investigation and prosecution	IO8 Confiscation	IO9 TF investigation and prosecution	IO10 TF preventive measures and financial sanctions	IO11 PF financial sanctions	
Low	Moderate	Moderate	Substantial	Substantial	

Technical Compliance Ratings

AML/CFT Policies and Coordination

R.1	R.2
LC	C

Money Laundering and Confiscation

R.3	R.4
C	C

Terrorist Financing and Financing of Proliferation

R.5	R.6	R.7	R.8
C	LC	LC	PC

Preventive measures

R.9	R.10	R.11	R.12	R.13	R.14
LC	LC	LC	LC	C	C
R.15	R.16	R.17	R.18	R.19	R.20
C	LC	PC	C	PC	C
R.21	R.22	R.23			
C	LC	LC			

Transparency and BO of legal persons and arrangements

R.24	R.25
PC	PC

Faculties and duties of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
LC	C	LC	C	LC	LC
R.32	R.33	R.34	R.35		
LC	C	LC	PC		

International Co-operation



R.36	R.37	R.38	R.39	R.40
C	LC	C	C	LC

MUTUAL EVALUATION REPORT

Preface

1. This report summarises the AML/CFT measures in place in Peru as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT/CFPWMD System and recommends how the system could be strengthened.
2. This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from May 21 to June 1, 2018.
3. The evaluation was conducted by an assessment team consisting of: Mariano Rentería Anchorena, from the Securities and Exchange Commission of the Argentine Republic (financial expert), María Paz Ramírez Arriagada, from the Financial Analysis Unit of the Republic of Chile (operative expert), Juan Manuel Portilla González, from the Financial Intelligence Unit of the United States of Mexico (financial/operative expert), Yamileth Fajardo, from the Financial Analysis Unit of the Republic of Panama (operative expert) and Hernán Ricardo Galeano Bogado, from the Public Prosecutor's Office of the Republic of Paraguay (legal expert), all of them together with the support of Alejandra Quevedo Quevedo, Deputy Executive Secretary, as well as Gabriela Rodríguez López and Guillermo Alejandro Hernández Rodríguez, technical experts from the GAFILAT Secretariat. The report was reviewed by Gonçalo Maia Miranda, from the Bank of Portugal, and by Pierre Bardin, from the FATF Secretariat.
4. Peru previously underwent a FATF Mutual Evaluation in July 2008, conducted according to the 2004 FATF Methodology. The July 2008 evaluation has been published and is available at <http://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/peru/evaluaciones-mutuas-14/233-peru-3era-ronda-2008/file>.
5. The Mutual Evaluation concluded that the country was largely compliant with 10 Recommendations; mostly compliant with 14; partially compliant with 24; and non-compliant with 1. Peru was rated mostly compliant with 9 of the 16 Core and Key Recommendations.
6. Based on the outcomes of the MER mentioned, GAFILAT placed Peru under an enhanced follow-up process, which the country exited in July 2015, after submitting measures to overcome the deficiencies identified in the Recommendations rated PC and NC.

CHAPTER 1. ML/TF RISKS AND CONTEXT

7. The Republic of Peru (hereinafter, Peru) is located in the central area of South America. It limits to the West with the Pacific Ocean. Its neighbouring countries are Ecuador and Colombia to the North, Brazil to the East, and Bolivia and Chile to the South. Its territory is made up by valleys and mountain chains that characterise the Andean region, by a largely desert area to the West located in the coast, and by the Amazonian region to the West.

8. Based on the figures from the International Monetary Fund (IMF), the National Statistical System (INEI) and the Central Reserve Bank of Peru (BCRP), the gross domestic product (GDP) amounts to 196



billion USD, with a per capita GDP of USD 6,210. In the past 10 years, the Peruvian economy has grown by an average of 5.5% yearly, boosted by the non-primary sectors that grew 6.1 percent.

9. Peru has a presidential, unitary, and decentralised system of government. The national government is divided in three branches: The Executive Power, vested in the President of the Republic, who is elected for a five-year term and who appoints its ministers; The Legislative Power, that lies in the Congress of the Republic and is made up by a unique chamber of 130 congressmen and women elected for a five-year term; The Judicial Power, made up by the Supreme Court of Justice, located in the city of Lima; and the Higher Courts, made up by Higher and Lower Judges that exercise their duties at the judicial district levels.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

10. The analysis made by the assessment team was based on the information submitted by the country itself, both before and during the on-site visit, to include the NRA, the available SRAs, information from external sources, as well as information collected and disseminated by international organisations.

11. In the year 2010, Peru conducted its first Diagnosis 2010 with the technical assistance of the IMF. On this basis, the 2016 NRA was developed, with the technical assistance of the Inter-American Development Bank (IDB) and under the co-ordination of the Peruvian FIU, with the involvement of more than 40 public and private sector entities. The main outcomes of said assessment were the detection of five threats and 43 vulnerabilities. The threats detected were as follows:

- The existence of coca crops as a first link of drug trafficking
- The remains of the terrorist organisation Sendero Luminoso (Shining Path) (OTSL, as per its acronym in Spanish)
- An increase of public corruption activities in last years
- The high incidence in the country of certain crimes: Illegal mining, illegal logging, trafficking in humans, smuggling, extortion, and assassinations
- Existence in a regional environment of countries with high crime rates

12. In relation to vulnerabilities, weaknesses have been identified in the PPO, the Judiciary (PJ), and the National Police of Peru (PNP) concerning the lack of specialised training, the need of a higher allocation of economic and human resources. Additionally, effective co-ordination problems between agencies, lack of formal mechanisms to articulate joint investigations, as well as leveraging PPO and PNP resources and information exchange between public entities have been identified.

13. Other aspects considered vulnerabilities are directly related to the orographic characteristics of Peru, which hinders the presence of the Government in the entire national territory, especially in the highlands and in the jungle, which occupy 89% of the national territory, and where 48% of the country's population reside due to the lack of communication means.

14. Other risks identified by the 2016 NRA as high in relation to ML are the following:

- Insufficient control of cross-border movement of cash
- High indexes of informality in the Peruvian economy
- Tolerance and permissiveness of public corruption

15. In relation to TF, the risks identified in the 2016 NRA are mainly related to activities of the remains of the OTSL linked to drug trafficking and coca crops. Based on the analysis made by the country and included in such document, the threat posed by such remains is increasingly lower and with operations in only one branch, with an estimated number of fighters between 250 and 300 individuals.

Country's risk assessment

16. Based on the 2010 Diagnosis the 2011 National Plan against ML/TF was developed by several state entities and experts from the private sector. Said Plan also resulted in the creation of the CONTRALAFIT, a coordination instance that brings together different competent authorities on AML/CFT matters. Subsequently, the 2016 NRA was developed under a methodology consisting on the performance of interviews, filling of surveys and creation of working groups for the identification and appraisal of ML/TF risks. The 2016 NRA was the baseline to define the National Policy against ML/TF, approved by the CONTRALAFIT in March 2017 and published in September that year. It was also the baseline for the 2018-2021 National Plan against ML/TF. It should be highlighted that the Peruvian Government has, since 2002, State Policies to fight ML/TF: State Policy 26 "Promotion of Ethics and Transparency and the Eradication of Corruption, ML, Tax Evasion, and Smuggling in all its forms"; and State Policy 30 "Elimination of Terrorism and Endorsement of the National Reconciliation", adopted in 2002.

17. In addition to the 2016 NRA, Peru has devoted to developing SRAs for the economic activities or industries where it was considered important to identify ML/TF risks in greater depth. The sectors that due to their economic significance were chosen for such purposes were mining and fishing, which assessments were developed in 2016. Likewise, in 2018, a ML/TF risk assessment of the financial system was conducted, and the assessment of the timber sector began, with the aim of addressing the issue of illegal logging. Said SRA have been led by the Peruvian FIU and have counted on the technical assistance of the German Co-operation, implemented by Gessellschaft für International Zusammenarbeit (GIZ).

Materiality

18. To December 2017, 116 legal persons were operating under the supervision of the SBS with an asset balance over 674 billion Peruvian Soles (204 billion USD). Of said assets, 55% correspond to bank entities, 23.6% to pension funds, 7% to insurance companies, and the 6.2% remaining to non-banking micro-finance institutions. Likewise, the financial system was comprised of 16 multipurpose banking companies, 39 non-banking micro-finance institutions, 4 state entities, 8 specialized companies, 15 supplementary and ancillary services companies, 6 foreign companies (bank branches), 1 savings and credit cooperative association, and 1 financial leasing company. Moreover, the insurance sector was comprised by 21 companies, with eight in the life insurance sector, eight in general insurance, and five in both (mixed). In relation to AFPs, to December 2017, four entities made up the system with 6,604,841 members.

19. Particularly, at the end of 2017, Peruvian private banking granted S / 245,552 million in loans, an amount which represents an annual growth rate of 5.48%. As for the received deposits, at the end of 2017 they totalled S / 229.358 million, 10.92% higher than the ones recorded in December 2016. It should also be noted that term deposits closed the year with a growth of 14.58 %. With regards to banking assets, at the end of 2017 its uptrend continued, which supported the increase in financing to different economic sectors. Thus, in December 2017 this variable reached S / 43,645 million, an amount higher in S / 4,392 million (11.19%) compared to December 2016⁶.

⁶ https://www.asbanc.com.pe/Publicaciones/Asbanc_Memoria_anual_2017_BAJA.pdf

20. According to the above, the banking sector, which dominates the financial sector and handles the largest number of transactions that occur in the country and its interconnection with the international financial system, is considered of great importance in the Peruvian AML / CFT context.

21. In the same period, 71 companies operated under the supervision of the SMV, with the operation of 155 mutual funds, 21 collective funds systems, 16 trust properties of securitisation processes, and 46 public offering investment funds.

22. In Peru, co-operatives have different forms of operation, among them, the CAC are highlighted; such entities offer financial services, such as credits and collection of deposits only from its members. The condition of member is granted with a minimum payment named 'contribution.' The National Federation of Savings and Credit Co-operatives of Peru (FENACREP) monitors CACs⁷, but it does not have the power to impose sanctions or apply corrective measures. To September 2017, there was a record of 1933 different types of cooperatives, among those, 664 were CACs of which 84 were affiliated to the FENACREP. Likewise, by the end of 2017, there were an aggregate of 249 CACs registered with the FIU Peru, which had CO in place.

23. Regarding remittances, according to the BCRP, remittances from Peruvian emigrants amounted to \$766 million USD in the second quarter of 2017, an amount that represented an increase of 6.3% over the same period of the previous year. The cumulative growth of the last seven years was approximately 1.6%. The main country of origin of remittances is the USA, followed by Chile, Spain, Italy, among others. Remittances had a small participation in the GDP that does not exceed 2.0%. It is worth mentioning that during the second quarter of 2017, remittances channelled through Fund Transfer Companies (ETFs) represented 45.1% and banks channelled 38.2% of remittances.

24. On the other hand, Peru has postal remittance services and / or money orders whose concession is granted by the MTC, as far as they comply with the requirements demanded by current regulations. Authorized licensees can provide the postal remittance service, both for sending and receiving, up to a maximum of 2 UIT per operation (S / 8300 equivalent to 2515.15 USD). Therefore, given the size of the sector and the limited volume of the operations they handle, the impact of this sector on the AML / CFT preventive system is of little significance.

25. The activity related to currency exchange is conducted under different modalities and by different entities, including FIs, bureaux de change, natural persons who conduct transactions on the streets, and companies that provide the service online. Based on the high informality index in the country and the lack of regulation and supervision, there is uncertainty on the total number of people who conduct this activity at the national level. However, at December 31, 2017, there were 1,053 natural and legal persons devoted to the currency exchange, with CO registered with the FIU.

26. With respect to DNFBBPs, the vulnerability identified in the NRA related to the high informality index of the Peruvian economy implies that the impact of DNFBBPs on the AML / CFT system acquires special relevance. Additionally, considering the problem of corruption as recognized in the NRA, sectors such as lawyers, notaries and accountants are important actors in the ML / TF prevention system.

⁷ After the on-site visit, it passed the Law 30822 for the regulation and supervision of CACs was passed, which shall operate under the scope of the SBS. However, since it was not in force as at the date of the end of the on-site visit, in accordance to the Methodology, it shall not be considered for the purposes of this assessment.



27. The construction and real estate sectors occupy the fifth most important place in the economy of Peru. To December 31, 2017, there are 3,329 natural and legal persons devoted to construction and real estate activities, with CO registered with the FIU. To the same date, 573 public notaries had their CO registered with the FIU. In Peru, there are 338 RIs that represent a total of 746 slot machines rooms and 18 casino gambling rooms, which operate 85,477 slot machines and 273 casino gambling tables.

28. With respect to the lawyers and accountants' sector, in the city of Lima it is estimated that there are 40,428 active lawyers and 27,961 active accountants (as of October 2018). The authorities are in the process of determining the effective number of lawyers and accountants who perform transactions for their clients on the activities defined in Recommendation 22 of the FATF, for which the FIU is already working on a survey for lawyers and accountants registered with the SUNAT. However, it is important to point out that the FIU has already identified 36 legal firms and 15 countable companies of greater size and that due to the nature of their services they could be considered as AML/CFT RIs by the Peruvian regulations.

Structural Elements

29. Peru has undertaken a political commitment at its highest level to combat ML/TF, which is reflected in the fact that, since 2002, the policy against ML/TF is considered a "State policy." Specifically, the development of a 2011 National Plan and the current 2018 National Plan, which was drafted based on the findings of the 2016 NRA.

30. Moreover, a National Policy against ML/TF has been developed, which constitutes a long-term strategic instrument. It should be highlighted that Peru has sought assistance from different entities and co-operating countries to comply with the lines of action drawn in the two documents above mentioned, which aim at the comprehensive strengthening of the AML/CFT system and its components.

Background and other Contextual Factors

31. The information of the Statistical Annual Report of the Ministry of Labour and Promotion of Employment of Peru for 2016 indicates that, even if unemployment accounted for approximately 4.2% of the economically active population of the country for said year, 72% of the employment lay in the informal sector.

32. Based on the World Bank's governance indicators for 2016, Peru is below the average for Latin America and the Caribbean in relation to accountability; government effectiveness, rule of law and political stability, and absence of violence/terrorism, even when progress has been shown for all of them in relation to the metrics made between 2006 and 2011.

33. However, there is a setback in relation to the indicator on corruption control. It is important to mention that Peru is above the average for Latin America and the Caribbean in relation to the indicator on regulatory quality. The 2018 Global Peace Index ranks Peru as the fourth country in South America with the most rating improvements since 2013 among the countries analysed; however, a setback is also indicated in relation to the indicator "low corruption levels."

Overview of AML/CFT strategy

34. **2011 National Plan against ML/TF (2011 National Plan):** This tool was designed based on the 2010 NRA, with the technical assistance of the IMF. The 2011 National Plan is a strategy to amend the

Peruvian AML/CFT system, approaching some of its most critical vulnerabilities with the aim of mitigating the risk of occurrence of ML/TF. On this regard, the performance of actions is aimed at reaching specific goals; the achievement of specific goals will allow to meet general objectives of each AML/CFT System component; the achievement of general objectives will allow to strengthen the AML/CFT System; strengthening the system will help to meet the goals of protecting the integrity of the economic-financial system, and the reduction of the economic dominance of criminal and terrorist organisations.

35. **2017 National Policy against ML/TF (2018 National Policy):** It is mainly based on the 2016 NRA, as well as on ML/TR risk assessments of the mining and fishing sectors. It is conceived after the need to design a State policy that would define the guiding criteria for the performance of institutions, that would transcend the governments in power and allow to focus the permanent state involvement on priority areas to achieve efficient outcomes in the fight against ML/TF. This initiative was led by the CONTRALAFI, with the technical assistance of the GIZ, and with the involvement of more than 30 entities from the public and private sectors. The National Policy is comprised by a general purpose, 7 principles, 3 strategic axes (“Prevention,” “Detection,” “Investigation,” and “Sanction”) and 1 cross-cutting axis, “Articulation.” Likewise, within these axes, 4 Specific Objectives (SO) were set, one goal per SO, the individuals responsible for each SO, 16 guidelines, and 18 compulsory national standards. The National Policy against ML/TF was passed through Supreme Decree 018-2017-JUS.

36. **The 2018-2021 National Plan against ML/TF (2018 National Plan),** under the scope of the National Policy, is mainly sustained by the 2016 NRA and was initiated under a collaborative process for the elaboration of the National Plan, for the purpose of defining—within a time frame—specific objectives, concrete actions, individuals responsible for its implementation, and measurement indicators, taking into consideration the actions of the 2011 National Plan which are pending for implementation and that, based on the new risk scenario outlined, were still necessary to address. Technical assistance was provided by the GIZ.

Overview of the legal & institutional framework

37. In the ML/TF prevention and combat environment, there is Law No. 27693 and its regulation; Supreme Decree 020-2017-JUS; Law No. 29038; the Sixth Complementary, Transitory, and Final Provision of Law 28306 and its regulation; Supreme Decree 195-2013-EF, and other sectoral regulations and resolutions issued by the SBS, and the SMV.

38. In relation to the repression of said criminal conducts, the relevant regulations are made up by Legislative Decree 1106, Decree-Law No. 25475, Law No. 30777, and the Criminal Code, which is applied as a supplement to special laws previously mentioned; it is also relevant to mention the existence of the Legislative Decree 1104, which governs the actions of asset forfeiture, a useful tool to deprive criminals, and criminal and terrorist groups from their property⁸. One highly relevant aspect to be mentioned is that, at the time of the on-site visit, there were two criminal procedural regulations in place: The 1940 Code of Criminal Procedures (CPP), with an inquisitorial procedural system, and the 2004 New Criminal Procedural Code (NCPC), which migrates to an adversarial procedural system. Even when it is true that most of the country was already operating under the adversarial system of the NCPC, most ML/TF cases analysed and currently under progress were initiated under the inquisitorial system of the CPP.

⁸ It should be noted that after the on-site visit, Legislative Decree No. 1373, published on August 4, 2018, was issued, establishing a new regulatory framework on loss of domain.

39. The main authorities that comprise the AML/CFT system of Peru are brought together under the CONTRALAFT, created by Supreme Decree 057-2011-PCM, amended by the Only Complementary Provision that Amends Supreme Decree 018-2017-JUS, and that is currently under the presidency of the Ministry of Justice and Human Rights (MINJUSDH), while the vice-presidency and the technical secretariat are vested in the SBS—through the FIU. The CONTRALAFT is comprised by a permanent and alternate representative of the heads of the following entities:

- Ministry of Justice and Human Rights
- Public Prosecutor's Office
- Ministry of Foreign Affairs
- Ministry of Domestic Affairs
- Ministry of Economy and Finances
- Ministry of Foreign Trade and Tourism
- Ministry of Transport and Communications
- Ministry of Defence
- National Police of Peru
- SBS
- National Customs and Tax Administration Superintendence
- National Commission for Development and Life without Drugs
- Superintendence of the Securities Market
- National Statistical System
- National Superintendence of Public Registries
- Peruvian International Co-operation Agency

40. In addition to the aforementioned entities, the Judiciary, the Congress of the Republic, and the Comptroller General of the Republic (CGR), given their condition as State Powers and control bodies, respectively, may be part of the CONTRALAFT. Regardless of the regulatory nature of the regulation, the Judiciary has representatives appointed since the creation of the CONTRALAFT; and, the Congress of the Republic and the CGR, added through Supreme Decree 018-2017-JUS, have their representatives appointed since November 2017.

Overview of financial sector and DNFbps

41. In the chart below there is the number of financial and non-financial RIs:

Table 1: Total of RIs

Financial sector		DNFBP	
Currency exchange offices	1053	Casinos and slot machines	246
Insurance brokers	534	Real Estate Agents	2
CAC	196	Construction and real estate	3329
Remittance and/or draft postal services	80	Dealers in jewellery, precious metals and stones	156
Loan and pawn companies with collaterals	62	Public notaries	246
Investment funds and mutual funds managing companies	23	Total DNFBP	4306
Securities dealers and/or securities intermediary companies	23	Other non-financial RIs	
Insurance and reinsurance companies	21	Mining companies	293
Banks	18	Customs agents	236
Municipal Savings and Loans Associations	11	Non-profit organisations	205
EDPYMES	11	Public Auctioneers	149
Financial companies	10	Travel and Tourism Businesses	88
Non-profit organizations that grant loans	7	Trade of machines and equipment, national subheadings No. 84.29, No. 85.02 and No. 87.01.	67
Securitisation companies	7	Dealers in gold	59
Rural Savings and Loans Associations	5	Accommodation facilities	55
Collective Funds Managing Companies	5	Labs and companies that produce and/or trade chemical products and audited goods	36
Funds Transfer Companies	5	Trade of works of art	11
Pension fund managers	4	Companies that distribute, transport and/or trade chemical products that may be used in illegal mining, under control and surveillance of SUNAT.	10
Trust Services Companies	3	Buying and selling or import of weapons and ammunitions	7
E-Money Issuing Companies	3	Managers of property, companies, and consortium	5
Credit and/or debit card processing companies	3	Antiques shop	5
Mortgage Managing Companies	2	Trade in currency	5
Financial Leasing Companies	2	Lottery games and alike	4
Investment Banks	1	Manufacturing and/o trade of explosives	3
		Real Estate Agents	2
Securities Exchange and other negotiation centralised mechanisms	1	Collective or collaborative financing through virtual platforms	2
Popular Credit Municipal Association	1	Racetracks	1

Virtual Currency exchange offices	1	Managers of interests in public administration under Law 28024.	1
Savings and loan co-operatives authorised to accept deposits from the public	1	Total other non-financial RIs	1244
Funds company	1		
Credit and/or debit card issuers	1		
Bonding and warranty companies	1		
Factoring companies	1		
Exchange Service Companies	1		
Cash Transportation, Custody, and Management Companies	1		
Securities Clearing and Settlement Entities	1		
Total Financial Sector	2100		

Overview of preventive measures

42. Peru has administrative authorities in relation to AML/CFT supervision for FIs and DNFBPs. Supervision and control bodies of FIs are: The SBS, the FIU, the SMV, and the MTC; and for DNFBPs: The FIU, the MINCETUR, and lawyers and public accountant associations. Supervisors should co-ordinate their actions and supervision duties with it.

43. There are legal instruments that resulted in the ML/TF prevention obligations for FIs and DNFBPs.

Applicable regulations to FI (among others)	
Law No. 26702	General Law for the Financial System and the Insurance System and Organic Law of the Superintendence of Banks, Insurance, and Private Pension Funds Managers.
SBS Resolution No. 2660-2015	ML/TF Risk Management Regulation.
Law No. 29782	Law on the Strengthening of Securities Market Supervision.
SBS Resolution No. 4705-2017.	It amends the ML/TF Risk Management Regulation.
CONASEV Resolution 033-2011-EF/94.01.1	Regulation for the prevention of ML/TF (amended by SMV Resolution 007-2013-SMV/01).
SBS Resolution No. 8930-2012.	It approves the Regulation on Violations and Sanctions on ML/TF prevention matters for RIs devoted to the currency exchange and to loans and/or pawns.
SBS Resolution No. 6426-2015.	Regulation for the management of risks and the prevention of ML/TF addressed to RIs devoted to the currency exchange.
SBS Resolution No. 4463-2016.	Regulation for the management of risks and the prevention of ML/TF addressed to RIs devoted to the granting of loans and pawns.
SBS Resolution No. 6089-2016.	Regulation for the ML/TF risk management and prevention addressed to postal services and appointed operators, authorised to provide the remittance and/or draft postal services.
Resolution 073-2018-SMV/02	Resolution that amends the Regulations for the Prevention of ML and TF.

Applicable regulations to DNFBPs (among others)	
Law No. 29038	Law that incorporates the FIU to the Superintendence of Banks, Insurance, and Private Pension Funds Managers.
SBS Resolution No. 5709-2012.	Special Regulation for ML/TF prevention addressed to Notaries.
SBS Resolution No. 8930-2012.	Regulation on Violations and Sanctions on ML/TF prevention matters for FIU supervised entities.
SBS Resolution No. 369-2018.	Regulation for the ML/TF prevention addressed to RIs (DNFBPs) under the limited SPLAFT.
SBS Resolution No. 486-2008.	Regulation for the prevention of ML/TF for entities supervised by the FIU (amended by SBS Res. No. 14998-2009, No. 6115-2011, No. 6729-2014, and No. 4349-2016).
SBS Resolution No. 5389-2013.	Regulation on Violations and Sanctions on ML/TF prevention matters addressed to Casinos and/or Slot Machines.
SBS Resolution No. 1695-2016.	Regulation for the prevention of ML/TF addressed to legal persons that exploit casinos and/or slot machines.

Overview of legal persons and arrangements

44. In Peru, there are for-profit and non-for-profit legal persons; based on the information provided by the authorities, there are 58373 non-for-profit legal persons and 345893 for-profit legal persons.

Table 2: # of legal persons

	2014	2015	2016	2017	2018	Total
Type of non-for-profit legal persons						
Associations	13049	14074	12473	12708	4965	57269
Committees	207	317	159	212	54	949
Foundations	34	42	26	47	6	155
Grand Total	13290	14433	12658	12967	5025	58373
Legal persons for a profit (partnerships)						
Companies/branches	184	126	135	152	53	650
Public limited companies	41319	43338	41664	43663	18777	188761
Civil partnerships	232	157	134	111	36	670
Limited liability companies	7330	7749	6615	7431	2538	31663
Companies/business partnerships	0	2	2	105	0	109
Companies/limited partnerships;	0	1		7	0	8
Individual limited liability companies	26057	28632	27743	28660	12940	124032
Grand Total	75122	80005	76293	80129	34344	345893

Overview of supervisory arrangements

45. Pursuant to Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs to be reported. For FIs, based on the same Art., supervision and control agencies are: The SBS (including the FIU⁹), the SMV, and the MCT. The SBS supervises entities under the scope of the provisions of Law No. 26702 that passes the General Law of the Financial System and the Organic Law of the Superintendence of Banks, Insurance, and Private Pension Funds Managers¹⁰. The SMV supervises entities under the scope of the Legislative Decree 861, Securities Market Law, and the MTC supervises postal services providers and appointed operator authorised to provide remittance and/or draft postal services. The duty of the FIU is to supervise and sanction on ML/TF prevention matters RIs that lack a supervisor agency: Natural and legal persons devoted to currency exchange, loan and pawn companies, NPOs that grant loans, micro-credits, or any other type of economic financing, and savings and loan co-operatives non-authorised to accept deposits from the public CACs. At the same time, supervisors should co-ordinate actions and their supervision duty with the FIU.

⁹Art. 9.A.8 of Law 27693 sets forth that, as regards RIs that lack a supervisor, the SBS, through the FIU, shall be their AML/CFT supervisor on the matter.

¹⁰ The SBS supervises companies included under Arts. 16 and 17 of the General Law on Banks and Insurance (banking companies; financial companies; municipal savings and loans associations popular credit municipal associations; development entities for small and micro businesses (EDPYME); savings and loan co-operatives authorised to accept deposits from the public; rural savings and loans associations; real estate capitalisation companies; financial leasing companies; factoring companies; bonding and warranty companies; trust services companies; mortgage managing companies; investment banks; Insurance companies that operate in one sector only (general risks or life); in both sectors; insurance and reinsurance companies; reinsurance companies; general deposit warehouses; cash transportation, custody, and management companies; credit and/or debit card issuers; Funds transfer companies), the Banco Agropecuario, the Banco de la Nación, the Guarantee Fund for the Small Industry (FOGAPI), private pension funds managers, the Corporación Financiera de Desarrollo S.A. (COFIDE), the Fondo Mivivienda S.A. and to insurance brokers.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key findings

- Peru identifies, assess, and understands to a certain degree the risk of ML/TF. As a result of the 2016 NRA, and from the information collected during the on-site visit, different levels of ML/TF risk comprehension within the AML/CFT System can be observed. Jointly, an understanding on how these threats may impact on the AML/CFT system cannot be appreciated. The aforementioned, can be limiting the ability to implement effective and efficient specific mitigation actions and/or policies.
- The two national plans against ML/TF, and the national policy against ML/TF prove a strong political commitment by the Peruvian State on ML/TF. In relation to compliance with the 2011 National Plan, important progress was made in the strengthening the AML/CFT system in terms of regulatory framework, training, and supervision efforts. However, the country still needs to develop multi-disciplinary teams for the investigation of complex crimes, and to strengthen experts and advisors for the investigation of ML/TF offences, since the measures defined in the plan mentioned were only partially executed.
- The 2018 National Plan is under process of execution, in that case it is not possible yet to assess if the AML/CFT policies and plans defined contribute to the system's effectiveness and to mitigate ML/TF risks identified in the 2016 NRA.

Recommended Actions

- Improvements in the identification and assessment of ML risks present in Peru, that would allow to identify how proceeds of crimes related to the threats identified are violating the AML / CFT system and which are the riskiest sectors for ML/TF. For example, in the case of drug trafficking, identify if the assets generated by this threat are remitted abroad and how. Regarding to the assets laundered in Peru, which mechanisms are use (formal and informal markets, just to mention one example).
- Generate the environment to promote a common understanding regarding the TF risk in Peru; financing sources, legal or illegal, its size and impact.
- Develop a ML/TF risk analysis of the reporting economic activities to the FIU and that are part of the ML/TF prevention and detection stage, in order to improve the understanding of risks and the application of a RBA. In this sense, it is important to strengthen the SRA for the financial sector and develop the SRA for DNFBP, especially considering the level of informality of the Peruvian economy, which increases the level of exposure of the DNFBP to be used as a ML mechanism.
- Peru must ensure that all relevant authorities/Self-regulatory Body (SRB) understand the ML/TF risks and coordinate their activities (including those of FP) as necessary.
- Continue and finalise the execution of the actions planned in the 2018- National Plan.

The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R.1-2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/TF risks

46. Peru has developed a series of initiatives for the identification and understanding of ML/TF risks since 2010. The first effort for the identification of ML/TF risks was conducted through the “2010 Diagnosis”, with the technical assistance of the IMF. The main outcomes yielded pointed at the existence of structural vulnerabilities, i.e., inherent vulnerabilities of the country, which cut across all the areas of the State. Among them, the following are highlighted: lack of inter-agency co-ordination; economic informality; corruption; geography, and border control; weak databases. Additionally, functional vulnerabilities were identified, specifically in relation to controls, measures, and policies, which may be addressed through specific legislative or administrative amendments. In terms of prevention, the following vulnerabilities were identified: excessive supervisory load on the FIU, weaknesses in the supervision of cooperatives and currency exchange offices, limited risk-based supervision, low level of compliance from the securities sector and lack of resources of its supervisor, weaknesses in the identification of the BO, undue regulation and supervision of notaries and customs agents, non-enforcement of sanctions in relation to preventive non-compliances. In relation to detection: Lack of direct access to information protected by confidentiality provisions, lack of co-ordination between the FIU and the PNP, limited strategic analysis, weaknesses in cross-border controls. Lastly, in relation to criminal suppression: Excessive length of investigations and extremely short legal terms, limited co-ordination between the PPO and the PNP, delay in the launching of the ML Directorate in the PNP, lack of experts on ML investigations, lack of resources and training at the judicial level, lack of mechanisms for the administration and disposal of seized and confiscated property.

47. Afterwards, with the purpose of updating the diagnosis made in 2010, the 2016 NRA was conducted with the technical assistance of the IDB. The 2016 NRA comprises an analysis of threats and vulnerabilities. Five threats were identified: i) The existence of coca crops as a first link of drug trafficking; ii) Remains of the OTSL; iii) Increase of public corruption activities in last years; iv) High incidence in the country of certain crimes: Illegal mining, illegal logging, trafficking in humans, smuggling, extortion, and assassinations; v) Existence in a regional environment of countries with high crime rates. In like manner 43 vulnerabilities were identified.

48. Moreover, the 2016 NRA identified 43 ML/TF risks, 10 of which were rated with a “very high” risk level. Additionally, 15 risks were considered “high level” 15 “moderate level” and 3 “low level.”

Table 3. 2016 NRA: ML/TF risks categorised as “Very high”

Description of Risk	Appraisal	
Difficulty of the PPO in the investigation and prosecution of ML/TF	4.0	Very high risk
Deficiencies in the Judiciary that affect the repression system	4.0	Very high risk
Low level of effectiveness of the PNP in the investigation and prosecution of ML/TF	4.0	Very high risk
Lack of effective co-ordination between public institutions devoted to the investigation and prosecution of ML/TF	3.8	Very high risk
Limited presence of the State in the entire national territory	3.7	Very high risk
High index of informality in the Peruvian economy	3.4	Very high risk
Insufficient system for the control of transnational movement of cash and lack of limits in domestic movements	3.4	Very high risk
Orograph characteristics of Peru	3.1	Very high risk
Difficulty in the information exchange between public institutions	3.1	Very high risk
Tolerance and permissiveness of public corruption	3.0	Very high risk

49. Based on the aforesaid, in relation to the 2016 NRA, the identification of ML risks related to the vulnerabilities the country faces in relation to fighting such crime is appreciated. During the on-site visit, different levels of ML risk understanding by the competent authorities and the private sector was observed which could be limiting the country's ability for implementing specific mitigation actions or policies.

50. For instance, in relation to the drug trafficking threat as a source of illicit proceeds, from the information gathered during the on-site visit, the assessment team could not appreciate an understanding by some supervisors, competent authorities in charge of prosecution and the private sector on how the proceeds of this threat undermine the AML/CFT system of Peru and how they are laundered. Likewise, for the vulnerability related to the high index of informality in the Peruvian economy, it should be highlighted that the AML/CFT system focuses on prevention and detection mechanisms established for formal RIs, and therefore, there is a significant part of the economic activity that falls outside the AML/CFT system. Consequently, considering this scenario, the identification of ML/TF risks in relation to criminal activities leveraging these vulnerabilities to launder assets is of paramount importance to focus risk mitigation efforts.

51. In relation to the TF risk, the 2010 diagnosis identified the lack of studies on the subject as a vulnerability. In the 2016 NRA the "remains of the OTSL" are approached as threat to the AML/CFT system. However, during the on-site visit, the assessment team could not observe the assessment and understanding of the TF risks in Peru. Competent authorities mention the existence of small groups or cells of the OTSL, that are limited to a specific geographic area of the country declared under state of war, the VRAEM, and its financing is mainly associated to TID. Some authorities interviewed indicated that in Peru terrorism did not exist anymore and, therefore, TF either. Conversely, other competent authorities understand that the TF risk is high, indicating specific cases of investigation and trial. All the aforementioned, limits to certain degree of the capacity to determine the scope of the phenomenon as funding source, as well as the impact domestic TF may have in Peru.

52. In addition to the NRAs, SRAs were conducted on ML/TF matters with the technical assistance of GIZ, with the purpose of identifying ML/TF risks that affect specific sectors of the economy. In this sense, SRAs from the Mining, Fishing, Financial and Timber sectors were conducted. Considering the extractive characteristics of the mining and fishing sectors, the sectoral assessment has defined guidelines for the reduction of ML/TF risk exposure, which include the adjustment of the AML/CFT regulations to the specific sector, ML/TF training mainly at the local level, and greater co-ordination between the institutions of the AML/CFT system. Therefore, even if the extractive industry is relevant in relation to the GDP share in Peru, its actual scope could not be determined in relation to ML/TF risks that require prioritisation of AML/CFT measures. In relation to the financial sector, surveys were developed for CO from the different institutions that comprise the sector. Conclusions yield the perception of the sector's risks by the private sector, and this document, based on the information provided by the country, was only developed with reference purposes.

53. In general, Peru does not have a ML/TF risk analysis of economic activities that report to the FIU and that play a role in the ML/TF prevention and detection activities, which may reduce the capacity of the country to focus its efforts on economic activities more vulnerable to ML/TF, and therefore, support the enforcement of enhanced measures—in higher-risk scenarios—or simplified measures—in lower-risk scenarios.

54. Moreover, the FIU has developed strategic analysis reports in relation to the geographical reference of reports, cross-border transportation of currency in cash or bearer negotiable instruments for amounts higher than USD 10,000 or its equivalent in other currency, entrance of cash into the financial system, sectoral reports for the estimation of TRs thresholds, reports on legal persons, and report on NPOs. Concerning the last two reports, during the on-site visit, authorities indicated that they were not acquainted



with the outcomes of the studies; therefore, the use of this information to assess and understand ML/TF risks could not be determined.

National policies to address identified ML/TF risks

55. To date, Peru has developed two National Plans and a National Policy against ML/TF. The 2011 National Plan corresponds to actions identified in the Risks Diagnosis developed in 2010, while the Policy and the 2018 National Plan, as stated by Peru “*aim at defining, planning, and executing actions in the short and medium terms, addressed at increasing the efficiency and efficacy of ML/TF prevention, detection, investigation and sanction in Peru.*”

56. In relation to the 2011 National Plan, 74% of the actions planned were achieved; 86% related to prevention, 64% related to detection, and 72% related to criminal suppression. It should be highlighted that of 20 initiatives related to legal amendments to the AML/CFT system, 18 were accomplished. However, a low level of compliance was detected in relation to actions related to the creation of multi-disciplinary teams for the investigation of complex crimes and the strengthening of experts and advisors for the investigation of ML/TF crimes.

57. In this context, important progresses were made in terms of strengthening the AML/CFT system, associated with legal modifications, training on prevention and detection, supervision and strategic analysis. However, vulnerabilities identified in 2010 still remain and have been incorporated in the 2016 NRA, rated as high risk, as follows: Weaknesses in relation to cooperatives supervision, BO identification, cross-border controls, as well as the excessive length of investigations and extremely short legal terms, limited coordination between the PPO and the PNP, lack of experts and specialists in ML investigations, limited resources and lack of training at the judicial level. In this context, the National Plan on ML/TF has allowed to improve the institutional framework of the national AML/CFT system, dealing with the country’s ML/TF vulnerabilities, although it does not define specific mitigation actions and/or policies in relation to ML/TF risks based on the most relevant threats as identified in the 2016 NRA.

58. Notwithstanding the aforesaid, the 2018 National Plan is currently under execution. To the date of the on-site visit, 9% of committed actions were achieved, 26% (15 actions) were under execution, and 65% (38 actions) were pending for compliance, reason why it is not possible to assess whether AML/CFT policies and plans defined in this plan contribute to the effectiveness of the system and to mitigate ML/TF risks identified in the 2016 NRA.

59. Moreover, according to the authorities, some of the identified risks were not approached by the 2018 National Plan but rather by other national policies, such as the 2018-2021 National Plan of Integrity and Fight against Corruption and the 2017-2021 National Strategy against Drugs, which are under development.

60. In relation to the TF risk, the 2011 NRA identifies the lack of studies on TF in Peru as a vulnerability. However, 2011 and 2018 action plans do not address specific actions in relation to this risk.

Exemptions, enhanced and simplified measures

61. Legislative Decree 1249 (2016) introduced an amendment to the Money Laundering and Terrorist Financing Prevention System (SPLAFT), which created a simplified SPLAFT. This type of SPLAFT comprises only the obligation by RIs to report suspicious transactions, appoint a CO with non-exclusive dedication, and apply the provisions of the Regulation for the Prevention of ML/TF (Art. 13, item 13.3 of the S.D. 020-2017-JUS and SBS Resolution No. 369-2018.)

62. In relation to the aforesaid, consistency between ML/TF risks identified in the 2016 NRA and the enforcement of enhanced measures in higher risk scenarios, or simplified measures in lower risk scenarios is not appreciated. In general, Peru does not have an analysis of economic activities that present a higher risk of ML/TF. In other words, neither the 2016 NRA nor the information provided by the country has identified the economic activities that are being used for ML/TF, which may reduce the country's ability to focus its efforts on economic activities with greater vulnerability to ML/TF and thus support the application of intensified measures in scenarios of greater risk or simplified measures in scenarios of lower risk.

63. For example, NPOs that do not grant loans are under the simplified system because they represent a lower ML/TF risk than those that do grant loans. In this line, NPOs that grant loans are considered FIs and shall adhere to the general system, but the ML/TF risk background of NPOs that do not grant loans (based on which they are included under the simplified system) was not provided, beyond the fact that, pursuant to the FATF Standards, they do not belong to the institutions subject to reporting obligations. The same thing happens with credit and/or debit card processing companies, companies that process payments made in Peru with credit, debit and prepaid cards issued abroad, since, regardless of the information being sent to the FIU through a transaction report, the reasons to include them in a simplified system were not clarified in terms of ML/TF risk.

Objectives and activities of competent authorities

64. In Peru, the CONTRALAFIT is the competent authority in charge for the development and implementation of policies and activities to fight against ML/TF, as well as the FPWMD.

65. CONTRALAFIT is currently comprised by 19 State entities, and presided by the MINJUSDH; the vice presidency, and the Technical Secretariat, are vested upon the SBS, through the FIU. The purpose of the CONTRALAFIT is to assist in the co-ordination and planning of actions by public and private entities aimed at preventing and combating ML, TF, and the FPWMD. In this context, the CONTRALAFIT is in charge of defining and developing national AML/CFT policies based on the risks identified.

66. In relation to the aforesaid, it could be seen that within the CONTRALAFIT there is a common identification of threats that affect Peru (drug trafficking, corruption, illegal mining); however, the threats typically addressed are related to intellectual property, counterfeiting of banknotes, and smuggling. Additionally, as it was mentioned above, a common understanding of how assets originated in the different threats existing in the country are laundered is not appreciated neither an identification of the high-risk ML/TF sectors, which has limited the authorities' capacity to develop specific measures and activities commensurate with risks, which may be limiting that authorities at a particular level may be able to develop measures and activities commensurately with the risks.

67. In relation to TF, a common view and understanding of the TF phenomenon could not be appreciated. During the on-site visit, certain authorities still identify the TF crime with terrorism, and even more, TF is being confused with terrorism as ML predicate offence. This prevents the development of activities tending to mitigate TF risks, particularly, from the perspective of the suppression of the offence (Police, PPO.)

68. In the area of supervision, the 2016 NRA generated awareness among supervisors regarding the main threats presented by Peru, but, in general terms, did not provide them with substantial information to help them recalibrate their risk-based supervision systems and tools, because as mentioned in the 2016 NRA, it focuses on Peru's vulnerabilities to ML / TF rather than the risks presented by the country. According to the SRA scope of the financial sector (sectorial risk perception survey) and the lack of the SRA in the DNFBP

sector limits the country's ability to make the efforts made by supervisors and the private sector consistent with the evolving risks of ML/TF.

69. The FIU demonstrates a better understanding of ML/TF risks in Peru, although there is little evidence that financial intelligence is being used to trace assets and in ML/TF investigations and their predicate offenses.

70. With respect to the prosecution of ML/TF, there is no evidence that the daily activities of all the competent authorities are directed towards addressing ML/TF risks. In terms of the higher ML risks identified in the 2016 NRA, an important progress can be seen since 2014 with the creation of the Specialized Tax Subsystem in ML and (FISLAAPD). However, efforts to allocate resources and create new offices based on ML/TF risk criteria are lacking. In the case of the Police, within the PNP, the Directorate of Investigation of ML (DIRILA) was created in addition to the existent DIRCOTE. The DIRILA has 224 staff while the DIRCOTE has 340. In this sense, the allocation of resources is contradictory considering that the police dedicated to ML issues has fewer agents than the police dedicated to terrorism and FT. All this, taking into consideration that the authorities have opposing views regarding the presence of internal terrorism, its financing and the risk of TF in the country.

71. Likewise, Peru has focused its efforts on addressing AML/CFT System vulnerabilities, showing room for improvement so that the efforts made by competent authorities and self-regulatory bodies be co-ordinated for the implementation of policies and activities aimed at mitigating the country's ML/TF risks and deficiencies.

National coordination and cooperation

72. Under the co-ordination of the CONTRALAFI, Peru has conducted actions through five working groups. The co-ordination work was mainly observed in the efforts made for the approval of the 2011 National Plan, designed to mitigate the risks identified in 2010; as well as with the existence of a Policy and a new version of the National Plan, based on the 2016 NRA.

73. As accountants and attorneys have recently been incorporated as RIs to the FIU, the coordination actions between the FIU and the self-regulatory bodies are still in process.

74. It should be highlighted that the outcomes of the co-operation and co-ordination between the different actors can be observed, especially in terms of the articulation of the AML/CFT system, meaning between the private sector, the FIU and the PPO. The joint efforts of cooperation and coordination have allowed the approval of an important number of legal initiatives tending to strengthen the institutionalisation of the AML/CFT system.

Private sector's awareness of risks

75. Most representatives from the private sector participated in the 2016 NRA and were informed on its outcomes. The outcomes of the 2016 NRA were also disseminated and shared among RIs through meetings and training workshops conducted by the FIU addressed at CO. For the general public, there is an executive summary of the 2016 NRA in the website of the FIU.

76. It is highlighted that the FIU has a mechanism in place to inform RIs on different issues relating to the prevention and detection of ML/TF, including information on amendments to regulations, enforcement of regulations, new typologies, due date for the performance of obligations, performance of training sessions,



statistics, among others. Moreover, the strategic analysis reports by the FIU are published in the website of the FIU.

77. In general, it could be observed that the representatives from the private sector are aware of the threats identified in the 2016 NRA. However, during the on-site visit it was possible to appreciate a lack of understanding of how ML threats can affect the AML/CFT system. In addition, sometimes the understanding of risk is limited to geographical factors, associated with areas that have a high degree of vulnerability with respect to the threats identified. In the same way, during the on-site visit, the banking sector argued that in view of the main ML/TF risks identified in the 2016 NRA, its application in the sector was impossible because they addressed issues related to the prosecution sector.

Conclusions on Immediate Outcome 1.

78. Based on the aforesaid, **Peru has achieved a moderate level of effectiveness for Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key findings

Immediate Outcome 6

- An important volume of financial intelligence developed and provided by the FIU to the different competent authorities through different products is observed, with a high-appraisal of said information, revealing the coverage of the operational needs of competent authorities, in particular for preliminary investigations.
- In the ML/TF detection phase in Peru, an important volume of STRs were produced, which were subjected to an operational and strategic analysis. The background on the quality of the STRs provided by the FIU shows a high-quality level. However, the information provided by RIs during the on-site visit (banks, public notaries, casinos, remittance companies and currency exchange offices indicates that there is important room for improvement in relation to their quality, which could be overloading the FIU in terms of analysis of information and reducing the amount of available time to conduct financial intelligence processes.
- Given that lawyers and accountants were recently incorporated as RIs, they have not filed yet STRs to the FIU. A low-reporting level from the currency exchange offices sector is observed, a sector which is considered risky for ML/TF. All of the above could be limiting the FIU's ability to generate financial intelligence.

Immediate Outcome 7

- In general, there is a legal framework which is adequate for the fight against ML; however, in practice, it is necessary to strengthen a policy to prioritise ML investigations, and to conduct parallel financial investigations.
- Even when it has a ML specialised prosecutor's office, there is a need to increase the resources, on technical, operational, and management capacities within the PPO that impacts on the effectiveness of the fight against ML.
- Investigations and prosecution of ML are highly related to TID and, to a lesser extent, to other relevant threats, and the ML crime is not consistently pursued based on the threats identified in Peru.
- Even when from the regulatory point of view there are proportionate and dissuasive sanctions, the low number of convictions for ML does not allow to conclude that the sanctions are dissuasive, let alone, effective.

Immediate Outcome 8

- There is an adequate legal framework for the confiscation of assets, instrumentalities and proceeds of crime.
- The results of confiscations and asset forfeiture actions are limited in number. Based on available information, the outcomes keep certain coherence with the ML/TF risks in Peru; this is particularly more evident based on the threats identified in the 2016 NRA.
- Despite the efforts made by the FIU in relation to the power it has to order the administrative freezing of assets, there is no evidence that these measures have resulted in the confiscation or asset forfeiture actions.
- Few confiscations are detected in relation to illegal cross-border movement of cash.

Recommended Actions

Immediate Outcome 6

- In relation to the PPO, substantially improve the use of financial intelligence information in ML / TF investigative proceedings and predicate offences investigations, contributing to the system's effectiveness.
- The current status of 33% of IIF submitted by the FIU to the PPO between 2014 and June 2018 is unknown. Regular registration and follow-up mechanisms should be created to monitor the use of FI submitted by the FIU to the MP.
- In relation to the FIU, automatizing the STR quality indicator system created to increase the amount of time analysts have to conduct financial intelligence procedures. Likewise, generate a ML/TF systematised and risk-based plan to prioritise the feedback actions on the quality of STRs to RIs.
- Continue with the strengthening of the appropriate measures to ensure the strict protection of the confidentiality on financial intelligence communications, mainly the STRs filed by RIs.

Immediate Outcome 7

- It is necessary to provide the PPO with resources in terms of technical capacity, in addition to training on operational and management capacities, to have the necessary tools to: i) prioritise ML investigations and ii) to conduct parallel financial investigations.
- Strengthen the co-ordination between the different prosecutor's offices in charge of the prosecution of predicate offences, and the FISLAAPD, as well as the PNP
- Training should be provided at all levels, specially judges that require higher specialization levels with a view to achieving more ML prosecutions and greater success in convictions.
- Develop more investigations and prosecutions in line with the threats and risk profile of Peru.

Immediate Outcome 8

- Boost the capacities of the PNP, customs agents, and prosecutor's offices to increase their effectiveness in the identification, seizure, and confiscation of property, with a greater allocation of technical human resources, training and awareness on the importance to pursue the illicit property.
- Implement actions so that the provisions of the 2018 Plan and Policy against ML/TF may be materialised with concrete results of final confiscation and asset forfeiture of criminal assets.
- Pursue cases with a view on tracing criminal assets, and obtaining their final recovery based on the threats and risk profile of Peru.
- Carry out actions to detect more confiscation cases related to cross-border movements falsely declared or not declared.

The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of the effectiveness under this section are R.3, R.4 and R.29-3

Immediate Outcome 6 (Financial intelligence ML/TF)

Use of financial Intelligence and other information.

79. The FIU was created in the year 2002, and it was incorporated to the SBS as a specialised unit in the year 2007, at the level of a Joint Superintendence, with technical and functional autonomy. It is responsible for receiving, analysing, handling, assessing, and disclosing information for the detection of ML/TF, as well as for co-operating in the implementation of ML/TF suspicious transaction detection systems by RIs.

80. In this context, the FIU receives two types of reports by RIs: STRs and TRs. STRs shall be communicated by RIs to the FIU within 24 hours after the transaction was considered suspicious, through a digital platform called Online Suspicious Transaction Report (ROSEL).

81. In relation to TRs, the FIU has access to, and requests information from RIs in relation to economic transactions conducted by natural or legal persons that exceed the specific thresholds established by current sectoral regulations or, otherwise, individual transactions for amounts equal to, or higher than USD 10,000 (or its equivalent amount in domestic currency or other currencies,) and multiple transactions conducted during a calendar month that are equal to, or higher than USD 50,000 (or its equivalent amount in domestic currency or other currencies.) The FIU receives the electronic TR on a monthly basis from the financial sector (supervised by the SBS), notaries, CACs, and currency exchange offices.

82. In the same sense, the FIU has the power to request from FI, DNFBPs, and collaborating public entities any information useful for the performance of its duties. Between 2014 and June 2018, the FIU made 2,811 information requests.

Table 4: Information requests by the FIU (2014-June 2018)

Addressee	2014	2015	2016	2017	2018 (June)	Total
FIs	468	547	405	470	285	2,175
DNFBP	139	136	29	12	14	330
State Entity	2	8	56	156	84	306
Grand Total	609	691	490	638	383	2,811

83. In the development of its financial intelligence procedures, the FIU has access to several open and closed source databases that contain criminal records, identification of natural and legal persons, credit and criminal information, professional profile, economic profile of natural and legal persons, payment of basic services, information on public officials and their tax returns. The sources of information to which the FIU has access to, are contained on the table of the Annex of this MER.

84. Additionally, it is important to mention that since 2017 the FIU has the power to request the lifting of secrecy provisions (banking and tax secrecy) for the information that is not contained in the TR sent by the banks to the FIU¹¹, prior judicial authorisation. For that reason, between December 2017 and January 2018, the FIU has requested access to bank and tax secrecy twice, with the corresponding judicial authorization granted. Based on the information provided during the on-site visit, given the recent adoption of this legislative change, there are opportunities to improve the judges understanding about the procedures application.

85. Therefore, the FIU has access to relevant data bases and to information technology tools to gather and analyse financial intelligence and to safeguard its confidentiality.

¹¹ The FIU accesses and requests information from the RIs regarding the economic operations carried out by natural or legal persons that exceed the specific thresholds established in the current sectoral regulations or, failing that, individual operations for amounts equal to or greater than USD \$ 10,000 (or its equivalent in national currency or other currencies) and, multiple operations carried out during a calendar month that together equal or exceed USD \$ 50,000 (or its equivalent in national currency or other currencies).

STRs received and requested by competent authorities

86. The FIU has received 40,315 STRs between January 2014 and June 2018; 40,216 associated to ML, and 99 associated to TF.

Table 5: ML and TF STRs and amounts involved (2014-June 2018)

Year	No. of STRs on ML	No. of STRs on TF	Amount involved in ML STRs (USD)	Amount involved in TF STRs (USD)
2014	6,007	12	10,244,940,427	5,788,649
2015	7,185	15	23,331,131,703	5,263,197
2016	9,549	18	16,802,681,293	4,384,322
2017	11,355	34	16,435,089,784	1,644,540
2018 (June)	6,120	20	15,138,758,496	406,890
Total	40,216	99	81,808,140,784	17,487,598

87. As mentioned before, RIs include FIs, DNFBPs and other entities that, pursuant to the AML/CFT regulations, are required to report suspicious transactions as indicated in the STRs table by type of RIs in Chapter 5, the total STRs for the period 2014 to June 2018 amounts to 40.315. The main reporting entities are Banks (34%), Public Notaries (30%), Purchase and sale of vehicles (11%), funds transfer companies (9%), among others. The lawyers and accountants who were recently incorporated as RIs have not yet issued STRs. There is a low level of reporting in the sector of currencies exchange.

88. Regarding the quality of the STRs received, the FIU built an STR quality indicator that has been operational since September 2017. According to this indicator, in average 49% of the STRs received are of high quality, 40% on average and 11% of low quality. Likewise, between 2014 and June 2018, the FIU applied a prioritization and allocation methodology of STRs in which it determined that 68% correspond to STRs identified by the CO, as a result of the implementation of the AML/CFT prevention system in its institution, 17% are STRs motivated because the people involved are related to a criminological background and as a result of the analysis, suspicious transactions are identified and 14% are reactive.

89. Thus, when disaggregated by the five economic activities with the highest level of reporting, the result is as follows:

Table 6: Economic activities with greater report level and average quality degree as for FIU's indicator. (2014-June 2018)

Type of RI	No. of STRs	High	Medium	Low
Banks	13,577	74,1%	22,8%	3,1%
Public Notaries	12,085	44,7%	44,0%	11,4%
Buying and Selling of Vehicles	4,482	30,1%	60,5%	9,4%
ETF	3,634	38,9%	50,2%	10,9%
Municipal Savings and Loans Associations	1,573	46,4%	44,1%	9,5%

90. In this sense, it is contradictory that in the last four months, banks and ETFs do not have low quality STRs, 0%, a situation that should be analysed to gauge the quality indicator implemented by the FIU and guide feedback actions.

91. In the same sense, as a result of the information obtained during the on-site visit, some RIs (banks, notaries, casinos, funds transfer companies and currency exchange offices) stated that the sending of STRs to the FIU is focused on the comparison of objective parameters (for example if an operation exceeds a threshold, Politically Exposed Person (PEP) client, client under investigation, among others) without an assessment and analysis as to whether it is facing a suspicious operation. For example, in the case of the second economic activity with the highest number of reports, the notaries, according to the indicator of prioritization and allocation of STRs for 2017, 11.79% of the STRs are re active, which is not related to the indicated by the sector in the on-site visit in which it was mentioned that the sending of STRs was based on the coincidence of objective parameters.

92. Due to everything described above, there is an important room for improvement regarding the volume of STRs received that does not have the expected quality, which could be overburdening the FIU in terms of information analysis and decreasing the time available to perform financial intelligence processes. Moreover, considering that all the STRs that enter daily are assigned to the intelligence analysts for their reading and assignment of quality level.

93. In this sense, between 2012 and 2017, the FIU has used different feedback mechanisms in relation to the quality of the STRs received, among which face-to-face training sessions at the national level can be mentioned, through 25 STR training events addressed at 13 RIs sectors, as well as supervisors; 46 working meetings held on STRs with CO; telephone and e-mail feedback in relation to STRs to 1,125 RIs from 18 sectors; dissemination of a range of information through its web page, such as statistics, typologies, risk analysis studies, and strategic studies on the matter. Despite all actions performed, based on the STR prioritisation and allocation indicator, while in 2014 89% of STRs met the requirements to be a quality STR, in 2017, this number decreased to 84% of the total number of STRs received.

94. Moreover, during the process of analysis between the years 2014 and 2017, the FIU identified 13 potential cases of RIs from different sectors not reporting STRs; 4 notaries, 4 banks, 3 buying and selling of vehicles, 1 investments funds and mutual funds managing company, and 1 rural savings and loans association. In all these cases, internal reports were issued to their supervision areas (mainly the Attached Superintendence of Banks and Microfinance, and the Attached Superintendence of Risks) and the SMV, for their corresponding assessment or supervision plan. In this sense, 1 reporting institution was sanctioned, 1 case is under development, 3 RIs were closed, and in 8 cases it was determined that the reporting institution had complied with all procedures established, reason why sanctions were not applicable.

Operational needs supported by FIU analysis and dissemination

95. The FIU is responsible for receiving, analysing and communicating information for the detection of ML and/or TF. In this context, the information exchange with competent authorities is performed through the following intelligence documents:

Table 7: Number of intelligence documents issued to competent authorities (2014-June 2018)

Type of dissemination	Name	2014	2015	2016	2017	2018 (June)	Total
Development of financial intelligence	IIF to PPO	55	57	50	41	15	218
	Supplementary information to IFF reports to PPO	17	19	5	3	2	46
	IFF competent authorities	24	9	5	13	4	55
Financial intelligence information request	FIU Report (FIU-R)	28	35	31	36	6	136
	NIF	495	756	704	676	284	2,915
Spontaneous disclosure	NIFE	3	104	229	215	122	673
Other type of information exchange	Certification Report	25	35	97	67	34	258
Grand Total		647	1,015	1,121	1,051	467	4,301

96. After applying financial intelligence procedures, in 1,061 STRs of the 40,315 received, that involved transactions for approximately 81 billion USD, there was evidence of ML/TF; these were subsequently forwarded to the PPO in ML/TF reports and reports' supplementary information. The FIU indicated that it has the necessary resources, procedures, and access to information to develop financial intelligence procedures.

Table 8: Development of financial intelligence by type of RI

Categories of RIs	No. of STRs received	STRs in IIF to the PPO	STRs in IFF supplementary information to PPO	Total STRs in IIF to the PPO
Banks	13,577	584	132	716
Public Notaries	12,085	67	10	77
Buying and Selling of Vehicles	4,482	51	3	54
Funds Transfer Companies	3,634	47	4	51
Other FIs*	382	25	8	33
Municipal Savings and Loans Associations	1,573	28	3	31
Customs Agents	958	23	0	23
Investment Funds and Mutual Funds Managing Companies	520	15	5	20
Stockbroking and/or Securities Intermediary Companies	119	10	2	12
Others	2,985	39	5	44
Total	40,315	889	172	1,061



97. The FIU has submitted 218 Financial Intelligence Reports and 46 supplementary information reports to the PPO between 2014 and June 2018. Regarding the use of this information by the PPO:

- To the date, 44%, 97 IIF, were under preliminary investigation by the PPO.
- 33% ,72 IIF, submitted by the FIU could not be identified. According to the information submitted by the country, 33 reports are in the FISLAAPD, 15 in specialized corruption prosecutor's offices, 12 on regional prosecutor's offices, 6 in others, 4 in specialized prosecutor's offices against organized crime and 2 on specialized on tax crimes.
- 12% were filed,
- 10% -22 IIF, were used in criminal procedures, (16 under formal investigation and 6 under prosecution stage.)

This means that from the total number of IIF developed by the FIU and submitted to the PPO, 6 reports (i.e. 3%) are under prosecution stage.

98. In the framework of joint investigations, between 2012 and June 2018, the SUNAT and the CGR have received 44 IIF by the FIU. Other competent authorities such as the Judiciary, the PNP, and the Police Military Prosecutor's Office have received IIF by the FIU.

99. If, upon conducting the analysis related to the ML offence, the FIU detects suspicious transactions that would be related to a tax crime, it appoints the liaison officer from the SUNAT to explain the typology and its link with this type of crime, whether tax or customs crime. Subsequently, if both institutions agree upon the preliminary hypothesis made, they initiate a joint investigation, and once finished, the FIU submits the IIF to the SUNAT.

100. In this sense, the PPO, the Investigating Commissions of the Congress of the Republic of Peru, or other competent authorities, in the framework of a ML/TF investigation, may request information to the FIU in relation to the existence of STRs on natural or legal persons, and the existence of intelligence disseminations issued by the FIU, through Financial Intelligence Notes (NIF) that does not have evidentiary value. Between 2014 and June 2018, 6,188 information requirements to the FIU were requested by the PPO, 47% (2915) of which were applicable and therefore answered in an average time of 12 days. In this sense, 2,915 NIF answered included 4,423 STRs, which implies that from the total of STRs received, 11% have been included in responses to financial intelligence information requests made by competent authorities.

101. In the same manner, the FIU has implemented spontaneous financial intelligence notes (NIFE), whereby the same type of information of NIFs is disseminated, together with a specific analysis of the information, but issued without an information request by competent authorities on the persons under investigation. This information may only be used as financial intelligence by the PPO or competent authorities. Between 2014 and June 2018, the FIU has issued 673 NIFE.

102. In relation to the analysis made by the FIU of the documents submitted by persons intercepted upon entering or exiting the country, whose cash or BNIs were withheld for violation of administrative rules that govern cross-border transportation of cash, 258 reports were sent to the PPO between 2014 and June 2018.

103. The FIU has an official appointed as Liaison Officer, who communicates with the PPO and the PJ. In relation to the PPO, said official conducts regular visits to the different offices where there are ongoing investigations related to IIF or other intelligence documents created. Said official answers inquiries and coordinates several information requests that arise as a consequence of the investigation.

104. Therefore, competent authorities have access to an important volume of financial intelligence, as detailed in the table below:

Table 9: Intelligence Information submitted to competent authorities.

Receiving Institution	IIF	Supplementary information to IIF	FIU Report	NIF	NIFE	Certification Report	Total
PPO	218	46	136	2,787	660	258	4,105
Congress of the Republic				126	1		127
SUNAT	28	3			5		36
CGR	10	3					13
Judiciary / OCMA	6			1			7
National Intelligence Directorate (DINI)				1	4		6
PNP	2				3		5
Police Military Prosecutor's Office	1	2					3
Grand Total	298	54		2,915	673	258	4,301

105. The information regarding the use of the financial intelligence products by the PPO shows that of the total of IIF and complements of IIF that include 1,061 STRs, 44% are in preliminary investigation, 33% their status is unknown, 12% filed and 10% have been judicialized. There is no information regarding the PPO's use of the NIF and NIFE generated by the FIU in which 6,509 STRs have been involved.

106. In the same sense, the FIU identified that there is financial intelligence information transmitted to the PPO through IIF, that has been considered in ML conviction cases. Between 2014 and June 2018, a total of 44 convictions for ML were delivered; 6 of them had considered intelligence information generated by the FIU (13%.) Jointly in 14 convictions, the PPO made information requests to the FIU through NIF (29%), and in one conviction a NIFE was used. There is no evidence that FIU-R were used in ML convictions.

107. In relation to TF, between 2014 and June 2018, 2 convictions for TF were delivered, and in relation to all convictions, the PPO made one information request to the FIU through a NIF.

Cooperation and exchange of information/financial intelligence

108. The FIU and other competent authorities co-operate and exchange financial intelligence information on a regular basis, based on the competences of each institution.

109. Despite actions taken by the FIU to keep its information safe, in the framework of the AML/CFT system of Peru, media published STRs submitted by RIs. The information of STRs used in different IIF was published, and it corresponds to STRs sent by different RIs before 2009. It is important to mention that, since 2009 the FIU adopted measures to avoid this type of situations, among which it stands out that the STRs are not attached to financial intelligence communications. On the other hand, the Investigating Commissions of the Congress, in the framework of their investigations, may request information from the FIU regarding the existence of STRs of natural or legal persons and the existence of intelligence communications issued by the FIU, which are addressed through NIF, which, as mentioned above, does not include STRs. Likewise, it is important to mention that the NIFs sent to the Investigative

Commissions of the Congress of the Republic of Peru do not include information from foreign FIUs. The Investigating Commissions of the Congress have the power to lift the confidentiality of the information under the FIU's scope, however, from the 126 NIF sent to the Investigating Commission of the Congress, only in one case the confidentiality was lifted, which in materiality terms lacks of major significance. Notwithstanding the above, based on the information obtained during the on-site visit, RIs showed concern in relation to the fact that certain STRs become public information, especially considering the country's risk and context. Due to the aforementioned, the FIU has taken the following security measures regarding its information, staff and infrastructure: implementation of physical and IT security programs to prevent information leakage (no access to USB ports or other type of computer support, it cannot upload documents attached to emails, no access to public mail, cell phone entry is prohibited in areas where confidential information is handled, staff has to sign an affidavit of assets and incomes also they have to authorize to SBS to lift its secrecy banking, tax and stock reserve; and, polygraph tests when entrance new personnel and also periodically); creation of the Evaluation and Integrity Department; sending documents to the PPO, Congress and other competent authorities with confidentiality seals that prohibit their use and explain the purpose/restrictions of the document.

Conclusions on Immediate Outcome 6

110. Based on the aforesaid, **Peru has achieved a substantial level of effectiveness for Immediate Outcome 6.**

Immediate Outcome 7 (ML investigation and prosecution)

ML identification and investigation

111. In general, Peru has a legal framework appropriate for the fight against ML. The ML crime is criminalised based on the Vienna and Palermo Conventions. Likewise, the PPO has, since 2014, the FISLAAPD that initiate their investigations on potential ML cases upon: complaint; report of the PNP, the SUNAT, the Congress of the Republic; financial intelligence information submitted by the FIU or other prosecutor's offices or upon communication by competent authority on the alleged commission of the ML crime.

112. Most ML investigations are initiated upon complaint, police reports and IIF by the FIU. In the following table, the statistics in relation to the origin of investigations are presented:

Table 10: Origin of ML investigations in FISLAAPD (Period 2014-2018)

	2014	(August) 2015	2016	2017	2018
Complaints		33	58	72	44
Police Reports		12	55	45	9
FIU	38	67	57	23	1
From other prosecutor's offices (including the President of the Council of Senior Prosecutors, the Supreme Prosecutor's office, the Internal Control Body, the Illegal Enrichment Area)		15	30	16	48
Secretariat of the Public Prosecutor's Office		2	2	2	0

Sunat		4	3	0	0
Congress of the Republic / Report from the Investigating Commission		2	1	0	0
Customs Intendence		1	0	0	0
The Judiciary		1	7	8	2
ML and LD Prosecutor's Office				2	
Total	38	137	213	168	104

113. Article 19 of the Regulation on Specialised Prosecutor's Office against Corruption of Officials, Specialised Prosecutor's Office on ML and asset forfeiture, approved through Resolution of the Public Prosecutor's Office No. 1423-2015-MP-FN, of April 22, 2015¹², includes as cases with priority in the investigation: Criminal organisation, seriousness, complexity, national and/or international repercussion, crime committed in more than one prosecution district office, or that its effects exceed such scope. In case none of these were met, they are referred to prosecutor's offices that are acquainted with the cases of ML and asset forfeiture in the district sphere. However, in spite of the existence of such regulation, during the on-site visit it was observed that the application of the prioritisation practice needs to be strengthened and carrying out financial and patrimonial investigations in parallel with the predicate offense, because specialized units such as organized crime and drug trafficking, in the presence of ML signs, refer cases to the FISLAAPD, which generates an overload of cases in said specialized unit, together with the cases initiated from the remitted IIFs by the FIU.

114. The FISLAAPD, to the date of the on-site visit, had 11 operational prosecutor's offices: 4 correspond to the First Specialised Supra-Provincial ML and asset forfeiture Prosecutor's Office and 7 to the Second Specialised Supra-Provincial ML and asset forfeiture Prosecutor's Office.

115. Since the creation in 2014, and based on the annual reports of the FISLAAPD, a considerable lack of resources to take in the existing demand of cases can be perceived. Pursuant to the annual report, the FISLAAPD had 670 cases in 2015, which are still under investigation. In this sense, a significant strengthening of the FISLAAPD is needed, since a lack of human and technical resources was detected, it does not have the solid support of a team of experts on accounting, banking, and tax issues, financial analysts and technological tools. A request was made to the General Management to allocate more administrative staff, to help boost the investigations, and therefore, mitigate this vulnerability. However, these problems have a direct impact on the capacity to identify and conduct ML investigations in an effective manner.

116. Moreover, the PNP, through the DIRILA (to June 2018 had 223 persons), investigates ML cases that, by order of the prosecutor, are referred for such purpose; likewise, it identifies potential cases as a result of the investigations conducted from the inquiries the DIRILA and the PNP intelligence bodies perform, which are then communicated to the prosecutor's office. The DIRILA is made up by four regular bodies and one Intelligence Division exclusively devoted to ML and asset forfeiture investigations: i) ML - Terrorism Investigation Division (DIVILA DT, 12 officers); ii) ML - Illegal Trafficking of Drugs Investigation Division (DIVILA TID, 38 officers); iii) ML - Common Crimes Investigation Division (DIVILA DC, 40

¹² Legal device amended by Resolution of the Public Prosecutor's Office No. 2185-2016-MP-FN of May 11, 2016, where the National Co-coordinator Senior Prosecutor was granted with more faculties, and where several articles were removed.

officers); iv) ML - Organised Crime Investigation Division (DIVILA CO, 62 officers); and v) ML Intelligence Division (DIVICLA, 29 officers.)

117. During the 2014-2018 period, 153 reports were referred to the PPO for investigation, and 93 reports were returned to the DIRILA with the prosecutor's decision to open the investigation and conduct several procedures. Pursuant to the information gathered during the on-site visit, it is necessary to achieve a joint and co-ordinated work between the FISLAAPD and the DIRILA, so much so that, based on the information provided in relation to the 2014-2018 period, only 18 times was specific support provided to PPO investigations, 12 of which are in the VRAEM jurisdiction. The support of the DIRILA has been materialised through its involvement during the procedures of seizures and searches.

Table 11: DIRILA Reports Referred to the PPO, requesting the opening of an investigation

		2014	2015	2016	2017	2018	Total
DIVILA DC	Referred	17	15	14	18	13	77
	Returned*	13	12	10	11	3	49
DIVILA CO	Referred		17	12	17	14	60
	Returned*		12	10	9	1	32
DIVILA TID	Referred	0	0	1	12	0	31
	Returned*	0	0	1	10	0	11
DIVILA DT	Referred			1		2	3
	Returned*			1		0	1

* Returned with the prosecutor's decision to open the investigation to continue with procedures, referring the file again to the police to conduct new procedures. In no case does it mean that the case was rejected.

118. Prosecutor's offices against the crimes of corruption also have competences to identify and investigate ML cases. During 2016, a special team was created for the cases Odebrecht S.A., OAS, Camargo y Correa S.A., and others related to "Lava Jato." As indicated in the table below, there are 37 ML investigations related to corruption processed under the scope of the NCPD. Most of these cases (22) are still under progress: 17 in pre-trial investigation, 2 in intermediate stage, 2 with accusation, and 1 in trial, while 15 are cases under preliminary investigation.

Table 12: Investigations of corruption processes

		2014	2015	2016	2017	2018	Total
ML preliminary investigations and procedures by the Specialised Prosecutor's Offices against Crimes of Corruption							
Preliminary procedures				2	1		3
Pre-trial investigation			5		4		9
Intermediate stage	1		1				2

Accusation	1	1				2
Trial	1					1
	ML pre-trial investigations and procedures, by a special team created for the cases Odebrecht S.A., OAS, Camargo y Correa S.A., and others related to “Lava Jato”*					
Preliminary procedures			3	9		12
Pre-trial investigation			1	7		8

* *The special team was created in 2016.*

119. The PPO has 34 prosecutor district offices, where 42 provincial prosecutor’s offices operate in this national specialised sub-system, with a total of 118 provincial offices; only in 14 districts there are higher specialised prosecutor’s offices, with a total of 20. Said prosecutor’s offices are comprised by 547 national prosecutors, 58 of which are assistant prosecutors, and there are 720 administrative employees (prosecutor’s assistants and administrative assistants), and 227 workers in the support units.

120. Finally, it is important to mention that there seems to be no timely access to banking data. The NCPC, in Art. 235, sets forth that the judge, upon request of the prosecutor, may request the lifting of the bank or tax secrecy; in a maximum term of 30 business days, the entities requested shall submit the corresponding information, or otherwise be punished with the penalties provided for in the law; this term would limit the investigative powers in the prosecuting fields.

Consistency of ML investigations and prosecutions with threats, risk profile and national AML policies.

121. In compliance with the analysis of Immediate Outcome 1, the 2016 NRA identified five threats: i) The existence of coca crops as a first link of drug trafficking; ii) Remains of the OTSL; iii) Increase of public corruption activities in last years; iv) High incidence in the country of certain crimes: Illegal mining, illegal logging, trafficking in humans, smuggling, extortion, and assassinations; v) Existence in a regional environment of countries with high crime rates.

122. When the number of persons convicted per predicate offence relevant in the Peruvian context is analysed, there is an imbalance between the number of persons convicted for predicate offences (27004), specially TID and corruption, and the reduced number of convicted persons for the crime of ML (92 persons.)

Table 13: No. of convictions per predicate offence

Crimes	Number of people convicted					
	2014	2015	2016	2017	2018	Total
TID	3797	3680	4025	4623	2208	18333
Corruption	1751	1740	1579	1570	778	7418
Terrorism	33	19	27	16	3	98
Human Trafficking	18	14	8	20	32	92
Illegal logging	3	7	15	19	148	192

Illegal mining	0	2	11	19	12	44
Extortion	125	149	215	230	108	827
Total	5727	5611	5880	6497	3289	27004

123. If the convictions for ML cases with TID as predicate offence are specifically analysed, the number of convictions is very small as compared to the convictions for TID itself. Therefore, it cannot be concluded that, in this aspect, ML investigations and prosecutions in Peru are commensurate with one of the main threats of Peru.

Table 14: ML with TID as predicate offence

	2014	2015	2016	2017	2018	Total
ML with TID as predicate offence						
Conviction	8	5	3	4	3	23
Acquittal	2	3	4	1	0	10
Mixed		3	1	2		4
TID Sentences						
Conviction	569	569	690	916	424	3168
Acquittal	47	61	76	127	98	409

124. There are investigations and prosecutions in relation to the most relevant predicate offences, but these results are not proportionate to the magnitude of the threat and risk of ML to which is exposed Peru.

Table 15. Pre-trial investigations for ML 2014-2017 by predicate offence

YEAR	ILLEGAL TRAFFICKING OF DRUGS		CORRUPTION		ILLEGAL MINING		HUMAN TRAFFICKING		SMUGGLING	
	NCPC	CPC	NCPC	CPC	NCPC	CPC	NCPC	CPC	NCPC	CPC
2014	4	30	4	21	3	29	0	0	1	5
2015	21	98	20	52	13	38	1	3	0	7
2016	33	90	18	57	9	28	2	11	3	10
2017	10	11	18	14	33	9	0	0	6	1
TOTAL 1	68	229	60	144	58	104	3	14	10	23
TOTAL 2	<u>297</u>		<u>204</u>		<u>162</u>		<u>17</u>		<u>33</u>	

NCPC: New Criminal Procedural Code
CPC: Criminal Procedures Code

Table 16: Prosecutions for ML 2014-2017 by predicate offence

YEAR	ILLEGAL TRAFFICKING OF DRUGS		CORRUPTION		ILLEGAL MINING		HUMAN TRAFFICKING		SMUGGLING	
	NCPC	CPC	NCPC	CPC	NCPC	CPC	NCPC	CPC	NCPC	CPC
2014	6	1	3	0	0	0	0	0	0	1

2015	8	7	10	0	4	8	0	0	4	1
2016	7	4	6	3	15	4	0	0	0	1
2017	2	0	12	0	27	0	0	0	1	0
TOTAL 1	23	12	31	3	46	12	0	0	5	3
TOTAL 2	<u>35</u>		<u>34</u>		<u>58</u>		<u>0</u>		<u>8</u>	

125. Based on the aforesaid, there are shortcomings in relation to the results achieved by the Peruvian national AML system. The prosecutions and convictions for ML are limited. Most convictions were the result of investigations of the predicate offence, i.e. drug trafficking.

126. However, based on the information provided during the on-site visit, ML investigations do not tend to tackle important criminal networks, but rather they apply to cases of simple structure or small scale. Although, there are preliminary investigations and prosecutions for the predicate offences of public corruption, illegal mining, and others, these are limited based on the size of the threats in Peru’s context.

Types of ML Cases Prosecuted.

127. Upon analysing ML cases, it can be observed that most of them are related to the conversion and transfer, and transport, transfer, entrance or exit through national territory of money or securities of illegal origin, and in most cases, these are self-laundering cases, whose predicate offences are mostly TID and bribery and of which only 6 were related to ML for third parties.

Table 17: No. of convictions based on ML modality 2014-2018

Modality	2014	2015	2016	2017	2018	Total
Conversion and Transfer Acts	5	4	1	3	5	18
Conversion and Transfer Acts/Concealment and Holding	2	4	1	1	4	12
Transport, transfer, entrance or exit through national territory of money or securities of illegal origin	0	4	3	3	0	10
Concealment and Holding	1	1	2			4
Total	8	12	6	5	8	44

ML Cases

"GN" Case

On September 17, 2012, WGN was sentenced to 18 years of imprisonment for the crime of ML derived from TID and for having been part of a criminal organization dedicated to TID activities. Within the organization he was in charge of the supply of drugs, whose function was to create the means to neutralize the odour emanating from the drug and thus evade the controls of the International Airport of Peru; and, facilitate the return of funds from abroad, by receiving the sum of USD 204, 739 from a country in the region, through a company dedicated to transfer funds and money orders. The criminal organization that WGN integrated had two action lines: a national one, in which its purpose was to stock up on drugs; and, another, international, because it sent shipments of cocaine abroad.

"BH" Case

On March 31, 2017, "CJBH", former mayor of the "X" district (2007-2013), was sentenced to 16 years of imprisonment for having converted money of illicit origin (from the illicit enrichment he committed during the exercise of the charge), through the issuance of a check, for the purpose of acquiring property directly or through third parties, or on behalf of companies, as well as for having converted money of illicit origin for the constitution and acquisition of goods in favour of companies. On the other hand, "JKOA", former adviser of the Office of the Mayor of the District Council of "X" (2007-2008), was condemned to 13 years of imprisonment for carrying out acts of transfer vehicles acquired with money of illicit origin and several sums of money by using the financial system, in favour of her husband, as well as acts of conversion through the acquisition of different vehicles and real estate. Finally, "DENS", former alderman (2007-2010) and deputy mayor of the District Council of "X" (2011 to June 2013) was sentenced to 13 years of imprisonment, for having contributed with "CJBH", to convert goods of illicit origin through the constitution and acquisition of goods, in favour of a company. As part of the sentence, the seizure of 16 properties and 7 vehicles was ordered; and, S /. 10 000 000, for civil damages were imposed.

128. Special investigation techniques of undercover agent and special agent were used in 7 ML cases. Significant ML cases were identified, but it is not clear that in the investigation of complex cases the recovery of assets and financial dismantling of criminal networks is being pursued, in most cases.

Table 18: Special investigation techniques (Undercover agent and special agent)

Sub-system	2014	2015	2016	2017	2018
Illegal Trafficking of Drugs	14	19	29	25	9
Organized Crime	18	41	32	62	22
Terrorism	2	6	0	6	10
ML	2	2	3	0	0
Common	0	2	0	0	0
Total	36	70	64	93	41

129. It should also be mentioned that a weakness of the judicial criminal system has been detected in relation to the coexistence of the inquisitorial procedural system, based on the former CPP, and the current

NCPC –adversarial system, which is not yet fully in force (it is pending for implementation in Lima, Southern Lima, and Eastern Lima), which creates confusion between operators, in relation to deadlines, evidences, procedures, etc.

Effectiveness, proportionality and dissuasiveness of sanctions

130. Based on the information gathered during the on-site visit, as shown below, during the 2014-June 2018 period, of 78 judgments for ML, 44 were convictions, 24 acquittals and 10 were mixed judgements.

Table 19: Number of judgements

	2014	2015	2016	2017	2018	Total
ML						
Conviction	8	11	7	8	10	44
Acquittal	3	8	9	5	0	24
Mixed	0	4	1	3	2	10

131. Although prison sentences and fines are high and of considerable amounts, they would in principle be proportionate; however the number of persons convicted is low (only 101 persons in 4 years), and the number of cases is limited in the context of a general prevention, which affects their dissuasive nature. There are three judgments to legal persons, but as a secondary consequence to cases against natural persons that operated with legal persons.

Table 20: Punishment imposed to ML convicted persons

Convicted persons	No.
1-4 years' imprisonment, effective	1
1-4 years' imprisonment, suspended	12
More than 4- 10 years' imprisonment, effective	42
More than 10- 15 years' imprisonment, effective	18
More than 15 years' imprisonment, effective	28
Total	101
Civil damages	Amount
Amount in soles	S/.24,901,500.00
Amount in USD	\$7,732,322.95

132. Based on the information collected during the on-site visit, the different legal operators consider ML as a complex crime difficult to understand, both for prosecutors and for judges. The aforesaid becomes evident when only in 2017 the Supreme Court unified the case law on ML matters, ratifying the understanding regarding the autonomy of the crime. This can partly explain the low number of convictions and the important number of acquittals.

Used of alternative measures

133. In Peru, in compliance with Arts. 472, item 1, and 474, item 2, of the NCPC, the special process for effective cooperation (cooperating witness)¹³ is applied in ML cases, which allows the prosecutor to enter into a Benefits or Collaboration Agreement with someone who is subject or not to a criminal procedure, as well as with someone who has been sentenced, by virtue of the collaboration provided to authorities for the efficiency of the criminal justice.

134. In the 2014-2018 period, a total of 86 efficient collaboration processes are reported:

Table 21: Efficient collaboration processes

Year	No. in process	No. approved	No. filed
2014	18 ¹⁴	3 ¹⁵	-
2015	14 ¹⁶	-	-
2016	16 ¹⁷	-	2 ¹⁸

¹³ For the application of the cooperating witness benefit, pursuant to the provisions of Arts. 474, item 1, and 475, item 1 of the NCPC, the person shall: a) have voluntarily abandoned its criminal activities; b) admit or not-contradict, freely and expressly, the events he has participated in or he is accused of; and, c) appear before the Prosecutor, proving its willingness to provide efficient information; and the information provided should allow to, alternatively or jointly: i) avoid the continuity, permanence, or commission of the crime, or substantially reduce the magnitude or consequences of its performance. Likewise, it should prevent or neutralise future actions or damages that could be caused by a criminal organisation; ii) know the circumstances surrounding the planning and execution of the crime, or the circumstances it is planned or executed under; iii) identify the perpetrators or participants to a crime committed or to be committed, or the members of a criminal organisation and its functioning, to allow authorities to dismantle it or to arrest one or several of its members; iv) deliver criminal instrumentalities, assets, proceeds, and property related to the activities of the criminal organisation, inquire about their location or destination, or indicate financing and provisioning sources of the criminal organisation.

The benefits the cooperating witness may be granted, based on item 2 of Art. 475 of the NCPC are: i) exemption of penalty; ii) reduction of penalty; iii) suspension of the execution of the penalty; or iv) remission of the penalty of whoever is complying with it, which are applied taking into account the degree of efficiency or importance of the collaboration in line with the magnitude of the crime and the person's liability for it. The exemption of the penalty, based on the provisions of item 5, Art. 475 of the NCPC, requires that the collaboration be active and with efficient information to: a) avoid a specially significant and serious crime; b) categorically identify and facilitate the detention of leaders of special importance to the criminal organisation; c) conclusively discover substantial aspects of the financing or provisioning sources of the criminal organisation, or of the criminal instrumentalities, assets, proceeds, and property of significant importance for the purposes of the organisation. The granting of such benefit, based on the provisions of Art. 479 of the NCPC, is conditioned to the beneficiary not committing a new willful crime within ten (10) years after the benefit was granted.

¹⁴ 9 procedures were reported by the 3rd Office of the Specialised Supra-Provincial Prosecutor's Office against Corruption Crimes of Officials, and 9 by the FISLAAPD.

¹⁵ Reported by the Specialised Supra-Provincial Prosecutor's Office against Corruption Crimes of Officials

¹⁶ Procedures processed by the FISLAAPD.

¹⁷ Procedures in process: 3 by the Special Team, 7 by the FISLAAPD, and 6 by the Specialised Prosecutor's Office against Corruption of Officials.

¹⁸ These 2 efficient collaboration processes were initiated in 2016 filed in the same year, since the special procedure was not followed; therefore, the person continued under investigation.

2017	19 ¹⁹	2 ²⁰	4 ²¹
2018	3 ²²	5 ²³	
Total	70	10	6

Overall Conclusions on Immediate Outcome 7

135. Based on the aforesaid, **Peru has achieved a low level of effectiveness for Immediate Outcome 7.**

Immediate Outcome 8 (Confiscation)

136. Peru has a regulatory framework in place that allows to confiscate property or assets, instrumentalities used or attempted to be used for the commission of ML, its predicate offences, and property of corresponding value. Likewise, there is the figure of asset forfeiture.

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

137. The 2016 NRA identified as risk (which based on the FATF Guidance should be considered as a vulnerability) “the weakness in the application of current regulations on asset forfeiture and its use, though legal mandate, secondarily in the outcomes of the criminal proceeding (non-autonomous).” In relation to this risk, the National Policy against ML/TF sets forth, within the Strategic Axis No. 3 “Investigation and Sanction,” as State guidelines to “Guarantee the recovery of assets” and to “Promote regulatory amendments that would allow to properly manage, execute, and distribute recovered assets.”

138. In line with the aforesaid, the 2018 National Plan, sets forth the following actions to be implemented in the short and medium term: i) Expedite the registration process for seizure and confiscation measures in the public registries as a result of the ML/TF prosecutions, considering the possibility of using technological means; and ii) Propose and promote before the Congress of the Republic the amendment of the Legislative Decree No. 1104 and its regulations, to optimise the application of asset forfeiture, as well as to improve the administration and distribution of assets seized, confiscated and declared under asset forfeiture, with the aim of presenting a regulatory proposal for 2018. In relation to the first action, the SUNARP and the Judiciary approved the procedures for the electronic registration of precautionary measures for ML and organised crimes cases related to the Registry of Estate, and in relation to the second action, on January 11, 2018, the Bill of Law No. 2306/2017-CR that sets forth regulations on assets forfeiture for criminal property, instrumentalities and proceeds was presented, which is in process in the Justice and Human Rights Commission of the Congress of the Republic.²⁴

¹⁹ 14 are processed by the Special Team, 1 by the FISLAAPD, and 4 by the Specialised Prosecutor’s Office against Corruption of Officials.

²⁰ Judgment obtained by the second office of the Second Specialised Supra-Provincial Corporative Prosecutor’s Office on Money Laundering and Asset Forfeiture, and judgment obtained by the second office of the Specialised Provincial Money Laundering and Asset Forfeiture Prosecutor’s Office of Arequipa.

²¹ Filed by the second office of the Second Specialised Supra-Provincial ML and Asset Forfeiture Prosecutor’s Office.

²² 1 procedure reported by the Second National Court on Pre-trial Investigation of the Specialised National System against Corruption of Officials; and 2 by the FISLAAPD.

²³ Convictions with reduction of penalty, obtained by the second office of the Second Specialised Supra-Provincial ML and Asset Forfeiture Prosecutor’s Office.

²⁴ It should be highlighted that, after the on-site visit, Legislative Decree No. 1373 was issued, published on August 4, 2018, which establishes a new regulatory framework on assets forfeiture.

139. However, the materialization of the actions of the 2018 National Plan is still needed, with specific results of final confiscation and asset forfeiture of the criminal assets, derived from the clear awareness by police, prosecuting, or judicial operators to address the assets of organised crime and adopt the systematic confiscation of ML cases or its predicate offences. Therefore, it is concluded that the confiscation of criminal assets, instrumentalities and proceeds, and property of corresponding value, is pursued with limitations, as a policy objective.

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

140. Pursuant to the analysis exposed in Immediate Outcome 7, competent authorities, in particular the FISLAAPD, have conducted ML prosecutions and convictions. As a result of the criminal prosecution of these crimes, personal and real estate property has been confiscated, as well as amounts of money, as detailed in the table below (refer to table: Number of confiscated property and assets.) However, the outcomes reached are limited based on the risk and context of Peru. Additionally, in line with Immediate Outcome 7, the PNP and the Public Prosecutor’s Office need to boost their capacities to increase their effectiveness in the identification, seizure, and confiscation of property, and adopt protocols and operational procedures aimed at increasing the patrimonial investigations.

141. In the January 2014 to December 2017 period, in the framework of criminal procedures for ML, the seizure with confiscation purposes of personal and real estate property, gold (appraisal at prosecuting level) and money was ordered, which amounted to USD 1,110,774,046.72, as detailed below:

Table 22: Seizure of personal and real estate property, gold and money in ML proceedings.

Year	Amount
2014	USD 59,880,050.21
2015	USD 169,144,869.70
2016	USD 826,025,407.57
2017	USD 55,723,719.24
Total	USD 1,110,774,046.72

	# real estate property	Appraisal in USD	# personal property	Appraisal in USD	Gold (weight in kg)	Appraisal in USD	Money in USD
2014	69*	45491921.84	30**	217122.34	310.02	12397198.44	1,873,807.59
2015	141**	139507196.9	159****	16790183.84	320.71*	9370461.00	3,477,028.01
2016	199*****	83793504.72	176*****	17789128.43	654.79**	710721323.48	13,621,450.94
2017	34*****	50080280.17	6*****	3500000	2.59	12423.00	2,131,016.07
TOTAL	443.00	318,872,903.59	371.00	38,296,434.61	310.02	732,501,405.92	21,103,302.61

* 16 real estate property pending for appraisal

** 16 vehicles pending for appraisal

*** 31 real estate property pending for appraisal

**** 83 jewels, and 19 vehicles pending for appraisal
 ***** 49 real estate property pending for appraisal
 ***** 34 vehicles pending for appraisal
 ***** 5 real estate property pending for appraisal
 ***** 6 vehicles pending for appraisal

*56.37 kg of gold pending for appraisal
 ** 6.64 kg and 3 pieces of gold pending for appraisal
 *** 2.99 kg pending for appraisal

142. Pursuant to the information gathered during the on-site visit, the FIU may order the national administrative freezing of funds or other assets, under certain circumstances, subject to judicial ratification, for the prosecutor to request or exercise under the criminal procedure the customary measures. As follows, the freezing measures ordered by the FIU in the 2012-2017 period ratified at the judicial level.

Table 23: Administrative freezings by the FIU

Year	Predicate Offence	No. of CAF	Total Amount of USD
2014	Corruption	1	46,012.27
	TID	2	222,348.14
2015	Illegal Association with Criminal Intent	2	64,788.36
	Illegal Mining	2	39,945.27
	Not necessary	2	522,960.68
	TID	2	1,560,655.21
2016	Illegal Association with Criminal Intent	1	34,324.57
	Corruption	1	1,953,747.59
	Swindling	1	491,668.30
	TID	3	635,923.00
2017	Corruption	10	22,567,607.66
	Swindling	3	1,699,076.65
	Not necessary	1	26,486.24
	TID	1	460,912.66
2018	Corruption	1	381,359.25
	Illegal Trafficking of Drugs	1	1,259.86
Total		32	30,709,075.71

143. The PJ, upon ratifying the freezing measures, has granted terms of 30 to 270 days to request the corresponding precautionary measure. Of the 34 freezing orders, in only 8 cases substitution for seizure

actions has occurred. However, despite the efforts by the FIU in this aspect, there is no evidence that any of these measures resulted in confiscation or asset forfeiture.

Table 24: Substitution CAF

Substitution CAF		
YEAR	Predicate offence	Measure Applied
2015	Illegal Association with Criminal Intent	Blocking
	Not necessary	Seizures
2017	Corruption	Seizures
	Corruption	Seizures
	Corruption	Seizures
	TID	Seizures
	Corruption	Embargo, Blocking and Freezing
	Corruption	Seizures

144. Based on the ML convictions, confiscation was ordered in 22 cases, during the 2014-June 2018 period, with the following results:

Table 25: Number of property and assets confiscated for ML

	2014	2015	2016	2017	2018	Total
# personal property	14	7	-	42	12	75
# real estate property	11	3	-	19	1	34
Amount in USD	89,350	632,172.06	765,281.83	96,300.0	79,207,45	1,662,311.34

145. In relation to the ML predicate offences, to the date of the on-site visit, based on information provided by the PRONABI, 288 property were confiscated, from which 221 were valued on USD 64, 265, 531.8 and a total of USD 340, 878.34 in cash were confiscated.

Table 26: Number of property confiscated per predicate offence

Confiscation per predicate offence	Number	Appraisal in soles	Appraisal in USD
Motor vehicles			
Corruption	9*	131,555.84	39,865.41
Illegal mining	2	131,932.11	39,979.42
Illegal Trafficking of Drugs	76**	2,761,410.91	836,791.185
Real Estate			
Corruption	25	63,694,909.32	19,301,487.7
Terrorism	2	1,233,986.63	373,935.342
Illegal Association with Criminal Intent	2	669,924.78	203,007.509

Illegal Trafficking of Drugs	172***	143,452,535.59	43,470,465.2
TOTAL	288	212,076,255.18	64,265,531.8
* 1 of the vehicles pending for appraisal			
** 12 of the vehicles pending for appraisal			
*** 54 of the real estate property pending for appraisal			
1 dollar = 3.3 soles			

146. Most cases where the asset forfeiture was ordered are related to the TID. As shown below; in the 2015-June 2018 period, 30 judgments grounded on asset forfeiture were ordered, and based on the data available, the asset forfeiture on approximately USD 16,049,921.47 was ordered.

Table 27: Number of property and assets for asset forfeiture actions

	2015	2016	2017	2018	TOTAL
# of judgments	1	5	20	5	34
# of grounded judgments	1	5	17	4	30
# of personal property		2	9	2	13
# of real estate property			6	2	11
# of bank accounts	2	2			4
Value of property in soles			14,580,931.18	2,059,068.00	22,035,949.55
Amount in soles		560,00	3,000.00		3,560.00
Amount in USD	8,362,592.95	1,373,652.24	4,697.00		9,740,942.19
Amount in EUR	1,094,749.64			10,000.00	1,104,749.64
Total Amount of USD	9,620,925.87	1,373,821.94	4,424,070.08	631,102.86	16,049,921.47
1 USD = 3,3 soles and 1 USD = 0,87 Euros					

147. Likewise, in the 2014-2018 period, a total of 321 ongoing procedures for asset forfeiture are registered: 270 under pre-trial investigation at prosecutor level, and 51 ongoing at the Judiciary.

Table 28: Ongoing cases for asset forfeiture

Ongoing cases (2014-2018)		
Judicial District	Pre-trial investigation at prosecutor level	Ongoing at the Judiciary
Lima	153	39
Puno	6	3
Arequipa	110	9

Santa	1	0
TOTAL	270	51

148. In relation to the repatriation of assets resulting from co-ordinated actions, the total amount to be repatriated to Peru amounts to USD 9,735,724.19 and EUR 1,094,749.64.

Table 29: Cash Repatriation

Case	Amount USD	Amount in Euros
Vladimiro Montesinos	USD 8,362,592.95	€ 1,094,749.64
Yuri Kozeinov	USD 934,435.87	
Evegni Ananev	USD 438,695.37	
Total	USD 9,735,724.19	€ 1,094,749.64

149. Pursuant to the information submitted by Peruvian competent authorities, UCJIE, MRE, and PRONABI recently agreed with authorities from Luxembourg and Switzerland to establish parameters each country shall implement to make the repatriation of the amounts described above effective. Additionally, it should be mentioned that the legal figure of confiscation of property of corresponding value has not been used.

Confiscation of cross-border transactions in false or undeclared currencies/negotiable bearer instruments (NBI)

150. The SUNAT is in charge of monitoring and controlling false or undeclared cross-border movements. The following table details the number of cases of interception of money, as well as cases that exceed the USD 30,000 threshold.

Table 30.1: Interception of money in the airport Jorge Chávez (Entrance / Exit) – Lima

	2014		2015		2016		2017		2018	
	Entry €	Exit (S)	E	S	E	S	E	S	E	S
TOTAL	15	7	7	9	25	19	5	13	3	6
Higher than 30 thousand	5	6	3	4	4	10	3	4	0	3
Lower than 30 thousand	10	1	4	5	21	9	2	9	3	3
Total USD amount intercepted	946704.44	1322970.99	162,260.62	366,430	573,333.19	807,081.15	186,983.49	390,240.54	52,910	235,357
Amount of interceptions higher than 30 thousand	754250.34	1371570.9	98,345.62	278,950	245,571.57	677,702.97	143,383.49	234,395.15	0	165,920

Table: 30.2: USD restrained by border area 20–4 - Jun 2018

Year	TACNA	TUMBES	CUZCO	CHIMBOTE	Total
2014	103,481	237,000			340,481
2015	660,221	99,020	65,128		824,369
2016	1,093,423		21,000		1,114,423
2017	751,550				751,550
2018	569,461			49,800	619,261
Total	3,178,136	336,020	86,128	49,800	3,650,084

151. Of the total number of ML convictions ordered in the 2014-June 2018 period, 9 cases are for ML, under the modality of transport, transfer, entrance or exit through national territory of money or securities of illegal origin, which confiscated amount is of USD 1,493,753.89. Of the total 9 judgments under the transport modality, 6 correspond to the entrance of money to national territory, which confiscated amount is of USD 1,163,121.39.

152. It should be highlighted that withholdings are due to administrative violations; and, after the corresponding investigation, some cases derive in a criminal case, and a potential subsequent sanction in case it was proven, at least at the level of evidence, that the money transported has an illegal origin.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

153. From the analysis performed on the outcomes related to confiscation and asset forfeiture judgments, it is observed that are consistent to the following threats identified by Peru: TID, corruption, illegal mining, terrorism and conspiracy to commit a crime. The highest values confiscated in goods are by TID ascending to a value of USD 44,307,256.39. In addition, efforts have been made for the final confiscation of assets. As mentioned, movable and immovable property, gold (valuation on tax office) and money have been seized, amounting to US \$ 1,110,774,046.72. In this context, the results are considered to be consistent with the ML/TF risks existing in Peru.

asset forfeiture

Overall Conclusions on Immediate Outcome 8

154. Based on the aforesaid, **Peru has achieved a moderate level of effectiveness for Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key findings

Immediate Outcome 9

- Peru has a regulatory framework in place to investigate, prosecute and convict TF and related conducts.
- A common view and understanding in relation to TF and its risk level in Peru could be appreciated up to a certain degree.
- Cases of TF prosecuted by Peru are related to the activities of drug trafficking for the financing of small groups or cells of the OTSL.
- The outcomes of the investigations, prosecutions, and convictions do not reveal to be entirely consistent with the country's risk profile.

Immediate Outcome 10

- Peru has a mechanism in place to implement TFSs related to TF. Even when no matches were found, the mechanism has been tested and it seems to be adequate and show no delays.
- RIs seem to be aware of the obligations related to the implementation of TFSs and have participated in simulations conducted by the FIU.
- Peru has made efforts to monitor and supervise NPOs. One sector of NPOs has been included under the ML/TF simplified prevention regime. The FIU made a diagnosis of NPOs, however, the diagnosis does not meet the requirements set forth by R.8.
- There are certain limitations in the application of designation procedures in relation to UNSCR 1373.

Immediate Outcome 11

- Peru has a system in place to comply with targeted financial sanctions under the Sanctions Committees relevant to the FPWMD.
- RIs seem to be aware of the obligations related to the implementation of TFSs on FPWMD matters, and authorities monitor compliance with the obligations of RIs on this regard.

Recommended Actions

Immediate Outcome 9

- Analyse the risks represented by the financing of individuals, organisations, acts, or other terrorist activities that are outside of Peru, as well as further analyse the activities other than illegal trafficking of drugs that may be used for TF purposes, even legal ones.
- Improve the capacities of investigation authorities (PPO and DIRCOTE) related to the processing of TF cases through training and greater allocation of resources and tools.
- Develop specific measures different than those designed for ML for the strengthening of the TF prevention, investigation, and suppression regime, with the understanding that the risks, investigation authorities, and the nature of cases differ from those of ML.

Immediate Outcome 10

- The FIU should accelerate its processes with the aim of concluding and determining if identified individuals should be designated and order the freezing of funds or other assets.

- Re-assess the NPOs sector in compliance with the provisions of R.8 in order to identify the vulnerabilities related to TF and increase awareness raising efforts in the NPOs sector and its supervisors.

Immediate Outcome 11

- Continue to develop the efforts related to the testing of the TFS implementation system by RIs.

The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (ML investigation and prosecution)

Prosecution/conviction of types of TF activity consistent with the country’s risk-profile.

155. Peru has a specialised institutional structure for the handling of terrorism and TF cases, mainly resulting from the history of the country, especially the decade of the 1980s and 1990s, when the OTSL, and the Revolutionary Movement Tupac Amaru (MRTA) were active.

156. Until December 2012, Decree Law No. 25475 criminalised TF under the criminal description of terrorism, under the modality of collaboration, where the provision of economic or other resources for the maintenance or performance of activities by terrorist individuals or organizations (Art. 4, section f) was included. Subsequently, in November 2012, Law No. 29963, introduces Art. 4-A, wherein TF is criminalised as at present. In this sense, in relation to TF events that occurred by November 2012, Art. 4, section f is applicable; while Art. 4-A is applicable in relation to events that occurred after. Likewise, given the relationship between TF and drug trafficking, Peru has a special TF criminal description for cases when the individual commits TF acts through drug trafficking, which is provided for in Art. 297, last paragraph, of the Criminal Code (refer to the analysis of R.5 in the Technical Compliance Annex.)

157. In compliance with the information collected between 2014 and 2018, there are cases under pre-trial investigation (one from 2014, five from 2016, and one from 2017.) Additionally, as indicated below, there are three cases in progress. It should be mentioned that 5 of 7 pre-trial investigations are supported by FIU information (2 IIF, and 7 intelligence notes: 6 NIFE and 1 NIF); the 3 proceedings in progress are supported by intelligence information (1 IIF, and 3 NIF.)

Table 31: TF Cases

No.	File	Applicable Regulation	Status	No. of Accused
1	No. 085-2014.	Art. 297, last paragraph of the Criminal Code	Preliminary Examination	3
2	No. 383-2013.	Art. 4, section f of Decree Law No. 25475	Trial	10
		Section 4-A of Decree Law No. 25475		
		Art. 297, last paragraph of the Criminal Code		

3	No. 201-2017	Art. 4, section f of Decree Law No. 25475	Preliminary Examination	6
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158. Peru has 4 convictions for TF: 2 under Art. 4, section f of Decree Law No. 25475, criminal description “Collaboration with Terrorism,” 1 under Art. 4, section f of Decree Law No. 25475 and Article 297 last paragraph of the Criminal Code; and the last one, under the scope of Art. 297 last paragraph of the Criminal Code. Authorities concluded that the most frequent modality is the collection and subsequent contribution to terrorist organisations, mainly the remains of the OTSL. The table below introduces the details of cases initiated between 2013 and 2017:

Table 32: TF Convictions

	File	Date	Applicable Regulation	Ruling	No. of Convicted Persons	
					Acquitted Persons	Convicted Persons
1	No. 23-05-SPN	07/06/13	Art. 297 last paragraph of the Criminal Code	Conviction*	0	1
2	No. 17-2012	05/10/2017	Art. 4, section f of Decree Law No. 25475	Acquittal*	2	
3	No. 375-2010 (<i>Eclipse</i> Case)	13/11/2017	Art. 4, section f of Decree Law No. 25475	Conviction*	77	6
			Art. 297 last paragraph of the Criminal Code	*		
4	No. 455-2013	21/12/2017	Section f of Decree Law No. 25475	Acquittal*	13	0

*Also convicted for ML and Terrorism.

**Appealed through Annulment Request.

**Judgment on 4 of the accused is reserved due to their absence.

159. Of the two convictions mentioned, the *Eclipse* case was supported by 1 NIF from the FIU. Judgments included the conviction of seven individuals for TF under the modality of collaboration, while 77 accused individuals were acquitted. Six of seven convicted individuals were punished with a penalty of 20 years’ imprisonment, and were related to the *Eclipse* case, that was linked to the financing of the remains of the OTSL through the illegal trafficking of drugs. The other person was convicted to 35 years’ imprisonment (“life imprisonment”), in a case of aggravated terrorism, ML and TF through the illegal trafficking of drugs. The cases investigated, prosecuted, and convicted for TF, one (in progress) corresponds to the criminal description of TF under Art. 4-A, last amended in 2012; the other TF cases are under the modality of collaboration with terrorism. Moreover, there are 165 convictions for terrorism without the existence or the institution of a TF parallel investigation. Even if the authorities indicated that there is not necessarily a

correlation between terrorism and TF, terrorism is considered to be financed with resources from drug trafficking activities in VRAEM, as well as other criminal acts committed by the organisation (extortion, assassination, collection of fees.)

160. In compliance with the outcomes of the NRA and based on the information provided by the Peruvian authorities, TF cases are related to drug trafficking activities in VRAEM, regardless of the lack of investigations or cases related to other operations of the remains of the OTSL mentioned above.

161. In relation to TF, a common view and understanding in relation to TF and its risk level in Peru could not be appreciated. Certain authorities still identify the TF crime with terrorism, and even more, TF is being confused with terrorism as ML predicate offence, which prevents the development of activities tending to mitigate TF risks. Additionally, the understanding of TF risks by RIs is limited to the outcomes of the NRA.

162. Another aspect to consider is that the country has not identified the risks of financing terrorist individuals, organisations, or activities outside the Peruvian territory. The country has taken into account cases related to the remains of the OTSL that operate in the country, but not potential co-operators located abroad, or the financing of terrorist individuals, organisations, or actions that do not operate in the country but that could be financed in it.

163. Even if the domestic threat of the remains of the OTSL seems to have a higher priority in the Peruvian context, it seems that the TF risk (including foreign threats) has not been fully assessed. The aforesaid is consistent with the fact that no TF investigations related to foreign jurisdictions have taken place, even when several authorities acknowledged being aware of the activities conducted by foreigners which profile analysis and monitoring could lead to a link with potential terrorist activities.

164. Considering the number of investigations, prosecutions, and convictions for collaboration with terrorism and TF, its contrast with the number of cases and convictions delivered for terrorism, and the aspects pointed out in relation to the TF risk assessment, the results do not seem to be at all consistent with the risk profile of the country on this matter.

TF identification and investigation

165. The PPO, through the Higher National Criminal Prosecutor's Office and Supra-Provincial Criminal Prosecutor's Offices may initiate their investigations on potential TF cases upon: i) complaint; ii) report of the PNP (DIRCOTE); iii) report of the Congress of the Republic; iv) financial intelligence information submitted by the FIU; and v) communication by competent authority on the alleged commission of the TF crime.

166. Additionally, the PNP, through the DIRCOTE, investigates terrorism under its different modalities, including TF, which are referred for investigation upon decision by the Public Prosecutor's Office. Likewise, they identify potential cases as a result of their own investigations and of the PNP intelligence bodies. These outcomes are communicated to the PPO.

167. As mentioned above, between 2014 and 2017, there were 7 cases under pre-trial investigation and three cases in progress. It is important to highlight that 5 of 7 pre-trial investigations are supported by FIU information (2 IIF, 6 NIFE and 1 NIF.) The 3 proceedings in progress are supported by intelligence information (1 IIF, and 3 NIF.)

168. It could not be verified that there exist domestic TF cases not related to illegal trafficking of drugs, even when the authorities mentioned other criminal behaviours remains of the OTSL could be financed with, such as extortions and assassinations; moreover, legal activities or mechanisms terrorists could be financed with could not be identified. Likewise, although the NRA points out that in the past, the funds of the terrorist remains were originated abroad while currently they are originated domestically, the assessment team did not have the possibility to verify the supporting analysis.

169. In relation to TF cases with potential links abroad, and pursuant to the information gathered by DIRCOTE and the Working Group on International Terrorism, there are signs that OTSL followers exist in different countries in the region, and even out of the region, while there is no evidence to support that there are possible financial flows or other types of support to allow initiating a TF investigation. There is only one ongoing procedure for international terrorism, but no TF investigation was instituted. Only one case was known in relation to a foreign national that was potentially conducting activities for the Hezbollah. The case was taken to trial, after the annulment of the portion of the sentence relating to the acquittal of the accused was ordered.

170. Additionally, there are certain limitations in relation to the investigation of TF as regards the untimely lifting of banking secrecy provisions in TF investigations, since the law sets forth a term of up to 30 days to grant it, even on the PPO's experience, there were cases where the PPO received the response of the requested information 3 months later. It should be highlighted that, between the authorities themselves, there is a lack of co-ordination in relation to collaboration or information exchange matters that difficult the institution of TF investigations. Based on the information gathered during the on-site visit, some authorities still do not fully understand the application of the TF crime, or the difference between TF and terrorism.

TF investigation integrated with—and supportive of—national strategies

171. Among the findings of the NRA, certain limitations related to the capacity of authorities to conduct investigations, share information, and achieve results were detected.

172. The NRA found out a considerable number of vulnerabilities related to the tasks of investigation authorities, both for the investigation and prosecution of ML and TF. The 2018 National Plan was designed, which receives input from the findings of the NRA, as well as the National ML/TF Policy of Peru. Specifically, the Strategic Axis 3 is related to the investigation and sanction of crimes. Based on the provisions of the National Plan, there is a list of objectives and specific actions which are considered to bear a higher impact on the investigation and sanctioning of TF:

- Specific Objective 3.1: Streamlining the work of criminal investigation and sanctioning competent authorities to become aware of ML/TF cases
 - Action 3.1.1: Strengthening the ML/TF organizational and human capital management structure of the PNP by specializing its personnel
 - Action 3.1.2: Strengthening ML/TF Specialised Prosecutor's Offices at the national level
 - Action 3.1.3: Strengthening the PJ human capital management, considering its specialization on ML/TF matters and enhancing security conditions and training
 - Action 3.1.6: Putting the NCPC in force at the national level for ML/TF cases

173. It is important to point out that, after the analysis of the National ML/TF Policy of Peru, as well as of the 2018-National Plan, there seem to be no actions specifically focused on the investigation of TF cases. Even if it's true that there are concrete actions in the Action Plan, these are much more focused on the

investigation of ML and asset forfeiture actions, especially with the increase in the number of prosecuting offices focused on this type of cases. Likewise, Specific Objective 3.2 on the recovery of assets also includes specific measures for ML cases, while TF is only mentioned in general terms and with no specific actions. The aforesaid would not be consistent with the fact that the existence of remains of the OTSL is considered as the second most important threat.

174. Moreover, TF investigations do not seem to be integrated and used to support the development of national strategies against terrorism. Notwithstanding the aforesaid, it should be noted that the country has a domestic designation mechanism in place for individual terrorists and terrorist organisations, that at the time of the on-site visit had identified 25 individuals, who are under analysis and investigation to determine if they are object of designation (refer to IO.10.)

Effectiveness, proportionality and dissuasiveness of sanctions

175. Peru has delivered convictions for collaboration with terrorism, a crime that covers certain behaviours related to TF. The cases investigated and sentenced by Peruvian authorities are generally related to the remains of the OTSL.

176. In the case under file number 375-2010, which judgment was issued in November 2017, six individuals were convicted for collaboration with terrorism²⁵, with a punishment of 20 years’ imprisonment, a fine of 3,650 soles, and the disability to enjoy the rights under sections 2, 6, 9, and 12 of Art. 36 of the Criminal Code. In relation to the action against resources, the permanent confiscation of approximately USD 14,220 was ordered, which were preventively seized from different convicted individuals under the same case. A general description of the case in question is presented below:

Description of the Eclipse Case (File No. 375-2010)
<p>The starting point to this case is the hypothesis that FEFH, known as “Mr. F” leader of a terrorist organization, exercised de facto the political and military control of the area of AH and, to continue under such conditions and expand his power, he kept a large network of collaborators under different modalities. Based on the accusation, the collaborators would be the accused under this process; the process in itself consisted in determining if the accused actually played that role.</p>
<p>The investigation was initiated with the version of the cooperating witness, and this resulted in the Police Statement whereby 150 individuals were accused of the crimes of terrorism, under the modality of collaboration with terrorism, ML, and TID. The latter was based on the link between Mr. F and the “drug dealers” that operate in AH, who would have conducted illegal trafficking of drugs activities and the possible establishment of shell companies.</p>
<p>To prove these facts, police procedures were conducted with the direct participation and knowledge of the PPO, such as: Statements from key witnesses, acknowledgment acts, information provided by public entities, lifting of communications secrecy by judicial order, among others, considering the versions of</p>

²⁵ It should be mentioned that the description of the offence that previously covered cases of TF was terrorism, in the modality of collaboration with terrorism, where the provision of economic or other resources for the maintenance or performance of activities by individuals or terrorist organizations were included, under the terms of section f), Art. 4 of Decree Law No. 25475. For more information on the current criminalization of the TF crime, refer to the analysis of Criterion 5.1 in the Technical Compliance Annex.

key witnesses, who have or had a link with the terrorist organization, who belong or used to belong to Coca Unions of the area, as strong indicators.

The crimes investigated in the framework of the case were terrorism, in the modality of collaboration with terrorism, and Illegal trafficking of drugs with aggravating circumstances. Six of the accused were convicted, five of them with 20 years' imprisonment and 365 day-fine, while the sixth convicted person was punished with 25 years' imprisonment.

177. In addition to the case mentioned, other investigations and cases that relate illegal trafficking of drugs with TF are under development, specifically in relation to the remains of the OTSL in the VRAEM region.

178. In these cases, the imprisonment sentences delivered are the lowest sentences provided for by Law, that is to say, 20 years, with the exception of the case of "Mr. F," who was sentenced to 35 years' imprisonment; but it should be observed that there is a considerable number of persons acquitted (77 out of 100 prosecuted in the cases where convictions were achieved), as compared with the accused who were actually convicted. Therefore, it is considered that sanctions applied by the country are effective, proportionate and dissuasive to a certain degree.

Use of Alternative measures

179. As with ML cases, in TF cases, the figure of cooperating witness may be used. It is highlighted that the investigation of the "Eclipse" case was initiated with the version of the cooperating witness, and this resulted in the Police Statement whereby 150 individuals were accused of the crimes of terrorism, under the modality of collaboration with terrorism, ML, and illegal trafficking of drugs.

Conclusions on Immediate Outcome 9

180. Based on the aforesaid, **Peru has achieved a moderate level of effectiveness for Immediate Outcome 9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions without delay for TF

181. Peru has a regulatory framework that provides for the implementation of TFSs based on UNSCR 1267 and successor resolutions, as well as UNSCR 1373 (refer to analysis of R.6 in TC Annex.) As it will be analysed later, Peru has no case to prove the implementation of TFSs pursuant to UNSCRs 1267 or 1373. However, the FIU has the power to freeze assets in cases of ML and it can demonstrate the use of such power with the freezing of accounts (refer to table 23 in IO.8,) which indicates that the powers would also work in the implementation of TFSs against terrorism and TF.

182. In compliance with the mechanism established to comply with UNSCR 1267 and successor resolutions, the MRE is the authority that formally receives updates by the permanent mission of Peru to the United Nations and publishes updated lists in its website. Additionally, the FIU has a department in charge of continuously monitoring the amendments and updates to the lists of designated persons or entities. In case of addition or amendment, the FIU issues an official communication to RIs, immediately disseminating the

information and requesting the review of the customer databases and the monitoring of transactions, as well as the enforcement of the freezing without delay in case a match was found. During the on-site visit, it could be verified that the FIU issues the communications to RIs few hours after the UNSC updates the listings.

183. Likewise, based on the applicable regulations, RIs should regularly check the lists that the FIU publishes in its website²⁶. The FIU has a secure electronic channel established for communication of positive matches by RIs and for the issuance of administrative freezing orders by the FIU, with the aim of executing such procedure without delay. In case the FIU orders the performance of an administrative freezing, a communication is sent to the Judiciary for its ratification. During the on-site visit, it could be verified with the interviewed judges that the ratification is a verification process of formal requirements of the administrative freezing executed by the FIU, and not a substantial assessment of the measure. Once the measure is ratified, the MRE is notified to inform the UNSC.

184. Pursuant to the information gathered and the interviews held during the on-site visit, from the updating of the Sanctions Committees Lists to the freezing, the term elapsed would be shorter than 24 hours. Both the FIU and the RIs indicated that no positive matches were found in relation to customers or users that are listed based on UNSC Resolutions. However, even if Peru has no case to prove the implementation of TFSs pursuant to UNSCR 1267, as part of the awareness raising process and implementation of the freezing regulations, authorities conducted a freezing drill with RIs to test the process and its different phases for proper functioning, and that the freezing of funds is actually performed without delay. As a result, it could be established that, from the updating of the lists by the UNSC to the execution of the freezing, a term of 3 hours and nine minutes elapses (total time elapsed in the last drill.)

185. In addition to the aforementioned drills, the FIU has developed instructions for RIs on the entire implementation process of TFSs. During the on-site visit, it could be verified that the RIs are, in general, aware of their obligations on TFSs matters. Based on the information gathered during the on-site visit, UNSC lists are regularly checked, and there is awareness on the obligation to freeze without delay. A sample of the ML/TF prevention handbooks of FIs and DNFBPs was obtained and, mostly, the regular review process of lists is established. RIs interviewed indicated that they check the lists on a daily basis, specially by means of tools they have with their providers, but even those that do not have such tools indicated that they regularly check the lists against their customers databases.

186. Peru has an analysis mechanism by the FIU to determine potential designation targets under the obligations set forth in UNSCR 1267/1988/1989. Said mechanism sets forth that the FIU may request information from different relevant authorities, including prosecutor's offices and specialised directions from the police on investigations or grounds in relation to natural or legal persons that might be involved in the commission of TF crimes. Additionally, the FIU, through the DAO, searches for information in all the sources it has access to. After the analysis by the FIU, it is determined whether there are sufficient elements to make the designation, it is communicated to the MRE to report to the UNSC.

187. Based on the information provided during the on-site visit, the FIU makes regular requests to relevant authorities for information that would allow making the corresponding analysis for the purposes of determining if a person or entity meets the designation criteria. Corresponding authorities indicated that in relation to the requests made by the FIU, links with persons or entities have not been established yet. To the

²⁶ <http://www.sbs.gob.pe/prevencion-de-lavado-activos/listas-de-interes>

date of the on-site visit, Peru has not requested to make any designation to the corresponding Sanctions Committees of UNSCR 1267/1988/1989, which seems to be consistent with its level of exposure to TF risk.

188. In relation to the implementation of UNSCR 1373, at the domestic level, the FIU requests to competent authorities' monthly information on the persons or entities allegedly linked to TF, together with sufficient evidence in relation to each person or entity. The FIU analyses the information received on the basis of UNSCR 1373 designation criteria and verifies: i) the grounds for the existence of an investigation (preliminary), criminal procedure, or conviction, and ii) the correct identification of the person or entity. Pursuant to the analysis of compliance with R.6 (refer to TC Annex), the preliminary investigation made by the Prosecutor (SBS Res. No. 3862-2016 and NCPC, Art. 330.2), the investigation, according to regulation (NCPC, Art. 330.2) may be initiated, among other reasons, due to the report made by authorities based on intelligence information. Therefore, designations on the basis of investigations are not related to a criminal procedure.

189. To the date of the on-site visit, no designation under UNSCR 1373 was made. However, the FIU reported that there are 25 natural persons under monitoring since the second quarter of 2018. Thus, the FIU should finalise the analysis process (by consulting with other intelligence agencies) and determine if the persons monitored actually meet designation criteria.

190. In relation to the implementation of UNSCR 1373, as regards co-operation with third countries, the FIU is aware of its duties to analyse requests on reasonable grounds, based on the criteria established by the Resolution itself, and it may process requests from third countries that are not related to a criminal procedure (refer to TC analysis.) Requests from third countries were not reported.

191. The FIU has conducted trainings, delivered educational material to RIs on the process of implementation of TFSs, and made freezing drills. Based on the conversations held with RIs, it could be determined that there is an understanding of the immediate freezing obligations (both in the framework of the UNSCR 1267 and UNSCR 1373), which is reflected in most ML/TF prevention handbooks that RIs provided, indicating that RIs would be capable of implementing obligations in relation to the corresponding resolutions.

Targeted approach, scope and supervision of at-risk non-profit organisations

192. The 2016 NRA makes a general mention to NPOs and does not provide specifics on their potential vulnerabilities in relation to being misused for TF purposes. After the elaboration of the 2016 NRA, both the FIU and the CONSUF made an NPO risk study. The study from the FIU focused on the description of the status of the NPOs sector, and on determining the characteristics of those NPOs that should be subject to the AML/CFT system. Based on such analysis, the following determination was made on the number of NPOs that represent low, medium, and high risks, depending on their activities and geographical location:

Table 33: Levels of risk of the NGOs

Risk Level	Sub-Set	No risk area	Risk area	Total entities
Low risk	Art and culture	803	75	878
	Sports and leisure	1,340	138	1,478

	Representation of interests (PN or PJ for profit)	6,092	1,865	7,957
	Representation of interests (Resources management)	814	455	1,269
	Representation of interests (Urban population)	1,488	108	1,596
	Representation of interests (workers)	871	101	972
Total Low Risk		11,408	2,742	14,150
High Risk	Investigation		92	92
	Religious		203	203
	Representation of interests (Woods management and health)		236	236
	Representation of interests (Rural population)		40	40
	Political Parties	2		2
	Representation of interests (miners)	19	17	36
Total High Risk		21	588	609
Medium Risk	Investigation	828		828
	Religious	1,614		1,614
	Representation of interests (Woods management and health)	492		492
	Representation of interests (Rural population)	116		116
Total Medium Risk		3,050		3,050
Grand Total		14,479	3,330	17,809

Source: "Analysis of the Non-Profit Organisations Sector (NPOs) 2013-2016," SBS Peru.

193. The analysis made by the FIU counted on the participation of other supervisory authorities of NPOs (CONSUF and APCI.) Moreover, the CONSUF issued Report No. 003-2018-JUS/CSF-ST-DSV with a preliminary ML/TF risk analysis of foundations, on the basis of the information kept by the National Administrative Registry of Foundations (RANF) where 238 Foundations are registered as being active. The risk analysis was performed considering two variables: i) type of activity the Foundation conducts; and ii) geographic area. In relation to the first variable, it is determined that 52% of foundations (125) conduct service activities; 43% (102) artistic, leisure, scientific, or interests' representation activities; and 5% (11), other activities. In relation to the second variable, the outcome yielded was that 24 foundations conduct service/social work activities (accommodation, social services, education, or health) in geographic areas with higher exposure to terrorism risks, such as support or coverage, and as such they represent a high-risk level; 170 conduct social work activities in non-risk areas, and as such they would represent a medium risk level, and 44 foundations of low-risk level. The report recommends: (i) to continue with the preliminary analysis, since in compliance with the obligations, the supervisor shall be able to identify new variables and to assess if it is possible to include them in a subsequent report; (ii) implement immediate control actions upon 24 High Risk Foundations; and, (iii) to include in the planning of medium or long-term control actions Foundations with a Medium Risk Level. To the date of the on-site visit, the implementation of recommendations was at its initial stage.

194. Even if the methodology of the NPOs risk reports takes into account factors such as the geographic location or the activity performed by NPOs, it leaves out other factors that may be relevant for TF, such as the reception of funds from conflict zones. As indicated in the TC Annex, the risk analysis and the application of the RBA are only partially in line with R. 8. However, current regulations that govern the NPOs sector cover the entire sector, which goes beyond FATF's requirements. Competent NPO supervisors are the Peruvian International Co-operation Agency (APCI)²⁷, the CONSUF, and the FIU. In the framework of the CONTRALAFI, a technical table was created to discuss strategies and programmes for the supervision of NPOs. In the context of such technical table, in 2017 a meeting was held between the FIU and supervisory officials from the APCI and the CONSUF in relation to the enhancement of ML/TF Prevention capacities, where the FIU shared its experience on SPLAFI supervision matters, with the aim that NPO supervision activities under the scope of the APCI and CONSUF may be conducted under a ML/TF risk-based approach, based on their risk reports, and homogeneous criteria be adopted in supervisions.

195. Additionally, at the beginning of 2018, a workshop on ML/TF risks was held for NPOs and APCI and CONSUF, which aim was to outreach NPOs, to further analyse ML/TF risks (particularly those related to misuse for TF purposes) and strategies to mitigate said risks, and to establish similar criteria for the performance of supervisions.

196. The most developed supervision of NPOs is conducted by the FIU, which has made supervision efforts both under the general regime²⁸, as well as under the simplified regime: At the date of the on-site visit, 162 NPOs under the simplified regime already had CO appointed. The CONSUF and APCI indicated the need to have more tools to conduct an adequate supervision, particularly, the creation of a registry of NPOs, since there is an important number of NPOs that are not currently registered with the CONSUF, APCI or FIU, despite the fact that the FIU has sent official letters to the NPOs still not registered to comply with said obligation.

Deprivation of TF property and instrumentalities

197. The legal system of Peru contemplates the possibility of adopting judicial and administrative measures to confiscate property linked to individuals and terrorist organisations, and people related to them. To date, no TFSs have been imposed. Based on the information provided by the authorities and RIs of Peru, the situation where a person included in any of the sanctions committees' lists or by third countries was found with funds, property or assets in Peru has not occurred.

198. As mentioned above, said mechanism was tested through simulations co-ordinated by the FIU, which allowed to conclude that the identification and freezing of funds and assets by RIs may be performed in less than 24 hours (as indicated, the last simulation lasted 3 hours and 9 minutes, from the update of the list by the UNSC to the execution of the freezing measure), which complies with the immediacy criteria required

²⁷ It is in charge of conducting and updating the Non-Governmental Development Organisations Registry (ONGD), the Foreign Entities and Institutions for the International Technical Co-operation (ENIEX), and Non-Profit Private Institutions that Receive Donations with Assistance and Educational Purposes from Abroad (IPREDA), and the Registry of Donors of International Co-Operation. The registration to such registries by NPOs that execute international co-operation, regardless of the legal nature of the co-operating entity, is only compulsory for the purposes of being granted with tax benefits, such as tax exemptions or tax refunds.

²⁸ Under the general regime, all NPOs that grant loans are included, and therefore considered FIs based on FATF definition. Thus, all obligations of FIs are enforced on them.

by the standards. It should be mentioned that the freezing obligations and the prohibition to access funds do not apply to all natural and legal persons. However, in the context of Peru, this deficiency is mitigated with the number and type of RIs that go beyond the categories of RIs established by the FATF, which are monitored by the FIU.

Consistency of measures with overall TF risk profile

199. Based on the 2016 NRA, the main TR risk Peru is exposed to derive from the remains of the OTSL, which authorities and RIs pointed out consistently. In general terms, they are directly related to drug trafficking activities and collection of fees by said remains, since these are activities used to TF in the country.

200. Based on the aforesaid, and on the context of the country, the efforts of the country are focused on domestic terrorism and TF rather than those related to the Sanctions Committees of UNSCR 1267 and successor resolutions. For such purposes, there is a mechanism of domestic listings related to terrorism, which is developed and kept by the FIU. As mentioned above, to date, there are 25 persons under analysis and investigation to determine their potential designation, which shows the implementation of mechanisms with a view to applying TFSs at the domestic level. Therefore, it is concluded that measures adopted by the country are mostly consistent with the general TF risk profile.

Conclusions on Immediate Outcome 10

201. Based on the aforesaid, **Peru has achieved a substantial level of effectiveness for Immediate Outcome 10.**

Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions without delay related to proliferation

202. Competent authorities of Peru have developed mechanisms to comply with FPWMD UNSC Resolutions. In this sense, authorities have mechanisms in place similar to those implemented for TF matters. Technological tools have been established to communicate information to RIs and competent authorities, and the procedures and mechanisms for the freezing of funds or other assets of designated persons or entities in relation to FPWMD, identified in the UNSC Resolutions.

203. The relevant UNSCRs are received formally by the MRE, and communicated to competent authorities, in addition to being published on its corresponding website. Additionally, as mentioned above, the FIU has a department in charge of continuously monitoring the amendments and updates to the lists of designated persons or entities. In case of addition or amendment, the FIU immediately disseminates the information to RIs and requests the review of the customer databases and the monitoring of transactions. Likewise, in accordance with the applicable regulations, the RIs must permanently check the updates of the lists published by the FIU on its website²⁹. The FIU has a secure electronic channel established for the communication of

²⁹ <http://www.sbs.gob.pe/prevencion-de-lavado-activos/listas-de-interes>

the RIs in case of coincidences and for the issuance of the administrative freezing orders by the FIU, in order to execute the process without delay.

204. The system implemented to comply with the sanctions related to UNSC Resolutions in relation to FPWMD is similar to that implemented for compliance with UNSC Resolutions related to TF, which have already been analysed under this chapter.

Identification of assets and funds held by designated persons/entities and prohibitions

205. As mentioned above, the lists are distributed by the FIU immediately after their updating by the UNSC, requesting the immediate freezing of funds or assets, in case of positive matches.

206. RIs indicated that, to the date of the on-site visit, no matches had been found in relation to the sanctions' committees related to FPWMD, although the mechanism implemented for such purposes has the same characteristics than that used to prevent and combat TF, which has been tested by a simulation. Likewise, RIs indicated that they did not detect or report to the FIU transactions that may be related to FPWMD activities.

FIs and DNFBPs understanding of obligations and their compliance

207. As mentioned before, RIs showed being aware of the obligation to freeze funds or assets related to FPWMD activities without delay, as well as being familiarised with the updates of UNSC lists. During the on-site visit, it was evident that RIs were aware of the last updates of the lists, and of the entire process to implement TFSs in case a match was found.

208. Likewise, RIs indicated that, regardless of the updates of lists, they regularly check the lists against their customers and transactions through their systems, and for such purposes, they have external providers and systematised tools that allow to verify transactions immediately. As in the case of TFSs, in most ML/TF prevention handbooks provided by RIs, the obligations and procedures are explicit, which indicates that RIs would be capable of implementing their obligations in case any match were found.

Competent authorities ensuring and monitoring compliance

209. As mentioned before, the authority that formally receives updates of sanctions lists is the MRE, which communicates about said updates to the other pertinent authorities. In parallel, the FIU makes a follow-up of lists and, if an update were found, it immediately communicates so to RIs, to request the freezing that, if communicated, is immediately reported to the PPO and ratification by the Judiciary is requested.

210. Supervisors, as part of their duties included in their corresponding supervision handbooks, monitor compliance by RIs with the implementation of TFSs. The assessment team could verify that, during off-site supervisions, it is verified that the ML/TF prevention handbooks include the obligations referred to the regular checking of lists and transactions, which is a responsibility of the CO.

211. Moreover, supervision plans and the scope of on-site supervisions were reviewed, and it was verified that the review of procedures established for the implementation of TFSs are contemplated. Supervisors test



the computer systems of RIs, entering data of persons and entities listed and verifying that these are properly used. In case they are found to be outdated or that such lists are not checked, a warning is made, and a remedial action suggested, regardless of the application of a sanction. Likewise, in addition to having a ML/TF Prevention Handbook, it is verified that they have internal documents of the Compliance area, where the processes to answer to freezing requests made by the FIU are included.

Conclusions on Immediate Outcome 11

212. Based on the aforesaid, **Peru has achieved a substantial level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key findings

- The financial sector (mainly banks, insurance companies, micro-finance companies) showed to have a better understanding of the risks of ML/TF. The understanding by DNFBPs is minor. However, despite the efforts made to identify and understand the risks, there are still important weaknesses in their proper identification, considering each sector's context and the geographic area they operate in. It is estimated that the understanding of TF risk is limited. RIs did not show an understanding of the risk exposure level or how they could be misused. As a consequence, actions tending to mitigate such risk cannot be carried out.
- The understanding of the ML/TF risks by RIs, in some cases, differ from the understanding by authorities, based on the NRA. For instance, casinos perceive that their activity has a low exposure to ML/TF. There are sectors, mainly within DNFBPs (such as casinos and slot machines operators) that considering the geographic context of the country, the high economic informality, threats such as corruption, and other associated ML risks, have still not comprehensively understood the ML/TF risks they are exposed to.
- Even if the different RIs have made progress in the implementation of their AML/CFT monitoring systems, some FIs (certain ETF) and DNFBPs (some notaries and casinos), still lack an internal monitoring system capable of issuing enough alerts to detect unusual transactions. Moreover, in certain cases, for filing of STRs they are not undertaking an analysis and assessment procedure in relation to suspicious transactions, and in other cases, it is not made in the 24-hour period required based on the sample of ML/TF prevention handbooks.
- Remittance and postal draft companies regulated by the MTC, and lawyers and accountants, have a limited understanding of their ML/TF risks and the implementation of their AML/CFT obligations.

Recommended Actions

- Further work in the dissemination and understanding by the financial sector and DNFBPs of ML/TF risks resulting from the main threats identified in the NRA and different SRAs of the country.
- Increase training, develop guidance and, in general, perform any other awareness raising action with all RIs (specially DNFBPs) on the risk of terrorism and its financing Peru is exposed to.
- RIs should strengthen their monitoring systems. FIs, ETF and DNFBPs, such as notaries and casinos, should adjust their ML/TF prevention handbooks to comply with the criterion of timeliness for the filing of STRs.
- RIs, both FIs as DNFBPs, should receive more feedback and guidelines from the FIU in relation to, for instance, improvement of automatization procedures, optimisation of alerts to allow the detection and timely filing of quality STRs.
- Remittance and postal draft companies regulated by the MTC, and lawyers and accountants should work to achieve an adequate understanding of the ML/TF risks in order to adequately mitigate them. Some technical deficiencies of the applicable regime for lawyers and accountants should be overcome.
- The companies devoted to currency exchange and ETF should improve their internal AML/CFT controls, apply appropriate CDD measures on their customers (including BO) and strengthen their ongoing monitoring and analysis of alerts to file STRs that are useful for the authority.
- CACs should deepen the identification and understanding of their risk in order to properly mitigate them. In order to achieve this, the sector should develop and apply AML/CFT policies at the sectoral

level, sharing experiences between RIs and the authority, as well as developing internal controls and programmes to mitigate the risks identified.

The relevant Immediate Outcome considered and assessed in this chapter is IO4. The recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (Preventive Measures)

213. Pursuant to Chapter 1, the banking sector dominates the financial sector and handles the largest number of transactions that occur in the country and its interconnection with the international financial system is considered the most relevant in the AML/CFT system, not only for its size and importance in the economy, but also for being the most exposed sector. Additionally, to a lesser extent, but with a relative importance, other financial sectors such as CACs, currency exchange offices, and remittance companies (ETF) also have relevance in the AML/CFT system. However, it should be observed that remittance and/or draft postal services which concession is granted by the MTC have a limited number of transactions, with an impact on the AML/CFT prevention system of low importance.

214. Taking into account that 60% of the Peruvian economy is informal, and that the high use of cash is considered an important vulnerability, DNFBNs are especially important in the Peruvian context, in particular, the real estate and construction sectors, which occupy the fifth place of importance in the Peruvian economy. In relation to notaries, to 2018 there were 565 notaries registered with the FIU, and with CO appointed. In the case of lawyers and accountants, the authorities are currently trying to determine the actual number of lawyers and accountants that conduct the activities defined in FATF R.22; for such purpose, the FIU is working on a survey for lawyers and accountants registered with the SUNAT. However, the FIU has already identified 36 legal firms and 15 accounting firms of larger size that, due to the nature of the services rendered, could be considered RIs under the Peruvian regulations.

215. It is important to mention that for the evaluation of this immediate outcome, information was gathered from the most relevant RIs, from the interviews held during the on-site visit, as well as from the analysis of different documents, such as: Samples of ML/TF prevention handbooks, procedures, risk methodologies, CO reports (biannual (ISOC) or annual (IAOC), based on each case) and information on supervisions (i.e. Typologies of violations, recommendations.)

Understanding of ML/TF risks and AML/CFT obligations.

a) Financial Institutions

216. The financial sector, particularly banks and micro-finance companies, shows a greater understanding of the ML/TF risks to which it is exposed to, and mainly of the threats and vulnerabilities identified in the NRA. In general, FIs regulated by the SBS have developed and implemented procedures for the identification and assessment of ML/TF risks, taking into account ML/TF risks factors they are exposed to, which has contributed to the application of enhanced measures in relation to greater risks.

217. Competent authorities have issued guidance, guidelines, and developed supporting supervisions to help RIs implement AML/CFT measures related to CDD and filing of reports, among others, with the aim of strengthening their understanding of AML/CFT obligations. Additionally, during the on-site visit, a knowledge of the 2016 NRA results was observed. However, this knowledge is not translated into an internalisation of the risks in practice that could result in the application of measures to mitigate risks. Such

is the case, for example, of the companies devoted to currency exchange, that during the interviews, claimed to be generally acquainted with the threats identified in the NRA, but that could not show an understanding of the scope and impact of these risks in their activities. However, based on the 2018 National Plan, the Supervision Department of the FIU, in January 2018, developed a ML/TF risk management guidance addressed to this sector, with the aim of strengthening the understanding of the risks in the sector.

218. It is estimated that, in general, FIs know or implement obligations they are subject to. However, as mentioned above, as a result of the interviews with the different sectors, certain difficulties were found in the implementation of the obligation to detect suspicious transactions, since, based on the information collected during the on-site visit, certain entities (such as banks and micro-finance entities) communicate transactions with specific factors, for instance, persons related to news reports, criminal procedures, or judicial sentences (in a reactive manner.) In this sense, even if the currency exchange offices sector has systems for the identification of recurring customers, free access to a database of the SUNARP, as well as an affidavit system on the source of funds, weaknesses remain in the procedure to analyse alerts, unusual and suspicious operations that would result in filing of a report to the FIU.

219. In general, during the on-site visit, CACs, showed an understanding of their AML/CFT obligations, mainly in relation to the submission of quarterly reports and biannual reports to the FIU, as well as CDD conducted on their associates, searching for information in different databases. However, certain CACs still ignore the ML/TF risk level they can be exposed to, for instance, the geographic areas they operate in (for example, the VRAEM area), seem to expose them to a higher ML/TF risk, and is not properly mitigated.

220. Even if remittance and postal drafts companies supervised by the MTC represent a small portion of the financial system, based on their reduced participation and the low number of transactions they conduct, it is estimated that RIs do not show an adequate understanding of the ML/TF risks they are exposed to.

b) DNFBPs

221. The FIU has made a series of efforts addressed to DNFBPs in order to help them have a better understanding of the risks associated to ML/TF, as well as their obligations on the matter, through trainings, experience exchange sessions, feedback meetings, preventive visits, on-site visits, among others.

222. As a result of the documents analysed and the on-site interviews, it was identified that, in general, DNFBPs have a medium level of understanding of their ML/TF risks and know their AML/CFT obligations only in general terms. They did not prove to be able to apply a risk-based approach, since they are mainly limited to the risk cases provided for in the regulations, instead of considering each customer's risks, their geographic location, or the type of transactions performed.

223. Casinos do not seem to clearly appreciate the ML/TF risks their activity is subject to and which they are exposed to. Pursuant to the information gathered during the on-site visit, the casinos sector is considered to have a low ML/TF risk, which does not seem to be in line with their cash-intensive nature (which is reflected as a risk factor in the NRA), and with the deficiencies in the CDD conducted by to some of their customers in hard-to-reach geographic areas. Lawyers and accountants have a less developed understanding of the level of risk than DNFBPs, since they have been recently incorporated as RIs in the AML/CFT framework.

Implementation of risk-mitigating measures

a) Financial Institutions

224. The financial sector has adopted actions to develop and implement procedures to identify and analyse ML/TF risks. Banks, micro-finance companies and certain ETF, as compared with other financial RIs, have measures in place to better mitigate their risks. Such actions have been translated into the elaboration of activity profiles, assessment of their customers' ML/TF risks levels, market studies, assessment of new geographic areas and products, and the specialisation of functions conducted by CO. Likewise, enhanced due diligence measures have been implemented for customers and/or correspondents that represent a high-risk level.

225. It should be noted that some CAC start to apply ML/TF risk mitigation measures through computer systems to rate their customers' risks, analyse the exposure to such risks, classify customers based on the risks identified, among others.

226. In relation to the currency exchange offices, the FIU made surveys that measured the degree or level of difficulty of the sector to implement a ML/TF prevention system, under a risk-based approach; likewise, an experience exchange and feedback session was held with representatives from the sector. However, it is estimated that more outreach activities with the sector need to be conducted, since as a result of the interviews held it could be appreciated that the mitigating measures are not proportionate to the risks of the sector, such as the high flow of cash that, together with the high rates of informal economies acknowledged in the NRA, considerably expose the sector to ML/TF misuse. However, the progress made mainly in relation to regulations to govern this sector, did not translate into an adequate efficiency of risk mitigation measures, in contrast with the former regulatory compliance mechanism.

227. In relation to loan and pawn companies, based on the regulatory amendment of December 2016 (SBS Resolution No. 789-2018 and its predecessor Resolution No. 4463), a ML/TF risk management and prevention risk-based approach was established, but there remain considerable deficiencies relating to the monitoring of transactions based on the customers' risk profiles.

b) DNFBP

228. The implementation of mitigating measures by DNFBPs pursuant to the legal framework established varies among each DNFBP. Likewise, ML/TF prevention efforts made by some members of the sector through the implementation of computer systems for the monitoring of transactions are recognised.

229. Casinos and slot machines' operators have adopted actions to assess their risks and implement risk mitigation actions, such as the use of different transactions computer systems and other training actions. However, risks are not properly mitigated because they are not understood from the point of view of the NRA itself in relation to the risks of the sector, considering the nature of the activity. In the interviews, the sector claimed to bear a low risk, given that the amounts bet are not bancarised and that they do not deliver any proof of gains. In this sense, for instance, prevention handbooks would have to reflect the specific risks the sector is exposed to in relation to ML/TF misuse, in particular, of RIs established in higher-risk geographic areas, not only through the adjustment of reporting thresholds, but also strengthening their customers' CDD. However, the handbooks revised are identical, using a sample handbook as basis.

230. Moreover, in the case of notaries, construction companies and real estate companies, it could be noticed that their associations have been working on the matter, and they have achieved an important collaboration level with the FIU, especially in relation to training. However, certain representatives do not

achieve an understanding of their role and function as gatekeepers (in the case of notaries) in the AML/CTF system.

231. Finally, in the lawyers and accountants' sector, as previously explained, no mitigating measures are applied yet.

Implementation of specific and enhanced CDD and record keeping requirements.

a) Financial Institutions

232. The financial sector of Peru has established mechanisms to have sufficient and updated knowledge of their customers; they apply risk-based CDD measures (general regime, enhanced or simplified regime), as set forth by the regulation, and they establish so in their corresponding policies; moreover, they develop actions to obtain, register, and regularly update the information about the true identity of their customers, regular or not, and about the business transactions performed. Likewise, there is the obligation to identify BO and PEP in relation to all services or products rendered and adopt reasonable measures to verify their identity, as far as due diligence measures so allow, in order to be convinced that they know the BO.

233. During the on-site visit, FIs mentioned that, in addition to general information required to natural and legal persons, they rate their customers' ML/TF risk to define the type of CDD and monitoring to be applied. In the ML/TF risk rating matrix, the following factors are used: PEP customer, product, geographic area, distribution channel, type of person, economic activity and whether they are RI.

234. Some banking institutions indicated that there are certain entities they do not initiate business relationships with for their inherent high-risk condition, such as currency exchange companies, casinos, and weapons companies.

235. FIs supervised by the FIU are classified based on three CDD regimes, as in the case of the other supervisors. In particular, the enhanced regime implemented by the FIU is applied to: a) non-resident nationals or foreigners; b) non-domiciled legal persons; and c) PEPs or their family members, spouses, or legal partners, and those legal persons where a PEP has a participation equal to, or higher than 25% of its social equity, contribution or share.

236. When FIs are not capable of conducting CDD, they: a) do not enter into the business relationship, do not conduct a transaction, or terminate a business relationship; and/or b) evaluate the possibility to file a STR in relation to that customer.

237. FIs save and keep records of all their customers' transactions, as well as information derived from the application of their AML/CFT policies and procedures for a minimum period of 10 years.

b) DNFBP

238. DNFBPs have legal obligations relating to the application of due diligence measures and know-your-customer policy. In general, most DNFBPs implement measures to know their customers. Despite the applicable regulation, as a result of the on-site visit, it was detected that notaries, lawyers and accountants are still not certain about the proper enforcement of CDD measures on their customers, especially such that allows them to know the identity of the BO.

239. Based on the information provided by casinos, it was identified that, as part as the know your customer process, they use transaction affidavit forms with the aim of gathering general data from their customers, verifying the condition of PEP, and the origin of the assets involved in the transaction. Likewise, they have risk matrices to rate customers, with factors in relation to the type of customers, economic activities, and transactions.

240. During the on-site visit, casinos claimed to keep virtual files, which has strengthened the record keeping requirement under the regulations. However, the sector could apply enhanced CDD measures for high-risk customers, considering other factors related to higher-risk countries identified by the FATF, TFS relating to TF, and geographic areas they operate in.

241. Additionally, for some sectors, EDD is also applied in relation to trusts and NPOs, natural or legal persons that receive transfers from countries considered non-cooperative countries by the FATF, natural or legal persons known to be under investigation for ML/TF, those related to persons investigated for ML/TF, and persons devoted to correspondent services with foreign companies established in countries with low or zero tax imposition.

Implementation of enhanced CDD

242. On Immediate Outcomes 10 and 11, the compliance of FIs and DNFBPs regarding TFS obligations has been analysed in addition to the supervision fulfilment of its obligations. The FIs and DNFBP develop the revision in their customer databases and perform monitoring of transactions to carry out the freeze without delay in the event of a coincidence being detected.

a) Financial Institutions

243. The EDD comprises mainly the following measures: a) for PEPs, require the name of their relatives, spouses, or legal partners, and that of the legal persons they keep a business relationship with in compliance with the provisions of the previous paragraph; b) increase the frequency of the review; c) perform inquiries and apply additional identification and verification measures; and d) submit the decision to accept and/or maintain the business relationship to the management level.

244. In relation to the application of obligations relating to wire transfers, it should be noted that since the law does not set forth a minimum threshold for transfers made, the EDD is conducted on all of them, regardless of the amount. However, as a result of the information provided during the on-site visit, it was identified that certain RIs apply this regime based on the risk and, internally, have thresholds over USD 7,500 or USD 8,000 per transaction to determine the high risk of the operation, and thus apply EDD or reject the transaction.

245. In relation to EDD of correspondent banking, banks in Peru evaluate the ML/TF Prevention Handbooks and Policies of the correspondents, the quality of their supervision, the members of the board of the correspondent, the questionnaire of the Wolfsberg Group, among others, and assess the deficiencies in the ML/TF Prevention System identified by the correspondent's supervisor. Likewise, in relation to New Technologies, competent authorities pointed out that companies issue a report with the assessment of the potential ML/TF risks exposure level in relation to new products or services.

246. Moreover, in relation to the application of measures against higher-risk countries, ETF pointed out that they apply the enhanced know-your-customer regime upon customers that receive transfers from countries considered non-cooperative, with little banking supervision or countries subject to OFAC sanctions; or else, they do not provide the service which origin or destination relates to high-risk countries as identified by the FAFT. In relation to other FIs, in their risk matrices they use the geographic area factor, based on transactions, paying attention to the considerations issued by the FATF in relation to countries considered to bear a higher risk, also in relation to the nationality and place of residence of their customers. Pursuant to the information provided during the on-site visit, enhanced CDD is applied to natural and legal persons that receive transfers from countries that the FATF considers as non-cooperative countries.

b) DNFBP

247. In general, DNFBPs conduct the enhanced regime for customer due diligence on non-resident nationals or foreigners, legal persons non-domiciled in the country, PEPs, and natural or legal persons that are in the lists of people prosecuted or investigated for ML/TF crimes or their predicate offences. Particularly, in the case of casinos, during the on-site visit they claimed that they implement their risk matrix to apply enhanced measures upon higher-risk customers. However, the information provided showed certain weaknesses in the identification and implementation of risk factors to allow them to grant the appropriate risk levels. In the case of notaries, based on the provisions of their AML/CFT Handbooks, they are still not certain about the application of ML/TF risk-based measures. In relation to lawyers and accountants, at the time of the on-site visit, these obligations did not exist, however the competent authorities are working on their development.

Reporting and tipping-off obligations

248. RIs shall communicate to the FIU the suspicious transactions identified, regardless of the amount involved, in an immediate and sufficient manner.

249. In relation to the number and trend in relation to the filing of STRs, the statistics shown by competent authorities reflect a steady annual increase in the number of STRs received by the FIU, particularly from DNFBPs, which in the last year increased the number of STRs they file with the FIU.

Table 34: STRs per type of RI (2014-June 2018)

Type of RI	2014	2015	2016	2017	2018	Total
Financial Institutions						
Banks	2590	2574	3326	3445	1635	13577
ETF	317	398	490	1045	1384	3634
Municipal Savings and Loans Associations	279	427	391	345	131	1573
Financial Companies	186	96	79	152	96	609
Investment Funds and Mutual Funds Managing Companies	66	85	115	160	94	520
Collective Funds Managing Companies	40	47	50	91	34	262
CAC non-authorized to accept deposits from the public	53	125	36	60	46	320

Pension Fund Managers	34	17	17	36	22	126
Stockbroking and/or Securities Intermediary Companies	15	10	20	50	24	119
Insurance and Reinsurance Companies	25	11	26	31	14	107
Currency exchange offices	6	4	21	61	12	104
Edpymes	10	31	31	14	6	92
Other FIs*	81	72	66	92	71	382
Total STRs from FIs	3709	3897	4668	5582	3569	21425
DNFBPs						
Public Notaries	1401	2294	3373	3411	1603	12085
Construction and Real Estate	150	115	202	177	308	952
Casinos and Slot Machines	8	22	9	32	10	81
Buying and Selling of Jewellery, Precious Metals and Stones	1			4	26	31
Total of STR from DNFBPs	1560	2431	3587	3624	1947	13149
Other RIs						
Buying and Selling of Vehicles	694	662	897	1708	521	4482
Customs Agents	45	190	286	383	54	958
Commercialization of machinery and equipment included in the established national subheadings		14	69	69	29	181
Supervisor	3	2	51	6	6	68
Others**	8	4	9	17	14	52
Total STRs from other RIs	750	872	1312	2183	624	5741
TOTAL	6019	7200	9567	11389	6140	40315

250. Despite the figures that show an increase in the volume of STRs submitted by RIs from 2014 to mid-2018, as a result of the on-site interviews, it seems that this increase is due to the fact that RIs report before any alert triggered, and therefore do not conduct an assessment and analysis of the alerts or unusual transactions. As a result, whether STRs are appropriate based on the regulatory parameters and the feedback provided by the FIU is not performed. During the interviews held with FIs and DNFBPs (banks, notaries, casinos, remittances, and currency exchange offices), they indicated that the filing of STRs with the FIU is focused on checking objective parameters, for instance, if a transaction exceeds a threshold, if the customer is PEP, if the customer is under investigation, in news reports, or under judicial proceedings, and not from the implementation of the ML/TF prevention system. The quality of STRs can be significantly improved, and the proactivity in their submission should be the result of each entity's risk analysis and not merely of formal compliance.

251. The financial sector (mostly banks) seems to comply with the obligation to report to the FIU transactions considered suspicious. In time, it is evident that, in most cases, they comply with the timeliness requirement, since STRs are generally submitted in a term of up to 24 hours after the transaction was rated as suspicious. However, in certain cases, the difficulty to determine whether a transaction is suspicious was

expressed, since they do not have information on persons under investigation for the commission of crimes. Additionally, the analysis of the sample of AML/CFT Handbooks shows that certain ETF establish that the filing of a STR can occur in a term of up to fifteen (15) days after the suspicious transaction was detected.

252. In relation to DNFBPs, the understanding of the obligation to report suspicious transactions is limited. In relation to casinos, even if there is an increase in the number of STRs filed, from 8 in 2012 to 32 in 2017, it is estimated that the number of STRs filed is still low, considering the importance the sector has in the country. Moreover, there seems to be no understanding of the suspicious transaction, since in some cases, transactions related to PEPs are submitted as suspicious, and in others, to determine the transaction as suspicious, a quarterly analysis of all regular and non-regular customers is made. Additionally, in the case of ETF, the analysis of the sample of AML/CFT Handbooks shows that certain casinos and notaries establish that the filing of an STR can occur in a term of up to fifteen (15) days after the suspicious transaction was detected.

253. In relation to lawyers and accountants, they were recently incorporated to the AML/CFT regime, reason why they have still not filed any STR.

254. The obligation to file STRs or any other unusual transaction lies in the CO, and said communication is confidential and reserved. In this sense, Law No. 27693, prohibits any authority or third party, except the CO and the FIU, to have access to the identity of individuals reported in a STR, including external and internal auditors and SBS financial supervisors.

Implementation of internal controls and legal/regulatory requirements.

a) Financial Institutions

255. The financial sector has implemented internal ML/TF prevention systems with compliance and risk management components. Said systems are mainly comprised by procedures and controls related to the timely detection and submission of STRs.

256. Moreover, the FIs implement mechanisms that would allow them to know their personnel through due diligence measures to know their workers and directors; these policies are part of the recruiting and personnel selection policies of the entities.

257. Based on the information provided, banking institutions have developed training and evaluation programmes for their personnel where they include general ML/TF concepts, compliance and risk management components, red flags, communication of alerts, and their responsibilities. Likewise, they have Corporative Codes of Ethics and Conduct that indicate sanctions in relation to violations committed related to their obligations on AML/CFT matters.

258. ETFs showed that they generally know their AML/CFT obligations. However, room for improvement was found in relation to internal procedures on training matters in order to provide a better understanding of the sector's risks, not only at the senior management level, but also of all relevant actors in the AML/CFT regime in the sector.

259. At the financial group level (made up by financial, mixed, and non-financial conglomerates), controls and procedures are applied not only to RIs in particular, but to all legal persons that make up such economic group under any of its forms.

260. The Peruvian authorities pointed out that economic groups should develop corporate policies and procedures in relation to ML/TF prevention matters in four main axis: a) policies and procedures at the group level to manage and prevent risks of ML/TF; b) policies and procedures for sharing information within the group with ML/TF prevention purposes; c) necessary criteria to be adopted by the members of the economic group to ensure high standards in hiring personnel and appointing directors and managers; and d) AML/CFT training programmes. Through the supervision tasks conducted by the SBS, said authority determines the uniformity and consistency between AML/CFT policies and procedures developed at the group level.

b) DNFBPs

261. DNFBPs under FIU supervision have a prevention handbook, in compliance with the regulations applicable, which is disseminated to directors and managers, to communicate the policies and procedures to be followed in the exercise of their functions. In general, DNFBPs implement due diligence policies for their personnel and directors' knowledge, to mitigate their exposure to ML/TF risks. Likewise, they have a Code of Conduct.

262. Based on the information provided, it was determined that casinos have training programmes addressed at their personnel in relation to current regulations on ML/TF prevention matters.

263. Moreover, notaries are trained once a year by their CO, by natural or legal persons, private or public, devoted to conducting training on AML/CFT matters. In relation to the hiring of new employees in some Notaries Offices, it was pointed out that they adopt the necessary measures to ensure the fit and proper of their personnel, and they develop induction programmes for new employees and training courses for existing ones.

Conclusions on Immediate Outcome 4

264. Based on the aforesaid, **Peru has achieved a moderate level of effectiveness for Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key findings

- Even if supervisors, mainly the FIU and the SBS, are implementing a RBA, the scope of supervision is at different development levels. In the case of the SBS, within the framework of supervisions made, in general, there is an understanding of the ML/TF risks supervised institutions are exposed to. The FIU has made actions to conduct an RBA supervision and is implementing the last updated methodology of 2017 and 2018. As for the rest of the supervisors (MTC, MINCETUR, SMV) RBA supervision should still be developed.
- During the authorities' supervision procedures (except for the FIU), criteria that reflect the NRA and SRAs outcomes are not clearly defined, including the incorporation of such information in the rating of the RI's risks, except those relating to risks associated to geographic areas.
- In general, supervision procedures (except for the SBS), particularly on-site supervisions, are focused on the review of policies, handbooks, and procedures of the ML/TF prevention system of RIs. Observations and recommendations (remedial actions) made by supervisors are mainly derived from a compliance supervision. The sample of on-site supervision reports reflects, in general, considerations in relation to the Handbook of ML/TF prevention, procedures, code of conduct, TRs of RIs, and no mentions in relation to ML/TF risks management or the application of an RBA by RIs.
- The SBS has the mechanisms in place for the granting of licenses and registration with the aim of preventing criminals and their associates from owning a financial entity or occupying an administrative function.
- CACs have affiliation mechanisms, but there are no mechanisms in place for the regulation, granting of licenses, and authorisation of transactions, which enable criminals or their associates to be BOs of a significant share of a CAC³⁰.
- In relation to RIs supervised on AML/CTF by the FIU, an important effort has been made to register activities considered RI. However, even if there are mechanisms in place to verify the moral suitability of directors, managers, and workers, there is still no mechanism to prevent criminals and their associates from being a BO of a significant share of the RI.
- Supervisors have used different tools, such as guidelines, trainings, answer to inquiries, direct feedback, etc. to raise awareness on the identified risks, as well as on the obligations on the matter. However, these tools do not seem to result in a greater awareness in relation to the importance to send quality STRs, since in some sectors, particularly DNFBPs, a lack of understanding of the preventive system is perceived.
- Supervision authorities in Peru have the legal powers and a regulatory framework that contemplate a wide range of fines to be applied in order to correct the lack of implementation and proper compliance with the prevention and detection measures. However, based on the sample of reports and information submitted, recommendations, remedial actions, and sanctions address merely formal non-compliance with the preventive system.
- In relation to FIs, companies and remittance and postal drafts regulated by the MTC are still not supervised in AML/CFT matters. Lawyers and accountants are not being supervised.

³⁰ After the on-site visit, Law No. 30822 that amends Law 26702, the General Law on the Financial System and Insurance and SBS Organic Law and other regulations in relation to the regulation and supervision of CACs was approved. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in the follow-up processes before GAFILAT.

Recommended Actions

- Establish mechanisms to prevent criminals or their associates from being professionally accredited or being the BO of a significant share of DNFBPs or FIs (CAC, currency exchange offices, loans and pawn, and NPOs that grant loans.)
- Implement mechanisms to help and guide RIs to analyse alerts and unusual transactions for the filing of quality STRs.
- Strengthen the RBA to supervision to make an impact on the application of the RBA by RIs.
- The enforcement of recommendations, remedial actions, and sanctions should be proportionate and dissuasive.
- Start the supervision process of remittance and postal drafts by the MTC, as well as the supervision of lawyers and accountants.

The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R.26-28, R. 14, R.34 and 35.

Immediate Outcome 3 (Supervision)

Licensing, registration and controls preventing criminals and associates from entering the market.

265. Peru has regulators and supervisors that oversee compliance of the AML/CFT framework: SBS, SMV, MTC, and FIU. Different regulations have been established with the requirements for the granting of licenses and/or registration of FIs. FIs regulated by the SBS require two authorisations to start operating, one organisation authorization and one for their operation, with the prior requirement of being corporations. With the purpose of evaluating the moral and economic soundness of organisers, directors, managers, and shareholders of FIs, these shall have renown moral and economic soundness, they cannot have been convicted for illegal trafficking of drugs, ML/TF, terrorism, attacks against national security, and other wilful crimes.

266. As part of the evaluation process for the granting of organisation and operation authorisations for FIs, the corresponding area (SABM, SAS or SAAFP), and DSRLAFT conduct a validation or verification in the national and international databases on the legal and judicial situation of all natural and legal persons that will be part of the organisation as shareholders, directors or main managers; public information is reviewed, and additional information is requested from the FIU, based on the established form. Pursuant to information provided during the on-site visit, five cases arose, during the 2013-2017 period, where the SBS rejected or denied the authorization for the operation of a FI, mainly due to lack of economic soundness or documents.

267. The SBS, during the supervision processes, also evaluates the moral suitability of directors, managers, and workers based on the implementation of the knowledge of workers process. This includes a revision of a sample of files of officials and workers; if deficiencies were found, these are communicated as warnings to the company, and may subsequently result in sanctions. Likewise, at the off-site supervision level, a regular review of the content of the Register of Directors, Managers, and Main Officials (REDIR) is made, in relation to shareholders and main officials of the FIs.

268. In relation to FIs regulated by the SMV, for the granting of an organization license, the economic, financial and moral soundness of the organisers, and/or shareholders is evaluated, through consultations and reports in national and international systems (such as Infocorp, the Judiciary, among others), which are subsequently communicated to the FIU. Likewise, the register of directors, managers, representatives and

others related to the RIs are evaluated, even when there is a change in the organisation. Between 2014-2017, the SMV has rejected the granting of licenses in 4 opportunities.

269. In relation to FIs regulated by the MTC, once the concession is granted to render the postal remittance service, control actions are conducted, including the verification of documents submitted to verify if they coincide with judicial and police records certificates issued by competent entities. If information submitted were proven to be false (affidavit on police and judicial records), the MTC cancels the postal concession. During 2016 and 2017, no cancellations occurred.

270. Moreover, in relation to FIs supervised by the FIU, the regulation established that they should register with the FIU. To June 2018, the FIU has 1,375 FIs registered. On the basis of FIU procedures, and with preventive supervisions³¹ (during 2012-June 2018 189 on-site visits were made and 51 official letters sent), the number of FIs registered in the RIs Management System (SIGSO) of the FIU has progressively increased throughout the years:

Table 35: Register of FIs before the FIU

Type of FI	2013	2014	2015	2016	2017	2018
Currency exchange offices	951	1007	1061	1056	1067	1071
CAC non-authorized to accept deposits from the public	93	129	144	177	196	212
Loans and/or pawn (includes NPOs that grant loans)	56	67	76	81	79	89

271. In case the FI is not registered, the FIU has applied sanctions for failure to register CO (refer to FIU violations table.) Within the scope of FIU supervision visits, the evaluation on the procedures adopted by RIs to ensure the integrity of their directors, managers, and workers is considered. However, mechanisms are not in place to prevent criminals or their associates from being BO of a significant share of FIs supervised by the FIU.

272. It should be mentioned that, in relation to CACs, at the time of the on-site visit, the prudential supervision was conducted by the FENACREP, with voluntary affiliation. Likewise, at the time of the on-site visit, there were 600 CACs, of which only 96 were affiliated to the FENACREP, and 212 were registered with a CO with the FIU, as AML/CFT supervisor.

273. It should be mentioned that CACs may perform the economic activity of savings and credits without license or authorisation, which hinders the proper control of activities performed by this sector and their associates; specially it is impossible to prevent criminals and their associates from being a BO of a significant share of a CAC. Therefore, and based on the information gathered during the on-site visit, CACs represent

³¹ Preventive supervisions are made through on-site visits or through official letters and are performed based on RIs that are not registered and that have not communicated the appointment of the CO; these aim at urging compliance with the regulatory obligations to begin implementing their ML/TF prevention systems.

in the Peruvian context an important ML risk, and the lack of regulation of the activity substantially increases the risk of being misused for ML/TF purposes³².

274. The FIU supervises 1,811 DNFBPs on ML/TF prevention matters. Additionally, it supervises another 3,322 RIs. As reflected in the table below, during the period assessed, there has been an increase in the number of RIs as a result of FIU's actions in preventive supervisions (747 on-site visits and 308 official letters sent during the 2012-June 2018 period), and other awareness raising actions conducted by the FIU that aimed at promoting the registration of RIs, and the appointment of a registered CO. The FIU has applied sanctions for failure to register CO (refer to FIU violations table.)

Table 36: Register of RI 2014 - 2018 (June)

Type of RI	2014	2015	2016	2017	2018
DNFBPs					
Public notaries	566	574	567	573	565
Dealers in jewellery, precious metals and stones	152	159	167	156	152
Construction and real estate	185	268	300	381	404
Real Estate	509	603	633	720	687
Real Estate Agents				2	3
Total DNFBPs	1412	1604	1667	1832	1811
RIs other activities					
Construction	1596	2029	2155	2228	2274
Trade in currency	6	7	5	5	5
Trade of works of art	12	12	12	11	11
Buying and selling of vehicles	252	281	296	286	277
Mining companies	258	286	310	-	-
Mining companies - Leg. D. 1249				293	289
Accommodation facilities	36	43	48	-	-
Accommodation facilities - Leg. D. 1249				55	59
Racetracks	1	1	1	1	1
Lottery and the like	6	6	6	4	4
Managers of interests in public administration under Law No. 28024.	1	1	1	1	1
Public Auctioneers	138	142	149	149	151
Travel and Tourism Businesses	66	77	80	-	-
Travel and Tourism Businesses - Leg. D. 1249				88	107

³² After the on-site visit, Law No. 30822 that amends Law 26702, the General Law on the Financial System and Insurance and SBS Organic Law and other regulations in relation to the regulation and supervision of CACs was approved. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in the follow-up processes before GAFILAT.

Trade of machines and equipment, national subheadings No. 84.29, No. 85.02 and No. 87.01.	0	48	61	67	67
Dealers in gold	0	12	25	59	77
Antiques shop	5	5	4	5	5
Others	0	0	1	2	4
Total RIs from other activities	2377	2950	3154	3254	3332

275. In relation to DNFBPs, there is no prior assessment of the fit and proper of their shareholders or partners. Therefore, there are no mechanisms in place to prevent criminals or their associates from being a BO or holding a significant share of DNFBPs. However, in the case of notaries, the entrance to the notarial function is made through public selection process before a jury made up as set forth in the Law, that is comprised by 3 grading phases (résumé, written examination, and oral examination), which are disqualifying and not subject to revision. Additionally, in relation to real estate agents, agents that comply with the provisions of the Law are registered with the Registry of Real Estate Agents from the Ministry of Housing, Construction, and Sanitation. The legal effect of the compulsory registration is the state acknowledgment of the suitability of the real estate agent to develop real estate intermediation activities in the national territory.

276. The activity of casinos and slot machines is regulated by the MINCETUR, through the General Directorate of Casinos and Slot Machines (DGJCMT), which grants all owners of casino gambling rooms and slot machines an express authorisation to exploit the activity, as long as requirements provided for in the Law are complied with, and prior establishment of a guarantee in relation to obligations and sanctions that could be originated, and as a safeguard of the rights of users and the State.

277. Finally, given the recent incorporation of lawyers and accountants, fit and proper mechanisms still need to be developed by the corresponding lawyers and accountants' associations.

Supervisors' understanding and identification of ML/TF risks.

278. Supervision authorities in Peru have developed important efforts to improve their understanding of the country's ML/TF risks. In addition to the NRA, authorities have developed SRAs, with the aim of identifying in depth the associated risks that affect specific sectors of the economy.

279. The SBS has the ML/TF risk supervision department (DSRLAFT), which in 2012 developed an evaluation methodology that enables determining the level of exposure to ML/TF risks of all FIs under its supervision. This methodology is revised and adjusted annually. Additionally, the DSRLAFT elaborated its own methodology on the geographic zones factor, which aim was to determine the level of exposure to ML/TF risks per department. The outcomes of the application of this methodology are fed into the DSRLAFT risk matrix, which was used for the Annual Plan of Visits of 2018.

280. The SMV, through the General Intendency of Entities Supervision (IGSE) conducts on-site and off-site supervisions and has implemented and developed a ML/TF risks matrix, which includes risks factors and mitigators identified by the sectoral regulation.

281. The FIU, through its Supervision Department, conducts a risk analysis of RIs under its supervision, with the aim of guiding supervisions, based on a qualitative supervision updated annually based on variables obtained from the supervision activity. During 2016, a new methodology for the RBA supervision was developed, and it analyses each sector and its institutions, in such a way as to enable creating 11 risk matrices.

This methodology entered into effect in 2017, reason why its implementation is under evolution. Based on the information submitted by the FIU, some of the risks identified in the NRA are articulated somehow with the variables of the supervision methodology (of 43 risks, 12 are considered in the methodology's risk factors.)

282. However, during the on-site visit, it was evident that an articulation between the 2016 NRA, SRAs, and the elements that make up the supervision planning process is necessary, to clearly show the understanding of the ML/TF risks and how this understanding allows to concentrate resources and prioritise sectors which represent a higher risk. The aforesaid may be because, on the one hand, the ML/TF NRA does not provide clear information on the sectors or economic activities used or misused for ML/TF (refer to analysis of IO1.)

283. In relation to the understanding of TF risks specifically, in the 2010 diagnosis, the lack of studies on this regard is considered a weakness, and in the 2016 NRA, the remains of the OTSL are shown as a ML and TF threat. However, in the on-site visit, a clear understanding of TF risk by supervisors could not be appreciated. For instance, there was no awareness on how the different sectors could be used with TF purposes, in order to guide the supervision of more vulnerable sectors and/or products/services that require a greater attention. Notwithstanding the aforesaid, the understanding of the freezing measures that should be applied in the framework of compliance with the checking of lists of designated persons through UNSCR was appreciated.

Risk-based supervision of compliance with AML/CFT requirements

284. The SBS, through the DSRLAFT, and in co-ordination with other competent areas, conducts the supervision of institutions under its scope, and has a methodology for the identification of the ML/TF risk level of each of its regulated institutions, which allows it to plan the supervision activities, both on-site (inspection visits), and off-site (monitoring.) Based on the guidelines of the SBS supervision, it is conducted jointly with the DSRLAFT and other line areas, reason why the DSRLAFT follows the visit schedule of the line areas (Bank, Insurance, and PFA.)

285. The detailed planning of inspection visits includes the description of the purposes of the visit, the information requested for its development, the DSRLAFT team that will participate, and the estimated time of the visit. The inspection visit is conducted through the *EWP TeamMate* platform, which allows to work on a virtual environment, save working documents used and reflect conclusions of the visit, including incidences (observations of deficiencies), and associated recommendations. At the end of the inspection, the on-site analysis report (IAIS) is issued, with the final outcome of the evaluation, observations, recommendations, and date for their implementation, as well as the answer of FIs to conduct the update of progress made in the implementation of the remedial actions suggested. At the off-site level (monitoring), after the conclusions of the ML/TF Risk Assessment conducted by the DSRLAFT, the follow-up and monitoring of recommendations is performed, based on the date of implementation proposed by the supervised entities.

286. During the 2014 to May 2018 period, 195 inspection visits were conducted. As shown in the table below, a considerable reduction in the number of on-site visits conducted in 2017 is observed, as compared with those conducted in 2016 and previous years. In particular, there is a decrease in relation to the banking sector, which went from 13 in 2016 to 5 in 2017, and to May 2018 no inspection visit had been conducted. Based on the banks' matrix provided by authorities, 7 banks were scheduled for inspection based on the identified risk levels. During the on-site visit, it was indicated that the reduction in the number of visits per

year was due to new regulatory requirements and regulatory and strategic studies, among other factors, which implied a reduction in the number of supervisions conducted. In this sense, there seems to be a lack of resources in the DSRLAFT that would allow performing all its functions.

Table 37: Inspection visits per type of entity (2014-May 2018)

	2014	2015	2016	2017	2018	Total
Banks	14	10	13	5	-	42
Insurance Companies	2	3	6	2	1	14
Pension Fund Managers	4	4	4	2	-	14
Financial Companies	10	4	6	4	-	24
Municipal Savings and Loans Associations	9	3	6	1	-	19
Rural Savings and Loans Associations	7	7	4	-	-	18
Popular Credit Municipal Associations	-	1	-	-	1	2
ETF	4	4	4	5	3	20
EDPYME	6	4	4	2	-	16
E-Money Issuing Companies	-	-	1	4	2	7
Savings and Credit Cooperatives	1	1	1	-	-	3
Insurance Brokers	-	-	-	3	1	4
Warehouses	3	1	-	-	-	4
ETCAN	2	-	-	-	-	2
Others**	-	4	2	-	-	6
Total	62	46	51	28	8	195

287. From the sample of reports submitted, even if the scope of the supervision is focused, to a certain extent, on formal compliance aspects, it could be verified that the supervision aims at verifying the implementation of the proper application of an RBA by FIs.

288. The SMV, through the IGSE, uses analytical tools (risk matrix) with the aim of identifying RIs with a greater exposure to ML/TF risk, which results in a prioritisation of the on-site supervision of RIs, documented through the annual plan of inspections for the following year. Likewise, in relation to other RIs, off-site supervisions are carried out, and subsequently, a follow-up of observations is made, and recommendations communicated to the supervised entity in inspection visits is performed.

Table 38: Inspection visits by the SMV per type of entity (2014-June 2018)

	2015	2016	2017	2018	Total
Intermediation Agents	10	10	15	6	41
SAF/SAFM - Mutual Funds	3		1	2	6
SAFI - Investment Funds	5	7	2	1	15
EAFC - Collective Funds		4	4		8

Others	2	2	2	1	7
Total	20	23	24	10	77

289. Even if there are supervision procedures carried out by the SMV, it should be noted that the supervision is focused on the control of formal aspects, and the verification of the implementation by FIs of the proper application of an RBA is not included.

290. Even when remittance and postal draft companies regulated by the MTC are not subject yet to controls on ML/TF matters, and there are no specific supervision actions³³, as indicated in Chapter 1 in terms of materiality, given the size of the sector and the limited volume of transactions conducted, the impact of RIs regulated by the MTC in the AML/CFT preventive system has a lower significance.

291. The FIU, through the Supervision Department, oversees RIs. Through a methodology to identify the ML/TF risk exposure level of institutions under its scope, it plans the supervision activities conducted on-site (effectiveness supervision visits), and off-site (monitoring.)

292. The risk levels used by the FIU to classify RIs per sector are five: High, Medium High, Medium, Medium Low, and Low. The allocation of a specific risk level is used to determine if the supervision should be conducted through an effectiveness supervision visit (on-site supervision) or through a monitoring of the ML/TF prevention system (off-site supervision); as well as the scope of the visit.

RI of High, Medium High, and Medium Risk (under particular circumstances)	RI of Medium, Medium Low, and Low Risk (lower relative risk)
Effectiveness supervision visit (on-site)	Monitoring of the implementation of the ML/TF prevention system.
Monitoring of implementation of the ML/TF prevention system and the recommendations of the effectiveness supervision visits.	

293. The effectiveness supervision visits aim at verifying the implementation and efficient functioning of the AML/CFT system of RIs supervised, so that all ML/TF risks they are exposed to are mitigated. During 2014-June 2018, 315 effectiveness supervision visits were conducted to FIs and 817 to DNFBPs.

Table 39: Inspection Visits by the FIU (2014-June 2018)

Type of RI	2014	2015	2016	2017	2018	Total
Financial Institutions						
Currency exchange offices	53	57	30	47	28	215
CAC	18	10	20	22	7	77
Loans and pawn	2	4	5	6	1	18
Stockbroking and/or securities intermediary companies*			2	1		3

³³ The FIU and the Vice Ministry of Communications are contributing to the draft of the Regulation on Violations and Sanctions on ML/TF prevention matters, pursuant to the provisions of SBS Resolution No. 6089-2016, which includes the elements for the development of supervision and regulation actions on ML/TF prevention matters in relation to remittances and postal drafts.

Pension Fund Managers (PFM)*			1			1
Mail and courier service*	1					1
Total	74	71	58	76	36	315
DNFBPs						
Real Estate	2	41	42	44	24	153
Notaries		66	33	20	14	133
Construction and Real Estate			40	29	12	81
Dealers in jewellery, precious metals and stones	3	14	6	18	6	47
Casinos and slot machines*	1	5		1		7
Total	6	126	121	112	56	421
Other Activities						
Construction	87	58	53	26	15	239
Buying and selling of vehicles	39	12	24	21	21	117
Trade or leasing of machinery and equipment		1	4	15	8	28
Public Auctioneers	11					11
Slot Machines*				1		1
Total	137	71	81	63	44	396
Grand Total	217	268	260	251	136	1132
*Visits co-ordinated with other supervisory authorities						

294. In relation to on-site supervisions conducted annually to 1,372 FI registered, an on-site visit is conducted approximately on 5.5%, and in relation to DNFBPs and other institutions subject to supervisions, approximately on 3.8%.

295. The monitoring is conducted on higher-risk RIs within the period where a visit is not scheduled, or on those which are pending for compliance with a recommendation; as well as in relation to RIs of lower relative risk.

Table 40: Monitoring of implementation of recommendations and implementation of the AML/CFT system

	Monitoring of the implementation of recommendations		Monitoring of the implementation of the AML/CFT System	
	FIs	DNFBP	FI	DNFBP
2015	6	35		
2016	1	7	23	55
2017	12	14	3	7
2018	79*	336*	3	7
TOTAL	123	408	29	69

***The increase in 2018 is related to the implementation of the 789-2018**

296. Moreover, the verification of submission of information consists in the Supervision Department using the information submitted by RIs through annual/biannual reports of CO (IAOC/ISOC), that include the volume of transactions, financial statements, number of unusual and suspicious transactions, trainings to personnel, policies to know the customers and workers, recommendations made by internal auditing units and external auditors, among others.

297. During the years 2015 to 2017, the FIU conducted off-site supervisions in relation to the failure to submit such reports, prioritising RIs that, due to their activity, have a greater exposure to ML/TF, and those that are located in Lima. In this sense, in relation to FIs, 283 findings were registered in relation to the failure to submit IAOC/ISOC, and 714 findings in relation to DNFBNPs.

298. As regards supervision processes, it was determined that they currently aim at a verification of compliance with the current legal framework, which is in line with the information provided on sanctions and/or recommendations applied in the framework of the Administrative Sanctioning Regime (PAS) that reflect the detection of mainly formal observations.

299. It should be mentioned that the FIU also co-operates in the supervision processes by the SMV and the MINCETUR, providing support in the definition of a schedule and the scope of the supervision, and, in some cases, joint visits are carried out.

300. Additionally, supervision to DNFBNPs has shown a relevant development in relation to RIs supervised by the FIU, particularly notaries. In relation to the supervision of casinos, they are focused on the consideration of factors such as risky geographic zones and size and volume of transactions, disregarding features inherent to the activity. Supervisions have not been carried out to lawyers and accountants.

Remedial actions and effective, proportionate, and dissuasive sanctions

301. The SBS imposes corrective measures (remedial actions), as a result of the on-site and off-site supervisions. The corrective measures are called “Recommendations;” however, they are binding in relation to the form and term indicated by the SBS in the Report, and lack of compliance is considered a serious violation. At the off-site level, remedial actions are communicated through an official letter, with an order by the SBS.

302. From 2014 to June 2018, the SBS detected 734 observations that gave rise to the corresponding recommendations.

Table 41: Typology of observations per year by the SBS. Period: 2014-June 2018

	2014	2015	2016	2017	2018	Total
# inspection visits	62	46	51	28	8	195
Evaluation of alerts, unusual transactions and suspicious transactions	2	5	2	2	2	13
Resources and functions of the CO	23	25	34	11	3	96
Due Diligence						0

- Know your customer	21	12	115	12	5	165
- Knowledge of workers, managers, and directors	17	31	23	8	2	81
- Knowledge of the market	2		4	1	1	8
- Knowledge of providers and counterparts			2	3	1	6
Red Flags	10	12	11	4	1	38
Training	4	3	8	3	3	21
Enhanced regime	17	4	15	10	2	48
Correspondents due diligence	2	1	5	6	1	15
ML/TF risk methodologies	3		9	15	6	33
ML/TF Prevention System	2	1	1	0	2	6
Unusual Transactions	5	6	15	7	1	34
UNSC	0	0	0	2	3	5
Transactions record	14	2	0	1	0	17
Information keeping	3	2	2	0	0	7
AML/CFT committee	10	6	9	3	1	29
Internal regulations	31	24	34	18	5	112
Total	166	134	289	106	39	734

303. In relation to sanctions, in the 2014-June 2018 period, the SBS applied 23 sanctions for a total amount of USD 725,013. As shown in the table below, during 2016 only one fine was imposed to a CMAC, and during 2017, none. Of the 24 sanctions applied in the evaluated period, 11 were applied to ETF in 2018. Sanctions applied are not considered dissuasive. Upon comparing the fines applied to banks for USD 57,679 (2 banks) with the size of the banking sector and the fines to be paid, the dissuasive effect has a lower impact. Additionally, in relation to the reasons for sanctions (refer to table 43), non-compliances are mainly due to formal aspects.

Table 42: Fines from sanctions by the SBS. Period: 2014-June 2018

FIs	2014		2015		2016		2017		2018 (June)						
	#	Amount		#	Amount		#	Amount		#	Amount				
		Soles	USD		Soles	USD		Soles	USD		Soles	USD			
Banks	2	152000	53533	1	92400	29001	0	0	0	0	0	0	2	186750	57679
Insurance Companies	1	45600	16060	1	77000	24168	0	0	0	0	0	0	0	0	0
RFAs	2	30400	10707	1	15400	4834	0	0	0	0	0	0	0	0	0
Financial Companies	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CMAC	0	0	0	0	0	0	1	31600	9357	0	0	0	0	0	0

CRAC	1	30400	10707	0	0	0	0	0	0	0	0	0	0	0	0
ETF	1	7600	2677	0	0	0	0	0	0	0	0	0	11	1639250	506290
ETCAN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	7	266000	93684	3	184800	58003	1	31600	9357	0	0	0	13	1826000	563969

Table 43: Sanctions per type and reason of sanction by the SBS. Period: 2014-June 2018

Typology	2014	2015	2016	2017	2018	Total
Procedure for the evaluation of alerts, unusual transactions					3	3
Deficiencies in resources and functions of the CO	2				3	5
Due Diligence						
- Know your customer	2	1	1		1	5
- Knowledge of workers, managers, and directors						0
Training					1	1
Correspondents due diligence					1	1
TRs	2				1	3
Information keeping					1	1
Internal regulations		1			1	2
Failure to implement ML/TF recommendations	1	1			1	3
Total	7	3	1	0	13	24

304. The application of corrective measures to institutions supervised by the SMV detected through the supervision conducted by the IGSE are based in non-compliance with the regulations for the prevention of ML/TF issued by the SMV. Sanctions that the SMV may impose for violations on this matter are warnings (only for cases of minor violations), or UIT fines.

Table 44: SMV sanctions statistics per non-compliance and type of sanction. Period: 2014-2018

Year	Detail of sanction	Type of sanction	Fine in soles
2014	Failure to appoint CO. Appointing a CO without complying with the requirements established in the regulations. Failure to have a CO with exclusive dedication. Failure to communicate the appointment of the CO. Failure to submit biannual reports	Minor: 1 Serious: 1 Very serious: 3	25,550.00

Year	Detail of sanction	Type of sanction	Fine in soles
	Failure to approve the ML/TF Prevention Handbook and Code of Conduct.		
2014	It had a CO with non-exclusive dedication without requesting authorisation to the SMV and without direct contract.	Serious: 1	10,950.00
2017	Consecutive appointment of 4 persons as CO that did not meet the requirements established	Serious: 1	19,750.00
2017	Failure to appoint a CO within the terms established	Serious: 1	19,250.00
2017	Failure to submit an independent report of annual compliance	Serious: 1	3,850.00
2017	Failure to timely submit the first biannual report from the CO	Serious: 1	8,100.00

305. In the 2014-June 2018 period, the FIU has applied sanctions to 141 RIs from the financial sector and 718 from the DNFBPs.

Table 45: Sanctions and amounts FIs and DNFBPs supervised by the FIU (2014-June 2018)

	2014		2015		2016		2017		2018	
Financial Institutions										
	#	Amount USD	#	Amount USD	#	Amount USD	#	Amount USD	#	Amount USD
Currency exchange offices	28	67303.03	4	2041.67	3	2019.7	9	5412.27	10	7231.06
CAC	5	132424.24	16	244416.67	4	62242.42	41	257850	16	222015.15
Loans and pawn	4	9212.12	1	2333.33	0		0		0	
Total FIs	37	208939.39	21	248791.67	7	64262.12	50	263262.27	26	229246.21
DNFBPs										
Construction, real estate activity or both	85	228166.67	55	152569.70	75	199195.61	51	84959.85	47	60073.48
Notaries	48	43469.7	13	11119.09	150	100575.30	6	2393.18	9	2822.12
Dealers in jewellery, precious metals and stones	6	14969.7	7	13008.33	3	3710.61	23	22336.36	3	4401.52
Other activities										
Buying and selling of vehicles	35	124484.85	11	27028.79	23	56915.91	38	65229.55	24	41478.79
Public Auctioneers	2	1612.12	-	-	-	-	-	-		

Trade or leasing of machinery and equipment	0	-	-	-	-	-	-	-	4	5030.30
Total DNFBPs and Other Activities	176	412703.04	86	203725.91	251	360397.43	118	174918.94	87	113806.21

306. Pursuant to the information provided, deficiencies were found in the implementation of ML/TF prevention systems and most of the violations detected subject to sanctions are related to formal non-compliances, in most cases resulting from off-site supervisions. Therefore, it is evidenced that supervision and sanctioning procedures aim, in general, at verifying regulatory compliance and not the proper application of an RBA by RIs.

Table 46: Typology of violations sanctioned by the FIU (2014– June 2018)

VIOLATIONS	2014	2015	2016	2017	2018	TOTAL
Failure to submit the Annual Report of the CO (IAOC)	79	22	175	97	75	448
Failure to appoint the CO	65	57	59	9	-	190
Failure to submit the Biannual Report of the CO (ISOC)	-	1	2	33	11	47
Failure to include in the STR the minimum information	9	4	6	6	9	32
Failure to record transactions pursuant to the regulations	13	3	1	7	6	29
Submitting the IAOC with inaccurate information	5	1	6	7	-	19
Failure to comply with the requirements and/or conditions included in the AML/CFT Handbook	9	2	4	3	-	18
Failure to apply procedures for the detection of unusual and suspicious transactions	6	3	-	4	-	13

The other 93 sanctions imposed are related to: Lack of: TR, AML/CFT Handbook approved by the corresponding bodies, procedures for know your customer policy, code of conduct, AML/CFT Handbook; non-compliance with the requirements and/or conditions in the Code of Conduct, failure to execute the training programme during the calendar year; failure to adopt actions on observations; failure to comply with recommendations made on AML/CFT; failure to deliver in the term established the information requested by the FIU; failure to comply with the obligations on reports of internal and/or external auditor; failure to train the CO based on the provisions of the current regulations; failure to appoint a CO pursuant to the terms and/or requirements established; in the case of notaries, failure to demonstrate having conducted control actions; failure to communicate the appointment of a CO; failure to submit proof of the analysis and evaluation to qualify a transaction as suspicious; failure to comply with the requirements provided for in the code of conduct; keeping the CO position open during more than 30 calendar days, not receiving the annual training on AML/CFT.

307. In the case of RIs regulated by the MINCETUR, in 2016, one hundred and fifty-one (151) sanctioning administrative procedures were initiated against RIs that failed to comply with the submission of IAOC. Of

the procedures initiated, the DGJCMT imposed fines that amounted to 570 UIT, which equals to 2,166,000.00 soles (USD 670,000, approximately.) However, at this date, the administrative sanctioning procedures against those who failed to comply with the obligation to submit the IAOC of the year 2016 have not been initiated since, based on the amendment of the Law of the General Administrative Procedure, the DGJCMT should adapt its administrative sanctioning regime, to include a preparatory and a sanctioning phase.

308. Finally, in relation to the MTC, no sanctioning procedure has been conducted in relation to remittance and postal draft companies, since their supervision has not begun yet, and the draft of the Regulation on Violations and Sanctions on ML/TF prevention matters has not been approved. In relation to lawyers and accountants, they are not supervised yet.

Impact of supervisory actions on compliance

309. An increase in the number of RIs registered since 2014 has been observed, thanks to the supervision activities conducted by the FIU. However, the information provided in the on-site visit and in documents relating to supervisions made, generate concerns in relation to the effectiveness of the oversight and sanctioning regime used to the date of the on-site visit, and to the concrete effect these actions may have to ensure RIs control and identify the risk in their customers' transactions, and that they properly apply a RBA; the aforesaid is because it is observed that recommendations and/or sanctions imposed in the framework of supervisions and sanctions reflect the detection of mainly formal issues in relation to AML/CFT obligations, especially in the field of prevention measures.

310. Even if there is an increase in the number of STRs sent by DNFBPs between 2014 and 2018, this has not had a positive impact in relation to the analysis and filing of quality STRs in line with the risks, since, as indicated above, there is a lack of understanding of the obligation that impacts on the production of quality STRs.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

311. The SBS promotes AML/CFT obligations through its participation in fora of banks associations (ASBANC), insurance (APESEG), municipal savings and loans associations (FEPCMAC), micro-financing companies (ASOMIF), insurance brokers (APECOSE), as well as individual meetings with RIs. The FIU has carried out numerous training sessions, meetings with specific sectors (CACs, currency exchange offices, loans and pawn), among others.

312. In relation to inspection visits, meetings are held during and after the visit, not only to detail detected deficiencies, but to establish certain points of analysis and get to know the RIs concerns.

313. Additionally, supervisors issued multiple official letters, communications, circulars with the aim of promoting compliance with the obligations and the outcomes of the NRA. Additionally, face-to-face training meetings were carried out.

314. In general, efforts to increase the feedback to RIs are acknowledged, but this has not resulted in a higher awareness in relation to the importance to file quality ML/TF STRs. As mentioned in the analysis of IO6, there is room for improvement in relation to the volume of STRs received which do not have the expected quality, as a result of the lack of application of an effective regime of dissuasive and proportionate sanctions, and, to some extent, the lack of understanding of the preventive system.



Conclusions on Immediate Outcome 3

315. Based on the aforesaid, **Peru has achieved a moderate level of effectiveness for Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key findings

- With the exception of the FIU and the SBS, the identification and understanding of vulnerabilities faced by legal persons and arrangements is uneven among the other relevant authorities.
- In general, the information on the creation and types of legal persons and arrangements contained in the Public Registries System of Peru is available, however, even when there are public investment projects under implementation, such as the “IRCN³⁴,” there is still room for improvement in relation to the automatization of access to information and its update on a timely manner. Based on the information gathered during the on-site visit, the assessment team learned about the challenges to conduct expedite and accurate consultations, in particular on the BO of legal persons and arrangements.
- At the time of the on-site visit, there was no timely access to BO information of legal persons³⁵. In the case of legal arrangements, timely access to information is easier because the trustee is a FI; but in relation to foreign legal arrangements that operate in the country, the situation is different.
- In relation to legal persons with complex corporate structure, the information on the BO is not timely gathered, since the tools that allow relevant actors to understand the complex corporate structures and how they operate do not allow properly identifying the persons who exercise the control over such legal persons.
- There is no sanctioning regime for legal persons who fail to keep basic and BO information up-to-date and available.

Recommended Actions

- Conduct a comprehensive inter-agency study using the existent platform and structure of the CONTRALAFI, where all relevant authorities and RIs, both financial and non-financial, analyse, study, and determine the vulnerabilities per type of legal person that operate in the country. The aforementioned, taking into account the specific regulatory and operational characteristics of said legal persons and the context they operate in within the Peruvian economy.
- Continue with the efforts to implement the IRCN programme, and any other project that aims at modernising the consultation means and databases with automatization components for processes that ultimately facilitate obtaining basic and BO information, in an adequate, accurate, updated, and timely basis on all types of legal persons and arrangements in Peru.
- Work in the prioritisation and implementation of a series of specific actions that help registries to keep information duly updated.

³⁴ Public Investment Project entitled “Registration with National Competence” that aims at amending mainly the information system, in order to improve registration and publicity services at the national level through the modernization of the technological platform.

³⁵ After the on-site visit, Legislative Decree No. 1372 was approved; it regulates the obligation of legal persons and/or arrangements to report the identification of their BO. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in GAFILAT follow-up processes.

- Work in the strengthening of systems approved in the entire country with a technological component that may be fed by competent authorities with input from authorities from all levels of government and the private sector.
- Work in standardisation processes in relation to the contents, forms, fields, and other structural aspects of the different registries, so that data contained in these platforms are easy to read and allow competent authorities to consult them, and thus obtain data in an adequate, accurate, updated, and timely basis in relation to BO of legal persons and arrangements.
- Address technical deficiencies in relation to knowledge and access to information on the BO, including the sanctions regime³⁶. Afterwards, articulate actions that facilitate timely access to BO information.
- Conduct training and outreach activities in relation to certain actors of the private sector (particularly, non-financial sectors, such as NPOs, real estate developers, and accountants) for them to know and understand complex corporate structures and their functioning. This outreach will allow to know the risks associated to these complex legal persons and their relationship with ML/TF crimes.
- It is recommended that RIs exhaust all sources of public information possible (such as public registries) in order to know, as far as possible, who exercises the ultimate control of these legal persons and arrangements.

The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of the effectiveness under this section are R.24 and R.25.³⁷

Immediate Outcome 5 (Legal Persons and Arrangements)

Public availability of information on the creation and types of legal persons and arrangements

316. Peru has a system of (registry) publicity made by the different Legal Registries (Public Registries) administered by the SUNARP: a) Registry of Legal Persons where acts relating to the creation and secondary relevant acts of companies (for instance, appointment of administrators, representatives, liquidators, social reorganizations, etc.) and other legal persons are registered; b) Public Registry that puts public information available on the transfer of property in Trust through the Property Legal Registries (in case of registrable property) and the Personal Property Contract Registry (in relation to personal property that does not have a specific legal registry); Public Registry of the Securities Market, that contains data on all RIs with authorisation to operate granted by the SMV.

317. The information contained in this Registration System is publicly available. There is a trend since the previous mutual evaluation of Peru to automatize consultation processes. However, this process is not fully automatized yet, which limits competent authorities' capacity to obtain timely BO information.

³⁶ After the on-site visit, the Legislative Decree No. 1372 was approved; it regulates the obligation of legal persons and/or arrangements to report the identification of their BO. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in GAFILAT follow-up processes.

³⁷ The availability of accurate and updated basic information on the BO is also assessed by the Global Forum on Transparency and Information Exchange with Tax Purposes of the OECD. In some cases, the findings may differ due to the different methodologies, objectives, and scope of the standards of the FATF and the Global Forum.

318. In Peru, there are profit and non-for-profit legal persons; based on the information provided by the authorities, there are 58373 non-for-profit legal persons and 345893 for-profit legal persons (refer to Table 2).

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

319. Peru identified the lack of requirement to register in the Public Registries information relating to the BO of legal persons as a risk. Competent authorities pointed out as a mitigator to this risk the existence of a National Policy against ML/TF, which sets forth the adoption and/or proposal of regulatory improvements that would allow identifying the BO. The above would be obtained through a proposal of regulatory amendment to the Congress and/or Executive Power for the purposes of accessing on a timely manner to updated information on the BO of legal persons or structures³⁸.

320. Report No. 001-2018-DAE-UIF-SBS on the Analysis of Legal Persons in Peru concluded that corporations are the type of legal person with a higher vulnerability to be used for ML/TF, since they account for 70% to 84% of the number and amount of STRs, respectively, in addition to the fact that they are the most common type of legal person registered with the SUNAT (with 260,656 corporations to December 2017, including open and closed corporations.) However, these conclusions seem to leave out the other relevant legal persons, such as individual limited liability companies (with a 33% share per type of entity in the Registry of SUNAT) or limited liability companies (with 11%), to mention just a few that are vulnerable to be used with ML/TF purposes and that were not considered. In this sense, as a result of the different interviews held during the on-site visit, it was concluded that, in the opinion of some authorities and representatives from the private sector, legal persons with more complex corporate structures are considered the most vulnerable to be used in illegal activities, since the information on the BO is much more difficult to determine due to the nature of their corporate structure.

321. As a result of the survey on ML/TF risk perception in the financial system conducted in 2017 by Peruvian authorities and addressed to CO in the financial sector, 6 threats were found (that match those identified in the NRA), and the use of new channels and/or technologies is added, with a “low” risk level. One of the threats detected with a “high” risk level in said survey was the increase, in recent years, of the public corruption activities in Peru (in compliance with the NRA.) It is estimated that said threat is relevant in relation to identification, assessment, and understanding of ML/TF risks tasks that competent authorities conduct, since public official authorities may increase the exposure for using legal persons with ML/TF purposes.

322. It is acknowledged that the analysis performed allowed to, once most serious vulnerabilities were identified, propose a series of management actions to mitigate the exposure to ML/TF risks to the financial sector; said actions were classified under three large groups: i) management within the RI; ii) management of information; and iii) AML/CFT regulations. It should be highlighted that for the NPOs sector, a similar study was conducted based on the type of activities performed, and the geographic area where they operate in, classifying them into high, medium, and low risk. Other similar efforts were made for foundations by the CONSUF.

³⁸ After the on-site visit, the Legislative Decree No. 1372 was approved; it regulates the obligation of legal persons and/or arrangements to report the identification of their BO. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in GAFILAT follow-up processes.

323. Even when the country, in general terms, showed progress in relation to the identification, assessment, and understanding of the ML/TF risks and vulnerabilities of the types of legal persons, it is estimated that legal persons and arrangements may streamline their inherent risks identification and understanding processes if they achieve a comprehensive analysis and understanding of the concepts of BO and control some Financial RIs have (with the exception of banks), and to a larger extent, the non-financial sector.

324. Even if regulatory changes that are expected to be implemented are acknowledged, particularly the effort made by the FIU to identify and understand the ML/TF risks of legal persons and arrangements, clear and co-ordinated actions for the understanding of risks do not seem to exist in relation to the other relevant authorities and the private sector.

Legislative Decree No. 1372

After the on-site visit, the Legislative Decree No. 1372 was approved; it regulates the obligation of legal persons and/or arrangements to report the identification of their BO. However, this information is out of the scope of this Mutual Evaluation, which is limited to the last day of the on-site visit. Therefore, the scope of this regulation will be analysed in the GAFILAT follow-up processes.

Mitigating measures to prevent the misuse of legal persons and arrangements

325. In the information analysed, a fundamental part of the measures Peruvian authorities have adopted to mitigate and prevent the incorrect use of legal persons and arrangements is described as those measures relating to the regulatory amendments described in paragraph 95, but as explained above, given that it was not in force, the mitigating effect such measures could have is unknown since, by the end of the on-site visit, they were not in force yet, and therefore, are not under analysis for the purposes of this assessment.

326. One measure that was in force at the time of the on-site visit was derived from the amendment made to Law No. 30424, by virtue of Legislative Decree No. 1352, which, even if is recent (January 1, 2018), sets forth the responsibility of legal persons in relation to certain crimes, including TF. However, to date there is no case of convictions for such crime in relation to legal persons, even if there are three judgments that contemplate sanctions to legal persons as ancillary punishment for being involved in ML crimes.

327. In relation to legal arrangements, the most important mitigating measure to prevent the ML/TF misuse is that the regulatory framework authorises to act as trustees only to FIs, which seems to reduce their exposure to ML/TF risks. This is so, because being the trustee a FI, it is under the obligation to identify persons that act as settlor and beneficiary, and if these are legal persons, in compliance with AML/CFT regulations, they shall identify their BO and apply enhanced due diligence measures.

328. From the aforesaid, it can be concluded that the country has implemented basic measures to prevent the misuse of legal persons and arrangements; however, its scope is limited. For instance, the work conducted by company service providers, accountants, and legal professionals shall gain a higher relevance in the understanding and compliance with their AML/CFT duties to prevent the misuse of legal persons and arrangements for the commission of crimes. The identification of the BO is still complex, but it is estimated that once the Legislative Decree No. 1372 currently in force is implemented and translated into results, together with the rest of public policies on the matter, it may be facilitated.

Timely access to adequate, accurate and current basic and BO information on legal persons and arrangements

329. In the Registry of Companies there is information available in relation to companies, which includes, among others: Corporate name, corporate purpose description, domicile, term of the partnership, social equity amount, number of shares, nominal value, regime of the partnership bodies, requirements to agree upon the increase or decrease of capital stock, appointment and ID data of the first administrators. However, said information sometimes is not updated, hindering access to the adequate and accurate access to such information by relevant authorities.

330. The main authorities involved in the ML/TF prevention and combat regime (FIU, PPO and prosecutors, and the PNP, based on the legal framework described in the TC Annex (R.24)), indicated that they are empowered to request reports, documents, background information, complementary information and/or clarifications, and any other element deemed useful to access to information on BO. The aforesaid is performed through direct requests to RIs, or through access to registries and corresponding databases, revision of books, receipts, and accounting and administrative documents, among others. However, from the information gathered during the on-site visit, it is concluded that access to such information is not always timely and the co-ordination between authorities that hold the BO information is still limited under certain circumstances.

331. It is noticed that competent authorities are capable of requesting additional information on the BO in the following circumstances: a) through legislation on mutual administrative assistance on tax matters, and b) on ML/TF prevention matters pursuant to Art. 20 of Supreme Decree No. 020-2017-JUS and each of the applicable sectoral regulations; in general, the latter establishes the permanent obligation of RIs to identify BO of their customers, and adopt reasonable measures to verify their identity, as far as due diligence measures so allow, in order to be convinced that they know who the BO is. However, there seems to be no consensus between the different RIs on which these reasonable measures are to verify the identity of the BO. In some cases, there seems to be a higher involvement in relation to the measures that can be adopted and the information that should be requested or consulted to identify BO, and in other sectors, only basic queries are made. Even if it is natural that certain RIs are more capable of requesting more detailed information on BO based on the type of sector they belong to, the resources they have, or their structure or organization, it was identified that certain sectors, probably due to the recent addition as RIs, such as lawyers and accountants, make a less detailed analysis than other sectors.

332. The SUNAT has access to basic and BO information, in the framework of the permanent surveillance activities of the Income Tax of Third Category (business income tax) they conduct, they can access to different data of the Shareholders Meetings and Board Books, and the Book of Register of Shares for the purpose of knowing who are owners, partners, shareholders, or participants of the social equity of the different persons. However, it is estimated that access to such data has not been translated into an effective tool that would allow to obtain accurate information on BO and neither a significant volume of joint investigations, between SUNAT and the FIU, as detailed below.

333. The country submitted information on the joint investigations made between the FIU and the SUNAT in relation to the gathering of BO information. On this regard, from 2015 to October 2018, 5 joint investigations were conducted between both agencies, where the BO that exercised control of different legal persons and arrangements related to the commission of different crimes, such as tax evasion or illegal logging

was collected. However, it is estimated that the number of cases of joint investigations or other measures adopted by competent authorities is still limited and does not reflect a clear trend through which authorities may obtain BO information in an adequate, accurate, updated, and timely basis on the different types of legal persons and structures that operate in the country.

334. As a result of the fact that RIs do not have the same human, technological, and financial resources to conduct procedures to perform CDD to the largest extent possible to identify the BO of legal persons and arrangements, the RIs have a limited capacity to gather information necessary to know the BO of legal persons and arrangements in an adequate, accurate, and updated, basis. In this sense, it is recommended that RIs, from financial and non-financial sectors, exhaust all sources of public information possible (such as public registries) in order to know, as far as possible, who exercises the ultimate control of these legal persons and arrangements.

335. In relation to the obligation imposed upon significant owners of a company to submit an affidavit whereby it is established that, having adopted all reasonable measures, they are certain about the identity of the BO, this affidavit in itself does not provide the necessary guarantees to ensure that the RI has truly performed all reasonable measures available to identify the BO. The aforesaid shall not be understood in the sense that the affidavit lacks importance in the process to ensure that the greatest number of resources have been used to identify the BO, but rather that it shall be accompanied by other measures or actions to reinforce the methods to achieve the identification of the BO.

336. Certain authorities claimed that there are some technical problems between the forms of the information contained in the Public Registries administered by the SUNARP and the databases and other registries, such as those of the SUNAT. On this regard, they indicated that a certain type of homogeneity in relation to the submission of information would be desirable, such as fields used and their format; among others. This homogeneity of registry of information held could represent improvements in the times for query and access to such data and more accurate queries to know the BO of legal persons and arrangements.

Effectiveness, proportionality and dissuasiveness of sanctions

337. There is no sanctioning regime for legal persons who do not keep basic information updated and available. At the same time, there are no sanctions in relation to obligations on the BO. It is expected that once the bill on BO enters into force (which provides for amendments to the Tax Code with new lists of violations and sanctions, such as those that range from 0.3% to 0.6% of Net Incomes, or 15% of a UIT,) sanctions shall be better regulated when false information declared are discovered, or in relation to non-compliances related to the BO identification. Therefore, it is estimated that current sanctions do not comply with the criteria of effectiveness, proportionality, and sufficient dissuasiveness to reduce practices that hinder the gathering of BO information, and therefore, this system still has room for improvement to achieve a better degree of effectiveness under the terms set forth in the Evaluation Methodology.

Conclusions on Immediate Outcome 5

338. Based on the aforesaid, **Peru has achieved a low level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key findings

- MLA and international co-operation mechanisms have been useful for requesting states, as well as in the domestic sphere.
- Peru generally provides constructive and quality MLA. However, based on the feedback provided by the Global Network, responses could be sent in a timelier manner.
- Peru's approach in relation to MLA and international co-operation is generally collaborative and proactive.
- The country is active in pursuing MLA in relation to domestic cases with transnational elements.
- The PNP and the FIU have the capacity to make co-operation requests to its counterparts. The principal means or mechanisms for the transmission and execution of requests are agreements signed with other countries; the principle of reciprocity also prevails.
- Competent authorities are sufficiently co-ordinated to handle MLA requests processed by the UCJIE.
- There are certain limitations for gathering timely information on the BO of legal persons and other legal arrangements that could prevent the provision of international co-operation. However, national authorities have timely answered international co-operation requests related to the BO of legal persons by foreign counterparts.

Recommended Actions

- Strengthen current mechanisms to allow improving response times to passive MLA requests.
- Address weaknesses in relation to access to BO information of legal persons and arrangements to ensure satisfactory and timely response to international co-operation requests.

The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

Immediate Outcome 2 (International Cooperation)

Granting of mutual legal assistance (MLA) and extradition

339. Considering the context and, particularly, ML risks Peru is exposed to, international co-operation represents a key component of the AML/CFT system of Peru. In compliance with the information provided for by the country and in the interviews held with competent authorities during the on-site visit, the importance of international co-operation, as well as the highest-level commitment to provide it on a timely and constructive manner could be observed.

340. Peru provides constructive MLA Moreover, Peru shows a generally collaborative approach to incoming requests. This circumstance was verified through statistics, supplementary information provided by national competent authorities, and feedback received from 22 jurisdictions of the FATF Global Network (GAFILAT, FATF, and other countries from other FATF-style regional bodies), which confirmed, in general, the good capacity of the country on this matter.

341. Peru provides MLA through the Public Prosecutor's Office, which is the Central Authority, particularly through the International Legal Co-operation and Extradition Unit of the Public Prosecutor's Office (UCJIE), which was created by Resolution No. 124-2006-MP-FN. This unit is responsible for coordinating and centralizing the execution of all MLA and extradition acts; it has duly qualified and trained personnel to comply with these functions. Particularly, this area is made up by 6 prosecutors, 6 supporting officials, and 3 administrative assistants.

342. During the period between 2014 and June 2018, 28 MLA requests were received from 12 countries. The response time was variable. In certain cases, Peru could provide a response in one month. In addition, feedback provided by different jurisdictions from the FATF Global Network allowed concluding that, in some cases, MLA provided by Peru is timely and provided under acceptable terms, while in other cases, there were certain delays due to the complexity and type of request made.

Table: 47 Passive Mutual Legal Assistance. (Period 2014-June 2018)

Country	2014	2015	2016	2017	2018 (June)	Total
Argentina	1				1	2
Brazil			1		2	3
Colombia		1			1	2
Ecuador	2		2	1	2	7
USA			1	1	1	3
El Salvador	1		1			2
Spain	1	1			1	3
Guatemala		1				1
Panama		1			1	2
Principality of Monaco		1				1
Uruguay	1					1
Venezuela				1		1
Total	6	5	5	3	9	28

343. Peru indicated that the requests received were related to ML, predicate offences, terrorism (organisational affiliation, glorification, co-operation) and TF. According to the national authorities, timely assistance has been provided in 70% of cases. Moreover, Peru has sent 10 MLA requests related to the controlled delivery special investigation technique, to Chile (4) and Ecuador (6) in the period between 2015 and June 2018.

344. In addition, Peruvian authorities may reject the provision of MLA when the request is not grounded, the term for response is short, and when the official name of the requested country, or the instruments, are wrongly mentioned.

345. On extradition matters, based on the analysis made in the TC of R.39, the Political Constitution of Peru does not prohibit the extradition of Peruvian nationals. The only case provided for where Peru would not extradite a national citizen would be in relation to a request based on reciprocity made by a country that

would not extradite its nationals, in which case the person would be trialled in national court. However, Peru reported that it has not denied extradition requests on the grounds of the nationality of the person subject to the extradition request, except in cases where the requesting country does not extradite its nationals (2 requests from Ecuador and Brazil.)³⁹

346. In addition, Peru provides for a simplified or voluntary extradition procedure, whereby if the subject of the request gives its free and express consent to be extradited, the extradition request is not necessary. Extradition requests may be denied when the person is acquitted.

347. Peruvian authorities reported on the response of 110 passive extradition requests in the period between 2014-June 2018; 6 of these requests were related to the ML offence, and 104 to ML predicate offences.

Table 48: Supreme Resolutions – Passive Extraditions per Country. (Period 2014– June 2018)

Country	2014	2015	2016	2017	2018 (June)	Total
Germany	1	0	0	0	0	1
Argentina	4	2	8	4	4	22
Bolivia	0	1	0	3	0	4
Brazil	1	0	0	1	0	2
Bulgaria	0	0	1	1	0	2
Canada	1	0	1	0	0	2
Chile	1	3	1	4	1	9
China	0	1	0	0	0	1
Colombia	0	0	1	1	0	2
Croatia	0	1	0	0	0	1
Ecuador	1	2	0	1	0	4
Spain	2	3	2	4	0	11
Slovakia	0	0	0	1	0	1
USA	6	2	2	5	1	16
Finland	0	0	0	1	0	1
France	1	0	0	0	0	1
Greece	0	0	0	1	0	1
Hungary	0	0	1	0	0	1
Italy	3	0	0	3	2	8
Morocco	1	0	0	0	0	1
Mexico	0	0	0	1	0	1
Netherlands	0	0	2	1	0	3
Panama	0	0	0	1	0	1
Poland	0	0	0	1	0	1
Portugal	0	0	0	1	0	1

³⁹ Peru has obtained international certification ISO 9001 on quality management systems.

Country	2014	2015	2016	2017	2018 (June)	Total
Dominican Republic	0	0	0	1	0	1
Romania	0	0	3	0	0	5
Russia	1	0	0	1	0	2
Sweden	0	1	0	0	0	1
Turkey	0	0	0	1	0	1
Ukraine	0	0	0	1	0	1
Venezuela	1	0	0	0	1	2
Total	24	16	22	39	9	110

Table 49: Supreme Resolutions – Passive Extraditions per Crime. (Period 2014– June 2018)

Crime	2014	2015	2016	2017	2018 (June)	Total
ML	1	0	2	3	0	6
TID	11	6	9	12	3	41
Human Trafficking	0	0	1	2	1	4
Migrant Smuggling	0	0	0	1	0	1
Robbery/Theft	1	0	2	2	0	5
Smuggling	0	0	0	1	0	1
Tax Crimes	0	1	1	0	0	2
Fraud (mortgage fraud)	3	2	1	4	0	10
Kidnapping (illegal transport or withholding of minors)	0	1	0	1	1	3
Counterfeiting Currencies	1	0	0	0	0	1
Illegal Association with Criminal Intent	1	0	1	1	0	3
Crimes against Life, Body and Health (homicides, assassination, injuries)	0	4	3	6	3	16
Crimes against Sexual Freedom (sexual assault)	4	2	2	5	1	14
Public Faith (falsification of documents)	2	0	0	0	0	2
Others	0	0	0	1	0	1
Grand Total	24	16	22	39	9	110

348. Moreover, despite certain technical deficiencies to provide MLA on tax matters, Peru proved its capacity to respond to extradition requests in relation to tax crimes (2 passive requests), as well as to perform extradition requests on this matter (3 active requests.)

349. In relation to the feedback provided by foreign authorities on extradition matters, in some cases Peru granted the extradition in less than 1 year. Moreover, as shown in the table below, during the term analysed,

15 requests were denied: 8 requests in case of non-compliance of the double criminality principle (USA case), affectation of due process, concurrence of the non bis in idem principle, lack of full identification of the extraditable and formal requirements; and, 7 requests in case of prescription, which were not the responsibility of the requested State. In addition, it was denied a request from Ecuador at the court level because the required people had been granted a refugee status.

Table 50: Passive Extradition Requests Denied. (Period 2014– June 2018)

No.	Year	Country	Crime	Grounds
1	2014	Italy	Illegal Trafficking of Drugs	Affects the right to due process
2	2014	Romania	Crime against Patrimony	It does not meet the double criminality principle
3	2014	USA	Illegal Association to Export Psychotropic Substances	Enforcement of the non bis in idem principle
4	2014	Korea	Aggravated Robbery	Full identification of the person to be extradited was not provided
5	2015	Poland	Illegal Trafficking of Drugs (leader)	Enforcement of the non bis in idem principle
6	2015	Bolivia	Crime against Patrimony	Prescription
7	2015	Ecuador	Customs	Prescription
8	2016	Canada	Kidnapping	Prescription
9	2016	Brazil	Rape of a Minor	Affects the right to due process
10	2017	USA	Conspiracy for securities fraud; conspiracy for public offering fraud, and conspiracy for wire transfer fraud (preparatory acts)	It does not meet the double criminality principle (in Peru the crime of conspiracy for fraud (preparatory acts) is not criminalised).
11	2017	Bolivia	Homicide	It does not comply with formal requirements
12	2017	Romania	Swindle	Prescription
13	2018	Hungary	Crime against Patrimony	Prescription
14	2018	Spain	Injuries	Prescription
15	2018	Spain	Against the Intimacy of Minors	Prescription

350. Prioritisation of MLA and extradition requests is governed by the Guidelines for the processing of legal assistance, extradition, and transfer of sentenced persons requests, created by the UCJIE. The UCJIE has databases available for the monitoring of the timely execution of requests.

351. Competent personnel from the UCJIE receives and enters documents related to “Legal Assistance, Extradition, Transport, and Rogatory Letters” into the Document Management System; then, requests are reviewed as to whether these are new requests or related to prior requests, to subsequently forward them to prosecutors and lawyers duly appointed by the SGD per country; they are responsible for reviewing documents, submitting requests to competent tax or judicial authorities, following-up cases and monitoring terms, and co-ordinating with foreign counterpart authorities for the processing of cases and preparation of official letters; subsequently, processed requests are submitted to the Head of the UCJIE for review and signature, who returns them to the prosecutors and lawyers for the correspondent delivery to the personnel that discharges the documents.⁴⁰

352. It should be highlighted that, based on the input provided by the FATF Global Network, MLA provided by Peru is of quality, it has been timely executed, and it has provided relevant elements for the processing of cases in third countries. Notwithstanding the aforesaid, some jurisdictions reported certain delays in the processing of requests, which is mainly due to the complexity and type of requests.

Seeking timely legal assistance to fight against domestic ML, associated predicate offences and TF cases with transnational elements

353. As it has been mentioned above, MLA requests are processed through the UCJIE of the Public Prosecutor’s Office, in its capacity as Central Authority. The UCJIE rates the MLA requests issued by Peruvian authorities, it makes suggestions for their correct drafting, and monitors their timely arrival, within the terms contemplated for the processes and investigations, as appropriate.

354. During the period between 2014 and June 2018, 432 MLA requests related to ML, terrorism (organizational affiliation, glorification, co-operation) and TF were made to 44 foreign jurisdictions. In this framework, appropriate and timely responses were received in 75% of cases.

Table 51: Active Mutual Legal Assistance. (Period 2014– June 2018)

Country	2014	2015	2016	2017	2018 (June)	Total
Germany			1		2	3
Argentina	6	1	1		5	13
Austria		1			0	1
Australia					1	1
Andorra					7	7
Bahamas					1	1
Belize					1	1
Bolivia	4	4	4		15	27
Brazil	1	1	6	5	56	69

⁴⁰ Peruvian authorities highlighted that they are developing the Peruvian International Legal Co-operation Network, which creates a virtual information exchange and communication space between the RREE, MININTER (OCN INTERPOL Lima), the PPO, the Judiciary, and MINJUSDH.

Canada	1	2	1		1	5
Chile	1	2	3	1	26	33
China					2	2
Colombia	3	4	1	1	13	22
Korea	1		2			3
Costa Rica		1			1	2
Cuba	1	1				2
Ecuador	3	2	7	5	19	36
United Arab Emirates					2	2
Spain	5	5	7	3	16	36
USA	9	3	11	3	33	59
France		1	2		6	9
Guatemala					2	2
Netherlands					2	2
Virgin Islands					1	1
Cayman Islands					1	1
Israel	1			2	3	6
Italy			1		2	3
Japan					1	1
Lebanon			1			1
Luxembourg					1	1
Mexico	3	3	1		8	15
New Zealand					1	1
Panama	1	3	1	2	20	27
Paraguay	1					1
Portugal				1	2	3
Dominican Republic					4	4
United Kingdom					2	2
Russia					1	1
Saint Vincent and the Grenadines			1		1	2
South Africa					1	1
Switzerland		2	1		6	9
Ukraine			1			1
Uruguay		1			6	7
Venezuela	1	1			4	6
Total	42	38	53	23	276	432

355. Moreover, it should be highlighted that the UCJIE conducts MLA requests directly and through diplomatic channels to its foreign counterparts, through the Ministry of Foreign Affairs. Between 2014 and 2018, 230 active MLA requests were made.

Table 56: Requests processed through the MRE per Crime. (Period 2014– June 2018)

Criminal Legal Assistance	2014	2015	2016	2017	2018	Total
ML	56	73	30	33	19	211
TF	1	2	2			5
Terrorism	2		3	4	1	10
Glorification	1			3		4
Total	60	75	35	40	20	230

356. Based on the information provided by the jurisdictions from the FATF Global Network, it could be determined that the approach of Peru in relation to pursuing MLA is proactive, and not just in relation to neighbouring countries or from Latin America, but also from other regions. In particular, Peru is active in relation to MLA requests in relation to domestic cases with transnational elements.

357. Foreign jurisdictions indicated, moreover, that Peru is generally clear and accurate at the time of making requests, which facilitates the elaboration of responses. Likewise, requests are generally well grounded and justified, and they are related to a wide range of predicate offences.

358. Peruvian authorities reported the processing of 473 active extradition requests related to ML/TF predicate offences during the 2014 - June 2018 period, 14 of which were related to ML, and 15 to terrorism, as shown below:

Table 57: Supreme Resolutions – Active Extraditions per Crime. (Period 2014– June 2018)

Crime	2014	2015	2016	2017	2018 (June)	Grand Total
ML	3	4	3	2	2	14
Terrorism	4	2	3	6	0	15
TID	35	33	17	26	6	117
Human Trafficking	0	1	0	0	0	1
Crimes against Public Administration (corruption, collusion, bribery, embezzlement)	8	7	8	3	0	26
Robbery/Theft	26	9	19	32	13	99
Illicit Appropriation	1	0	0	1	0	2
Extortion	1	2	0	0	3	6
Misappropriation	2	3	0	1	0	6

Crime	2014	2015	2016	2017	2018 (June)	Grand Total
Smuggling	2	3	0	0	0	5
Tax Crimes	2	0	0	1	0	3
Fraud (mortgage fraud)	2	4	1	1	1	9
Issuance of Fraudulent Checks	3	0	0	4	0	7
Kidnapping (illegal transport or withholding of minors)	2	1	2	1	0	6
Counterfeiting Currencies	0	0	0	0	1	1
Criminal Association	1	1	0	1	0	3
Illegal Possession of Weapons	0	2	2	0	0	4
Crimes against Life, Body and Health (homicides, assassination, injuries)	12	10	9	6	1	38
Crimes against Sexual Freedom (sexual assault)	18	14	12	14	5	63
Public Faith (falsification of documents)	4	3	1	3	1	12
Failure to Provide Family Assistance	7	12	7	6	1	33
Others (crimes against cultural heritage)	0	1	1	0	1	3
Total	133	112	85	108	35	473

Table 58: Active Extraditions processed by Peru. (Period 2014– June 2018)

Country	2014	2015	2016	2017	2018 (June)	Total
Germany	0	0	0	1	1	2
Argentina	36	33	38	36	16	159
Bolivia	0	5	1	1	1	8
Brazil	2	5	3	3	0	13
Canada	0	1	0	1	0	2
Chile	10	10	5	12	1	38
Colombia	14	9	4	14	2	43
Costa Rica	0	0	1	0	0	1
Ecuador	1	1	1	1	0	4
Spain	27	26	9	21	5	88
USA	12	7	10	3	3	35
Finland	0	1	0	0	0	1
France	0	1	0	0	0	1

Israel	0	0	1	0	0	1
Italy	23	8	3	8	3	45
Japan	1	1	1	0	1	4
Mexico	1	0	3	1	0	5
Netherlands	0	0	0	1	1	2
Panama	1	0	0	0	0	1
United Kingdom	0	1	0	0	0	1
Switzerland	0	1	0	0	0	1
Uruguay	1	1	2	1	0	5
Venezuela	4	1	3	4	1	13
Total	133	112	85	108	35	473

Seeking other forms of international cooperation for AML/CFT purposes

359. Peruvian competent authorities regularly request international co-operation to their counterparts through the signing of bilateral or multilateral agreements, or through the groups they belong to. Moreover, beyond the MLA context, the UCJIE exchanges information through virtual platforms such as: i) GAFILAT Asset Recovery Network (RRAG), where it participates together with the FIU and the DIRILA of the PNP. It should be mentioned that the three entities mentioned are authorised contact points of the country before the RRAG; and ii) the Ibero-American Legal Assistance Network (IBERRED).

360. Moreover, information has been channelled through the International Organisation of Criminal Police (INTERPOL) (Information System I-24/7), and in other cases it has exchanged and/or requested information directly to other Public Prosecutor's Offices on the basis of the signing of 4 co-operation agreements (Declaration against Transnational Organized Crime, 2017; Lima Declaration, 2016; Brasilia Declaration on International Legal Co-operation against Corruption, 2017; and the Co-operation Agreement between the PPO and the Basel Institute on Governance, 2014).

361. Moreover, the FIU exchanges financial intelligence information with other FIUs or analogous agencies it has entered MOUs with, or through the principle of reciprocity. The information is exchanged through the Egmont Secure Web (ESW), in cases of FIUs that belong to the Egmont Group (EG); and when the exchange is performed with a FIU or analogous unit that is not member of the EG, it is made through an e-mail address used for such purposes.

362. In the period between 2014 and June 2018, the FIU signed 24 MOUs with foreign counterparts: Albania, Australia, Bangladesh, DEA, Bolivia, FBI, Israel, Japan, Korea, OTA, Panama, Paraguay, Portugal, Regional MOU for the Fight against ML and TF between Financial Intelligence Units, Argentina, Chile, Colombia, Dominican Republic, Ecuador, Russia, UIF-DEA-PNP, Vatican City, and Equatorial Guinea.

363. During the period between 2014 and June 2018, the FIU submitted 515 Foreign Information Requests (SIEX), to more than 30 countries.

Table 59: Foreign Information Requests Sent by the FIU. (Period 2014– June 2018)

Country	2014	2015	2016	2017	2018	Total
United States	14	11	22	18	11	76
Panama	2	4	12	23	4	45
Colombia	11	4	7	6	3	31
Chile	4	6	10	6	2	28
Bolivia	4	5	8	7	2	26
Switzerland	1	8	8	6	0	23
Spain	5	5	4	6	2	22
Mexico	3	7	3	2	2	17
Brazil	5	4	3	3	2	17
Hong Kong	2	3	4	4	0	13
Ecuador	3	2	4	4	4	17
United Kingdom		5	3	3	1	12
Venezuela	7	1	2		0	10
Argentina	3	1	2	3	1	10
British Virgin Islands	2	1	2	4	0	9
Uruguay		1	2	6	2	11
Bahamas			3	5	5	13
Costa Rica	1	4		3	0	8
Germany		3	3	1	0	7
Cayman Islands			5	1	8	14
Israel	1	3	1	1	0	6
Jersey		3	2	1	0	6
Russian Federation (Russia)			2	3	0	5
France		2	3		1	6
Andorra				5	0	5
United Arab Emirates		1	2	2	0	5
Taiwan		1	2	1	0	4
The Netherlands (Holland)	1		1	2	0	4
Saint Vincent and the Grenadines		1	1	1	0	3
Italy	2			1	2	5
Canada		1	2		0	3
Honduras		1		2	0	3
Luxembourg		2	1		0	3
Others	7	16	6	10	9	48
Grand Total	78	106	130	140	61	515

364. The FIU develops the SIEX process based on the information needs on cases under analysis. Said mechanism is conducted by the FIU through the Technical Handbook SBS-MTC-UIF-595-01 “Response and elaboration of communications with foreign agencies,” approved by SBS Resolution No. 339-2018, which regulates the steps to follow, minimum requirements, response times, and forms used for the processing of requests, communications, and responses.

365. It should be highlighted that, from the input by 22 jurisdictions from the FATF Global Network, it is concluded that international co-operation requests submitted by the FIU to foreign counterparts are made in an accurate and clear manner, which favours the elaboration of the responses. Likewise, foreign counterparts indicated that the FIU acknowledges receipt in relation to spontaneous disclosures of information.

366. Between 2015 and 2017, 11 information requests were made through the RRAG.

367. Additionally, the FIU has participated in different bilateral spaces (Cabinets or Commissions), where it undertook, based on the current legal framework, different commitments with FIUs from other countries, with the aim of exchanging relevant information in ML/TF matters or performing joint actions.

Table 60: Bilateral Cabinets the FIU participated in

Bilateral Cabinet		Thematic Axis	Working Group (WG) / Working Table
1	Peru - Colombia	Security and Defence	WG No. 2 Co-operation against Transnational Organized Crime
2	Peru - Bolivia	Security and Defence	Table No. 1 Co-operation in the fight against TID and ML / Legalisation of Criminal Profits.
3	Peru - Chile	Security and Defence	WG No. 5 Co-operation in the Fight Against ML.

368. Likewise, in July 2014, the FIU and the UIAF of Colombia, the UAF of Chile, and the FIU of Mexico subscribed a Working Plan in the framework of the co-operation between Financial Intelligence Units that belong to the Pacific Alliance, which allowed, among other aspects, to exchange information on cross-border transportation of currency, strategic analysis, and ML convictions.

369. The FIU, together with the UCJIE of the PPO, and the DIRILA of the PNP, exchange information through the RRAG; and, upon request of the PPO, it can initiate a Technical Assistance (ATE) procedure to seek and exchange financial intelligence information with other countries. Through PPO duly grounded ATE requests, a detail in relation to the name of persons and/or companies' information is required on is provided to foreign countries, where there might be evidence to verify if there are records of financial and/or business activity. For such purposes, the FIU has issued a Technical Assistance Requirement Form (FRAT.) From 2014 to December 2017, 454 SIEX were issued, 23 of which were made as a result of an ATE request.

370. The information regularly requested by the FIU is related to STRs and information of interest that they may have in their internal databases, lists of companies where the subjects of the request may be included as legal representatives, police, legal and/or criminal records, financial information, transfers made from and to abroad, business information, record of formal investigations or judicial proceedings, confiscation of property or guarantees, specifying the number and type, or nature, of property involved, agencies or countries that may be involved in the request made.

371. The PNP, in the framework of Bilateral Cabinets, has subscribed information exchange agreements with its counterparts from Bolivia, Ecuador, Brazil, Chile, and Colombia. Moreover, in the framework of Conventions signed with INTERPOL and AMERIPOL, it exchanges information with its counterparts.

Table 61: Bilateral Commissions

Bilateral Commission		Working Group (WG) / Working Table
1	Mixed Peruvian - Colombian Commission on Drug Control Matters	Table No. 3 Exchange of Financial Information, Judicial Co-operation, Fight against ML and Assets Forfeiture.
2	High-Level Mechanism on Security and Judicial Co-operation Colombia - Peru (MAN)	WG No. 2 Co-operation against Transnational Organized Crime
3	Peruvian - Bolivian Bilateral Commission of Fight against Smuggling	Table No. 3 Financial Crimes
4	Mixed Peru - Bolivia Anti-Drugs Commission	Table No. 3 Fight against financial crimes
5	Mixed Peruvian - Chilean Commission on Drugs and Psychotropic Substances	WG No. 3 ML
6	Mixed Peruvian - Ecuadorian Commission on Drug Control Matters	Table No. 3 Exchange of Financial Information, Judicial Co-operation, Fight against ML and Assets Forfeiture
7	Mixed Peruvian - Paraguayan Commission on Drugs and Psychotropic Substances.	WG No. 2 ML
8	Mixed Peru - Brazil Commission on Fight against Drugs	WG No. 1 Offer Control

372. Moreover, the SBS has signed agreements that include matters on consolidated supervision and supervision to the AML/CFT system with counterpart entities from Argentina, Bahamas, Bolivia, Brazil, Canada, Chile, China, Colombia, Ecuador, El Salvador, Spain, Guatemala, Honduras, Italy, Mexico, Nicaragua, Panama, and Venezuela.

373. The SBS is also member to the International Association of Insurance Supervisors (IAIS) and the Latin America Association of Insurance Supervisors (ASSAL), and through such membership, it seeks co-operation and information exchange with foreign counterparts. The SBS, to the date of the on-site visit has not requested information to foreign supervisors.

374. The SMV, under the scope of its competence, may enter into agreements, sign MOUs, and contracts with domestic and foreign organisations for compliance with its institutional objectives, and to share information on supervised entities with foreign organisations, which may include information protected by secrecy provisions and testimonies obtained in the performance of their duties. In this sense, it has entered into agreements with the supervisors from Colombia, Chile, Ecuador, and Mexico.

375. On customs matters, Peru has signed the Latin America, Spain, and Portugal Customs Multilateral Convention (COMALEP) and is a member of the World Customs Organisation (WCO.) As such, Peru has its corresponding RILO unit (Regional Intelligence Liaison Office.) Peru is part of the “Global Container Control Program” of the United Nations Office on Drugs and Crime and the World Customs Organisation, which facilitates information exchange with its foreign counterparts.

376. Under this framework, Peru regularly requests co-operation to foreign customs authorities, and has participated in courses where it exchanged training on risk management and certification matters. Moreover, in 2016, a visit to the centre for the selection of targets of the General Customs Administration of Mexico was made, with the aim of strengthening the relationship between both countries on such matters.

377. Likewise, Latin American and Caribbean AML/CFT system regulators and/or supervisors of casinos and slot machines exchange experiences on such system through round tables of regulators. From 2015 to 2018, Peruvian authorities participated in the exchanges together with regulators and/or supervisors of Lotteries, Casinos, gambling, and slot machines of Argentina, Aruba, Belize, Bolivia, Brazil, Chile, Colombia, Curacao, El Salvador, Guyana, Honduras, Jamaica, Mexico, Panama, Paraguay, Puerto Rico, Saint Martin, Trinidad and Tobago, Turks and Caicos, Uruguay, and Virgin Islands.

Granting other forms of international cooperation for AML/CFT purposes

378. The FIU responds international co-operation requests from FIUs of the Egmont Group, as well as those it signed MOUs with. Likewise, it responds requests from analogous agencies, for instance, the DEA and the FBI, or other foreign decentralised agencies. Exchanges are conducted fully complying with the Principles for Information Exchange between FIUs and Best Practices for the Exchange of Information between FIUs, both documents issued by the Egmont Group.

379. Provision of spontaneous information by the FIU to its counterparts is performed when information has been identified during the analysis of a case or investigation, which the unit considers might be useful to its counterparts; such spontaneous disclosure includes: • Summary of the case or investigation • Identified facts and/or evidence • Predicate offence (if identified) • Typologies (if identified) • Relationship or link with the country the spontaneous information is sent to • Other data the Peruvian FIU considers relevant • Identification of nationals from other countries included in STRs • Foreign individuals intercepted due to administrative violation and failure to declare the cross-border transportation of cash above the established thresholds.

380. The FIU has a feedback form which allows to know the suitability and timeliness of the information for the unit receiving the information. From November 2017 to June 2018, the FIU received a total of 16 responses to the feedback formats, in 15 cases countries expressed that are very satisfied with the level of cooperation provided by the FIU and 1 case was regularly satisfied.

Year	Country	Total
2017	Uruguay	2
	Ecuador	3
2018	USA	1
	Chile	4
	Bahamas	2
	Australia	1
	Guatemala	1
	Ecuador	2

381. During the period between 2014 and June 2018, the FIU responded 274 requests.

Table 62: FIU Response to Foreign Information Requests (RIE) (Period 2014-June 2018)

Country	2014	2015	2016	2017	2018 June	Total
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USA	10	22	20	28	16	96
Bolivia		3	11	8	6	28
Chile	3		7	2	5	17
Argentina	4	5	5	2	2	18
Cayman Islands	4				1	5
Belgium	3	1	1	1	0	6
Ecuador			2	2	1	5
Spain	2				1	3
Moldova		1			0	1
Malta				5	1	6
United Kingdom	1	4	1	1	1	8
Panama	2		1	3	1	7
Colombia	1	2			0	3
Switzerland	1	1	2	2	1	7
Germany	2	1		2	1	6
Guatemala			1		0	1
Ukraine	1			1	0	2
Bahamas		1	1	2	3	7
Syria				2	0	2
Russian Federation (Russia)		1		2	0	3
Uruguay		2			0	2
The Netherlands (Holland)		2			0	2
New Zealand		3			0	3
Others	9	9	6	9	3	36
Grand Total	43	58	58	72	43	274

382. Likewise, during the period between 2014 and June 2018, the FIU submitted 98 spontaneous disclosures abroad (CEAX.)

Table 63: Foreign spontaneous disclosures from the FIU (Period 2014-June 2018)

Country	2014	2015	2016	2017	2018 June	Total
USA	7	2	6	10	2	27
Bolivia	1	2	4	2	1	10
Ecuador	1	1		4	1	7
Chile		1	3	1	2	7
Brazil	1	1		1	1	4
Argentina		1	2		2	5
Panama				3	1	4
Israel		3			0	3

Mexico		2	1		1	4
Italy		1			0	1
Colombia	1		1		1	3
El Salvador		1	1		0	2
Paraguay	1		1		0	2
Hong Kong		1		1	0	2
Russian Federation (Russia)			1	1	0	2
Others	1	4	2	1	7	15
Grand Total	13	20	22	24	19	98

383. It should be highlighted that, based on the feedback provided by several jurisdictions from the FATF Global Network, the FIU provides timely, constructive, and quality responses, and it has provided valuable and accurate information. The information provided by the FIU includes not only financial intelligence information, but also information on suspicious transactions, and migratory and criminal background records, among others.

384. Moreover, foreign FIUs have reported on joint tasks performed in relation to security, defence, and illegal mining. For instance, activities tending to improve the flow of financial information and the exchange of good practices between FIUs. Likewise, the FIU has provided valuable co-operation under the framework of joint exercises for the cross-border control of cash.

385. It should be added that, between 2015 and 2017, 9 information requests were received through the RRAG, which were answered in an average term of 23 days.

386. Likewise, the SUNAT, in bilateral and cross-border control operations of cash and securities, exchanges information on affidavits before the performance of the operations, and, during the performance of the operation, said information is exchanged online through other instantaneous communication means.

387. The PNP belongs to the Americas Police Community (AMERICAPOL), which constitutes a police co-operation mechanism for the exchange of intelligence information for criminal investigations and judicial assistance.

388. As regards international co-operation provided by supervisors, the feedback received by jurisdictions from the FATF Global Network is generally satisfactory.

389. Co-operation has been provided on banking and securities supervision matters to different countries of the region, in reasonable periods of time. The SBS has answered requests related to cross-border transaction entities, and in relation to the eligibility of natural persons who wanted to occupy a position at a banking institution. The factors of timeliness, quality, and usefulness of co-operation were rated as good. Likewise, in the framework of memoranda of understanding subscribed with foreign counterparts, on-site supervision by counterparts to Peruvian financial entities has been allowed.

390. In relation to customs matters, Peru provides co-operation to foreign counterparts in the framework of its membership with COMALEP, WCO, and the Global Container Control Program of the United Nations Office on Drugs and Crime and the World Customs Organisation.

International exchange of basic and BO information on legal persons and arrangements

391. There is no evidence of restrictions in Peru to exchange basic information and information on the BO of legal persons and arrangements; however, in relation to the access of information by competent authorities, there are some deficiencies to obtain it efficiently (refer to Immediate Outcome 5 for more information.)

392. To respond to passive legal assistance requests on the identification and exchange of basic and BO information of legal persons and arrangements, the UCJIE requires from the SUNARP necessary information to respond such requests. In the interviews held during the on-site visit, authorities indicated that the UCJIE is adopting the necessary measures to have direct access to the SUNARP databases, for the response to be even more expedite and processed directly by the Central Authority.

393. In relation to the FIU, within the structure of the response to SIEX, as part of the procedures to answer foreign information requests, it identifies BO of legal persons or arrangements based on information provided by the SUNARP. It should be highlighted that positive feedback has been received from foreign jurisdictions, which highlighted the fact that they received valuable information on intermediaries and BO of companies established in Peru. In the period between 2014 and June 2018, the FIU has answered 16 information requests where its foreign counterparts requested the identification of BO of legal persons.

394. As regards Prosecutor’s Offices, based on the information provided, 31 requests were processed for the identification of the BO of legal persons.

Table 64: Requests from prosecutor’s offices for the identification of the BO of legal persons 2014 - 2018

2014	2015	2016	2017	2018
0	0	6	10	15

Conclusions on Immediate Outcome 2

395. Based on the aforesaid, **Peru has achieved a substantial level of effectiveness for Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

CT1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

CT2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2008. This report is available at <http://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/peru/evaluaciones-mtuas-14/233-peru-3era-ronda-2008/file>.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

CT3. *Criterion 1.1* – In order to identify and assess risks, in 2016⁴¹ Peru, with the technical assistance of the IDB and under the co-ordination of the FIU, conducted a ML/TF NRA. Based on the aforesaid, in relation to the 2016 NRA, the identification of ML risks related to the vulnerabilities the country has in relation to fighting such crime is observed. For example, the three greatest ML risks in Peru are the difficulty of the PPO to investigate and prosecute ML/TF, the deficiencies in the Judiciary that impact on the national repression system, and the low level of effectiveness and prosecution of ML/TF by the PNP. Therefore, no identification and assessment of risks is observed to enable understanding how ML threats may affect the AML/CFT system.

CT4. *Criterion 1.2* – Supreme Decree No. 057-2011-PCM, as amended by SD No. 018-2017-JUS creates the CONTRALAFI, that is currently comprised by 19 State entities⁴²; it is presided by the MINJUSDH, with the Vice Presidency and Technical Secretariat vested in the SBS, represented by the FIU. Article 2, letter d, of the aforementioned Supreme Decree establishes the function of the CONTRALAFI: "to propose to the Ministry of Justice and Human Rights, on the basis of the results of its technical reports or other diagnoses, the updating of the Policy and the National Plan against the ML, TF and the FPWMD".

CT5. *Criterion 1.3* – Chapter VIII of the NRA sets forth the procedure to update the NRA. Said procedure contemplates its execution through a specific working group in CONTRALAFI⁴³ that should analyse, assess, and follow-up risks detected in the NRA. The procedure sets forth a common review (regular) or

⁴¹ Before 2016, Peru conducted a first ML/TF risk diagnosis during 2010 led by the FIU and with the technical assistance of the IMF.

⁴² The entities that comprise the CONTRALAFI are listed below:

Ministries (Executive Branch): Ministry of Economy and Finances (MEF), MINJUSDH, MRE, MINCETUR, MTC, Ministry of Defense (MINDEF), Ministry of Domestic Affairs (MININTER).

Autonomous Agencies: PJ, Congress of the Republic, PPO, CGR, SBS (FIU).

Public Agencies: DEVIDA, INEI, SMV, SUNAT, PNP, SUNARP, APCI

Additionally, 5 agencies participate as guests: PPO: Co-ordination of the Higher National Criminal Prosecutor's Office and Supra-Provincial Criminal Prosecutor's Offices; PPO: International Legal Co-operation and Extradition Unit (UCJIE); MINJUSDH: General Directorate on Criminal Matters; MININTER: Specialised Public Prosecutor on Money Laundering Crimes and Asset Forfeiture (PLAPD); and MINJUSDH: National Seized Property Program (PRONABI).

⁴³ The specific working group is made up by the FIU, the SBS, the PNP, the PPO, and the PJ.

extraordinary review (when required by unexpected circumstances.) The outcome of their duties shall be reported to the CONTRALAFI, with the suggestion of a course of action, as appropriate.

CT6. *Criterion 1.4* – Peru has mechanisms in place to communicate the risks assessments it conducts. Thus, the complete version of the NRA was communicated to the country’s main competent authorities, which was directly delivered by the SBS to the Ministries during bilateral meetings held for such purpose, as well as to present the report’s main outcomes. In relation to FIs and DNFBPs, Multiple Official Letters were issued. No special communication was made to self-regulatory bodies related to accountants and lawyers. However, the executive summary of the NRA is published in the SBS *web* page.

CT7. *Criterion 1.5* – As a result of the 2010 ML/TF risks analysis, the 2011 NP approved by Supreme Decree No. 057-2011-PCM, was conducted with the technical assistance of the IMF and led by the SBS. Subsequently, on the basis of the 2016 ML/TF NRA, the first National Policy against ML/TF was elaborated, a proposal approved by the CONTRALAFI in March 2017, and by the Executive Power by means of Supreme Decree No. 018-2017-JUS. Under this context, with the technical assistance of the GIZ, the 2018 NP was developed to ensure its implementation in the short and medium term. The 2018 NP, approved by Supreme Decree No. 003-2018-JUS, defines a temporary scenario based on four axes (i.e., prevention, detection, investigation and sanction, articulation), 16 specific targets, 58 concrete actions, individuals responsible for its implementation, and measurement indicators, including pending actions for implementation from the 2011 NP.

CT8. In this context, both the 2011 and 2018 NPs do not define specific mitigation actions and/or policies in relation to the present ML/TF risks, but they develop a RBA according to the vulnerabilities that Peru presents in the fight against ML/TF.

CT9. *Criterion 1.6* – Peru does not apply exceptions to FATF Rec.

CT10. *Criterion 1.7* – Different regulators and supervisors (SBS, SMV, MTC, and FIU) set forth that RIs should conduct their own ML/TF risk assessments, and for high-risk customers they should apply an enhanced CDD regime. Companies from the financial, insurance and AFP system under the supervision of the SBS were notified by Multiple SBS Official Letters 32119-2017, 33328-2017, and 40828-2017 about the need to include the outcomes of the ML/TF NRA in their own ML/TF risk assessments, particularly in relation to threats and vulnerabilities therein mentioned, in compliance with the provisions of Art. 25 of SBS Resolution No. 2660-2015. As regards other FIs or DNFBPs, Multiple Official Letters 17141-2018-SBS (RIs under SBS Resolution No. 789-2018), 17142-2018-SBS (Notaries), 17143-2018-SBS (CACs), 17144-2018-SBS (NPOs), 17286-2018-SBS (remittances), 17285-2018-SBS (casinos and slot machines), 17287-2018-SBS (securities sector), and 17288-2018-SBS (customs agents) notified them on the need to include the outcomes of the ML/TF NRA in their ML/TF risk assessments, particularly in relation to threats and vulnerabilities therein mentioned, in compliance with the provisions of Art. 28 of SBS Resolution No. 789-2018, and Art. 32 of SBS Resolution No. 6089-2016. However, these requirements were not set forth for lawyers and accountants, so that they would apply enhanced measures under higher-risk scenarios.

CT11. *Criterion 1.8* – Pursuant to Law No. 27693 and its regulation, Supreme Decree 020-2017-JUS, the SBS and the SMV may establish exceptions on the requirements and conditions required by the aforementioned legislation in relation to any aspect of the ML/TF prevention system, based on the special characteristics of RIs (Arts. 10, item 10.2.1b of Law No. 27693, and 13, item 13.4, Supreme Decree 020-2017-JUS.)

CT12. Regulations from the SBS defined products that, bearing a low ML/TF risk level, are included in the Simplified Regime. Currently, basic accounts, e-money simplified accounts, and some insurance products are included in said regime.

Basic accounts: These are savings accounts but, due to the target market and the limit of the amounts, are meant to be financial inclusion products. This product—that could be offered by companies from the banking, financial, and micro-finance systems that can accept deposits from the public—has the following characteristics: They can only be opened by residing customers (national and foreign), in domestic currency, and their balance at any time can be over 2,000 soles, daily deposits cannot exceed 1,000 soles, aggregate monthly deposits and withdrawals cannot exceed 4,000 soles, and they can only be used in the country. The aforesaid is defined in SBS Resolution No. 2108-2011.

E-money simplified accounts: This type of accounts has the following characteristics: Transactions can only be performed for a maximum amount of 1,000 soles (e-money conversion and reconversion, and transfers); maximum balance of 2,000 soles, monthly operations aggregate amount of 4,000 soles. These conditions are defined under the e-money transactions regulation approved by SBS Resolution No. 6283-2013.

Insurance products included in the simplified regime: Under this category, compulsory insurances hired by natural and legal persons for the benefit of their employees, group or collective insurance, micro-insurance, and school insurance, are included. These products are detailed under SBS Circular S-661-2016.

CT13. In the three cases mentioned, before regulations were issued, the SBS had undertaken ML/TF risk assessments on such products to establish, for the first two cases, if operational limits reduced the ML/TF risk level; in the case of insurance products, the SBS requested information from insurance companies and historic information of such products (number and amount of STRs, previously detected typologies), and on this basis, products to be included under this regime were chosen.

CT14. Additionally, companies may request an authorisation to the SBS to include under the simplified regime products that, based on their analysis, have a low ML/TF risk level. In such case, companies should provide the SBS with the following information: i) Characteristics of the product and/or service, including their businesses characteristics; ii) Information relating to the ML/TF risk factors of the product and/or service; and, iii) Information relating to the ML/TF detection system in relation to the product and/or service. This is all included under item 31.5 of Article 35, SBS Resolution No. 2660-2016 and under procedure No. 152 of the SBS Unified Administrative Procedures Text, approved by SBS Resolution No. 3082-2011, which includes a File that summarises the information companies would need to provide.

CT15. For RIs supervised by the SMV, CONASEV Resolution No. 033-2011-EF/94.01.1, Art. 3 sets forth that where the risks assessments identified low risks, simplified measures can be adopted for its administration and mitigation. In the case of RIs supervised by the MTC, the simplified regime applies for customers that conduct transactions for amounts lower than USD 1,000 (one-thousand US dollars) or its equivalent in domestic currency or other currencies; in such case, the RI should request the submission of the identity card of the performer.

CT16. In case of RIs devoted to the currency exchange offices, Arts. 16.5 and 39 of SBS Resolution No. 789-2018 (in force since March 15, 2018) established the enforcement of a simplified regime in relation to the know your customer policy when they conduct currency exchange transactions for amounts lower than USD 5,000, which requires submission of the identity card of the performer.

CT17. SBS Resolution No. 5709-2012, Art. 8.6 points out that notaries may apply a due diligence simplified regime in the know your customer procedure, when one of the parties to the act or agreement acts on its own

behalf and is a company from the financial system supervised by the SBS, or a company supervised by the SMV. Notwithstanding the aforesaid, the notary still has the duty to request certain minimum information to know its customer.

CT18. In this sense, the exceptions on the requirements and conditions to any aspect of the ML/TF prevention system, according to the special characteristics of the RIs, it is not established that must be related nor be coherent with the ML/TF national risk assessment.

CT19. *Criterion 1.9* – Monitoring and supervision of FIs and DNFBPs is performed by SBS, SMV, MTC, MINCETUR, the FIU, and lawyers and accountants' associations (see R. 26 and 28.) The implementation of obligations under this recommendation could not be verified in relation to lawyers and accountants' associations.

CT20. *Criterion 1.10* –

a) For RIs supervised by the SBS, SMV, MTC, FIU, and MINCETUR⁴⁴, ML/TF risk assessments conducted should be documented and kept updated. The methodology and outcomes of the identification and assessment of ML/TF risks, as well as ML/TF key risk indicators should be included in a report and made available to the supervisor. (SBS Resolutions No. 2660-2015, SBS 6089-2016, CONASEV 033-2011-EF/94.01.1, SMV 007-2013-SMV/01, SBS N° 6426-2015, SBS N° 4463-2016, SBS 789-2018, SBS 5709-2012 and SBS 1695-2016.)

b) The RIs supervised by the SBS, according to Art. 25 of SBS Resolution No. 2660-2015 must develop and implement procedures for the identification and assessment of ML/TF risks, taking into account the risk factors of ML/TF which they are exposed, as well as the market where they carry out its activities. In relation to the RIs supervised by the SMV, the MTC, FIU and MINCETUR there are similar provisions in art. 3.3 of the CONASEV Resolution No. 033-2011-EF / 94.01.1, Art. 31 of SBS Resolution No. 6089-2016, Arts. 30 and 31 of SBS Resolution No. 6426-2015, Arts. 29 and 30 of the SBS Resolution No. 4463-2016, Arts.27 and 28 of SBS Resolution No. 789-2018, Art. 3 of SBS Resolution No. 1695-2016.

c) The RIs risk assessments supervised by the SBS, SMV, FIU and MINCETUR must be kept up-to-date. (Art. 25 of Resolution No. 2660-2015, Art. 3.3 of the CONASEV Resolution No. 033-2011-EF / 94.01.1, Art. 32 of the SBS Resolution No. 6089-2016, Articles 29 and 30 of SBS Resolution No. 4463-2016, Article 31 of SBS Resolution No. 789-2018, Article 3 of SBS Resolution No. 1695-2016).

d) According to art. 29 of the Supreme Decree N ° 020-2017-JUS, the RIs must develop and implement mechanisms to attend the requirements made by the competent authorities in relation to the SPLAFT and attend, within the time required, the requests for information or extension of information made by the supervisory body and the FIU, in accordance with the regulations in force. The RIs supervised by the SBS, SMV, UIF and MINCETUR must have mechanisms that allow them to provide information in response to the requirements made by the competent authorities on the SPLAFT. (Art. 56 SBS Resolution No. 2660-2015, Art. 11 CONASEV Resolution No. 033-2011-EF / 94.01.1 Art. 35 of SBS Resolution No. 6089-2016, Art. 34 SBS Resolution No. 6426- 2015, Art. 32 SBS Resolution No. 4463-2016, Art. 30 SBS Resolution No. 789-2018.) Compliance with this criterion could not be verified since there are no obligations imposed on lawyers and accountants.

⁴⁴ In relation to casinos and/or slot machines, the duty to conduct risks assessment reports lies on RIs that exploit casino gambling rooms; 500 slot machines or more in all rooms authorized; or slot machine rooms in border areas (Tacna, Puno, Ucayali, Loreto, Tumbes or Madre de Dios.)

CT21. *Criterion 1.11* - RIs supervised by the SBS, SMV, MTC, FIU and MINCETUR⁴⁵ are required to establish policies, controls, and procedures to identify, assess, control, mitigate, and monitor their ML/TF risks; as well as to adopt enhanced measures to manage and mitigate higher risks, and simplified measures for lower risks. (Resolutions SBS 2660-2015, SBS 6089-2016, CONASEV 033-2011-EF/94.01.1, SMV 007-2013-SMV/01, SBS 789-2018, SBS 5709-2012, and SBS 1695-2016.) Compliance with this criterion could not be verified since there are no obligations imposed on lawyers and accountants.

CT22. *Criterion 1.12* - For the RIs supervised by the SBS, they can apply simplified measures only when the SBS has previously authorized the application, but they must analyze prior the risk level of ML/TF. However, when there is suspicion of ML/TF, the established procedure consists in the implementation of intensified measures (literal j) and k) of art. 32 of SBS Resolution No. 2660-2015). For the RIs supervised by the SMV, in those cases which intensified measures are not applicable, the scope of the administration and mitigation measures may be differentiated, depending on the level of risk resulting (Article 3 of the CONASEV Resolution No. 033- 2011-EF/94.01.1). For the RIs supervised by the MTC, they can only apply simplified mitigation measures in those cases where the clients carry out operations for amounts lower than US \$ 1,000.00 (one thousand and 00/100 US dollars) or its equivalent in national currency or other currencies. (Article 8 of SBS Resolution No. 789-2018). In the case of the RIs supervised by MINCETUR, according to art. 8 of Resolution No. 1695 allows the adoption of general measures no in cases indicated in art. 3.4 that require intensified handling. The RIs supervised by the FIU, the art. 16 of SBS Resolution No. 789-2018 describes the adoption of simplified measures when minor risks have been identified. However, it was not possible to verify the compliance of this criterion for lawyers and accountants.

Weighting and Conclusion

CT23. In relation to the 2016 NRA, there is no identification and assessment of risks to allow to understand how ML threats may impact on the AML/CFT system. The 2018 NP is in the process of being executed and, in relation to the 2011 NP, resources have been allocated for compliance with some of the actions established, although no resources seem to be allocated for compliance with action lines regarding the creation of multi-disciplinary investigation teams, and experts. Additionally, some of the requirements under this Recommendation do not apply to lawyers and accountants. **Recommendation 1 is rated Largely Compliant.**

Recommendation 2 - National Cooperation and Coordination

CT24. In the 2008 third Round MER, Peru was rated “partially compliant” in relation to former R.31. Back then, not being able to verify the efficiency of the co-ordination system against ML and TF, or the existence of an efficient information exchange mechanism between the agencies was considered a deficiency.

CT25. *Criterion 2.1* – As mentioned, as a result of the 2010 ML/TF risk analysis, the first AML/CFT PN was conducted, with the purpose of: i) strengthening the national AML/CFT system, under its prevention, detection, and criminal suppression components; ii) contributing to the protection of the country’s economic and financial integrity and soundness, iii) reducing the economic dominance of organised crime and terrorism; and vi) fighting against corruption. Subsequently, on the basis of the outcomes of the 2016 ML/TF NRA, the 2018 AML/CFT NP was developed.

⁴⁵ Idem.

CT26. Working groups were established within the CONTRALAFT to conduct the regular update of the Policy and the AML/CFT NP: i) Update of the National Plan against ML/TF: Co-ordinated by the MINJUSDH and comprised by the PJ, PPO, PNP, SBS (FIU), SUNAT, SMV, and PRONABI; and ii) Establishment of National Policies: Co-ordinated by MINJUS and comprised by the PJ, PPO, MEF, and SBS (FIU)

CT27. *Criterion 2.2* – The purpose of the CONTRALAFT is to assist in the co-ordination and planning of actions by public and private entities aimed at preventing and combating ML, TF, and the FPWMD; And it has been endowed with the following duties: a) Articulate efforts addressed to prevent and combat ML, TF, and FPWMD; b) Conduct activities aimed at monitoring the implementation of the AML/CFT and FPWMD Policy and NP; c) Issue technical reports on the progress made in the implementation of the AML/CFT and FPWMD Policy and NP; d) Suggest to MINJUSDH, on the basis of the outcomes of its technical reports or other diagnosis (i.e., the NRA), the update of the AML/CFT and FPWMD Policy and NP; and, e) Propose its Internal Regulations.

CT28. *Criterion 2.3* – As discussed, the purpose of the CONTRALAFT is to assist in the co-ordination and planning of actions by public and private entities and articulating efforts aimed at preventing and combating ML, TF, and FPWMD.

CT29. In the context of the co-ordination between CONTRALAFT entities, the working group “Procedures for Information Exchange” was created, comprised by the PJ, PPO (to include the FISLAAPD, PNP, MINJUSDH, and PRONABI, with the co-ordination of the SBS (FIU). The interests of this group include to improve or establish procedures or other mechanisms (conventions, agreements, memoranda, and protocols) that would allow to improve inter-agency access and exchange of relevant and timely information for the fight against ML/TF.

CT30. With the aim of achieving co-ordination, to date there are Master Agreements, Specific Co-operation Agreements, and Memoranda of Understanding between the PPO, PH, MINJUSDH, the National Judicature Council, and Constitutional Court; as well as co-operation agreements between the MINJUS, the PJ and the PPO; the PPO with the RRENIEC, SUNARP, and DIGEMIN; finally, between the FIU-SBS and the PJ, PPO, MINCETUR, DINI, SMV, SUNAT, PNP, and MINCETUR; and agreements between DEVIDA and the PJ and PPO.

CT31. *Criterion 2.4* – The CONTRALAFT co-ordinates and plans actions by public and private entities addressed at preventing and combating FPWMD. For such purpose, a representative from the MINDEF is involved. Additionally, in compliance with the Regulation of the PNP Law (Supreme Decree 026-2017-IN), the DIRCOTE has, among its organic units, the International Terrorism Investigation Division, which purpose is, among others, to prevent, monitor and investigate malicious radioactive sources, *in co-ordination with* the Peruvian Nuclear Energy Institute, in relation to weapons of mass destruction (Art. 120, item 4); This specific function is performed by the Department of Prevention and Investigation of WMD, created under Board Resolution No. 229-2016-DIRGEN/EMG-PNP.

Weighting and Conclusion

CT32. Peru complies with the criteria established by this Recommendation. **Recommendation 2 is rated Compliant.**

Recommendation 3 - Money laundering offence

CT33. In the 2008 third round MER, Peru was rated “mostly compliant” in relation to former R.1 and “compliant” in relation to former R.2. In said MER, deficiencies relating to former R.1 were indicated as follows: 1) The legal formula of the criminal type could cause doubts in relation to the enforcement of the criminal description based on predicate offences that are not expressly mentioned by the regulation; and 2) The typical description does not clarify if it applies to assets that are directly and indirectly originated from the illegal activity.

CT34. *Criterion 3.1* – Arts. 1, 2 and 3 of Legislative Decree 1106 describe the ML crime as follows:
 “Art. 1 **Whoever converts or transfers money, property, stock, or gains knowing or presuming their illicit origin with the intent of avoiding the identification of their origin, their seizure or confiscation shall be imposed with a penalty of imprisonment of no less than eight years and no more than fifteen years and one-hundred and twenty to three-hundred- and fifty-day fines.**

Art. 2. Whoever acquires, uses, holds, keeps, manages, custodies, receives, conceals or possesses money, property, stock, or gains which illicit origin is known or presumed shall be imposed with a penalty of imprisonment of no less than eight years and no more than fifteen years, and one-hundred and twenty to three-hundred- and fifty-day fines.

Art. 3. Whoever transports or carries with him/herself or through any other means to the national territory cash or bearer negotiable financial instruments which illicit origin is known or presumed, with the aim of avoiding the identification of their origin, their seizure or confiscation; Or has such property enter or exit the country with him/herself or through any other means, knowing or presuming its illicit origin, with same purpose, shall be imposed with a penalty of imprisonment of no less than eight years and no more than fifteen years, and one-hundred and twenty to three-hundred and fifty day fines.”

CT35. Based on the aforesaid, the criminalisation of ML covers the requirements established by the Vienna and Palermo Conventions.

CT36. *Criterion 3.2* – In compliance with Art. 10 of the Legislative Decree 1106, the following offences are listed exhaustively as ML predicate offences: Illegal mining, TID, terrorism, TF, crimes against the public administration, kidnapping, procuring, trafficking in humans, illicit arms trafficking, migrant smuggling, tax crimes, extortion, robbery, and customs crimes. Additionally, Art. 10 establishes as ML predicate offence “any other crime capable of creating illegal earnings, with the exception of acts contemplated in Art. 194⁴⁶ of the Criminal Code.”

FATF Predicate Offences Categories	Range of corresponding offences
Participation in an organised criminal group and	Criminal Code, Art. 196

⁴⁶ Art. 194. Handling stolen goods. The person who acquires, receives in donation or in pledge or custody, hides, sells or helps to negotiate a property whose criminal origin was known or should presume that it came from a crime, shall be punished with a prison sentence not less than one nor more than four years and with thirty to ninety days-fine.

Art.194-A.- Distribution of Programme Carrying Signals Transmitted by Satellite. The one that distributes a satellite signal carrier of programs, originally coded, knowing that it was decoded without the authorization of the legal signal distributor, shall be punished with privative penalty of freedom not less than two years nor more than six years and with thirty to ninety days fine.

fraud	
Terrorism and TF	Decree Law No. 25475, Arts. 2 and 4-A Criminal Code, Art. 297, last paragraph
Trafficking in human beings and migrant smuggling;	Criminal Code, Arts. 153 and 303A - 303B
Sexual exploitation, including sexual exploitation of children	Criminal Code, Arts. 153 B, 181, 181A-B, 183A-B
Illicit trafficking in narcotic drugs and psychotropic substances	Criminal Code, Section II of Chapter III of Title XII of the Second Book
Illegal arms trafficking	Criminal Code, Arts. 279, 279-A, 279-B, 279-C and 279-D
Illicit trafficking in stolen and other goods	Criminal Code, Art. 194. In compliance with Art. 10 of Legislative Decree 1106 it is not a ML predicate offence.
Corruption and bribery	Criminal Code, Arts. 361- 426
Fraud	Criminal Code, Arts.197- 198
Counterfeiting currency	Criminal Code, Art. 252
Counterfeiting and piracy of products	Criminal Code, Arts. 218-220 and Art. 237
Environmental crimes	Criminal Code, Arts. 304-314 D
Murder, grievous bodily injury	Criminal Code, Arts. 106-113, 121-124
Kidnapping, illegal restraint and hostage-taking	Criminal Code, Art. 152
Robbery or theft	Criminal Code, Arts.185-189
Tax crimes (related to direct and indirect taxes)	Legislative Decree 813, Tax Criminal Law Law No. 28008, Law on Customs Crimes
Extortion	Criminal Code, Arts. 200-201

Forgery	Criminal Code, Arts. 427 through 433.
Piracy	Criminal Code, Arts. 216 through 225.
Insider trading and market manipulation	Criminal Code, Arts. 251A-251B

CT37. *Criterion 3.3* – Based on the aforementioned in criterion 3.1, Peru does not apply the threshold criterion. The Peruvian law sets forth that ML predicate offence is, in addition to the exhaustive list of offences, any other crime capable of generating illegal earnings.

CT38. *Criterion 3.4* – The ML offence extends to “*money, property, stock or proceeds*” of crime. Additionally, it should be mentioned that, pursuant to Art. 4 of Legislative Decree 1106, the value of money, property, stock or proceeds involved is only taken into account as an aggravating or extenuating circumstance to determine the penalty to be imposed. The value constitutes an aggravating circumstance when it exceeds 500 tax units (UIT*) (2,075,000 soles) and an extenuating circumstance when it does not exceed 5 UIT (20,750 soles.)

CT39. *Criterion 3.5* – The ML offence, pursuant to the provisions of Art. 10 of Legislative Decree 1106, is autonomous, reason why for the investigation, prosecution, and sanction, it is not required that the predicate offence be discovered, subject to investigation, judicial process, or prior object of evidence or conviction.

CT40. *Criterion 3.6* – The Criminal Law is applied to any crime perpetrated abroad when they violate public safety or tranquility or if they relate to behaviours criminalised as ML, as long as they cause their effects in Peru. The place where the crime was perpetrated is that where the author or participant has acted or omitted the obligation to act or in which the where the effects are produced. Thus, regardless of the predicate offence being committed in other country, the proceeds of crime bear an effect in Peru (Arts. 2 and 5 of the Criminal Code.) Likewise, art. 529 of the NCPC indicates that the act shall be punishable in both States independently of the terminology or legal qualification.

CT41. *Criterion 3.7* – Whoever conducted or participated in the criminal activities that generate the money, property, stock or earnings is considered to be the perpetrator and, therefore, subject to ML investigation and trial (Art. 10, Legislative Decree 1106.)

CT42. *Criterion 3.8* – The illicit origin known by the ML perpetrator, or that s/he should have presumed, may be inferred from the concurrent evidence on a case-by-case basis (Art. 10, Legislative Decree 1106.)

CT43. *Criterion 3.9* – In compliance with Arts. 1-3 of the Legislative Decree 1106, the ML offence, under its different forms, is sanctioned with a minimum of 8 years’ imprisonment and a maximum of 15 years’ imprisonment; and with day fines from 120 to 350. Likewise, in compliance with Art. 4 of the Legislative Decree mentioned, the ML offence is sanctioned as follows: (i) where there is an aggravating circumstance, with a minimum of 10 years’ imprisonment and a maximum of 20 years’ imprisonment, and 365 day fine; (ii) where the predicate offence is illegal mining, illegal trafficking of drugs, terrorism, kidnapping, extortion, or trafficking in humans, with no less than 25 years’ imprisonment; and, (iii) where there is an extenuating circumstance, with a minimum of 4 years’ imprisonment and a maximum of 6 years’ imprisonment, and 80 to 110 day fine. Based on the penalties established and considering the penalties for other similarly serious offences, sanctions are considered to be proportionate, effective, and dissuasive.

CT44. *Criterion 3.10* – Law No. 30424, Art. 1 establishes the liability of legal persons for the ML offence. This liability determined by arts. 2 through 4 of the same criminal Law, is independent from the criminal liability of the natural person that perpetrated the offence and cannot be avoided by any act that would affect the legal persons’ personality. For example, corporate reorganisation, merger, or dissolution. Likewise, based on Art. 5 of the Law referred to, a range of proportionate and dissuasive measures is provided for in relation to legal persons, such as: Fines, temporary suspension of corporate activities, temporary or permanent prohibition to conduct activities, permanent disqualification to enter into agreements with the State, cancellation of authorisations, temporary or permanent closure of the facilities, and dissolution. For the purposes of determining the specific measure, the Judge should take into account a series of criteria, among them, the incomes of the legal person, the seriousness of the offence, and the damage or danger caused (Law No. 30424, Arts. 7-10 and 14.)

CT45. *Criterion 3.11* – The attempt to commit a crime, abetting (instigating), assisting, helping, facilitating, and counselling (providing assistance or help) are covered under Arts. 16, 24, and 25 of the general portion of the Criminal Code that applies to ML offences.

Weighting and Conclusion

CT46. Peru complies with the criteria established by this Recommendation. **Recommendation 3 is rated Compliant.**

Recommendation 4 - Confiscation and provisional measures

CT47. In the 2008 MER, Peru was rated “mostly compliant” in relation to former R.3. The MER identified the following deficiencies: 1) Lack of regulations to allow the confiscation of property of corresponding value; 2) The current criminal legislation at the time did not clearly provide for the possibility of adopting precautionary measures or the confiscation of property a) that are the indirect result of the criminal activity; and b) regardless of the owner or a third party being accused for a criminal action; the effectiveness of the law on asset forfeiture could not be assessed.

CT48. *Criterion 4.1* – For the ML offence, based on Art. 9, at all times the Judge shall resolve the seizure or confiscation of money, property, stock or proceeds involved pursuant to Art. 102 of the Criminal Code. Said article points out that where the autonomous process of asset forfeiture does not apply, the seizure of: i) the *instruments* used to execute the crime, even when they belonged to third parties, except when they did not authorise their use; ii) the *objects* of crime when, based on their nature, cannot be delivered or returned; iii) the *stocks or proceeds* of crime, whichever transformations these were subject to; iv) the estimated value of the intermingled illicit property (when the stock or proceeds of crime are intermingled with legally obtained property), unless these were used as *means or instruments* to conceal or convert illegal origin property, in which case the confiscation of both types of property shall be ordered; and v) *property or assets owned by the perpetrator or a third party for an equivalent amount* to the amount of said stock and proceeds shall be resolved.

CT49. Moreover, asset forfeiture is provided for the ML offence, which is a legal-patrimonial consequence through which the ownership of objects, instruments, stocks and proceeds of crime are declared for the benefit of the State by decision of a competent authority, under a due process (Art. 2, Legislative Decree 1104.)

CT50. In relation to the confiscation under asset forfeiture, based on the legislation mentioned, it shall be enforced even when the property was held by third parties, except when these were bona fide third parties (CPP, Art. 94.b, Law No. 27379, Art. 4, Legislative Decree 1104, Art.16.)

CT51. *Criterion 4.2 –*

a) The legal framework grants the Prosecutor (Art. 33.3 of Law No. 30483; Article 94 of the CPP; Art. 2, section 3 of Law No. 27379; and Arts. 60, section 2, 61, section 2, and 316 of the NCPC) and the PNP (Art. 2, section 8 of Legislative Decree 1267; Article 4, section 9 of Supreme Decree No. 026-2017-IN; Arts. 59 and 63 of the CPP, Art. 1, section 11 of Law No. 27934; Art. 68, section d and k, and 316 of the NCPC; and, Art. 17 of Law No. 30077), the duty to identify and trace assets. Likewise, the Prosecutor has the power to launch asset forfeiture investigations and to initiate the corresponding claim before the Judiciary (Legislative Decree 1104, Arts. 11 and 13.)

Within the PNP, the DIRILA is responsible to identify and trace assets subject to confiscation for ML and/or asset forfeiture (Art. 133.4 and 133.13 of Supreme Decree 026-2017-IN), while the DIRCOTE is responsible to identify and trace assets subject to confiscation for TF (Art. 115 sections 3 to 5 and 23 of Supreme Decree 026-2017- IN); And within the PPO, the Specialised Prosecutor's Offices on ML Crimes and asset forfeiture are responsible to identify and trace assets subject to confiscation for ML and asset forfeiture (Arts. 18-23 of Resolution No. 1423-2015-MP-FN), and in districts where there is no specialised prosecutor, individuals endowed with such power (Resolution No. 737-2015-MP-FN as amended.) In relation to assets related to TF, at the PPO's level, the duty to identify and trace assets lies on the Specialised Subsystem on Terrorism and Crimes against Humanity, comprised by the National Higher Prosecutor's Offices and Supra Provincial Criminal Prosecutor's Offices (Resolution from the Executive Committee of the MP 070-98-CEMP, January 29, 1998, Resolution No. 105-2003-MP-FN, January 29, 2003; and Resolution No. 1645-2004-MP-FN, November, 2004.)

The National Seized Property Program (PRONABI), created under Supreme Decree 011-2017-JUS, is in charge of the appraisal or valuation of seized or confiscated property.

b) In case of criminal flagrancy or imminent danger of perpetration, the PNP may seize the property subject to confiscation, reporting such action to the Prosecutor (Arts. 59 and 63 of the CPP, Art. 1.11 of Law No. 27934, Arts. 68 section K and 316 item 1 of the 2004 CPC and Art. 17 of Law No. 30077.) Moreover, the Prosecutor's Office, whenever there is danger in the delay, may order the seizure of property subject to confiscation (Art. 94 of the CPP, Art. 2.3 of Law No. 27379 and Art. 316 of the NCPC.) In either case, after performing the seizure, the Prosecutor should immediately seek the Judge's approval, who shall make a decision, without further action, in a term of up to 24 hours or 2 days, respectively (Art. 4 of Law No. 27379, and Arts. 203 section 3, and 316 section 2 of the NCPC.) In case there were no danger in the delay, the Prosecutor needs to request prior judicial authorization to seize the property (Art. 2, item 3 of Law No. 27379 and Art. 317 of the NCPC.) In case of seizure of movable or real property, pursuant to Art. 318, item 2 of the NCPC, in addition to its custody or tenure, such measure shall be registered in the corresponding registry, as appropriate. Also, other measures can be applied, such as the embargo (Art. 94 of the CPP, Art. 2 section 4 of Law No. 27379, and Art. 302 of the NCPC.) Additionally, pursuant to Art. 12 of the Legislative Decree 1104, both seizure and embargo can also be applied in asset forfeiture processes.

In Peru, there exists also the national administrative freezing of funds or other assets that may be ordered by the FIU within the framework of ML/TF investigations, as long as: (i) there is urgency of circumstances or danger in the delay; and (ii) it was necessary for the magnitude and nature of the investigation. This administrative and preventive measure is subject to judicial ratification and allows the Prosecutor to request or execute regular measures provided for in the current criminal legislation, for

- the purposes of preventing such property to be put out of reach from justice (Art. 3.11 of Law No. 27693; and Arts. 8 to 10 of its regulation, Supreme Decree 020-2017-JUS.)
- c) The application of the *restraining order* by the Judge is contemplated, upon request of the Prosecutor, to alienate or levy property to be registered in the Public Registries, as appropriate (Art. 2, section 4 of Law No. 27379, and Art. 310 of the NCPC.) Moreover, based on Art. 321 of the NCPC, *anticipated measures* can be applied to avoid the permanence of crime or the extension of its harmful effects, as well as the early and provisional execution of the monetary consequences of the crime; and, in case of prosecution against legal persons, pursuant to Arts. 313.1, section e) of the NCPC, the *registry entry of the criminal code* may be applied.
 - d) The powers granted upon the PPO, with the support of the PNP, to perform its investigations in an adequate manner, are contemplated in Arts. 159 and 166 of the Political Constitution of Peru and are further developed in Arts. 9, 11, and 14 of the Legislative Decree 052, Arts. III, item 4, of the Preliminary Title and Title 2, item 7, of Legislative Decree 1267, Art. 4 of Supreme Decree 026-2017-IN, Art. 59 of the CPP, and Arts. VII of Preliminary Title, 60, 61, 65 and 68 of the NCPC. In fact, based on the legal framework mentioned, the Prosecutor acts independently, leading the investigation from the beginning and deciding the appropriate investigation strategy for the case in question. Moreover, the Police conducts investigation actions, under the leadership of the Prosecutor, and may submit suggestions to the strategy. Within this framework, both should co-operate and act jointly and in a co-ordinated way to ensure the greatest efficiency in the investigation of the crime.

CT52. *Criterion 4.3* – The rights of bona fide third parties are protected in case of seizure, confiscation and asset forfeiture (CPP, Art. 94.b, Law No. 27379, Art. 4, Legislative Decree 1104, Art. 16).

CT53. *Criterion 4.4* – The PRONABI has been granted powers to manage or dispose seized or confiscated property, whether in the framework of a criminal proceeding or asset forfeiture (Legislative Decree 1104, and its regulation, Supreme Decree 093-2012-PCM; Supreme Decree 011-2017-JUS; And Ministerial Resolution No. 0148-2017-JUS.) Among the administration actions, the following can be mentioned: Temporary use allocation, leasing, maintenance measures, custody, destruction, or other modalities; And among the disposition actions, the following can be mentioned: permanent allocation, sale by public auction or destruction (Arts. 15 and 16, Supreme Decree 093-2012-PCM.)

Weighting and Conclusion

CT54. Peru complies with the criteria established by this Recommendation. **Recommendation 4 is rated Compliant.**

Recommendation 5 - Terrorist financing offence

CT55. In the 2008 MER, Peru was rated “mostly compliant” in relation to former SR.II. The MER identified the following deficiencies: 1) Lack of clarity on the application of co-operation, regardless of the effective use of funds or the commission of terrorist acts; 2) Potential issues in relation to the definition of the predicate offences; and 3) Lack of clarity whether the co-operation behaviours was applicable, regardless of the country of perpetration.

CT56. *Criterion 5.1* – The TF offence is criminalised under Art. 4-A of Decree Law No. 25475, as amended by Art. 6 of Legislative Decree 1249 of November 2016, which sets forth that whoever “...willingly provides, contributes, or collects means, funds, financial or economic resources or financial services or related services

or of any other nature, whether lawful or unlawful, through any means, directly or indirectly, in or out of the national territory, with the purpose of committing any crime herein listed, any of the terrorist acts defined in treaties Peru is a party to, or to achieve the goals or ensure the existence of a terrorist group or individual terrorists, shall be punished with an imprisonment sentence of..." For the purposes of clarifying the scope of application of the criminal description, it should be mentioned that Decree 25475 includes terrorist offences and their aggravating circumstances, acts of co-operation with terrorism, affiliation to terrorist organisations, instigation, recruiting, conspiracy to commit terrorist crimes and hindering of the actions of justice. It is important to highlight that the Criminal Code, in Art. 297, sets forth a specific scenario where terrorist activities are funded through the illegal trafficking of drugs.

CT57. *Criterion 5.2* – According to the text of Art. 4-A of Decree Law No 25745, the TF crime is applicable to anyone who willingly provides means, funds, financial or economic resources (which could be interpreted as "other assets," as pointed out by the Criterion), financial services, related services or services of any other nature, with the aim of committing any of the crimes included in the Decree Law itself or to achieve the goals or ensure the existence of terrorist groups or individual terrorists.

CT58. *Criterion 5.2 bis* – Art.4-A of Decree Law No. 25475 includes the provision of "means." Additionally, within the behaviour of "acts of co-operation with terrorism," Art. 4 of said Decree Law includes in item c) "knowingly transporting individuals that belong to terrorist groups, individual terrorists, or people related to criminal activities included in this Decree Law in the country or abroad, as well as the provision of any kind of help that would favour their escape."

CT59. *Criterion 5.3* – As mentioned in Art. 4-A of Decree Law No. 25475, the scope of the Art. extends to means, financial or economic resources, as well as services, whether lawful or unlawful.

CT60. *Criterion 5.4* – Article 4-A of Decree Law No. 25475 does not mention the requirement that resources, means or services provided are used for the performance of the offence, but rather that they must be aimed at being used for the behaviours mentioned in the text of the article.

CT61. It should be highlight that based on Art. 2 of Law No. 29936 of November 21, 2012, the TF crime is autonomous and does not require the crimes of the Decree Law, terrorists acts or terrorist purposes be perpetrated to constitute the criminal behaviour.

CT62. *Criterion 5.5* – As set forth by Art. 194 of the CPP (Law No. 9024), for the investigation of an act that constitutes all scientific and technical means possible shall be used. Likewise, the Supreme Court set a binding precedent through the Plenary Agreement 1-2006 in its analysis of Annulment Request 1912-2005 of Piura, setting forth the requirements for the use of the evidence.

CT63. *Criterion 5.6* – Based on the provisions of Art. 4.1 of the Decree Law No. 25475, the TF offence shall be sanctioned with a penalty of a minimum 20 year's imprisonment or a maximum of 25 year's imprisonment, with the aggravating circumstances of offering a reward or that whoever commits the offence is a public servant or officer, in which case the penalty shall be between 25 and 35 years' imprisonment, in addition to the disqualification from public office.

CT64. *Criterion 5.7* – Article 1 of Law 30424, amended by Legislative Decree 1352 of January 2017, establishes that the behaviours included under Art. 4-A of Decree Law No. 25475 shall be subject to the administrative liability of legal persons for the commission of TF crime. Article 3 of the aforementioned Law sets forth that legal persons shall be administratively liable for the crimes committed on their behalf or

by themselves and for their benefit, by the following natural persons: Partners, Directors, In-law or in-fact administrators, Legal representatives and Attorneys-in-fact.

CT65. As set forth by Art. 4 of Law No. 30424, the administrative liability of legal persons shall be autonomous in relation to the criminal liability of natural persons, and it shall only be extinguished due to prescription or final decision. In relation to the administrative measures applicable, there are fines, that shall not be lower than two times the benefit obtained or expected from the commission of the crime, nor higher than six times this benefit, or the disqualification under different forms, ranging from suspension, prohibition to conduct activities, cancellation of licenses, closure of premises, or even dissolution.

CT66. *Criterion 5.8* –

- a) The attempt to commit a TF crime is covered under Art. 16 of the Criminal Code.
- b) The participation as accomplice to the perpetrator, whether primary or secondary participation, is established under Art. 25 of the Criminal Code, which sets forth that whoever participates wilfully assisting to the criminal act in a manner that was necessary for the crime to be committed, would be subject to the same punishment than the perpetrator; Whoever provided assistance in any other way, wilfully, shall be subject to a prudential lower punishment.
- c) Instigation for the commission of any crime related to terrorism, including TF, is covered under Art. 6 of Decree Law No. 25475, as well as under Art. 24 of the Criminal Code in a more general way to cover all types of offences.
- d) There are additional behaviours punished in accordance with the laws of Peru: Recruiting of individuals set forth in Art. 6-1 of Decree Law No. 25475, conspiracy to promote, favour, or facilitate terrorist crimes and TF included under Art. 6-B of the same Decree Law, as well as glorification of terrorism currently covered under Art. 316-A of the Criminal Code.

CT67. *Criterion 5.9* – Article 10 of Legislative Decree 1106 includes TF as one of the criminal activities in relation to which knowledge about the illegal origin of resources, or its presumption should be present.

CT68. *Criterion 5.10* – The drafting of Art. 4-A of Decree Law No. 25475 sets forth that it is applicable to whoever provides means, resources, and services in the country or to locations out of the national territory.

Weighting and Conclusion

CT69. Peru complies with the criteria established by this Recommendation. **Recommendation 5 is rated Compliant.**

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

CT70. In the 2008 MER, the SR.III was rated “partially compliant.” Among the deficiencies detected to determine such rating, the lack of procedure to ensure the effective enforcement of UNSCRs under the terms required by the Recommendation can be mentioned.

CT71. *Criterion 6.1* –

- a) Pursuant to Art. 7 of SBS Resolution No. 3862-2016, the Ministry of Foreign Affairs (MRE) is endowed with the duty of proposing the designation of individuals or entities before the United Nations Security Council, based on the proposal made by the FIU.

- b) Art. 7 of SBS Resolution No. 3862-2016 sets forth that the FIU shall monthly request relevant authorities (PNP, MININTER, PPO, and PJ) to submit information on individuals or entities presumably related to terrorism or TF activities. In addition, Memorandum 99-2018-UIF-SBS sets forth that the Committee for the Proposal of Inclusion to UN Lists from the FIU, together with the information received and the information it collects, shall make an analysis and, if it were determined that a person or entity meets the criteria established in UNSCR 1267 (1999) and subsequent resolutions, communicate it to the MRE to submit to the UNSCR, in the framework of its duties, the designation proposal.
- c) The analysis mentioned in Art. 7 of SBS Resolution No. 3862-2016 points out that if the FIU has reasonable grounds to determine that a person or entity meets designation criteria set forth in Resolution 1267 (1999) and successor resolutions, it communicates so without delay to the MRE to act in the framework of its competence before the UNSC.
- d) The MRE, in the framework of its competence, would submit the designation proposal to the UNSC based on UNSCRs 1267 1267/1989 and 1988.
- e) As mentioned above, in addition to request information to different pertinent authorities on a monthly basis, the FIU also uses all the information it has access to.

CT72. *Criterion 6.2 –*

- a) As set forth in SBS Resolution No. 3862-2016, the FIU is the competent authority to make designations at the domestic level (Art. 8) or to make decisions in relation to other country's designation requests (Art. 12) of persons or entities, based on UNSCR 1373.
- b) As mentioned in Art. 8 of SBS Resolution No. 3862-2016, the FIU requests information to the PNP, the MININTER, the PPO, and the PJ on persons or entities that i) are under a tax investigation or criminal process, in the country or abroad, as author, participant or facilitator of the TF crime; or ii) were subject to a judicial decision issued in the country or abroad, that mentions them as authors, participants, or facilitators of the TF crime, failing to comply with all designation criteria under UNSCR 1373.
- c) Art. 12 of SBS Resolution No. 3862-2016 sets forth that the FIU receives the freezing requests made by other countries according to UNSCR 1373, which shall include information to fully identify the persons or entities, such as name, corporate name, nationality, address, and grounds for the adoption of the measure, with corresponding supporting documentation. The information and documents are analysed by the FIU and, after studying the grounds provided according the UNSCR 1373 (reasonable grounds or on a reasonable basis, to suspect or believe that the person or entity proposed for its designation meets the criteria for designation of UNSCR 1373), orders the freezing without delay and follows the procedures set forth in SBS Resolution.
- d) Taking into account that the assessment made by the FIU to designate shall be based upon tax investigations, or criminal proceedings in process and convictions, as set forth in SBS Resolution No. 3862-2016. In case of designations based on a prosecutor investigation, according to the regulations (Criminal Procedure Code Art. 330.2) the prosecutor investigation is understood as a preliminary investigation which can be initiated, among others, from intelligence information of the FIU as a sign. In this sense, the designations on the basis of the prosecutor investigations, in general they are not conditioned to a criminal process and can be understood that they are carried out on reasonable bases.
- e) The FIU applies to its designation requests the same requirements and demands set forth in Art. 12 of SBS Resolution No. 3862-2016.

CT73. *Criterion 6.3 –*

- a) The procedures established in SBS Resolution No. 3862-2016 grant the FIU the power and duty to request pertinent information to competent authorities (PNP, PPO, MININTER, and PJ) about persons

or entities presumably linked to terrorism and TF, to analyse the cases and, if appropriate, designate them.

- b) Based on the Second Final Provision of SBS Resolution No. 3862-2016, when the FIU becomes aware of the existence of funds or other assets linked to UNSCR designations, it shall immediately order the administrative freezing of the assets. However, the scenario of a designation proposal under analysis and pending for corroboration is not considered.

CT74. *Criterion 6.4* – Law No. 27693, Art. 12 sets forth that the FIU shall be empowered to order the immediate administrative freezing of funds or assets of persons listed in the UNSCR lists related to terrorism, TF, and FPWMD. Moreover, SBS Resolution No. 3861-2016 sets forth in Art. 4 that, upon receiving the communication by RIs, the FIU shall order without delay the administrative freezing of assets or funds identified and communicate such decision to the reporting institution through an official letter, ordering the execution of the freezing measure. Art. 9 of said Resolution establishes a mechanism under the same terms for compliance with designations and requests from other countries based on UNSCR 1373.

CT75. *Criterion 6.5* –

- a) Pursuant to the provisions of SBS Resolution No. 3862-2016 in Arts. 3 and 9, RIs should freeze without delay once the FIU orders the preventive freezing. However, the freezing obligation does not cover all natural and legal persons of the country.
- b) According to Art. 2.a of SBS Resolution No. 3862-2016, the freezing is understood as the "measure that prohibits the transfer, conversion, disposal or movement of funds or other assets that are owned or controlled, in its totally or jointly, directly or indirectly, by the persons or entities designated; as well as funds or other assets derived or generated from funds or other assets that are owned or controlled by the designated persons or entities, and the funds or other assets of persons or entities acting on their behalf or under the direction of the persons or entities designated, because of their connection with terrorism, the TF and the proliferation of weapons of mass destruction and their financing. The administrative freezing measure does not generate the loss of property rights over the funds or other assets affected."
- c) The Third Final Provision of SBS Resolution No. 3862-2016 sets forth the prohibition upon any person or entity, within the national territory, to "...provide funds or other assets, economic or financial resources, or other related services, directly or indirectly, totally or jointly, towards or for the benefit of designated persons or entities by the UNSCR; to entities that belong to, or are controlled by, directly or indirectly, persons or entities designated by the UNSC; and to persons or entities that act in the name of, or under the direction of UNSC designated persons or entities, except if they have licenses, authorisations or are otherwise notified, in compliance with the corresponding UNSC resolutions."
- d) In addition to the continuous publication of lists updated by the MRE, the FIU publishes and updates the lists in compliance with the UNSCR 1276 and designations based on UNSCR 1373, which shall be checked by RIs in order to identify matches in their databases, which shall be submitted in a reporting form approved by the FIU for such purposes, which was submitted to the assessment team. Additionally, based on the provisions of the Memorandum 99-2018-UIF-SBS, the FIU has a red flag mechanism for RIs in relation to the update of the lists.
- e) Pursuant to the provisions of Arts. 5 and 10 of SBS Resolution No. 3862-2016, RIs shall report without delay the administrative freezing conducted, through an e-mail or physical means.
- f) In compliance with Art. 13 of Law No. 27693, RIs, their workers, directors, and other authorised representatives are exempt from criminal, civil or administrative liability for compliance with the provisions of the Law.

CT76. *Criterion 6.6* –

- a) The procedure for such purposes, in relation to designations related to UNSCR 1267 is regulated under Art. 7 of SBS Resolution No. 3862-2016. The third paragraph of the Art. mentioned sets forth that de-listing could be requested to UNSC Ombudsman Office, and if this de-listing request were submitted to the FIU, it shall forward the request to the MRE. The FIU, upon becoming aware of the de-listing measure, shall communicate it to the Court that ratified the measure and request its revocation, as well as to the PPO for corresponding proceedings; Subsequently, the measure is communicated to the reporting institution for the immediate cancellation of the measure.
- b) Arts. 11 and 13 of SBS Resolution No. 3862-2016 set forth the mechanisms to suspend freezing measures related to UNSCR 1373 designations. The procedure indicates that the FIU shall receive the cancellation requests for the administrative freezing when the criteria for domestic designation are no longer met, or when the requesting country submits grounds for such purpose, and it shall submit them to the competent judge to order to request the revocation of the measure. Once revoked by the Judge, the FIU shall notify the reporting institution without delay to effectively suspend the freezing measure.
- c) As mentioned under the analysis of the previous criterion, upon receiving the de-listing request, the FIU shall request the competent judge to order to suspend the freezing measure and subsequently notify the RI on such decision.
- d) There seems to be no provision to contemplate the requirements of this criterion.
- e) Art. 7 of SBS Resolution No. 3862-2016 sets forth in its third paragraph that any person or entity, national or residing in the country, included in the lists, of their family members, national or residing in the country, of the deceased included in the lists, may request their de-listing before the UN Ombudsman Office.
- f) Art. 6 of SBS Resolution No. 3862-2016 indicates in its third paragraph that persons or entities affected by the freezing measure, or the family members of the deceased, in cases of homonymity, may request the judge that ratified the freezing measure to revoke it. In case this request was accepted, the FIU shall be notified to communicate the decision to the reporting institution so that it suspends the freezing measure.
- g) Under the provisions of Art. 7 of SBS Resolution No. 3862-2016, upon becoming aware of the de-listing of one person or entity from UNSC lists, the court shall be notified without delay and requested to revoke the measure; afterwards, the FIU shall be notified on the decision made to communicate without delay the decision to the reporting institution to suspend the freezing measure.

CT77. *Criterion 6.7* – Art. 19 of SBS Resolution No. 3862-2016 sets forth that the person or entity whose funds were frozen may request the judge to grant access to them for the payment of basic or extraordinary expenses, in compliance with the UNSCR.

Weighting and Conclusion

CT78. Peru has mechanisms in place to implement the UNSCR 1267 and 1373; however, not all designation criteria under UNSCR 1373 are included. The obligation of freezing is established to the RIs and not for all natural and legal persons of the country. **Recommendation 6 is rated Largely Compliant.**

Recommendation 7 – Targeted Financial Sanctions Related to Proliferation

CT79. This is a new Recommendation introduced in 2012. Therefore, it was not assessed in 2008.

CT80. *Criterion 7.1* – SBS Resolution No. 3862-2016, Arts. 14 and 15 set forth that the SBS shall publish without delay the lists of designated persons or entities under UNSCR 1718 (2006) and successor resolutions,

which shall be checked by RIs against their records of transactions, customers, users, and providers and, upon identifying a match, they shall report it to the FIU. Like the lists of the Sanctions Committees related to TF, the FIU has a red flag mechanism for RIs on the updates to the lists.

CT81. *Criterion 7.2 –*

- a) Arts. 15 and 16 of SBS Resolution No. 3862-2016 set forth that when RIs receive the relevant official letter from the FIU to freeze funds or other assets, they shall conduct the freezing without delay. However, the obligation to freeze does not cover all natural and legal persons in the country.
- b) In compliance with Art. 2.a of SBS Resolution No. 3862-2016, funds or other assets shall be those “(i) that belong to, or are totally or jointly, directly or indirectly, controlled by designated persons or entities; (ii) that result from, or are generated by funds and other assets controlled by designated persons or entities; and (iii) that belong to persons or entities that act on their behalf or under the direction of designated persons or entities.”
- c) The Third Final Provision of SBS Resolution No. 3862-2016 sets forth the prohibition upon any person or entity, within the national territory, to provide funds or other assets, economic or financial resources, or other related services, directly or indirectly, totally or jointly, to designated persons or entities.
- d) Article 14 of SBS Resolution No. 3862-2016 establishes that the SBS, regardless of the MRE’s update to the lists, shall update and publish without delay the lists of persons or entities based on UNSCR 1718 (2006).
- e) Pursuant to the provisions of Arts. 15 and 16 of SBS Resolution No. 3862-2016, the entire universe of RIs shall report without delay to the FIU their execution of the administrative freezing of funds or other assets based on its freezing order.
- f) Art. 13 of Law No. 27693 sets forth that RIs, their employees, directors, and other authorised representatives are exempt from criminal, civil or administrative liability resulting from compliance with the provisions of the Law.

CT82. *Criterion 7.3 –* Non-compliance with the provisions set forth in SBS Resolution No. 3862-2016 in relation to the permanent review of updated lists and their cross-checking with transaction records and databases, non-compliance with the obligation to communicate without delay to the FIU the detection of funds or other assets, as well as non-compliance with the obligation to report to the FIU the lack of funds or other assets by persons or entities subject to the freezing measure, were included as serious violations in Annex I of the Regulation on Violations and Sanctions on ML and TF Prevention Matters, in compliance with Art. 3 of Final Provisions of SBS Resolution No. 3862-2016.

CT83. *Criterion 7.4 –*

- a) The procedure is set forth in Art. 18 of SBS Resolution No. 3862-2016, indicating that one person or entity, national or residing in the country, included in the list, or the family members of the deceased, may request the de-listing to the UN Ombudsman Office, or to the FIU; the latter shall forward the request to the MRE.
- b) Under the provisions of Art. 17 of SBS Resolution No. 3862-2016, persons or entities subject to the freezing of funds, or the family members of the deceased, may request the judge that ratified the measure in cases of homonymy to revoke the measure. If the request is accepted, the FIU shall notify the reporting institution to immediately suspend the freezing measure.
- c) Art. 19 of SBS Resolution No. 3862-2016 sets forth that the person or entity whose funds or other assets were frozen is entitled to request access to such funds for the payment of basic or extraordinary expenses.
- d) Under the provisions of Art. 18 of SBS Resolution No. 3862-2016, upon becoming aware of the de-listing of one person or entity from UNSC lists, the FIU shall communicate without delay such decision

to the competent Court for the revocation of the measure. Once revoked by the Judge, the FIU notifies without delay the RI to immediately suspend the freezing measure.

CT84. *Criterion 7.5 –*

- a) Under the definitions set forth by SBS Resolution No. 3862-2016, under Art. 2 “fund and other assets” include the interests, dividends, or any other type of incomes generated from the funds and other assets.
- b) Art. 3, item 12 of Law No. 27693 sets forth that, in the framework of the freezing the FIU may order, the ratifying judge may authorise access to the funds for the purposes of basic or extraordinary expenses.

Weighting and Conclusion

CT85. Arts. 15 and 16 of SBS Resolution No. 3862-2016 set forth that when RIs receive the relevant official letter from the FIU to freeze funds or other assets, they shall conduct the freezing without delay; however, the obligation should be applicable to all natural and legal persons. **Recommendation 7 is rated Largely Compliant.**

Recommendation 8 – Non-profit organisations

CT86. In the 2008 MER, the SR.VIII was rated “partially compliant.” This rating was based on the lack of evidence to show if legislation and regulation in force at the time were adequate to avoid NPOs being used to support terrorist activities and organisations.

CT87. *Criterion 8.1 –*

- a) Article 3 of Law No. 29038 sets forth that “...NPOs that collect, transfer, and disburse funds, resources or other assets for charity, religious, cultural, educational, scientific, artistic, social, recreational, or solidarity aims or purposes or for the performance of other type of works or beneficial or altruistic works,” pursuant to the provisions of Art. 1 of SBS Resolution No. 369-2018, shall be considered RIs before the FIU, with the obligation to implement a simplified ML and TF prevention system (SPLAFT), to appoint a CO, and to submit STRs to the FIU, under the provisions of Art. 13 of the Regulation of Law No. 2793 (Supreme Decree 020-2017-JUS.)

Where NPOs grant loans, micro-credits, or any other type of economic financing, they shall be subject to a greater ML/TF risk level and to implement a general SPLAFT system through the management of the ML/TF risks they are exposed to, appoint a CO, submit STRs, and communicate and keep a TR, develop a handbook and code of conduct, train themselves, be audited, and other components set forth in SBS Resolution No. 789-2018.

Based on the type of NPO, they can be supervised by the Foundations Surveillance Council (CONSUF), the Peruvian International Co-operation Agency (APCI) for Non-Governmental Development Organisations (ONGD), Foreign Entities and Institutions for the International Technical Co-operation (ENIEX), and Non-Profit Private Institutions that Receive Donations with Assistance and Educational Purposes from Abroad (IPREDA), or the FIU for all organisations that are not registered with the aforementioned agencies, that receive funds or other assets and are not supervised by said agencies, or that grant loans, micro-credits, or any other type of economic financing.

Art. 9-A of Law No. 27693 sets forth that supervision is conducted only on those organisations that are vulnerable to ML/TF based on the sectoral risk analysis.

However, based on the NPOs subset identified under the definition of the FATF, Peru has not used available resources to identify the characteristics and types of NPOs that, based on the activities performed or their characteristics, are at risk of TF misuse.

- b) Peru has made a risk analysis report (Report 021-2016-DAE-UIF-SBS) which considers factors such as “type of activity” and “geographic area.” This report identifies 1,133 high-risk NPOs, 6,788 medium-risk NPOs, and 16,792 low-risk NPOs, as well as others that could not be categorized (3,348.) Most of the 1,133 NPOs identified as bearing a high-risk, relate to social work, representation of interests, or religious organisations. Moreover, the CONSUF identified in its Report 003-2018-JUS/CSF-ST-DSV that 24 foundations conduct social work activities in risk areas and, therefore, represent a high-risk, 170 foundations conduct social work activities in non-risk areas, and 44 were identified as low-risk. However, the country has not identified the nature of the threats that terrorist organisations pose to NPOs that could be at risk, as well as the way terrorist actors misuse NPOs.
- c) Law No. 29038 sets forth that NPOs shall be subject to a simplified SPLAFT, except where they grant loans, micro-credits, or other type of financing, in which case they should have a general SPLAFT. Likewise, the different types of NPOs that were identified as bearing a higher ML/TF risk have been placed under the scope of supervisors (APCI, CONSUF, and FIU.) However, the country has not identified yet which categories of NPOs could be misused for TF purposes, or the effective and proportionate actions to address identified risks.
- d) There are no regulatory provisions related to the obligation of regularly assessing the NPOs sector based on its vulnerabilities related to terrorist activities to allow the effective implementation of measures.

CT88. *Criterion 8.2 –*

- a) Peruvian authorities have defined policies that allow to promote the transparency in the administration and management of NPOs. Among them: Accountability on the execution of resources from international technical co-operation through annual affidavits, a document where information on their purpose, subject, priority areas, financing sources, budget, scope, outcomes, activities, execution of expenses, and amendments is included and published in the APCI transparency portal, publicly available.
As regards foundations, supervised by the CONSUF, the National Administrative Registry of Foundations is public and keeps information on the class of foundations registered, including their purpose, name of legal representatives, location, contact details. Additionally, as previously mentioned, based on Art. 19 of Supreme Decree 03-94-JUS, information on accounts, balances, and activities record, donors, programmes, and classes of beneficiaries should be provided.
- b) Relevant NPO's supervisors for the purposes of the AML/CFT system, specifically the APCI and the CONSUF, have been trained by the FIU on ML/TF prevention matters; Likewise, training has been scheduled for NPOs supervised by the three entities. The APCI holds annual trainings to provide guidance and deliver information on interventions executed or financed with international co-operation. In relation to the CONSUF, training is provided on administrative proceedings in the framework of the supervision visits and control actions.
- c) A Best Practices Guide has been developed for NPOs, addressing ML/TF risks and vulnerabilities; moreover, the FIU has conducted workshops as part of its outreach efforts between the sector, supervisors, and regulators, where good practices for the mitigation of TF risks they are exposed to are communicated; all the aforesaid activities in addition to their supervision duties and compliance with their simplified SPLAFT implementation duties.

- d) Law No. 30730 is expected to establish the obligation of financial system means to conduct transactions over 3 UIT (approximately USD 3,878.50.) However, until the entry into force of said law in August 2018, indicating the payment means in the registration process is the only requirement.

CT89. *Criterion 8.3* – Pursuant to Art. 9-A of Law No. 27693, the APCI, the CONSUF, and the FIU are competent supervisors in relation to NPOs. In the case of the first two, supervision is based on Report 021-2016-DAE-UIF-SBS, which allows to prioritise outreach to NPOs. However, based on the NPOs subset identified under the definition of the FATF, Peruvian authorities have not used available resources to identify the characteristics and types of NPOs that, based on the activities performed or their characteristics, are at risk of TF misuse.

CT90. *Criterion 8.4* –

- a) As mentioned in the analysis of Criterion 8.3, the APCI, the CONSUF, and the FIU are supervisors of NPOs in relation to their AML/CFT obligations. However, types of NPOs that based on their activities or characteristics may have probable risks of TF misuse have not been identified.
- b) The CONSUF has the power to sanction, pursuant to the provisions of Supreme Decree 04-94-JUS, Art. 9. In this sense, the CONSUF may apply 5% to 25% fines of one UIT, in case of failure to submit the activities plan and/or budget of the foundation, or accounts and balances, respectively.

Moreover, the APCI is empowered to impose sanctions when alleged failures were detected, based on the Regulation on Violations and Sanctions (RIS) implemented for such purposes through Supreme Decree 027-2007-RE, which identified slight, serious, and very serious violations, as well as possible exceptional violations for circumstances not included in the Regulation. Between the very serious violations pointed out under Art. 8, there is the use of resources for purposes other than those they were intended for. In relation to sanctions, only those provided for by Law may be applied and as verified through an administrative sanctioning regime, based on Art. 11, which include warning, fine up to 50 UIT, suspension of benefits obtained through the registration in international co-operation registries, and even the cancellation of the registration.

CT91. *Criterion 8.5* –

- a) The purpose of CONTRALAFI is to assist in the coordination and planning of actions that are going to be developed by public and private entities aimed at preventing and combating ML, TF and FPWMD. On the other hand, the FIU is a permanent guest member in the sessions of the National Intelligence Council (COIN by its acronym in Spanish), which is the space for consultation and technical coordination of the heads of the components of the National Intelligence System. The COIN is chaired by the DINI Director, which has an information exchange protocol with the FIU, specifically for cases that may attempt against national security, such as terrorism and their financing, which would include information on the NPOs. However, the country still has to guarantee the cooperation, coordination and exchange of information between all the levels of competent authorities as well as the information of the organizations that have relevant data of the NPOs.
- b) The PNP has a specialised directorate called (DIRCOTE, responsible to contribute with, and/or operatively conduct investigations related to terrorism under all its forms and modalities, committed by national or foreign elements or groups, among them TF, under the leadership of the Prosecutor (Arts. 100 and 115 of Supreme Decree 026-2017-IN.)
- c) Pursuant to Art. 12 of SBS Resolution No. 789-2018, NPOs that grant loans, micro-credits, or any type of economic financing shall answer information requirements made by competent authorities, including the FIU in its role as supervisor on ML/TF matters. Likewise, based on Art. 19 of Supreme Decree 03-94-JUS, Foundations shall submit a report with a summary of their activities resulting from their compliance with their purposes, donors, and significant programmes, which allows the CONSUF to

verify how the foundational equity and generated income have been allocated. Other duties of the CONSUF, include being informed on the foundations' budgets; monitoring that property and incomes are used based on the foundational plans; authorising the selling, transfer, donation, assignment for use, exchange, levy, leasing, mortgage, usufruct, pledge, and antichresis of property that are not the purpose of regular transactions of the foundation, and to establishing the procedure to be followed in each case; as well as ordering necessary audits.

- d) NPOs supervisors (CONSU, APCI, and FIU), as well as any other supervisor on ML/TF prevention matters, are empowered by Law to disseminate STRs related to ML/TF when, in the performance of their duties, detect ML/TF evidence; STRs shall be disseminated through the ROSEL computing system by the liaison officer registered with the FIU (Art. 10 of Law No. 27693, and SBS Resolution No. 6414-2014.)

CT92. *Criterion 8.6* – The FIU is the authority that, based on the provisions of Art. 3 of Supreme Decree 020-2017-JUS, answers information requests for ML/TF detection made by competent authorities from other countries. On the other hand, both the PNP and the PPO can exchange information at the level of the different platforms, however, there are no provisions referring to their faculties at the level of specialty that allows them to respond to international information requests related to particular NPOs involved in other forms of terrorism support.

Weighting and Conclusion

CT93. Peru has not conducted yet a risk analysis of NPOs that would identify the subset of organisations that fall under the FATF definition of NPO, and it has not used all information resources available to identify the types of NPOs that, based on their activities or characteristics, have a probable risk of misuse for TF; likewise, the country has not identified the nature of threats posed by terrorist organisations on NPOs that could be at risk, as well as the way terrorist actors could misuse NPOs. Compliance with other requirements depends on the foregoing analysis. **Recommendation 8 is rated Partially Compliant.**

Recommendation 9 – Financial institution secrecy laws

CT94. In the 2008 MER, Peru was rated “mostly compliant” in relation to former R.9 since legislation relating to the FIU access to information protected by secrecy laws did not ensure its timely access.

CT95. *Criterion 9.1* – FIs supervised by the SBS are subject to Art. 140 of the General Law of the Financial System, which sets forth that the companies from the financial system and its employees and officers, as well as SBS officials, are not allowed to provide information on debit transactions conducted by their customers, except with prior written authorisation. However, the same Art. also states that the legislation shall not be applicable for ML suspicious movements, in which case institutions shall be bound to report it to the FIU (Art. 142.)

CT96. Moreover, Art. 143 sets forth the conditions to lift banking secrecy, which includes requirements by judges and courts in their regular performance of their duties, the PPO in cases of alleged illicit enrichment of public servants and officers, governments from other countries with agreements to combat, suppress, and sanction offences such as drug trafficking, terrorism, or ML suspicious movements, the chair of an Investigating Commission from the Legislative branch, and the Superintendent, for the purposes of supervision. Under all these circumstances, the request shall be submitted by the SBS.

CT97. The procedure to perform the request to lift banking secrecy is governed by SBS Resolution No. 1132-2015, which shall be submitted through a well-founded written communication indicating the information of natural and legal persons, and the account number in relation to which the lifting of secrecy is requested, the information requested, the offence under investigation, and the identification of the case. The requests channelled through the SBS shall be sent to the corresponding entity in a term of up to seven (7) business days; Entities shall deliver the confidential information to requesting authorities in a term of up to thirty (30) business days, except in exceptional cases.

CT98. In case of institutions supervised by the SMV, Art. 6 of Law 29782 sets forth that the SMV and the SBS shall share information in their possession in relation to legal and natural persons under their competence, including that protected by banking secrecy; In case of missing information, it should request it. Likewise, it sets forth that banking secrecy shall be lifted in case a control organisation from the financial, banking, or insurance sector so require. Moreover, both agencies have entered an inter-agency co-operation agreement (2012) for the exchange of useful information.

CT99. In addition, the FIU has direct access to the information on transactions included in the TR and has the power to request, within the framework of cases under administrative investigation, access to information protected by banking secrecy (and tax secrecy), to the Criminal Judge of Lima, who has 48 hours to make a resolution. Once the judicial authorization is granted, financial entities (and/or the Tax Administration Service) shall submit the information to the FIU within a maximum term of 30 business days (Art. 3-A of Law No. 27693; and Art. 7 of the regulation of Law No. 27693, Supreme Decree 020-2017-JUS.)

CT100. Lastly, in the case of Cooperatives supervised by the FIU on ML/TF matters, Article 7 of SBS Resolution No. 0540-99 refers to banking secrecy provisions set forth in Arts. 140 to 143 of the General Law, which set forth the scope and circumstances under which it shall not be applicable, or its lifting may be requested.

Weighting and Conclusion

CT101. FIs supervised by the SBS are forbidden to provide information on debit transactions conducted by their customers, except in cases of ML suspicious movements, in which case institutions are bound to report them to the FIU. However, it is possible that the capacity of all competent authorities to access the information they need to perform their functions may be affected by the fact that, under all cases provided for by the legislation for the lifting of the banking secrecy, the request shall be made by the SBS or SMV, as appropriate. **Recommendation 9 is rated Largely Compliant.**

Recommendation 10 - Customer due diligence

CT102. In the 2008 MER, Peru was rated “mostly compliant” in relation to former R.5. The MER identified the following deficiencies: 1) Deficiencies in relation to the compliance with CDD measures in the informal financial sector, especially in the exchange and funds remitters sectors, in relation to which an assessment of risks associated to the informality of the activity had to be made to determine their magnitude and actions aimed at their formalisation and effective control; 2) Lack of adequate human and logistic resources in the FIU to properly comply with the supervision functions endowed; and 3) Lack of a specific regulation to request FIs to identify BO and adopt reasonable measures to verify its identity.

CT103. *Criterion 10.1* – Article 375.1 of the General Law on Banks and Insurances sets forth that companies from the financial system shall keep nominative accounts, and they cannot keep anonymous accounts or

accounts under fictitious or inaccurate names. In case of entities supervised by the SMV (CONASEV Resolution No. 033-2011-EF/94.01.1, Art. 7.1) and the FIU, full identification of customers should be conducted.

CT104. *Criterion 10.2* –

- a) Article 14 of Law 27693 sets forth that RIs shall implement mechanisms to have sufficient and updated knowledge of their customers. Likewise, item b) of section 9.3 of Art. 9 of said Law, sets forth that RIs shall adopt reasonable measures to gather, register, and update on a regularly basis the information on the true identity of their regular and occasional customers, and the business transactions performed. Supreme Decree 020-JUS-2017, Art. 19 sets forth that customer knowledge implies that, in relation to each transaction, RIs shall identify customers at the time of entering into business relationships with them, regardless of the specific characteristics of each customer or the frequency of the transactions performed.
- b) SBS Resolution 2660-2015, Article 27 sets forth that in relation to RIs regulated by the SBS, provisions on risk-based CDD matters are applicable to all customers regardless of their specific characteristics or the frequency of transactions conducted. Moreover, in relation to RIs regulated by the SMV, there seems to be no provisions on this regard. CONASEV Resolution No. 033-2011-EF/94.01, set forth the obligation of the RI to apply due diligence to its habitual or occasional client, on the basis of the information obtained through its policies and procedures for the adequate knowledge of its clients and with RBA, and they shall identify those cases that require to intensify its due diligence procedures.
- c) SBS Resolution 789-2018, Art. 39, item 4 applicable to RIs devoted to the currency exchange offices, sets forth the obligation to conduct:
 - Simplified CDD on customers that perform transactions for amounts lower than USD 5,000.00, except transactions lower than USD 200.00, in relation to which no document shall be required.
 - General CDD regime measures on customers that perform transactions equal to, or higher than USD 5,000.00.
 - Enhanced CDD measures for customers that show a pattern that does not match their ML/TF risk profile, as well as those that could be highly affected by ML/TF risks.

In relation to institutions devoted to loans and pawn (Art. 44) and NPOs that grant loans, micro-credits or any other type of economic financing (Art. 43) regulated by SBS Resolution 789-2018, they shall identify their customers and apply regular CDD measures (Art. 16.1); for the case of customers that show a pattern that does not match their ML/TF risk profile, as well as those that could be highly affected by ML/TF risks enhanced CDD measures should be applied (Art. 16.2.)

RIs devoted to remittance and/or draft postal services (Art. 19 of SBS Resolution 6089-2016) should conduct simplified CDD measures on customers that conduct transactions for amounts lower than USD 1,000.00; General CDD measures on customers that conduct transactions for amounts equal to, or higher than USD 1,000.00, and enhanced CDD measures on customers that show a pattern that does not match their ML/TF risk profile.
- d) Pursuant to Art. 47 of SBS Resolution 2660-2015, financial entities that originate wire transfers shall implement CDD measures as therein set forth. FIs governed by the CONASEV Resolution 033-2011 (Art. 7.7) shall adopt measures in the case of cross-border wire transfers and correspondent banking.
- e) In case of FIs governed through SBS Resolutions 2660-2015 and 6089-2016, where they cannot comply with due diligence measures in relation to the know your customer rule, they shall act as follows: i) do not initiate the business relationship, do not conduct the transaction, and/or terminate the business relationships initiated; and/or, ii) assess the possibility of submitting a STR in relation to the customer.

FIs governed by the SMV shall verify the information by conducting due diligence where any of their customers trigger an alert related to their business profile, or where there is an ongoing ML/TF investigation or where the customer is related to people subject to legal processes for predicate offences or ML/TF (CONASEV 033-2011 - Art. 8.2.)

- f) SBS Resolutions 2660-2015, 789-2018, and 6089-2016 set forth that FIs, during the CDD monitoring, shall gather more information where there are concerns on the truthfulness or accuracy of the information provided by customers.

CT105. *Criterion 10.3* – Law No. 27693 (Art. 9.3.b) sets forth that FIs shall adopt reasonable measures to gather, register, and update on a regular basis the information on the true identity of their regular and occasional customers. Supreme Decree 020-2017-JUS (Art. 19) indicates that RIs shall identify customers, regular or not, as well as request submission of public or private documents to prove their identification. Each supervisor has issued the corresponding regulation on such duty for each FI (SBS Resolution No. 2660-2015, SBS Resolution No. 6089-2016, SBS Resolution No. 789-2018, and CONASEV Resolution 033-2011-EF/94.01.)

CT106. *Criterion 10.4* – In relation to FIs supervised by the SBS and the FIU, it is set forth that in the case of a customer who is a natural person represented by its representative who conducts the operation on his/her behalf, legal representatives and attorneys-in-fact shall be identified with the same identification information requested to the customer, as well as the document that proves the legal representation or granting of the corresponding power-of-attorney (public deed or representational mandate, as appropriate.) (SBS Resolution No. 2660-2015 and SBS Resolution No. 789-2018.) For FIs supervised by the SMV, there are provisions that set forth the identification and verification procedures in relation to the identity of the person that claims to act on behalf of the customer (SMV Resolution No. 020-2014-SMC/01, CONASEV No. 001-1997-EF/94.01.1 CONASEV No. 068-2010-EF/94.01.1, SMV No. 034-2015-SMV/01, CONASEV No. 033-2011-EF/94.01.1). For FIs supervised by the MTC, it is set forth that in the case of remittances and/or drafts from one town in the country to another town in the country or abroad, the originator shall be indicated. If the customer conducts the transaction on behalf of a natural person (originator), the full name of the natural person, representation data (if under a power-of-attorney or through public deed or mandate) and the origin of the funds involved in the transaction. Likewise, data relating to the granting and registration of the representation or mandate shall be provided. If the customer conducts the transaction on behalf of a legal person (originator), the corporate name, and RUC number, as appropriate, should be provided (SBS Resolution No. 6089-2016.)

CT107. *Criterion 10.5* – FIs supervised by the SBS, SMV, MTC, and FIU shall regularly identify BO of all products and services rendered and adopt reasonable measures to verify his identity, as far as due diligence measures so allow, in order to be convinced that they know who the BO is (SBS Resolution No. 2660-2015, CONASEV 033-2011-EF/94.01.1, SBS Resolution No. 6089, SBS Resolution No. 789-2018.)

CT108. *Criterion 10.6* – FIs supervised by the SBS, SMV, MTC, and FIU shall request the customer (natural and legal persons) the purpose of the relationship to be initiated with the reporting institution, as long as it is not directly deducible from the purpose of the agreement (SBS Resolution No. 2660-2015, CONASEV 033-2011-EF/94.01.1 SBS No. 6089-2016, SBS No. 789-2018.)

CT109. *Criterion 10.7* – In relation to FIs supervised by the SBS, SMV, MTC, and FIU, they shall monitor customers through review processes with the aim of ensuring that documents, data, and information gathered as a consequence of the application of customer due diligence measures are kept updated and in force (SBS Resolution No. 2660-2015, CONASEV 033-2011-EF/94.01.1 SBS No. 6089-2016, SBS No. 789-2018.)

CT110. *Criterion 10.8* – In relation to FIs supervised by the SBS and the FIU, as regards legal persons or legal entities, they should request at a minimum, among other things: Corporate purpose, main economic activity or purpose of incorporation, as well as the purpose of the relationship to be initiated with the company, as long as it is not directly deducible from the purpose of the agreement, and the identification of shareholders, partners, associates with direct or indirect ownership of more than 25% of the social equity, contribution, or share in the legal person and/or entity, considering the information requested for natural persons, identifying PEPs, as appropriate. (SBS Resolution No. 2660-2015, SBS Resolution No. 789-2018.)

CT111. In relation to FIs supervised by the MTC, customer is defined as any natural or legal person, national or foreign, that requests and receives from the reporting institution the rendering of remittance and/or draft postal services, both delivery and reception; regardless of the amount and/or number of transactions performed, i.e. the originator, who performs or receives the remittance and/or draft; minimum information companies shall request from their customers which are legal persons, for the regular and enhanced regimes, and for the simplified regime, respectively (SBS Resolution No. 6089-2016, Arts. 16 and 19.) Minimum information in the case of customers who are legal persons would be full name, type and number of identity card, origin of the funds involved, the identity of the person who receives the remittance; moreover, if the customer performs the transaction on behalf of a legal person (originator): Corporate name and RUC or equivalent registration for non-residents. Similar requirements are set forth for FIs supervised by the SMV (CONASEV 033-2011-EF/94.01.1.)

CT112. *Criterion 10.9* – In relation to FIs supervised by the SBS, the SMV and the FIU, sets forth that in relation to legal persons or entities, three things should be requested at a minimum: Corporate name, Unique Taxpayers Registration (RUC) or equivalent registration for non-residents, the ID of legal representatives, considering the information requested from natural persons, as well as the provision of corresponding powers, as applicable; legal persons related to the customer and/or its economic group, as appropriate; And the address and phone number of the office or headquarters where activities are developed based on the line of business (SBS Resolution No. 2660-2015, SBS Resolution 789-2018, CONASEV Resolution 033-2011-SMV/01.1.)

CT113. In relation to FIs supervised by the MTC which CDD are both regular and enhanced, in addition to normal requests, customers that perform transactions in the name of a legal person should provide the corporate name and RUC or equivalent for non-residents (SBS Resolution No. 6089-2016.)

CT114. *Criterion 10.10* – For FIs supervised by the SBS, MTC, and FIU, under the ML/TF prevention system, BO is the natural person on behalf of whom a transaction is conducted and/or who holds or exercises the final effective control of a customer for whose benefit a transaction is conducted. It also includes persons that exercise the final effective control on a legal person or entity. FIs have the duty to identify BO in relation to all services or products rendered, and adopt reasonable measures to verify his identity, as far as due diligence measures so allow, in order to be convinced that they know who the BO is. In case of legal persons and entities, where it could not be determined who exercises the final effective control, with a majority interest, BO shall be whoever exercises control by other means; Only in such cases when the natural person cannot be identified, the BO shall be considered to be the natural person who conducts direction and/or management functions (SBS Resolutions No. 2660-2015, 6089-2016, 789-2018.)

CT115. For FIs supervised by the SMV, CONASEV Resolution No. 033-2011-EF/94.01.1 sets forth the identification of customer and the BO, adopting reasonable measures to prove its identify, as well as item d), 7.2 of Art. 7 requires the identification of directors and shareholders, partners or associates, that directly or

indirectly have more than 5% of the corporate equity, contribution or share in the legal person, requesting all information requested to natural persons.

CT116. *Criterion 10.11* – SBS Resolution No. 1010-99 sets forth in Art. 11 that companies that act as trustee shall keep available to the SBS the type of patrimony held in trusts managed, indicating the identity of the settlers, trustees and beneficiaries, type of trust, composition of the patrimony of each of them, fees, purpose, and term of trust. In case of trusts structured by companies supervised by the SBS, all know your customer policies for legal persons provided for in section 30.2 of Art. 30 of SBS Resolution No. 2660-2015 in relation to the identification of persons that directly or indirectly participate of the trust shall be applied. In particular, based on the fourth paragraph of Art. 28 of SBS Resolution No. 2660-2015 in relation to the knowledge of the BO, it is set forth that the identity of the trustee shall be identified and, as appropriate, the beneficiary of the remaining property. In case trustees were more than five (5), representatives and solicitors appointed by the boards shall be identified; except for the provisions of Art. 267 of the General Law on Banks and Insurance.

CT117. Likewise, the FIs regulated by Resolution No. 2660-2015 must apply the enhanced CDD regime to the trusts that also includes the verification stage, which implies the application of verification procedures at the beginning of the contractual relationship regarding to the information provided by the client and, if applicable, of its the final ownership, with the objective of ensuring that they have been duly identified, and shall record all the information in their personal documentation.

CT118. To develop the verification of the information, the RIs must take into consideration the ML/TF risks of the products and/or services and the characteristics of the expected relationship with the client. In that sense, they shall develop studies that determine the applicable criteria, which are compatible with the adequate verification of the minimum information of identification required. Likewise, they must record the verifications made, which may include visits to domiciles or offices or personal interviews and/or other procedures that allow them to ensure that their clients and, if applicable, final ownerships, have been duly identified, indicating the place, date and time of verifications and their results, as appropriate to the type of verification carried out. The aforementioned record must be incorporated into the personal documentation of each client, which can be kept in physical or electronic media.

CT119. In relation to the remaining FIs, sectoral regulations have a similar treatment than for legal persons or entities.

CT120. *Criterion 10.12* – For insurance FIs, the hiring party, the insured and the beneficiary of the insurance shall all be considered customers, reason why they shall all be identified based on applicable know your customer regulations (SBS Resolution No 2660-2015, Art. 27.) In relation to the insurance beneficiary, know your customer rules may be applied after the relationship has been established with the person hiring the insurance and/or the insured party, but before paying the corresponding compensation or the beneficiary being able to exercise the rights resulting from the insurance agreement. Both for beneficiaries that are natural persons or legal persons or entities, minimum identification data shall be gathered, including full name (natural persons) and corporate name (legal persons and arrangements.) SBS Resolution No. 2660-2015.)

CT121. *Criterion 10.13* – Peruvian regulations set forth that when the beneficiary of a life insurance is a legal person or entity, reasonable measures shall be adopted to identify and verify the identity of its BO upon payment, and if s/he were found to represent higher risks, s/he should be included under the enhanced regime (SBS Resolution No. 2660-2015, Art. 18.)

CT122. *Criterion 10.14 – 10.15* – For FIs supervised by the SBS, and CACs, when it were necessary to complete verification after establishing the business relationship in order not to interrupt the normal conduct of business, companies may verify the identity of the customer afterwards or during the development of the contractual relationship, as long as the company adopted ML/TF risk management procedures to determine the conditions the customer could use the company's services and/or products for before the verification and applicable deadlines to conduct it. For other FIs supervised by the FIU and the MTC, completing the verification at a later time is not allowed (Art. 17.2 of SBS Resolution No. 6426-2015; Art. 16.3 of SBS Resolution No. 4463-2016; Art. 18.2 of SBS Resolution No. 6089-2016.) Based on Art. 7, item 3 of CONASEV Resolution 033-2011-EFE/94.01.1, amended by Art. 1 of the Superintendence Resolution 073-2018-SMV-0, where it were necessary for FIs regulated by the SMV to complete verification after establishing the business relationship in order not to interrupt the normal conduct of business, companies may verify the identity of the customer afterwards or during the development of the contractual relationship, as long as the company adopted ML/TF risk management procedures to determine the conditions the customer could use the company's services and/or products for before the verification and applicable deadlines to conduct it.

CT123. *Criterion 10.16* – There seems to be no provision that includes the obligations referred to under this criterion.

CT124. *Criterion 10.17* – FIs supervised by the SBS, SMV, MTC, and FIU shall conduct enhanced due diligence measures where the risk assessment identified high risks (SBS Resolution No. 2660-2015, CONASEV 033-2011-EF/94.01.1 SBS No. 6089-2016, SBS No. 789-2018.)

CT125. *Criterion 10.18* – In relation to FIs supervised by the SBS, SMV, MTC, and FIU, it is established that they shall conduct simplified due diligence under the circumstances set forth in sectoral regulations (SBS Resolution No. 2660-2015, CONASEV 033-2011-EF/94.01.1 SBS No. 6089-2016, SBS No. 789-2018.)

CT126. *Criterion 10.19* – Supreme Decree 020-2017-JUS (Art. 21) sets forth that where the RI cannot comply with due diligence measures in relation to the know your customer rule, as appropriate, they shall act as follows: i) do not initiate the business relationship, do not conduct the transaction, and/or terminate the business relationships initiated; and/or, ii) assess the possibility of submitting a STR in relation to the customer. For FIs supervised by the SBS, FIU, MTC, and SMV, it is set forth that where the FI cannot comply with CDD measures, it shall act as follows: i) do not initiate the business relationship, do not conduct the transaction, and/or terminate the business relationships initiated; and/or, ii) assess the possibility of submitting a suspicious transaction report (STR) in relation to the customer. (SBS Resolution No. 2660-2015, Art. 29, SBS No. 6089-2016, Art. 18, SBS No. 789-2018, Art. 15 and Art. 7 item 8 of CONASEV Resolution No. 033-2011-EF/94.01.1, amended by Article 1 of the Superintendence Resolution 073-2018-SMV-0.)

CT127. However, the assessment criterion does not provide for the possibility by the reporting institution to determine the measure to be applied when CDD measures cannot be complied with; while it should not open the account, initiate the business relationship or conduct the transaction, or else terminate the transaction and conduct a suspicious transaction report in relation to the customer.

CT128. *Criterion 10.20* – Supreme Decree (Art. 21) sets forth that in case the RI forms a suspicion of ML/TF activities and believes that performing due diligence measures will tip-off the customer, it should report the transaction as suspicious to the FIU, without performing such actions. These cases should be grounded and

documented. For FIs supervised by the SBS, FIU, MTC, it is set forth that if the FI forms a suspicion of ML/TF activities and believes that performing CDD measures will tip-off the customer, it should file a STR to the FIU without performing such actions. These cases should be grounded and documented (SBS Resolution No. 2660-2015, Art. 29, SBS No. 6089-2016, Art. 18, SBS No. 789-2018, Art. 15.)

Weighting and Conclusion

CT129. Most criteria have been covered by the legal framework of Peru. RIs governed by the SBS and SMV have no thresholds for the implementation of CDD measures when the customer conducts occasional transactions, since these are applied to all customers regardless of their particular characteristics or the frequency of transactions conducted. However, when FIs cannot comply with the corresponding CDD measures, they may or may not assess the possibility of submitting STRs to the FIU. Moreover, for FIs supervised by the FIU and the MTC, postponing the verification of the customer's identity for a later time is not allowed. Likewise, the FIs supervised by the SMV, MTC and FIU do not have the provisions corresponding to criterion 10.16. **Recommendation 10 is rated Largely Compliant.**

Recommendation 11 - Record-keeping

CT130. In the 2008 MER, Peru was rated “partially compliant” since regulations established only applied effectively to FIs supervised by an administrative authority, in a context where the magnitude of transactions of informal agents had not been determined (particularly, exchange houses and ETF.)

CT131. *Criterion 11.1* –Art. 375, item 5 of the General Law for the Financial and Insurance Systems and Organic Law of the Superintendence of Banks, Insurance sets forth that companies from the financial system should keep the records on the identity of customers, account and business correspondence files, for at least ten (10) years after the date of closure of the account.

CT132. In the Private Pension System, Art. 18, 22, and 23 of Title V, and 37, 38, 39, 41, 43, 50, 55, 74, 82, 108, 205, 218, 239, and 242 of Title VII of the Compendium of Regulations of the Private Pension System set forth that a file should be created in the database for each member and its welfare history recorded, including the working history, and the progress of its Individual Capitalisation Account, supported by documents filed in the Individual Member File, which should be kept updated with all background information and relevant documents created during the life of the member in the PPS. However, this provision is not set forth by Law and does not determine the term such records should be kept.

CT133. Moreover, the Tax Code, Art. 87, item 7 provides for that the administered are bound to make the oversight and assessment tasks easier for the Tax Administration authority, including the tasks conducted by the SUNAT to provide and request mutual administrative assistance on tax matters, and the shall specially: (...) 7. Store, file, and keep manual, mechanic, or electronic books and records, as well as documents and background information on transactions or situations that constitute facts subject to result in tax obligations or that are related to them, for five (5) years or during the statute of limitation of the levy, whichever is longer. The five (5) year term shall begin on the first (1) day of January of the year following the expiration term for the filing of the corresponding tax return. In case of payments on account for income tax, the five-year term shall begin after the expiration date of the annual tax return. (...)⁴⁷

⁴⁷ This paragraph was amended by Legislative Decree 1372, dated on August 2, 2018, Law on BO, with the following text: “Store, file, and keep manual, mechanic, or electronic books and records, as well as documents and background

CT134. Law No. 27693 provides for that RIs shall keep a TR⁴⁸ of all transactions conducted or attempted for the amount that equal to, or exceeds the amount set forth by the FIU (Art. 9.) Said record shall be kept during 10 years after the date of performance of the transaction (Art. 9) and Supreme Decree 020-2017-JUS sets forth the same 10-year term but depending on the type of reporting institution, shorter terms may be established but under no circumstance shall these be shorter than five (5) years. The same article of the Law sets forth that the duty to record transactions shall not be applicable for regular customers under the responsibility of the RI; as long as RIs have sufficient knowledge and due justification on the legality of the activities conducted by their regular customers, prior assessment and regular review by the CO.

CT135. Moreover, Supreme Decree 020-2017-JUS (Art. 24) sets forth that for the TRs, thresholds are as follows: *“Upon absence of a specific threshold under sectoral regulations, the reporting institution shall record: (i) individual transactions performed by their customers for amounts equal to, or higher than USD 10,000 (ten thousand American dollars) or its equivalent amount in domestic or other currencies, as appropriate; (ii) multiple transactions conducted in one or several offices of the reporting institution during one calendar month for or in the benefit of the same person, in an aggregate amount equal to, or higher than USD 50,000 (fifty thousand American dollars), or its equivalent amount in domestic or other currencies, as appropriate; in which case they shall be considered a single transaction.”*

CT136. Therefore, there seem to be exceptions to the record keeping obligation and limits in relation to transactions to be recorded, as well as to the amounts of recordable transactions, which would not be in line with the provisions of this criterion.

CT137. *Criterion 11.2* – Law No. 27693 (Art. 9.3) and Supreme Decree 020-2017-JUS (Art. 24) set forth the minimum elements that a TR should include for all RIs, which include identity identification and verification elements; however, there do not seem to include all CDD records, account and business files, and the outcomes of the analysis performed, during at least five years following completion of the business relationship or the performance of the occasional transaction (the TR is set to 10 years following completion

information on transactions or situations that constitute facts subject to result in tax obligations or that are related to them, or that prove compliance with the due diligence measures that support informative affidavits for mutual tax administrative assistance purposes or those that contain information on the BO for five (5) years or during the statute of limitation of the levy, whichever is longer. The five (5) year term shall begin on the first (1) day of January of the year following the expiration term for the filing of the corresponding tax return. In case of payments on account for income tax, the five (5) year term shall begin after the expiration date of the annual tax return.”

⁴⁸ Pursuant to Art.9.2 of Law No. 27693, the TR seems to be limited to the following transactions: a) Cash deposits: in the checking account, savings account, term deposit account, and other term modalities; b) Securities deposits at the closing price of the day before the deposit. c) Placement of negotiable corporate debt instruments and other debt securities issued by the institution itself; d) Buying and selling of securities—public or private—or placement of shares of mutual investment funds; e) Buying and selling of metals and/or precious stones, based on the relation established in the regulation; f) currency exchange in cash g) Drafts or transfers sent or received (domestic and foreign) whichever the form used to conduct the transactions and their destination (deposits, transfers, buying and selling of securities, etc.);

h) Buying and selling of checks drafted against foreign accounts and travelers checks; i) Payment of imports; j) Exports collection; k) Sale of the financial institution’s portfolio to third parties; l) Loan repayment services; m) Early redemption of loans; n) Creation of trusts and any other type of fiduciary mandates and trusts; o) Buying and selling of goods and services; p) Future transactions agreed with customers; q) Other transactions that the FIU established as risky or significant.

of the transaction.) However, for FIs supervised by the SBS, Art. 375.5 of the General Law on Banks and Insurance points out that financial system companies shall keep identity records of their customers, account and business correspondence files for at least ten years (10) following the closure of the account. Likewise, SBS Resolution No. 2660-2015 (Art. 55, item a) establishes the obligation to keep, for a term of at least 10 years, the information related to the relationship and transactions performed by customers, including information gathered and/or generated under the enforcement of the due diligence measures. The same regulation is included under Art.11.1 of CONASEV Resolution 033-2011-EF-94.01.1, Art. 31 of SBS Resolution No. 789-2018, and Art. 34.1 of SBS Resolution No. 6089-2016.

CT138. *Criterion 11.3* – Law No. 27693 (Art. 9) sets forth the obligation of RIs to keep a TR with the information on the type of transactions performed by customers, their identity; And the obligation to keep such information updated, which in principle would allow reconstructing transactions by authorities, but only in relation to transactions which are to be recorded (Art. 9.2.) Moreover, FIs supervised by the SBS are required to keep, in addition, records to allow reconstructing financial transactions that exceed a certain amount based on the provisions of the Superintendence, at least for ten years following the performance of the transaction (General Law on Bank and Insurance, Art. 375.6.) In relation to FIs regulated by the SMV, MTC, and FIU, provisions related to this criterion are established under Art. 11.2 of CONASEV 033-2011-EF-94.01.1, Art. 31 of SBS Resolution No. 789-2018 and Art. 35 of SBS Resolution No. 6089-2016.

CT139. *Criterion 11.4* – Law No. 27693 (Art. 9.4) sets forth that the TR should be kept in a medium easy to recover and with backup copy and shall be available to the FIU and the PPO within 48 business days after their request, notwithstanding the power of the FIU to request such information in a shorter term. Likewise, this Law provides for that the Transactions Records should be made available to the jurisdictional or competent authorities (Art. 9.7.) Additionally, the General Law on Bank and Insurance (Art. 376) sets forth that FIs supervised by the SBS shall comply with, within the term established, information requests made by competent authorities in relation to the information and documents referred to in the previous Art., for the purposes of being used in criminal, civil or administrative proceedings, as appropriate, related to illicit drug trafficking or related crimes. In relation to FIs regulated by the SMV, MTC, and FIU, provisions related to this criterion are established under Art. 11.2 of CONASEV 033-2011-EF-94.01.1, Art. 31 of SBS Resolution No. 789-2018 and Art. 35 of SBS Resolution No. 6089-2016.

Weighting and Conclusion

CT140. The General Law on the Financial, Bank, and Insurance Systems sets forth that FIs shall keep the records of their customers identity, account and business correspondence files, at least during 10 years following the closure of the account. Likewise, it is set forth that RIs should conduct a new TR of each transaction performed or attempted for an amount equal to, or higher than the amount established by the FIU, said record should be kept during 10 years after the performance of the transaction. However, there seem to be exceptions on the registration duty and limits in relation to the transactions to be recorded, as well as to the amounts of recordable transactions, which in some cases would prevent the reconstruction of some operations. **Recommendation 11 is rated Largely Compliant.**

Recommendation 12 - Politically exposed persons

CT141. The 2008 MER rated Peru “mostly compliant” in relation to former R.6. In the MER it was established that the integration and use of databases could not be subject to the facility of some over others, in relation to the gathering of names and documents for their individualisation.

CT142. *Criterion 12.1 –*

- a) Pursuant to the provisions of Art. 2 of SBS Resolution No. 2660-2015 and Superintendent's Resolution No. 073-2018-SMV-02, PEPs are natural persons, domestic or foreign, that occupy or occupied in the last five (5) years prominent public functions or prominent functions in an international organisation, whether in domestic or foreign territory, and which financial circumstances could be of public interest. Considering the above, SBS Resolution No. 4349-2016 points out that RIs shall establish due diligence measures in relation to PEPs, providing a list of positions considered covered by the definition provided for in Art. 2 of the Resolution mentioned. In the case of FIs supervised by the SMV, Annex V of Superintendent Resolution No. 073-2018-SMV-02, indicates the list of PEP positions. As established by the general CDD regime, provided for in SBS Resolution No. 2660-2015, and specifically in Art. 30, RIs shall identify whether a natural person customer is a PEP, indicate the name of the institution, public agency, or international organisation it works or worked for. Likewise, SBS Resolution No. 6089-2016 sets forth under Art. 19, section c) that the Enhanced Regime shall be compulsorily applied to PEPs and persons identified as being family members of PEPs to the second degree of consanguinity or the second degree of affinity, spouses or partners, legal persons or entities where the PEP holds a share of at least 25% of the social equity, contribution or share. For the purposes of family members and spouses, this information is requested under the PEP enhanced regime. Moreover, institutions under the supervision of the SMV, CONASEV Resolution No. 033-2011-EF/94.01.1 provides in Art. 7, numeral 7.4, that the RIs, on the basis of the information obtained through their policies and procedures for adequate knowledge of its customers and with RBA, they must identify those cases in which it is necessary to intensify their due diligence procedures in the client's knowledge, in which they should consider, among other assumptions, to the PEPs. Likewise, in the CDD, it is indicated in section 7.2 that the RIs shall identify if a natural person is a PEP and if it is, the RI shall request the name of their relatives up to the second degree of consanguinity and second of affinity and of the spouse or concubine, if applicable, as well as the list of legal entities where the PEP maintains a share equal to or greater than 25% of its share capital, contribution or participation. In case of the CDD for legal persons, according to the aforementioned legal framework, in the identification of the directors and shareholders, partners or associates, who directly or indirectly have more than 5% of the share capital, contribution or participation of the legal entity, the information required for natural persons will be considered, in what is applicable, identifying those that are PEP. Art. 32 of SBS Resolution No. 2660-2015 indicates in section e) that the decision to establish and/or maintain a relationship with a customer under the enhanced regime (in this case, a PEP) lies in the senior management level of the company, with the possibility of delegating the decision to other position at the management level; A similar provision applicable to FIs that offer postal draft services is included under Art. 19 of the SBS Resolution No. 6089-2016. For FIs supervised by the SMV, a provision is included under item 7.5 of Art. 7 of CONASEV Resolution No. 033-2011-EF/94.01.1.
- b) In the case of FIs supervised by the MTC, the general CDD regime sets forth that the origin of the funds involved in the transaction shall be indicated, pursuant to the provisions of Art. 19 of SBS Resolution No. 6089-2016. However, there do not seem to exist provisions to establish the requirements in this criterion when the BO is a PEP.
- c) Article 32 of SBS Resolution No. 2660-2015 points out that the enhanced monitoring of PEPs shall include an increase in the frequency of analysis of the customer's transactional activity, increase in the frequency of information update, conduct inquiries, and apply additional identification and verification measures, as well as collect information from public and open sources and make on-site visits. Similar provisions are included in Art. 19 of SBS Resolution No. 6089-2016 applicable to institutions supervised by the MTC. RIs supervised by the SMV shall, based on Art. 7 of CONASEV Resolution No. 033-2011-EF/94.01.1, conduct at least once a year a review of the profile, background information,

documentation, and other aspects associated to the customer, as well as conduct on-site visits to the private address or offices, if necessary, and make inquiries and gather additional information to update information.

CT143. *Criterion 12.2* –

- a) Pursuant to the provisions of Art. 30 of SBS Resolution No. 2660-2015, companies shall identify if their customer is a PEP, as well as indicate the name of the institution, public agency, or international organisation it works or worked for. Likewise, in the case of legal persons, they shall identify shareholders, partners, associates with direct or indirect ownership of more than 25% of the social equity, contribution, or share in the legal person and/or entity and that are PEPs. RIs supervised by the MTC shall, based on Art. 19 of Resolution No. 6089-2016, shall request the submission of minimum information for remittances higher than one thousand dollars and, in case of PEPs, indicate the position, name of the institution, and enhanced CDD regime shall be applied.

In relation to RIs under the supervision of the SMV, Art. 6 of CONASEV Resolution No. 033-2011-EF/94.01.1 sets forth that the prevention system should include procedures to sufficiently know customers, as well as to include those procedures that would enable and facilitate a proper follow-up of business transactions performed by PEPs; Art. 7 of the Resolution mentioned points out that RIs shall identify if a natural person is a PEP, as well as if among directors, shareholders, partners or associates that directly or indirectly hold more than 25% of the social equity, contribution or share, any of them falls under the category of PEP.

- b) In relation to criterion b), the resolution does not distinguish a different treatment for foreign or domestic PEPs, therefore, applicable measures to all PEPs are those detailed in criterion 12.1 (b) through (d); i.e., no “higher risk business relationships” need to take place for the enforcement of such measures.

CT144. *Criterion 12.3* – Pursuant to the provisions of Art. 32 of SBS Resolution No. 2660-2015, customers that fall under the category of PEP need to provide the names of their family members up to the second degree of consanguinity or the second degree of affinity, as well as of the spouse or legal partner. Enhanced CDD measures are applicable to family members, spouse or legal partner, as well as to partners, shareholders, associates of legal persons or entities where a PEP holds 25% or more of the social equity or contribution. Similar provisions are applicable to institutions supervised by the SMV under Art. 7 of CONASEV Resolution No. 033-2011-EF/94.01.1, with the difference that the share percentage is reduced to 5% of social equity or contribution.

CT145. *Criterion 12.4* – In compliance with Art. 27 of SBS Resolution No. 2660-2015, customers include the persons who hires the insurance, the insured party, and the beneficiary. That being said, the provisions of the Resolution on customers and PEP identification are applicable to the beneficiaries of policies.

Weighting and Conclusion

CT146. Peru mostly complies with the criteria established by this Recommendation. There are no provisions on the adoption of measures to establish the origin of the funds of the customer and of BO identified as PEPs.
Recommendation 12 is rated Largely Compliant.

Recommendation 13 - Correspondent banking

CT147. In the 2008 MER, Peru was rated “mostly compliant” in relation to former R.7. The MER pointed out that there were no specific regulations to establish the need of assessing AML/CFT controls of the correspondent institution and holding the documents on the corresponding responsibilities.

CT148. *Criterion 13.1* –

- a) Pursuant to the provisions of Art. 44 of SBS Resolution No. 2660-2015, know your customer policies should be implemented in relation to entities a bank correspondent relationship is or was established with. In this context, the ML/TF prevention system developed by them shall be analysed, especially when their original jurisdictions have strict banking secrecy regulations or are countries with preferred tax regimes. These measures, which shall be recorded in a file, shall be available to the SBS, and they are also applicable to companies that provide funds transfer services with non-banking institutions. Article 45 of the Resolution mentioned points out that, if the entity a correspondent relationship is held with were under investigation and/or publicly sanctioned for having deficiencies relating to its ML/TF prevention system, or is authorised in a non-co-operative country, as indicated by the FATF, enhanced know your customer policies shall be applied and recorded in the correspondent institution's files.
- b) As mentioned in the analysis of the previous sub-criterion, companies should be acquainted with the prevention systems of their correspondents institutions and assess the system developed by them, which shall be recorded in the file and be available to the SBS:
- c) Article 43 of SBS Resolution No. 2660-2015 points out that correspondent agreements shall be subscribed by the companies' senior management level.
- d) Agreements indicated under SBS Resolution No. 2660-2015 (Art. 43) shall clearly define the duties and responsibilities of each party in relation to ML/TF prevention.

CT149. *Criterion 13.2* – Pursuant to the provisions of Art. 43 of SBS Resolution No. 2660-2015, when a correspondent relationship includes the maintenance of funds transfers payable through accounts, companies shall keep a record of the following:

- The respondent institution has complied with all CDD measures in relation to its customers that have direct access to the correspondent institution's accounts, and
- The respondent institution is capable of providing the identification information of customers upon request.

CT150. *Criterion 13.3* – SBS Resolution No. 2660-2015 (Art. 46) points out that FIs may not establish or continue relationships with shell banks or companies, defined as companies incorporated in a country where they do not have a physical presence and are not members of an economic group subject to effective consolidated supervision. Likewise, they shall keep proof that foreign institutions they hold correspondent relationship with do not allow shell banks or companies to use their accounts.

Weighting and Conclusion

CT151. Peru complies with the criteria established by this Recommendation. **Recommendation 13 is rated Compliant.**

Recommendation 14 - Money or value transfer services

CT152. Peru was rated “partially compliant” in relation to the former SR. VI in the 2008 MER given that compliance with the Recommendation was not verified, with the undetermined incidence of the informal sector.

CT153. *Criterion 14.1* – In compliance with Law No. 27693 (Sixth Complementary, Transitory and Final Provision), the service of reception and delivery of fund transfer orders can only be rendered by FIs authorised by the SBS, as well as CACs, whether as representative of companies with foreign scope or

independently through agreements entered into with correspondent companies abroad. Likewise, only postal concessionaires duly authorised for such purposes by the MTC may render the remittance postal service (postal drafts) through a postal concession agreement, as well as the operator appointed for compliance with obligations under the Universal Postal Agreement; the remittance postal service has a maximum limit of 2 UIT (8,300 soles (Supreme Decree 032-93-TCC, Art. 16.)

CT154. Among institutions supervised by the SBS, except those that conduct funds and value transfers under their normal course of activities, there are two types of institutions authorised to conduct funds transfer services: Funds Transfer Companies (ETF), and Electronic Money Issuing Companies (EEDE.) Both institutions are comprised under items 5) and 6) or Art. 17 of the General Law on Bank and Insurance, which established the minimum amount of social equity for their incorporation and for the operation of this kind of companies. SBS Resolution No. 1025-2005 (Art. 9) for ETF, and SBS Resolution No. 6284-2013 (Art. 4) for EEDE, set forth the obligation to have prior SBS authorisation to operate.

CT155. *Criterion 14.2* - Law No. 27693 (Sixth Complementary, Transitory, and Final Provision) sets forth that whoever provides the service of reception and delivery of fund transfer orders without due authorisation shall be sanctioned through the cancellation of the authorization granted to operate, prior communication from the SBS or MTC. Likewise, the SBS and MTC are empowered to order the closure of the facilities of companies that fail to comply with the provisions of said regulation.

CT156. The General Law on Bank and Insurance (Art. 351) sets forth that the Superintendent shall order the immediate closure of facilities where non-authorized transactions are conducted pursuant to the Law and “Conducting business or transaction in a prohibited or unauthorised manner” is considered a violation subject to sanction (Art. 356, General Law on Bank and Insurance) and conducting unauthorized transactions or activities is established as a very serious violation by the SBS (SBS Resolution No. 816-2005.) Within the SBS, the Department of Contentious Matters of the Legal Counselling Joint Superintendence is in charge of identifying, investigating, and intervene upon natural and legal persons that, without SBS authorisation, conduct activities typical of SBS supervised and regulated entities.

CT157. Supreme Decree No. 032-93-TCC sets forth that rendering postal services without express authorization of the MTC (Art. 38) constitutes a violation and shall be sanctioned with a fine of at least ten UIT (41,500 soles) (Art. 43.)

CT158. *Criterion 14.3* – FIs that conduct money and value transfers as part of their regular activities, as well as ETF and EEDE, since they are under the authorisation and prudential supervision of the SBS, they are contemplated within the scope of SBS Resolution No. 2660-2015 and are supervised on ML/TF risk prevention and management matters by the ML/TF Risk Supervision Department (DSRLAFT) of the SBS.

CT159. Law No. 29038 (Art. 3.1.5) sets forth that FIs that conduct remittance and/or draft postal services are RIs before the FIU and should implement a ML/TF prevention system. Moreover, they are covered under SBS Resolution No. 6089-2016 on ML/TF risk management; furthermore, it is set forth that the MTC should, as supervisor on ML/TF prevention matters, verify compliance with the regulation on ML/TF prevention and detection, as well as sanctioning non-compliances.

CT160. *Criterion 14.4* – ETF can operate through agents, who are natural or legal persons which main activity is not the transfer of funds and who the ETF enters into agreements with for the reception or delivery of money under the name and on behalf the ETF. Signing of agreements with agents by the EFT does not require prior authorisation. However, before the corresponding Agent begins to operate, the ETF shall create

at the Head Office, an individual file for each Agent with the following minimum information, which shall be available to the SBS for supervision purposes (SBS Resolution No 1025-2015, Arts. 2 and 4.)

CT161. EEDE, through correspondent teller machines, can perform fund transfer transactions. ATMs are service spots that operate in fixed or mobile facilities, managed by an operator, which aim at providing financial companies supervised by the SBS certain financial transactions and services which these are authorised to perform. In order to operate with correspondent teller machines, authorisation from the SBS is required, and the EEDE shall keep and updated record of operators and correspondent teller machines aggregators and their ID data. EEDE shall regularly communicate the SBS the number of correspondent teller machines kept (SBS Resolution No. 4798-2015, Arts. 3, 5, 7 and 16.)

CT162. FIs that provide remittance postal services (postal drafts) do not have agents.

CT163. *Criterion 14.5* – The ETF is responsible for compliance by its agents, in relation to the current applicable resolution for funds transfers and ML prevention. (SBS Resolution No 1025-2015.) Moreover, as mentioned above, FIs that provide remittance postal services (postal drafts) do not have agents.

Weighting and Conclusion

CT164. Peru complies with the criteria established by this Recommendation. **Recommendation 14 is rated Compliant.**

Recommendation 15 - New technologies

CT165. The 2008 MER of Peru rated former R.8 as “compliant.”

CT166. *Criterion 15.1* – As a result of the SRA of the financial sector, based on the ML/TF risk perception survey applied to the CO in 2017 by the competent authorities, the use of new channels and/or technologies was considered. The SRA identified as a vulnerability the lack of implementation of efficient and/or effective controls for the ML/TF risk management of a new variety of products, since no historical information on their use was available, and in particular, on how those products could be used for ML/TF purposes. The report indicates as a ML/TF risk mitigating management action the issuance of a legal framework related to Fintech and the use of cryptocurrencies. Additionally, during 2017, the FIU conducted a report on companies devoted to the collective or collaborative financing, and that operate on virtual platforms (Fintech), and has issued newsletters on the use of Bitcoin. In February 2017, the SBS created the Fintech Working Group with the aim of analysing current national and international initiatives and proposing an institutional policy for their management.

CT167. For FIs supervised by the SBS and the FIU, a report with an assessment of the exposure level to ML/TF risks new products and/or services companies would offer would be exposed to is required, including the analysis of when new technologies associated to products and/or services offered are decided, or when a change in an existing product occurs modifying its ML/TF risk profile (SBS Resolution No. 2660-2015, Art. 23 and Art. 28 of SBS Resolution No. 789-2018.) Moreover, FIs supervised by the SMV, upon the launching of a new product, business practice or use of a new or developing technology, they shall identify and assess ML/TF risks that could arise in relation to them, for the purpose of being able to adopt appropriate measures to manage and mitigate the potential risk (CONASEV Resolution No. 033-2011-EF/94.01.1.) However, for FIs supervised by the MTC.

CT168. *Criterion 15.2 –*

- a) FIs governed under SBS Resolution No. 2660-2015, pursuant to Art. 23, shall issue a report with an assessment on the exposure level to ML/TF risks new products or services to be offered would be exposed to; such report shall be made available to the Superintendence. It is expressly indicated that the Risks Unit shall report to the risk committee or to the board of directors, as appropriate, on the risks associated to the launching of new products, and on important changes in the business environment, the operational and computing environment before their launching or execution; As well as management measures proposed or implemented (Art. 25 of SBS Resolution No. 272-2017.) For FIs supervised by the SMV, the risk assessment shall be conducted upon the launching of a new product, business practice or use of a new or developing technology (Art. 7.7 of CONASEV Resolution No. 033-2011-EF/94.01.1.) For FIs supervised by the FIU, the regulation does not cover the requirement established under this criterion.
- b) For FIs supervised by the SBS, it is expressly mentioned that the Risks Unit of the FI shall report to the risk committee or to the board of directors on the risk management measures proposed or implemented for risks associated to the launching of new products, before their launching or execution (SBS Resolution No. 272-2017.) As indicated in criterion above, for FIs supervised by the SMV, the risk assessment shall be performed upon the launching, for the purpose of being capable of adopting appropriate measures to manage and mitigate the potential risk (CONASEV Resolution No. 033-2011-EF/94.01.1.) In the case of RIs supervised by the FIU devoted to the exchange of currency, and to loans and/or pawn, they shall conduct an assessment of their risks when they decide to use new technologies associated to the products and services offered (Art. 28 of the SBS Resolution No. 789-2018.) However, for FIs supervised by the MTC, does not apply this evaluation criterion since Supreme Decree N ° 032-93-TCC defines a postal remittance as the payment of money through the postal network, so it is not possible that the dealer uses new technologies for the existing products.

Weighting and Conclusion

CT169. Peru complies with the criteria established by this Recommendation. **Recommendation 15 is rated Compliant.**

Recommendation 16 - Wire transfers

CT170. In the 2008 Third Round MER, Peru was rated “partially compliant” in relation to SR.VII. The MER indicated as a deficiency that regulations established only applied effectively to FIs supervised by an administrative authority, in a context where the magnitude of transactions of informal agents had not been determined (particularly, exchange houses and ETF.)

CT171. *Criterion 16.1 –*

- a) SBS Resolution No. 2660-2015 sets forth that, for cross-border transfers, the originator shall provide at least the following information: Full name, in case of a natural person, or corporate name, in case of a legal person; identity card number for natural persons or RUC or equivalent registration number for legal persons; reference or identification codes or other data that allow to track the transaction. Likewise, the originating company shall submit such information together with the reference number of the transaction.
For FIs supervised by the MTC, postal remittances cannot be higher than 2 UIT (UIT = 4,150.00 soles.) A general CDD regime is applied to transactions for amounts equal to, or higher than USD 1,000 (one thousand American dollars) or its equivalent in domestic currency. The FI shall request its customer to

submit minimum information and documents, depending on where the remittance is made from (Art. 19 of SBS Resolution No. 6089-2016.) Full name, nationality (if foreign), position and name of the agency (in case of PEPs, in addition to the application of enhanced CDD), the identity of the person who sends or receives the remittance, the originator of the transaction, the purpose of the relationship to be initiated with the reporting institution. Additionally, it sets forth that in case the remittance and/or postal draft were conducted through domestic or foreign wire transfer, the reporting institution shall request the originator's account number, when it was used to process the transaction, and in absence of account, the unique reference number that allows to track the transaction.

- b) SBS Resolution No. 2660-2015 (Article 47), applicable to originating institutions, sets forth that, in relation to the beneficiary of the transaction, full name, in case of a natural person, or corporate name, in case of a legal person shall be provided; Such information shall be submitted by the originating company, together with the transaction's reference number. Likewise, requirements on submission of information are considered complied with if reference or identification codes or other data that allows to identify the originator and/or BO and to track the transaction are sent. In relation to entities supervised by the MTC, Art. 19 of SBS Resolution 6089-2016, amended by Resolution SBS 789-2018, establishes that operations equal to or greater than \$ 1,000, as part of the due diligence of the client, it is required "The identity of the person receiving the remittance and/or money order (First and last names)", and in case that it is a legal entity, " 1)its name or business name, 2) the Unique Taxpayer Identification Number (RUC by its acronym in Spanish)", likewise , shall indicate if it is the beneficiary of the operation, if not, it must refer the names and surnames of the natural person beneficiary, data of the representation (if acting with legal power and if this is by public deed) or mandate and the origin of the funds involved in the operation. However, the beneficiary's account number or reference number of the transaction that allows its tracking is not required.

CT172. *Criterion 16.2* – The regulation sets forth that where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain required and accurate originator information, and full beneficiary information, that is fully traceable in the country of the beneficiary; Additionally, the company shall include the account number of the originator or the reference code of the transaction (Art. 47.3 of SBS Resolution No. 2660-2015.)

CT173. *Criterion 16.3 – 4* – There is no minimum threshold for transfers conducted by FIs supervised by the SBS, reason why the provisions set forth for funds transfers would be applicable to all transfers, regardless of the amount. For FIs supervised by the MTC, in case the remittance and/or postal draft were conducted through domestic or foreign wire transfer, in addition to the information provided for in items 19.1 and 19.2 of Resolution No 6089-2016, the reporting institution shall request the customer to provide the originator's account number, when it were used to process the transaction, and in absence of account, the unique reference number that allows to track the transaction (Art. 19.3.)

CT174. *Criterion 16.5 – 6* – For domestic transfers, the provisions described under criterion 16.1 are applicable.

CT175. *Criterion 16.7* – Based on the provisions of R.11, FIs shall keep a record of transactions under the terms set forth by said Recommendation.

CT176. *Criterion 16.8* – When the FI were not able to comply with the CDD measures, in these cases in relation to the originator of the transfer, as well as the identification of the BO it shall not conduct the transaction. Likewise, originating FIs shall establish policies and procedures based on ML/TF risks aimed at determining cases where they may choose to conduct, reject, or suspend a transaction, with the subsequent

follow-up action, in case there were no information on the originator (SBS Resolution 2660-2015, Arts. 29 and 47.)

CT177. *Criterion 16.9 – 16.11* – FIs that participate only as intermediaries, i.e., when they are the nexus between the originating and beneficiary institutions, shall, at least, request information on the originator and/or beneficiary: Full name for natural persons; and corporate name, for legal persons. Information previously mentioned shall be kept together with the reference code of the transaction. Intermediary institutions shall adopt reasonable measures related to the direct procedure to identify transfers that lack required information on the originator or beneficiary (SBS Resolution No. 2660-2015, Art. 47A.) There are no related provisions in relation to institutions supervised by the MTC, since the Postal Dealers and Designated Operator are authorized by the MTC to provide the postal service of remittance and/or money order, through a postal concession contract that does not allow an intermediary to provide its services.

CT178. *Criterion 16.12* – Intermediary FIs shall have policies and procedures in place based on ML/TF risks to determine: i) when to execute, reject, or suspend a transfer that lacks required information on the originator and/or the beneficiary, and ii) the appropriate follow-up action (SBS Resolution 2660-2015, Art. 47A.)

CT179. *Criterion 16.13 – 16.15* – Beneficiary FIs that receive transfers from an originating or intermediary entity, and supply the funds to the beneficiary, shall adopt all due diligence measures to identify the beneficiary of the transaction, as well as to verify that the reference or identification codes from the originator or other data to identify the originator was provided for by the originating entity. Verification measures may include the subsequent monitoring or real time monitoring of the transaction, as feasible. Beneficiary FIs shall have policies and procedures in place based on ML/TF risks to determine: i) when to execute, reject, or suspend a transfer that lacks required information on the originator, and ii) the appropriate follow-up action (SBS Resolution No. 2660-2015, Art. 47B.)

CT180. *Criterion 16.16 – 16.17* – The criteria of R.16 are applicable to FIs supervised by SBS, which include ETFs. The FIs regulated by the MTC do not have provisions that apply R.16.

CT181. *Criterion 16.18* – FIs that conduct funds transfers shall also take into account the provisions of the regulation that governs the mechanisms and procedures for the FIU to administratively freeze the funds and other assets of persons or entities linked to terrorism and TF, as well as those linked to the proliferation of weapons of mass destruction and its financing, identified in the framework of UNSCRs, approved by SBS Resolution 3862-2016.

Weighting and Conclusion

CT182. FIs governed by the SBS have the legal framework in place to allow cross-border wire transfers always include the corresponding information on the originator and the beneficiary. However, the FIs regulated by the MTC do not have provisions that apply R.16. **Recommendation 16 is rated Largely Compliant.**

Recommendation 17 – Reliance on third parties

CT183. In the 2008 Third Round MER Peru was rated “partially compliant” in relation to former R.9, since the specific regulation on reliance on intermediaries or third parties to conduct or comply with some CDD procedures, to attract new businesses, or to present business activities, for the entire financial system had to be complemented, in particular, former essential criteria 9.3 and 9.4.

CT184. *Criterion 17.1 – 17.3* – The responsibility to conduct the due diligence process in relation to the know your customer policy lies exclusively on the FI, reason why the applicable legislation does not allow them to rely on third parties (other FIs and/or DNFBSs.) (SBS Resolution 789-2018 (Art. 15.1), SBS 6089-2016 (Art. 218.1), and CONASEV Resolution 033-2011-Ef-94.01.1 (Art. 7.1.) However, there are no provisions in relation to this R. relating to entities governed by the SBS.

Weighting and Conclusion

CT185. In compliance with Peruvian legislation, the performance of CDD measures for most FIs cannot be relied on third parties. However, there are provisions in relation to this Recommendation relating to entities governed by the SBS. **Recommendation 17 is rated Partially Compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

CT186. The 2008 Third Round MER of Peru rated former R.15 and R.22 as “partially compliant” and “non-compliant,” respectively. The MER for R.15 pointed out that 1) regulations established were only effectively applied to financial institutions supervised by an administrative authority, in a context where the magnitude of transactions of informal agents had not been determined, and 2) there were no appropriate programmes to allow the effective and regular training of employees of RIs. In the case of R.22, the requirements of the Recommendation were not included in the current regulations.

CT187. *Criterion 18.1* – Law No. 27693 (Art. 10.2.1) sets forth that it is a responsibility of the Board of Directors and the General Manager of the reporting institution to implement the ML/TF prevention system, as well as to appoint an officer that, with them, shall be jointly responsible to ensure compliance with the system. Said Art. sets forth that the CO shall be a Manager from the RI, and within the functional organizational chart, the CO will directly report to the Board, with total autonomy and independence in the performance of its duties. Likewise, it sets forth that RIs that belong to the same economic group may appoint one CO, called Corporate CO, prior express authorisation by the heads of the corresponding supervisors and the Director of the FIU. Supreme Decree 020-2017-JUS (Art. 14) points out that the CO is the natural person appointed by the RI, responsible to ensure the implementation and performance of the SPLAFT, and the contact person of the RI with the supervisor and the FIU, and an agent the supervisor relies on for the performance of its supervision duties under said system. RIs that are natural persons may be their own CO.

- a) For FIs supervised by the SBS, MTC, and FIU, the obligation to implement a SPLAFT system is provided for. The SPLAFT is made up by policies and procedures established by the FI. The SPLAFT sets forth that the FI shall appoint a CO working full time for the company. The CO is appointed by the Board, it reports directly to it, and it has autonomy and independence in the performance of its duties; And s/he shall be trained and/or have experience associated to the ML/TF prevention and risk management. (SBS Resolution No. 2660-2015, SBS No. 6089-2016, and SBS No. 789-2018.) Similar requirements are established for FIs supervised by the SMV (CONAVES No. 033-2011-EF/94.01.1.)
- b) Law No. 27693 (Art. 14) sets forth that FIs shall implement mechanisms that would allow ensuring a sufficient and updated knowledge of their personnel. Likewise, Supreme Decree 020-2017-JUS (Art. 22) sets forth that FIs shall implement a due diligence policy in relation to the knowledge of its employees and directors. There are sectoral provisions for FIs supervised by the SBS, MTC, SMV, and FIU that provide for the implementation of a due diligence policy in relation to the knowledge of employees and directors. Said policy shall be part of the recruiting and selection programme of all the personnel, whether temporary or permanent, with the aim of ensuring its integrity. Among the information requested to the personnel, there is the following: Profession, professional studies, trainings

- conducted, and criminal, labour, and patrimonial background, among other requirements (SBS Resolution No. 2660-2015, SBS No. 6089-2016, SBS No. 789-2018, and CONASEV No. 033-2011-EF/94.01.1.)
- c) Supreme Decree 020-2017-JUS (Art. 16.D) points out that one of the functions of the CO is to adopt necessary actions for the training of the organizational structure of the FI, based on its functions. For FIs supervised by the SBS, MTC, and FIU, the legislation provides for that RIs, its directors and employees shall be trained. Said training shall include at least: i) definition of ML/TF offences and current legislation on AML/CFT matters; ii) policies and procedures established by the RI on the ML/TF risks management and prevention model, as well as ML/TF risks the RI is exposed to; iii) alert signs to detect unusual and suspicious transactions, and a communication procedures for ML/TF transactions and typologies detected iv) RI in-house rules; and v) information on the lists that contribute to the prevention of ML/TF, including UNSC lists on TF and FPWMD; and vi) responsibilities in relation to the ML/TF prevention, based on their field of expertise and duties conducted. (SBS Resolution No. 2660-2015, SBS No. 6089-2016, and SBS No. 789-2018.) For FIs supervised by the SMV, an annual training programme shall be developed with the aim of educating its employees on the current regulations on ML/TF prevention matters, as well as on policies and procedures, as well as aspects related to the ML/TF risk management (CONASEV Resolution No. 033-2011-EF/94.01.1.)
- d) For FIs supervised by the SBS, MTC, SMV, and FIU, the regulations provide for that an internal and/or external audit of the SPLAFT shall be conducted, in a way as to, depending on the FI, establish different criteria for the performance of audits (SBS Resolution No. 2660-2015, SBS No. 6080-2016, CONASEV No. 033-2011-EF/94.01.1 and SBS No. 789-2018.)

CT188. *Criterion 18.2* – In relation to FIs supervised by the SBS, MTC, SMV, and FIU, economic groups comprised by companies subject to consolidated supervision based on the provisions of the SBS shall develop corporate policies and procedures in relation to the SPLAFT, including: a) Policies and procedures at the group level on ML/TF prevention and risk management matters; b) Policies and procedures for the exchange of information within the group for AML/CFT purposes, with the adequate safeguards on confidentiality and use of information exchanged, and c) necessary criteria that should be adopted by the members of the economic group to ensure high standards at the time of hiring workers and appointing directors and managers. (SBS Resolution No. 2660-2015, SBS No. 6089-2016, CONASEV No. 033-2011-EF/94.01.1, and SBS No. 789-2018.)

CT189. *Criterion 18.3* – For FIs supervised by the SBS and the FIU (in relation to CACs), it is set forth that branches and subsidiaries abroad, that belong to the economic group shall comply with the AML/CFT measures and the ML/TF risk management compatible with those applicable in Peru and included in the FATF Recommendation. In case the local regulations of the country where they are located would not allow to properly comply with AML/CFT measures of Peru, FIs have a maximum term of thirty (30) days from the issuance of the regulation in the country of incorporation to submit a report to the Superintendence on: i) existing limitations; such report shall include the legal grounds for the obstacle to its application; and ii) measures to be adopted to manage ML/TF risks. For other FIs abroad not included, it shall be verified that they have AML/CFT measures in place and ML/TF risk management compatible with those required in Peru and by FATF Recommendations. (SBS Resolution No. 2660-2015.) For FIs supervised by the SMV, it is established that in case the FI has foreign majority-owned branches and subsidiaries, it should ensure that these apply ML/TF prevention measures consistent with the home country requirements, and that these are included under the ML/TF prevention programmes conducted at the group level (CONASEV Resolution No. 033-2011-EF/94.01.1.)

Weighting and Conclusion

CT190. Peru complies with the criteria established by this Recommendation. **Recommendation 18 is rated Compliant.**

Recommendation 19 – Higher-risk countries

CT191. The 2008 MER rated the former R.21 as “partially compliant” since there was no sufficient implementation of specific regulations to require all FIs to adopt enhanced measures for the analysis of business relations and transactions with individuals from countries that do not apply or insufficiently apply FATF Recommendations.

CT192. *Criterion 19.1* – SBS Resolution No. 2660-2015 (Art. 4) sets forth that one of the ML/TF risk factors that shall be identified and considered by RIs is the geographic area, putting emphasis on the fact that FATF considerations on jurisdictions shall be taken into account, including areas where companies operate in and those related to the transaction process; moreover, within the same Resolution, Art. 22 points out that criteria developed to rate customers pursuant to their ML/TF risk shall include their nationality and residence, among others. Likewise, Article 32 of the Resolution mentioned sets forth that the enhanced CDD regime shall be applicable to natural or legal persons or entities that receive transfers from countries or jurisdictions considered non-cooperative countries by the FATF, with ML/TF risks, little banking supervision or countries subject to sanctions by the Office of Foreign Assets Control (OFAC) of the US Department of the Treasury; moreover, Art. 45 sets forth that an enhanced regime shall be applied to correspondent institutions authorised in said countries. Likewise, SBS Resolution No. 6089-2016 points out that, among the ML/TF risk factors that shall be considered and identified by RIs in remittance and/or postal drafts transactions is the geographic area, putting the same emphasis on jurisdictions signalled by the FATF.

CT193. In relation to FIs under the supervision of the SMV, Art. 3.3 of CONASEV Resolution No. 033-2011-EF-94.01.1 points out that RIs shall establish controls and policies to identify, assess, control, mitigate, and monitor their ML/TF risks, and that they should take four factors at least, among which the geographical location is included; likewise, it sets forth that customers who receive transfers from countries designated by the FATF or with ML/TF risks shall be included under the enhanced CDD regime.

CT194. *Criterion 19.2* – No countermeasures proportionate to the risks are verified when the FATF made or no a call on this regard.

CT195. *Criterion 19.3* – In compliance with SBS Resolution No. 7932-2015 (Art. 15), FIs shall adjust the risks categories in relation to countries they are exposed to in relation to the incorporation of a country to the list of jurisdictions with significant deficiencies, high risk or non-cooperative countries on AML/CFT matters pursuant to the FATF. Additionally, Art. 11 of SBS Resolution No. 2660-2015 sets forth that the CO is responsible for and has the duty to verify that the SPLAFT includes a review of countries or jurisdictions considered as non-cooperative countries by the FATF. Provisions on this sense are included in CONASEV Resolution No. 033-2011-EF/94.01.1 for the application by RIs supervised by the SMV.

Weighting and Conclusion

CT196. No counter-measures are applied in compliance with criterion 19.2, and as regards 19.3 except the provisions of the regulations, there are no measures that allow countries to be aware of the risks from other jurisdictions. **Recommendation 19 is rated Partially Compliant.**

Recommendation 20 - Reporting of suspicious transaction

CT197. The 2008 Third Round MER of Peru rated former R.13 and SR. IV as “partially compliant” because a low level of effectiveness was found in relation to compliance with the Recommendation, product of a large amount of RIs that are not subject to supervision.

CT198. *Criterion 20.1* – FIs provided for in Art. 3.1 of Law No. 29038 are required to communicate to the FIU suspicious transactions conducted regardless of their amount. Said communication shall be performed through their CO, immediately and accurately, i.e., in a term that in no case shall exceed the twenty-four hours (24) from the performance of the transaction being rated as suspicious. The term to consider a transaction as suspicious is subject to its nature and complexity (Arts. 3, section 3 and 11, item 11.1 of Law No. 27693; Article 25, item 25.1, of its Regulation, approved through Supreme Decree 020-2017-JUS; and First Complementary, Final Provision of Legislative Decree 1106.)

CT199. *Criterion 20.2* – Pursuant to the same Art. Pointed out above, FIs shall communicate the FIU all suspicious transactions attempted.

Weighting and Conclusion

CT200. Peru complies with the criteria established by this Recommendation. **Recommendation 20 is rated Compliant.**

Recommendation 21 - Tipping-off and confidentiality

CT201. The 2008 MER of Peru rated former R.14 as “compliant.”

CT202. *Criterion 21.1* – Article 13.1 of Law No. 27693 sets forth that all financial institutions, their employees, directors, and other legally authorised representatives shall be held harmless of criminal, civil or administrative liability resulting from compliance with the Law or for revealing information which confidentiality is established under an agreement or under any other legislative, regulatory or administrative provision, whichever the outcome of the communication.

CT203. *Criterion 21.2* – Art. 12 of Law No. 27693 and 31.1 of Supreme Decree 020-2017-JUS point out that FIs, and their shareholders, directors, officials, employees, workers, or third parties with professional link are prohibited from disclosing to any person, entity or organisation that information has been requested by, and/or provided to the FIU.

Weighting and Conclusion

CT204. Peru complies with the criteria established by this Recommendation. **Recommendation 21 is rated Compliant.**

Recommendation 22 - DNFBPs: Customer due diligence

CT205. The 2008 Third Round MER of Peru rated former R.12 as “partially compliant” because there was no specific regulation on DNFBP, their activity is informal, and the magnitude of the business is not analysed.

CT206. *Criterion 22.1* – For this criterion, the analysis of R.10 on the general framework established for all RIs is applied, and the applicable portions of SBS Resolution No. 789-2018. Similar provisions are established for notaries and casinos and slot machines under SBS Resolution No. 5709-2012 and SBS No. 1695-2016 respectively.

CT207. *Criterion 22.2* – For this criterion, the analysis of R.11 on the general framework established for all RIs is applied.

CT208. *Criterion 22.3* – For this criterion, the analysis of R.12 on the applicable portions of SBS Resolution No. 789-2018. Similar provisions are established for notaries and casinos and slot machines under SBS Resolution No. 5709-2012 and SBS No. 1695-2016 respectively.

CT209. *Criterion 22.4* – For this criterion, the analysis of R.15 on the applicable portions of SBS Resolution No. 789-2018 (Art. 28 b.) Similar provisions are established for casinos and slot machines under SBS Resolution No. 1695-2016 (Art. 3.4.) There seems to be no provisions in place for notaries, lawyers and accountants.

CT210. *Criterion 22.5* – For this criterion, the analysis of R.17 is applied.

Weighting and Conclusion

CT211. DNFBPs regulated under SBS Resolution No. 789-2018 comply with most of the requirements set forth under R.10; however, there seems to be no provisions on the adoption of measures to establish the origin of the funds of BOs identified as PEPs. **Recommendation 22 is rated Largely Compliant.**

Recommendation 23 - DNFBPs: Other measures

CT212. The 2008 Third Round MER of Peru rated former R.16 as “partially compliant” since: 1) the specific regulations applicable to all DNFBPs had not been issued and implemented in whole; and 2) the effective compliance with the regulation issued by the FIU addressed to DNFBPs supervised by it could not be verified due to their recent implementation.

CT213. *Criterion 23.1* – For this criterion, the analysis of R.20 for all RIs is applied.

CT214. *Criterion 23.2* – For this criterion, the analysis of R.18 on the general framework established for all RIs is applied. Additionally, applicable portions of SBS Resolution No. 789-2018. Similar provisions are established for notaries and casinos and slot machines under SBS Resolution No. 5709-2012 and SBS No. 1695-2016 respectively.

CT215. *Criterion 23.3* – For this criterion, in relation to DNFBPs, the analysis of R.19 is applied to all RIs, and the applicable portions of SBS Resolution No. 789-2018 for institutions supervised by the FIU. Moreover, companies that exploit casinos and slot machines are required to, through their CO, check the lists that contribute to the ML/TF Prevention, among them the list of non-co-operative countries and territories; And to report directors and workers in relation to the amendments and additions to the list of high-risk countries and non-cooperative countries published by the FATF (SBS Resolution No. 1695-2016.) For notaries, SBS Resolution No. 5709-2012 sets forth that the CO shall regularly review the lists published by the FATF in its website and the website of the UN, as the List of Non-Co-operative Countries and Territories, among others considered necessary or set forth by the SBS as a tool for the know your customer policy's

purposes. On the other hand, Art. 16 of the Regulation of Law No. 27693, which also applies to lawyers and accountants, establishes to review the lists that contribute to the prevention of ML/TF, among which is the List of non-cooperating countries and territories, as well as being updated on the modifications and additions to the list of high-risk and non-cooperating countries defined by the FATF.

CT216. *Criterion 23.4* – For this criterion, the analysis of R.21 for all RIs is applied.

Weighting and Conclusion

CT217. DNFBPs are required to communicate to the FIU, immediately and accurately, through their CO, any suspicious transaction regardless of the amounts involved, including attempted transactions. However, there is no power for the application of countermeasures proportionate to the risks in compliance with R.19. **Recommendation 23 is rated Largely Compliant.**

Recommendation 24 - Transparency and BO of legal persons

CT218. The 2008 Third Round MER of Peru rated former R.33 as “largely compliant” because there remained deficiencies in relation to the adoption of measures to avoid that particularly NPOs could be misused for ML/TF purposes.

CT219. *Criterion 24.1* –

- a) The types, forms, and basic features of legal persons in the country are regulated under:
The General Law on Corporations, that regulates for-profit organisations, recognizes as such: 1) Business corporations, that may adopt the open or closed forms (if they meet certain requirements) or remain as business corporations; 2) Partnerships; 3) Limited Partnerships; 4) Limited liability Companies; and 5) Civil Partnerships.
The Civil Code, Legislative Decree 295, in Arts. 76 through 139 recognizes as non-profit organisations to: 1) Associations; 2) Foundations; 3) Committees, and 4) Indigenous and campesino communities (Law No. 24656 and its regulation, Supreme Decree 008-91-JUS.) This type of legal persons is acknowledged under Art. 89 of the Political Constitution.
Additionally, there exist the following legal persons:
 - Basic Social Organisation (Law No. 25307 and its regulation, Supreme Decree 041-2002-PCM.)
 - Cooperatives (regulated under the Unique Ordered Text of General Law on Cooperatives, Supreme Decree 074-90-TR.)
 - Individual Limited Liability Company (EIRL, legal person governed by Decree Law No. 21621.)
 - Limited Liability Mining Partnership (regulated under the Unique Ordered Text of General Mining Law, Supreme Decree 014-92-EM.)
- b) Legal persons governed under private law are required to be registered with the Public Registry for their establishment (Art. 77 of the Civil Code, Art. 6 of the General Law on Corporations, Art. 5 of Supreme Decree 041-2002-PCM, Art. 4 of Supreme Decree 074-90-TR, and Art. 13 of Decree Law No. 21621), which is kept until declared and registered terminated. Under the registry publicity mechanism through the different Legal Registries (Public Registries) that the country organises (managed by the SUNARP, specialised technical body under the scope of MINJUSDH), basic information is made publicly available with identifying information, and a description of their different typologies, forms, and characteristics (Book IX of the Civil Code, Law No. 26366 and Unique Ordered Text of the General Regulation of Public Registries, Resolution No. 126-2012-SUNARP-SN.) In Public Registries (Registries of Companies) foreign branches of partnerships are also registered (Arts. 21 and 403 of the General Law on Corporations) as well as the powers granted by partnerships or branches established

abroad recognized by the SUNARP (Art. 165 of the Regulation of the Registry of Companies approved by SN Resolution No. 200-2001 SUNARP/SN).⁴⁹

CT220. *Criterion 24.2* – Based on the information provided by the authorities, a strategic analyses report on legal persons established in Peru was developed, for the purpose of determining their ML/TF risk level based on the legal person type they were established under. On this regard, the main sources of information for the elaboration of the report were the SUNAT, STRs, IIF, and the TR. The same was performed for NPOs, an analysis by the FIU, the CONSUF, and the APCI.

CT221. *Criterion 24.3* – In Peru there is the Company Register⁵⁰, currently called Registry of Companies. Pursuant to Art. 6 of the General Law on Corporations, the partnership acquires its legal personality upon its registration with the Registry and keeps it until its termination is registered. This Law points out in Art. 5 that companies are incorporated through public deed, which includes the articles of incorporation and by-laws; said instruments include, among others the following compulsory information (Art. 54 and 55): Corporate name, corporate purpose description, domicile, term of the partnership, social equity amount, number of shares, nominal value, regime of the partnership bodies, requirements to agree upon the increase or decrease of capital stock, appointment and ID data of the first administrators.

CT222. SN Resolution No. 200-2001-SUNARP/SN (Art. 3.a) sets forth that the articles of incorporation, including its by-laws and amendments, shall be registered with the Registry of Companies, among other acts. All this information is publicly available at the registry offices through the formal publicity service provided by the Registry.

CT223. The SMV has the Public Registry of the Securities Market, which holds information on all partnerships authorised to operate by the SMV. Said registry is made up of sections and is regulated under CONASEV Resolution No. 079-1997-EF/94.10. The information held in the Public Registry of the Securities Market is publicly available.

CT224. *Criterion 24.4* – For business corporations, the information referred to under criterion 24.3 is included in the articles of incorporation and by-laws, under the public deed of incorporation submitted to the Public Registry for its registration. In relation to the register of shareholders, Art. 92 of the same legal body governs the requirement for the company to keep a “Register of Shares” (private document), whether in the form of a book, loose pages, electronic register or as otherwise permitted by Law.

CT225. The General Law on Corporations sets forth that shareholder will be considered to be as anyone so registered in the Register of Shares. Under the same Law (Arts. 91, 92, 101, and 121), it is set forth that the Register of Shares should include: creation and issuance of shares, ownership of shares under the person's name, and their number; Transfers, trade-in, and stock splits, constitution of rights and liens on shares,

⁴⁹ In relation to BO information, authorities stated that the MEF, in co-ordination with SUNAT, SBS, SMV, and MINJUSDH, are working on a regulatory proposal that would allow the Congress of the Republic and/or the Executive Power (powers conferred) to regulate the obligation of legal persons and/or entities to inform the ID of BO. Said proposal was submitted through Bill No. 2606-2017/PE by the Executive Power in March 2018.

⁵⁰The Company Register was created under the Code of Commerce of 1902, ratified by Law No. 26366, as part of the Legal Persons Registry, subsequently recognised by Art. 433 of the General Law on Corporations as part of the Registry of Legal Persons, in their Companies Books and Civil Partnerships Books, as appropriate to the partnership referred to. Currently, based on the Regulation of the Partnerships Registry, SN Resolution No. 200-2001-SUNARP/SN, it is called Partnerships Registry.

limitations to transfers, agreements between shareholders or between shareholders and third parties in relation to shares. In relation to the information contained in the Register of Shares, there is no legal requirement to notify the Public Registry on the place in the country where such information is kept.

CT226. For Limit Liability Companies (SRL), the record of shares, transfers, usufruct, pledge, and precautionary measures are registered with the Registry of Companies under the SUNARP (Arts. 283, 290, 291, 292 of the General Law on Corporations, and Arts. 95, 96, 97 and 100 of the Resolution No. 200-2001-SUNARP/SN.) For Partnerships, articles of incorporation where working partners are identified, their corresponding vote, as well as transfer of shares by inter vivos acts formalised through Public Deed, where the transferor and transferee participate (Arts. 85 and 88 of the Resolution No. 200-2001-SUNARP/SN) are registered with the Public Registry.

CT227. In relation to Limited Partnerships, provisions related to partnerships are applied based on the provisions of Art. 281 of General Law on Corporations and Art. 92 of Resolution No. 200-2001-SUNARP/SN; therefore, the articles of incorporation shall identify the partners and all transfers shall be registered with the Public Registries. In relation to Limited Partnerships issuing shares, provisions related to business corporations are applied based on the provisions of Art. 282 of General Law on Corporations and Art. 92 of Resolution No. 200-2001-SUNARP/SN; therefore, they are required to have a Register of Shares.

CT228. Civil Partnerships also have their equity divided into shares, pursuant to Art. 298 of the General Law on Corporations. Partners are registered with the Public Registries, as well the transfer of their shares, based on Arts. 103, 105, and 108 of Resolution No. 200-2001-SUNARP/SN. In the case of Limited Liability Mining Partnerships, transfer of equity shares shall be conducted through public deed and be registered with the Public Register (Arts. 201 and 202 of Unique Ordered Text of the General Law on Mining - Supreme Decree 014-92-EM.)

CT229. It should be mentioned that the information available in the Public Registry of the Securities Market in relation to companies supervised by the SMV, in the sections corresponding to investment funds managing companies, securities mutual investments funds managing companies, stockbroking companies, securitisation companies, stock exchanges, securities clearing and settlement information on shareholders with percentages higher than 10% can be found.

CT230. *Criterion 24.5* – Authorities report that, in order to comply with the provisions under this criterion, as previously mentioned, the MEF, in co-ordination with SUNAT, SBS, SMV, and MINJUSDH, are working on the regulatory amendment to cover these aspects, which has been materialised with the submission of a Bill No. 2606-2017/PE.

CT231. *Criterion 24.6* – There are no provisions regarding this evaluation criterion.

CT232. *Criterion 24.7*– As mentioned before, the MEF is working on a regulatory amendment to regulate all relating to the information of the BO of legal persons and entities, which has been materialised with the submission of a Bill No. 2606-2017/PE⁵¹. However, Supreme Decree 020-2017-JUS (Art. 20) and the different sectoral resolutions (SBS No. 2660-2015, SBS No. 6089-2016, CONASEV No. 033-2011-EF-

⁵¹ After the on-site visit, Legislative Decree No. 1372 was passed, which regulates the obligation of legal persons and / or legal entities to inform the identification of their BO. However, this information is outside the scope of this Mutual Evaluation, whose scope is limited to the last day of the on-site visit date, so the scope of this regulation will be analyzed in the GAFILAT follow-up processes.

94.01.1, SBS No. 789-2018, SBS No. 5709-2012 and SBS No. 1695-2016) require all RIs, as part of their due diligence duties, to identify BO of legal persons they establish a relationship with, and to keep such information accurate and updated, and pursuant to Supreme Decree 020-2017-JUS (Art.16) the CO is in charge of answering information requests made by competent authorities, including the FIU.

CT233. *Criterion 24.8*

a) The mercantile companies that are RIs, in accordance with art. 16 of the Supreme Decree N ° 020-2017-JUS, Regulation of Law N ° 27693, has to meet the information requirements requested by the competent authorities. Likewise, any person who has in his power (holder) any document, which can be used as a means of proof in an investigation, as request of the Prosecutor, is obliged to present it, exhibit it or allow to know it on a voluntary basis; and, in case of refusal, the Judge, at the request of the Prosecutor, shall order his seizure. Such access may include the requirement of reports on data recorded in official or private records, carried out in accordance with the law (Art. 2, numeral 6, of Law N ° 27379 and Arts. 184, 185 and 337 of the NCPC).

On the other hand, pursuant to numeral 15 of Art. 87 of the Tax Code, the administrated have the obligation to present or exhibit, in the tax offices or before the authorized officials, as indicated by the Administration, the declarations, reports, minute books, records and accounting books and any document, in the form, terms and conditions in which they are required, as well as their respective copies. In the case of the companies of the national financial system and other entities, they must periodically present the information on the accounts and identification data of their holders regarding their name, denomination or business name, nationality, residence, date and place of birth or constitution and domicile, among other data, in accordance with what is established in the Supreme Decree referred to in Art. 143-A of the General Banking and Insurance Law. The information includes the identity and BO

b) and c) There are no provisions related to literals b) and c) of criterion 24.8.

CT234. *Criterion 24.9* – As indicated by authorities, the proposed regulatory amendment (Bill No. 2606-2017/PE) aims at establishing the obligation to keep the information of the BO for 5 years upon legal persons or entities. The same term is applied in the case of termination, duration, or culmination of the legal person and/or entity. Additionally, RIs have registration duties in compliance with R.11.

CT235. *Criterion 24.10* – The FIU is empowered to request reports, documents, background information, complementary information, and/or clarifications, and any other element deemed useful for the performance of its duties to RIs, any public entity, natural or legal persons for compliance with its duties, including access to registries, banks, or databases, except in the case of limitations established under the Political Constitution of Peru; confidentiality in relation to protection of personal data cannot be invoked in this context (Law No. 27693, Art. 3, Fourth Complementary Provision of Legislative Decree 1106, Law No. 29038, Art. 3; Law No. 29733 Art. 3.2, item 5, second paragraph, Art. 17 of Unique Ordered Text of Law No. 27806, Art. 4 of Supreme Decree No. 020-2017-JUS and SBS Resolution No. 1999-2016).

CT236. The PPO, in the framework of investigations, is empowered to request any document, as well as any *type* of information to whoever holds it (private individual, public officer, public or private or public institution) who shall be required to submit it, display it, or voluntarily make it available; and, upon refusal, it may request a corresponding seizure order to the Judge. Said access may include the request of reports on data held in official or private registries, kept under pursuant to Law (Art. 2, item 6, of Law No. 27379 and Arts. 184, 185, and 337 of the NCPC.)

CT237. Likewise, the Prosecutor or the PNP, by Prosecutor's order, in compliance with the provisions of Art. 234 of the NCPC, in case of indispensable inquiries for the clarification of a crime, it may inspect books, receipts, and accounting and administrative documents held by natural or legal persons; and, if the seizure of said documents were *considered* necessary, they shall secure them, prior preparation of the corresponding record. Then, the Prosecutor, before the end of a 24-hour period from the performance of such action, shall file the corresponding seizure order request to the Judge, together with the submission of a report. Moreover, in compliance with the provisions of Art. VI of the Preliminary Title of Legislative Decree 1267, all private entities, as well as natural and legal persons, are bound to co-operate with the PNP, when circumstances so require, during the performance of its duties.

CT238. *Criterion 24.11* – Bearer shares are prohibited. Shares can only be issued nominatively, for the benefit of a natural or legal person duly identified in the Register of Shares of the company, as mentioned above.

CT239. *Criterion 24.12* – The existence of nominee directors and shareholders is not contemplated. As mentioned above, the partnership considers the owner of the share to whoever is listed in the Register of Shares and, in the case of Limited Liability Companies, to whoever is listed as registered partners in the company's certificate of the Registry of Companies. Likewise, shareholders may be represented by someone else in shareholders meetings, prior registration with the company through a document (Art. 122 of the General Law on Corporations). In the case of Limited Liability Companies, the classes of shares their social equity is divided into, ownership, transfers, and changes are registered with the Registry of Companies. In case of representatives and directors, these are registered with the Registry of Companies upon the establishment of the company and, subsequently, upon request by the company and in compliance with the corresponding articles of incorporation, appointing directors and other attorneys-in-fact, further providing their identity document numbers (General Law on Corporations, Arts. 14, 15, 153, 290, 291.)

CT240. *Criterion 24.13* – According to the statements made by the authorities, the proposed regulatory amendment (Bill No. 2606-2017/PE) includes all relating to sanctions. However, the CONSUF Regulation (Supreme Decree 04-94-JUS), sets forth in Article 9.d the fine to be imposed upon anyone who failed to register with the National Administrative Registry of Foundations within 6 months following its constitution and/or registration with Public Registries (25% of the current UIT upon payment.) Moreover, as indicated under R.35, there are sanctions to RIs for non-compliance with the obligations set forth under the AML/CFT regime.

CT241. *Criterion 24.14* – Article 508 of the NCPC indicates that the relations of the Peruvian authorities with other foreign entities and with the International Criminal Court in matters of international judicial cooperation shall be governed by the treaties entered into by Peru and for this purpose there are 20 bilateral agreements and 9 multilateral agreements. Likewise, the Peruvian authorities can provide cooperation to their foreign counterparts in the areas in which they have competence (See criterion 40.1).

CT242. Title VIII of the Book Two of the Peruvian Tax Code (Supreme Decree 133-2013-JUS, amended by Legislative Decree 1315) has established the general framework for the mutual administrative assistance on tax matters. The SUNAT provides and requests mutual administrative assistance on tax matters to the competent authority, as set forth in international agreements and, also, based on the provisions of the Tax Code. Administrative assistance may adopt the following forms: a) Information exchange, upon request, spontaneously, and automatically. It may also be conducted through simultaneous audits and abroad; b) Assistance in the collection of a tax debt, including the imposition of precautionary measures; c) Service of

documents. As indicated by authorities, the regulation established will allow to establish in detail, in subsequent regulatory bodies, the immediate international co-operation mechanisms associated to basic and BO information. The proposed regulatory amendment (Bill No. 2606-2017/PE) intends that information on the BO to be used by the SUNAT, SBS, and SMV, to comply with mutual administrative assistance in compliance with the provisions of international treaties; And to exchange information between the agencies mentioned for the purpose of complying with tax obligations, the fight against tax evasion and avoidance that correspond to the SUNAT, and for compliance with supervision and control functions on the securities market by the SMV. However, there are technical deficiencies related to obtaining information from the Public Registry that do not allow achieving compliance with this evaluation criterion.

CT243. *Criterion 24.15* – There are no provisions related to this evaluation criterion.

Weighting and Conclusion

CT244. Peru has a Public Registry where the registration of legal persons and foreign branches is formalised. However, does not have the mechanisms in place for information to be timely updated. Additionally, the current legislation does not contemplate the record keeping obligation and proportionate and dissuasive sanctions for legal or natural persons that fail to comply with corresponding provisions. Likewise, the country does not have the mechanisms to monitor the quality of assistance it receives from other nations in response to requests for basic information and about the BO or requests for assistance in locating BO residing abroad. **Recommendation 24 is rated Partially Compliant.**

Recommendation 25 - Transparency and BO of legal arrangements

CT245. The 2008 MER of Peru rated former R.34 as “compliant.”

CT246. *Criterion 25.1*

a) Trusts are financial products that may only be offered and structured by companies supervised by the SBS and the SMV. The General Law on Bank and Insurance (Art. 241) describes the general characteristics of trusts and points out that they may only be administered by banking, financial entities, municipal and rural associations, Edpymes, trust companies, and insurance and reinsurance companies supervised by the SBS (Art. 242.) Art. 32 of SBS Resolution 2660-2015 establishes that the enhanced regime of due diligence in the knowledge of the client must be applied obligatorily to the trusts, including its participants. On the other hand, Art. 7, number 4 of the CONASEV Resolution No. 33-2011-EF / 94.01.1 establishes that in the case of trusts, the securitization companies must adopt intensified measures such as the identification of the trustor, fiduciary and trustees.

b) According to the second section of Art. 30 of SBS Resolution No. 2660-2015 and Art. 7 of CONASEV Resolution No. 33-2011-EF / 94.01.1, legal representatives must be identified, considering the information required to natural persons, as well as the granting of the corresponding powers, as applicable. However, there are no provisions regarding the preservation of information from other trust regulatory agents and trust service providers, including investment advisers or managers, accountants and tax advisors.

c) Trusts governed by the SBS are subject to all the provisions set forth under SBS Resolution No. 2660-2015, applicable to FIs supervised by the SBS, which sets forth that FIs shall gather complete information on the settlor, the trustee, the beneficiaries, and the trust manager, as well as to increase the frequency of the updating of information and transactional activity of customers, and keep such information for a term of 10 years (SBS Resolution No. 2660-2015, Art. 55.) Those regulated by the SMV must keep for 10 years, the documentation and information obtained in the application of the due diligence of the client (Article 11.2 Resolution CONASEV No. 033-2011-EF 94.01.1)

CT247. *Criterion 25.2* – The trusts regulated and supervised by the SBS, shall keep the information for 10 years and keep it updated, according to Art. 375 of the General Banking and Insurance Law. On the other hand, the securitization companies must keep the TR of the ML/TF prevention system in a precise, complete and up-to-date manner, the conservation is going to be for 10 years from the date it is registered, using means computing, microfilming or similar (Art. 11 of the CONASEV Resolution No. 33-2011-EF / 94.01.1). However, art. 12.1 of the same Resolution allows the exclusion of the RT from certain regular customers, which contravenes what is indicated in this evaluation criterion.

CT248. *Criterion 25.3* – According to Peruvian regulations, trusts are financial products that can be structured only by the FIs supervised by the SBS and the SMV (Art. 242 of the General Law, Law 26702), which fulfil the role of fiduciaries. The FIs supervised by SBS and SMV communicate to the supervisors the registry of managed trusts (constitutive acts), thus revealing their status as fiduciary. All these provisions are contained in the Regulation of Trusts (Res. SBS N ° 1010-1999). In the event that the trustee (FI) conducts an operation on behalf of the trust, the FI (other than the trustee) with which it carries out the operation must identify the client (trust, trustor and trustee) and is going to have knowledge that the FI (trustee) is the fiduciary that is acting on behalf of the trust.

CT249. *Criterion 25.4* – As indicated by the authorities, the regulation amendment (Bill No. 2606-2017/PE) is expected to cover the provisions under this criterion. However, providers of fiduciary services are required to reveal information requested by the SBS and the SMV.

CT250. *Criterion 25.5* – As analyzed in criterion 24.10, the FIU is empowered to request information from the RIs for the compliance of its functions, as well as any public entity, natural or legal person, including access to registries, banks or databases, unless it is within the limitations established in the Political Constitution of Peru, and no reservation is made in this area regarding the protection of personal data.

CT251. The PPO, in the framework of its investigations, is authorized to request any document, as well as any type of information to whoever has it in its possession - any individual, public official, public or private institution -; likewise, the Prosecutor, or the PNP by order of the Prosecutor, in accordance with the NCPC, when it is necessary inquiries for the clarification of a crime, can inspect the books, vouchers and accounting and administrative documents of a natural or legal person. According to Legislative Decree 1267, all natural and legal persons are obliged to provide support to the PNP, when circumstances so require, in the compliance of their duties.

CT252. *Criterion 25.6* – Article 508 of the NCPC indicates that the relations of the Peruvian authorities with other foreign entities and with the International Criminal Court in matters of international judicial cooperation shall be governed by the treaties entered into by Peru and for this purpose there are 20 bilateral agreements and 9 multilateral agreements. Likewise, the Peruvian authorities can provide cooperation to their foreign counterparts in the areas in which they have competence (See criterion 40.1).

CT253. On the other hand, the proposed regulatory reform (Law Project No. 2606-2017/PE) intends that the information on the BO may be used by SUNAT, SBS and SMV, to fulfil with mutual administrative assistance in accordance with the provisions in international treaties; and to exchange information between the aforementioned institutions for the purpose of complying with tax obligations, the fight against tax evasion and tax avoidance that correspond to SUNAT and for compliance with the functions of supervision and control of the securities market of the SMV. However, there are technical deficiencies related to

obtaining information from the Public Registry that do not allow achieving compliance with this evaluation criterion.

CT254. *Criterion 25.7 – 25.8* – Being the trust a financial product offered by FIs supervised by the SBS, sanctions established in the Sanctions Regulation approved by SBS Resolution No. 816-2005 are applicable. Annex V of the Sanctions Regulation approved by CONASEV Resolution No. 055-2001-EF/94.10 sets forth the types of infringements of securitisation companies in case of non-compliance with the securities market regulations, and Annex XIX sets forth the types of infringements of the ML/TF prevention system, with fines that range from 1 UIT to 300 UIT, based on the seriousness of the violation (minor, serious, very serious), taking into account that 1 UIT equals to 4,150.00 soles.

Weighting and Conclusion

CT255. In Peru, trusts are products that may only be offered by financial entities supervised by the SBS and the SMV. However, there are no provisions regarding the preservation of information of other trust regulating agents and trust service providers, including advisers or investment managers, accountants and tax advisors. Likewise, there are no provisions to allow information on the BO related to trusts to be used by authorities with investigation or international co-operation purposes. **Recommendation 25 is rated Partially Compliant.**

Recommendation 26 - Regulation and supervision of financial institutions

CT256. In the 2008 Third Round MER, Peru was rated “partially compliant” in relation to R.23. The MER indicated that regulations established only applied effectively to FIs supervised by an administrative authority, in a context where the magnitude of transactions of informal agents had not been determined.

CT257. *Criterion 26.1* – Pursuant to Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs. For FIs, based on the same Art., supervision and control agencies are: The SBS (including the FIU⁵²), the SMV, and the MCT. The SBS supervises entities under the scope of the provisions of Law No. 26702 that passes the General Law of the Financial System and the Organic Law of the Superintendence of Banks, Insurance, and Private Pension Funds Managers⁵³. The SMV supervises entities under the scope of the Legislative Decree 861, Securities Market Law, and the MTC supervises postal services providers and appointed operator authorised to provide remittance and/or draft postal services. The duty of the FIU is to supervise and sanction on ML/TF prevention

⁵²Art. 9.A.8 of Law 27693 sets forth that as regards RIs that lack a supervisor, the SBS, through the FIU, shall be their AML/CFT supervisor on the matter.

⁵³ The SBS supervises companies included under Arts. 16 and 17 of the General Law on Banks and Insurance (banking companies; financial companies; municipal savings and loans associations popular credit municipal associations; development entities for small and micro businesses (EDPYME); savings and loan co-operatives authorised to collect resources from the public; rural savings and loans associations; real estate capitalisation companies; financial leasing companies; factoring companies; bonding and warranty companies; trust services companies; mortgage managing companies; investment banks; Insurance companies that operate in one sector only (general risks or life); in both sectors; insurance and reinsurance companies; reinsurance companies; general deposit warehouses; cash transportation, custody, and management companies; credit and/or debit card issuers; Funds transfer companies), the Banco Agropecuario, the Banco de la Nación, the Guarantee Fund for the Small Industry (FOGAPI), private pension funds managers, the Corporación Financiera de Desarrollo S.A. (COFIDE), the Fondo Mivivienda S.A. and to insurance brokers.

matters RIs that lack a supervisor agency: Natural and legal persons devoted to the currency exchange, loan and pawn companies, NPOs that grant loans, micro-credits, or any other type of economic financing, and CACs. At the same time, supervisors should co-ordinate actions and their supervision duty with the FIU.

CT258. *Criterion 26.2* – For FIs supervised by the SBS, the General Law on Bank and Insurance (Art. 12) sets forth that in order to begin their operations, they should go through two stages: i) Process to authorise the organisation; and ii) Process to authorise its operations, for which purposes they shall comply with the provisions set forth in the Regulation for the incorporation, reorganisation, and establishment of companies and representatives of the financial and insurance systems (Chapter II and III of SBS Resolution No. 10440-2008), which sets forth the minimum requirements FIs shall comply with to be granted with the authorisation licence by the SBS. In this sense, all companies included under Art. 16 for banks and insurance companies subject to Core Principles, and 17 for FIs that render money transfer services, and PFM, shall have a licence granted by the SBS.

CT259. Additionally, said Law (Art. 347) sets forth that the SBS may criminally report the existence of natural and legal persons that, without due authorisation, perform the activities set forth in Law, among them insurance activities, with the consequent closure of their premises and, if appropriate, requesting the dissolution and liquidation of the offender. In this sense, Art. 351 of said Law empowers the Superintendent to order the immediate closure of premises where unauthorised operations are conducted, with the involvement of the PPO. Likewise, documents can be seized with the co-operation of the law enforcement authorities; Such action does not imply a liability for the Superintendent. Additionally, the Superintendent is empowered to request directly to the Supreme Court the dissolution of the infringing company and the direct appointment of liquidators, pursuant to Art. 352 of the same Law.

CT260. The SBS, through the Regulation for the incorporation, reorganisation, and establishment of companies and representatives of the Financial and Insurance Systems (SBS Resolution No. 10440-2008) governs the requirements in relation to the authorisation of organisation and operation of FIs, as well as authorisations for the conversion of companies, constitution of subsidiaries, establishment of branches of the company abroad, transformation of branches of the company abroad into operation of companies with their own legal personality, representatives of companies not incorporated in the country, and corporate reorganisation processes, such as mergers, inclusion of the merging company and simple demerger and reorganisation processes. This regulation is applicable to companies under Art. 16 of General Law on Bank and Insurance and for E-Money Issuing Companies (under Art. 17 of said Law.)

CT261. SBS Resolution No. 2660-2015 (Art. 46) defines the term shell bank or company to mean an entity that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision. Physical presence means meaningful mind and management located within a country. The existence simply of a local agent or low-level staff does not in itself constitute physical presence. Likewise, it provides for that financial companies supervised by the SBS may not establish or continue relationships with shell banks or companies and shall satisfy themselves that foreign institutions they maintain relationships with do not permit their accounts to be used by shell banks or companies.

CT262. FIs under supervision by the SMV shall be granted with an authorisation to operate, which is granted by the SMV once the requirements established under the Regulations on the Organisation of Entities that require the authorisation of the SMV, approved by SMV Resolution No. 039-2016-SMV/01 as amended by Resolution No. 018-2017-SMV/01

CT263. FIs supervised by the MTC shall be granted with an authorisation to provide postal remittance services (Postal concession) pursuant to the provisions set forth in Supreme Decree 032-93-TCC. On the other hand, the companies that provide currency exchange services and loans are obliged to be registered in the SBS to provide the services, in accordance with the Fifth Transitory and Final Complementary Provision of Law N ° 27693, incorporated by the Legislative Decree No. 1106, which creates the Register of Companies that carry out currency exchange and loan operations, expressly stating that "for the exercise of the activity they must register in the aforementioned registry", and the failure of this disposition is going to "generate the cancellation of the operating license". Also, Resolution SBS 6338-2012 develops the scope of the aforementioned registry.

CT264. *Criterion 26.3* – For FIs supervised by the SBS, the General Law on Bank and Insurance (Art.19) sets forth that they shall be of renown moral integrity and economic solvency. The SBS is empowered to authorise the organisation and operation of FIs. Likewise, Art. 20 of the same Law sets forth the impediments established for legal persons in relation to their majority shareholders, controllers, as well as directors, manager, and main executives to the date of request of authorisation. Moreover, Arts. 20 and 52 set forth that shareholders of FIs shall comply with moral integrity and economy solvency requirements, and not be subject to the impediments therein pointed out. Arts. 81 and 92 of the Law mentioned above set forth that directors, managers, and other senior executives of the financial system companies shall comply with technical and moral suitability requirements and not be subject to the impediments therein pointed out. Art. 134 of the same Law points out that the SBS is empowered to supervise that FIs are duly organised and managed by suitable personnel; and Art. 381 of the General Law on Bank and Insurance empowers it to adopt necessary measures to prevent and/or avoid non-suitable individuals to control or participate, directly or indirectly, in the direction, management and operation of the financial system company.

CT265. Additionally, Circular G-152-2010 sets forth the obligation of the general manager and internal auditor of companies supervised in relation to notify the SBS about any action that may allegedly affect the moral integrity and/or economic solvency of the shareholders that directly or indirectly own more than 3% of the equity of the company under progress. Likewise, SBS Resolution No. 1913-2004 points out, among others, the obligation imposed on directors to submit annual affidavits in relation to not being subject to the impediments set forth in the General Law on Bank and Insurance for the performance of their function, as a regular suitability validation mechanism.

CT266. Article 6 of the Regulation for the Acquisition of Property in the Social Equity of Supervised Companies and of significant owners approved by SBS Resolution No. 6420-2015, provisions are established in relation to the moral suitability and economic capacity of significant owners and their BO, in addition to the fact that significant owners shall submit an affidavit wherein it is established that, having adopted reasonable measures, they are certain of the identity of their BO, making reference to the fact that they comply with moral suitability and economic solvency criteria and that, as appropriate, said BO are capable of making cash contributions necessary to cover for any patrimonial deficiency the company may be involved in.

CT267. Likewise, Art. 3 of the Corporate Governance and Comprehensive Risk Management Regulation approved by SBS Resolution No. 272-2017, sets forth that companies shall have a corporate governance framework that considers, among others, the moral suitability and economic solvency of the shareholders and BO of the company, and the technical and moral suitability of directors, managers and senior officers of the company, as well as their qualifications and capacities for the reasonable and unbiased decision making in the course of business, risk management and control.

CT268. Finally, SBS Resolution No. 2660-2015 sets forth that companies shall adopt a due diligence policy for knowledge of their directors, managers, and workers that are part of the recruiting programme and the selection of new personnel, permanent and temporary, to insure their integrity.

CT269. For FIs supervised by the SMV, the Superintendence conducts a moral soundness supervision process, based on the Regulations for Entities Organisation that require authorisation from the SMV (SMV Resolution No. 039-2016-SMV/01), natural and legal persons that expect to become party of the supervised companies or RIs; This supervision is conducted with the participation of the Joint Risk Superintendence. Based on Art. 4 of the regulation, organisers (shareholders of a financial institution) shall have, at all times, renown economic and moral soundness as required by the SMV, which includes, among others, to submit a history of compliance with ethical principles and good business and corporate practices. Likewise, in the authorisation request, Art. 5 of said regulation, it is pointed out that, in relation to said organisers, a series of requirements should be complied with, among them, the submission of documents to certify lack of criminal backgrounds (Judiciary, PPO, or police headquarters of the country and/or abroad) or the existence of non-concluded processes where the organiser is accused or demanded. Also, organisers should not be subject to the impediments set forth under Annex B, among them: Being convicted for the commission of a wilful offence, even when they were reinstated; those included in the list issued by Office of Foreign Assets Control (OFAC) of the US Treasury Department.

CT270. Additionally, CONASEV Resolution No. 033-2011-EF/94.01.1 (Art. 3) sets forth that FIs should make sure that their directors, managers, and workers have a high integrity level, make a search for information on their personal, labour, patrimonial, and credit history backgrounds, and require them to submit documents that should be kept in the file of each director, manager, and worker of the financial institution, which shall be regularly updated.

CT271. For FIs supervised by the MTC and the FIU, there seems to be measures on directors, CO, and workers only in compliance with the due diligence policy on workers and directors; however, it is not clear whether provisions exist to avoid criminals or their associates from holding, or being BO of a significant or controlling interest in a FI (SBS Resolution No. 6089-2016, 2660-2015, y 789-2018.)

CT272. *Criterion 26.4 –*

- a) FIs supervised by the SBS, even those not subject to Essential Principles (as complementary service companies and related services and PFM), are subject to the legislation established in the General Law on Bank and Insurance on AML/CFT matters, as well as provisions under SBS Resolution No. 2660-2015. The regulation and supervision applied by the SBS considers Core Principle No. 29 of the Basel Committee on Banking Supervision, as well as Core Principle No. 22 of the Association of Insurance Supervisors (IAIS.) The Regulation for the Consolidated Supervision of Financial and Mixed Conglomerates (SBS Resolution No. 11823-2010) sets forth the general guidelines for the risk management assessment supervised companies are subject to when they belong to a conglomerate. In this sense, Art. 28.5 of said Regulation sets forth that the reports on comprehensive risk management that shall be submitted to the SBS, among other aspects, should include a description of the ML/TF prevention corporate system.

SBS Resolution No. 2660-2015 is applicable to all FIs supervised by the SBS, and provisions included in the Resolution consider the different principles of the Basel Committee on Supervision and the IAIS, not only in relation to ML/TF prevention (misuse of financial services) but also, in relation to risk management in general. Based on SBS Resolution No. 2660-2015 (Art. 20), economic groups made up

by companies subject to consolidated supervision in compliance with the provisions of the SBS, shall develop corporate policies and procedures in relation to the SPLAFT in relation to information exchange within the group for ML/TF prevention purposes. The type and scope of said policies and procedures shall consider ML/TF risks and be commensurate with the complexity of transactions and/or services offered, and the size of the economic group.

In addition, Art. 22 of the Regulation on Corporate Governance and Comprehensive Risk Management (SBS Resolution No. 272-2017) sets forth that companies shall design and apply a comprehensive risk management, based on the nature, size, and complexity of its transactions and services, as well as the macro-economic environment that affects markets the company operates in; In this sense, Art. 23 of the same Regulation sets forth ML/TF risks to be considered in the design and application of comprehensive risk management measures.

In relation to FIs supervised by the SMV, a prudential supervision process is conducted. Within this framework, a supervision of consolidated financial information submitted by companies that belong to the economic group is also conducted. The Risk Management Regulation (SMV Resolution No. 037-2017) is applicable to all FIs that have operation authorisation granted by the SMV. Pursuant to Art. 4 of the Regulation, the comprehensive management is a process conducted by the senior direction to the rest of the personnel, which shall develop corporate policies and procedures that include provisions on the exchange of information within the group. Additionally, FIs shall consider the type and scope of said policies and procedures shall consider ML/TF risks and be commensurate with the complexity of transactions and/or services offered, and the size of the economic group. Art. 5 of the Regulation sets forth that companies shall design and apply a comprehensive risk management, based on the nature, size, and complexity of its transactions and services, as well as the macro-economic environment that affects markets the company operates in; in this sense, RIs shall establish that ML/TF risks should be considered in the design and application of comprehensive risk management measures.

Additionally, the SMV is governed by the principles of the International Organization of Securities Commissions (IOSCO), which set forth the general guidelines for FIs that are under its supervision, and CONASEV Resolution No. 033-2011-EF-94.01.1 sets forth the requirement of authorisation to operate granted by the SMV on ML/TF prevention matters.

- b) Supervision function granted to all supervisors on AML/CFT matters shall be exercised on the basis of the risk analysis they perform for each sector in order to prioritise supervision on higher-risk activities and entities. In relation to lower-risk activities, these shall be monitored in relation to their duty to register with the FIU, TRs, and STRs.

CT273. *Criterion 26.5* – Supreme Decree 020-2017-JUS (Art. 32) sets forth that the supervisor shall conduct on-site supervision visits on ML/TF prevention matters pursuant to the planning determined based on the sector's ML/TF risk analysis outcomes, for the purposes of verifying and assessing the degree of compliance with the SPLAFT by the RI.

CT274. In relation to on-site supervisions by the SBS, it is empowered to inspect supervised companies without prior notice, at least once a year (General Law on Bank and Insurance, Art. 357.) For the development of its supervision activities, the DSRLAFT, if follows the provisions of the Technical On-site Supervision Process Handbook No. SBS-MTC-SBS-320-08, which sets forth necessary standards to conduct on-site supervision processes and the standard of application of the corresponding Working Guidance. In relation to the supervision of ML/TF risks supervision, pursuant to the provisions of item 8.1 of Title VIII of MOF approved b SBS Resolution No. 03833-2017-SBS and Art. 56 of SBS Resolution No. 03703-2017 that approves the ROF, the DSRLAFT is in charge of supervising the ML/TF risk management and prevention system. For such purposes, the DSRLAFT has a ML/TF Risk Assessment Methodology that

includes the components of the ML/TF Risk Management Assessment and components of the ML/TF Risk Exposure Assessment; moreover, if FIs belong to the economic group is also taken into account.

CT275. In relation to the SMV, the Joint Superintendence of Prudential Supervision participates in the supervision on ML/TF risk management matters conducted by entities under the supervision of the SMV, and through the General Intendence of Entities Supervision it has conducted off-site supervision actions (review of biannual reports from the CO, Internal and External Audit Reports), and on-site inspections with the purpose of having RIs efficiently apply the ML/TF prevention system. A ML/TF risk matrix was developed and an analytical tool for Intermediation Agents and Mutual Fund Administrators, respectively, to support ML/TF prevention supervision. The matrix for stockbroking companies is a control and management tool that helps to measure the risk exposure of stockbroking companies on ML/TF prevention matters.

CT276. In relation to the FIU, the FIU Supervision Department has developed analysis methodologies both at the general level, to determine and compare the ML/TF risk level of sectors subject to supervision by the FIU, and at the level of RIs from each supervised sector, to determine and compare the risk level of each reporting institution per sector. In this sense, for its supervision duties, the Supervision Department has been conducting a risk-based approach supervision that, in principle, was based on a qualitative methodology updated annually based on the new variables from the supervision activity. Notwithstanding the aforesaid, for the purposes of performing a more accurate risk analysis of each supervised sector, and each reporting institution from said sectors, during 2016, the Supervision Department, with the support of a consulting firm financed by SECO, developed a methodology for the determination of ML/TF risk by sector, that supports the "General Risk Matrix." Likewise, it developed methodologies to measure the risk of each RI from each supervised sector, including the quantification of risk from a series of variables broken down by economic sector; from these methodologies, risk matrices were developed for the ten highest-risk sectors supervised by the FIU.

CT277. In relation to the MTC, it does not have regulatory provisions in relation to the implementation of a ML/TF RBA applicable to supervision of RIs under its regulation and control.

CT278. *Criterion 26.6* - The SBS assesses the ML/TF risk profiles of companies twice: Off-site, when the ML/TF Risk Assessment Methodology (on an annual basis) is applied, the ML/TF risks level of all supervised companies is determined, and a ML/TF Risks File is created, which summarises the main aspects assessed and to be taken into account during the supervision (on-site or off-site) of FIs. The second assessment is conducted during the execution of inspection visits, particularly, upon assessing the outcome of the ML/TF Risk Identification and Evaluation that companies should conduct in compliance with the provisions of Art. 25 of SBS Resolution No. 2660-2015; If deficiencies were found either in the methodology or in the final assessment, these are communicated to the company directly. The outcomes of the on-site and off-site supervisions constitute, in turn, an input for the ML/TF Risk Assessment Methodology.

CT279. The FIU, meanwhile, has two risk matrices that allow assigning a specific level of risk to each RI and determine the type of supervision that will be carried out. These matrices are fed by the periodic information sent by the RIs through different applications as well as by strategic information, which allows determining the level of general risk by sector and the level of specific risk of each RI.

CT280. However, the SMV and the MTC do not have regulatory provisions in relation to this criterion.

Weighting and Conclusion

CT281. Peru has appointed the SBS, SMV, MTC, and FIU as authorities with regulatory and supervision duties in relation to compliance with AML/CFT measures by FIs. However, in relation to the implementation of measures to avoid criminals or their associates to hold, or be the BO of, or control a FI, it is important to mention that for FIs supervised by the MTC and the FIU there seems to be measures only related to directors, the CO, and workers in compliance with the due diligence policy of workers and directors. Moreover, there are no regulatory provisions referred to by criterion 26.6 for the SMV. In relation to the MTC, it does not have regulatory provisions in relation to the implementation of a ML/TF RBA applicable to supervision of RIs under its regulation and control. **Recommendation 26 is rated Largely Compliant.**

Recommendation 27 - Powers of supervisors

CT282. The 2008 MER of Peru rated former R.27 as “compliant.”

CT283. *Criterion 27.1* – Pursuant to Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs. In relation to FIs, based on the same Art., supervision and control bodies are: the SBS (including the FIU⁵⁴), the SMV, and the MTC. Law No. 27693 sets forth in Art. 10.1 that supervisors shall execute the duty of supervision of the ML/TF prevention system, in co-ordination with the FIU, in compliance with the provisions of the Law No. 27693 and Supreme Decree 020-2017-JUS. Supreme Decree 020-2017-JUS (Art. 32) adds that the supervisors shall conduct and prioritise its supervision function based on the ML/TF risk analysis, the activities conducted by the RI, using not only its own supervision mechanisms, but also the support of the CO, the internal audit, and external audit firms, as appropriate. In relation to activities identified as bearing a lower ML/TF risk, considering the provisions of Law No. 27693 (Art. 9-A), supervision is limited to the monitoring of the duties of appointing a CO before the FIU, keep, communicate and maintain a TR, and file STRs.

CT284. *Criterion 27.2* – Supreme Decree 020-2017-JUS (Art. 32) sets forth that the supervisor is empowered to plan ML/TF prevention supervision visits and conduct them when deemed appropriate.

CT285. *Criterion 27.3* – Supreme Decree 020-2017-JUS (Art. 32) sets for that the supervisor is empowered to request and review information and documents related to the activity conducted by the reporting institution. Said information involves the submission of financial statements, accounting records, registers, databases, and general documents, kept in relation to unusual and suspicious transactions, as well as criteria why an unusual transaction was not rated as suspicious.

CT286. *Criterion 27.4* – Supreme Decree 020-2017-JUS (Art. 32) sets forth that the supervisor has the sanctioning power for non-compliance with SPLAFT obligations.

CT287. SBS Resolution No. 816-2005 (Annex 1 and Annex 2) considers serious violations those relating to non-compliance with ML/TF prevention regulations, which are applicable to natural or legal persons supervised by the Superintendence and to CACs, as well as shareholders, directors, managers, workers, representatives and supervision assistants. In compliance with the same regulation (Art. 7), the SBS imposes “sanctions provided for in the General Law, in the Law of the SPP, the Regulation of the Law of the SPP, this Regulation, and resolutions issued by the Superintendence, in compliance with Art. 361 of the General

⁵⁴Art. 9.A.8 of Law 27693 sets forth that as regards RIs that lack a supervisor, the SBS, through the FIU, shall be their AML/CFT supervisor on the matter.

Law,” that include: Intervention; Suspension or cancellation of the authorization to operate; Dissolution and liquidation.

CT288. CONASEV Resolution No. 055-2001-EF/94.10 (Annex XIX) sets forth minor, serious and very serious violations to compliance with the regulation on ML/TF prevention, which are applicable to natural and legal persons that conduct activities authorised by the SMV, as well as any other natural or legal person that should comply with the regulations under the competence of the SMV. The Securities Market Law, Legislative Decree 861 (Articles 342, 343, 349, 350 and 351) set forth individuals subject to sanction, as well as sanctions the SMV is entitled to impose in compliance with the seriousness of the violation. These include suspension or revocation of the authorisation to operate.

CT289. SBS Resolution No. 6089-2016 regulates the exercise of the sanctioning capacity conferred upon the SBS, through the FIU, on AML/CFT matters. Based on the same Resolution, sanctions are imposed first by the FIU, and in the second and last administrative stage by the SBS (Art. 11), and sanctions provided for in this Regulation are imposed, based on the provisions of the Law, the Regulation of the Law, and the resolutions issued by the Superintendence, in compliance with Art. 361 of the General Law (Art. 15), that provide for the intervention; suspension or cancellation of the authorization to operate; dissolution and liquidation.

CT290. SBS Resolution No. 6089-2016 (Art. 4.4), sets forth that the MTC has sanctioning capacity in relation to non-compliance with obligations resulting from the regulations and in compliance with the corresponding Regulation on Violations and Sanctions. However, no such regulation still exists.

Weighting and Conclusion

CT291. Peru complies with the criteria established by this Recommendation. **Recommendation 27 is rated Compliant.**

Recommendation 28 - Regulation and supervision of DNFBPs

CT292. The 2008 MER of Peru rated former R.24 as “partially compliant” due to 1) the recent issuance of the regulation that established the supervision applicable to DNFBPs, and 2) the deficient allocation of human and material resources in organisations in charge of supervision.

CT293. *Criterion 28.1 –*

- a) The MINCETUR, through the General Directorate of Casinos and Slot Machines (DGJCMT), grants all owners of casino gambling rooms and slot machines an Express Authorisation to exploit them, as long as requirements provided for in the Law are complied with, and prior establishment of a guarantee in relation to obligations and sanctions that could be originated, and as a safeguard of the rights of users and the State (Art. 13, Law No. 27153, and Art. 7 of Supreme Decree 009-2002-MINCETUR.) Only a legal person organised under the regime of General Law on Corporations can be the owner in such type of activities mentioned. The exploitation of casinos and/or slot machines without the Express Authorisation by the DGJCMT constitutes the commission of the crime “illegal operation of casinos and slot machines” criminalised under Art. 243-C of the Criminal Code, which shall be punished with a term of one to six years’ imprisonment, and three-hundred sixty-five-day fines.
- b) The procedure for granting the Express Authorisation for the exploitation of casinos and slot machines includes an assessment by the DGJCMT of shareholders, directors, managers, and attorneys-in-fact of

the applicants (Arts. 14 and 15 of Law No. 27153 and Art. 7, 9 and 13 of the S.D. 009-2002-MINCETUR.) Thus, Art. 14 of Law No. 27153 requires the submission of: i) the list of partners and directors of the applicant, as well as of all natural or legal persons that indirectly participate in the Social Equity of the applicant through a legal person. When the applicant or any of the legal persons indicated above were an open business corporation, only information on shareholders whose participation on said corporation were equal to, or higher than 2% shall be required; ii) Affidavit of each partner, director, manager, attorney-in-fact, individuals with executive functions or decision-making powers of the applicant of the authorisation, if not subject to the impediments set forth in Art. 30 of Law No. 27153⁵⁵; and iii) the information subscribed by the applicant, indicating the position and functions inherent to each director, manager, attorney-in-fact, persons with executive functions or decision-making powers, and personnel directly related to the exploitation, notifying about any subsequent change to said information.

- c) Pursuant to Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs. The same Law sets forth that the MINCETUR is the supervision and control body on ML/TF prevention matters (Art. 9.A.2.) Pursuant to Art. 74-J of the Supreme Decree 005-2002-MINCETUR, the DGJCMT of the MINCETUR is the body in charge of creating, proposing, supervising, and overseeing general national non-tax administrative rules that regulate and control the exploitation of casinos and slot machines. Therefore, the MINCETUR, through the DGJCMT is the body in charge of conducting supervisions on ML/TF prevention matters (Art. 24 of Law No. 27153; Art. 2 and Art. 17 of SBS Resolution No. 1695-2015), verifying the proper implementation of the SPLAFT by its supervised entities, who are subject to administrative sanctions for violations included under the Regulation on Violations and Sanctions applicable to Companies that exploit Casinos and/or Slot Machines (Art. 17, item 17.2 of SBS Resolution No. 1695-2916, and SBS Resolution No. 5389-2013.)

CT294. *Criterion 28.2* – Pursuant to Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs. For the categories of DNFBBPs established by the FATF, based on the same Art. 9A, supervision and control bodies are: The FIU, MINCETUR, and Lawyers and Public Accountants Associations. At the same time, supervisors should coordinate actions and their supervision duty with the FIU.

⁵⁵ Pursuant to Art 30 of Law No. 27153, the following persons are banned from participating through the main legal person authorised, as well as in the activity of exploitation of casinos or slot machines itself, in their capacity as partner, director, manager, attorney-in-fact, or person with executive functions, as long as they are subject to any of the following cases: a) Congressmen of the Republic, Ministers of State, and other public officials; b) If they directly or indirectly participate in authorisation, oversight and control procedures of casinos and slot machines. This prohibition is in force up to five (5) following the termination of the position; c) If they were partners, directors, or managers of a company sanctioned with permanent closure or cancellation of the authorization granted pursuant to this Law, as long as they occupied such positions when the commission of the act that resulted in such sanctions occurred; d) If they are subject to pending trials with the State, promoted by the latter, resulting from the provisions of this Law and as long as the process lasts; e) If they are subject to judgment executed against them, resulting from procedures initiated by the State for non-compliance with this Law and regulations; f) Individuals with protests in the last two (2) years, which aggregate amount is equal to five (5) UIT per year, which were not lifted pursuant to Law, up to six (6) months before the authorisation request submission; g) Individuals subject to bankruptcy pursuant to the Law on the matter; h) Individuals sanctioned with the disqualification to exploit casinos and slot machines; and, i) Individuals convicted for willful crime of illegal trafficking of drugs and attacks against national security, even when reinstated.

CT295. *Criterion 28.3* – The categories of DNFBPs are subject to monitoring systems for compliance with the AML/CFT requirements. According to Law 27693, Art. 8 and Supreme Decree 020-2017 JUS: i) The following are under the supervision of the FIU: 1) Notaries, 2) construction and/or real estate activities (including real estate brokers); and 3) trading of jewellery, precious metals and stones, coins, works of art and postal stamps. ii) MINCETUR supervises RIs devoted to: 1) Exploitation of casinos and/or slot machines, and/or remote games on the Internet or by any other communication means, based on the regulations on the matter; and 2) exploitation of remote sports gambling on the Internet or by any other communication means, based on the regulations on the matter. And iii) Under the supervision of professional associations: Associated lawyers and public accountants, that independently or jointly, conduct or are ready to conduct on behalf of a third party or for its benefit, certain activities in a regular manner.

CT296. *Criterion 28.4* –

- a) Pursuant to the aforementioned, Law No. 27693, Art. 9.A, AML/CFT supervision agencies are those public entities or institutions that, based on their regulations or purposes, exercise oversight, control, registration, functional or union authorisation functions in relation to RIs. For DNFBPs, based on the same Article, supervision and control bodies, in addition to MINCETUR, the FIU and the Lawyers and Public Accountants Associations.
- b) In compliance with the provisions of Supreme Decree 020-2017-JUS and the corresponding sectoral regulations (SBS Resolution No. 789-2018 and SBS No.5709-2012), DNFBPs shall implement a due diligence policy in relation to the knowledge of their workers and directors, which shall be part of their recruiting and personnel selection programme or policy, with the purpose of ensuring its integrity; however, only notaries, lawyers, and real estate agents have measures in place to avoid criminals or their associates from being professionally accredited or BO with a significant interest in a DNFBP. In relation to MINCETUR, pursuant to Art. 15 of Law No. 27153, an assessment is made on the applicant, where its economic solvency, as well as that of its shareholders, directors, managers, and attorneys-in-fact with registered powers is verified. The outcomes of the assessment shall be submitted to the FIU.
- c) Law No. 27693 (Art. 9) sets forth that ML/TF Prevention Supervisors perform the sanctioning power on their RIs. For such purpose, they apply the regulations and criminalise corresponding violations approved by the FIU. For casinos and/or slot machines, SBS Resolution No. 5389-2013 is applied; SBS Resolution No. 8930-2012 as amended applies to notaries, real estate agents, and trade in jewels, precious metals and stones, and other RIs with no supervisor.⁵⁶

In relation to MINCETUR, it has a Regulation on Violations and Sanctions in place applicable to legal persons that exploit Casinos and Slot Machines, approved by SBS Resolution No. 5389-2013, as amended.

CT297. *Criterion 28.5* – In compliance with Law No. 27693, Art. 9, the AML/CFT supervision duty vested upon supervisors shall be exercised on the basis of the risk analysis made from each sector with the purpose of prioritising supervision on higher-risk activities and entities. In relation to lower-risk activities, these shall be monitored in relation to their duty to register with the FIU, keep TRs, and STRs.

CT298. The FIU makes an annual planning with a risk-based approach through the application of a general risk matrix and specific risk matrix for RIs. The FIU Supervision Department identifies first higher risk

⁵⁶ Authorities reported that they are projecting sectoral resolutions and their corresponding regulations on violations and sanctions applicable to institutions supervised by Lawyers and Accountants Associations and MINCETUR (games and remote exploitation of sports gambling on the Internet or by other communication means.)).

sectors and allocates them the highest number of effectiveness supervision visits; then, within each sector, higher-risk reporting institution are identified, allocating supervision visits based on such assessment.

CT299. In relation to MINCETUR and professional lawyers and accountants' associations risk-based supervision, there are no regulatory provisions referred to under this criterion.

Weighting and Conclusion

CT300. MINCETUR is the regulatory and supervisory body of casinos that grants the authorisation to operate, and that supervises them on AML/CFT matters. Likewise, DNFBPs are subject to compliance monitoring systems on AML/CFT matters. However, there are no provisions that indicate the implementation of measures to prevent criminals or their associates from being granted a professional credential or being the BO of significant interest on DNFBPs, except for casinos, notaries, lawyers, and real estate agents. Moreover, there seem to be no provisions on the supervision with the RBA the MINCETUR and lawyers and accountants Association should develop. **Recommendation 28 is rated Largely Compliant.**

Recommendation 29 – Financial intelligence units

CT301. In the 2008 MER, Peru was rated “largely compliant” in relation to former R.26. The factors that had an impact on the rating were the lack of a STR sample to be used by RIs supervised by the MINCETUR, lack of timely access to information subject to bank and tax secrecy, and the temporary interruption of the publication of statistical newsletters.

CT302. *Criterion 29.1* – The FIU was created by Law No. 27693 in 2002, first under the scope of the Ministry of Economy and Finances (MEF), and since 2007, by Law No. 29038, it has been incorporated as a specialised unit of the Superintendence of Banks, Insurance and PFM (SBS.)

CT303. The Law that creates the FIU sets forth in Article 1 that the FIU shall be responsible for receiving, analysing, handling, assessing, and disclosing information for the detection of ML/TF, as well as to cooperate in the implementation of ML/TF suspicious transaction detection systems by RIs; Moreover, in Art. 3, item 3, it is set forth that the FIU has, among others, the following functions of requesting, receiving, requesting clarifications, and analysing information on suspicious transactions reported by RIs or detected from the information kept in the databases it has access to. The powers of the FIU are reiterated in Art. 3 of Supreme Decree 020-2017-JUS, the Regulation of Law No. 27693, further indicating that the FIU shall be in charge of leading the National ML/TF Prevention System.

CT304. The analysis produced by the FIU is communicated to the PPO through IIF on the transactions that are allegedly related to ML activities, its predicate offences, and TF. Said reports have evidentiary power when the competent prosecutor uses them as elements that sustain the investigation and process, pursuant to the provisions of Art. 3 of Law No. 27693, item 5, as well as under Art. 5 of the Regulation of the Law, published under Supreme Decree 020-2017-JUS.

CT305. *Criterion 29.2* –

- a) The FIU receives STRs submitted by RIs and supervisors based on the powers described under criterion 29.1, under Art. 1 of Law No. 27693.

- b) The FIU is entitled to request reports, documents, background information, complementary information and/or clarifications, and any other element considered useful to perform its functions, to any RI, public entity, natural or legal person for compliance with its duties, (Art. 3, Law No. 27693). Other information received by the FIU, is TRs or other related information, which shall be submitted with the frequency and modality established by the FIU. Likewise, records created by the SUNAT shall be made available to the FIU, in relation to the reception of forms of individuals that declare the transport of more than USD 10,000 or its equivalent in other currency in a calendar month; said information is submitted monthly on the first five days following the month reported (Art. 3.4 of Law No. 27693).

CT306. *Criterion 29.3 –*

- a) As indicated in the analysis of criterion 29.2, in compliance with Art. 3 of Law No. 27693, the FIU is entitled to request reports, documents, background information, complementary information, and/or clarifications, and any other element deemed useful for the performance of its duties not only to RIs, but to any public entity, natural or legal persons.
- b) As indicated by item 1, Art. 3 of Law No. 27693, the FIU may request any element deemed useful for the performance of its functions to any State entity or company, without exceptions, in the framework of the provisions of the Political Constitution of Peru, and to any natural or legal person who shall be required to make it available. Additionally, where deemed necessary, the FIU may request access to the databases, which shall be provided by electronic means, without invoking any type of confidentiality provision, in compliance with the provisions of the Political Constitution of Peru. Even the National Intelligence Directorate (DINI) shall provide information to the FIU on ML/TF-related cases, based on the provisions of Art. 43 of Legislative Decree 1141.

Institutions the FIU requests information to, as provided for in Unique Final Provision of SBS Resolution No. 1999-2016, are as follows:

- Telephone and internet providers
- Air, sea, river, and land transport services companies
- School, technical, and university education institutions
- Companies that render services to social programmes
- Professional football clubs or associations
- Sports or social associations
- Credit cards processing companies
- Timeshare services or multi-property companies (vacational accommodation)
- Other companies identified by the FIU through multiple official letters.

Likewise, it should be mentioned that the FIU has the power to request to the Criminal Judge in Lima, in relation to administrative cases it investigates, access to data protected by bank and tax secrecy, who has a term of 48 hours to make a resolution (and an equal term to resolve its challenge), ex parte, without participation by the affected party. Once the judicial authorization is granted, financial entities (and/or the Tax Administration Service) shall submit the information to the FIU within a maximum term of 30 business days (Art. 3-A of Law No. 27693; and Art. 7 of the regulation of Law No. 27693, Supreme Decree 020-2017-JUS).

CT307. *Criterion 29.4 –*

- a) The functions of the FIU are to receive, analyse, investigate, handle, assess, and disseminate financial intelligence information for the detection of ML/TF, in compliance with Art. 3, item b of Supreme Decree 020-2017-JUS that regulates Law No. 27693. Moreover, Art. 5 of the Supreme Decree mentioned sets forth the types of products the FIU issues, among which the following are highlighted:

- Financial Intelligence Reports (IIFs), which are issued after the analysis and investigation of STRs received from RIs, as well as database information, where a conclusion is reached as to whether cases might be related to ML, predicate offences or TF; these reports lack evidentiary value.
- Financial Intelligence Notes (NIFs), which are documents elaborated upon request by the PPO, the Investigating Commission of the Congress of the Republic of Peru, or other competent authorities in the framework of a ML/TF investigation; documents summary STRs information related to the subject of the request and lack evidentiary value.
- FIU Reports (FIU-R), produced on the basis of information of one or several IIF, upon request of a prosecutor in charge of a ML, TF or predicate offences investigation; It has evidentiary value and can be used as means of evidence.
- Certification Reports (CRs) that contain the outcomes of analysis of documents submitted by individuals inspected in their entrance or exit from the country, whose cash or bearer negotiable instruments were withheld.

Likewise, pursuant to Art. 186 of SBS Resolution No. SBS-ROF-SBS-010-16, the FIU has an Operational Analysis Department.

As indicated in Art. 186 of SBS Resolution No. SBS-ROF-SBS-010-16, related to the Regulation on the Organisation and Functions of the SBS, the FIU has a Strategic Analysis and Development Department. With the aim of granting this Department with functions different from those granted to the Operational Analysis Department, SBS Resolution No. 0765-2015 approved the following procedures for report's development: i) typologies reports, ii) strategic reports, iii) statistical reports, iv) feedback reports for RIs and v) statistical newsletter.

For the creation of the products mentioned above, it has information, documents, background information, and access to databases as provided for in Art. 3 of the Law No. 27963.

CT308. *Criterion 29.5* – Pursuant to the provisions of Art. 5 of Supreme Decree 020-2017, the FIU shall have different products to be disseminated to the competent authorities throughout Peru, some of which are provided for as requests from investigative authorities (NIF and FIU-R), as well as spontaneous deliveries (IIF.) Likewise, other products for the information exchange at the international level are:

- Response to Foreign Information (RIE) based on an information request from counterpart units abroad
- Foreign Information Request (SIEX), which consists of an information request made by the FIU to its counterparts abroad
- Spontaneous Disclosure Abroad (CEAX), which consists of the transmission of the information between agencies without prior request by the recipient entity

CT309. Other communications used by the FIU to disseminate information in relation to its intelligence analysis is the Spontaneous Financial Intelligence Note (NIFE), set forth in Art. 1 of SBS Resolution No. 4589-2017, which disseminates financial intelligence information to the PPO on a spontaneous basis. It is important to point out that in all communications previously mentioned, the information disseminated is confidential and reserved. In the case of IFFs sent to the PPO or other competent authority, based on the Technical Handbook approved through SBS Resolution No. 4651-2016, these shall have security marks and watermarks indicating their confidential and reserved nature; In cases where IFFs were sent in print to the PPO, the personnel that takes it should be accompanied by a guard from the SBS Security Department.

CT310. *Criterion 29.6* –

- a) Art. 12 of Law No. 27693 points out that RIs, the Executive Director, members of the Advisory Council, and personnel from the FIU, as well as liaison officers appointed by public institutions are banned from

disclosing to any third party, under any means or modality, the request or provision of any information to the FIU.

For such purposes, SBS Directive No. SBS-DIR-UIF-487-02, item V, describes that all workers with access to confidential information from the FIU shall adhere to physical security measures, computing security, polygraph tests and transparency assessments appropriate. Among the physical security measures, the following can be mentioned:

- Prohibition to enter with telephone, computing, or information storage devices
- Prohibition to withdraw documents with confidential information, whether in print or electronic formats
- Protection of environments where the file is located from environmental factors that may affect it (sun, humidity, and other sources of contamination or damage)
- Prohibited entrance to alien individuals or not authorised by the FIU.

Moreover, the personnel of the operational and strategic Analysis Departments shall be subject to the following computing security provisions:

- Restriction of USB ports in computers, and of magnetic media recordings
 - Restriction of loading and downloading functions in relation to files to e-mail addresses and external repositories
 - Setting up of auditing trails to register access to information in security systems
 - Setting up of self-locking of computers and telephones granted by the institution
 - Restriction of access to the institutional e-mail address from locations other than the FIU facilities
- b) As pointed out in the analysis of the previous sub-criterion, personnel from the analysis department shall adhere to additional security measures due to the information they have access to and work with. Likewise, the Directive sets forth that the personnel shall be subject to polygraph tests (all the FIU personnel) and transparency assessments (analysis personnel with access to databases.)
- c) The SBS Directive No. SBS-DIR-UIF-487-01 sets forth an entrance prohibition to unauthorised individuals or alien to the institution. On the other hand, the SBS Directive No. SBS-DIR-UIF-487-02 establishes the rules for the protection of the confidential information of the FIU stored in magnetic and physical media (physical security, computer security, polygraphic evaluation and transparency)

CT311. *Criterion 29.7 –*

a) The FIU is an “specialised unit” of the SBS, in compliance with Law No. 29038 and art. 181 of SBS Resolution No. SBS-ROF-SBS-010-17, sets forth that the FIU has technical and functional autonomy in the performance of its competencies, powers, and functions set forth under Law No. 27693...”

b) The FIU has subscribed ten (10) Inter-Agency Co-operation Agreements whereby access to information is granted to the following agencies: SUNAT, SUNARP, PJ, OSINERGMIN, Ministry of the Environment, RENIEC, Peru-Compras, DEVIDA and CAVALI. At the international level, the Assistant Superintendent of the FIU has the power to subscribe Memoranda of Understanding (MOUs) with counterpart units, pursuant to SBS Resolution No. 2448-2013; currently, the FIU has signed the following twenty-three (23) MOUs: Albania, Argentina, Australia, Bangladesh, Bolivia, Colombia, Chile, Ecuador, US (DEA), US (FBI), US (FinCEN), USA (OTA), Israel, Japan, Panama, Paraguay, Portugal, Latin America Region⁵⁷, Republic of Korea, Dominican Republic, Russia, and Vatican City. Likewise, Art. 3 of Law No. 27693 and Art. 11 of Supreme Decree 020-2017, that regulates such Law, set forth that the FIU co-operates in the framework of its competence, with international investigations, and/or shall request, receive, analyse, and share information, upon request of competent authorities from other countries with similar functions.

⁵⁷ The signatories of said MOU are: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Dominican Republic.

c) In compliance with Art. 180 of SBS Resolution No. SBS-ROF-SBS-010-17, the FIU "...is a line agency responsible for receiving, detecting, analysing, handling, assessing, and disseminating information for the prevention and detection of ML and/or TF..." Likewise, the second paragraph of the Art. points out that the FIU co-ordinates and leads the AML/CFT system, develops and assesses proposals for its improvement, regulates general and specific guidelines, requirements, complementary information, sanctions, and other aspects related to RIs prevention systems.

d) In 2017, the FIU was allocated with a budget of 21,438,134 soles and has a total of 80 employees; 8 officials, 57 professionals, 12 technical officials, 2 assistants, and 1 individual hired.

CT312. *Criterion 29.8* – The FIU is member of the Egmont Group of Financial Intelligence Units since January 1, 2005; it has been chaired said Group.

Weighting and Conclusion

CT313. Peru complies with the criteria established by this Recommendation. **Recommendation 29 is rated Compliant.**

Recommendation 30 - Powers of law enforcement and investigative authorities

CT314. In the 2008 MER Peru was rated "compliant" in relation to R.27, which indicates that it complied with all the criteria established for the analysis.

CT315. *Criterion 30.1* – Pursuant to the provisions of Art. 159 of the Political Constitution of Peru, as well as Arts. 9, 11, and 14 of the Legislative Decree 052, the PPO is responsible for the investigation of crimes and for the exercise of the criminal prosecution. Likewise, Art. 80-B of said Legislative Decree empowers the PPO to appoint prosecutors to participate in the investigation and trial of related criminal actions or with similar characteristics and that require specialised intervention. Therefore, the PPO has created a specialised prosecuting sub-system for the investigation of ML; Thus, by means of a Resolution of the Board of Supreme Public Prosecutors No. 152-2013-MP-FN-PFS the FISLAAPD with national jurisdiction are created, made up by higher national prosecutors and specialised supra-provincial prosecutor's offices, all of them with headquarters in the Capital City (Lima.)

CT316. In addition to the aforesaid, through different legislation and resolutions, Specialised Money Laundering and asset forfeiture Provincial Prosecutor's Offices were opened in Arequipa, Puno, Santa and Callao⁵⁸; In the rest of the country, provincial criminal prosecutor's offices are responsible for ML and asset forfeiture investigations in their territory, in addition to the investigation of common crimes, in compliance with the Public Prosecutor's Office Resolution No. 737-2015-MP-FN, as amended.

In relation to the TF crime, its knowledge and investigation is in charge of the Specialised Subsystem on Terrorism and Crimes against Humanity comprised by three National Superior Prosecutor's Offices and

⁵⁸ Specialised Prosecutor's Office in the Prosecution District Offices of Arequipa and Puno were created by the Board of Supreme Public Prosecutors Resolution No. 084-2014-MP-FN-PFS; the Civil and Family Provincial Prosecutor's Office of Huarvey became the Specialised Provincial Money Laundering and asset forfeiture PPO by Public Prosecutor's Office Resolution No. 2394-2016-MP-FN and, lastly, the Specialised Provincial Money Laundering and asset forfeiture Prosecutor's Office of Callao was created by Resolution No. 004-2018-MP-FN-JS, which at the time of drafting this TC Annex was in process of being implemented.

Supra Provincial Criminal Prosecutor's Offices, in compliance with PPO's Executive Committee Resolution No. 070-98-MP-CEMP.

CT317. In relation to the role of the PNP in the investigation of ML/TF cases, it has support functions, reason why it also has specialised directions. In compliance with the Board Resolution No. 644-2014-DIRGEN/EMG-PNP, the DIRILA is created, under the scope of the Executive Directorate for Criminal Investigation and Support to Justice; For the purposes related to terrorism and TF, the DIRCOTE is the specialised body responsible to prevent, investigate, combat, and report terrorism and related offences committed by domestic or foreign individuals or groups in Peru, with national jurisdiction. Both offices are under the structure of the National Criminal Investigation Direction, pursuant to the provisions of Supreme Decree 026-2017-IN, which also creates the specialised offices on anti-drug matters, investigation against corruption, human trafficking and migrant smuggling, the environment, and fiscal police.

CT318. *Criterion 30.2* – There are no provisions that contemplate what this assessment criteria establishes.

CT319. *Criterion 30.3* –Pursuant to item 11 of Art. 13 of Law No. 27693, the FIU has the legal power to apply administrative freezing measures in relation to ML/TF cases when there is urgency of circumstances and when it was necessary for the magnitude and nature of the investigation. Moreover, the PPO has the power to, in the framework of an investigation, identify, trace, and request the embargo or seizure and subsequent confiscation of property related to the offences mentioned.

CT320. *Criterion 30.4* – Only law enforcement authorities are entitled to conduct investigations.

CT321. *Criterion 30.5* – Specialised Prosecutor's Offices on Officials Corruption have power to deal with ML/TF cases when these are related to an investigation for corruption. In compliance with Art. 3 of Law No. 29574, the provisions of the NCPC shall be applicable in case of the crimes included under Arts. 382 through 401 of the Criminal Code and related crimes.

CT322. Likewise, Art. 18 of PPO's Resolution No. 1423-2015-MP-FN sets forth that Specialised Prosecutor's Offices on Corruption shall deal with the investigation of crimes included under the Arts. mentioned above of the Criminal Code (382 through 401.), and related crimes. On the other hand, in addition to the PPO which has the ownership to request the coercive measures of real nature, the NCPC also set forth the civil party (Specialized Public Prosecutor's Offices) to assist in the identification, tracking and procedure for the seizure and confiscation of properties related to the referred offenses.

Weighting and Conclusion

CT323. The Political Constitution of Peru states that the PPO is the authority in charge of investigating crimes and carrying out criminal proceedings. In addition, the PPO has created a specialized fiscal subsystem for LA research. However, there are no provisions related to criterion 30.2 that allows them to carry out investigations of crimes related to LA and FT during a parallel financial investigation or refer the case to another agency to follow up on such investigations independently of where the related crime occurred.
Recommendation 30 is rated Largely Compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

CT324. *Criterion 31.1* –

- a) As set forth under Law No. 27379, in case of crimes committed by organisations or a number of individuals, as well as in case of terrorism crimes (including TF) and drug trafficking, rights limitation measures may be ordered. These measures, listed under Art. 2 of said Law include the following:
- Preliminary detention for a term of up to 15 days;
 - Prohibition to exit from the country or the city of the investigated subject;
 - Seizure, opening, and interception of private documents, accounting books, property, and correspondence;
 - Embargo or restraining order to dispose or levy property registered in the public registries;
 - Lifting of banking and/or tax secrecy;
 - Display and submission of information held by public or private institutions related to the purpose of the investigation, which shall be seized in case of refusal to display it;
 - Search of premises or enclosed spaces, provided that there are reasonable grounds, and
 - Freezing of movable assets and temporary closure of premises.
- b) Likewise, Art. 184 of the NCPC indicates that any document that could constitute a means of evidence may be added to the process, with the obligation upon its holder of submitting, displaying or making it available; the prosecutor may request the holder of the document to voluntarily submit or display it, or else request the judge to order its seizure. In compliance with Art. 185, this applies to manuscripts, prints, photocopies, faxes, diskettes, films, photographs, radiographies, graphical representations, drawings, recording tapes, and means that otherwise register events, images, voices and the like. Article 234 sets forth that the prosecutor's office or the PNP, under orders of a prosecutor, may inspect books, receipts, and accounting and administrative documents from a natural or legal person. If said review resulted in the need to seize the documents and there was no court order, it shall be secured, and the prosecutor shall request a court order in a term of twenty-four hours from the performance of the procedure, attaching a reasoned report and the corresponding minutes, for the purposes of requesting the seizure order.
- b) Arts. 205 and 206 empower the PNP to perform police identity controls to individuals on the streets, public places or facilities, without the prosecutor's order, with the purpose of preventing a crime, or gathering useful information for its resolution. Art. 208 sets forth that inspections may be conducted or searches ordered in open places, on things or people, under the prosecutor's orders or knowledge, when there were reasons to think that there are traces of crime or that the accused or fugitive is hidden at a certain place. Likewise, the prosecutor may order the video surveillance under court order, based on the provisions of Art. 207 of the CPC.
- In relation to searches, in case of case of criminal flagrancy or imminent danger of perpetration of a crime, searches may be conducted in property or closed places without the need of a court order; except for these cases, searches may be conducted prior court order, provided that there are reasonable grounds to consider that an accused or fugitive may be hiding at such place, or that there are criminal assets or elements relevant for the investigation, pursuant to the provisions of Art. 214 of the NCPC; such procedure, in compliance with the provisions of Art. 217 of the NCPC, may include the personal registration, detention of individuals, and seizure of property.
- c) Arts. 162 through 171 of the NCPC set forth the relevant provisions for testimony, indicating that any person may give testimony except those incapable for natural reasons or pursuant to the Law. Any person summoned as witness shall appear and answer the truth to any questions made, but they may not be forced to declare on facts as a result of which their criminal liability may arise, and they may not be forced to reveal the names of their informers (if they are police, military or State intelligence system members), based on the provisions of Art. 163 of the NCPC.
- d) As previously mentioned, upon refusal to display documents or deliver information, the prosecutor may request a judge to order the seizure, in compliance with the provisions of Arts. 184 and 184 of the NCPC.

CT325. *Criterion 31.2* –

- a) The Peruvian criminal procedural legislation provides for the performance of special investigation techniques applicable to organised crime cases, including ML/TF that, in compliance with Arts. 340, 341, and 341-A of the NCPC are the following:

- Controlled circulation and delivery of criminal assets
- Use of undercover agents
- Use of special agents
- Undercover operations

In compliance with Art. 341 of the NCPC, the prosecutor may order the use of a Special Agent, who shall be understood as a person who plays the role of being part of a criminal organisation, that operates to provide the incriminating evidence of the crime. Likewise, Art. 341-A sets forth that, upon identification of natural and legal persons, property and activities typical of organised crime, and where there are proof of their commission, the PPO may authorise the PNP to conduct undercover operations, without the investigated persons' knowledge, such as the legal protection of legal persons, property in general, and other procedures. For such purposes, fictitious legal persons may be created, or existing ones may be modified, and undercover natural persons may participate.

For the purpose of special investigation techniques, Resolution No. 5321-2015-MP-FN establishes the "Regulation on Controlled Circulation and Delivery of Criminal Assets, Undercover Agent, and Undercover Operations."

- b) Arts. 226 through 231 of the NCPC set forth the interception of communications, both postal (correspondence) as well as telephone tapings. In relation to postal communications, these shall be obtained when they were considered indispensable for the due clarification of facts under investigation, in a confidential manner, and ex parte, which shall have a strictly necessary duration of no more than the investigation period. This measure may also be extended to e-mails copies or backups. The PNP shall withhold deliveries that could be related to the event under investigation.

In relation to telephone communications, the Investigating Judge could be requested to order the tapping and recording of telephone communications when there are sufficient elements of conviction to consider the commission of an offence, which penalty is higher than four years' imprisonment. The order may be executed against the investigated subject or persons considered to receive or process on behalf of the investigated subject certain communications. The communication shall indicate the name and address of the person subject to the measure, as well as the identity of the telephone to be tapped, if possible. Telephone tapping measures may not be longer that sixty days, and only under exceptional cases, may be extended for successive terms prior grounded requirement by the prosecutor. Registers and recordings of such tapping shall be submitted to the Prosecutor, who shall order all security measures under its competence to keep them and ensure they are not known by individuals alien to the procedure. Articles 230 and 231 of the NCPC include provisions on this regard.

- c) As mentioned above, the scope of interception of correspondence includes electronic deliveries. Likewise, Art. 232 of the NCPC sets forth the intervention of radio communications or other forms of communications; however, it is not clear that it includes the intervention of computers.
- d) In compliance with the provisions of Art. 340 of the NCPC, as well as Art. 12 of Law No. 30077, the prosecutor is empowered to order the controlled circulation or delivery of criminal assets, thus allowing illicit remittances or criminal assets to circulate throughout the national territory, moving around with no interferences, with the aim of discovering or identifying people involved in the commission of crimes, as well as to provide assistance to foreign authorities with the same purposes.

CT326. *Criterion 31.3* –

- a) In compliance with the provisions of Art. 234 of the NCPC, in relation to inquiries that are fundamental for the resolution of a crime, the PPO or the PNP may inspect books, receipts, and accounting and administrative books of a natural or legal persons, and, if necessary, they may secure them. Article 235 of the same Code sets forth that a Judge, upon request by the prosecutor, may order the lifting of the tax or banking secrecy that allows the identification of the natural or legal person that controls accounts. In said circumstances, requested entities shall have a maximum term of 30 business days to submit the corresponding information.
- The FIU has the power to request during the course of its investigations, access to the tax and banking secret information, which authorisation shall be resolved by the Criminal Judge of Lima in a term of 48 hours, with a confidential and ex parte procedure.
- b) The FIU, the PNP, the PPO and the SUNARP have entered into an Inter-Agency Master Co-operation Agreement under which they may access the database of property registered with the SUNARP.

CT327. *Criterion 31.4* –The PPO is empowered to request any kind of information held by the FIU, as well as to request co-operation from other authorities and officials, in compliance with Art. 322 of the NCPC. Likewise, the FIU, as mentioned in detail in the analysis of Recommendation 29, among the communications the FIU may forward to the PPO there are IIFs, issued by the initiative of the FIU, with an analysis of STRs received, or NIFs, which is issued by initiative of the FIU, or upon request, and that contains information on STRs. Both documents do not have an evidentiary value. Likewise, in case the prosecutor thus requested, and on the basis of one or more IIFs, an FIU-R could be issued, with evidentiary value, where information contained in an IIF considered criminally relevant for the investigation is detailed. Moreover, the Investigative Commission of the Congress may request intelligence information to the FIU or other competent authority in the framework of a ML/TF investigation.

Weighting and Conclusion

CT328. In general, investigative authorities of Peru have access to the documents and information necessary to be used in investigations, accusations, or related actions. However, Art. 231 of the NCPC indicates the intervention of radio communications or other forms of communication, however it is not clear that it includes the intervention of computer equipment. **Recommendation 31 is rated Largely Compliant.**

Recommendation 32 - Cash Couriers

CT329. The 2008 MER rated SR.IX as “partially compliant,” indicating that even if there was legislation in place for such purposes, its effective application could not be verified.

CT330. *Criterion 32.1* – The Sixth Supplementary, Transitory, and Final Provision of Law No. 28306 sets forth the obligation of all national or foreign individual that enters or exits the country, to declare under oath bearer financial negotiable instruments or cash for amounts higher than USD 10,000, or its equivalent in other currency, domestic or foreign.

CT331. It is worth to highlight that the system goes even further by establishing the prohibition to carry, upon entrance to, or exit from the country amounts exceeding USD 30,000 or its equivalent in other currency; transport of such amounts, or higher, shall be made through SBS-authorized companies for such purposes.

CT332. *Criterion 32.2* – As pointed out in Law No. 28306, a written declaration system, under oath, has been established for all travellers that transport amount exceeding USD 10,000 and up to USD 30,000.

CT333. *Criterion 32.3* – Peru has implemented a declaration system, not revelation.

CT334. *Criterion 32.4* – The authority in charge of making reviews is the SUNAT; in this sense, the Sixth Supplementary, Transitory, and Final Provision of Law No. 28306 points out that, in case of failure to comply with the truthful declaration, the temporary withholding of the money or bearer instruments falsely declared or omitted, and a sanction of 30% of the undeclared amount shall be imposed; likewise, any amount over 30 thousand American dollars shall be withheld, even if declared.

CT335. When a withholding is applied, SUNAT shall draft a withholding act signed by the personnel, the person subject to the withholding and a representative from the PPO; in case the seizure of the resources is decided, the temporary withholding by the SUNAT shall not be applicable and, under all circumstance, the FIU shall be notified. If the temporary withholding is appropriate, the bearer shall prove before the FIU the legal origin of the money in a term of three business days. Based on the information submitted by the bearer subject to the withholding of resources, the FIU shall draft a CR with the analysis made, forwarded to the PPO. It is important to point out that failure to prove the legal origin of the resources shall be considered as proof of commission of ML.

CT336. *Criterion 32.5* – Peru has proportional and dissuasive sanctions in those cases where people make a false declaration. As indicated under the analysis of criterion 32.4, under the Sixth Supplementary, Transitory, and Final Provision of Law No. 28306, upon false or non-declaration, a fine of 30% of the undeclared amount shall be imposed, in addition to the withholding of such amount, which legal origin shall be proven before the FIU within three business days; otherwise, it shall be considered as a proof of commission of the ML crime.

CT337. *Criterion 32.6* – In compliance with the provisions of Art. 5 of Supreme Decree 195-2013-EF sets forth that records generated by the SUNAT resulting from the reception of declarations of cash or bearer negotiable instruments shall be sent electronically to the FIU on the first five (5) days of the month following to the report, in addition to the printed version on the first fifteen (15) days of the calendar month.

CT338. *Criterion 32.7* – The SUNAT co-ordinates with the Migrations Office personnel and other authorities, including the FIU, as appropriate, in relation to cross-border transportation of currency. Cooperation actions and performance of duties by each party (SUNAT, PPO, PNP, FIU, and PRONABI) are provided for in Supreme Decree 195-2013-EF that approves the Regulation on the Obligation to Declare the Entrance and Exit of Cash or Bearer Financial Negotiable Instruments.

CT339. *Criterion 32.8* –

a) There is no provision in relation to the capacity of all competent authorities to seize or restrain currency or BNI when there is a suspicion of ML/TF or predicate offences.

c) As indicated above, under the Sixth Supplementary, Transitory and Final Provision of Law No. 28306, in the framework of a withholding of cash or false or missing declaration, in cases where the transport of cash or bearer negotiable instruments were higher than USD 30,000, a temporary withholding of the cash or instruments shall be performed for three business days, after which the bearer shall prove the legal origin of the funds before the FIU. After such period, if the bearer does not prove the origin, it shall be considered a proof of the commission of the ML offence. In case the representative from the PPO that participates in the withholding process suspects about the commission of a crime, in the framework of its powers, the temporary

withholding by the SUNAT shall not be applicable, but rather the seizure of resources and confirmation of the measure shall be requested to the Judge, based on Art. 316 of the NCPC.

CT340. *Criterion 32.9* – In the Peruvian legal framework there is no restriction in relation to the exchange or dissemination of information contained in declarations of entrance or exit of cash or bearer negotiable instruments. The SUNAT, in bilateral and cross-border control operations exchanges information on affidavits in an anticipated manner and during joint operations with counterpart authorities. Moreover, said information available to the FIU may be sent or exchanged with its foreign counterparts, as detailed in the analysis of Recommendation 29. Additionally, the PPO also exchanges information spontaneously or upon request, in addition to providing formal co-operation, on criminal matters through different platforms designed for such purpose. However, there are no provisions related to the retention of information in cases where there is a suspicion of ML / TF.

CT341. *Criterion 32.10* – The information gathered in the declaration system is confidential under the terms of Art. 17 of Law No. 27806, since it includes personal data. However, it is important to highlight that said confidentiality shall not be invoked to authorities that require such information for compliance with their duties, such as the FIU, and as it is set forth in Art. 4, item 4.3 of Supreme Decree 020-2017-JUS, protection of personal data cannot be invoked on this regard, makes reference to item 2 of the second paragraph of Art. 3 of Law No. 29733.

CT342. In relation to the freedom of movement of capitals and non-interruption of businesses, it is important to highlight that, even when the Sixth Supplementary, Transitory, and Final Provision of Law No. 28306 prohibits the transport of more than USD 30,000 or its equivalent in other currency, in cash or bearer negotiable instruments, it is highlighted that said amounts shall be transported by companies authorised by the SBS to such ends.

CT343. *Criterion 32.11* – As previously mentioned, on the one hand, whoever transports more than USD 10,000 or its equivalent in other currency, and issues a false declaration or fails to submit the declaration, shall be subject to a fine of 30% of the amount transported, and all cash or instruments shall be withheld, with a term of three (3) business days for the bearer to prove the legal origin of such cash and instruments to the FIU, otherwise, it shall be considered proof of commission of ML; In cases the PPO so determines, instead of the temporary withholding, seizure shall be ordered. All the above is set forth in the Sixth Supplementary, Transitory and Final Provision of Law No. 28306.

CT344. On the other hand, Art. 3 of Legislative Decree 1106 sets forth that whoever transports or carries with him/herself or through any other means into the national territory cash or bearer financial negotiable instruments which illicit origin is known or presumed, shall be imposed with a penalty of imprisonment of no less than eight (8) years and no more than fifteen (15) years, and one-hundred and twenty (120) to three-hundred and fifty (350) day fines.

Weighting and Conclusion

CT345. Peru has implemented a declarations system that requires all national or foreign individuals that enter or exit the country, to declare under oath bearer financial negotiable instruments or cash for amounts higher than USD 10,000, or its equivalent in other currency, domestic or foreign. Likewise, it has mechanisms in place to gather more information in cases where false declarations are discovered. However, there is no

provision in relation to the capacity of all competent authorities to seize or restrain currency or BNI when there is a suspicion of ML/TF or predicate offences. **Recommendation 32 is rated Largely Compliant.**

Recommendation 33 - Statistics

CT346. The 2008 MER rated former R.32 as “partially compliant,” since, pursuant to the analysis made by assessors, statistics sent were partial based on the requirements of the Recommendation.

CT347. *Criterion 33.1 –*

- a) Authorities that make up the AML/CFT system of Peru keep statistics related to the duties they perform. In relation to the FIU, it has information on STRs issued by RIs and supervisors, as well as financial intelligence communications disseminated and received, both with domestic authorities and foreign counterparts, which cover up to the year 2003. As an example, information was provided on the annual reception of STRs, from 2014 to June 2018, 40, 315 STRs were received. This information is broken down by RIs (financial system, DNFBPs, and supervisors), amounts involved in transactions reported and by predicate Offenses.
Likewise, information related to the number of communications issued during the same period of time, was submitted broken down into types of communication issued (national financial intelligence, foreign financial intelligence, and with evidentiary value.) During the 2014 and June 2018 period, it is highlighted that there were 218 IIFs sent to the PPO which involved 889 STRs. On the other hand, 136 R-UIF, 2,195 NIF and 673 NIFE were sent. The FIU publishes monthly statistical newsletters on the SBS website, providing similar information to the mentioned above.
- b) In the period between 2014 to 2017, 135 ML cases were registered. The number of ML judgments in the 2014-June 2018 period is of 78, 44 of which were convictions, 24 acquittals and 10 mixed, with a total of 101 natural persons and 3 legal persons convicted. In relation to TF, there are 4 convictions between 2012 and 2017, involving 7 natural, and 77 natural persons acquitted. No legal persons were involved in these cases.
- c) Statistical information on frozen, seized, and confiscated property indicates a total of 32 ML freezing cases. The appraisal made at the fiscal level of seizures made in relation to ML criminal procedures, including gold and money seized, amounts to USD 1,111 million in the period analysed between 2014 and 2017. The confiscation in ML judgments between 2014 and 2017 is of approximately USD 1,660, involving 288 property. The same kind of details can be observed in statistics in relation to extraditions, with a distinction between granted and denied for the years between 2014 and June 2018, with a total of 473 active and 110 passive.
- d) The UCJIE through the PPO has statistics related to the assistance requests between 2014 and June 2018, with an aggregate of 432 active assistances requests and 28 passive assistances requests, with a total of 272 international assistances requests. On the other hand, the UCJIE performs direct MLA requests through diplomatic channels with its international counterparts, through the MRE. Between 2014 and 2018, 230 active MLA requests have been processed.

Weighting and Conclusion

CT348. **Recommendation 33 is rated Compliant.**

Recommendation 34 - Guidance and feedback

CT349. *Criterion 34.1* – In relation to the FIU, through Multiple Official Letter No. 59571-2009-SBS, information was disseminated in relation to the entry into force of the ROSEL system to file STRs online, while SBS Resolution No. 9809-2011 approved the new STR sample, which includes a guide for filling information in by RIs. In relation to feedback, the Operation Analysis Department of the FIU DAO organises training to RIs to guide them on the detection of suspicious transactions, common or new typologies in the corresponding sectors. The Newsletters published also provide RIs with typologies, information and tips to improve the quality of STRs. Other feedback mechanism used by the FIU is the monthly filling of the TR; 15 training events were conducted between 2015 and 2017, attended by 803 participants. Also, 143 bilateral meetings were held.

CT350. Moreover, the SBS also conducts feedback activities through union co-ordination meetings, individual meetings with their supervised entities, during supervision procedures, and through the follow-up actions in relation to measures adopted after the on-site supervisions.

CT351. However, there is no information on feedback provided by other supervisors and SRB, in relation to the RIs supervised and regulated.

Weighting and Conclusion

CT352. The FIU and the SBS provides feedback to RIs through trainings, newsletters, bilateral meetings, and assistance. However, there is no information on the feedback provided by other supervisors and SRB to RIs they regulate and supervise. **Recommendation 34 is rated Largely Compliant.**

Recommendation 35 – Sanctions

CT353. *Criterion 35.1* – The sanctioning legal framework of the SBS, SMV, FIU, and applicable to Casinos and Slot Machines is divided into minor, serious and very serious. Sanctions shall be applicable to natural or legal persons, in relation to their shareholders, directors, managers, workers, and other representatives. The graduation of the sanction imposed shall depend on different factors, such as mitigating factors (correction of the violation by its own initiative or co-operation in preliminary investigations or sanctioning process) and aggravating factors (concealment, commission of violation to execute or conceal other violation, benefits obtained, negative effects, recidivism, and nature of the violated obligation).

	Minor violations	Serious violations	Very serious violations
SBS⁵⁹	Warning	Fine between 20 and 100 UIT for legal persons	Fine between 30 and 200 UIT for legal persons
	Fine between 10 and 50 UIT for legal persons	Fine between 3 and 50 UIT for natural persons	Fine between 5 and 100 UIT for natural persons
	Fine between 0.5 and 3 UIT for natural persons	Fine between 3.5 and 8 UIT for employers members of the PPS	Suspension of the authorization to operate

⁵⁹ Art. 10, SBS Resolution No. 816-2005

	Minor violations	Serious violations	Very serious violations
	Fine between 0.5 and 3 UIT for employers members of the PPS	Suspension up to 6 months of registration in Registry	Suspension of registration in Registry between 6 and 12 months
		Suspension of director, manager, or responsible worker for 3 to 10 days	Suspension of director, manager, or responsible worker for 11 to 20 days
			Cancellation of the authorization to operate
			Cancellation of registration and exclusion from the Registry
			Removal of director, manager or responsible worker with prohibition to occupy a position for 10 years
			Disqualification of director, manager, or responsible worker for up to 5 years
			Intervention
		Dissolution and liquidation.	
SMV ⁶⁰	Warning	Fine between 25 and 50 UIT	Fine between 50 and 700 UIT
	Fine between 1 and 25 UIT	Suspension of securities negotiation for up to 1 year	Suspension of authorisation of stockbroking companies between 10 and 45 days
		Suspension of the authorization to operate for representatives of stockbroking companies for up to 20 days	Suspension of representations of stockbroking companies between 20 and 30 days
		Suspension of individuals for up to 30 days	Exclusion of a security in the Registry
			Cancellation of registration in Registry
	Revocation of the authorization to operate		
	Removal and Disqualification		
UIF ⁶¹	Warning	Fine between 0.5 and 6 UIT for natural persons	Fine between 4 and 15 UIT for natural persons

⁶⁰ CONASEV Resolution No. 055-2001-EF/94.10

⁶¹ Art. 17 SBS Resolution No. 8930-2012 (except casinos and slot machines)

	Minor violations	Serious violations	Very serious violations
	Fine between 0.15 and 3 UIT for natural persons Fine between 0.5 and 10 UIT for legal persons	Fine between 2 and 20 UIT for legal persons	Fine between 7 and 100 UIT for legal persons
Applicable to Casinos and Slot Machines ⁶²	Fine of 1 to 3 UIT	Fine of 4 to 7 UIT	Fine of 8 UIT

CT354. Sanctions are measured through the UIT (Tax Unit), which according to the Supreme Decree No. 380-2017, Art. 1, during 2018, the value of one UIT will be four thousand one hundred and fifty soles (S/ 4,150.00).

CT355. On the other hand, it was verified that natural or legal persons who do not comply with the AML/CTF requirements detailed in Recommendations 6, 8 to 23 are punishable.

CT356. Currently, authorities are developing sectoral resolutions and their corresponding regulations on violations and sanctions applicable to institutions supervised by Lawyers and Accountants Associations and MINCETUR (games and remote exploitation of sports gambling on the Internet or by other communication means.)

CT357. *Criterion 35.2 –*

As mentioned in the analysis of the previous criterion, there are sanctions applicable to directors, managers and workers of legal persons that commit violations, depending on their seriousness; however, they seem not to cover all RIs, but those supervised by the SBS and the SMV.

Weighting and Conclusion

CT358. Even if Peru has a range of sanctions for most of its RIs in relation to non-compliance with obligations related to the AML/CFT System, there are no regulations on violations and sanctions applicable to lawyers, accountants and those regulated by the MINCETUR. Likewise, sanctions applicable to directors, managers, and employees of legal persons that commit violations do not seem to cover all RIs.

Recommendation 35 is rated Partially Compliant.

Recommendation 36 - International instruments

CT359. The 2008 MER rated R.35 as “largely compliant.” The factor that justified the rating indicated that the domestic legislation did not fully contemplate the different aspects of the International Agreements under the Recommendation. Likewise, Special Recommendation I was rated as “partially compliant,” identifying as underlying grounds for such rating that some aspects of the Palermo Convention were pending for implementation, as well as the fact that general standards did not guarantee full and effective enforcement of UNSC Resolutions relating to TF, specifically those related to the freezing of funds, given the lack of a structured process that would clearly determine the obligations of the actors involved.

⁶² Art. 5 SBS Resolution No. 5389-2013 as amended.

CT360. *Criterion 36.1* – Peru has ratified international Conventions relevant on ML/TF matters as follows:

- Convention against Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), ratified by Legislative Resolution No. 25352 dated on November 23, 1991;
- Convention on Transnational Organized Crime (Palermo Convention), ratified by Supreme Decree 088-2001-RE dated on November 19, 2001;
- International Convention for the Suppression of the Financing of Terrorism, ratified by Supreme Decree 084-2001-RE dated on November 5, 2011; and
- Convention against Corruption (Merida Convention), ratified by Supreme Decree 075-2004-RE dated on October 19, 201.

CT361. Moreover, the Inter-American Convention against Corruption, the Inter-American Convention against Terrorism and the Convention against Bribery of Foreign Public Officials in International Business Transactions were ratified.

CT362. *Criterion 36.2* – The legislation and regulations of Peru adopt all relevant aspects of Conventions ratified as mentioned in the analysis of criterion 36.1, in relation to crimes and sanctions for illegal trafficking of drugs, ML/TF, organised crime, and autonomous liability of legal persons. In relation to confiscation, it is regulated under Arts. 102 and 103 of the Criminal Code; non-conviction-based confiscation (called asset forfeiture) is regulated under Legislative Decree 1104.

CT363. Extradition, mutual legal assistance, international cooperation, assistance to extradited individuals in transit, and controlled circulation and deliveries are regulated under the Seventh Book of the NCPC, as well as in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Weighting and Conclusion

CT364. Peru complies with the criteria established by this Recommendation. **Recommendation 36 is rated Compliant.**

Recommendation 37 - Mutual legal assistance

CT365. The 2008 MER rated former R.36 as “largely compliant.” The factors that justified said rating indicated that there was no regulation to allow responding requests that involved precautionary measures or confiscation of property of corresponding value; likewise, former Special Recommendation V was rated “largely compliant,” based on the same grounds, as well as the fact that constitutional protection of banking and tax secrecy could hinder the exchange of information between the FIU and its foreign counterparts, given the lack of a procedure that could help overcome the difficulties.

CT366. *Criterion 37.1* – Pursuant to the provisions of Art. 508 of the NCPC generally indicates that the relationship of Peruvian authorities with foreign authorities and the International Criminal Court on international legal co-operation matters shall be governed by treaties entered into by Peru. For such purposes, in relation to legal assistance in relation to criminal matters, it has 20 bilateral agreements and it ratified 9 multilateral agreements.

It is important to highlight that for criminal legal assistance with countries there are no bilateral agreements entered into with, the reciprocity principle can be applied, as set forth by the legal instrument mentioned.

CT367. *Criterion 37.2* – In compliance with Art. 512 of the NCPC, the PPO, with the support of the MRE, is the central authority in relation to international legal co-operation matters. The function of the central authority is executed through the International Legal Co-operation and Extradition Unit, which was created by Public Prosecutor’s Office Resolution No. 124-2006-MP-FN and that empowers it to centralise the co-ordination and execution of all actions regulated under the Seventh Book of the NCPC, in relation to criminal legal assistance.

CT368. In relation to the procedures, Arts. 508 through 511 of the Criminal Procedural Code set forth that co-operation shall be regulated by treaties signed by Peru, if any, regardless of the fact that the domestic legal system and the Code itself could be applicable to its interpretation (Art. 508.) When a foreign authority submits a request, the documents and the request shall be translated into Spanish and a legalisation of the documents shall not be necessary if the request was sent through the diplomatic channels or through the central authority of the requesting country; The submission of the documents shall imply the veracity of their content and the validity of proceedings (Art. 509.) Proceedings needed to respond to the request shall be executed, provided that it is not contrary to the national legal framework (Art. 510.)

CT369. The prioritisation of mutual legal assistance requests is regulated under item 2.1 of the Guidelines for the processing of legal assistance, extradition, and transfer of sentenced persons, set forth under Directive 01-2016-UCJIE.

CT370. *Criterion 37.3* – The Inter-American Convention on Mutual Assistance in Criminal Matters, which is part of the national law as set forth under Art. 55 of the Political Constitution of Peru, points out in Art. 36 that it shall not be construed as to affect or limit the current obligations under any other convention with provisions that regulate specific aspects of criminal mutual legal assistance, partially or fully, or the most favourable practices States perform on the matter.

CT371. *Criterion 37.4* –

- a) Article 529 of the NCPC sets forth the reasons why a criminal mutual legal assistance could be denied, among them, those referring to a tax crime, with the exception of a crime committed by a wilfully false declaration or for wilful failure to submit it with the purpose of concealing incomes from any other crime.
Likewise, according to Arts. 517.2.g and 529.1.e of the NCPC, the exclusion of extradition for tax crimes only operates when it comes to culpable behaviours (administrative issues), but not when it is a fraudulent event.
- b) The reasons to deny providing mutual legal assistance on criminal matters under Art. 529 of the NCPC does not include the imposition of secrecy or confidentiality provisions. Likewise, the instruments Peru is a party to in relation to criminal mutual assistance, both bilateral or multilateral (specifically the United Nations Convention against Transnational Organized Crime) prohibit invoking banking secrecy to deny legal assistance.

CT372. *Criterion 37.5* – *[Met]*. Art. 535 of the NCPC sets forth that documents, background information, information or evidence collected in the application of legal assistance on criminal matters may not be disseminated or used with purposes different from those established in the rogatory letter, without prior authorisation of the PPO, which is the central authority.

CT373. *Criterion 37.6* – Article 529 of the NCPC sets forth that the only condition shall be that the crime should be punishable in both States when the enforcement of measures pointed out in item 1, section h of

Article 511 of the same code is requested, which include blocking accounts, embargoes, seizures, or attachment of criminal property, freezing of assets, search warrants, control of communications, identification or location of the proceeds of property or instruments of crime, and other rights limitation measures.

CT374. Likewise, Art. 27 of Law No. 30077, Law against Organized Crime, points out that in order for national authorities to provide assistance or legal co-operation, it is not necessary that the event be considered as a crime by the national legislation, except for circumstances described before and included under item 1, section h of Art. 511 of the NCPC.

CT375. *Criterion 37.7* – Art. 519 of the NCPC points out that in order to adopt rights limitation measures, the event should be punishable in both States, while no mention is made in relation to use of similar language or legal description.

CT376. *Criterion 37.8* – The range of investigation techniques mentioned under Recommendation 31 may also be used to answer MLA requests in compliance with the provisions of Article 511 of the NCPC.

Weighting and Conclusion

CT377. Peru has a legal framework in place to request and answer information requirements from third countries; moreover, it has processes for the prioritisation of requests and case management mechanisms. However, it could reject MLA requests in relation to tax-related crimes in fraudulent events. **Recommendation 37 is rated Largely Compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

CT378. *Criterion 38.1* – As mentioned in the analysis of the different criteria of R.37, Art. 511, item 1, section h of the NCPC, includes blocking accounts, embargoes, seizures, or attachment of criminal property, freezing of assets, search warrants, control of communications, identification or location of the proceeds of property or instruments of crime, and other rights limitation measures. However, the provision does not seem to be applicable to property of corresponding value. Likewise, Peru may take actions to respond to requests for international cooperation in the identification, freezing, seizure or confiscation of goods of equivalent value in accordance with art. 508 numeral 2 of the Code of Criminal Procedure and art. 102 second paragraph of the NCPC.

CT379. *Criterion 38.2* – Legislative Decree 1104 that regulates Asset forfeiture (non-conviction-based confiscation) sets forth in Art. 19 that international agreements and agreements on legal or judicial co-operation and assistance, as well as other international conventions that regulate the international co-operation on matters related to confiscation and localisation, identification, recovery, repatriation, and asset forfeiture or assets forfeiture, shall be applicable to such legal framework.

CT380. *Criterion 38.3* – Based on the analysis related to Recommendation 37, the Peruvian State has entered into seventeen (17) bilateral agreements on criminal assistance matters, and it ratified and incorporated to its domestic law several conventions. Peru, through the PRONABI, has mechanisms in place for the management and disposal of confiscated assets and/or declared under asset forfeiture provided for in Arts.15 and 16 of Supreme Decree 093-2012-PCM, Regulatory of the Legislative Decree 1104.

CT381. *Criterion 38.4* – Item 2 of Art. 547 of the NCPC sets forth that the central authority, in co-ordination with the MRE, may agree with the requesting country, on the basis of reciprocity, that part of the money or property obtained as a result of the procedure, shall be kept by the Peruvian State.

Weighting and Conclusion

CT382. Peru complies with the criteria established by this Recommendation. **Recommendation 38 is rated Compliant.**

Recommendation 39 – Extradition

CT383. The 2008 MER rated R.39 as “compliant,” since it covered all the criteria required by the Assessment Methodology used at that time.

CT384. *Criterion 39.1* –

- a) As pointed out in the Political Constitution of Peru, in Art. 37, and in the NCPC, Art. 514, extradition shall be granted by the Executive Power prior report to an Official Committee chaired by the MINJUSDH and the MRE, as well as a favourable resolution by the Supreme Court of the Republic. Pursuant to Art. 516 of the NCPC, the person prosecuted, accused, or convicted as author or participant in a crime committed abroad and that is located in Peru, as resident, tourist, or passing by, may be extradited for the purpose of being investigated, trialled or complying with a sanction imposed.
- b) In the case of lack of treaty on extradition matters, the reciprocity principle may be invoked, pursuant to the provisions of Art. 522, that sets forth that an extradition shall be resolved through Supreme Resolution, approved by the Council of Ministers, and communicated to the PPO and the requesting State through diplomatic channels and the INTERPOL, indicating the conditions established to grant the extradition. The requesting State shall conduct the transfer within thirty (30) days following the date of communication, with the possibility of extending the term for additional fifteen (15) days in the cases when the requesting State could not meet the first deadline.
In relation to the prioritisation of cases, the applicable procedure is the same used for Legal Assistance on Criminal Matters, analysed under Recommendation 37.
- c) In the case of a several extradition requests, the provisions under Art. 519 of the NCPC shall be considered: If more than one State requested the extradition of one person for the same crime, the decision shall be made based on the date of request for extradition, the status of each procedure, the seriousness of the crime based on the punishment, and its coincidence with the domestic law. Under no circumstances shall extradition be granted when the person requested would be subject to death penalty.

CT385. *Criterion 39.2* – Article 37 of the Political Constitution of Peru does not include a prohibition to extradite Peruvian nationals. Based on the aforesaid, the only reason provided for why Peru would not extradite a national citizen would be a request based on reciprocity, made by a country that would not extradite its nationals, in which case the person would be trialled in national court.

CT386. *Criterion 39.3* – Pursuant to the provisions of Art. 517, item 1 of the NCPC, extraditions would be applicable if the event in question constitutes a crime in Peru and in the requesting State. The aforesaid indicates that, it shall be the description of the punishable act rather than its title, that shall be considered for the purposes of granting the extradition.

CT387. *Criterion 39.4* – Art. 523-A of the NCPC includes the simplified or voluntary extradition procedure, whereby if the person requested to be extradited gives its free and express consent to be extradited, it shall

not be necessary to receive the extradition request. The Criminal Room of the Supreme Court shall issue the consultative resolution for the extradition without further actions.

Weighting and Conclusion

CT388. Peru complies with the criteria established by this Recommendation. **Recommendation 39 is rated Compliant.**

Recommendation 40 - Other forms of international cooperation

CT389. In the 2008 MER, R.40 was rated “largely compliant,” based on the fact that the FIU could not timely access information subject to bank or tax secrecy or provide such information under international co-operation frameworks.

CT390. *Criterion 40.1* – The Peruvian authorities are able to co-operate with foreign counterparts in the areas in which they have competence. The FIU has the power to co-operate and perform international investigations, and/or request, receive, analyse, and share information that could be requested by authorities from other countries that have similar competencies on ML/TF matters⁶³. Likewise, it shares information through platforms such as the RRAG and the Egmont secure e-mail service. The PPO, regardless of the formal co-operation, exchanges information on criminal matters spontaneously or upon request through platforms such as IBERRED, RRAG, Interpol and ACT NET. The PNP may exchange information with foreign counterpart authorities through its Liaison Officer, in platforms such as Ameripol, RRAG, and agreements/acts subscribed at the bilateral level.

CT391. The General Law on Financial System and Insurance empowers the SBS to enter into agreements with State agencies or other banking, financial, and insurance supervision institutions abroad, with the purpose of exchanging information on supervision matters. Moreover, Art. 3 of Decree Law No. 26126, grants the SMV the power to enter into agreements, MOUs, and contracts with national and international organisations for compliance with its institutional purposes, and share information on its supervised entities with higher-level organisation abroad the SMV has signed mutual co-operation agreements or MOUs with.

CT392. Likewise, the SUNAT, in bilateral and cross-border control operations of cash and securities, exchanges information on affidavits by mail before the performance of the operations, and, during the performance of the operation, said information is exchanged online through other instantaneous communication means.

CT393. However, certain supervisors as the MTC and the MINCETUR, and SRB such as the Lawyers and Accountants Associations do not have the powers to exchange information on AML/CFT matters at the international level.

CT394. *Criterion 40.2* –

- a) Pursuant to the provisions of Art. 3 of Law No. 27693, as well as Arts. 3 and 11 of Supreme Decree 020-2017-JUS, the FIU may exchange information at the international level for the prevention and combat of ML/TF; likewise, it may conduct joint investigations with competent foreign counterparts which may be requested by the counterpart unit or directly by the FIU.

⁶³ Article 3, item 6 of Law No. 27693, and Arts. 5 and 11 of Supreme Decree 020-2017-JUS.

As detailed in the analysis of R.29, Art. 5 of said Supreme Decree provides for the following communications with foreign countries from the FIU:

- Response to Foreign Information (RIE) based on an information request from counterpart units abroad
 - Foreign Information Request (SIEX), which consists of an information request made by the FIU to its counterparts abroad
 - Spontaneous Disclosure Abroad (CEAX), which consists of the transmission of the information between agencies without prior request by the recipient entity.
- b) The PPO, the SBS, and the FIU are fully capable of using the most efficient means to conduct cooperation, such as information exchange platforms, secure e-mails, MOUs, and others.
- c) The PPO, through the specialised unit for such purposes, exchanges information through platforms it is party to, such as IBERRED, and the Asset Recovery Network of GAFILAT (RRAG), as well as through the platform of the INTERPOL established for such purposes.

Likewise, it was opened a website (<https://www.mpfm.gob.pe/ucjie/>) that facilitates information exchange and grants access to different forms: International Judicial Assistance Request, Consular Rogatory Letter, Extradition Request, among others.

In relation to the FIU, as mentioned under the analysis of Recommendation 29, since it is a member of the Egmont Group of Financial Intelligence Units, and has subscribed several MOUs with different countries, the exchange of information tends to be more expedite and efficient. In relation to the Egmont Secure Web channel (ESW), this is used based on the Principles for Information Exchange between FIUs and the Best Practices for the Exchange of Information between FIUs, both documents issued by the Egmont Group.

- d) For the prioritisation of information requests received through the ESW, the FIU complies with the Best Practices and Principles for Information Exchange, which include how urgent requests should be handled. However, prioritisation mechanisms used by the SBS, SMV, PNP and SUNAT for information exchange are unknown.
- e) Intelligence reports submitted by the FIU complies with the domestic information request and technical assistance forms, where confidentiality commitments by requesting competent authorities are set forth. However, the clear safeguards of information used by other competent authorities are unknown.

CT395. *Criterion 40.3* – The FIU has subscribed 23 MOUs with counterpart units and other entities, whereby mutual co-operation is agreed upon with the aim of obtaining, sharing, and analysing information they have access to, in relation to suspicious, unusual and unjustified transactions that may be related to ML/TF or predicate offences and related crimes.

CT396. The SBS has signed agreements that include consolidated supervision and supervision to the AML/CFT system with counterpart entities of Argentina, Bahamas, Bolivia, Brazil, Canada, Chile, China, Colombia, Ecuador, El Salvador, Spain, Guatemala, Honduras, Italy, Mexico, Nicaragua, Panama, and Venezuela. Moreover, the SMV has subscribed agreements with supervisors from Colombia, Chile, Ecuador, and Mexico.

CT397. The PPO exchanges information on criminal matters spontaneously or upon request through platforms such as IBERRED, RRAG, Interpol and ACT NET. The PNP may exchange information with foreign counterpart authorities through its Liaison Officer, in platforms such as Ameripol, RRAG, and agreements/acts subscribed at the bilateral level.

CT398. *Criterion 40.4* – The FIU has a feedback form which reports on the suitability and timeliness of the information for the entity receiving the information (Technical Handbook SBS-MTC-SBS – 595-01 approved through SBS Resolution No. 339-2018 of January 29, 2018.) However, the feedback mechanisms used by other competent authorities in Peru are unknown.

CT399. *Criterion 40.5* – Restrictions for the information exchange or assistance are contemplated in treaties, conventions, and international instruments signed and ratified by Peru.

CT400. *Criterion 40.6* – Information may be used for the purposes and by the authorities information was granted and requested for, except prior authorisation granted by the competent authority. Information exchanges by the FIU are conducted in the framework of memoranda of understanding signed with different counterpart agencies abroad, with specific provisions on the use and dissemination of information, as well as confidentiality and security provisions. Co-operation provided through the Egmont Group is granted on the basis of the Principles and Best Practices for information exchange between FIUs of the Egmont Group, and the Law of Protection of Personal Data.

CT401. Co-operation requested by the PPO is used as a guideline in the framework of tax investigations. In relation to the PNP, information exchanged is with intelligence purposes only.

CT402. *Criterion 40.7* – Pursuant to Law No. 27693, the following persons are subject to confidentiality provisions: the Head and personnel of the FIU, officials and workers of supervisors before the FIU that conduct prevention, supervision, and/or detection duties on AML/CFT matters, liaison officers appointed by public administration agencies, regional and local governments, officials from other domestic public institutions in charge of investigating, detecting and reporting the commission of crimes the FIU conducts joint investigations with. The duty of reserve is undetermined and shall be applicable even after the termination of duties, position or labour or contractual relationship.

CT403. Information exchanged by the FIU with its counterparts is made in the framework of the ESW, which is a secure and encrypted channel regulated by the General Principles and Best Practices for information exchange.

CT404. The PPO and the FIU participate of the RRAG as contact points of Peru; said network has an online platform designed to exchange information in a safe manner, aimed at the identification and recovery of criminal assets. In March 2018, the PNP was established as a third point of contact.

CT405. *Criterion 40.8* – Pursuant to the provisions of Art. 510 of the NCPC, authorities may conduct procedures based on certain conditions, when they were not contrary to the national legal framework. The FIU may co-operate in the scope of competence with international investigations in cases presumably linked to ML/TF activities. The PPO, regardless of the formal co-operation, exchanges information on criminal matters spontaneously or upon request through platforms such as IBERRED, RRAG, and Interpol; and based on several agreements signed. The PNP belongs to the AMERICAPOL, which constitutes a police co-operation mechanism for the exchange of intelligence information for criminal investigations and judicial assistance.

CT406. *Criterion 40.9* – Law No. 27693 and its regulation, issued through Supreme Decree 020-2017-JUS, set forth that the duties and powers of the FIU include to co-operate in the framework of its competence,

with international investigations, and/or request, receive, analyse, and share information, upon request of competent authorities from other countries with similar functions, in cases presumably linked to ML/TF.

CT407. *Criterion 40.10* – As mentioned above, the FIU has a feedback mechanism for each type of communication submitted (RIE and CEAX), in English and Spanish, that allow to verify the usefulness, timeliness, and assistance of the information. Examples of said mechanism were issued under SBS Resolution No. 339-2018.

CT408. *Criterion 40.11* –

a) Pursuant to the provisions of Art. 3 of Law No. 27693, as well as Art. 3 and 11 of Supreme Decree 020-2017-JUS, the FIU has, among its powers and functions, the power to co-operate in international investigations, as well as to request, receive, analyse, and share information. The information provided spontaneously within such framework, is the following:

- Summary of case or investigation
- Events or evidence
- Predicate offence
- Typologies
- Relationship or link to the country
- Identification of citizens from other countries included in STRs
- Foreign individuals in relation to violations to cross-border transportation
- Others

Additionally, in the framework of foreign technical assistance (ATE) conducted under the provisions of item 8, Art. 3 of Law No. 27693, the following information may be provided:

- STRs and other information from internal databases
 - List of companies with natural persons as legal representatives
 - Police, judicial and/or criminal backgrounds
 - Financial information
 - Transfers to and from abroad
 - Business information
 - Records of formal investigation or judicial proceeding
 - Confiscation of property or guarantees
 - Agencies or countries involved
- b) The relevant legal framework indicates different types of information the FIU may submit to its foreign counterparts, which includes information gathered from other agencies. Exchanges are conducted under the framework of Memoranda of Understanding subscribed, for which purpose the Technical Handbook “Response and elaboration of communications with foreign agencies” (SBS-MTC-UIF-595-01.) Moreover, exchanges developed through the Egmont Group are made under the Principles and Best Practices for International Co-operation among FIUs and the Law of Protection of Personal Data of Peru.

CT409. *Criterion 40.12 – 40.13* – The General Law on Financial System and Insurance empowers the SBS to enter into agreements with State agencies or other banking, financial, and insurance supervision institutions abroad, with the purpose of exchanging information on supervision matters. In compliance with said power, the SBS has signed agreements that include consolidated supervision and supervision to the AML/CFT system with counterpart entities of Argentina, Bahamas, Bolivia, Brazil, Canada, Chile, China, Colombia, Ecuador, El Salvador, Spain, Guatemala, Honduras, Italy, Mexico, Nicaragua, Panama, and Venezuela.

CT410. Likewise, Art. 381 of the same Law sets forth that the SBS shall provide, as specified by Law, close co-operation with competent authorities from other States in investigations, procedures, or proceedings in relation to the illegal trafficking of drugs or related crimes.

CT411. Therefore, in relation to the SMV, Art. 3 of Decree Law No. 26126, grants the SMV the power to enter into agreements, MOUs, and contracts with national and international organisations for compliance with its institutional purposes, and share information on its supervised entities with higher-level organisation abroad the SMV has signed mutual co-operation agreements or MOUs with, which may include information protected by confidentiality provisions and testimonies obtained during the performance of the SMV duties. Based on the aforesaid, the SMV has subscribed agreements with supervisors from Colombia, Chile, Ecuador, and Mexico.

CT412. However, the FIU, in its capacity as supervisor, does not have the legal framework in place to provide international co-operation to its foreign counterpart units on AML/CFT supervision matters.

CT413. *Criterion 40.14* –

- a) As reported, the information on the legislation and regulations is publicly available and may be provided with no restrictions to foreign supervisors. Information shared may be general or specific to each entity of the Financial System; Likewise, information in relation to RIs may be provided, such a number of STRs per sector, number of CO per sector, typologies, among others. Said information is available in the ML/TF Prevention Portal of the SBS website (www.sbs.gob.pe/prevencion-de-lavado-activos.)
- b) Information related to business activities, BO, administration and suitability may be provided to foreign supervisors by the SBS and the SMV, which are the entities that supervise institutions subject to Core Principles.
- c) Pursuant to Art.367, item 10 of the General Law on Financial System and Insurance, the SBS may exchange information in the framework of its supervision duties, in line with the Agreements entered with banking, financial, and insurance supervision institutions abroad.

CT414. However, the FIU in its capacity as supervisor, does not have the legal framework to address the aspects pointed out in this assessment criterion.

CT415. *Criterion 40.15* – Based on the powers of the SBS and the SMV pursuant to Art. 367 of the General Law on the Financial System and Insurance, and Art. 3 of Decree Law No. 26126, respectively, co-operation instruments may be agreed upon with foreign supervisors to exchange information on supervision matters. MOUs have appropriate provisions that allow counterpart entities to make supervisions by themselves. However, the FIU does not have the powers to authorise or facilitate the capacity of its foreign counterparts to conduct inquiries by themselves in the country, that would allow an effective supervision.

CT416. *Criterion 40.16* – Conventions subscribed between the SBS and foreign financial supervisors set forth that public information held by supervisors may be communicated to third parties; however, in relation to the information shared and protected by confidentiality and reservation provisions, authorisation from the other Supervisor is necessary to communicate it; without prior express authorization from the other supervisor, the SBS or its counterpart, may not disclose the information.

CT417. In general, it is set forth that provisions on confidentiality under each agreement should be considered. However, in order to disclose, provide, or disseminate the information, prior express

authorization of the authority that provided the information may be requested. At the SMV and FIU levels, there are no legal provisions to address the aspects under this assessment criterion.

CT418. *Criterion 40.17* – The PPO exchanges information on criminal matters spontaneously or upon request through platforms such as IBERRED, RRAG, Interpol and ACT NET. The PNP may exchange information with foreign counterpart authorities through its Liaison Officer, in platforms such as AMERIPOL, RRAG, and agreements/acts subscribed at the bilateral level.

CT419. *Criterion 40.18* – In accordance with art. 508 numeral 2 of the NCPC, Peru may develop investigative actions to respond to requests for international cooperation in accordance with ratified international treaties, its internal legal framework and, failing that, the principle of reciprocity within a framework of respect of human rights. The PPO exchanges information spontaneously or upon request in criminal matters through platforms such as IBERRED, RRAG and Interpol. The PNP is part of the AMERICAPOL, which constitutes a mechanism of police cooperation for the exchange of information for intelligence purposes for criminal investigation and judicial assistance.

CT420. *Criterion 40.19* – According to the MOUs subscribed, the Law-enforcement authorities may create joint investigation teams to develop investigations with its foreign counterparts.

CT421. *Criterion 40.20* – The legal framework of Peru does not impose restriction to the indirect information exchange with non-counterpart authorities.

Weighting and Conclusion

CT422. In general, Peru has the regulatory framework and mechanisms in place to provide the widest range of other forms of international cooperation. However, some supervisors such as the MTC and MINCETUR, as well as the lawyers and accountants Associations, do not have the powers to exchange information at the international level on AML/CFT matters. Moreover, the SBS, SMV and PN do not have prioritisation mechanisms in place for the response of co-operation requests or the clear and secure channels for the transmission and execution of requests, as well as procedures to safeguard the information.

Recommendation 40 is rated Largely Compliant.

Summary of Technical Compliance - Key Deficiencies

Compliance with FATF Recommendations		
<i>Recommendation</i>	<i>Rating</i>	<i>Factor(s) Underlying the Rating</i>
<i>1. Assessing risks and applying a risk-based approach</i>	LC	<ul style="list-style-type: none"> The NRA does not reflect the identification and assessment of risks to allow to understand how ML threats may impact on the AML/CFT system. The 2018 National Plan is in process of implementation, and regarding the 2011 National plan resources have been assigned for the fulfilment of the established actions, although resources do not seem to be allocated in relation to the creation of multi-disciplinary investigation teams, and experts. Some of the requirements under this Recommendation do not apply to lawyers and accountants.
<i>2. National cooperation and coordination</i>	C	
<i>3. ML offence</i>	C	
<i>4. Confiscation and provisional measures</i>	C	
<i>5. TF offence</i>	C	
<i>6. TFS related to terrorism & TF</i>	LC	<ul style="list-style-type: none"> For designations under UNSCR 1373, not all designation criteria are contemplated. The obligation of freezing is established for RIs and not for all natural and legal persons of the country.
<i>7. TFS related to proliferation</i>	LC	<ul style="list-style-type: none"> The obligation of freezing is established for RIs and not for all natural and legal persons of the country.
<i>8. Non-profit organisations</i>	PC	<ul style="list-style-type: none"> Peru has not conducted yet a risk analysis of NPOs that identify the subset of organisations that fall under the FATF definition of NPO, and it has not used all information resources available to identify the types of NPOs that, based on their activities or characteristics, have a probable risk of misuse for terrorist financing; The country has not identified the nature of threats posed by terrorist organisations on NPOs that could be at risk, as well as the way terrorist actors could misuse NPOs. Compliance with other requirements is dependent on the foregoing analysis.
<i>9. FIs secrecy laws</i>	LC	<ul style="list-style-type: none"> The capacity of all competent authorities to access the information they need to perform their functions may be affected by the fact that, under all cases provided for by the legislation for the lifting of

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		the banking secrecy, the request shall be made by the SBS or SMV, as appropriate.
10. <i>Customer due diligence</i>	LC	<ul style="list-style-type: none"> When FIs cannot comply with the corresponding CDD measures, they may or may not assess the possibility of submitting STRs to the FIU. RIs regulated by the SBS and SMV have no thresholds for the implementation of CDD measures when the customer conducts occasional transactions. In relation to FIs supervised by the FIU and the MTC, postponing the verification of the customer's identity for a later time is not allowed.
11. <i>Record keeping</i>	LC	<ul style="list-style-type: none"> There are exceptions in relation to the record-keeping obligation and limits in relation to the transactions to be recorded, as well as on the amounts of recordable transactions, which would not be in line with the provisions of this Recommendation.
12. <i>PEP</i>	LC	<ul style="list-style-type: none"> There are no provisions on the adoption of measures that establish the origin of wealth and BO identified as PEP.
13. <i>Correspondent banking</i>	C	
14. <i>MVTS</i>	C	
15. <i>New technologies</i>	C	
16. <i>Wire transfers</i>	LC	<ul style="list-style-type: none"> FIs regulated by the MTC do not have provisions that cover the R.16.
17. <i>Reliance on third parties</i>	PC	<ul style="list-style-type: none"> There is no regulatory framework in relation to this Recommendation for FIs regulated by the SBS.
18. <i>Internal controls and foreign branches and subsidiaries</i>	C	
19. <i>Higher-risk countries</i>	PC	<ul style="list-style-type: none"> No counter-measures are applied under the terms of criterion 19.2, and as regards 19.3 except those indicated by the legislation, there are no measures that allow countries to be aware of the risks from other jurisdictions.
20. <i>STRs</i>	C	
21. <i>Tipping-off and confidentiality</i>	C	

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
22. DNFBBs: <i>Customer due diligence</i>	LC	<ul style="list-style-type: none"> Postponing the verification of the customer's identity to a later time is not allowed. There are no provisions on the adoption of measures that establish the origin of wealth and BO identified as PEP. There are no provisions to lawyers and accountants related to some criterions.
23. DNFBBs: <i>Other measures</i>	LC	<ul style="list-style-type: none"> Requirements for lawyers and accountants in relation to criterion 23.2 are not established, and there are no countermeasures under the terms of R.19.
24. Transparency and BO of legal arrangements	PC	<ul style="list-style-type: none"> There are no mechanisms in place to timely update information. The current legislation does not provide for the obligation to maintain records, nor does it have proportional and dissuasive sanctions for legal or physical persons that fail to comply with the corresponding provisions. The country does not have the mechanisms to monitor the quality of assistance it receives from other nations in response to requests for basic information and about the BO or requests for assistance in locating BO residing abroad.
25. Transparency and BO of legal arrangements	PC	<ul style="list-style-type: none"> There are no provisions regarding the preservation of information from other trust regulatory agents and trust service providers, including investment advisers or managers, accountants and tax advisors. There is no measure to ensure that trustees would reveal their capacity as such to FIs and DNFBBs upon establishing business relationships or conducting occasional transactions over the thresholds established. There are no provisions to allow information on the BO related to trusts to be used by authorities with investigation or international co-operation purposes.
26. Regulation and supervision of FIs	LC	<ul style="list-style-type: none"> In relation to the implementation of measures to avoid criminals or their associates to hold, or be the BO of, or control a FI, it is important to mention that for FIs supervised by the MTC and the FIU there seems to be measures only related to directors, the CO, and workers in compliance with the due diligence policy of workers and directors. There are no regulatory provisions referred to by criterion 26.6 for the SMV. In relation to the MTC, it does not have regulatory provisions in relation to the implementation of a ML/TF RBA applicable to supervision of RIs under its regulation and control.
27. Powers of supervisors	C	
28. Regulation and	LC	<ul style="list-style-type: none"> There are no provisions that indicate the implementation of measures to prevent criminals or their associates from being

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
<i>supervision of DNFBPs</i>		<p>granted a professional credential or being the BO of significant interest on DNFBPs, except for casinos, notaries, lawyers, and real estate agents.</p> <ul style="list-style-type: none"> There seem to be no provisions on the supervision with the RBA the MINCETUR and lawyers and accountants associations should develop.
29. <i>Financial intelligence unit</i>	C	
30. <i>Powers of law enforcement and investigative authorities</i>	LC	<ul style="list-style-type: none"> There are no provisions establishing the powers for conducting parallel financial investigations.
31. <i>Powers of law enforcement and investigative authorities</i>	LC	<ul style="list-style-type: none"> Art. 231 of the NCPC indicates the intervention of radio communications or other forms of communication, however it is not clear that it includes the intervention of computer equipment.
32. <i>Cash couriers</i>	LC	<ul style="list-style-type: none"> There is no provision in relation to the capacity of all competent authorities to seize or restrain currency or BNI when there is a suspicion of ML/TF or predicate offences.
33. <i>Statistics</i>	C	
34. <i>Guidance and feedback</i>	LC	<ul style="list-style-type: none"> The SRB and other supervisors other than the FIU do not have feedback mechanisms in place for RIs they regulate and supervise on AML/CFT matters.
35. <i>Sanctions</i>	PC	<ul style="list-style-type: none"> Peru does not have violations and sanctions applicable to Lawyers, Accountants and entities regulated by the MINCETUR. Sanctions applicable to directors, managers, and employees of legal persons that commit violations do not seem to cover all RIs.
36. <i>International instruments</i>	C	
37. <i>MLA</i>	LC	<ul style="list-style-type: none"> Pursuant to Peruvian legislation, the competent authority could refuse MLA requests when they involve tax crimes.
38. <i>MLA: freezing and confiscation</i>	C	
39. <i>Extradition</i>	C	

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> Supervisors such as the MTC and MINCETUR, as well as certain SRB, such as the lawyers and accountants Associations, do not have powers to exchange of information at the international level. SBS, SMV, and PN do not have mechanisms to prioritise the response of co-operation requests. Likewise, it does not have clear channels for the transmission and execution of requests.

ANNEX

Sources of information used in the FIU's financial intelligence processes

Website type	Link to website	Information obtained
Identification of persons	https://sel.migraciones.gob.pe/servmig-valreg/VerificarPAS	Names and surnames of the holder of a Peruvian passport
	http://slcp.mtc.gob.pe/	Details on driver's licenses: number, validity status, dates. As well as infractions and ballot number.
	https://cel.reniec.gob.pe/valreg/valreg.do	Complete names of persons
	http://sisfoh-fse.sisfoh.gob.pe/PERSONAS/Buscar_personas_sisfoh.asp	Complete names of persons and dates of birth
Identification of companies	http://www.sunat.gob.pe/cl-ti-itmrconsruc/jcrS00Alias	Company data: RUC, commercial activity, fiscal addresses, legal representatives, date of activities' initiation, current state of the company, number of employees
	http://www.smv.gob.pe/Frm_Relacionados.aspx?data=B5C77F8C6BF989E2D2220F8ED366A4EF1CB0260F56	Information of the company, such as legal representatives, shareholders, accountant, address
	https://www.sunarp.gob.pe/ConsultaVehicular/	Characteristics of vehicles and identification of the registered owners at the date of consultation of the plate
	https://www.sunarp.gob.pe/RelacionS_01.asp	Confirmation of the full name of companies, as well as the registration number
Economic profile of a person	http://app.sis.gob.pe/SisConsultaOnline/Consulta/frmConsultaEnLinea.aspx	Type of insurance of the person consulted, date of affiliation and location of the health facility to which the person consulted belongs
	http://app1.susalud.gob.pe/registro/	Historical health system details of the affiliated person, situation at the date of consultation and dates of affiliation. Health system can be: public, private or totally subsidized by the state

	http://www.pension65.gob.pe/nuestros-usuarios/padron-de-usuarios/	Affiliation status of those within this program, as well as the registration department and district of affiliation
	https://www.web.onpe.gob.pe/servicios/financiamiento-organizaciones-politicas/aportes-limpios/	Full name persons, ID numbers, details of the contributions to political parties made by the person consulted
Economic profiles of companies	http://www.aduanet.gob.pe/cl-ad-itconsultadwh/ieITS01Alia s?accion=consultar&CG_consulta=1	Monthly summary of foreign trade operations carried out by companies (imports and exports). Allows going into detail by selecting options provided on the previous result
	http://www.smv.gob.pe/Form_InformacionFinanciera.aspx?data=B37E1F75259C715714B3FF7F757B4C221A992ECE54	Financial statements of issuing companies
	http://prodapp2.seace.gob.pe/seacebus-uiwd-pub/buscadorPublico/buscadorPublico.xhtml#	There are two options for results: "Search by awarded suppliers" enabling to check all the adjudications of a supplier, while in the "Search by selection processes" option, enables to consult purchases made by the companies of the state
	http://www.minem.gob.pe/detalle.php?idSector=1&idTitular=162&idMenu=su b150&idCateg=162	Shows the RUC number, address, telephone and tax regime
	http://www.minem.gob.pe/detalle.php?idSector=1&idTitular=4019&idMenu=su b150&idCateg=832	Data of mining contractor companies (RUC, telephone, address, etc.), as well as the authorization code and respective resolution's number
	http://servicio.indecopi.gob.pe/buscadorResoluciones/poderjudicial.seam	Contains the resolution and sentence of the Judicial Power of Indecopi's competence
		General information of the company, shares, representatives and financial information (financial statements)
PEP	http://www.infogob.com.pe/principal.aspx	Professional information of politicians and political affiliates, as well as their curriculum vitae
	https://www.cnm.gob.pe/cnm/	Indicates whether the person consulted is a prosecutor or judge, if he or she has been ratified or dismissed
	https://apps1.contraloria.gob.pe/ddjj/	Contains annual affidavits of income and assets
	http://manolo.rocks/	List of visits made by a person to any institution in the state, showing the date, time of visit, identification, charge and purpose for the meeting

Information on assets	https://sel.migraciones.gob.pe/servmig-valreg/VerificarCE	Names and surnames of the holder of an immigration card
	http://www.sistemasgtu.munlima.gob.pe/Internet_Web/ConsultaGTU/ConsultaGTU.aspx	Vehicle data, license plate number, owner information, registered company
	http://sistemas.sutran.gob.pe/WebExterno/Pages/frmRecordInfracciones.aspx	Detail of traffic infractions to the transport of passengers and / or cargo, as well as the name of the registered company, amount and type of infraction
	https://sinpol.pnp.gob.pe/vehiculos/action/2_ope/consultavigentevehiculo/form	Data of vehicles (make, model, year) and detail of the capture order, the status and date of registration of said order
	http://www.sat.gob.pe/WebSitev8/home.aspx?i=a	Traffic tickets on Lima, “pending of payment” at the date of the consultation, allowing to visualize specific details of the infraction
	https://enlinea.sunarp.gob.pe/interconexion/webapp/extranet/Ingreso.do	Contains the list and details of properties of persons or companies, as well as the owners' record, date of purchase, sale, agreed amount
Services	http://www.osiptel.gob.pe/categoria/enlace-para-verificar-numero-de-lineas-de-telefonía-movil	Direct links of consultation of the Peruvian telecommunications companies, showing the first 4 digits of the telephones registered by the person
	http://www.paginasblancas.pe/	Provides the address to which the telephone number and name of the telephone line owner belong
	http://www.claro.com.pe/wps/portal/pe/sc/personas/telefonía/directorio-de-abonados-fijos	Address to which the telephone number and name of the owner of the telephone line belong
Professionals	http://www.sunedu.gob.pe/grados-y-titulos/registro-de-grados-y-titulos/	Higher academic studies' records carried out (Pre-graduate and Postgraduate)
	http://www.bibliotecal.org.pe/consulta_habilidad/consulta.asp?flag=000	Full name of the person consulted, in case of being a licensed lawyer in Lima, as well as the registration number
	http://www.ccpl.org.pe/consulta-habilidad.php	Full name of the person consulted, in case of being a registered accountant in Lima, as well as the registration number
	http://cipvirtual.cip.org.pe/sicecolegiacionweb/externo/consultaCol/	Association number, full name and if available the photo of the associate engineer consulted
	http://www.cmp.org.pe/servicios/iconoce-a-su-medico.html	Doctor's data, as well as the specialty and photo (if available)
	http://www.colegiodepsicologosperu.org/busquedapsicologo.php	Provides with enrollment numbers and the dates of incorporation to the association

Criminal records	http://casillas.pj.gob.pe/redamWeb/index.faces	Detailed data on child support debtors, as well information on the plaintiff (s) and the monthly amount of debt
	http://ot.minjus.gob.pe:8080/sisca_web/DeudoresWebAction_verWeb#	Data on corruption crimes recorded by the person consulted, as well as the amount owed for civil compensation
	https://www.web.onpe.gob.pe/servicios/financiamiento-organizaciones-politicas/aportes-limpios/	Information regarding type of electoral infraction, name of the electoral process to which the fine corresponds and its amount. Only unpaid fines are shown
Others	http://www.minem.gob.pe/_detalle.php?idSector=1&idTitular=166&idMenu=suab150&idCateg=166	Annual lists by authorized mining experts to carry out evaluations assigned to the Ministry of Energy and Mines
	http://www.sanciones.gob.pe:8081/transparencia/	Name of the person, name of the institution from which it was sanctioned, the type of sanction, the category of the sanction and the status at the date of consultation of such sanction
Closed databases		
Financial information	Registry of suspicious transactions	Financial information of the natural or legal person reported.
	Transactions Registry (TR)	Information on operations greater than the threshold registered by the holder in the financial system, CAC, exchange houses and notaries.
	Cavali - Wari	Data regarding the central registry of securities and settlements.
	Custom's affidavits	Information on declared amounts of cash by travelers.
Economic profile	Private Pensions System (SPP)	Information of the holders: company where they work or worked, remuneration, if they are active or inactive, etc.
	Risk Central of the SBS (RCC)	Credit information
	List of social programs on Peru	Lists those registered on social programs: Pension 65 (National Program of Solidarity Assistance), Together (National Program of Direct Support to the Poorest) and SIS (Comprehensive Health Insurance).
Identification of persons	Reniec	Contains the names and surnames of the holders, as well as identification number, date of birth, address, parents, etc.
	Migrations	Provides names and surnames of the holders, passport number, date of birth, etc.
	Sunat	Information of natural persons such as: economic activity, representatives, address, branches, etc.
Identification of companies	Sunat	Information of legal persons such as: economic activity, representatives, address, branches, etc.
	Sunarp legal	Companies' information
Criminal records	MP	National registry of complaints of the MP (Cafiscal) and the national registry of detainees and sentenced to effective prison sentences (Renadesple).
	Judicial Power	Contains the national registry of processed and sentenced inmates (Renipros) and the registration of arrest warrants (Requisition).



	INPE List - Prisoners	Registry of people deprived of freedom.
	Criminal references intelligence lists	Data on subjects who are listed as possible terrorists and drug dealers.
Information on assets	Sunarp	Real estate, vehicular, mining and others.
Others	MTC – National System of Sanctions and National System of Drivers	General information on drivers