



Mutual Evaluation Report of the Eastern Republic of Uruguay



January 2020



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MUTUAL EVALUATION REPORT OF URUGUAY

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EXECUTIVE SUMMARY

1. This report provides a summary of AML/CFT measures in place in the Eastern Republic of Uruguay (hereinafter Uruguay) at the date of the on-site visit, which took place between May 6 and 17, 2019. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CTF system and recommends how the system can be strengthened.

Key findings

- Uruguay conducted 2 national risk assessments (2010 and 2017). The main external threat identified is related to criminal funds from abroad, especially those originating in neighbouring countries. The overall risk of terrorist financing (TF) was considered low. The country also developed sectoral risk assessments (SRAs), covering sectors considered to be most risky, including the financial, real estate and construction sectors, corporate services providers and managers, and free trade zones.
- The findings and conclusions of these exercises are to some extent reasonable and allow for an understanding of the country's money laundering (ML) and TF risks. Notwithstanding this, in some cases the results obtained lacked sufficient supporting information and statistics and did not elaborate on certain domestic risks and activities, particularly on DNFBP.
- National coordination and cooperation in anti-money laundering and counter terrorist financing (AML/CFT) is sound. It should be noted that coordination of the system is exercised by the National Secretariat for Combating ML/TF, and that the country approved a national strategy for the period 2017-2020, whose objectives are aligned with the results of the national risk assessment (NRA). Most of these objectives have been completed or are in progress.
- The country has a Financial Information and Analysis Unit (UIAF), which is responsible for receiving and analysing suspicious transaction reports (STRs) and other information to prevent ML/TF. The UIAF produces quality financial intelligence (IIF) reports, which are communicated to the Public Prosecutor's Office (MP). Most financial intelligence reports are produced within the framework of Court requirements, while spontaneously produced and communicated financial intelligence reports are more limited. The UIAF also produces strategic analysis reports for internal and external use.
- Uruguay has judges and prosecutors specialized in organized crime, with specific competence in ML. The Judiciary and MP carry out the good practice of forming multidisciplinary investigation groups, which are integrated by relevant competent authorities, which strengthens the development of investigations. Notwithstanding the foregoing, there are limitations in the development of proactive parallel financial investigations.
- The cases of ML prosecuted are to a certain extent consistent with the greater domestic risks identified in the NRA. There are investigations, prosecutions and convictions for ML. However, cases involving domestic predicate offences are more limited than those from foreign sources. There are no cases related to tax crimes and no cases related to some risk activities.

- There have been seizures and confiscations for ML. Most of them are related to predicate offences committed abroad. In this sense, there is no evidence of requests for seizure or confiscation of property located abroad from ML cases initiated by investigations in Uruguay.
- Uruguay recently structurally reformed its CFT system. The recent nature of this reform entails the need to strengthen the competent authorities' understanding of its scope. There have been no prosecutions or convictions for TF, but the country has a legal framework and an inter-institutional system that is operational and coordinated in this area.
- With regard to targeted financial sanctions (TFSs), no matches have been found in the RI databases with the names of persons listed by the United Nations Security Council (UNSC). Financial institutions (FIs) have automated mechanisms for checking lists, while designated non-financial businesses and professions (DNFBPs) have more limited tools. In the area of financing of proliferation (FP), the TFS system was only recently implemented with the CFT Law, so the challenges are greater.
- The UIAF together with the Superintendence of Financial Services (SSF) are the supervisors of FIs. The SENACLAFT, meanwhile, is the supervisor of DNFBPs. Both have a clear understanding of risks and supervise sectors with a risk-based approach. However, supervision of DNFBPs is at varying degrees of maturity, depending on the sectors involved.
- FIs have an understanding of their ML/TF risks and obligations. In the case of DNFBPs, this situation is more limited. In this regard, the implementation of preventive measures is at different stages of realisation, depending on the sector in question. There are DNFBPs that have a low level of reporting and others that, due to their relevance in terms of risk, require improvements in the volume and quality of reports.
- The country has implemented measures to prevent the misuse of legal persons and arrangements for ML/TF purposes and it has implemented important BO identification measures. Most legal persons and arrangements have communicated BO information to the BCU Registry. However, there are challenges with regard to the accuracy and updating of this information. The structure and resources of the National Internal Audit Office (AIN), which is the main supervisory body in this area, are limited in relation to the challenges it faces.
- Finally, it should be noted that Uruguay has a legal and institutional framework that allows competent authorities to provide MLA and extraditions in a constructive manner. Among the challenges of the system there is the limited nature of active requests. In the area of international cooperation, the approach of the competent authorities is generally constructive.

Risks and general situation

2. Uruguay has historically been considered a regional financial centre, and it receives significant funds and investments from abroad, mainly from neighbouring countries. Moreover, it has regularly offered a number of attractive corporate and financial instruments for non-resident investors. Within this framework, the country presents an inherently high risk with respect to the placement of proceeds of crimes committed abroad, which constitutes its greatest threat in terms of ML.

3. With regard to significant domestic threats, the following stand out: (i) drug trafficking, (ii) smuggling, (iii) human trafficking and procuring, (iv) counterfeiting/offences against intellectual property (copyright), (v) fraud, and (vi) tax crime. As for TF offence, the NRA notes that it has a low risk, as it had not been detected that the financial system had been used for those purposes, and because there are no terrorist organizations operating locally.

4. In terms of vulnerabilities, the possible misuse of the financial sector was noted, given the exposure to illicit capital that is intended to be integrated into the Uruguayan system, the real estate and construction sector, because it has historically received significant investments by non-resident customers; the sector of trust and company service providers, and independent professionals, due to the existence of high-impact cases linked to non-resident customers constituting corporate vehicles in the country, and the free trade zones, which were subject to a limited monitoring and control system. A notorious deficit in relation to non-profit organizations (NPOs) was also considered to exist.

Overall level of effectiveness and technical compliance

Risk assessment, coordination and policy establishment (Chapter 2 – IO.1; R.1, R.2, R.33)

5. Uruguay developed two national risk assessments (NRAs), which were approved in 2010 and 2017. The NRA's findings are to a large extent reasonable and allow a reasonable understanding of the country's risks. However, in some cases the results obtained lacked sufficient supporting information regarding certain activities and did not elaborate on certain significant domestic risks. The understanding of the TF risk is more limited. It is highlighted that the country carried out sectoral risk assessments, covering sectors considered to be most risky, including the financial, real estate and construction sectors, corporate services providers and managers, and free trade zones.

6. Based on the results of the NRA, Uruguay adopted a series of mitigating measures and approved in early 2018 a National Risk Strategy, which is aligned with the threats and vulnerabilities identified in the NRAs. Most of the objectives set out in the National Strategy have a significant degree of implementation. National coordination and cooperation on AML/CFT matters is sound. Uruguay has a policy that to a large extent addresses the main ML/TF risks identified, and its competent authorities have objectives and activities in place aimed at mitigating the risks identified.

7. The competent authorities have disseminated the findings of the NRA and have carried out outreach activities with the various sectors concerned. However, the understanding of the ML/TF risks of the private sector is uneven. DNFBPs generally have a more limited level of understanding than the financial sector.

Financial intelligence, money laundering and confiscation (Chapter 3 - IO.6-8; R.3, R.4, R.29-32)

8. The UIAF accesses various sources of information and prepares quality financial intelligence, which is disseminated to the investigating authorities. Most financial intelligence reports are produced within the framework of judicial cooperation requests. The number of

financial intelligence reports spontaneously produced and reported is more limited. The UIAF has produced several strategic analysis reports for internal and external use

9. Financial intelligence provides useful elements for the identification of persons and property involved in the criminal behaviours under investigation. This information has been positively valued by competent authorities and has been used to generate evidence and trace criminal assets. The UIAF provides feedback on the quality of reports to FIs, and shares with the SENACLAFT statistical information on the quantity and quality of the reports it receives from DNFBPs.

10. The criminal justice system is migrating from the inquisitorial system to the adversarial system, which may involve challenges in terms of implementation. Uruguay has a specialised jurisdiction in the area of organised crime, in which judges and prosecutors act with a high level of specialisation in AML matters. As for the investigation of this offence, there is good coordination among the agencies that are part of the system. The country presents the good practice of forming interdisciplinary groups in the relevant ML investigations, which favour the agile development of investigations and the identification of criminal property.

11. To a certain extent, the cases pursued are consistent with the country's risk profile. However, there is room for improvement regarding the number of ML investigations involving domestic predicate offences, and to date, there have been no investigations involving tax crimes as predicate offence, whether from domestic or foreign sources.

12. Uruguayan authorities demonstrated an understanding of the importance of confiscation of property and assets related to ML and predicate offences, and an institutionalized culture of searching for proceeds of crime for confiscation purposes is verified to some extent. In this regard, Uruguay seizes and confiscates assets related to ML with predicate offences committed abroad. There is no evidence of requests for seizure or confiscation of assets located abroad from ML cases initiated by investigations in Uruguay.

13. Uruguay imposed fines for omission or false declaration before the customs authority in the transportation of values across the border. In general, confiscations have a relative correlation with the risks identified. However, there are still no confiscations linked to ML resulting from the tax crime, and to certain risk sectors.

Terrorist financing and financing of proliferation (Chapter 4 - IO.9-11; R.5-8)

14. In May 2019, a new comprehensive CFT regulatory framework was adopted, through the publication of the CFT Law and its Regulatory Decree 136/019. Uruguay substantially amended its legislation, expanded TF punishable behaviours, incorporated all acts of terrorism under the CFT International Convention, and established a system of targeted financial sanctions on TF and financing of the proliferation of weapons of mass destruction (FPWMD). The recent nature of the structural reforms of the CFT system makes it necessary to increase the knowledge of competent authorities about their new scope.

15. No TF prosecutions or convictions have been recorded in Uruguay. Without prejudice to this, the country has a legal framework and an inter-institutional system that is operational and coordinated, and investigations have been carried out that were finally dismissed because there was no connection with TF. Uruguay has a TF group made up of all the relevant CFT authorities, which facilitates cooperation and coordination among their authorities. However, there are certain limitations in competent authorities' understanding of the TF risk.

16. In relation to TFSs related to TF, no matches have been found in the RI's databases with persons listed by the UNSC. Nor does Uruguay report the existence of active or passive cooperation requests based on the regime established under UNSCR 1373 (2001). Considering the recent implementation of the regime related to UNSCR 1373, no national designations have been made yet based on that Resolution.

17. FIs have automated mechanisms for checking and updating the UNSCR list, while DNFBPs are aware of the obligation, but most do not have the same mechanisms. For purposes of assessing the specific TF risk of NPOs, the TF/FPWMD Group undertook work to identify the NPOs with the highest risk exposure, which are then monitored. The regulatory and supervisory competence of NPOs has been legally attributed to the SENACLAFT, which at the time of the on-site visit was working on a supervision plan.

18. In relation to TFSs related to FP, Uruguay recently established the legal standard regarding mechanisms for the implementation of TFS related to the FPWMD. So far, the country has not had any matches with natural or legal persons included in the UNSC sanctions lists and therefore has not initiated any investigation. FIs have automated mechanisms for checking and updating the UNSCR list, while DNFBPs are aware of the obligation, but most of them do not have the same mechanisms.

Preventive measures (Chapter 5 - IO.4; R.9-23)

19. The AML Law contains general preventive measures that must be applied by all RIs. Specific measures, meanwhile, are provided for by the relevant sectoral regulations. In the case of FIs, the secondary regulations of the Central Bank of Uruguay (BCU) apply. With regard to DNFBPs, the provisions of Decree 379/018, published in November 2018, which regulated new DNFBPs and strengthened preventive measures applicable to all sectors, including those previously regulated, are currently applied.

20. The financial sector (mainly financial intermediaries) demonstrated a greater understanding of the ML/TF risks, and of the application of measures for their control and mitigation. DNFBPs' understanding of risks is more limited. Although Uruguay has made significant efforts to strengthen the preventive system, the application of preventive measures is at different stages of implementation. There are DNFBPs that have a low level of reporting (accountants, lawyers, free trade zones, building companies, dealers in precious metals) and others that, due to their relevance in terms of risk, require improvement in the number and quality of reports (notaries, real estate agents, auctioneers and company service providers).

21. Notwithstanding the foregoing, in terms of materiality, due to the size, integration and composition of the sector, the volume of transactions and relative level of banking penetration in the Uruguayan economy—added to various mitigating measures that have been adopted—the general impact of the financial sector on the AML/CFT preventive system is more significant than the impact of DNFBPs.

Supervision (Chapter 6 - IO.3; R.26-28, R.34-35)

22. FI's AML/CFT supervision is conducted by the UIAF, which integrates the SSF of the BCU, and has specialized personnel. On-site and remote supervision activities are planned annually based on the outcome of risk matrices and background of previous procedures. As regards DNFBPs, the SENACLAF has been the supervisor since December 2015. The process of licensing and registration of FIs carried out by the BCU largely prevents criminals or their associates from entering the market. In the case of DNFBPs, except casinos, notaries and lawyers, there is no assessment of the suitability of shareholders or partners.

23. The SSF, the UIAF and the SENACLAF have a clear understanding of ML/TF risks and carry out supervision of RIs under a risk-based approach, relying on risk procedures and matrices. The supervision of all DNFBP sectors is particularly challenging, also due to the recent incorporation of some categories of RIs, the large universe of actors involved, and the recent issuance of the Regulatory Decree 379/018. There is a need for further development in some sectors, especially the newly incorporated ones. It is noted that the sanctions imposed are limited or have not yet been applied in some sectors.

24. The SSF-UIAF and the SENACLAF have made considerable efforts in terms of RI's feedback, training and awareness. However, it is necessary to strengthen the level of understanding on the part of some sectors.

Transparency of legal persons and arrangements (Chapter 7 - IO.5; R.24-25)

25. Competent authorities identify, assess and understand the risks of ML/TF, as well as the vulnerability faced by legal persons and arrangements. Public limited companies with bearer shares are the corporate type with the highest risk. It should be noted that bearer equity interests are subject to a specific regime by which their holders must inform being so, and provide other identifying data to the issuing entity, who, in time, reports it to the BCU Registry.

26. Uruguay passed several laws and regulations aimed at strengthening the transparency of legal persons and arrangements, including Law 19.484, which created the beneficial ownership registry at the BCU, under the protection of the UIAF. The information can be shared at the request of competent authorities, who can access it in a timely manner.

27. The registration of legal persons and arrangements is carried out before the General Directorate of Registries (DGR). Meanwhile, the AIN is the body responsible for monitoring compliance with corporate obligations and those relating to the identification of shareholders and

BO, and their communication to the BCU Registry. It is also for the AIN to impose the corresponding sanctions against non-compliances.

28. The information of the vast majority of companies is already available in the BCU database. However, at the time of the on-site visit, not all obliged entities have communicated their information to the BCU. Likewise, they must continue working to ensure the accurate and up-to-date nature of such information.

29. With regard to the activities carried out and the results obtained in the area of BO identification, it is noted that the AIN has the complex responsibility to control that an important universe of legal persons and arrangements communicates basic and BO information to the BCU Registry, either initially or in relation to appropriate updates, as well as to validate its contents and ensure that it is adequate, accurate and up-to-date. In this context, it is noted that the resources available to the AIN to carry out its duties are limited.

International Cooperation (Chapter 8 - IO.2; R.36-40)

30. Uruguay has a legal basis for providing a wide range of mutual legal assistance (MLA) and extradition. The Ministry of Education and Culture (MEC) is the designated central authority in relation to criminal legal cooperation based on international treaties. The MEC has an action protocol, which establishes guidelines for the prioritization of requests received from abroad. The MLA statistical system presents an important opportunity for improvement.

31. The MLA approach is generally collaborative. In general, international assistance is provided on request, and to a lesser extent spontaneously.

32. Uruguayan authorities frequently use other forms to exchange information such as informal cooperation with other countries. The UIAF and other competent authorities may provide international cooperation in the field of financial and investigative intelligence. In general, the UIAF satisfactorily responds to the international requirements of its counterparts. However, active requests are very limited. With regard to the exchange of financial intelligence, the response time in which they have provided the information presents opportunities for improvement. Moreover, there is a constructive view of international cooperation in tax matters and in the area of financial supervision.

Priority actions

- Strengthen the UIAF's resources and capacities to allow the increase in the production and dissemination of spontaneous financial intelligence to the Public Prosecutor's Office, increase the development of strategic analysis products and meet the challenges related to its attributions.
- Strengthen the capabilities and resources of the AIN in terms of monitoring compliance with obligations on BF and carry out actions aimed at having all the corresponding legal entities and structures to communicate the basic and BF information to the BCU Registry.
- Strengthen the measures to ensure that the basic and BF information is complete,



adequate, accurate and updated.

- Continue with the institutional strengthening of the SENACLAFT to expand both the resources and the process of supervision under a RBA.
- Strengthen the implementation of preventive measures, especially in DNFBPs, including adequate understanding of ML/TF risks.
- Deepen the dissemination and understanding by DNFBPs of the ML/TF risks generated by the main threats identified in the NRA and the various SRA developed by the country.
- Promote and strengthen the development of proactive parallel financial investigations and increase the number of ML investigations that involve domestic predicate offences and other high-risk predicate offences, such as domestic and foreign tax crimes.
- Strengthen the seizure and confiscation of assets related to ML cases whose predicate offence is the tax crime, and in cases related to the main risk sectors, such as company service providers, free trade zones and others.
- Increase the level of knowledge and understanding of TF risks of all operators of the CFT system.
- Strengthen the timely provision of international cooperation, particularly in terms of financial intelligence.

Effectiveness & Technical Compliance Ratings

Effectiveness ratings

IO.1 Risk, policy and coordination	IO.2 International cooperation	IO.3 Supervision	IO.4 Preventive measures	IO.5 Legal persons and arrangements	IO.6 Financial intelligence
Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
IO.7 ML investigation and prosecution	IO.8 Confiscation	IO.9 TF investigation and prosecution	IO.10 TF preventive measures and financial sanctions	IO.11 Financial sanctions for FP	
Moderate	Moderate	Moderate	Moderate	Moderate	

Technical compliance ratings

AML/CFT national policies and coordination

R.1	R.2
LC	C

Money laundering and confiscation

R.3	R.4
LC	LC

Terrorist financing and financing of proliferation

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

Preventive measures

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

Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
LC	LC

Powers and responsibilities of competent authorities, and other institutional measures

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

International cooperation

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

MUTUAL EVALUATION REPORT

Prologue

33. This report summarises the AML/CFT measures in place as at the date of the on-site visit, carried out on May 6-17, 2019. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and recommends how the system can be strengthened.

34. This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 FATF Methodology. The evaluation was based on information provided by the country, and information obtained by the assessment team during its on-site visit to the country on May 6-17, 2019.

35. The evaluation was conducted by an assessment team consisting of: Gustavo Morell Segura (Director of Supervision of the Financial Information Unit of Argentina, financial expert), Eduardo El Hage (Attorney of the Federal Public Prosecutor's Office of Brazil, legal expert), Juan Fernando Argueta Estrada (Department of Prevention and Compliance with the Superintendence of Banks of Guatemala, financial expert), Angel González (Head of the Strategic Analysis Department of the Financial Analysis Unit of Panama, operational expert) and Saiska Rodríguez Barriola (Director of Coordination of the Financial Analysis Unit of the Dominican Republic, legal expert) and Marconi Melo (legal expert), with the support of Juan Cruz Ponce (Coordinating Technical Expert) and Alejandra Pérez Reséndiz (Technical Expert) of the GAFILAT Secretariat. The report was reviewed by the FATF Secretariat and by Carlos Acosta (Deputy Executive Director of CFATF), Wendy Acosta (Honduras Financial Intelligence Unit) and Nuno M. Matos (Coordination Commission for the Prevention and Fight Against Money Laundering and Terrorist Financing, Bank of Portugal).

36. Uruguay was previously subjected to a GAFISUD mutual evaluation (now GAFILAT) in 2009 and was carried out in accordance with the 2004 FATF Methodology. The evaluation dated on December 3, 2009, was published on the GAFILAT site and is available at the following link: <https://gafilat.org/index.php/es/biblioteca-virtual/miembros/uruguay-1/evaluaciones-mutuas-16/1949-informe-de-evaluacion-mutua-de-uruguay-3a-ronda/file>.

37. The mutual evaluation concluded that the country had met 13 Recommendations; mostly met 22; partly met 12, and not met 2. Uruguay was rated compliant or mostly compliant in 13 of the 16 Core and Key Recommendations.

38. Uruguay was placed under the enhanced follow-up process after the adoption of its third round Mutual Evaluation Report in December 2009. The country partly met 3 of the 16 Core and Key Recommendations. In compliance with GAFILAT's procedures, Uruguay submitted six-monthly reports on the progress made in these recommendations. Accordingly, in December 2013 it was decided to remove Uruguay from the Enhanced Follow-Up Process.

CHAPTER 1. ML/TF RISKS AND CONTEXT

39. The Eastern Republic of Uruguay (hereinafter, Uruguay) has an area of 176,215 sq. km., it borders the Federal Republic of Brazil and the Argentine Republic and its capital is Montevideo. The country has a population of 3,493,205 inhabitants.¹ Uruguay is a presidential republic subdivided into 19 departments.

40. As regards the form of government, the Constitution of the Republic states that the country adopts for its government the democratic republican form and that sovereignty will be exercised directly by the electoral body in cases of election, initiative and referendum, and indirectly by the representative powers established by the Constitution (Article 82).

41. The President is simultaneously Head of State and Government, he presides the Executive Power with the Council of Ministers and is elected along with the Vice-President through direct popular election. He has a five-year term and cannot be immediately re-elected but until the end of the same term following his cessation from office.

42. The Legislative Power is vested in the General Assembly, which consists of the 31-member Chamber of Senators (counting the speaker of the chamber, who is the Vice-President) and the 99-member Chamber of Deputies. Deputies are elected by department, while senators are elected nationally, both for five-year terms.

43. The Judiciary is headed by the Supreme Court of Justice, whose members are appointed by the General Assembly by a two-thirds majority and whose terms last ten years or until they turn 70.

44. The Legal System is based on European continental law (Germanic Roman system), which is characterized by its main source being the law, rather than case-law, and because its rules are contained in unitary, ordered and systematized legal bodies, called "codes."

45. The system is made up by regulations issued by the Legislative and Executive Powers. They issue rules endowed with democratic legitimacy, which are interpreted and enforced by the Judiciary. The rule of law is applied on a case-by-case basis by the courts and the case-law is limited to the scope of interpretation of the legislation in force.

ML/TF Risks and Scoping of Higher Risk Issues

Overview of ML/TF Risks

46. The analysis carried out by the assessment team was based on the information provided by the country, including the National Risk Assessment (NRA) and sectoral risk assessments,

¹ National Institute of Statistics of Uruguay, Statistical Yearbook 2018, available at: <http://www.ine.gub.uy/documents/10181/559909/Anuario+Estad%C3%ADstico+Nacional+2018/46660ce3-eb26-484e-b295-f4327499de8b>.

information from external sources and international agencies, and the information gathered during the on-site visit. In this context, the following paragraphs list the most important risks identified, considering the impact they may have on Uruguay's AML/CFT system.

47. The NRA notes that the main external threat in relation to ML is that related to international criminal organisations, in particular those linked to drug trafficking and, secondly, those associated with capitals related to tax crimes or other types of criminal acts, as they seek to introduce such capitals into the country by taking advantage of the country's financial and corporate system conditions.

48. A relevant fact to consider, in this sense, is that Uruguay has been considered a regional financial centre, and it receives significant funds and investments from abroad, mainly from neighbouring countries. Uruguay has also historically offered a number of attractive corporate and financial instruments for non-resident investors. Furthermore, it should be noted that the tax offence was incorporated as a ML predicate offence by Law 19.574 of December 2017 (AML Law).

49. In addition, the NRA identifies other major domestic threats, which generate significant profits and constitute the main predicate offences of ML in the country: (i) drug trafficking, (ii) smuggling, (iii) human trafficking and procuring, (iv) counterfeiting/trademark crimes, (v) fraud, and (vi) tax crime. As for the TF offence, the NRA notes that the country has a low risk, as it had not been detected that the financial system had been used for those purposes and given that there are no terrorist organisations operating locally.

50. In terms of vulnerabilities, the possible abuse of the financial sector was noted, given the exposure to illicit capital trying to be integrated into the Uruguayan system; the real estate and construction sector, because it has historically received significant investments by non-resident clients; the sector of company service providers, trustees and independent professionals, due to the existence of high-impact cases linked to non-resident customers constituting corporate vehicles in the country; and the free trade zones, which were subject to a limited monitoring and control system. A notorious deficit in relation to non-profit organisations (NPOs) was also considered to exist.

51. It should be noted that the country carried out sectoral risk assessments, covering the sectors considered to be the riskiest, including real estate and construction, corporate services managers and providers, and free trade zones.

Country's Risk Assessment & Scoping of Higher Risk Issues

52. Uruguay developed two national risk assessments. The first one was approved in 2010 with the technical support of the International Monetary Fund (IMF). The second was approved in 2017 and was conducted with the support of the Inter-American Development Bank (IDB). In both cases, working groups were formed and input was received from the main actors in the public and private sectors. A mixed methodology was followed, with a substantial empirical and practical basis, and each of the country's institutional, legal and operational components were reviewed.

53. In the case of the 2017 NRA, the working groups were as follows: (a) underground economy; (b) criminal map and criminal economy; (c) institutional quality; (d) preventive regime and its risks, and (e) corruption. The outcomes yielded by the aforementioned groups were evaluated by the National Anti-Money Laundering Secretariat (formerly SNAL, currently SENACLAFT). Statistical information covering the period up to 2014 was analysed.

54. The assessment team considers that the NRA's findings are to a large extent reasonable and allow a reasonable understanding of the country's risks. However, in some cases the results obtained lacked supporting information regarding certain activities, so there is a significant opportunity for improvement, and some important internal risks, such as those associated with domestic cannabis plantations or local production for recreational purposes, are not explored in depth.

55. During the on-site visit and in this Mutual Evaluation Report (MER), the following higher-risk aspects were discussed in more detail:

56. *Placement of criminal funds from abroad:* The country has an inherently high risk for the placement of assets from crimes committed abroad, particularly in the banking and real estate sector (both urban and rural). In this context, and considering the significant volume of non-resident funds managed in the Uruguayan financial centre, in addition to the number of non-residents owners or beneficiaries of legal persons incorporated in the country, the assessors put an special emphasis on the implementation of AML/CFT preventive measures by the banking system and the real estate and trust and company service providers sectors. The measures applied with respect to non-resident customers were also the focus of particular analysis.

57. *Designated Non-Financial Business and Professions (DNFBPs):* Considering the vulnerabilities identified in the 2017 NRA, as well as the fact that the specific AML/CFT obligations of some sectors were only recently published (November 2018), the different DNFBP sectors are particularly vulnerable in preventive matters and can be used as suitable channels for ML/TF.

58. In this context, the assessment team reviewed the degree of implementation of AML/CFT preventive measures in the various sectors, particularly in the real estate and construction sector (urban and rural), including real estate trust developments, free trade zones, and professionals involved in the provision of trust and company services. In addition, an attempt was made to understand the methodology used to identify the risks of the respective sectors.

59. *Transparency and Beneficial Ownership:* Considering the high exposure to international illicit capitals, as well as the risk identified in the NRA in terms of the use of legal arrangements and the existence of numerous companies with bearer shares, priority was given to the analysis of the implementation of measures aimed at the identification of the beneficial ownership (BO) of legal persons and other legal arrangements operating in the country. The case of non-resident investments was particularly weighted.

60. In addition, an analysis was conducted on how investigative authorities and other relevant authorities have access to basic and BO information in a timely, up-to-date, accurate and complete manner, including the BO record created in 2017 (see Immediate Outcome 5), and on what is the scope and effectiveness of the control carried out on the bearer's equity interest. It was analysed how well the FIs and DNFBPs conduct the identification and verification of the identity of the BO.

61. *Tax Crime*: Although the tax crime was added to the list of predicate offences by the AML Law of December 2017, the exposure of the Uruguayan system to the integration of capitals from tax offences committed abroad, in addition to the volume of domestic tax crime estimated by the authorities, led to an analysis on how this threat is mitigated, and to what extent investigation and prosecution is conducted in connection with ML related to domestic and foreign tax crime.

62. *Free trade zones*: Considering the amounts involved in smuggling and trademark fraud, as well as the risk identified in relation to free trade zones and their vulnerabilities, a detailed verification of the authorisation, control and supervision of this sector was conducted.

63. *TF*: With regard to TF, while the NRA indicates that the risk is low, taking into account the significant vulnerabilities and technical deficiencies identified in relation to the preventive and repressive system of this crime, the preventive measures implemented by Reporting Institutions (RIs) were particularly analysed, as well as the degree of identification, assessment and understanding of TF risks from both authorities and RIs.

64. Preventive measures related to NPOs were also the subject of priority analysis, particularly with regard to the distribution of entities, the authorisation process, registration and control.

Materiality

65. Uruguay has a Gross Domestic Product (GDP) of USD 56,157,000,000,² and is the economy with the highest GDP per capita in Latin America. In this sense, the country accumulates 15 consecutive years of economic growth with an average annual rate of 4.3% expansion. During 2018, Uruguay's economy grew by 2.2%.³ GDP per capita in 2017 was USD 16,245.⁴

66. According to the United Nations Development Programme (UNDP), Uruguay is the third country in Latin America with the highest Human Development Index (HDI) and 54th in the world. According to the Economic Commission for Latin America and the Caribbean (ECLAC), it is one of the countries in the region with the most equitable income distribution, with a Gini Coefficient of 0.39. It is also the fourth country in Latin America with the highest life expectancy.

67. Historically, Uruguay has operated as a regional financial centre, since for decades it has had policies that allowed the development of the structural conditions of its economic system to attract foreign financial capital, particularly from neighbouring countries.

² World Bank, <https://datos.bancomundial.org/pais/uruguay>

³ Central Bank of Uruguay, Monetary Policy Report, third quarter of 2018, available at: <https://www.bcu.gub.uy/Politica-Economica-y-Mercados/Reportes%20de%20Politica%20Monetaria/pepmam04i0918.pdf>

⁴ World Bank: <https://datos.bancomundial.org/indicador/NY.GDP.PCAP.CD?locations=UY>

68. There have been financial and corporate products in the country that have facilitated the placement of funds or investments from abroad. An example of these products was Law 11.073 of 1948, on the creation of financial investment corporations (SAFI), which was abrogated in 2006, and public limited companies with bearer shares, although their regime was modified by the creation of a register of bearer's equity interests, as will be detailed below.

69. As regards the financial sector, the prevalence of the banking sector, which manages the largest volume of funds in the system, stands out. One of the characteristics of Uruguay's banking system is the high share of public banking which amounts to 50% of the total assets according to the data as of June 2018 (Banco República and Banco Hipotecario). Moreover, as at that date, the four main private banks, subsidiaries of international banks, account for 43% of the volume of private banking assets (Banco Santander, Banco Itaú, BBVA and Scotiabank).

70. According to statistical figures produced by the BCU, financial intermediation activity accounted for 6.1% of GDP at the end of 2017. For family remittances, during 2018, 398,200 transfers were sent for a total of approximately USD 117,000,000, while 445,945 transfers were received for a total of approximately USD 131,000,000.⁵

71. The financial system consists of financial intermediation companies, companies from the securities exchange market, insurance and reinsurance companies, pension fund managers, credit management companies, financial services companies, exchange houses, fund transfer companies, and representatives of foreign financial institutions.

72. Meanwhile, the companies that make up the securities exchange market are stock exchanges, securities brokers, investment advisors, portfolio managers, issuers of public offering securities, investment fund managers, financial trustees and professional trustees.

73. As for the real estate and construction sector, according to statistical figures produced by the BCU, at the end of 2017 both activities accounted for 11.2% of the GDP (construction 4.4% and real estate activities 6.8%). Most of the actors in this sector develop their commercial activity in Montevideo, followed by the departments of Maldonado and Canelones.

74. For the sector of company and independent professional service providers, according to statistical figures prepared by the BCU, the provision of legal and accounting services together accounted for 0.7% of the GDP at the end of 2017.

75. The free zone sector represents a percentage ranging from 3.5% to 4.5% of the national GDP, according to data published by the National Statistics Institute, based on the 5th Activity Census published in June 2015. In addition, according to the figures handled by the Free trade zones Area of the Ministry of Economy and Finance, in 2016 exports made through intermediaries amounted to USD 4,103,350,000 and accounted for 28% of the total exports by the country.

⁵ According to the Retail Payment System Report – Second Half of 2018 – BCU. Available at: <https://www.bcu.gub.uy/Sistema-de-Pagos/Reporte%20Informativo/repspagos1218.pdf>

76. The areas with the highest number of companies in 2017 were: Zonamerica Free Zone (48%), Florida Free Zone (15%), WTC (9%), Colonia (7%) and Aguada Park (6%). In terms of revenue volume, the areas with the highest declared income were WTC (51%), Zonamerica (42%), UPM Free Zone, Colonia, Punta Pereira and Aguada Park (2%).

77. During 2017, the casino sector earned revenues of USD 1,526,000,000, while the net return made in the period was USD 204,000,000.

78. In addition to the above, it should be taken into account that, depending on the characteristics of the Uruguayan financial system, regarding its composition, size and transactional volume operated, and particularly due to its status as a regional financial center, and the level of banking of the economy, in terms of materiality, the impact of the financial sector in general in the AML/CFT preventive system is much more significant than the impact of DNFBPs.

79. This element especially impacts when weighting the relative weight of the sectors in the overall effectiveness of the system, mainly as regards the effectiveness of preventive measures.

Structural Elements

80. Uruguay ranks in the first positions of Latin America according to rankings developed by leading institutions on aspects of political stability and democratic soundness. There is also significant institutional stability in the country, where the competent authorities operate independently,⁶ and a high-level commitment to address AML/CFT issues. In this context, structural reforms of its system have been carried out in recent years.

81. In December 2017, the AML Law was passed, which significantly strengthened the ML preventive and repressive system. This law included, among others, the tax crime as a ML predicate offence, expanded the range of RIs in AML/CFT matters, and included all categories of DNFBPs, among other aspects. The legislation does not cover the following predicate offences: (i) environmental crimes, (ii) insider trading, (iii) market manipulation, (iv) piracy and (v) illicit trafficking in stolen goods and other property.

82. In the area of DNFBPs, Regulatory Decree 379/018 of November 2018 was issued, which strengthened, expanded and updated its preventive measures.

83. Moreover, Uruguay substantially amended its CFT legislation in May 2019, by approving Law 19.749 and its Regulatory Decree 136/19. These rules introduced significant changes in the criminalisation of the TF crime, based on the incorporation of new typical behaviours and the

⁶ An example is the case of the Board of Transparency and Public Ethics (JUTEP), which before the public dissemination of information on the abuse of corporate credit cards of the National Administration of Fuels, Alcohol and Portland (ANCAP) by the current Vice-President of the Republic, for an approximate amount of USD 4,000, the JUTEP Board understood it necessary to initiate a procedure that culminated in the issuance of a public statement. Although the Vice-President resigned prior to the publication of the report, its contents were incorporated into the judicial process that culminated in his subsequent indictment.

coverage of all acts of terrorism provided for in the CFT International Convention and its annexed Conventions. The Decree, for its part, significantly expanded and strengthened the targeted financial sanctions regime.

84. Likewise, the criminal procedural system is implementing a paradigm shift in order to optimize the model of criminal prosecution, that is moving from an inquisitorial system to an adversarial system. Both systems still coexist until the transition process is complete. Despite the existence of some cases, this change in the procedural system, coupled with the profound reform of the legal framework and an increased institutional capacity, creates for the country a number of challenges as to how ML/TF cases will be investigated and sanctioned.

Background and Other Contextual Factors

85. According to the Transparency International organisation's study, Uruguay is the Latin American country with the lowest Corruption Perceptions Index and ranks No. 23 among 180 countries in the world.⁷

86. Moreover, according to 2017 NRA, the level of the informal economy in Uruguay is estimated at approximately 30% of the GDP.

87. Uruguay also has a financial inclusion programme, which aims to universalize access to and use of a set of basic financial services by the entire population and businesses. These services include the possibility of access to and effective use of electronic means of payment, as well as the generation of savings instruments and the possibility of access to credit.

88. By the adoption of Law 19.210 on financial inclusion, measures were implemented that increased the level of bankarisation of the population, such as the promotion of the use of electronic means of payment in place of cash, the obligation to pay salaries and professional fees by means of accreditation of payments or payment with electronic money instruments, as well as provisions relating to the implementation of the reduction of up to 4 VAT points for purchases made by electronic means.

89. Amongst the most significant financial inclusion measures established by Law 19.210 - which entered into force in 2018 and 2019-, can be highlighted those which provide that any payment above a figure equivalent to USD 4,000 (including the purchase and sale of real estate and automobiles, the purchase and sale of other property and payment of all types of services), should be made through electronic payment instruments or means. These provisions are intended to promote higher levels of formality in the economy and to improve existing controls, and they contribute to mitigating ML/TF risks, particularly with regard to the acquisition of real estate and other significant risk activities.

Overview of AML/CFT Strategy

⁷ <https://www.transparency.org/cpi2018>

90. Based on the results of the NRA, Uruguay undertook mitigating measures and adopted a National Risk Strategy in early 2018. This strategy identified 16 core objectives, which are aligned with the threats and vulnerabilities identified in the NRAs.

91. Priority was given to legal aspects of ML, national coordination, financial intelligence, criminal investigation and repression, preventive measures and prevention of FT/FPWMD (for more information refer to the analysis of Immediate Outcome 1). The actions envisaged in the strategy are implemented on the basis of good coordination among the competent authorities.

92. The SENACLAFT tracks the degree of progress made by all responsible agencies identified in the strategy. Most of the objectives set out in the National Strategy have a significant degree of implementation. It is worth noting the marked progress that Uruguay has made with the enactment of a number of laws and regulations that has allowed them to update their legislation, including:

- ✓ *Integrated Law 19.574 against Money Laundering ("AML Law"), which incorporated tax crime as a predicate offence of ML and included new sectors of DNFBPs, among other relevant aspects mentioned above.*
- ✓ *Law 19.749 against TF and the application of targeted financial sanctions (TFS) and its Regulatory Decree 136/19.*
- ✓ *Law 19.484 on fiscal transparency of January 2017 and Decree 166/017 of June 2017 on the identification of beneficial owners.*
- ✓ *Financial Inclusion Law 19.210 of April 2014, which limits the use of cash for acquisitions of property starting at USD 4,000 and provides for other relevant measures.*
- ✓ *Law 18.930 of July 2012, on the Regulation of information on bearer's equity interests to the Central Bank of Uruguay (BCU) and Regulatory Decree 247/012 of August 2012.*
- ✓ *Law 19.293 of December 2014 on the approval of the new Code of Criminal Procedure, which entered into force on November 1, 2017.*

Overview of the Legal and Institutional Framework

93. Uruguay established the Coordinating Commission against Money Laundering and Terrorist Financing as the coordinating agency for AML/CFT policies. The Commission was created by Decree 245 of 2007, and it was passed into law with the AML Law.

94. The Commission usually meets 3 or 4 times a year, and it is composed of the following authorities:

- ✓ *Pro-Secretary of the Presidency of the Republic,*
- ✓ *National Secretary of the National Secretariat for the Fight against Money Laundering and the Financing of Terrorism (SENACLAFT),*
- ✓ *Undersecretary of the Ministry of Interior,*
- ✓ *Undersecretary of the Ministry of Economy and Finance,*
- ✓ *Undersecretary of the Ministry of National Defence,*
- ✓ *Undersecretary of the Ministry of Education and Culture,*
- ✓ *Undersecretary of the Ministry of Foreign Affairs,*

- ✓ *Manager of the Financial Information and Analysis Unit (UIAF) of the Central Bank of Uruguay (BCU).*
- ✓ *Chairman of the Board of Transparency and Public Ethics.*

95. The Commission's functions are to promote the development of coordinated actions by the competent authorities, promoting the development and implementation of an information network that contributes to the action of the Judiciary, the Public Prosecutor's Office, law-enforcement authorities, the UIAF and the SENACLAFT. It also aims to enable the production of statistics and indicators to facilitate the periodic review of the system's effectiveness. The Commission may, moreover, appoint Operational Committees in the areas it deems relevant.

96. The SENACLAFT, for its part, is a decentralised body that reports directly to the Presidency of the Republic and is the institution responsible for designing the general lines of action for the fight against ML/TF.

97. The SENACLAFT's tasks include developing national ML/TF policies in coordination with the various agencies involved, proposing to the Executive the national AML/CFT strategy, coordinating AML/CFT policy implementation, coordinating and implementing training programmes, monitoring DNFBPs compliance with AML/CFT standards, entering into agreements with national and international entities for the performance of their duties, and compiling and disseminating regular statistics on the national AML/CFT system, among other actions.

98. Uruguay has several law enforcement authorities involved in AML/CFT matters. The Specialized Courts on the prevention and repression of ML/TF, as well as the Public Prosecutor's Office, act in matters related to criminal prosecutions and investigations. In addition, within the investigative agencies there is the Ministry of Interior, through its different National Units and Directorates,⁸ among which the recent creation of the Directorate of Investigations of the National Police is highlighted, which has national jurisdiction, and the Ministry of National Defence, through the National Naval Prefecture and the Directorate of Strategic Intelligence.

99. In the judicial area, since November 1, 2017 the adversarial system⁹ was established, which replaced the inquisitorial system. In this context, the Public Prosecutor's Office is the authority responsible for the criminal actions. In addition, the UIAF is the national authority that was established to act as a national centre for the reception and analysis of suspicious transaction reports and other information relating to ML and TF, as well as for the dissemination of the results of such analysis.

100. Regarding regulation and supervision, it should be borne in mind that the AML Law was adopted in December 2017, which introduced major reforms to the ML preventive and repressive

⁸ General Directorate for Information and Police Intelligence, General Directorate for Combating Organised Crime and Interpol, Organised Crime Division, Department of Investigation of Complex Crimes, and Department of Financial Crimes, General Directorate for the Repression of Illicit Drug Trafficking, Department of Property Research and Money Laundering, and the National Migrations Office.

⁹ By the adoption of the new Code of Criminal Procedure, Law 19.293 and its amendments.

system. This law included the tax crime as a ML predicate offence, expanded the range of RIs in AML/CFT matters, and included all categories of DNFBPs, among other aspects.

101. In connection with the establishment of new RIs, the AML Law included accountants and lawyers, expanded the list of corporate services covered, including trust services, and incorporated non-profit organisations and indirect free zone users.

Overview of the Financial Sector and DNFBPs

102. With regard to the financial sector, the relevance of the banking sector, which manages the largest volume of funds in the system, is notorious, not only because of its importance in the economy but also because of its exposure to being used for the placement of capitals from crimes committed abroad. Other financial sectors such as securities brokers (stockbrokers and securities dealers) and financial services companies are also relevant to the AML/CFT system.

103. Uruguay's financial sector is made up of 11 banks (2 of them public, state-owned banks and the rest of them of foreign private capital), 1 financial house, 1 financial institution, 1 financial intermediation cooperative and 1 pre-existing savings management company. In addition, 15 major asset credit managers, 24 financial services companies, 6 funds transfer companies, 57 exchange houses and 11 representations of foreign financial institutions operate in the financial market.

104. Moreover, 38 stockbrokers, 30 securities dealers, 11 investment fund managers, 3 stock exchanges, 36 issuers (of which 25 are financial brokerage companies) and 173 investment advisors operate in the securities exchange market. As for the insurance sector, 17 companies are reported.

105. With regard to other DNFBP, with a lower degree of exposure to ML/FT risk, there are 4 casinos in Uruguay, 2 under private administration and 2 under public administration, which operate a total of 36 game rooms (34 under State administration),¹⁰ and 366 entities related to jewelry and art galleries activities.

106. In view of the recent extension of the preventive measures applicable to DNFBPs, these sectors are of particular importance for the safeguarding of Uruguay's AML/CFT system. The real estate and construction sector are an area of attention, given its expansion and participation in the Uruguayan economy, as well as by the different economic agents involved in the activity.

107. In this framework, the sector of company service providers, trustees and independent professionals is also highlighted, which includes lawyers, notaries and accountants, composed of approximately 8,615 professionals, as well as the free trade zones, both operators and direct and indirect users. According to the information gathered, to date there are 14 operational zones, distributed in different departments of the country, in which 1,568 companies operate developing different types of services and activities.

¹⁰ 33 entities are managed by the General Directorate of State Casinos and 1 is managed by the Municipal Intendency of Montevideo.

Overview of Preventive Measures

108. The AML Law contains general preventive measures that should be applied by all RIs. Specific measures, meanwhile, are provided for by the relevant sectoral regulations.

109. In the case of FIs, they are governed by BCU regulations, which detail all the requirements that they should meet. In particular, depending on the sector concerned, the provisions of the Compilation of Regulatory and Control Standards for the Financial System (RNRCFSF), the Compilation of Regulatory and Control Standards for Insurance and Reinsurance (RNRCRSR), the Compilation of Regulatory and Control Standards for the Securities Exchange Market (RNRCSSR), and the Compilation of Regulatory and Control Standards for Pension Funds (RNRCFP).

110. As regards DNFBPs, the provisions of Regulatory Decree 379/018, published in November 2018, are currently in force. The Decree provides for a detailed framework of AML/CFT obligations, which regulates and complements the scope of the AML/CFT Law. The process of elaboration and discussion of the Decree involved consultation with the RIs, in order to contemplate the particularities of the different sectors covered.

111. With regard to the provisions on DNFBPs, it should be noted that prior to the publication of the AML Law and Decree 379/018, Regulatory Decree 355/010 of December 2010 was in place. This decree provided for preventive measures applicable to DNFBPs covered by the previous AML legislation, which were as follows: Casinos, notaries, auctioneers, persons engaged in the purchase and sale of antiques, works of art and precious metals and stones, real estate and construction companies, free zone administrators and users, company managers and persons that conducted transactions on behalf of third parties.

112. Accordingly, Decree 379/018 regulated the new DNFBPs and strengthened the preventive measures applicable to all sectors, including those applicable to the sectors previously covered. In addition, it should be noted that Uruguay decided to incorporate as RIs sectors that do not fall under the definition of DNFBP of the FATF, such as non-profit organisations and operators and users of free trade zones. On the other hand, it should be noted that through of Law 19,566 of 2017 the regime on free trade zones became stricter and the control made by the Free Trade Zones Area was reinforced.

113. In the field of CFT, it should be noted that, in May 2019, a new comprehensive CFT regulatory framework was adopted, through the publication of the CFT Law and its Regulatory Decree 136/19. Uruguay substantially amended its legislation, expanded TF punishable behaviours, incorporated all acts of terrorism under the CFT International Convention, and established a system of targeted financial sanctions on TF and FP.

Overview of Legal Persons and Arrangements

114. The NRA approved in 2017 considered that one of the greatest vulnerabilities was the spurious use of corporate structures and other corporate vehicles to help conducting tax crimes, or other acts of concealment of the beneficial owners' identity, or other actions that tend to establish successive layers of legal persons, abusing of the traditional liberal approach of the jurisdiction in commercial matters, as well as its broad international openness.

115. The country poses an inherently high risk for the placement of proceeds of crimes committed abroad, especially from neighbouring countries, particularly in the banking and real estate sectors, for which legal persons and arrangements are used.

116. Public limited companies with bearer shares, according to the NRA, are the corporate type with the highest risk in relation to ML/TF. It should be noted, notwithstanding the foregoing, that the bearer's equity interests are subject to a specific regime by which their holders should inform being so, and provide other identifying data to the issuing entity, who, in time, reports it to the BCU Registry.

117. In recent years, Uruguay adopted various laws and regulations to strengthen the transparency of legal persons and arrangements, in order to prevent them from being used for illicit purposes, including Law 19.484. Among other measures, this legislation created the beneficial ownership registry in the BCU, under the protection of the UIAF. The information may be shared with competent authorities upon request.

118. The legislation seeks to ensure the identification of the BO and to allow investigative authorities and other relevant authorities to access information in a timely, up-to-date and complete manner, both for the development of local investigations and to respond to international cooperation requests.

119. While the country has made efforts to have legal persons and arrangements communicate basic and BO information to the BCU Registry, there are entities that have not met that obligation.

120. In Uruguay there is a wide range of corporate vehicles. As of December 2018, there are 119,766 persons and legal arrangements, under the following modalities:

- ✓ *Limited liability company (31,463).*
- ✓ *De facto corporation (29,812).*
- ✓ *Public limited company (SA) with nominative shares (26,903).*
- ✓ *SA with bearer shares (22,061).*
- ✓ *Cooperatives (3,845).*
- ✓ *Non-resident entities - foreign legal entities (2,723).*
- ✓ *Agricultural associations and companies (865).*
- ✓ *SA with nominative actions under incorporation (725).*
- ✓ *Trusts (591).*
- ✓ *SA with bearer shares under incorporation (431).*
- ✓ *Limited partnerships issuing shares (120).*
- ✓ *Limited partnerships (113).*



- ✓ SA with book-entry shares (74).
- ✓ Economic interest groups (32).
- ✓ Capital and industry companies (8).

Overview of Supervisory Agreements

121. The supervisor for the financial sector is the BCU, which has AML/CFT regulatory powers. The BCU exercises its supervision through the Superintendence of Financial Services (SSF) over banks and other financial intermediaries, exchange houses, insurance companies, securities exchange market members, pension fund managers and money transfer or remittance companies. The authorisation of the FIs is carried out by the Financial Regulation Agency of the BCU.

122. FI's AML/CFT component is monitored by the UIAF, which integrates the SSF of the BCU, and has specialized personnel. On-site and remote monitoring activities are planned annually based on the outcome of risk matrices and background of previous actions.

123. As regards DNFBPs, the SENACLAFT has been the supervisor since December 2015. Supervisions are carried out by the Audit Department which is made up of 14 experts in auditing. Previously, this function corresponded to the National Internal Audit Office (AIN). The supervision of all DNFBP sectors is particularly challenging, also due to the recent incorporation of some categories of RIs, the large universe of actors involved, and the recent issuance of Regulatory Decree 379/18.

124. As regards legal persons and arrangements, their registration is carried out before the DGR. Meanwhile, the AIN is the body responsible for monitoring compliance with corporate obligations and those provided for by laws 18.930, 19.288 and 19.484, relating to the identification of shareholders and beneficial owners, and their communication to the BCU Registry. It is also for the AIN to impose the corresponding sanctions against the non-compliance.

125. With regard to the activities carried out and the results obtained in the area of BO identification, it is noted that the AIN has the complex responsibility to control that an important universe of legal persons and arrangements communicates the basic and BO information to the BCU Registry, either initially or in relation to appropriate updates, as well as to validate its contents and ensure that it is adequate, accurate and up-to-date. In this context, it is noted that the resources available to the AIN to carry out its duties are limited.

Overview of International Cooperation

126. Uruguay's main threats come from abroad, considering the country's exposure to foreign illicit capital and that it has operated as a regional financial centre, due to the stability and structural conditions of its economic and financial system. In this context, international cooperation is a vital tool for Uruguay to adequately address its ML/TF risks.

127. Uruguay has a legal basis for providing a wide range of mutual legal assistance (MLA) and extradition. The Ministry of Education and Culture is the designated central authority in relation to criminal legal cooperation based on international treaties. In the area of international cooperation, competent authorities adopt a collaborative approach. In general, international assistance is provided on request, and to a lesser extent spontaneously.

128. The UIAF and other competent authorities may provide international cooperation in the field of financial intelligence and investigative matters. Uruguayan authorities frequently use other forms to exchange information such as informal cooperation with other countries. However, as reported by some delegations regarding the exchange of financial intelligence, the time to answer these requests presents opportunities for improvement. Moreover, there is a constructive view of international cooperation in tax matters and in the area of financial supervision.

CHAPTER 2. AML/CFT NATIONAL POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key findings

- Uruguay approved in 2017 a national risk assessment, in which it identified its main ML/FT risks, and the conclusions were reasonable.
- However, in some cases the findings obtained lacked structural supporting information and statistics with respect to certain activities, specifically within DNFBPs, so there is an important opportunity for improvement with respect to data collection to support further analysis to allow the country a more balanced understanding of its ML/TF risks.
- The NRA did not elaborate on the specific risks of each of the DNFBPs. Nonetheless, the SENACLAFT carried out sectoral analysis, which were an important first approximation to know the universe and the respective dimensions of the RIs under its supervision. However, there is a need to continue deepening the identification of the reality of each of these sectors.
- Likewise, although there is agreement with the rating that the NRA assigns to the TF risk, there is no evidence that the TF risks have been analysed in depth.
- As a result of the NRA, the 2017-2020 National Strategy was defined, which foresees a series of actions in order to prioritize the aspects of greatest risk. It is highlighted that the National Strategy is in line with the results of the NRA.
- Most of the objectives indicated in the National Strategy, at the date of the on-site visit, had a significant degree of implementation. It was found that the vast majority of the 59 goals set were met in time or with more than 60% compliance.
- National coordination and cooperation on AML/CFT are sound, with significant political commitment and good operation among competent authorities.
- The understanding of ML/TF risk is adequate in the financial sector; however, DNFBPs have a lower level of understanding.
- Regarding the risk of TF, DNFBPs have a limited understanding.

Recommended Actions

- It is recommended to conduct an analysis that allows the characterization of specific ML risks related to the domestic production of cannabis and the possibility of impact of this economic activity.

- Given the more recent involvement of DNFBPs in the AML/CFT system and the need for in-depth analysis in relation to these sectors, the SENACLAFT should gather specific information in order to deepen the knowledge of the sectors under its scope, in order to improve the application of the risk-based approach.
- Take measures to increase the level of understanding of DNFBPs regarding how ML/TF threats to which the country is exposed can impact on their activities.
- Deepen the analysis of TF risk, particularly in relation to DNFBPs, and make TF analyses more widely available to RIs.
- Based on the recent update of the CTF/CPF legal framework (promulgated by law at the end of the on-site visit), it is considered necessary to strengthen the understanding of the risks regarding this matter.

Immediate Outcome 1 (risk, policy and coordination)

Country's understanding of its ML/TF risks

129. Uruguay has conducted two ML/TF national risk assessments. In 2010, Uruguay's first ML/TF National Risk Assessment exercise was approved through the publication of the document entitled *Report on Systemic ML/TF Risk Assessment of Uruguay*. This work was done with the support of the IMF.

130. Subsequently, in order to carry out a review and update, the process for a second National Risk Assessment in the area of ML/TF began in 2014, which was approved in 2017, with the technical assistance of the IDB. As a result of this work, the 2017-2020 National AML/CFT Strategy was updated.

131. In order to carry out this NRA, data available from 2010 to December 31, 2014 were used. Basically, surveys were conducted of the most relevant financial institutions, as well as interviews with the main authorities linked to ML/TF, in addition to representatives of the private sector.

132. From the findings of the assessment team, in general terms, it is considered that the sources of information with respect to certain DNFBPs, such as free trade zones, real estate sector, company service providers were limited, given that at the date of implementation of the NRA the process for gathering information was being developed. In this sense, at that time some DNFBPs were not RIs and, in the absence of supervision of some sectors that were DNFBPs, no information was available on elements such as: amount of RIs, turnover, business operations, among others. These aspects limited the possibility to deepen the understanding regarding ML risk of DNFBPs. Also, at that time the TF risks and vulnerabilities were not sufficiently considered

133. This work identified the main threats and vulnerabilities of the country in the area of ML/TF, and also established the areas that required the development of priority actions. As a result, the latter NRA determined that the overall risk of ML in Uruguay is medium.

134. The process through which the NRA was carried out followed a mixed methodology, with a substantial empirical and practical basis, reviewing each of the institutional, legal and operational components. This exercise included five working groups to search for and collect data. The working tables were as follows: a) underground economy; b) criminal map and criminal economy; c) institutional quality; d) preventive regime and its risks, and e) corruption. In turn, the results obtained by these working groups were evaluated by the SNAL (currently the SENACLAFT) with the purpose of establishing a map of potential consequences of the analysis of threats and vulnerabilities established in the previous work phase.

135. With regard to threats, the NRA described the external threat posed by international criminal organizations as relevant for the country, particularly those aimed at drug and psychotropic substances trafficking, and, secondly, the threat that the traditional mercantile-liberal approach of the jurisdiction will be used to use its commercial facilities to conceal ownership and tax bases or other types of acts.

136. The NRA concluded that the main predicate offences of ML committed in the country are: (i) Drug Trafficking; (ii) Smuggling; (iii) Human Trafficking and Procuring; (iv) Counterfeiting/offences against intellectual property (copyright); (v) Fraud; (vi) Tax Crime; and in addition (vii) the entry into the Uruguayan jurisdiction of criminal funds generated abroad, especially in neighbouring jurisdictions linked to tax evasion and corruption.

137. With regard to drug trafficking, Uruguay is the first country in Latin America to decriminalize the use of cannabis and to adopt a policy to address the complex social phenomenon of illicit drug use and trafficking, by establishing cannabis control, providing for the lawful planting of domestic cannabis or local production for recreational purposes, in three ways: self-cultivation, cannabis clubs and sale in pharmacies, with prior authorization and supervision by the State. In that context, a supervisory and regulatory authority for the activity was established, the Institute for the Regulation and Control of Cannabis (IRCCA), which has been operational since 2014.

138. Although the NRA analysed the threat of drug trafficking, and the country had adopted the decriminalisation of local production for recreational purposes of cannabis as a way to gain control over the respective market, at the time of this NRA, this activity was at an initial stage, so there is currently no risk assessment that could indicate what risks of ML/TF this activity might represent for sectors such as banking finance, as well as its impact.

139. Notwithstanding the above, the country presented an analytical document with information on the controls in place for authorization of production and commercialization, as well as the due diligence needed for granting licenses for projects for commercial and scientific purposes. The background of the persons who submit projects related to this matter is verified. Also, they are subject to the previous analysis by the SENACLAFT and they have controls for use and commercialization of the product. Likewise, the entire acquisition process is subject to a specific registry, with limits for the purchase per person.

140. Considering what was observed at the time of the on-site visit, in which several RIs made reference to situations related to correspondent banking and the need to suspend the financial

service to pharmacies that legally sell cannabis, it is recommendable to carry out a risk study which allows for the characterization of its ML risks and the possibility of impact of this economic activity.

141. In terms of vulnerabilities indicated in the NRA, the following are highlighted: i) the possible abuse of the financial sector, given the exposure to illicit capital that is intended to be integrated into the Uruguayan system, ii) the real estate and construction sector, because it has historically received significant investments by non-resident customers; iii) the sector of trust and company service providers, and independent professionals, due to the existence of high-impact cases linked to non-resident customers constituting corporate vehicles in the country, iv) free trade zones, which were subject to a limited monitoring and control system.

142. With respect to other vulnerabilities that impact the country's capacity to investigate and prosecute the crimes identified in the NRA, one of the priority actions was the need to use investigation techniques more widely and to develop the process of parallel financial analysis. In addition, the need to expand ML's list of predicate offences was identified.

143. Furthermore, the NRA highlighted the need to improve work in relation to DNFBPs and NPOs, given that, at the time of its approval in 2017, the absence of an effective supervisory and control authority for these areas was verified. In this regard, it is important to point out that at the time of the on-site visit, as a result of the implementation of the National Strategy, a significant part of these deficiencies had been addressed.

144. In this context, and taking into account the deficiencies detected in the NRA in relation to the specific risks of DNFBPs, the SENACLAFT, through its Strategic Analysis Observatory, carried out sectoral risk analysis as part of the important efforts it is making in the process of intensifying the identification of the particular risks of higher risk sectors. These analyses include the following: real estate and construction, company service providers/managers and free trade zones.

145. The sectoral analyses carried out by the SENACLAFT were an important first approximation to know the universe and the respective dimensions of the RIs under its supervision. However, since these analyses were based on structural information of the sectors, there is a need to conclude the process of gathering information in order to identify in greater depth the specific reality of each sector. In this regard, it is important to continue collecting information on items such as the types of customers, amounts of the transactions, services and products they offer, in order to have a more balanced understanding of ML/TF risks and be able to properly define the application of the required mitigating measures.

146. In the financial sector, sectoral risk assessments have been developed, particularly in the banking sector, with the preparation of ML/TF risk matrices. These matrices present two perspectives: (i) intersectoral risk matrix, which compares the level of risk between the most relevant sectors of the financial system in the area of ML/TF; and (ii) intrasectoral risk matrix, which allows mapping inside each relevant sector of the financial system in the area of ML/TF. These matrices were prepared by the BCU with the support of the UIAF.

147. In the case of the securities sector, risk matrices have been prepared for the most relevant activities, with the exception of securities issuers and stock exchanges, while in the insurance sector, although a ML/TF risk matrix was not prepared using the methodology implemented for the other matrices in the financial sector, it can be seen that the risk level of ML/TF for the entities in the sector has been determined by means of a risk matrix based on the CERT methodology, set out in the 7/2013 Minimum Management Standards for Insurance Companies.

148. With regard to TF risk, the development in the NRA was limited, since it indicated that the country has a low risk, on the understanding that the existence of terrorist organizations acting locally had not been identified, nor had it been detected that the Uruguayan financial system would have been used to carry out financial movements linked to terrorist organizations acting abroad. However, there is no evidence that the TF risks in relation to DNFBPs have been analysed.

149. Monitoring processes were reported (including transfers to higher-risk countries) as well as cases of preliminary TF investigations, which were subsequently dismissed for lack of materiality of the offences (see IO.9).

150. The understanding the risk of TF has certain limitations. During the on-site visit, in the framework of interviews, it was observed that some of the authorities in charge of the matter still did not have a clear distinction between TF and terrorism, which may have an impact on the scope of the understanding of the TF risk.

151. For purposes of assessing the specific TF risk NPOs may be faced with, the country undertook work to identify the NPOs with the highest risk exposure, which are then monitored. Likewise, the analysis processes were reported to the NPOs with the criteria to determine those that are most risky and subject to specific monitoring. During the interviews, NPOs evidenced not having a clear understanding of the TF risks and the possible impact on the sector. It would be recommendable to carry out activities to raise awareness for the sector, especially for the segment of NPOs that were identified as being at higher risk.

152. It should be noted that this process is at an early stage of development. Given the recent issuance of a new CFT framework, there is a need to work on the knowledge of the scope of the new legal framework, and, the country should focus its efforts on strengthening knowledge regarding mechanisms for the application of measures and tools available to deprive terrorists and terrorist organizations of resources and means to finance and support the execution of their activities.

National policies to address ML/TF risks identified

153. As a result of the NRA, the 2017-2020 National Strategy was defined, which foresees a series of actions in order to prioritize the aspects of greatest risk.

154. The National Coordinating Commission against ML/TF is the body responsible for evaluating compliance with the actions envisaged in the National Strategy and adopting corrective measures where necessary.

155. It was verified that the Coordinating Commission and the SENACLAFT play an active role in the implementation of the goals and deadlines established in the Action Plan for the 2017-2020 Strategy, from which the priority actions to address the main vulnerabilities identified in the NRA are derived. The assessment team was able to verify the degree of the country's commitment to address the risks it faces in this area.

156. It is highlighted that the National Strategy is in line with the results of the NRA. After identifying the main vulnerabilities, the aspects of greatest risk were established as priorities, among which were the need for legislative amendments: reform of the anti-money laundering legislation, the inclusion of the tax crime as a predicate offence to ML, the expansion of the list of RIs in the DNFBP sector, especially in relation to the provision of professional services, the continuation and consolidation of the process of modifying the offer of Uruguayan legal vehicles, and in particular the declarations of beneficial ownership.

157. Likewise, an important aspect within these priority actions was the need to reinforce public inter-institutional coordination, for which the functions of the commission and the SENACLAFT were strengthened.

158. With regard to criminal investigation and suppression, it was established that there was a need to carry out a procedural and criminal review, to increase the use of investigation techniques and parallel financial analysis, as well as the need to define ML's crime prosecution policies.

159. The authorities have made significant efforts to address these areas, such as the expansion of predicate offences, the regulatory definition of the use of investigative techniques and the establishment of the obligation to develop parallel investigations, including these aspects in the new AML Law. At the time of the on-site visit, given the complexity of these aspects, they still did not have concrete results to assess the effectiveness of these measures.

160. However, the 2017-2020 Strategy defined the need to update the current regulatory framework on terrorism and its financing, carry out a risk analysis of the sector to determine those NPOs that could be more vulnerable and appoint an administrative authority to manage the CFT cycle.

161. In this regard, it should be noted that during the on-site visit the law was enacted, together with a new legal framework against terrorism and its financing, which includes the aspects of targeted financial sanctions and the amendment of the criminal type of terrorism and TF.

162. As a result of the National Strategy, the main vulnerabilities have been addressed. The enactment of a series of laws and regulations has enabled the country to update its legislation, including the appointment of a new supervisor for the DNFBP sectors and the enactment of the AML Law, which expanded the list of predicate offences for ML, including tax offences, and incorporated new DNFBP sectors, such as lawyers, accountants and company service providers, as RIs, the expansion of the list of corporate services covered, including trust services, and the incorporation of NPOs and indirect free trade zone users.

163. Also, the Fiscal Transparency Law (Beneficial Ownership), the Financial Inclusion Law (which limits the use of cash for acquisitions of property), and the law that updated the provisions against terrorism and its financing.

164. At the time of the on-site visit, the assessment team was able to verify that various aspects foreseen in the Strategy have already been executed, and others are in the process of execution.

Exemptions, enhanced and simplified measures

165. Uruguay does not exempt any activity in relation to the implementation of AML/CFT requirements. Based on the NRA analysis, the country was able to identify higher risk activities, which has served as a basis for the establishment of appropriate mitigation measures.

166. At the level of the financial sector, a risk-based approach is applied, based on a sectoral and intersectoral assessment implemented through risk matrices. With regard to due diligence, criteria are defined for the simplification of procedures in some cases considered to be low risk (e.g. linked to financial inclusion) and situations are also envisaged in which the performance of enhanced procedures is required, either for the type of customer or transaction (e.g. PEP) or for amounts (the regulation refers to significant amounts). This makes it possible to establish measures to mitigate those activities detected as being of greater risk and to implement policies in line with them. This is evaluated at the time of on-site supervision.

167. With regard to DNFBPs, the regulations provide for the application of enhanced or simplified CDD for this sector, which will be subject to the customer risk assessment carried out and justified by the reporting institution. In order to achieve effectiveness in this sector of DNFBPs there are opportunities for improvement with respect to increasing knowledge of the risk of each type (beyond the sectoral analyses indicated above), in order to improve the identification of the greatest risks by sector, and thus be able to implement adequate mitigating policies.

Objectives and activities of competent authorities

168. The 2017-2020 National Risk Strategy identified 16 core objectives, which are broadly aligned with the identified threats and vulnerabilities.

- ✓ *Objective 1:* Harmonize the legal framework against ML/TF.
- ✓ *Objective 2:* Use and leverage technological resources to prevent and combat ML/TF.
- ✓ *Objective 3:* Strengthen knowledge of the ML/TF risks the country is exposed to, as well as the policies and measures designed to mitigate them.
- ✓ *Objective 4:* Promote permanent updating of AML/CFT policies and inter-institutional coordination among competent agencies.
- ✓ *Objective 5:* Strengthen the institutional capacities and organizational structure of the financial supervisory body in AML/CFT matters.
- ✓ *Objective 6:* Strengthen the transparency of legal persons and arrangements in order to prevent them from being used for illicit purposes.

- ✓ *Objective 7:* Strengthen the supervisory system for DNFBPs by applying a risk-based approach and promote good practices and due compliance with AML/CFT preventive measures.
- ✓ *Objective 8:* Strengthen ML/TF prevention in foreign trade activities.
- ✓ *Objective 9:* Incorporate the fight against corruption as a fundamental component of the fight against ML.
- ✓ *Objective 10:* Strengthen the capacity to generate financial intelligence.
- ✓ *Objective 11:* Improve the use of the information available at the UIAF and strengthen its access to information.
- ✓ *Objective 12:* Strengthen mechanisms for investigating illicit patrimonies.
- ✓ *Objective 13:* Strengthen the Courts and Specialized Prosecutor's Offices in ML, TF and Organized Crime.
- ✓ *Objective 14:* Strengthen Special Investigation Units.
- ✓ *Objective 15:* Improve mechanisms for the administration of confiscated property.
- ✓ *Objective 16:* Improve international judicial cooperation procedures.

169. At the date of the on-site visit, most of the objectives indicated in the National Strategy had a significant degree of implementation. The stages of legal amendment of the ML offence and the offences associated with terrorism and its financing are complete. Aspects related to the strengthening of competent authorities are in the process of execution. Of the 59 goals set, 41 were met (or are in the process of being implemented within the planned timeframe) which is equivalent to 69.5%. Meanwhile, 10 goals were more than 60% completed (17% of the total); 6 were between 20% and 59% completed (10% of the total) and 2 were not completed (3.5% of the total).

170. It is worth to highlight the diverse measures presented to face the threat of using the Uruguayan financial market and corporate structures for the placement of illicit assets coming especially from neighbouring countries, exploiting the traditional mercantile-liberal approach to conceal titles and tax bases or other types of acts in their jurisdictions of origin.

171. In this context, various laws and regulations have been adopted in recent years to: strengthen the transparency of legal persons and arrangements, including the creation of a registry for beneficial ownership information; limit the use of cash in transactions above the USD 4,000 threshold; and restrict the opacity of public limited companies with bearer shares.

172. As part of the updating of the AML legal framework, the establishment of new RIs, including accountants and lawyers, the expansion of the list of corporate services covered—including trust services—and the incorporation of NPOs and indirect users of free trade zones are highlighted. It should be noted that the SENACLAFT was designated in 2016 as the regulatory and supervisory authority for DNFBPs and, at the time of the on-site visit, it was at the stage of identifying the particular ML/TF risks of these sectors by conducting specific strategic analyses.

173. In addition, the revised legal framework included the expansion of the list of predicate offences for ML/TF, highlighting the tax crime as a predicate offence for ML, and reinforcing the obligation to conduct parallel investigations. However, concrete results are still required in the

proactive approach to ML risks in accordance with the main risks identified in the NRA, particularly in the area of ML investigations.

174. In turn, the country has developed mechanisms to investigate and prosecute TF activities. In this regard, the creation and work of the Working Group on TF and FPWMD, which is coordinated by the State Strategic Intelligence Secretariat (SIEE) and the SENACLAFT, is highlighted.

National cooperation and coordination

175. Uruguay established the Coordinating Commission against ML/TF as the coordinating body for AML/CFT policies. The ML/TF Coordinating Commission is a high-level body, created by the Council of Ministers through Decree 245/007 of July 2, 2007 and subsequently adjusted by Decree 146/012 of May 2, 2012. As a result of the NRA, its strengthening was considered as one of the established objectives. In this context, the Commission had its powers established in specific legislation (AML Law), granting its competencies legal rank.

176. The Coordinating Commission meets periodically three to four times a year to monitor the status and general functioning of the preventive system and to analyse aspects of AML/CFT policies and strategies.

177. The Commission is composed of:

- Pro-Secretary of the Presidency of the Republic
- National Secretary of the SENACLAFT
- Undersecretary of the Ministry of Interior
- Undersecretary of the Ministry of Economy and Finance
- Undersecretary of the Ministry of National Defence
- Undersecretary of the Ministry of Education and Culture
- Undersecretary of the Ministry of Foreign Affairs
- Director of the Financial Information and Analysis Unit
- Chairman of the Board of Transparency and Public Ethics

178. The SENACLAFT serves as the secretariat of the Commission and is the institution responsible for designing policies to combat ML/TF. The SENACLAFT has been strengthened in relation to its powers.

179. There is good coordination in the area of AML/CFT; Uruguay has committees where the authorities cooperate and coordinate the development and implementation of policies and activities to deal with ML/TF/PWMD. The following are currently in operation: i) Legal working group; ii) Working group on TF and PWMD; iii) Operational committees for relations with reporting institutions; iv) Operational committee for updating the regulations in force on ML/TF; and v) Committee for defining the strategy for implementation of Resolution 1540.

180. It should be noted that the Working Group on TF and PWMD began operating on August 17, 2018, composed of all the State intelligence agencies, the UIAF, the SENACLAFT, the Ministry of Defence, the Ministry of Interior, the Ministry of Education and Culture, the National Drug Secretariat, and is coordinated by the recently created SIEE and the SENACLAFT. The work of this group and the identification of risks is fundamental to prevent TF in the country.

181. National coordination and cooperation on AML/CFT matters is sound. Uruguay has a policy that to a large extent addresses the main ML/TF risks identified, and its competent authorities have objectives and activities in place aimed at mitigating the risks identified.

Private sector risk awareness

182. The development of the NRA involved the participation of some of the most relevant representatives of the private sector, together with the main authorities linked to the ML/TF, and for its disclosure a dissemination policy was applied as follows: i) full version for the authorities, and ii) version for the general public.

183. The NRA has been disseminated together with the objectives of the National Strategy approved for the period 2017-2020. To this end, the SENACLAFT held meetings and workshops for both the competent authorities and the main RIs. In addition, a summary of the NRA and the Strategy have been published and are available on the SENACLAFT's website, which is accessible to the general public.

184. After the publication of the NRA and 2017-2020 Strategy summary, the authorities led by the SENACLAFT began an exhaustive process of dissemination of the results to the private sector, including talks and workshops both in the capital and in the interior of the country, which was confirmed by the assessment team during the on-site visit, given that in general the RIs were aware of the results of the NRA and agreed that they are in line with the country's ML/TF risks.

185. Likewise, the authorities have had an approach with the private sector in the carrying out of consultations and prior participation of the RIs in the financial sector and DNFBPs for the issuance of new regulations based on risk (AML Law, Decree 379/018 and BCU regulation).

186. During the on-site visit, it was observed that the understanding of the ML/TF risks of the private sector is unequal, although they referred to having knowledge of the main threats in accordance with the NRA, some RIs have yet to deepen the understanding of how these ML threats interact with their business activity.

187. Given that the involvement of DNFBPs in the AML/CFT system is at an asymmetrical level of awareness, it is considered necessary that the authorities continue to conduct sectoral analyses, so that they have a greater understanding of the specific risks of their products and transactions in order to apply appropriate mitigation measures and achieve a better understanding of AML/CFT obligations by the sectors.

Conclusions on Immediate Outcome 1

188. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES*Key Findings and Recommended Actions****Key findings******Immediate Outcome 6***

- The structure of the UIAF allows for analytical work to generate quality financial intelligence that is disseminated to the investigating authorities.
- The UIAF produces strategic analysis reports for internal and external use and developed a handbook of best practices for the elaboration of STRs, as well as a methodology for assessing their STRs quality. The UIAF also implemented a feedback process with the RIs.
- The number of financial intelligence reports spontaneously produced and reported is somewhat limited.
- The work carried out by interdisciplinary groups, composed of all law enforcement authorities in relevant investigations, especially the UIAF, the SENACLAFT and the Technical Forensic Institute of the Judiciary, which assist in property investigations, is valuable.

Immediate Outcome 7

- The criminal justice system is implementing a paradigm shift that is changing from the inquisitorial system to the adversarial system in order to optimize and strengthen the model of criminal prosecution. While this is a positive change, it can generate challenges in terms of implementation and investigation.
- Uruguay has a specialised jurisdiction in the area of organised crime, in which judges and prosecutors act with a high level of specialisation in AML matters.
- As for the investigation of ML crimes, there is good coordination among the agencies that are part of the system.
- The country presents the good practice of forming interdisciplinary groups in the relevant ML investigations, which favour the agile development of investigations and the identification of criminal property.
- There are limitations in the development of proactive parallel financial investigations.
- The number of investigations, prosecutions and convictions for ML is limited.
- To a certain extent, ML cases prosecuted are consistent with the higher domestic risks identified in the NRA. As of the date of the on-site visit, there are no ML convictions involving tax crime, counterfeiting and offences against intellectual property (copyright).
- Notwithstanding this, it should be noted that there have been, and there are ongoing ML judicial investigations that link company service providers and other professionals, and ML prosecutions and convictions have been issued, where the use of corporate structures was

verified. Accountants, notaries and real estate agents were convicted. There were also cases where lawyers were prosecuted.

- Uruguay has made significant efforts to obtain relevant information to assist investigations in cases related to corruption abroad.

Immediate Outcome 8

- Uruguayan authorities demonstrated an understanding of the importance of confiscation of property and assets related to ML and predicate offences, and an institutionalized culture of searching for proceeds of crime for confiscation purposes is verified to some extent.
- Uruguay seizes and confiscates assets resulting from ML of predicate offences committed abroad. In this regard, Uruguay presented several emblematic cases in which the predicate offence was committed abroad, especially involving neighbouring countries (Brazil and Argentina).
- There is no evidence of requests for seizure or confiscation of assets located abroad from ML cases initiated by investigations in Uruguay.
- Uruguay imposed fines for omission or false declaration before the National Customs Authority (DNA) in the transportation of values across the border in an amount in excess of USD 10,000. The Fund of Confiscated Property (FBD) reports a total of 49 fines, worth more than USD 1 million.
- In general, confiscations have a relative correlation with the risks identified. However, there are no ML convictions involving a tax crime, nor are there any domestic investigations that led to seizures or confiscations linked to some of the main risk sectors, such as free trade zones.

Recommended Actions

Immediate Outcome 6

- Strengthen the UIAF's resources and operational capabilities to allow the increase in the production and dissemination of spontaneous financial intelligence to the Public Prosecutor's Office.
- Increase the number of investigations related to the risk sectors identified in the NRA, such as: corporate services, real estate, free zone (indirect users) and financial sector.
- Continue actions that allow the UIAF to receive STRs electronically from all RIs.
- Strengthen the UIAF's operational capacities in order to enable it to cope with the growth of activities due to the increase in the number of new RIs.
- Strengthen the UIAF's Strategic Analysis operational capacity so that it expands the development of products to guide the work of both competent authorities and RIs.
- Assess the vulnerabilities related to the dissemination process of the UIAF's financial intelligence and consider the adoption of measures to ensure their strengthening.

Immediate Outcome 7

- Continue working on the proper implementation of the accusatory system.
- Continue with the progressive strengthening and training of law enforcement authorities in the investigation and prosecution of ML.

- Promote and strengthen the development of proactive parallel financial investigations.
- Increase the number of ML investigations, particularly those related to other high-risk predicate offences, such as domestic and foreign tax crimes, and to particularly vulnerable sectors in ML matters.
- Strengthen the enforcement of sanctions for ML offences.

Immediate Outcome 8

- Requests for cooperation relating to seizures and confiscations of property abroad linked to predicate offences committed in Uruguay should be increased.
- Uruguay should conduct seizure and confiscation related to ML cases whose predicate offence is the tax crime.
- Uruguay should generate seizures or confiscations linked to investigations of some of the main risk sectors, such as free trade zones and company service providers.
- Strengthen the statistical system on confiscation.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4 and R.29-32.

Immediate Outcome 6 (ML/TF financial intelligence)

Use of financial intelligence and other information

189. The UIAF is the national authority responsible for receiving STRs. The UIAF is made up of a strategic analysis division, made up of 1 team leader and 2 analysts, and an operational analysis division, made up of 1 team leader and 8 analysts.

190. The UIAF has access to various databases and information sources. It should also be noted that the UIAF manages the beneficial ownership database. The sources of the agency’s information are indicated below whether they are databases of other public agencies or information from RIs.

191. The UIAF has been able to work with the information contained in STRs provided by the RIs to transform them into financial intelligence. For the preparation of the financial intelligence, the UIAF has several databases that allow it to add value to the information in the STRs. Below, the available databases and information:

Table 1. Databases of public bodies that can be accessed by the UIAF

Entity or database	Access Method	Description
General Tax Directorate	Direct	Information on natural and legal persons registered with the DGI, tax returns
National Customs Authority	Direct	Export and import information Affidavits of private values transportation
General Directorate of Registries	Direct	Registration data of commercial companies
Ministry of Interior	Direct	People’s background, migration movements

General Registries	Directorate of	Requirement	Property and vehicles related to people investigated
National Internal Audit Office		Requirement	Registry of Accounting Statements of Commercial Companies
		Requirement	Background on the constitution and changes to public limited companies
Banco de Previsión Social		Requirement	People's work history
SUCIVE		Requirement	Vehicle registration data
National Laundering Secretariat	Anti-Money	Requirement	Registration of real estate and vehicles

Table 2. UIAF Information Source Matrix

Inventory of information sources for the development of financial investigations and Strategic Analysis				
Entity or Database	Access Method	Description	Data on legal and natural persons	Data on assets and fund movements
Financial intermediary institutions, financial service companies and exchange houses, securities dealers	Electronic request	Information on the existence of products, customer knowledge, monitoring performed, background information and proof of transactions	Name and surname Corporate name Identification Address Telephone References Occupation and economic activity	Financial products Link to companies Foreign Trade
Insurance companies	Electronic request	Insurance policies (vehicles, real estate property)		Real Estate Vehicles Link to companies
AFAP	Electronic request	Information on companies that make provisional contributions for individuals	Occupation and economic activity	
Notaries	E-mail request	Information on participation in transactions that involve real property of investigated individuals, customers knowledge, monitoring performed, background information and proof of transactions	Occupation and economic activity	Real Estate Link to companies
Companies administrators	E-mail request	Business companies related to investigated individuals	Name and surname Corporate name Identification Address Telephone References Occupation and economic activity	Link to companies



Casinos	E-mail request	Transactions conducted by investigated persons	Name and surname Corporate name Identification	Movement of funds
Real Estate Companies	E-mail request	Information on the participation of transactions that involve real property of investigated individuals, customers knowledge, monitoring performed, background information and proof of transactions	Name and surname Corporate name Identification Address Telephone Occupation and economic activity	Real Estate Link to companies
Sidelav	Direct		Background information on investigations on STRs and other cases	Link to companies
Centralized database	Direct	Financial transactions automatically reported	Name and surname Corporate name Identification Address	Financial products Movement of funds Link to companies

192. For the analysis of STRs, the UIAF has created a procedural handbook in which it includes the steps that lead to the Financial Intelligence Report and subsequently to its dissemination to investigative authorities or its filing in the database. The same handbook defines the steps for ex officio analysis by the UIAF and communication with RIs.

193. Suspicious transaction reports submitted by RIs are strengthened with other reports that add value to the intelligence report prepared by the UIAF, including systematic transaction reports, savings account reports, deposit and custody account reports, and electronic money instruments.

194. In addition, other documents and institutions support the UIAF’s analyses, such as the database available at the BCU (Risk Centre and Registry of Senior Personnel and Entities), the database of the DGI, DGR and the DNA, in addition to migration control documents and police and judicial background documents.

195. The strategic analysis area has the task of preparing red flags, typologies, behaviour patterns, detecting new developments and evaluating new risks. In this sense, the UIAF develops different strategic analysis products, either for internal or external use, which are published or disseminated to competent authorities and RIs. The work of this area and its products are exemplified below.

196. The UIAF prepares the "Annual Report of the UIAF", which presents statistical information on the different activities of the organization, particularly on national and international cooperation, information on the STRs received, among other aspects. The UIAF produces statistical analysis from the information in its databases. In these reports, an aggregate monitoring of all RIs is carried out, historical comparisons are made in levels of reports in amounts and equivalent amount dollars with a focus on the detection of unusualities, historical variations in levels of reports

are analyzed. Rankings are also prepared on the largest reporters per year, with charts and detailed analysis by type of operation.

197. The aforementioned analysis are complemented by a segmentation analysis of the monthly centralized database, which allows the cross-linking of information with external data (example: lists of high-risk or non-cooperating countries), the segmentation of operations by tranches of amounts, the graphic display of the dispersion diagram, the operations of greater economic significance, among others.

198. Within this framework, the UIAF carried out an analysis of the database of beneficial ownership, in which it sought to identify those names that are repeated many times as BO. In that first instance, a threshold of 10 entities was taken, and as a result it was obtained a universe of 377 individuals who declared themselves to be BO of 10 or more entities. This information was being analysed to determine possible deviations or elements that require greater scrutiny.

199. Among the relevant products of strategic analysis, it is mentioned the report on the declarations of cross- border transportation of values made by financial institutions, in which the movements of entry and exit of cash, precious metals and other monetary instruments are analyzed. This product determines trends in value movements and detects significant changes that could show a greater risk of ML/TF for institutions.

200. In turn, the UIAF has developed guidelines on red flags for RIs, including products on corporate service providers and on the prevention of tax crime.¹¹

201. On the other hand, the joint work between the strategic analysis area of the UIAF and the SENACLAFT is verified in the work of mapping, identification and outreach of the RIs in the most different incorporated sectors.

202. Regarding financial intelligence analysis work, the UIAF produces financial intelligence spontaneously as well as upon request of judicial authorities. In the first case, after receiving a STR, exhausting its analysis and verifying that there are sufficient elements of conviction to consider that an illegal behaviour was committed, the UIAF disseminates the IIF produced to the Public Prosecutor's Office.

203. The UIAF also produces IIF at the request of the judicial authorities, within the framework of the criminal investigations carried out by them. Between 2014 and 2018, the UIAF disseminated a total of 131 financial intelligence, including both categories.

204. In the period under review, the UIAF forwarded to the Public Prosecutor's Office a total of 44 financial intelligence reports, which reflected the information contained in 138 STRs. In 21 of these cases, provision was made for the prior freezing of funds for a total of USD 4,934,340.

¹¹ Available in:

<https://www.bcu.gub.uy/Comunicados/seggco18293.pdf>

<https://www.bcu.gub.uy/Comunicados/seggco18294.pdf>

205. In the same period, however, the UIAF issued 87 financial intelligence reports at the request of the competent judicial authorities. The main objective of these reports is for the competent authorities to obtain information on the use that the persons under investigation have made of the various financial products and the amounts involved, as well as the link with corporate structures, in order to have indications and quantify the funds that could be originated in any criminal activity under investigation, among other relevant elements.

206. Regarding the dissemination of the financial intelligence, the UIAF produces the report and sends it to the legal services of the BCU so that it can proceed with its submission to the respective prosecutor or judicial authority. The financial intelligence is not subject to consultation or analysis by the legal service of the BCU. Its intervention is necessary only for the purpose of transmitting it to the competent authority. Notwithstanding the foregoing, it would be advisable to assess the vulnerabilities related to this dissemination mechanism, and to consider strengthening the respective process.

207. In addition, the UIAF responds to specific information requests submitted to it by the Judiciary, often within the framework of its activity within interdisciplinary groups formed in judicial cases. Between 2014 and 2018, the UIAF answered 597 information requests from judicial authorities.

208. Judicial requests correspond mainly to information requests related to bank secrecy, registration of equity interests' holders and BO. According to the Public Prosecutor's Office, this information is of great importance for the development of investigations.

Table 3. Number of spontaneous financial intelligence reports produced by the UIAF and judicial requests answered

	2014	2015	2016	2017	2018	Total
Disseminated Spontaneous Intelligence Reports	7	13	11	4	9	44
Number of STRs included in the Spontaneous Intelligence Reports disseminated	11	51	25	14	37	138
Judicial requests answered	80	98	132	146	141	597
Participation in multidisciplinary groups before the Judiciary	--	24	35	13	15	87
TOTAL	91	173	192	173	193	N/A

209. As described in IO.7, in the investigation of complex crimes, the Judiciary forms multidisciplinary inter-institutional investigation support groups. These groups are made up of officials from various competent and investigative authorities, who cooperate and exchange relevant information in an expeditious manner in order to optimize the conduct of the investigation.

210. In this sense, in accordance with RI 7, several examples of complex cases in which multidisciplinary teams were formed, with special participation of the UIAF in the provision of financial information, are included in the information provided by the country. It was possible to verify the participation of the UIAF in the formation of these multidisciplinary teams in the 22 cases presented (some in the processing stage and others with a firm conviction).

211. Within the framework of these groups, the UIAF produces and shares financial intelligence, which provide useful elements for the identification of persons and property involved in the criminal behaviours under investigation. This information has been positively valued by competent authorities and has been used to generate evidence and trace criminal assets.

212. To prove the use of financial intelligence, Uruguay provided examples of cases that were sentenced as a result of financial intelligence provided by the UIAF. As examples of complex cases in which financial intelligence information is included, the following are highlighted: Operation Anambé, Fifagate, Operation Los Cuinis, Gran Chaparral, Estafa De Los Turcos, IUE 107-171 / 2010, Cigarette Smuggling from Paraguay, Error Scam Computer, White Operation, Trafal Operation, Camellia Operation, Las Cuevas Operation, Empire Operation, Polar Cold Operation, among others. Below is a more detailed description of some cases:

Chart 1. OTE / SIEMENS Case

UIAF informed the court that the spouses C.K. and M.K., both Greek citizens, opened a bank account in Uruguay, in which they received transfers of USD 3,300,000 and Euros 2,500,000 from a M.K. account in Cyprus during 2008. In 2009, transfers were made from the account to various Uruguayan and Panamanian commercial companies, by means of which a property was finally acquired in the city of Punta del Este, Uruguay, for a value of USD 450,000. According to the investigation of the UIAF, it was determined that C.K. was the beneficial owner of all the commercial companies involved, and that he had created the corporate and financial framework to convert and transfer the money coming from illegal activities committed by him in Greece against the public administration, where he is also a fugitive from justice, all activities indicative of alleged ML.

Meanwhile, in June 2009, a summons was received from the Greek judicial authorities requesting the arrest for extradition of C.K., who was fugitive and accused of bribery and fraud against the public administration.

As a result of the investigation and financial intelligence information provided by the UIAF, and considering that the accused was a fugitive, in May 2016 the judicial authority ordered the full confiscation of the sums of money frozen and of the respective property.

Chart 2. Case IUE 567-77/2018 - “Fraud of the Turks”

The UIAF presented an IIF to the Specialized Prosecutor’s Office for Economic and Complex Crimes, after detecting that the Turkish citizen M.A., who later turned out to be a member of a criminal organization dedicated to fraud manoeuvres in Turkey, as well as other natural persons in his environment (both Turkish and Uruguayan) acquired high-value real estate and personal property in Uruguay, in addition to having bank accounts in various local FIs, in which the reception of a large number of international transfers was verified, both in quantity and in amounts. Approximately USD 8,000,000 would have been moved in this way.

As part of the investigation, the UIAF used its prerogatives to freeze funds for up to 72 hours. The specialized Prosecutor’s Office established a multidisciplinary team composed of various public agencies (SENAFLAFT, UIAF, DGI, BPS and D.G.L.C.C.O. and Interpol - Financial Crimes Investigation Department), requesting the Organized



Crime Courts Office to lift the respective secrets. The designated team formulated the economic-financial report requested by the Prosecutor's Office during the preliminary investigation stage.

As a result of the proceedings, by means of an abbreviated process and within a period of 6 months, the defendants were convicted under the charge of ML.

Chart 3. Case IUE 2-37467/2015 - "Operation Los Cuinis"

The OFAC included Mexican citizen W.D.A.A. on the list of Specially Designated Drug Traffickers for providing financial support and services to the Mexican drug trafficking organization Los Cuinis and its leader A.G.V., which was informed to the criminal justice system by the UIAF.

The UIAF provided the judicial authorities with an IIF and informed that the aforementioned, as well as other natural persons from their family and close friends, had used Uruguayan and Panamanian legal persons to acquire personal and real property of high economic value, and that they had a bank account in a local FI. In this way, they would have moved approximately USD 10,000,000 in Uruguay.

The UIAF used its prerogatives to freeze funds for up to 72 hours. The judicial authorities established a multidisciplinary team consisting of the SENACLAFT, the UIAF and the ITF. On the basis of the information provided, the investigated persons were prosecuted on charges of ML and/or assistance to ML. The case is currently pending (the prosecution filed the indictment).

Chart 4. Case IUE 2-375/2014 - "Fifagate"

Several Uruguayan first division football clubs and the Mutual of Professional Players filed a complaint against several members of Conmebol for the presentation and approval of fraudulent balances. The mechanism used was that the company "T&TS.", represented by A.B. (Argentine) and E.R. (Brazilian), acquired rights at a lower price than the corresponding one, and then transferred them to the companies "F.S." and "R.G." at a much higher price, benefiting illegitimately, among others, J.G. (Argentine, former vice president of FIFA-, now deceased) and E.H.F.A. (Uruguayan, president of Conmebol and vice president of FIFA). The football clubs did not ratify their complaint, alleging pressures, threats of sanction and suspension. However, the Mutual of Professional Players ratified the complaint.

In 2015, a request was received from the United States Department of Justice requesting judicial cooperation in relation to the investigation it was carrying out for the alleged acts of corruption involving members of FIFA and various companies. At the same time, E.H.F.A. was arrested in Switzerland at the request of the US authorities for extradition purposes. Given these facts, the Uruguayan Justice also appealed to Switzerland, requesting the extradition of E.H.F.A., stating that, when he was arrested in that country, Uruguay was already investigating him. Extradition was granted to Uruguay, and after completing the eventual criminal offense in the country, he should be extradited to the United States. E.H.F.A., with the money illegally obtained, used companies and invested in real estate, acquiring several properties in the departments of Montevideo and Maldonado, or taking part in projects mainly of the construction company "WSW". Likewise, through cash contributions from abroad through exchange offices, with which he built a hotel and bought an adjacent land, investing USD 3,000,000.

The UIAF send financial information for the investigation and used its prerogatives on the immobilization of funds for up to 72 hours. The judicial authorities ordered the creation of a multidisciplinary team composed by the SENACLAFT, UIAF and ITF. As a result of the investigations, Uruguay proceeded to convict a person fraud with a continuing crime of ML.

213. The structure of the UIAF allows for analytical work to generate quality financial intelligence that is disseminated to the investigating authorities. However, the number of financial intelligence reports spontaneously produced and reported is somewhat limited and presents

opportunities for improvement. It should be noted that, according to the information analysed, most of the financial intelligence reports of the UIAF are produced within the framework of judicial cooperation requests.

214. The UIAF shares financial intelligence that contain relevant and accurate information at the request of the competent authorities. Despite the relevant cooperation with judicial authorities, since the UIAF has made limited spontaneous dissemination, the assessment team considers that there are significant opportunities for improvement to expand the use of financial intelligence in investigations of AML/CFT offences.

STRs received and requested by competent authorities

215. The UIAF receives STRs from RIs and systematic reports on various financial transactions as described in R.29.

216. STRs are sent by two means: electronic or paper. Financial sector RIs submit STRs through the fully digital centralised information system. DNFBPs, on the other hand, submit STRs in physical format, but are also migrating to the digital system. Once an STR is entered into the centralized information system, it is automatically loaded into the case management software used by the UIAF which is called "SIDELAV".

217. The SIDELAV system provides, among others, the following functionalities: management of all cases analysed by the Unit (STRs, court orders, FIU requests, ex officio investigations and other types of cases); assignment of cases to analysts and their follow-up; definition of priorities in STR analysis; direct queries to UIAF databases; activation and management of alerts; evaluation of STR quality; profiling of users (Manager, Chief, Analyst, Inspector), which determines the level of access to data and cases and the powers to resolve a case. It is important to point out that all the background information of the analysed cases is incorporated into the system. The system also provides traceability of the actions carried out by users.

218. According to the information gathered, in cases where DNFBPs present the report in a physical manner, the document is delivered by the reporting institution in a sealed envelope directly to UIAF staff who formally register it with the agency and then digitize it. This process may show certain vulnerabilities, since it does not necessarily fully guarantee the confidentiality of the information from the time it is issued to the time it is received by authorized personnel of the UIAF. Notwithstanding the foregoing, the UIAF is working on the process of migration to the online reporting system, with an expected completion by the end of 2019.

219. Within this framework, it should be added that the registration of some DNFBPs, particularly those recently incorporated by the AML legislation, is in the implementation stage.

220. According to data provided by the UIAF, from 2014 to 2018, they received a total of 2,475 STRs, 75% of which come from the financial sector, 23% from the DNFBP sector and 2% from other sources.

221. The financial sector is composed of 15 sub-sectors which have reported a total of 1,857 STRs, where the banking sector files approximately two thirds of the STRs received.

222. The DNFBP sector is composed of 10 sub-sectors (that cover a good part of the riskiest RIs, among them: company service providers, real estate sector and free trade zones) and sent a total of 573 STRs in the same period. It should be noted that casinos are the largest providers of STRs, with a total of 181.

223. The RIs identified by the NRA as posing the greatest risk in the DNFBP sector (including company service providers, the real estate sector and free trade zones) submit a limited number of STRs to the UIAF. Over the past five years, company service providers have filed 113 STRs, real estate providers 68, building companies 8 and free zone operators only 16 STRs. With regard to the STRs of the free trade zones, it should be noted that some companies that provide exclusive financial services within these zones issue STRs but are counted within the financial sector. From 2015 to 2018 the entities mentioned sent a total of 72 STRs.

224. The UIAF provides feedback on the quality of reports to FIs, and shares with the SENACLAFT statistical information on the quantity and quality of reports it receives from DNFBPs. The UIAF prepares an annual report analysing the quality of the STRs received, which serves as a basis for defining the RIs that will be subject to feedback and the aspects that the respective feedback will focus on. In general, UIAF authorities mention that they are satisfied with the quality of STRs received.

225. The UIAF also requests additional information from the RIs to supplement or broaden its analysis. In the last 5 years (2014 - 2018) the UIAF made 1,646 information requests, representing an average of 329 requests for additional information per year. These information requests correspond to requirements arising from analyses in the framework of the analysis of STRs, judicial requests (most of the requirements), ex officio analysis and requests from other foreign FIUs.

Table 4. Number of information requests sent by the UIAF to RIs (2014 to 2018)

Year	Number of requests to RIs
2014	226
2015	314
2016	369
2017	367
2018	370

226. In order to strengthen the quality of STRs, the UIAF has a good practice document for the preparation of STRs, in which it explains to RIs the importance of reporting suspicious transactions based on parameters of accuracy, reliability and timeliness.

227. In addition, the UIAF routinely carries out feedback processes with RIs, where it provides them with detailed feedback on the characteristics of the reports they issue and how they can be improved.

228. Furthermore, UIAF officials participate in events and trainings aimed at RIs, where they explain the quality parameters that the reports should meet. This feedback is valued positively by the RIs and helps to improve the detection of suspicious transactions and the analysis of information.

229. The general volume of STRs received is considered reasonable. The UIAF provides feedback to RIs. However, given that some DNFBP sectors were recently incorporated into the system, there is a need to increase the number of STRs, especially in sectors considered to be of higher risk.

230. With respect to the resources and operational capacity of the UIAF, it is relevant its strengthening in order to ensure that the challenges entailed by the increase in powers, such as, for example, the maintenance of the growing trend in the number of STRs, the existence of new RIs, the incorporation of new predicate offences that suggest that the number of STRs will increase even more, and the growing supervision of DNFBPs, which may increase the number of STRs submitted by them.

Operational needs supported by the analysis and dissemination of FIU

231. In addition to the financial intelligence provided at the request of the judicial authorities (described above), one of the most important work processes, as evidenced by the on-site visit, is the UIAF's participation in multidisciplinary working groups to support judicial investigations.

232. The judicial authorities invite the UIAF to participate in multidisciplinary working groups in support of the investigation, made up of relevant investigative and law enforcement authorities, with the objective of strengthening investigations of complex cases, based on cooperation and the expeditious exchange of information among its members.

233. Within this framework, the UIAF supports and advises on the search for relevant financial information (bank accounts and account movements) and on financial analysis. The work is conducted jointly and with the support of the Technical Forensic Institute of the Judiciary.

234. In a second stage, the cases are discussed in the joint working groups. The UIAF has actively participated from 2015 to 2018 in a total of 56 cases in which multidisciplinary groups were formed. The support of the UIAF is also relevant in the freezing of assets when cases under investigation require it.

235. According to the information gathered, the Public Prosecutor's Office and the judicial authorities are satisfied with the quality of the financial intelligence produced by the UIAF and consider that they are complete and add value to their investigations.

Table 5. Multidisciplinary working groups integrated by the UIAF



Year	Number of Working Groups
2015	19
2016	20
2017	7
2018	10
Total	56

236. According to the information gathered, the judicial authorities are satisfied with the quality of the cooperation provided by the UIAF, both in assistance upon request and in the framework of multidisciplinary groups.

237. With regard to TF, the UIAF forms part of the TF Working Group, which is also made up by the SENACLAFT, the SIEE, the CENACOT: National Counter-Terrorism Coordination Centre; the DGIIP: General Directorate of Police Information and Intelligence; DGLCCOI: General Directorate for The Fight against Organized Crime and Interpol; the GRIA: Customs Response and Intelligence Group; the CGE: Army General Command; the CGA/ DIVIN-N2: Navy General Command, Prefectural Investigations Division, Navy Intelligence and the CGFA/SIFA: Air Force General Command, Air Force Information Service.

238. The tasks of the TF Working Group consist of exchanging relevant information, monitoring threats, analysing risks and coordinating actions to mitigate them.

239. With regard to Terrorist Financing (TF), the General Directorate of Police Information and Intelligence has conducted four preliminary investigations, of which two were presented by the UIAF.

240. The first case presented by the UIAF was in 2010 related to a citizen of Colombian nationality, related to an organization, which at that time was considered terrorist. This investigation was finally dismissed for lack of materiality.

241. A second case was developed in 2018 in relation to a citizen from a high-risk area, residing in Uruguay, allegedly identified on the UNSC list. After all the investigations, it was found that it was a false positive.

Cooperation and exchange of information/financial intelligence

242. The UIAF has entered into various cooperation agreements with domestic competent authorities. Through these agreements, the UIAF exchanges information with various state bodies, including: BCU (Risk Centre and Registry of Senior Personnel and Entities), DGI, DGR, DNA, SENACLAFT, as well as law enforcement authorities. In addition, the UIAF is a member of the TF Working Group, as described above.

243. With regard to security and confidentiality measures, the information of the UIAF is housed in the DataCenter of the BCU. The DataCenter was built to high security standards and is in the process of certification by Design (2019) and Construction (2020) by the Uptime Institute.

244. In addition, there is a replica of the UIAF information in a contingency DataCenter. Both areas have exclusive access by technical personnel through a double authentication factor (proximity card and biometric). Both premises also have video surveillance cameras that are monitored 24x7 by BCU security personnel.

245. The data handled by the UIAF are managed confidentially, separate from the information available to the other areas of the BCU. The information is encrypted and only the UIAF servers have access to the system (SIDELAV) and the available database.

Conclusions on Immediate Outcome 6

246. Uruguay shows **a moderate level of effectiveness in Immediate Outcome 6.**

Immediate Outcome 7 (ML investigation and prosecution)

247. The criminal justice system is implementing a paradigm shift in order to optimize and strengthen the model of criminal prosecution. In November 2017, the new CPC came into force, establishing the adversarial system for cases brought on or after that date. Cases initiated earlier are governed by the provisions of the old CPC, which provides for an inquisitorial system. Once all cases processed under the inquisitorial system are completed, the procedural system will be purely adversarial. In the meantime, both regimes coexist.

248. This structural reform of the criminal procedural system, while significantly strengthening the investigative powers of law enforcement authorities and significantly accelerating the conduct of trials, poses significant challenges to the investigation and sanction of ML and other complex crimes.

ML identification and investigation

249. The ML repressive system is made up of police, prosecutorial and judicial authorities. The Public Prosecutor's Office is made up of the following prosecution units:

- 1 Specialized Prosecutor's Office for Organized Crime: It is made up of one prosecutor and two deputy prosecutors, who have an important degree of specialisation in this area.
- 2 Montevideo Criminal Prosecutor's Offices on Economic and Complex Crimes: They are made up of two permanent prosecutors and 4 deputy prosecutors, who also have a high level of specialisation.
- 2 Montevideo Criminal Prosecutor's Office on Narcotics: Made up of 2 permanent prosecutors and 5 deputy prosecutors.
- Departmental Prosecutor's Offices: They are made up of departmental prosecutors accompanied by two deputy prosecutors each.

250. Until October 31, 2017, the Prosecutors' Offices specialized in Organized Crime were the only ones with competence in ML matters at the national level. From that date, the Montevideo Criminal Prosecutor's Offices on Narcotics and Economic and Complex Crimes and the Interior Criminal Prosecutor's Offices were also vested with ML responsibilities. As of the date of the evaluation, most of the investigations for this crime had originated from the prosecutor's offices specializing in organized crime and economic and complex crimes.

251. The Public Prosecutor's Office has issued a series of Resolutions regarding the organization, jurisdiction and competences of the prosecutor's offices that have jurisdiction in ML matters, as well as General Instructions establishing general criteria for action and investigation applicable to the different types of crimes, including ML.

252. With regard to police investigations, the Ministry of Interior has the recently created National Investigation Directorate (DNI), which brings together the units of Organized Crime, INTERPOL and the General Directorate for the Repression of Illicit Drug Trafficking. The DNI is made up of 380 agents, with specific training in investigative matters. It is important to note that the DNI has an information analysis unit that centralizes all the data provided by the departmental units and directorates. The information is fed into the public security system, which is a database with important information.

253. The DNI is made up of a large staff of analysts, who come from different police units and have significant experience in the field of investigation of predicate offences. The DNI is an important measure to optimize and strengthen the investigative capacities of the Ministry of Interior. However, the specialization of agents in AML matters shows opportunities for improvement. It is necessary to strengthen the training and investigative capacities of this body in ML matters, particularly with respect to its investigation as an autonomous offence.

254. The National Naval Prefecture, which reports to the Ministry of National Defence, has police jurisdiction over border crossings and coastlines. It has an Investigation and Drug Trafficking Directorate, conducts investigations of predicate offences and coordinates its actions with the Public Prosecutor's Office and other relevant competent authorities, such as the DNA and the Ministry of Interior. With regard to AML, the investigative capacities of the body of the National Naval Prefecture are limited. Considering the country's exposure to the entry of criminal funds from abroad, which can be conducted through physical means, it is important to have more training and structure on the part of the agency to deal with these risks in AML matters.

255. With regard to the judicial sphere, Uruguay has a jurisdiction specialized in organized crime with specific competence to hear ML cases. This jurisdiction is made up of four First Instance Criminal Courts specializing in organized crime, namely:

- 1st and 2nd Duty Courts: They hear in all cases arising prior to the entry into force of the new CPC. They are governed by the rules of the inquisitorial system.
- 3rd and 4th Duty Courts: They hear in cases initiated after the entry into force of the new CPC and are governed by the rules of the adversarial system.

256. The Judiciary has an auxiliary body called the Forensic Technical Institute (ITF), which provides important support for economic and financial investigations through its accounting expertise department.

257. In particular, the Courts of Organized Crime rely on the permanent support of an ITF Accountant Advisor, who is based at the court's premises and performs accounting appraisals, analyses corporate and commercial information and documentation, assists in the seizure of relevant documentation for investigations, among other activities aimed at strengthening the investigation of economic crimes. There is a significant degree of specialization on the part of the magistrates of these jurisdictions.

258. In the area of complex crime investigations, the Judiciary has the good practice of forming multidisciplinary inter-institutional research support groups (hereinafter, "multidisciplinary groups"). All the important investigations are supported by a multidisciplinary group. These groups are generally requested by prosecutors to assist in the development of the investigation.

259. Multidisciplinary groups are made up of officials from the following authorities: SENACLAFT, UIAF, DGI, Banco de Previsión Social (BPS), DGR, DNA, Customs Response and Intelligence Group (GRIA), ITF, Ministry of Interior, represented by the specialized unit of the police division with the greatest competence according to the type of predicate offence involved.

260. In multidisciplinary groups, the magistrates lift secrecy provisions, which allows all the authorities that are part of the group to cooperate and exchange relevant information promptly and effectively. This feedback has a positive impact on the conduct of the investigation, since the authorities complement each other and provide useful information for the identification of persons and property involved in the criminal behaviour under investigation. Within the multidisciplinary groups, all the information of the UIAF can be used directly in the investigations and the presentation of cases before the Justice without the need to obtain express judicial authorization for each information obtained.

261. Several examples of complex cases in which multidisciplinary teams were formed are included in the information provided by the country, with special participation of the UIAF in providing financial information. It was possible to verify the participation of these disciplinary groups in the 22 cases presented (some in the processing stage and others with a final conviction). This information was considered of crucial importance by the Prosecutor's Office both for the presentation in court of the cases and for obtaining convictions.

262. Intelligence information elaborated by the UIAF is used in ML investigations. As example of complex cases including this intelligence information are the following: Operation Anambé, Fifagate, Operation Los Cuinis, Gran Chaparral, Estafa De Los Turcos, IUE 107-171 / 2010, Cigarette Smuggling from Paraguay, Error Scam Computer, White Operation, Traful Operation, Camellia Operation, Las Cuevas Operation, Empire Operation, Polar Cold Operation, among others.

263. This information was considered by the Public Prosecutor’s Office as very useful in locating property and following the money trail and is positively valued by the authorities that make up the multidisciplinary groups. Information on beneficial ownership and various databases is also shared.

264. In particular, authorities have access to information from the Ministry of Interior’s security system, which contains digitalised information on all police actions and investigations, among other relevant elements.

265. Within this framework, the joint elaboration of an operating protocol between the Public Prosecutor’s Office, SENACLAFT, DGI, UIAF, DGR, BPS, DNA and JUTEP should be highlighted, which makes it possible to organise and streamline investigation criteria.

266. Multidisciplinary groups are formed both in ML cases and in large-scale predicate offence investigations. In these cases, parallel financial investigations are conducted within the framework of the group, sometimes resulting in ML charges. However, proactive parallel financial investigations are limited when considering prosecutions for predicate offences committed in the country.

267. Investigative authorities employ special investigative techniques, particularly in cases of greater impact. The most commonly used measures are interception of communications and surveillance actions. In addition, measures are taken to obtain information held by financial institutions and other sources of information in order to identify assets without prior notice to the owner, raids, taking witness statements, seizure and obtaining evidence, surveys of places (including photographic survey and filming), witness protection and others.

268. The authorities have also used the figure of the cooperating witness to obtain relevant information, such as case IUE 573-3624/2018. There is restricted evidence of the use of other special techniques, such as controlled delivery and undercover agents.

269. With regard to the Ministry of Interior, the Property Investigation Division of the General Directorate for the Suppression of Illicit Drug Trafficking of the Directorate of Investigations (DGRTID) reported on the development of 42 investigations for ML between 2015 and April 2019, where 583 persons were investigated and 585 properties identified, with 45 legal persons participating in the criminal scheme.

Table 6. DGRTID ML Investigations

	2015	2016	2017	2018	2019	Total
TRANSACTIONS	7	11	12	6	6	42
PERSONS	111	190	118	126	38	583
PROPERTY	107	138	168	138	34	585
COMPANIES	3	15	7	18	2	45

270. Preliminary investigations led by the Public Prosecutor’s Office between 2015 and 2018 amount to 57.

Table 7. ML preliminary investigations initiated by the Public Prosecutor’s Office before the courts (2015-2018)

Investigations initiated for ML	
2015	12
2016	20
2017	13
2018	12
TOTAL	57

271. In addition, between 2015 and 2018 the specialized organized crime courts ordered 20 prosecutions, which reached 34 natural persons. In the same period, 21 convictions were issued, with 50 natural persons convicted (then, data are shown per year).

Table 8. Prosecutions for ML before the specialized organized crime courts (2015-2018)

	Proceedings	Number of Persons Prosecuted
2015	7	12
2016	3	7
2017	1	1
2018	9 (a)	14
TOTAL	20	34

Table 9. ML convictions issued by specialized organized crime courts (2015-2018)

	Sentences	Number of convicts
2015	6	26
2016	3	3
2017	4	6
2018	8	15
TOTAL	21	50

272. While Uruguay has carried out important reforms in recent years aimed at strengthening its ML criminal prosecution system and has made efforts to optimize the investigative work of law enforcement authorities, their capacities still show room for improvement. In particular, the proactive development of parallel financial investigations is a relevant challenge that must continue to be addressed.

273. Similarly, while preliminary investigations, prosecutions and convictions for ML have been carried out, the overall effectiveness of the system in this area should be strengthened.

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

274. In the NRA approved in 2017, Uruguay identified as main threats illicit funds from abroad—particularly related to tax crimes and corruption—in addition to drug trafficking offences; smuggling; human trafficking and procuring; counterfeiting and offences against intellectual property (copyright); fraud; and tax crime. In 2018, Uruguay approved its National Risk Strategy, which identified 16 core objectives in line with the identified threats.

275. The country’s general statistics on prosecutions for predicate offences reveal that the crimes with the highest number of prosecuted persons are drug trafficking (52%), fraud (12%), human trafficking (11%), smuggling (7%), and arms trafficking (7%). As regards convictions for predicate offences, the highest percentage also relates to drug trafficking offences (54%), fraud (12%), smuggling (8%), misappropriation (7%) arms trafficking (4%).

Table 10. Number of persons prosecuted per predicate offence

Number of Persons Prosecuted per Predicate Offence	2015	2016	2017	2018	Total
Drug trafficking and related crimes	1313	1260	1018	893	4484
Fraud	272	269	232	232	1005
Smuggling	243	119	137	138	637
Misappropriation	168	117	129	116	530
Criminal behaviours. Children’s rights in sale, prostitution and use of pornography or relating to human trafficking, trafficking or sexual exploitation of persons.	150	174	140	449	913
Crimes against public administration and public corruption	89	105	67	79	340
Illicit trafficking in arms, explosives, ammunition or material for their production	68	119	80	368	635
Extortion	20	10	12	16	58
Kidnapping	15	2	1	1	19
Offences against intellectual property (copyright)	11	5	5	1	22
Procuring	3	1	6	3	13

Crimes against intellectual property	2	2	0	0	4
Counterfeiting and currency alteration	2	3	4	17	26
Illicit trafficking and human trafficking	1	0	2	4	7
Fraudulent Corporate Bankruptcy	0	1	0	0	1
Total	2357	2187	1833	2317	8694

Table 11. Number of persons convicted per predicate offence

Number of Persons Convicted per Predicate Offence	2015	2016	2017	2018	Total
Drug trafficking and related crimes	967	991	698	964	3,620
Fraud	250	227	148	178	803
Smuggling	145	157	88	121	511
Misappropriation	141	158	92	93	484
Criminal behaviours. Children's rights in sale, prostitution and use of pornography or relating to human trafficking, trafficking or sexual exploitation of persons.	103	117	97	304	621
Crimes against public administration (public corruption, Law 17.060)	93	50	46	64	253
Illicit trafficking in arms, explosives, ammunition or material for their production	14	43	42	204	303
Crimes against intellectual property	13	16	4	1	34
Extortion	11	10	1	9	31
Illicit trafficking and human trafficking	7	24	1	3	35
Offences against intellectual property (copyright)	6	13	1	3	23
Procuring	5	13	5	2	25
Kidnapping	1	1	1	-	3
Counterfeiting and currency alteration	-	-	3	9	12
Total	1,756	1,820	1,227	1,955	6,758

276. With regard to ML cases, according to data from 2015 to 2018, the most prevalent predicate offences are as follows:

- Drug trafficking: Nine prosecutions were issued, with 19 defendants, and 6 convictions were obtained with 22 defendants convicted for ML with drug trafficking as the predicate offence.
- Smuggling: 3 prosecutions with 7 defendants, and 4 convictions were obtained with 5 persons convicted for ML with smuggling as predicate offence.
- Fraud: 8 prosecutions and 11 defendants, and 6 convictions were obtained with 10 defendants convicted for ML with fraud as the predicate offence.
- Human trafficking and procuring: 4 convictions with 12 defendants convicted for ML with human trafficking and procuring as the predicate offence.

Table 12. Prosecutions and convictions for ML per predicate offence (period 2015 to 2018)

Predicate offence	Proceedings	Defendants	Convictions	Convicted Persons
Drug Trafficking	9	19	6	22
Smuggling	3	7	4	5
Fraud	8	11	6	10
Human trafficking	N/A	N/A	4	12

277. As it can be seen from the statistics provided, ML cases relate to 4 predicate offences with most impact in the general criminal system, which in turn are some of the biggest threats identified in the NRA. Therefore, to a certain extent, ML cases are consistent with the risks identified in the NRA.

278. Without prejudice to this, in the case of major domestic threats, there are no cases with ML convictions involving tax crime, counterfeiting and offences against intellectual property (copyright). In relation to significant external threats, it should be noted that Uruguay has made significant efforts to obtain relevant information to assist investigations in cases linked to corruption abroad, as in cases related to dollar operations out linked to investigations carried out by the Brazilian authorities .

279. Thus, the results in the prosecution of ML and the country’s risk profile are consistent to some extent.

280. With regard to the tax crime, it should be borne in mind that it was incorporated as a predicate offence by the AML Law of December 2017. At the time of the on-site visit, no evidence was presented of investigations involving the tax crime as a predicate offence, whether from a domestic or foreign source. The latter aspect is of importance when considering the degree of exposure of Uruguay to illicit capital from border countries, as they may largely be associated with tax crimes.

281. In addition, the contrast between prosecutions for domestic predicate offences and ML prosecutions and convictions means that there is room for improvement. This correlation reveals limitations in the development of proactive parallel financial investigations.

282. In addition, there are no investigations for ML that specifically involve vulnerable sectors such as trust service providers, some independent professionals, and operators and users of free trade zones.

283. Notwithstanding this, it should be noted the existence of cases that link company service providers and other professionals, and ML prosecutions and convictions have been issued, where the use of corporate structures was verified. Accountants, notaries and real estate agents were convicted. There were also cases where lawyers were prosecuted. The following are examples of the abuse of corporate structures: Operation Anambé, Fifagate, Operation Los Cuinis, Gran Chaparral, Operation Trafal, Operation Cold Polar, among others.

Types of ML cases prosecuted

284. According to the results of the NRA, and in line with the risk profile and characteristics of the country's financial and economic system, the greatest threat is associated with criminal funds from abroad, particularly those originating in Argentina and Brazil and, to a lesser extent, Paraguay.

285. In terms of the country's main vulnerabilities, moreover, the possible abuse of the financial sector is mentioned, given the exposure to illicit capital that is intended to be integrated into the Uruguayan system; the real estate and construction sector, because it has historically received significant investments by non-resident customers; and the sector of trust and company service providers, and independent professionals, due to the existence of high-impact cases linked to non-resident customers constituting corporate vehicles in the country.

286. In this context, out of the total number of ML cases investigated in the country between 2015 and 2018, 8 prosecution orders have been formalized with 18 defendants, and 5 sentences have been obtained with 9 persons convicted for a foreign predicate offence. The following are examples of complex cases in which conviction was generated by a foreign predicate offence: Gran Chaparral, Trafal Operation, Fraud of the Turks, among others.

287. In the same period, of the cases tried, 13 prosecution orders have been issued, with 25 persons prosecuted, and 7 convictions have been issued with 13 persons convicted for ML linked to the abuse of corporate structures.¹²

288. In addition, it should be mentioned that in the same period 17 prosecution orders were issued with 29 prosecuted persons, and 13 convictions were obtained with 41 persons convicted for ML in cases in which the use of frontmen or strawmen has been verified.

¹² Cases with the use of corporate structure include: Operation Anambé, Fifagate, Operation Los Cuinis, Gran Chaparral, Fraud of the Turks, Operation Trafal, among others.

289. Meanwhile, between 2015-2018 there were 19 persons prosecuted (13 for domestic predicate offence and 6 for foreign predicate offence) and 19 persons convicted (17 for domestic predicate offence and 2 for foreign predicate offence) for self-laundering.

290. As the information analysed shows, in Uruguay, ML behaviours committed both domestically and abroad are prosecuted, and self-laundering cases and by third parties, including professionals.

291. In addition, the following 7 examples of complex cases involving laundering by third parties were presented: Operation Anambé, Fifagate, Operation Los Cuinis, Gran Chaparral, Fraud of the Turks.

292. Below a table is included with the examples of the main cases (both in the processing stage and convictions) in which some of the above elements are verified:

Name or number of the case	Use of financial intelligence	Multidisciplinary team	Type of laundering	Predicate offence	Foreign or domestic	Use of corporate structures	Assets	Sector involved
1) Operation Anambé	yes	yes	Third parties	Drug trafficking	domestic	yes	High value	Real estate/construction, professional services, notaries and financial
2) FIFAGATE	yes	yes	Third parties	Fraud	foreign	yes	High value	Real estate/construction, professional services, notaries and financial
3) Operation Cuinis	yes	yes	Third parties	Drug trafficking	foreign	yes	High value	Real estate/construction, professional services and financial
4) Gran Chaparral	yes	yes	Third parties	Drug trafficking	Foreign and domestic	yes	High value	Real estate/construction, professional services and financial
5) Fraud of the Turks	yes	yes	Third parties	Drug trafficking	foreign	yes	High value	Real estate/construction, professional services and financial
6) IUE 107-171/2010	yes	yes	Self-laundering and front man	Drug trafficking	foreign	no	High value	Real estate/construction, professional services and financial
7) Cigarette smuggling form Paraguay	yes	yes	Self-laundering and third parties	Smuggling	domestic	no	High value	Real estate/construction, professional services and financial

8) Fraud for computer error	yes	yes	Self-laundering	Fraud	domestic	no	High value	Real estate/construction, professional services and financial
9) IUE 474-167/2010 “Operation White”	yes	yes	Third parties	Human trafficking	domestic	no	High value	Financial
10) IUE 475-98/2010	yes	yes	Third parties	Human trafficking	domestic	no	High value	Real estate and financial
11) IUE 474-68/2011 “Operation Trafal”	yes	yes	Third parties	Drug trafficking	foreign	yes	High value	Professional services and financial
12) IUE 475-56/2014	yes	yes	Self-laundering	Drug trafficking	domestic	no	Few assets	Financial
13) IUE 474-113/2012 “Operation Camelia”	yes	yes	Third parties	Drug trafficking	domestic	no	High value	Real estate/construction, professional services and financial
14) IUE 475-49/2013	yes	yes	Self-laundering and third parties	Smuggling	domestic	no	High value	Real estate/construction and professional services
15) “Operation The Caves”	yes	yes	Self-laundering	Human trafficking	domestic	no	Many assets	Financial
16) “Operation Imperio”	yes	yes	Self-laundering	Human trafficking	domestic	no	Many assets	Real estate/construction, professional services and financial
17) IUE 474-142/2011 “Operation Frio Polar”	yes	yes	Third parties	Smuggling	domestic	yes	Many assets	Real estate/construction, professional services and financial
18) UE 475-19/2013 y 474-46/2017	yes	yes	Third parties	Fraud	foreign	yes	High value	Real estate/construction, professional services and financial
19) IUE 475-21/2012	yes	yes	Self-laundering	Fraud and misappropriation	foreign	yes	Many assets	Real estate/construction, professional services and financial
20) IUE 474-90/2017 ¹³	yes	yes	Self-laundering	Fraud and misappropriation	domestic	yes	Many assets	Real estate/construction, professional

¹³ In this case, the UIAF used its prerogatives in terms of immobilization of funds for up to 72 hours.

								services and financial
21) IUE 573-3624/2018	yes	yes	Third parties	Drug trafficking	domestic	yes	Few assets	Financial
22) "Operation El Clan"	yes	yes	Third parties	Drug trafficking	domestic	yes	Few assets	Financial

Effectiveness, proportionality and dissuasiveness of sanctions

293. Under Uruguayan law, ML behaviours can be sanctioned with penalties ranging from 12 months in prison to 15 years in penitentiary.¹⁴ Based on the information analysed, it is noted that, of the total number of convictions for ML, the minimum and maximum penalties applied ranged from 9 months in prison to 7 years and 8 months in penitentiary.

Table 13. Penalties imposed on ML convictions (period 2015 to 2018)

Penalties for ML	Convicted Persons
7 years and 8 months in penitentiary	1
6 years in penitentiary	2
5 years and 6 months in penitentiary	2
4 years and 6 months in penitentiary	1
4 years in penitentiary	2
3 years and 10 months in penitentiary	1
3 years and 6 months in penitentiary	1
3 years and 4 months in penitentiary	1
3 years in penitentiary	7
2 years and 8 months in penitentiary	3
2 years and 6 months in penitentiary	3
2 years and 4 months in penitentiary	1
2 years and 3 months in penitentiary	2
2 years and 1 month in penitentiary	1
2 years in penitentiary	1
24 months in prison	7
22 months in prison	3
20 months in prison	1
16 months in prison	8
14 months in prison	1
9 months in prison	1
TOTAL	50

294. As it can be seen, 6 per cent of convicted persons were sentenced to between 5 and 7 years, 26 per cent were sentenced to between 3 and 4 years in penitentiary and the remaining 64 per cent were sentenced to less than 3 years in penitentiary or prison. Considering the severity of

¹⁴ It should be noted that the penalty of imprisonment in a penitentiary may not be exonerated.

the penalties applied in most of the sentences pronounced, it can be concluded that some of the penalties imposed in ML cases cannot be considered sufficiently effective, proportionate and dissuasive. It should be noted that the Uruguayan legal framework does not admit the application of criminal sanctions to legal persons. As stated above, there are several cases in which the corporate structure was disregarded or relativized to facilitate the prosecution of the individuals involved. However, it is verified the need to increase actions aimed to apply administrative sanctions on legal persons.

Alternative criminal justice measures

295. Art. 272 of the CPC provides for the possibility of making agreements with the accused to carry out an abbreviated process. In order for this to be permissible, the accused must expressly accept the alleged facts and agree to the application of the proceedings.

296. This acceptance of the facts will be considered by the Public Prosecutor's Office at the time of the request for punishment, and it may be reduced by up to one third of the sentence applicable to the specific case. In the event of a conviction, the penalty may not be greater than that requested by the Public Prosecutor's Office. In these proceedings, the accused must comply with the agreement reached with the Public Prosecutor's Office in an effective manner and in all its terms. Between November 2017 and December 2018, five agreements were registered between the prosecutor's office and the accused.

297. The Uruguayan criminal system also admits the possibility of applying the figure of full confiscation, which is applicable in various cases, as follows from Article 52 of the AML Law (to which it refers).

298. There have been cases where full confiscation has been applied in cases where a ML investigation has been pursued. This occurred, for example, in the "Siemens/OTE Case", consisting of a ML case with corruption committed abroad as a predicate offense. The confiscation included real estate and bank accounts valued at approximately USD 7,000,000.

299. This figure was also applied in the "El Entrevero" case, which is a case linked to crimes of corruption and misappropriation committed abroad. On September 13, 2018, 2 real estate properties with an estimated value of USD 14,320,000 were fully confiscated.

Conclusions on Immediate Outcome 7

300. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 7.**

Immediate Outcome 8 (confiscation)

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

301. Uruguay has regulations that allow for the confiscation of assets identified in the commission of an illicit activity. When conducting an investigation of ML crimes and their predicate offenses, if deemed necessary, the criminal court may initiate a parallel investigation in order to identify property that could consequently be subject to confiscation. If this investigation results in a conviction for any of these offences, the criminal court determines the confiscation of the property.

302. Prior to confiscation, the criminal court may take such precautionary measures as it deems necessary to secure the identified property. Similarly, the country admits the possibility of applying the figure of full confiscation. The competent criminal court, at any stage of the process in which the person under investigation or accused was not present, will issue the respective prison order and the seizure of the property. After six months with no change in the situation, all rights of the accused with respect to the property, proceeds, instrumentalities, funds, assets, resources or economic means that have been seized as a precautionary measure expire, and the full confiscation applies.

303. In addition, Article 24 of the AML Law authorizes the UIAF to instruct RIs to prevent, for a period of up to seventy-two hours, operations involving natural or legal persons against whom there are well-founded suspicions of being linked to criminal organizations related to ML offences. Upon issuance of the order, the UIAF should immediately inform the competent criminal court, which will determine whether the property of the affected persons should be frozen.

304. As part of the work of the multidisciplinary investigation groups and other UIAF collaborations with the judiciary, 66 asset freezing measures were reported.

305. Similarly, if the UIAF provides for the freezing of assets, if the owners do not provide proof of their origin within 6 months, any rights they may have over the assets expire and, in such cases, full confiscation applies.

306. Likewise, if property, proceeds, instrumentalities, funds, assets, resources or economic means arising from ML crimes or predicate offenses are found, if no interested party appears within 6 months, full confiscation also applies. Finally, the law provides that, in the event of the death of the accused, the property seized will be confiscated when the illegality of its origin or of the material fact it is linked to could be proven, without the need for a criminal conviction.

307. It is worth mentioning that when the confiscation of property cannot be carried out, the criminal court may order the confiscation of any other property that represents an equivalent value or that in the event that it cannot be done, the accused may be asked to pay a fine of an identical value to the property in question.

Chart 5. Gran Chaparral Case

Date of initiation of investigation: 04/01/2018 (Pre-Investigative Stage).

Case Description: International criminal organization, composed of Argentine citizens (a couple), who settled in Uruguay, where they conducted ML activities. The couple was arrested in compliance with an international arrest warrant with extradition purposes issued by the Argentine Judicial and Police Authorities, since they were being

investigated in Argentina for crimes such as misappropriation, extortion, ML and possible links with a drug trafficking cartel. It was possible to detect that the calculated outflow of the couple and their related companies during the period 2008-2017 amounts to USD 20,213,556. The couple acquired real estate through frontmen or strawmen; it should be noted that the purchase was made in cash. Likewise, financial and commercial transactions were observed (through the splitting of deposits), handling of cash deposited in fort coffers (USD 6,650,086), real estate refurbishment works for large amounts (USD 3,099,985), and road machinery leases (USD 85,864). One of the persons investigated appears as a mortgage creditor for the sums of USD 500,000 and USD 300,000, the origin of which he could not prove. As a result of the investigations, the authorities concluded that the funds are of illicit origin and that they are the result of their activities in Argentina, in terms of the misappropriation of the SOEME union funds, the alleged extortion activities committed in the province of Buenos Aires, and drug trafficking in the city of Rosario and its metropolitan area by a cartel they have close ties with. Finally, the Uruguayan Justice granted the couple's extradition in favour of the Argentine Justice, which will be effective once both serve their sentences in Uruguay.

Special Investigative Techniques: Obtaining information in possession of FIs and other sources of information in order to identify assets without prior notice to the owner, searches, taking statements from witnesses, seizure and collection of evidence, interception of communications, access to computer systems, monitoring, site surveys (including photographic and film surveys), economic, financial and property study by a multidisciplinary team made up of the General Directorate for Combating Organized Crime and Interpol (Organized Crime Division), Financial Crime Investigation Department, SENACLAFT, UIAF, DGI and Banco de Previsión Social.

Provisional Confiscation: In the respective Formalization Proceedings it was ordered:

- freezing of bank accounts and fort coffers
- generic attachment in rights, claims and actions of the accused in the amount of USD 10,000,000, of the others involved in the case in the amounts of USD 400,000 and USD 200,000.
- specific attachment with respect to real estate
- specific attachment and/or seizure of personal property
- seizure of weapons
- seizure of other effects (watches, jewellery and electronic devices)
- seizure of exotic animals

Confiscation: Judgment of 1st Instance is not yet final. In the indictment dated 12/11/2018, the confiscation of all attached and/or seized property was requested, and **in the event that any or some of the attached and/or seized property could not be confiscated, provision was made for confiscation of property with equivalent value or the imposition of a fine of identical value.**

308. For its part, the JND is the institution that exercises ownership and availability of confiscated property. It is also responsible for knowing, approving and deciding on the adjudication of such property. In line with the above, the area of Confiscated Property Fund (FBD) was created, linked to the National Drug Secretariat, for the reception, administration and adjudication of property seized and confiscated in cases involving drug trafficking and ML.

309. As a result of the powers available for the seizure and confiscation of assets, from 2015 to 2018, Uruguay has secured a significant amount of property seized and confiscated related to ML

and/or predicate offences, in addition to other types of offences. The FBD's Comprehensive Management System yielded the following results:

Table 14. Value of seizures and confiscations/values of ML and predicate offences from 2015 to 2018

	Total Seizures	For ML and predicate offences	Total Confiscations	For ML and predicate offences
Year	USD	USD	USD	USD
2015	11,855,636	10,684,931	10,691,034	10,119,461
2016	4,121,796	2,571,738	657,190	0
2017	1,106,587	25,561	194,680	0
2018	20,393,380	19,419,847	3,283,226	2,876,829
Total	37,467,399	32,702,077	14,826,130	12,996,290

Source: FBD

Table 15. Property seized and confiscated for ML and predicate offences

Type	2015		2016		2017		2018		Grand Total	
	S	C	S	C	S	C	S	C	S	C
Jewellery	0	0	123	0	0	0	49	0	172	0
Cash	24	18	17	0	4	0	15	2	60	20
Technological equipment/appliances	2	2	244	0	0	0	56	8	302	10
Real Estate Properties	17	13	7	0	0	0	12	1	36	14
Others	1	1	1619	0	0	0	68	8	1688	9
Cattle	34	0	0	0	0	0	473	0	507	0
Mobile phones	36	36	9	0	0	0	15	5	60	41
Maritime vehicle	1	0	1	0	0	0	5	1	7	1
Land Vehicle	35	15	23	0	5	0	41	19	104	34
Air vehicle	0	0	0	0	0	0	1	0	1	0
Personal property	0	0	116	0	0	0	17	0	133	0
Securities	0	0	0	0	0	0			0	0
Stock	0	0	0	0	0	0	2	2	2	2
TOTAL	150	85	2159	0	9	0	754	46	3072	131

Source: FBD

310. According to what was reported in the previous tables, between 2015 and 2018 Uruguay seized 3,072 assets related to the ML offence and predicate offences, for a value of USD 32,702,077, assets worth USD 12,996,290 were confiscated.

311. In addition, as of May 2019, the FBD management system had 2,889 cases, most of them related to drug trafficking or ML. The system also shows a total of 15,100 properties registered in the FBD system. The cases filed correspond to cases opened in courts throughout the country, which are followed up by the FBD.

312. Of the 42 D.G.R.T.I.D. investigations for ML mentioned in IO.7, reference is made to the identification of 603 properties between 2015 and 2018. Information on the status of the mentioned properties is presented below:

Table 16. Property identified from D.G.R.T.I.D investigations

Year	Real Estate	Seizure	Personal property	Seizure
2015	59	5	53	2
2016	82	13	77	5
2017	82	0	96	0
2018	115	2	39	0
Total	338	20	265	7

313. In the event that the property subject to the precautionary measures runs the risk of perishing, depreciating, or even representing a greater expense for the country for its conservation, the criminal court has the power to carry out its auction. Uruguay has two auctions agreements, one with the Ministry of Interior (2009) for the early auction sale of seized property, and another with the National Association of Auctioneers (2011) for the auction of confiscated property. The National Association of Auctioneers can provide FBD with suitable appraisers for the type of property to be valued.

314. In this regard, Uruguay provided information from 2015 to 2018 on the auctions carried out and their value in US dollars:

Table 17. Value of Auctioned Property

Auctioned

Year	Property	USD
2015	165	2,426,071
2016	101	357,109
2017	28	128,896
2018	21	528,755
Total	315	3,440,831

315. The cash obtained from the confiscated property is transferred to the JND, which must convene a meeting with the Committee to decide on the destination of the administered funds. In these cases, public institutions may present a project based on the identified needs in order to be able to make use of such cash. Any allocation of funds is made on the basis of the FBD regulations which require the formal approval of the members and it is established to which entities (public or private) the funds may be allocated.

316. As an example, the assessment team was informed of the allocation of USD 600,000 to the MP for technological resources. In addition, as reported, the office of the Prosecutor itself has been acquired with resources from confiscations for ML and predicate offences.

317. In 2018 alone (statistics not available for previous years), the FBD made awards in excess of USD 3,600,000 through money transfers or allocation of confiscated property. The awardees were divisions and agencies working in the control and repression of illicit drug trafficking and ML, in the prevention of drug use, as well as in the care, rehabilitation and reinsertion of problematic drug users, and in the institutional strengthening for drug and ML policies.

318. The assessment team found that there is good cooperation between the FBD and other competent authorities to follow up on cases and seizures. FBD can participate in multidisciplinary groups, provide information in investigations and provide advice on property to be seized/confiscated. One of the functions of the FBD is to follow up the criminal proceedings that gave rise to the seizure of property of economic interest by recording the relevant information.

319. The FBD reported that various training sessions were held for officials of bodies involved in the seizure, confiscation and adjudication of property, such as the Judiciary, Prosecutors' Offices, General Directorate for the Suppression of Illicit Drug Trafficking, General Directorate for Combating Organized Crime and Interpol, Prefecture, SENACLAFT, among others.

320. Notwithstanding the opportunities for improvement in the development of parallel financial investigations (as described in IO.7), it can be stated that Uruguayan authorities showed awareness of the importance of the confiscation of goods and assets related to ML offences and predicate offences. In addition, it is considered relevant to continue working on the implementation of an institutionalized culture for searching assets related to crimes for confiscation purposes. It is also necessary to have up-to-date statistical information coordinated among the competent institutions.

Confiscation of proceeds from foreign and domestic predicate offences, and proceeds located abroad

321. Uruguayan law allows for criminal charges, seizure and confiscation for ML of predicate offences committed abroad. In this regard, Uruguay presented several emblematic cases in which the predicate offence was committed abroad, both involving neighbouring countries (Brazil and Argentina) and other countries such as the United States, Ukraine, and Turkey. The cases presented are related to various predicate offences, mainly ML related to fraud (Fifagate case), corruption (Siemens/OTE, Lava Jato, El Entrevero cases) and drug trafficking (Chupeta case).

322. Below is a brief description of some cases with direct links to other countries:

- Fifagate case – beginning of investigation: 24/12/2013. International case with criminalization of fraud linked to corruption in football. It included high-value real estate, shares and bank accounts (Approximately USD 10,000,000).
- Siemens / OTE case - beginning of investigation: 15/05/2009. Money laundering case, linked to the crime of corruption, the victim being a foreign government. It included real estate and bank accounts (Approximately USD 7,000,000. Provision was made for the full confiscation of the property and bank accounts). A noteworthy outcome of this case is that some of the confiscated money allowed for the acquisition of the new headquarters for the MP.
- Gran Chaparral case - beginning of investigation: 04/01/2018. Case linked to a crime of fraud and smuggling. This case includes real estate, aircraft, cattle, cash, jewellery, luxury vehicles, road machinery and others with a total value of approximately USD 20,000,000.
- El Entrevero case – beginning of investigation: 13/05/2013. Case linked to crimes of corruption and misappropriation committed abroad. On September 13, 2018, 2 real estate properties were confiscated in their entirety: one with an estimated value of USD 14,000,000 and the other with an estimated value of USD 320,000.

323. Uruguay ratified the “Framework Agreement for the Disposal of Goods Confiscated from Transnational Organized Crime in MERCOSUR”, adopted in December 2018. The purpose of this agreement is to establish mechanisms that make it possible to dispose of assets confiscated as a result of crimes linked to transnational organized crime. The confiscated assets will be distributed in accordance with what has been negotiated between the parties, as well as their participation in the process of investigation, prosecution and recovery.

324. In addition, the SENACLAFT and the UIAF signed with the Argentine FIU the “Framework Agreement for the Disposal of Confiscated Assets between the Argentine Republic and the Eastern Republic of Uruguay”. The agreement is currently in the process of parliamentary ratification for its entry into force.

325. It should be noted that there is no evidence of requests for seizure or confiscation of property located abroad from ML cases initiated by investigations in Uruguay. No data were provided concerning the repatriation or sharing of property.

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

326. Uruguay's regulations require any person transporting valuables across the border in excess of USD 10,000 to declare them to the DNA and provide for penalties in the event of failure to do so. It is important to mention that the DNA has an action protocol for false declarations or omissions in the declarations.

327. In the event of an infringement, the prosecutor is notified and provides for the seizure of the money and its deposit in the BROU to the order of the First Instance Criminal Court Specializing in Organized Crime. As a precautionary measure, the amount seized is attached in order to guarantee the sanction. The measure may not last longer than 6 months but may be extended on reasonable grounds. The MEF is informed of the enforcement of the infraction and issues a resolution establishing the value of the fine to be applied. Once the resolution is signed, the FBD is authorized to request the transfer of the seized value.

328. If there are suspicions that the undeclared values may come from criminal activities related to ML or predicate offences, the 1st Instance Criminal Court Specialising in Organised Crime requires information from the UIAF for the purpose of verifying the information and requesting the seizure of the values.

329. Similarly, in the event that there is an order for the seizure of undeclared funds or securities, if the owners do not provide proof of their origin within 6 months, any rights they may have over the assets expire and, in such cases, full confiscation applies.

330. As a result of the available powers, Uruguay has 9 fines managed by the FBD, 7 in 2015 and 2 in 2016, for 2017 and 2018 there are no registered fines. The fines mentioned correspond to omission of declaration of currency in amounts greater than USD 10,000.

331. In accordance with the foregoing, the sanctions are proportional and dissuasive, but in order to adequately verify whether the quantity of property is proportional to the country's risk profile it is necessary to have information on the origin of the offenders and information on the follow-up of the cases. The country has data on the city of entry or exit of the money, which allows it to presume which country the funds come from. The cities where the fines were applied in 2015 and 2016 are Artigas, Colonia, Río Negro, and Paysandú.

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

332. In the NRA approved in 2017, Uruguay identified as main threats illicit funds from abroad—particularly related to tax crimes and corruption—in addition to drug trafficking offences; smuggling; human trafficking and procuring; counterfeiting and offences against intellectual property (copyright); fraud; and tax crime.

333. With regard to domestic risks, the information gathered shows that most of the seizures and confiscations of assets originated from these crimes, especially drug trafficking and fraud. In addition to the above, Uruguay presented examples of causes and confiscations linked to other

crimes such as human trafficking, smuggling and counterfeiting. Thus, it can be said that confiscations have a relative correlation with identified domestic risks.

334. However, it is important to increase seizures or confiscations linked to some of the main risk sectors, such as free trade zones and company service providers.

335. With regard to predicate offences from abroad, most cases are directly linked to corruption, fraud and drug trafficking, which is in line with some of the main risks identified.

336. Notwithstanding this, although the NRA indicates the risk of the entry of resources from tax evasion from abroad (especially Brazil and Argentina), there are no cases of ML convictions involving tax crime, whether domestic or international.

337. Thus, it is verified that the consistency between the results of the confiscations carried out and the risk profile of the country are consistent to a certain extent.

Conclusions on Immediate Outcome 8

338. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key findings

Immediate Outcome 9

- Uruguay substantially reformed its CFT legislation in May 2019 and expanded and strengthened the criminal type of TF and the system of targeted financial sanctions in CFT matters.
- No TF prosecutions or convictions have been recorded in Uruguay. Notwithstanding this, the country has a legal framework and an operational and coordinated inter-institutional system.
- The recent nature of the structural reforms of the CFT system makes it necessary to increase the knowledge of competent authorities about their new scope.
- Uruguay has a TF group made up of all the relevant CFT authorities, which facilitates cooperation and coordination among their authorities.
- There are certain limitations in the competent authorities' understanding of the risk of TF.
- There is no comprehensive knowledge of the different alternative measures that could be applied in cases where a conviction of TF is not possible, or of the possible disruptive measures that could be adopted.

Immediate Outcome 10

- Uruguay recently reformed the legal regulation for the implementation of TFSs related to TF.

- No matches have been found in the RIs databases with the persons listed by the UNSC. Nor does Uruguay report the existence of active or passive cooperation requests based on the regime established in UNSCR 1373 (2001).
- Considering the recent implementation of the regime related to UNSCR 1373, no national designations were made based on that Resolution.
- Financial RIs have automated mechanisms for verification and updating of the UNSCR list and are generally aware of their CFT obligations. However, not all DNFBPs show adequate knowledge about the scope of the obligation and the mechanism for checking the lists (particularly those recently incorporated into the AML/CFT system), which may impact on the implementation of TFSs without delays in the sector.
- For purposes of assessing the specific TF risk of NPOs, the TF Group undertook work to identify the NPOs with the highest risk exposure, which are then monitored.
- Uruguay included NPOs as RIs, under the regulatory and supervisory orbit of the SENACLAFT. The country is working on a supervision plan for the sector.

Immediate Outcome 11

- Uruguay recently established the legal standard regarding mechanisms for the implementation of TFSs related to the FPWMD.
- So far, the country has not had any matches with natural or legal persons included in the UNSC sanctions lists and therefore has not initiated any investigation.
- FIs have automated mechanisms for verification and updating of the UNSCR list. DNFBP sectors have limited knowledge about lists verification mechanisms in PF matters, which may impact on the effectiveness of TFS implementation without delay in this regard.

Recommended Actions

Immediate Outcome 9

- Strengthen the awareness of the scope of the new legislation by all operators of the CFT system.
- Increase the level of knowledge and understanding of TF risks on the part of all operators of the CFT system, particularly those actors that do not directly integrate the TF group.
- Strengthen capacities and coordination among relevant competent authorities to apply effective, proportionate and dissuasive sanctions to legal persons linked to TF offences.
- Increase knowledge on possible measures that could be adopted in these cases by CFT competent authorities.

Immediate Outcome 10

- Improve dissemination of UNSC lists and verify that DNFBPs continuously review obligations, particularly in high-risk areas.
- Continue to raise NPO's awareness regarding the risks to which they may be exposed. Follow up on NPOs identified as having high TF risk.
- Expand and refine the process of supervision of obligations in relation to both higher risk NPOs and DNFBPs, primarily those identified as posing a higher risk.

Immediate Outcome 11

- Improve dissemination of UNSC lists and verify that DNFBPs continuously review obligations, particularly in higher-risk cases.
- Continue efforts related to the supervision of DNFBPs in relation to FP-related TFSs.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (ML investigation and prosecution)

339. Uruguay had a CFT framework regulated by Law 17.835, which criminalized certain TF behaviours and provided for a mechanism of targeted financial sanctions. However, Uruguay substantially amended its CFT legislation in May 2019, by approving Law 19.749 and its Decree No. 136/019.

340. These rules introduced significant changes in the criminalization of the TF crime, based on the incorporation of new typical behaviours and the coverage of all acts of terrorism provided for in the CFT International Convention and its annexed Conventions. The Decree, for its part, significantly expanded and strengthened the targeted financial sanctions regime. The characteristics of the mechanisms in place at the time of the on-site visit will be discussed below.

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

341. The NRA concluded that the country's TF risk was low, and noted that the main threat in TF could come from terrorist organizations operating in some countries in the region, both by domestic terrorist groups and by cells that would be linked to international terrorist organizations. Within this framework, there was no evidence that the Uruguayan financial system had been used to carry out financial movements linked to terrorist organizations acting domestically or abroad.

342. The NRA's findings regarding TF risks are to some extent reasonable. However, the recent nature of the CFT regulatory reforms, added to the changes derived from the AML Law of December 2017, makes it necessary to strengthen the implementation of the new CFT measures and deepen the understanding of the competent authorities on TF risks, particularly those related to the integration of resources into the financial system, as well as the risks of misuse of corporate vehicles.

343. As of the date of the evaluation, no prosecutions or convictions have been recorded for TF in Uruguay. In terms of criminal procedure, in November 2017, the new CPC came into force, establishing the adversarial system for cases brought on or after that date. This structural reform of the criminal prosecution system significantly strengthens the investigative powers of prosecutors and considerably streamlines the processing of trials.

344. In addition, the country has a jurisdiction of courts and prosecutors' offices specialized in organized crime (see Immediate Outcome 7), which are specifically competent to intervene in TF cases. Both prosecutors and magistrates working in this jurisdiction have a high level of specialization, and during the on-site visit they showed to be aware of the risk of TF and the

relevance of its effective and timely prosecution. Additionally, the magistrates have experience in special investigative techniques.

345. Furthermore, the Judiciary, the Public Prosecutor's Office, the SENACLAFT, the UIAF and law enforcement authorities are all used to forming multidisciplinary investigative support groups in complex cases. The formation of these multidisciplinary groups is a good measure of the country, since it facilitates cooperation and coordination among competent authorities, the exchange of information and the timely development of investigations.

346. Although no persons have been prosecuted or convicted in TF cases, in recent years investigations ordered by the judicial authorities have been conducted involving follow-up activities and property studies when suspicious or unusual transactions have come to light.

347. Despite the fact that the previous legal framework already allowed investigation through the mechanisms described, considering the recent amendment of the comprehensive CFT framework, which involves not only the expansion of punishable TF behaviours, but also the incorporation of the entire range of terrorist acts provided for in the conventions annexed to the International Convention against TF, it is important to strengthen the awareness of the scope of the new legislation and of the possible TF behaviours on the part of prosecutors and courts.

348. Based on the previous analysis, Uruguay is considered to have the capacity to process TF cases within the framework of the previous legislation (Law 17.835), but it must review the mechanisms and update the knowledge of its competent authorities in this area, in accordance with the legislative amendment made and the expansion of the scope of the TF behaviours.

TF identification and investigation

349. Uruguay has a specific system for the identification and investigation of TF, prior to the approval of the legislation that updated the legal framework. On the one hand, in August 2018 Uruguay created a working group especially devoted to the follow-up of matters related to this crime. The group is made up of the State's police and military intelligence agencies, UIAF, MIRREE, CENACOT, MEC and SENACLAFT,¹⁵ which exchange information and constantly monitor the TF situation in the country.

350. The competent agencies and authorities that make up the group also maintain fluid communication and coordination with counterparts in other countries, particularly neighbouring countries. Within the scope of the working group, various joint preventive actions have been

¹⁵ The police and military agencies that make up the group are:
OCSCIE: Coordinating Office of State Intelligence Services, recently became the SIEE.
CENACOT: National Counter-Terrorism Coordination Centre.
DGIIP: General Directorate for Police Information and Intelligence
DGLCCOI: General Directorate for The Fight against Organized Crime and Interpol.
GRIA: Customs Response and Intelligence Group.
CGE: Army General Command.
CGA/ DIVIN-N2: Navy General Command, Prefectural Investigations Division, Navy Intelligence.
CGFA/SIFA: Air Force General Command, Air Force Information Service.

developed within the framework of the organization and development of important political and sporting events in the region in recent years.

351. Among other aspects, the TF group monitors the regional TF situation, identifies critical assets, develops prevention and response strategies, and seeks to guarantee border security. In the event that a member of the group receives an alert, it is immediately shared with the other members, which facilitates a coordinated response to any threats detected. The group has the fundamental objective of preserving the peace in the country, particularly since Uruguay is a country with an important flow of tourists.

352. The UIAF is one of the essential components of the TF investigation system. In the event of receiving a TF STR, the UIAF immediately processes the information and gives it urgent treatment, which eventually culminates in its prompt communication to the specialized prosecutor's office for organized crime. TF STRs received online are prioritised, which determines their immediate and priority analysis.

353. Between 2014 and 2018, the UIAF received 5 TF STRs, which were analysed with the highest priority. Only 1 of these cases was reported to the Public Prosecutor's Office (and was filed after the investigation was completed and it was concluded that there was no link with TF) as reported in the following paragraphs.

354. The UIAF, on the other hand, constantly monitors the UNSC lists and checks them against its databases of transactions, persons and assets. Likewise, on the basis of the information it receives from systematic reports (see Immediate Outcome 6), the UIAF monitors transactions involving persons and conflict zones.

355. Within this framework, during 2017 the UIAF internally analysed 1,523 alerts of transactions supposedly linked to persons of interest that could be linked to terrorism or its financing. Meanwhile, during the first half of 2018, 260 alerts were generated and analysed. All of them were discarded, since it was determined that they were not linked to persons related to terrorism or its financing. The UIAF risk matrix was refined and calibrated to strengthen the process of detecting alerts and their eventual elimination.

356. With regard to risk areas, from August 2018 onwards alerts were generated in the computer system that detect financial transactions related to countries identified as posing a high ML/TF risk. There have been 123 matches of transactions with high-risk countries. In these cases, additional information was obtained from the FIs involved, in order to analyse whether the operations carried out with these countries were justified.

357. In addition, with regard to the intelligence system, in 2018 the SIEE was created, comprising the Secretariat for Strategic State Intelligence and the bodies that carry out intelligence and counterintelligence tasks of the Ministries of Interior, National Defence, Foreign Affairs and Economy and Finance, plus state bodies which, by virtue of the information they handle or their technical capabilities, can contribute to the purpose of the National State Intelligence System.

358. Among its tasks, the SIEE aims at identifying, initiating and prioritizing TF cases and contributing to strategic decision-making in public security matters.

359. With regard to the Ministry of Interior, the General Directorate of Police Information and Intelligence participates in CFT bodies such as the Specialized Forum on RMI-S Terrorism of the Southern Common Market (Mercosur), the annual meeting of the Latin American and Caribbean Community of Police Intelligence Services, and Interpol's Amazon Project, where the state of the region's CFT situation is analysed and trends that may have an impact on the region are monitored.

360. One of the objectives of this Directorate is the collection, processing, analysis and dissemination of the information necessary for the prevention and eventual repression of acts with the appearance of crime, especially including FT.

361. With regard to TF investigations, between 2010 and 2018, 4 actions were carried out, but after the analysis was completed it was determined that there were no convincing elements to pursue them, and they were dismissed.

362. The first investigation took place in 2010 and originated from a UIAF property study into the suspicious movement of money by a person from a country in the region linked to an armed group. The Specialized Prosecutor's Office for Organized Crime carried out preliminary investigations and prosecutions but given the absence of any link to terrorism or TF, the case was finally closed.

363. The second investigation was carried out in 2013 by a Specialized Organized Crime Court. In this investigation, mention was made of a citizen of an Asian country, who in a short period of time acquired several properties, which were used by persons of the same nationality, to stay for a short period in Uruguay and then travel to another country. Similarly, once the analysis was completed, it was verified that there was no link to terrorism or TF.

364. A third case was investigated in 2017 by the Specialized Prosecutor's Office for Economic Crimes in Montevideo and the Rivera Prosecutor's Office, which involved a citizen from a conflict zone residing in Uruguay. Property investigations were carried out and after the exhaustive investigation, the case was filed for lack of connection with TF.

365. The last investigation was initiated in 2018, due to a possible match in the UN list of a citizen of Asian origin, which was related to case 2. A financial institution filed a STR, and the UIAF immediately reported it to the Specialized Prosecutor's Office for Economic Crimes. The results of the investigation confirmed that it was not the same person (false positive) and the proceedings were filed.

366. Finally, it should be noted that no cases linked to foreign terrorist fighters who have entered or left the country have been detected.

367. Without prejudice to the foregoing analysis, there are certain limitations in the competent authorities' understanding of the TF risk. In particular, during the on-site visit a greater focus on terrorism issues than on TF could be appreciated. In addition, there is the recent amendment of the

comprehensive CFT framework, which involves not only the expansion of punishable TF behaviours, but also the incorporation of the entire range of terrorist acts provided for in the conventions annexed to the International Convention against TF.

368. It is important to strengthen the level of knowledge and understanding of TF risks and the scope of recent legislative amendments by all operators of the CFT system.

369. Within this framework, it is concluded that Uruguay has a system that largely seeks to identify and investigate TF cases.

TF investigation integrated with—and supportive of—national strategies

370. Uruguay adopted a National Counter-Terrorism Strategy by Decree 180/017 of July 2017. This strategy is classified and contains aspects and levels of tactical action in CFT matters. In particular, it provides for a coordinated multisectoral response framework to prevent, protect, prosecute and respond adequately to terrorist events.

371. It is also worth mentioning that Presidential Resolution No. 22/018 of January 2018 appointed the Secretary of the National Defence Council (CODENA) as Director of the National Counter-Terrorism Coordination Centre whose function is to advise, coordinate, plan and supervise matters related to the Counter-Terrorism Strategy.

372. In turn, based on the results of the 2017 NRA, Uruguay elaborated a National Strategy against ML/TF/FPWMD, which contemplates the measures to be adopted by the different competent authorities until March 2020. The strategy contains a detailed action plan setting out objectives, targets and specific actions to be taken to mitigate the risks identified in the various areas of the ML/TF prevention system.

373. The strategy sets out objectives for the general strengthening of the ML/TF system, for the improvement of the ML/TF prevention subsystem and the financial detection and intelligence subsystem, among others. A significant number of actions have been carried out or are at an advanced stage of implementation.

374. By virtue of these elements, the TF working group carries out CFT monitoring actions. During the on-site visit the fluid communication and coordination between the various authorities with CFT responsibilities was also noted. In addition, it was verified that the authorities are aware of the scope of the national strategies linked to the prevention and fight against TF.

375. Thus, and in the light of what has been said in the previous paragraphs, it is considered that the investigation on TF is integrated and serves as a basis for the development and monitoring of national strategies against terrorism.

Effectiveness, proportionality and dissuasiveness of sanctions

376. The penalties provided for in the CFT Law for the offence of TF range from 3 to 18 years of penitentiary. Likewise, the generic aggravating factors provided for in the CC are applicable to the

offence of TF. According to the scale of sanctions established by the Uruguayan criminal system, the maximum penalty for penitentiary is 30 years. To date, no criminal sanctions have been applied for this crime. However, considering the criminal scale provided for offences in the CC, the abstract penalty provided for TF is reasonably proportionate and dissuasive.

377. Given the absence of concrete cases, it was not possible to appreciate the initiation of administrative actions tending to apply sanctions to legal persons involved in investigations that have taken place in relation to possible TF.

Alternative measures used when a TF conviction is not feasible (for instance, interruption)

378. Uruguay has specialized units responsible for the prevention and investigation of TF; it has a regulatory framework that establishes various precautionary measures that may contribute to the seizure or freezing of assets or property proceeds of crime. The country also has the possibility of making national designations and could therefore apply targeted financial sanctions in such cases.

379. In addition, the UIAF has the possibility of ordering the freezing of assets and directing RIs to prevent the performance of suspicious transactions for a period of 72 hours, and it must immediately notify the competent court for confirmation. In addition, the Judiciary may order full confiscation in various scenarios listed in the AML Law.

380. Notwithstanding the foregoing, it was not possible to confirm a comprehensive knowledge of the different alternative measures that could be applied in cases where a conviction of TF is not possible, or of the possible disruptive measures that could be adopted. It is important to increase knowledge on possible measures that could be adopted in these cases by CFT competent authorities.

Conclusions on Immediate Outcome 9

381. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions without delay for TF

382. During the on-site visit to Uruguay in May 2019, Law 19.749 and its Regulatory Decree were approved, which updated and strengthened the legal framework for TFSs. According to this, RIs are required to check permanently the UNSC lists of S/RES/1267, S/RES/1988, S/RES/1989 and successive lists. Similarly, RIs are required to verify the lists of designations of natural or legal persons or entities under UNSCR S/RES/1373 as notified to them by the UIAF and the SENACLAFT.

383. The permanent mission of Uruguay to the United Nations is responsible for communicating directly to the BCU and the SENACLAFT, with a copy to the MREE, about listings and de-listings based on UNSCR 1267, 1988, 1989 and their successive resolutions. Thus, under the new legal framework, the UIAF and the SENACLAFT immediately update the UN lists, which then send

them to the RIs via electronic communication and, in parallel, upload them to the websites of both institutions for consultation by the general public.

384. It should be noted that prior to the approval of the recently approved legal framework, Uruguay already had general provisions relating to TFSs.¹⁶ Article 17 of Law 17.835 (recently amended) required FIs to inform the UIAF of the existence of funds related to: a) persons identified as terrorists or belonging to terrorist organizations according to the lists drawn up by the UNSC; and b) persons who have been convicted as terrorists by final national or foreign judgment.

385. Given the recent approval of the legislation, the elements of effectiveness were analysed based on the previous legal provisions (Law 17.835). Within this framework, when RIs detected an eventual match with UNSC lists, they informed the UIAF of the existence of funds. Article 18 of Law 17.835 authorized the UIAF to order the informant FI to prevent operations involving identified persons. In addition, under Article 6 of the same law, the UIAF may immediately freeze assets for up to 72 hours. Upon issuance of the order, the UIAF immediately informed the competent criminal court, which would determine whether the property of the affected persons should be frozen.

386. No matches of listed persons were found at the time of the visit. Sanctions have been applied for non-compliance with the duty to check the lists by the supervisory bodies.

387. According to the information provided, there have been cases in which RIs in the financial sector have issued reports of alleged matches of designated persons, subsequently dismissed as homonyms. As an example, in March 2018 a complaint was filed concerning a case involving a citizen from a high-risk area, residing in Uruguay, allegedly identified on the UNSC list. However, after all the investigations, in June 2019 the Ministry of Interior reported that it was a false positive.

388. In the interviews conducted with RIs during the on-site visit, it was verified that financial RIs are aware of the obligation and are constantly checking the lists received. In addition, FIs generally have specialized software systems to perform automatic verification of UNSC lists (including automatic updating directly of UNSC lists), independently of updating their UIAF and SENACLAFT databases. As a result, FIs have automated mechanisms for the immediate checking and updating of the UNSCR list.

389. As for DNFBNs, most of them do not have their own tools to verify UNSC lists and have to request the service from third parties or do it manually. In this regard, it should be noted that some organizations have entered into agreements with certain companies to provide the search service to their members, such as the Association of Notaries, the Association of Accountants and the Real Estate Chamber of Uruguay. It is worth mentioning that in the interviews some sectors did not mention the process of checking of sanctions lists, such as the sector of entities that are dedicated to intermediation or mediation in operations of purchase and sale of antiques, works of art, precious metals and stones, NPOs, and certain actors of the real estate sector (sector of construction

¹⁶ The analysis of Uruguay's previous legal framework is available in the previous Uruguay Mutual Evaluation Report, published in December 2009. <https://gafilat.org/index.php/es/biblioteca-virtual/miembros/uruguay-1/evaluaciones-mutuas-16/1949-informe-de-evaluacion-mutua-de-uruguay-3a-ronda>

companies). Moreover, not all DNFBBs show adequate knowledge about the scope of the obligation and the mechanism for checking the lists (particularly those recently incorporated into the AML/CFT system), which may impact on the implementation of TFSs without delay in the corresponding sectors. During the supervisory proceedings it has frequently been found that the performance of customer background searches and the checking of UN lists of persons linked to FT is not duly evidenced.

390. To date, Uruguay has not proposed the designation of any natural or legal person to the UNSCR 1267, 1988 or 1989 Committees. With regard to the UNSCR regime, it should be noted that the regulatory framework was recently established, with the approval of the CFT Law and its Regulatory Decree. In this regard, Uruguay reports no requests for the freezing of property or assets arising from the obligations contained in the regime of Resolution 1373.

391. For its part, the Coordinating Commission is the competent national authority to decide whether the criteria for granting a third-country request under UNSCR 1373 are met. Considering the recent implementation of the system relating to UNSCR 1373, as well as the absence of terrorist activities or TF detected in the country, no domestic designations were made based on the UNSCR regime.

392. The UIAF has implemented automatic controls on its financial transactions systems that RIs should report monthly to the UIAF to verify adequate compliance with their obligation to report the existence of property or transactions linked to persons included in the UNSC lists.

Targeted approach, outreach and oversight of at-risk non-profit organisations

393. Uruguay conducted a census to determine the number of NPOs in the country. All civil associations and foundations are required to register with the DGR, which grants them legal personality and authorizes their operation. This entity is only responsible for the legality of the status, the identification of directors and the type of activity envisaged by the organization. In turn, the competence of regulation and supervision in matters of ML/TF has been legally vested in the SENACLAFT. In addition, the AML Law designated NPOs as AML/CFT RIs. The country is still working on a comprehensive supervision plan for this sector.

394. Decree 379/018, which regulated the obligations of NPOs, establishes a threshold for separating ML/TF responsibilities. All NPOs with or without legal personality that have income of any kind at the close of the financial year greater than UI 4,000,000 (1 UI = \$4.20, equivalent to USD 0.12) or assets greater than UI2,500,000 (1 UI = \$4.20, equivalent to USD 0.12) must appoint a compliance officer and develop policies and procedures for the risk management of ML, TF and PWMD that will enable it to prevent, detect and report unusual and suspicious transactions to the UIAF.

395. With specific regard to TF, Uruguay set up a working group made up of the State's police and military intelligence agencies, UIAF, MIRREE, CENACOT, MEC and SENACLAFT for the purpose of analysing the risk of TF in the country, which therefore served to identify NPOs that posed a risk to be exposed to TF in the country. Based on the outcomes obtained, the working group

is responsible for the follow-up and monitoring of NPOs. This group allows for rapid coordination of actions among all its members. All the competent authorities in this area cooperate and exchange information.

396. The TF Working Group's actions are confidential. However, the UIAF does a financial follow-up of the entities' activity, while the DNI of the Ministry of Interior, the SIEE and the Strategic Intelligence Directorate of the Ministry of Defence monitor the operations of these entities, through several means. The results of this activity are regularly shared with the other members of the Working Group on TF, where the measures to be adopted with respect to the sector are discussed and considered.

397. As of the date of the on-site visit, no cases had been detected where NPOs have been used for TF activities.

Deprivation of TF property and instrumentalities

398. Uruguay has developed a mechanism to investigate and prosecute TF activities and to share information between national and international authorities. The work of the TF/FPWMD working group, coordinated by the SIEE and the SENACLAFT, should be highlighted.

399. With regard to the prosecution of TF, in recent years (2010 - 2018) four investigations have been carried out, which were finally discarded after completing the analysis because there was no link with TF. During the proceedings, property investigations were carried out and the movement of the funds involved was determined, but no confiscation measures were applied due to the fact that the link with FT was ruled out.

400. Considering the absence of detection of terrorist or TF activities, as well as the recent implementation of the regime of UNSCR 1373 (2001) in the country, no domestic designations have been made. No matches have been found in the RI's databases with the persons listed by the UNSC. Nor does Uruguay report the existence of active or passive cooperation requests based on the regime established in the UNSCR referred to.

Consistency of measures with overall TF risk profile

401. With regard to TF risk, the National Risk Assessment indicates that the country has a low risk, on the understanding that the existence of terrorist organizations acting locally has not been identified, nor has it been detected that the Uruguayan financial system has been used to carry out financial movements linked to terrorist organizations acting abroad. Monitoring processes were reported (including transfers to higher-risk countries) and cases of preliminary TF investigations and matches with UNSC lists, which were subsequently dismissed for lack of materiality of the offences (see IO.9).

402. The NRA concluded that the main threat in TF could come from terrorist organizations operating in some countries in the region, both by domestic terrorist groups and by cells that would be linked to international terrorist organizations.

403. While there is a shared appreciation that the risk of TF is lower than the risk of ML, given the recent updating of the legal framework, strengthening the implementation of preventive measures is considered necessary, especially in DNFBPs, including understanding of risks, monitoring, regulation and supervision of CFT/CFPWMD obligations.

404. As previously mentioned, in order to assess the specific TF risk of NPOs, Uruguay conducted an analysis of the organizations with the greatest risk exposure, which are subject to follow-up. However, as of the evaluation date such NPOs had not been subject to specific outreach by competent authorities or risk-based supervision.

405. To date, no cases have been identified where NPOs have been used for TF.

406. It should be noted that this process of full implementation of the UNSCRs is underway, and that the country should focus on strengthening knowledge regarding mechanisms for the application of measures to deprive terrorists and terrorist organizations of resources and means to finance and support the execution of their activities.

Conclusions on Immediate Outcome 10

407. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 10.**

Immediate Outcome 11 (FP financial sanctions)

Implementation of targeted financial sanctions without delay related to proliferation

408. As indicated in Immediate Outcomes 9 and 10, during the on-site visit of Uruguay Law 19.749 was approved, which implemented a comprehensive legal framework relating to TFSs for FPWMD (see R.7 - TC).

409. The competent authorities of Uruguay have developed mechanisms to comply with the UNSCRs on FPWMD. In this regard, the same mechanisms are applied for matters of freezing of assets linked to TF.

410. RIs can access directly the sanctions lists through the web pages of the BCU and the SENACLAFT. In relation to the dissemination of listings and de-listings from the UNSC, the SENACLAFT, UIAF and MRE work together to inform the RIs once they receive the listings information from the permanent mission of Uruguay to the UN.

411. The BCU and SENACLAFT then send the news to all the RIs under their supervision, i.e. the financial sector and DNFBPs, via email, so that they can evaluate and proceed with the immediate freezing of assets in the event that matches are detected with the persons or organizations included in the disseminated lists.

412. The system implemented to comply with sanctions related to FPWMD UNSCRs is analogous to that implemented to comply with UNSCRs related to TF, for which information has already been provided in this chapter.

413. In the interviews conducted with RIs during the on-site visit, it was verified that financial RIs are aware of the obligation and are constantly checking the lists received. In addition, FIs generally have computer systems for automatic verification of UNSC lists.

414. It should be noted that most DNFBPs do not have their own tools to verify UN lists and have to request the service from third parties or do it manually. In this regard, it should be noted that DNFBP sectors have limited knowledge about lists verification mechanisms in FPWMD matters, which may impact on the effectiveness of TFS implementation without delay in this regard. For example, no information was obtained regarding this process during interviews with the sector of entities engaged in intermediation or mediation in transactions involving the purchase and sale of antiquities, works of art, precious metals and stones, NPOs and certain sectors of the real estate sector, such as construction companies. In this sense, during the supervisory proceedings it has frequently been found that the performance of customer background searches and the checking of UN lists of persons linked to TF or PF is not duly evidenced.

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

415. As mentioned above, the lists are distributed by the BCU and the SENACLAFT immediately after they are updated by the UNSC, with a request for the immediate freezing of funds or assets in the event of a match.

416. The RIs and authorities indicated that, up to the time of the on-site visit, no match had been found with the sanction's regimes related to the FP.

417. According to the information provided and as mentioned in the interviews held during the on-site visit, there have been no proliferation financing investigations or interventions, nor have there been any requests for assistance from third countries.

418. It follows from the foregoing that the competent authorities in this area obtain and disseminate the additions to and deletions from the UNSC sanctions lists in order to proceed to the immediate freezing of assets and funds in the event of matches identified by the RIs, working on actions aimed at achieving greater efficiency in the list dissemination process.

Understanding of and compliance with obligations by FIs and DNFBPs

419. FIs proved to be aware of the process of checking sanctioned lists provided for in UNSCRs and of the obligation to freeze without delay funds and assets linked to FPWMD activities, as well as being familiar with updates of UNSC listings.

420. In this regard, FIs indicated that, regardless of the updates of the lists, it is common practice to make periodic reviews of the lists in relation to their customers and transactions through their systems and for this purpose they have external suppliers and systematized tools that allow instant verification of transactions. This practice is widely used in the financial sector, less widely used by DNFBPs because of its cost, although there are organizations that have entered into agreements with certain companies to provide search services to their members, such as the Association of Notaries of Uruguay, the Association of Accountants and the Real Estate Chamber of Uruguay.

421. As a result of the action taken, FIs are aware of the process of verification of the lists provided for in the UNSCRs and of the measures to be adopted with a view to the immediate administrative freezing of assets and funds in the event of matches. The financial system has adopted the good practice of using external suppliers' services that make it possible to control lists of sanctions automatically and recurrently.

Competent authorities ensuring and monitoring compliance

422. The obligations of RIs in terms of prevention of the FP, i.e. informing the UIAF of assets linked to persons included in UNSCRs or local or foreign court rulings, are contemplated in the specific regulatory frameworks dictated for the different financial sectors.

423. In addition, Decree 379/018 require that DNFBBPs define policies and procedures that allow them to report to the UIAF cases related to TF and PWMD, additionally providing that the customer due diligence process, whatever it may be, should include verification of the lists prepared in accordance with the UNSCRs (1718, 1737 and 2231), its successive, concordant and complementary lists issued on the matter, as well as the updates of said lists made by the respective UNSC and the designations of natural persons by virtue of UNSCR 1373 and communicated or made available on the website by the SENACLAFT, while retaining the supporting documentation.

424. According to the information provided by the RIs in the interviews held, in all supervisory actions carried out by the SSF and the UIAF in the FIs and the SENACLAFT in the DNFBBPs, the procedures used by the supervised entity to verify whether its customers are included in the lists of persons or organizations that are subject to sanctions by resolutions related to TF and PWMD are especially verified.

425. The UIAF has implemented automatic controls on its financial transactions systems that RIs should report monthly to the UIAF to verify adequate compliance with their obligation to report the existence of property or transactions linked to persons included in the UN lists.

426. The work of the TF/FPWMD working group, coordinated by the SIEE and the SENACLAFT, should be highlighted. This group is made up of the state's police and military intelligence agencies, UIAF, MIRREE, CENACOT, MEC and SENACLAFT.

427. In addition, as part of the actions taken by the authorities in relation to the FPWMD, a workshop was held in Uruguay on April 18 and 19, 2017 by CICTE and the 1540 Committee, with a view to familiarizing representatives of the competent bodies with the status of Uruguay's implementation of UNSCR 1540. As a result of this workshop, the working group that prepared the National Action Plan for the implementation of UNSCR 1540 was formed and approved by the Coordinating Commission against ML/TF on May 10, 2018. This plan was timely submitted through the MRE to the 1540 Committee, and a request for technical assistance was also made in the areas that were considered priorities, mainly in: (i) preparation of the checklist of strategic assets on the circulation of dual-use assets and weapons of mass destruction; (ii) identification and handling of chemical, biological, radiation and nuclear (CBRN) substances; and (iii) implementation of border, port and airport security measures.

428. A subregional conference on strengthening border controls and international cooperation to prevent and combat terrorism and the proliferation of weapons of mass destruction was also held in Montevideo on March 19-21, 2018. It was organized by the Inter-American Committee against Terrorism of the Organization of American States and the SENACLAFT.

429. According to the interviews conducted, the authorities pay special attention to the control of radioactive waste (especially of medicinal origin), monitoring its entry into the country, its transfer and storage. The Interministerial Commission for the Prohibition of Chemical Weapons (CIPAQ), established by Decree 16/998, acts as the national authority and acts as a link between Uruguay and the OPCW. It is composed of representatives of the Ministries of Foreign Affairs, National Defence, Economy and Finance, Industry, Energy and Mining and the Faculty of Chemistry and Pharmacy. This Commission develops controls for the non-proliferation of nuclear, chemical and biological weapons.

430. In view of the above, the regulatory frameworks for FIs and DNFBDs include the obligations related to the implementation of the TFSs in the area of FPWMD. Supervisory bodies monitor compliance with the obligations of the RIs with respect to the FPWMD during oversight activities. In addition, the UIAF implemented recurrent and automatic controls verifying the information of monthly transactions submitted by FIs. Finally, the national authorities have developed and adopted specific FPWMD action plans.

Conclusions on Immediate Outcome 11

431. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key findings

- The financial sector (mainly financial intermediaries) demonstrated a greater understanding of the ML/TF risks, and of the application of measures for their control and mitigation. DNFBDs' understanding of risks is more limited.
- It should be noted that the application of preventive measures is at different stages of implementation, and there are still significant shortcomings in the identification of risks, taking into account the context of each of the sectors, particularly those identified as vulnerable in the NRA (real estate, company service providers, trusts and free trade zones).
- Notwithstanding the foregoing, Uruguay has implemented a series of relevant measures aimed at mitigating ML/TF risks associated with important sectors of DNFBDs.
- Sectors recently defined and registered as RI (lawyers, accountants, NPOs, indirect users of free trade zones) are still in the process of identifying, sensitizing and understanding the scope of their obligations.
- The recent approval of the CFT Law and its regulations, which significantly strengthen the CFT preventive system, is noteworthy.

- There are DNFBPs that have a low level of reporting (accountants, lawyers, free trade zones, building companies, dealers in precious metals) and others that, due to their relevance in terms of risk, require improvement (notaries, real estate agents, auctioneers and company service providers).

Recommended Actions

- Deepen DNFBPs' dissemination and understanding of ML/TF risks generated by the main threats identified in the NRA and the various SRAs developed by the country.
- Regarding the sectorial risk studies carried out, conclude the process of collecting updated information about the different risk factors to deepen the identification of the specific reality of each sector, covering elements such as: types of customers, types of operations and transactional volume, services and products they offer, geographical presence, among other factors, in order to achieve a more balanced understanding of ML/TF risks.
- Develop the risk analysis of the DNFBP sectors that haven't been assessed, based on particular threats and vulnerabilities of each of them, especially for those newly incorporated as RI (lawyers, accountants, NPOs, indirect users of free zones).
- Provide training and feedback to the DNFBP sector about typologies and indicators of possible unusual and/or suspicious transactions, so that they have more information to enable them a possible improvement in the quantity and quality of STRs, mainly of those more vulnerable DNFBP sectors with relevant participation in the economy of the country, and those recently included as RI.
- Strengthen the implementation of preventive measures, especially in DNFBPs, including the understanding of TF/FPWMD risks related to the integration of resources into the financial and non-financial system, as well as the risks of misuse of corporate vehicles and NPOs.
- Implement follow-up processes and compliance with relevant corrective actions required to the DNFBPs by the SENACLAFT, generating the corresponding management reports that will allow knowing about the level of effectiveness of the preventive measures finally reached in each sector.

The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (preventive measures)

432. The AML Law updated the framework of general preventive measures to be applied by financial RIs and DNFBPs, especially in the field of customer due diligence. It has also expanded the list of DNFBPs, especially in the provision of professional services, and included NPOs as RIs.

433. The specific measures of the financial sector are provided for by the sectoral regulations of the BCU, with a consolidated regulatory framework, which provides for specific requirements of customer identification and due diligence, monitoring and reporting of operations, all with a risk-based approach. With regard to DNFBPs, Decree 379/018, published in November 2018, was also approved, strengthening, expanding and updating their preventive measures.

434. Historically, Uruguay has operated as a regional financial centre, a role that was favoured by the stability of the country and because the Uruguayan financial system is characterized by the free movement of capital, repatriation of profits and freedom in the exchange market. With regard to the AML/CFT system in the financial sector in particular, the relevance of the banking sector, which manages the largest volume of funds in the system, is notorious, not only because of its importance in the economy but also because of its exposure to being used for the placement of capitals from crimes committed abroad.

435. In this sense, but to a lesser extent, other financial sectors such as securities dealers (stockbrokers and securities brokers) and financial services companies (which basically develop exchange transactions and make transfers abroad) are also relevant to the AML/CFT System. By virtue of this, it is worth mentioning that the sector of fund transfer companies, investment fund managing companies, general trustees and investment advisors present a medium level of risk, finally considering that the rest of the sectors that make up the financial system have a low level of risk, among which the insurance sector and the exchange houses sector stand out.

436. The financial intermediation companies in operation are 11 banks (two of them public banks, state-owned banks and the rest of them of foreign private capital), 1 financial house, 1 financial institution, 1 financial intermediation cooperative and 1 pre-existing savings management company. One of the characteristics of Uruguay's banking system is the high share of public banking amounting to 50% of total assets according to the data as of June 2018 (Banco República and Banco Hipotecario.) Moreover, as at that date, the four main private banks, subsidiaries of international banks, account for 43% of the volume of private banking assets (Banco Santander, Banco Itaú, BBVA and Scotiabank).

437. In addition, 15 highest asset credit managers, 24 financial services companies, 6 funds transfer companies, 57 exchange houses and 11 representations of foreign financial institutions operate in the financial market.

438. Moreover, 38 stockbrokers, 30 securities dealers, 11 investment fund managers, 3 stock exchanges, 36 issuers (of which 25 are financial brokerage companies) and 173 investment advisors operate in the securities exchange market. As for the insurance sector, 17 companies are reported.

439. Beyond the relevance of the financial sector in safeguarding Uruguay's AML/CFT system, taking into account the vulnerabilities identified in the 2017 NRA, the effectiveness of the DNFBP sector is of special importance in this regard. The process of registration of RIs before the SENACLAFT, required by Decree 379/018, has recently been completed. In particular, the real estate and construction sector is an area of attention, given its expansion and participation in the Uruguayan economy, as well as by the different economic agents involved in the activity. The largest real estate activity is concentrated in the departments of Montevideo, Maldonado and Canelones.

440. The sector of trust and company service providers, and independent professionals, which includes lawyers, notaries and accountants should also be mentioned, with an estimated 8,615 professionals providing these services (according to SENACLAFT records), as well as the sector

of free trade zones, both operators and direct and indirect users. According to the information gathered, there are currently 14 operational zones, distributed in different departments of the country, in which 1,568 companies operate, developing different types of services and activities. With regard to other DNFBPs, with a lower degree of exposure to ML/TF risk, there are 4 casinos in Uruguay, 2 under private administration and 2 under public administration, operating a total of 36 game rooms(34 under State administration)¹⁷, and 366 entities related to jewellery and art gallery activities.

441. It is important to mention that for the evaluation of this immediate outcome information was obtained from the most relevant RIs during the interviews conducted in the on-site visit, as well as from the analysis of different documents provided by the country mainly in relation to sectoral risk assessment, regulatory and normative framework, reports on the quantity and quality of STRs and supervisory information.

442. It is relevant to mention that, in terms of materiality, due to the size, integration and composition of the sector, the volume of transactions and relative level of banking penetration in the Uruguayan economy—added to various measures that have been adopted with respect to sectors identified as vulnerable—the general impact of the financial sector on the AML/CFT preventive system is more significant than the impact of DNFBPs.

443. In this regard, it should be noted that Uruguay has adopted relevant measures that contribute to the mitigation of risks in the relevant DNFBP sectors that may present significant materiality. Particularly, it is worth mentioning the implementation of Law 19.210 on financial inclusion (2014), which prohibits the use of cash for acquisitions of property starting from USD 4,000, reducing ML/TF risks related to the real estate and construction sector that has historically been perceived as vulnerable, and also as regards the notarial sector.

444. In addition, through the adoption of Law 18.930 on the regulation of bearer equity interests information for the BCU—and its Decree 247/012— and the Law on Fiscal Transparency and Identification of Beneficial Ownership (2017), together with the full dissolution of more than 84,000 commercial companies that did not comply with their information duties, have mitigated to a certain extent the risks related to the misuse of legal persons and arrangements and to the sectors of individual professionals and company and trust service providers.

445. Likewise, with respect to other vulnerable sectors, particularly that of free trade zones, customs controls on users have been strengthened, and Law 19.566 of 2017 was approved, which made the operating regime of operators and users more demanding, reinforcing the state control that the Free Zone Area conducts over its activity. Finally, it should be mentioned that, in order to contribute to addressing the vulnerabilities of DNFBPs, since December 2015 the SENACLAFT was designated as the sector's supervisory body, which has favoured greater outreach to the different sectors.

¹⁷It should be borne in mind that 33 of the casinos under the State administration depend on the Casino Directorate, so, for the purposes of this section, they are considered as a single reporting institution. As a result, the RIs of the sector are 4 in total.

Understanding of ML/TF risks and AML/CFT obligations

a) Financial Sector

446. The financial sector shows a greater understanding of the ML/TF risks associated with its various activities, in line with the threats and vulnerabilities identified in the NRA. During conversations with compliance officers of various FIs (banks—public and private—brokers of the Montevideo Stock Exchange, securities dealers, financial services companies, exchange houses and fund transfer companies), it was mentioned that the various sectors have implemented procedures for identification and evaluation of ML/TF risks, taking into account the risk factors to which they are exposed and adopting measures to control and mitigate them.

447. The regulation requires all entities in the financial system to identify the ML/TF risks inherent to their different lines of business or products, customers, geographical areas and distribution channels and to assess and monitor them. It also requires this assessment to be kept up to date. In particular, the regulations require financial intermediation companies to carry out a self-assessment of their risks, evaluate their probability of occurrence and impact, and define appropriate control measures. The SSF has defined supervision procedures tending to evaluate if the self-assessment carried out by the entities adjusts to their risk and if it is consistent with the assessment and perception of the supervisor. The representatives interviewed demonstrated, in general, an adequate knowledge of the minimum risk factors to be considered in their respective activities.

448. The financial sector has participated in the working table “preventive regime and its risks” of the NRA. Additionally, the SSF, through the UIAF, complements the NRA coordinated by the SENACLAFT, based on the elaboration and updating of sectoral risk assessments that materializes in a series of risk matrices.

449. In general, all the respondents highlighted the process of interaction between the private sector and the regulatory authorities, whether in the framework of the NRA drafting process, in the processes of issuing and updating regulatory standards, and in different specific feedback processes, which contributes to a better understanding and management of ML/TF risks.

450. With the inclusion of tax evasion as a predicate offence for ML in the new AML Law, banks, securities brokers and other FIs recognize this crime as another major threat, considering the important participation of non-resident customers in the banking and securities sector, commenting on the information requirement on the tax situation of customers and checking information in public sites, as part of the preventive measures implemented.

451. With regard to TF, although the recent approval of the CFT Law and its regulations is noteworthy, which significantly strengthen the preventive and repressive system of crime, the understanding of risks, monitoring, regulation and supervision of the CFT/CFPWMD obligations present an opportunity for improvement, particularly in relation to TF/PWMD risks related to the integration of resources into the financial system, as well as the risks of misuse of corporate vehicles.

452. Entities in the financial sector, such as banks, financial intermediaries, securities dealers and financial services and exchange companies have taken part in various training and dissemination activities on ML/TF/PWMD risks conducted by the SENACLAFT and UIAF. In addition, they have participated in feedback sessions related to the quality of suspicious transaction reports submitted before the UIAF.

b) DNFBP

453. Since its designation as supervisory authority for DNFBNs, the SENACLAFT has made efforts aimed at RIs in order to contribute to a better understanding of the risks associated with ML/TF, as well as of the obligations in this area, by means of training, workshops for exchange of experiences, feedback meetings, preventive visits, *on-site* visits, among others. However, given the changes introduced by the AML Law and Decree No. 379/018, the application of preventive measures is at different stages of implementation.

454. Since 2016, the SENACLAFT has maintained a continuous and periodic relationship and exchange with RIs under its supervision, through the defined operational committees, which include working groups with the corporate management sector, the casinos sector, the real estate sector, the auctioneers sector and the free trade zones sector, with the participation of the UIAF and the AIN. With each of these activity groups, work was done on the analysis of sectoral risks, with a risk-based approach, which contributed to the preparation and drafting of the regulation of the anti-money laundering law. The participation of DNFBNs in these operational committees is considered an outstanding element, since it has contributed to the awareness of the sectors regarding ML/TF risks.

455. Some sectors, particularly those that were recently incorporated, are in the process of identification, sensitization, registration with the SENACLAFT and understanding of the ML/TF risks they are exposed to and the preventive measures to be implemented for their effective mitigation. The vulnerabilities in their internal controls and the potential interaction with other legal arrangements may indicate the need for a reassessment of the risks and consequent adjustments of the matrices developed so far.

456. It is clear from what has been observed that the SENACLAFT has carried out various training and dissemination activities on ML/TF/PWMD risks, aimed at different audiences and some in particular at certain DNFBN sectors, such as notaries, accountants, free trade zones, the real estate sector and auctioneers.

457. SENACLAFT's Strategic Analysis Observatory has developed the following sectoral risk analyses: (i) company service providers; (ii) free trade zones; (iii) casinos; (iv) dealers in works of art, antiques and precious metals; (v) real estate; (vi) auctioneers; and (vii) jewellers, works of art and antiques.

458. Based on the foregoing, FIs are considered to understand their ML/TF risks and AML/CFT obligations to a large extent. Meanwhile, in the DNFBN sector, the understanding of their risks and preventive measures to be implemented is more limited, with sectors recently included as RIs in

the process of identification, sensitization and understanding of the risks they are exposed to and the preventive measures to be implemented.

Implementation of risk-mitigating measures

a) Financial Sector

459. FIs have taken actions to develop and implement procedures that allow identification and analysis of ML/TF risks. The interviews conducted during the on-site visit highlighted the scope and level of detail of the AML/CFT regulations in force. In this regard, the regulations in force allow institutions to apply procedures for managing ML/TF risk in accordance with their self-assessment, provided that certain minimum procedures and principles laid down in the regulations are taken into account.

460. Based on this, and contemplating a risk-based approach, FIs define controls and risk mitigation measures. In sectors that present higher risks, these measures are evaluated through the different mechanisms of independent review (internal audit and external audit) and are subject to verification by the SSF.

461. The weaknesses of the banking system commonly refer to the updating of customers information and the detailed reports, but not to the knowledge of the customer that presents acceptable levels of compliance.

462. As for the securities market, compliance levels have improved year by year, as also evidenced by the increase in suspicious transactions in the sector.

463. With regard to financial services companies, fund transfer companies and exchange houses, prevention systems have been in place for several years, so in general the weaknesses are associated with updating customer information and monitoring activities.

b) DNFBP

464. The implementation of mitigation measures by DNFBPs, in accordance with the established regulatory framework, varies in general for each DNFBP. This is due, among other aspects, to the nature and size of the activity carried out by the different DNFBPs, and to the time when they have been incorporated into the preventive system, as in the case of indirect users of free trade zones, lawyers and accountants and NPOs that belong to it since 2017. It is important to mention that although most DNFBPs were regulated prior to the current regulatory framework, it is true that Decree 379/018, in force since November 2018, imposed new AML/CFT provisions.

465. The AML/CFT prevention efforts made by some members of the sector by virtue of the preventive measures implemented, aimed at making control more effective in relation to the use of cash, the inclusion of tax evasion as a predicate offence for AML/CFT and the identification of BO, are also recognized.

466. For their part, in the case of notaries, accountants, building companies and real estate agents, free trade zones, lawyers and intermediaries in the purchase and sale of antiquities, works of art, precious metals and stones, it could be seen that they have worked in their various chambers, bars and associations, and have collaborated with the SENACLAFT, especially as regards training and strengthening of preventive systems.

467. However, some representatives, such as lawyers, accountants, real estate and building companies, free trade zones and dealers in antiques and works of art, still require a better understanding of their risks and an improvement in the effectiveness of their AML/CFT systems, resulting in greater identification and reporting of suspicious transactions.

468. Mention should be made of the provisions set forth in Law 19.210/17 on Financial Inclusion, with a significant impact on the real estate sector, with the aim of minimizing the use of cash in transactions involving the purchase and sale of real estate, as well as automobiles, requiring that any purchase of these characteristics, for amounts in excess of USD 4,000 (four thousand dollars), may not be made in cash but through banking payments, allowing traceability and better evaluation thereof.

469. Another measure related to the preventive system that should be highlighted is the one related to the Registry of Beneficial Ownership managed by the BCU created through Law 19.484/17, which complements and expands the identification requirements of Beneficial Ownership of companies with bearer shares or equity interests imposed by Law 18.930/12.

470. In this sense, notaries carry great importance within the AML/CFT system not only due to the fulfilment of prevention obligations for the operations they perform, but also by virtue of their participation as guarantors of the controls of cash use in the purchase and sale of real estate and automobiles imposed by Law 19.210/17 on Financial Inclusion, as well as with respect to their involvement tending to validate the information referring to the identification of beneficial owners, according to the provisions of Law 18.930/12 on “regulation of information on bearer equity interests for the BCU” and its Decree 247/12 and Law 19.484/17, in order to strengthen the transparency of legal persons and arrangements.

471. The trust and company service providers, and independent professionals’ sector has intensified verification measures aimed at ascertaining the tax situation of their customers, mainly non-residents, considering the inclusion of tax evasion as a ML/TF predicate offence.

472. As mitigating measures, when casinos pay and/or return funds, they use exactly the same means of payment used for operations of purchase or exchange of chips and/or tickets, opening of accounts, transfer of funds and exchange of currency for betting or buying of chips (they pay in cash if the bet and/or funds were made/received in cash or by cheque or transfer if the bet and/or funds were channelled through these means). Additionally, they only issue certificates at the request of the customer, only for profit and not for the total amount bet. However, it is noted that there is no adequate assessment of the sector’s risk relating to the use of cash, since its use is unlimited and there are no specific monitoring controls in this regard.

473. With regard to risk mitigation, it is worth mentioning that the provisions established in the Transparency Law for the identification of BO, such as those set out in the Financial Inclusion Law with regard to limiting the use of cash, apply fully and without exception in free trade zones. In addition, entities operating in free trade zones are subject to the control of the National Customs Authority and the General Tax Directorate, in addition to the supervision tasks in the area of AML/CFT by the SENACLAFT.

474. With regard to the cross-border transport of values, natural or legal persons not subject to the control of the BCU who transport cash, precious metals or other monetary instruments across the border in an amount exceeding USD 10,000 (ten thousand dollars) must declare it to the National Customs Authority. In the period assessed, Uruguay imposed fines for omission or false declaration before the DNA in the transportation of values across the border in an amount in excess of USD 10,000 (see IO.8).

475. By virtue of the foregoing, FIs are considered to apply mitigation measures proportionate to their ML/TF risks. Meanwhile, in the DNFBP sector, the application of mitigating measures is more limited.

Implementation of specific and enhanced CDD and record keeping requirements

a) Financial Sector

476. Uruguay's financial sector has established mechanisms to have enough and updated knowledge of its customers; they apply CDD measures differentiated based on risk (CDD, simplified CDD and enhanced CDD), as required by the regulation and established in their respective policies. They also take steps to collect, record and permanently update information on the identity of their customers, whether regular or occasional, and the commercial transactions carried out.

477. In addition, there is an obligation to identify the BOs and PEPs of all services or products they provide and to take reasonable measures to verify their identity, to the extent due diligence permits, so that they are satisfied that the BOs are known.

478. During the on-site visit, FIs mentioned that in addition to the general information required from both natural and legal persons, FIs conduct a ML/TF risk rating on their customers in order to define the type of CDD and monitoring to be applied. For such assessment, they consider, among other risk factors: PEP customer, product, geographical area, distribution channel, type of person, economic activity, residence status, use of third-party funds, etc.

479. It is important to mention that, in the case of exchange houses, customer identification requirements are only carried out for operations greater than USD 3,000. Below that threshold, customers are not checked against control lists or reported to the UIAF. With regard to risks, some banking institutions interviewed referred to the fact that there are certain entities which, on the basis of their risk assessment and tolerance, do not initiate commercial relations because of their inherent high risk status, such as cannabis producing companies and the pharmacies that sell it.

480. According to the current regulations, the enhanced CDD regime applies to: a) commercial relations and transactions with non-resident customers who come from countries that do not comply with ML/TF international standards; b) transactions of persons who are linked to the entity through transactions where personal contact is not customary, as in the case of customers who carry out transactions through operational modalities that, using new or developing technologies, may favour the anonymity of the customers; c) PEPs as well as their relatives and close associates; d) any transaction that is carried out in unusual circumstances according to the uses and customs of the respective activity.

481. When FIs are not able to perform CDD, they should not initiate business relationships, nor execute transactions, and in case of ongoing relationships, they should terminate the business relationship and evaluate the possibility of filing a STR in relation to the customer.

482. FIs must keep records of all transactions conducted with their customers or for their customers, as well as all information obtained in the due diligence process, for a minimum period of 5 (five) years after the end of the business relationship, both with regular and occasional customers.

b) DNFBP

483. Like the financial system, DNFBPs have established mechanisms to have sufficient and up-to-date knowledge of their customers; risk based CDD measures (CDD, Simplified CDD, and Enhanced CDD), as required by the regulation and provided for in their respective policies. In addition, they adopt measures to collect, register, and permanently update information about the identity of their customers, regular or occasional, and the commercial transactions carried out.

484. In addition, there is an obligation to identify the BO and PEPs of all services or products they provide and to take reasonable measures to verify their identity, to the extent due diligence permits, so that they are satisfied that the BOs are known. Compliance with these measures presents different levels of effectiveness based on the DNFBP sector involved, with SENACLAFT's awareness-raising and training tasks to be intensified, especially about the identification of BO. The main weaknesses identified relate, in many cases, to the lack of information or supporting documentation related to the origin of the funds or the identity of the BO.

485. DNFBPs should apply enhanced CDD procedures where they exist: a) Business relationships and transactions with non-resident customers from countries that are not members of the FATF or any of the regional bodies of a similar nature; or from countries that are subject to special measures by these groups for failure to apply or insufficiently apply the FATF recommendations; b) Business relationships and transactions with non-resident customers from countries subject to financial sanctions or countermeasures issued by bodies such as the UNSC; c) Business relationships and transactions with natural or legal persons who are residents, domiciled, incorporated or located in countries, jurisdictions or special regimes with low or no taxation, in accordance with the list issued by the General Tax Directorate; d) Transactions that do not involve the physical presence of the parties or their representatives; e) Use of new or developing technologies that favour anonymity in transactions; f) Politically exposed persons, their spouses, cohabitants and their relatives by

consanguinity or affinity up to the second degree, as well as close associates when these are publicly known and who carry out transactions on their behalf; g) Businesses in which high amounts of cash are used; h) Legal persons with bearer shares, in case there are difficulties in identifying the beneficial owner through information included in an Official Register; i) Trusts whose apparent structure is unusual or excessively complex to determine their control structure and beneficial owners; j) Business relationships that are carried out in unusual circumstances in accordance with the uses and customs of the respective activity; k) Other situations that according to the risk analysis prepared by the reporting institution, result to be of greater risk and therefore require the application of enhanced due diligence measures.

486. In the case of casinos, customer due diligence procedures are applied for the purchase or redemption of chips and/or tickets, opening of accounts, transfer of funds and exchange of currency for an amount exceeding USD 3,000, applying a daily accumulation of transactions approach for such determination. In the casinos of the State the use of foreign currency is not allowed, being such use only allowed in the two private casinos.

487. With reference to the customer due diligence procedures to be applied by the RIs of the antiques, works of art, precious metals and stones sector, these will only take place for those operations exceeding USD 15,000 (fifteen thousand dollars), applying a daily operations accumulation approach for such determination.

488. Company service providers and trusts will apply due diligence procedures in activities that are carried out on a regular basis, understanding as regular those activities carried out at least 3 times a year.

489. In view of the above, FIs and DNFBPs are considered to apply CDD measures with a risk-based approach in order to identify their customers in a timely manner. Entities in both sectors have enhanced CDD procedures in relation to situations that pose a higher ML/TF risk.

Implementation of EDD Measures

a) Financial Sector and DNFBP

490. The enhanced CDD regime applied by FIs comprises mainly the following measures: a) obtain approval from the main hierarchical levels of the institution when establishing or continuing a relationship with this type of customers; b) prepare a detailed report explaining all the elements that have been considered in order to elaborate its business profile. The report shall be adequately supported by documentation that allows establishing the patrimonial, economic and financial situation or justifying the origin of the funds managed by the customer. For these purposes, the customer should have accounting statements with a public accountant's report, tax returns, liability statements, profit distribution minutes, purchase and sale contracts or other documentation that allows compliance with the above. However, in all cases, copies of affidavits or equivalent documentation submitted to the corresponding tax authorities should be available; c) increase the frequency for updating customer information; d) carry out more intensified monitoring of the business relationship, increasing the amount and frequency of the controls applied.

491. DNFBPs complete their enhanced CDD processes by requiring from their customers in addition to the information required for regular due diligence, the following: a) marital status of all identified natural persons. If the person is married or is in a common-law marriage, full name and identity document of the spouse or common-law partner; b) a declaration of tax compliance; c) in the case of entities required to be registered by Law 18.930 of 2012 and Law 19.484 of 2017 (Law on International Tax Transparency, Identification of the Beneficial Owner and of the Holders of Nominative Shares), a certified copy of the affidavit presented in the BCU Registry should be requested, with the identification of the BOs.

492. In the case of the casinos sector, there is a requirement to request the volume of income or reasonable explanation and/or proof of the origin of the funds managed in the transaction (for other DNFBPs this information is requested during regular CDD).

493. For the application of enhanced CDD in case of customers defined as PEPs, FIs and DNFBPs, they are based on the list of persons holding positions included in the PEP list drawn up by the BCU on the basis of information received from the National Civil Service Office. The list of PEPs includes those who perform or have performed in the last five years important public functions in the country.

494. The list is a very helpful tool. It should be noted that it only refers to certain local positions. FIs, in addition to this control, use database access services provided by commercial firms with international and local presence, which include global lists of PEPs, as well as inquiring the customer, both resident and non-resident, in order to verify their possible PEP status.

495. As regards DNFBPs, they have mainly mentioned validation against the domestic PEP list as the sole verification measure, although there are some sectors that have reported the use of global PEP list access services. It should be mentioned that in Uruguay PEPs are considered persons who perform or have performed a public function in the last five years following the termination of office.

496. With regard to obligations in relation to electronic transfers, it should be noted that institutions that originate funds transfers should include, in the message instructing the transfer, precise and significant information regarding the originator or principal, including full name, address or identification number, and the account number for which the customer's prior consent will be obtained if deemed necessary. If the customer does not grant the authorization requested, the institution should not conduct the transaction. They must also properly identify the beneficiaries of the transfers, recording in the message itself the full name and account number.

497. For domestic drafts and transfers below USD 10,000 a more simplified identification process applies. Institutions should not make transfers if they do not have all the required data above mentioned. The integrity and quality of the information are validated by the SSF during the inspection activities and by the UIAF during the validation processes of the systematic reports sent by FIs. No concerns were raised in relation to this procedure during the interviews conducted during the on-site visit.

498. With regard to preventive measures adopted by FIs for handling correspondent accounts, although special due diligence is provided, both the banking entities interviewed and the SSF confirmed that this type of service is not provided in Uruguay.

499. In addition, faced with the application of measures for higher risk countries, FIs indicated that they apply enhanced CDD to those customers who receive transfers from countries that are not members of FATF or any of the FATF-style regional bodies; or who are subject to special follow-up measures by FATF for failure to apply its recommendations, or for not applying them sufficiently. The FATF lists are published on the BCU website.

500. With reference to the CDD procedure required for the verification of possible matches with the lists of sanctions published by the UNSC, of the discussions held during the on-site visit with both FIs, DNFBPs and regulatory authorities, account was taken of the publication and dissemination of the lists by the BCU and the SENACLAFT. Thus, RIs can access the UN site through the links available on the BCU and SENACLAFT sites. In order to improve the effectiveness of this control process, it is worth mentioning that both bodies work jointly with the Ministry of Foreign Affairs and receive directly the communications that inform the listing and de-listing of the UNSC immediately upon receipt of the information in the permanent mission of Uruguay to the UNSC.

501. These communications are forwarded by e-mail to each of the RIs under the supervision of the BCU and the SENACLAFT, which makes it possible to disseminate immediately any changes made to the above-mentioned lists, both to the financial sector and to the DNFBPs, allowing the immediate freezing of assets in the event that matches are detected with the persons or organizations on the sanctions lists. Without prejudice to this, the RIs have a direct obligation to review the lists and the financial RIs, in general, do so by means of computer tools. DNFBPs are at different stages of development in terms of knowledge and application of obligations.

502. It is worth mentioning that five suspicious transactions have been reported to the UIAF due to possible matches with the UNSC lists by FIs, all of which were dismissed. There were no cases reported by DNFBPs in relation to possible FT/PWMD cases.

503. In view of the above, it should be noted that both FIs and DNFBPs apply enhanced CDD measures in cases of higher ML/TF risk, in relation to PEPs, high-risk and sanctioned customers and countries, among others, with special procedures for handling electronic transfers and correspondent accounts.

Reporting and tipping-off obligations

504. RIs should report to the UIAF suspicious transactions identified, regardless of the amount involved, immediately and sufficiently, whether they involve attempted or completed transactions. In all cases, the RI should prepare and submit a STR, regardless of whether it refers to a possible laundering transaction or one linked to a potential TF. FIs have an automatic reporting process, while some DNFBP sectors still have to make their reports manually by submitting physical reports

to the UIAF. It should be noted, however, that these sectors are in the process of being incorporated into the digital reporting system.

505. With regard to the number and trend in the receipt of STRs, the statistics shown by the competent authorities generally reflect a constant annual increase in the receipt of STRs by the UIAF, both in the financial sector and in the DNFBP sector.

Table 18. STRs by sector – 2014 to 2018

RIS	2014	%	2015	%	2016	%	2017	%	2018	%	TOTAL	TOTAL
FINANCIAL SECTOR	256	90%	292	80%	392	82%	398	72%	519	66%	1857	75%
BANKS	174	68%	183	63%	262	67%	259	65%	347	67%	1225	66%
FINANCIAL SERV. COMPANIES/EXCHANGE HOUSES	39	15%	35	12%	49	13%	40	10%	33	6%	196	11%
OTHER FINANCIAL INTERMEDIATION INSTITUTIONS	15	6%	7	2%	4	1%	1	0%	2	0%	29	2%
SECURITIES DEALERS	12	5%	29	10%	25	6%	17	4%	25	5%	108	6%
INVESTMENT ADVISORS	3	1%	14	5%	17	4%	13	3%	13	3%	60	3%
INSURANCE COMPANIES	1	0%	5	2%	7	2%	6	2%	5	1%	24	1%
FUND TRANSFER COMPANIES	7	3%	12	4%	16	4%	31	8%	64	12%	130	7%
INVESTMENT FUND MANAGERS	0	0%	0	0%	1	0%	3	1%	1	0%	5	0%
AFAP	1	0%	0	0%	0	0%	0	0%	0	0%	1	0%
REPRESENTATIONS	1	0%	4	1%	2	1%	0	0%	1	0%	8	0%
CREDIT MANAGERS	2	1%	0	0%	0	0%	2	1%	4	1%	8	0%
TRUSTS	1	0%	1	0%	1	0%	9	2%	0	0%	12	1%
ACCOUNTING SERVICES PROVIDERS ART. 20 LAW 17.835	0	0%	0	0%	0	0%	1	0%	0	0%	1	0%
SECURITY BOXES COMPANY	0	0%	2	1%	2	1%	6	2%	4	1%	14	1%
E-MONEY ISSUERS	0	0%	0	0%	6	2%	10	3%	20	4%	36	2%
DNFBP	15	5%	62	17%	82	17%	151	27%	263	33%	573	23%
CASINOS	8	53%	18	29%	24	29%	45	30%	86	33%	181	32%
NOTARIES PUBLIC	2	13%	8	13%	16	20%	37	25%	51	19%	114	20%
ACCOUNTANTS	0	0%	0	0%	0	0%	0	0%	13	5%	13	2%
LAWYERS	0	0%	0	0%	0	0%	0	0%	2	1%	2	0%
REAL ESTATE COMPANIES	1	7%	4	6%	10	12%	20	13%	33	13%	68	12%
FREE ZONE OPERATORS	0	0%	1	2%	6	7%	3	2%	6	2%	16	3%
BUILDING COMPANIES	0	0%	0	0%	2	2%	6	4%	0	0%	8	1%
AUCTIONEERS	0	0%	1	2%	1	1%	7	5%	48	18%	57	10%
DEALERS IN PRECIOUS METALS	1	7%	0	0%	0	0%	0	0%	0	0%	1	0%
CORPORATE SERV. PROVIDERS	3	20%	30	48%	23	28%	33	22%	24	9%	113	20%
TOTAL STRs of RIs	271	95%	354	98%	474	99%	549	99%	782	99%	2430	98%
OTHER SOURCES	15	5%	9	2%	6	1%	7	1%	8	1%	45	2%



TOTAL	286	363	480	556	790	2475
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506. 75% of the total STRs for the reported period were filed by the financial sector, with 66% corresponding to the banking sector. Within the DNFBP sector, the casinos sector generated the largest number of reported cases, 32%, followed by notaries and company service providers with 20% each.

507. In general, and in line with the threats and vulnerabilities identified in the NRA, the STRs of the DNFBP sector, despite their evolution over the last two years, still present limited numbers, with some sectors with a very low number of reports (accountants, lawyers, free trade zones, building companies, dealers in precious metals) and others which, due to their relative risk, should improve productivity (notaries, real estate agents, auctioneers and company service providers).

508. In the case of notaries, it is worth mentioning that an agreement has been reached with the Uruguayan Association of Notaries for the Money Laundering Prevention Advisory System (SAPLA), which consists of advice to professionals on AML/CFT risks, including the identification and consideration of suspicious transactions.

509. As a result of the on-site interviews, one of the main reporting factors mentioned by the respondents is the identification of negative public information in some of the neighbouring countries linked to non-resident customers operating in Uruguay.

510. No other relevant recurrent factors were presented that are being considered for the analysis and conclusion of suspicious transactions by the reporting sectors, which could characterize a reactive and not proactive and anticipatory reporting process based on a risk-based analysis. This is also reflected in the fact that the respondents, almost in their entirety, when referring to reported cases, only mentioned cases linked to corruption offences in Argentina or Brazil, as well as the small number of parallel investigations into local transactions carried out by resident customers.

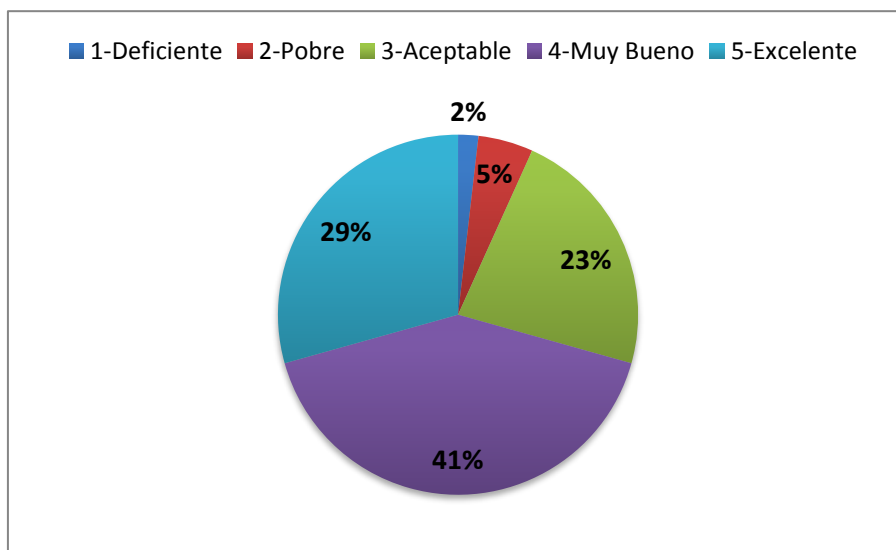
511. Based on the STRs received in 2014, the UIAF began a process of assessing the quality of STRs received, which concluded in October 2016 with the issuance of a document entitled “Best Practices for Suspicious Transaction Reporting”, which highlights the information that the UIAF expected to find in the reports submitted by the entities, emphasizing the importance of 3 aspects of quality assessment: (i) integrity, (ii) accuracy and (iii) timeliness.

512. The document was published on the BCU website and specifically disclosed to financial intermediation institutions, major financial services companies and fund transfer companies and notaries. The first feedback sessions took place towards the end of 2017 and reached the top 5 reporters representing almost 50% of the reports received in 2016.

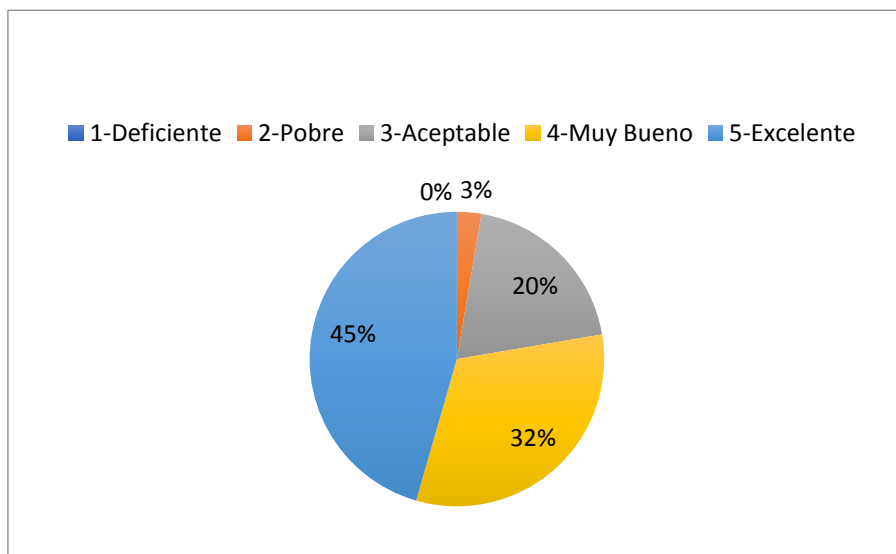
513. The UIAF conducted a second quality analysis of the 2017 STRs, with coordinated feedback sessions by mid-2018. From the sample of 549 reports analysed (398 from the financial system and 151 from DNFBPs), it was determined that 77% corresponded to transactions carried out and 23% to attempted transactions.

514. In general, very good average ratings were determined in the three principles analysed: Integrity (88.43%), Accuracy (85.52%) and Timeliness (89.07%); in addition to obtaining a very good overall average STR rating of 4.28 in 5. However, analysing the ratings by sector, it is observed that the principle of timeliness of the Financial Sector, in particular of Banks (72.08%) could be improved, taking into account its relevance in terms of exposure risk and volume of reports.

Graphic 1 – Global qualification of STRs - IF



Graphic 2 – Global qualification of STRs - DNFBPs



515. In accordance with the review of the regulations in force, and what was revealed during interviews with the private sector, there are no concerns with regard to the duty of confidentiality

laid down in the regulations in force, prohibiting the disclosure of information about investigations and suspicious transaction reports. The regulators consulted did not mention any concerns in relation to this provision. Entities should implement internal control policies and procedures to ensure that all suspicious or unusual transactions are reported to the Compliance Officers who are responsible for ensuring their proper reporting to the UIAF and its safekeeping.

516. The financial sector submits its suspicious transaction reports to the UIAF automatically through the SIDELAV System, while in most DNFBP sectors they still submit them manually to the UIAF. There is an internal procedure that establishes that reports can only be received by authorized personnel of the UIAF exclusively. It is worth mentioning that the UIAF is working to incorporate all DNFBPs in the reporting process used by FIs.

517. Considering the above, although the volume of suspicious transaction reports of DNFBPs has increased in recent years, it is true that many sectors still have a low level of reporting (accountants, lawyers, free trade zones, building companies, dealers in precious metals) and furthermore, other sectors, by virtue of their relevance, require an improvement in the volume of their reports (notaries, real estate agents, auctioneers and company service providers). The quality of STRs shows good indicators based on the latest analysis carried out by the UIAF. The banking sector shows an opportunity for improvement of the reporting times.

Imminent implementation of internal controls and legal/regulatory requirements

a) Financial Sector

518. The financial sector has implemented internal ML/TF prevention systems with compliance and risk management components. These systems consist mainly of procedures and controls linked to timely detection and issuance of STRs, all under the responsibility of a compliance officer.

519. In line with the results of the supervisions carried out by the SSF, the financial intermediation entities present a differential degree of compliance with controls, also demonstrating the other FIs different degrees of adequacy in their prevention systems; in some of them there are opportunities for improvement in relation to automation and systematization of processes.

520. In no case can professional or banking secrecy be invoked to apply due diligence procedures, request information from customers or send information to the UIAF, and the law expressly states that such secrecy is never an impediment to request, provide or investigate transactions. In practice, in recent years there have been no situations in which entities have used the argument of banking or professional secrecy.

b) DNFBP

521. DNFBPs under the supervision of the SENACLAFT have a compliance officer, who must implement and review the policies, procedures and controls to comply with the provisions for the prevention of ML/TF/PWMD set out in Decree 379/018, with emphasis on identification and CDD, management of risks inherent in the activity and identification and analysis of unusual transactions

and their possible reporting in the event of concluding on the existence of suspicion. According to the information provided, although there has been a gradual improvement in the levels of formal compliance and in the volume of suspicious transactions reported, the implementation of internal controls in DNFBPs is asymmetric and depends fundamentally on the activity and the length of time they have been part of the preventive system.

Conclusions on Immediate Outcome 4

522. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key findings

- The process of licensing and registration of FIs carried out by the BCU largely prevents criminals or their associates from entering the market.
- In the case of DNFBPs, except casinos, notaries and lawyers, there is no assessment of the suitability of shareholders or partners, therefore, there are no mechanisms to prevent criminals and their associates from having a significant participation or holding a management position in them.
- Not all DNFBPs have complied with the obligation to register with the SENACLAFT, especially in the real estate sector, company service providers, accountants and jewellers and antiques sectors.
- Both the SSF and the SENACLAFT understand the ML/TF risks to a large extent and carry out supervision of RIs under a risk-based approach, relying on risk procedures and matrices, which, in the case of DNFBPs, require improvement for some sectors, especially those recently incorporated.
- The supervision carried out by the SENACLAFT is in different stages of maturity, and it is considered necessary to broaden both the resources and the supervision process under a RBA.
- The SSF and the SENACLAFT have legal regulations in place that allow them to impose sanctions on RIs. However, it is observed that the sanctions imposed by both supervisors are limited, and in some sectors no sanctions have been issued.
- The SSF and the SENACLAFT have undertaken a series of actions in order to promote compliance by RIs. However, there are no trends in the performance of RIs that would make it possible to appreciate the impact of supervisory actions on compliance in the sectors.
- The SSF and the SENACLAFT have made considerable efforts in terms of feedback, training and RIs awareness. However, it is necessary to focus greater efforts especially on DNFBPs so that they understand their obligations and the risks of ML/TF.

Recommended Actions

- Establish measures to prevent criminals and their associates from having a meaningful participation or holding a managerial position in DNFBPs.

- Conduct clear actions to ensure that all DNFBPs are registered with the SENACLAFT.
- Broaden, by each supervisor, the supervision in the sectors of higher risk that require attention so that they strengthen their ML/TF prevention system and understand their risks and obligations, especially in DNFBPs.
- Continue the institutional strengthening of the SENACLAFT in order to extend both the resources and the supervision process.
- Continue working to ensure that supervisors conduct effective, proportional and dissuasive sanctions.
- Continue with training and awareness-raising activities to achieve a better understanding of AML/CFT obligations and ML/TF risks by RIs, especially for DNFBPs, which will result in an increase in the quantity and quality of STRs.

The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.26-28, R.34 and 35.

Immediate Outcome 3 (supervision)

523. AML/CFT supervision of the financial sector is carried out by the UIAF, which reports to the SSF and the latter in turn to the BCU; and, in the case of DNFBPs, by the SENACLAFT, both bodies have the function of regulating, monitoring and supervising compliance with AML/CFT requirements of RIs. In addition, there are other agents that participate in the payment system, which are regulated and supervised in ML/TF prevention matters by the Payment System Regulations and Oversight Department of the Payments System Area of the BCU.

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

a) Financial Sector

524. The Executive Power, in accordance with Articles 6 of Law 15.322, 2 of Law 16.426 and 93 of Law 16.713, grants or denies authorization to operate to the institutions that make up the financial intermediation system, insurance companies and provisional savings fund managing companies, respectively; prior favourable opinion of the BCU. Once the operation license is authorized, the SSF shall enable the establishment of these institutions. For its part, among the tasks and powers of the SSF it is highlighted that of granting the authorization to operate of exchange houses, entities that carry out domestic and foreign transfers, payment and collection services, coffers services, credits, stock exchanges, securities dealers and entities of custody or clearing and settlement of securities.

525. Likewise, the SSF keeps the register of credit management companies, representatives of FIs incorporated abroad, fund transfer companies, management and accounting or data processing service providers, values transportation companies, companies providing leasing and custody services of security boxes, issuers of public offering securities, investment advisors; and companies administering platforms for loans between persons; and, in the case of professional trustees, they must be registered in the Securities Exchange Market Registry.

526. The authorization of FIs is carried out by the Financial Regulation Agency of the BCU, in particular, the Authorizations Department. This department is responsible for carrying out the process, in which, for reasons of legality, timeliness and convenience, the economic-financial solvency, the identification of the ownership structure and the economic group, the analysis of the business plan to be carried out, operational and technological aspects, the comprehensive system to prevent ML/TF/PWMD and the clarity of corporate governance are verified. With respect to the register that the BCU keeps on other FIs, for reasons of legality, the objective is to ensure compliance with the minimum requirements so that they operate properly without negatively affecting the market in which they will operate.

527. Within the authorization process, there is no objection of personnel, which consists in evaluating whether the persons are suitable for the performance of the function they intend to develop, considering for these purposes honesty, integrity and reputation, capacity and competence, financial solvency and suitability for the organization of the applicant in the agency in question.

528. In this regard, during the process, compliance with the requirements to be met by shareholders and some senior staff (Directors, General Manager, Trustees) is verified in accordance with the RI Standards Compilation, and an affidavit of shareholders should be submitted, specifying the chain of shareholders and identifying the legal person exercising effective control of the group.

529. With regard to the authorization process, it is worth mentioning that it is ISO 9001/2015 certified, ensuring compliance with a rigorous standard in terms of documentation, improvement and updating. In addition, there are guidelines that include all the procedures that are carried out for each type of entity, requesting both authorizations to operate and inclusion in the respective registers. These procedures include, among others, due diligence of the persons involved, both shareholders and senior staff of the entities seeking to enter the market or changes to these when they are already in operation, not only by the sector responsible for authorizations (background documentation, consultations with foreign regulators, etc.), but also by the UIAF that checks the background of the persons involved.

Table 19. Financial RI Registration with the SSF (December 2018)

TYPE OF REPORTING PARTY	NUMBER
Financial Intermediation Companies	15
Public Banks	2
International Banks	9
Financial House	1
Financial Intermediation Cooperative	1
Pre-Existing Savings Management Companies	1
External FI	1
Securities Market	291
Stockbrokers	38
Security Dealers	30
Investment Fund Managing Companies	11

TYPE OF REPORTING PARTY	NUMBER
Stock Exchanges	3
Public offering issuers (25 are Financial Intermediation Companies)	36
Investment Advisors	173
Highest Asset Credit Managers	15
Financial Services Companies	22
Funds Transfer Companies	6
Exchange houses	55
Representations of Foreign Financial Entities	11
Pension Savings Funds Managing Companies	4
Insurance Sector	17
TOTAL	436

530. During 2017-2018, the SSF processed 91 share transfers, 85 authorizations/registrations of entities and 52 non-objections of senior personnel, which, among other entities, corresponds to banks, investment advisors and insurance companies.

531. Rejections in the authorizations of both persons and entities are generally reflected in the withdrawals by the interested parties themselves before the requirements of the regulator. These rejections may have multiple causes: lack of competence (persons), activity that is not consistent with the type of license, prudential requirements, negative background, among others. During 2017-2018, the SSF recorded the following rejections:

Table 20. Rejections and withdrawals of SSF licensing processes (2017-2018)

Rejection / Withdrawal	2017	2018
Authorization	1	2
Registration by legality	3	10
No objection from senior staff	2	2

Note: During 2015-2016 there were no rejections

Table 21. Rejections and withdrawals of SSF licensing processes (2017-2018) by entity type and reason

Rejection / Withdrawal	Type of Entity	Reason
Authorization	b. Exchange houses c. Stock exchanges d. Security Dealers	Upon request for additional information, they did not provide it and withheld, or they stated that they were no longer interested.
Registration by legality	e. Auditors f. Accounting, management and data processing services providers	Upon request for additional information on training, among others, it was not provided and gave up or it was rejected.

	g. Specialised investor h. Investment Advisors	
No objection from senior staff	i. Pension Savings Funds Managing Companies j. Insurance Companies k. Intermediation Cooperative	Upon request for additional information on training and experience, they did not provide and gave up; they did not provide grounds for withdrawal; lack of experience and training; undeclared sanction processes in other jurisdictions.

532. By virtue of the foregoing, it is appreciated to a large extent that the licensing and registration process carried out by the BCU prevents criminals and their associates from owning, being the beneficial owner of, or having a significant or majority participation in FIs, or performing an administrative function in them.

b) DNFBP

533. The DNFBP registration process varies by sector. In the case of casinos, it is the State itself that is intended to operate them directly or through the system of concessions through the mixed system of casinos, for which purpose the elements to be evaluated include the background and solvency of the bidder, as well as the origin of the funds. Likewise, in both cases where State operation is involved, the functions are performed by public officials, governed by the Statute of Public Official Law 19.121. Articles 10 and 11 of Law 17.060 require the submission of a sworn statement of property and income to the Board of Transparency and Public Ethics, although this requirement is not part of the licensing process. Authorization for the operation of casinos is granted by the Executive Branch.

534. For notaries, the licensing process takes place before the Supreme Court of Justice, in accordance with the Notarial Regulations approved by SCJ Agreement No. 7.533. For the purposes of qualification, the Regulations stipulate that those who have been prosecuted or convicted of a fraudulent or ultra-intentional crime may not apply for investiture. Among the requirements for practicing the profession there are technical sufficiency, 23 years of age, honesty and good customs, not being affected by disabilities and incompatibilities. Honesty and good customs are proven by a certificate of good conduct issued by the Ministry of Interior and the criminal record sheet of the Forensic Technical Institute.

535. Lawyers are registered with the Professional Register Section of the Judiciary Administration Services General Directorate. It should be mentioned that it is the SCJ's responsibility to suspend subjects for the commission of crimes, which are incompatible with the exercise of the profession.

536. With regard to accountants, in Uruguay no qualification is required to practice the profession, and there is no compulsory membership. However, they must register with the DGI. Uruguay has the Association of Accountants, Economists and Administrators, which has approximately 7,500 associated professionals.

537. In order to practice the profession of auctioneer, it is necessary to be registered with the Registry of Auctioneers maintained by the Ministry of Labour and Social Security. Among other requirements, registration requires proof of good conduct by means of a certificate issued by the police headquarters of the department in which they live.

538. No license is required to act as a real estate agent or dealer in precious metals and stones. Without prejudice to this, in order to operate as such, they should be registered with the DGI and in the particular case in which the real estate agent acts in tourist areas, they should register with the Ministry of Tourism, which in turn publishes a list of such agents.

539. Regardless of the foregoing, the SENACLAFT is responsible for AML/CFT registration and supervision of both casinos and DNFBPs in general. For this purpose, the registration and updating of information is done online and at the end of registration a certificate is issued attesting to compliance with this obligation.

Table 22. Registration of DNFBPs with the SENACLAFT (May 2019)

TYPE OF REPORTING PARTY	NUMBER
Lawyers	133
Antiques	24
Casinos	4
Accountants	949
Notaries	7,368
Real Estate Companies	2,058
Auctioneers	391
Corporate services	165
Free trade zones	1,568
TOTAL	12,660

540. Except for casinos, notaries and lawyers, for the rest of RIs there is no assessment of the suitability of shareholders or partners, therefore, there are no mechanisms to prevent criminals and their associates from being BO, having a significant participation or holding a management position in DNFBPs.

541. Likewise, although the SENACLAFT has made significant efforts for DNFBPs to register as RIs, including higher risk entities, the effectiveness is affected by the fact that not all have complied with this obligation, especially in the real estate sector, company service providers, accountants and jewellery and antiques dealers; therefore, it is considered necessary to make additional efforts to register and sensitize all RIs.

542. By virtue of the foregoing, it can be seen that, to a certain extent, the outcome of the core issue was achieved, mainly in the financial sector; however, there are some limitations in certain DNFBP sectors, such as not having all RIs registered, and not having mechanisms to prevent criminals and their associates from entering the market.

Supervisors' understanding and identification of ML/TF risks

a) Financial Sector

543. Uruguay carried out two NRAs, and particularly in that of 2017, it determined the level of risk of the different sectors of reporting financial institutions and DNFBPs existing at that time; in addition to these, it prepared risk analyses of certain vulnerable sectors in the area of ML/TF.

544. In the case of the financial sector, the SSF/UIAF developed risk matrices that have an intersectoral and an intrasectoral dimension. The former seeks to compare the risk existing between the different sectors of the financial system with homogeneous parameters, and the latter compares the risk of ML/TF within the same sector (banks, securities dealers, financial services companies, exchange houses, etc.). The matrices are periodically updated (intersectoral on an annual basis and intrasectoral on an aperiodic basis), which allows the assignment of supervision and regulation efforts directed to the identified risks.

545. As of 2016, the SSF/UIAF implemented an ML/TF Risk Matrix for securities dealers, financial services companies and exchange houses which, according to the Sector Matrix, were the highest risk sectors (in the case of banks, also considered to be high-risk, there was already an individual ML/TF risk rating). This tool allows for more refined monitoring and an allocation of resources more in line with the risks assumed by the supervised entities. Likewise, during 2017 other types of supervised entities were added, in particular investment advisors and investment fund management companies; and the Risk Matrix of financial intermediation companies (particularly banks) was also updated in order to align it methodologically with the sector matrices elaborated so far.

546. In general, the intrasectoral risk matrices prepared by the SSF/UIAF include a series of input variables for the sector, which are weighted in order to obtain the risks each RI is exposed to, among others, size, volume operated, origin of shareholders, business, products and customers. In the case of the intersectoral matrix, it includes the weighting of the average of the intrasectoral matrix, of the income of the sector, STRs and cash transactions, which determines the risk level of each of the sectors. These matrices are the input for the preparation of the annual supervision plan.

547. As supervisor, the UIAF participates in the preparation of ML/TF risk matrices for the financial sector, as well as staff training efforts in AML/CFT, which allows for a good identification and understanding of ML/TF risks.

548. It should also be noted that the UIAF maintains fluid communication with the SENACLAFT, through regular meetings and participation in operational committees coordinated by the latter, which enables it to maintain a good identification and understanding of the risks identified in the various sectors.

b) DNFBP

549. For its part, the SENACLAFT, through the Strategic Analysis Observatory, annually prepares and updates the risk analysis of the various sectors under its supervision, such as the corporate sector, free trade zones, antiques, casinos, real estate and auction houses, on which it has issued risk reports, the last of which was updated in January 2019; they are the basis for focusing and developing supervision.

550. In the case of real estate and construction sector, the report considers information on all purchase and sale transactions and mortgages of real estate registered with the DGR, and in the case of construction works registered with the Banco de Previsión Social. In both cases, the SENACLAFT makes use of information provided by the Chamber of Real Estate Companies of Uruguay. As for the sector of company service providers and managers, in collaboration with the AIN, it carries out an analysis of the different types of companies that may operate in the country. In the free trade zones sector, the Strategic Analysis Observatory carries out an analysis that considers the functioning of the sector, users' activities and the volume of business they develop, for which it relies on information provided by the Free trade zones Area of the Ministry of Economy and Finance. In general, the SENACLAFT considers existing information in the DGI on income and patrimony of taxpayers, as well as a series of information on each sector.

551. The SENACLAFT, in its capacity as supervisor of DNFBPs, has developed risk matrices and has a good understanding and identification of risks encountered by the different sectors; likewise, efforts are being made to train staff in AML/CFT matters.

552. Taking into account the materiality and risk of the various economic sectors, the four RI sectors that have been identified as the most important in the area of ML/TF are the following: financial (financial intermediaries, securities dealers and financial services companies), real estate and construction, company service providers and managers, and free trade zones.

553. The supervisors of the financial and DNFBP sectors have a good understanding and identification of ML/TF risks within the sectors they are responsible for; in fact, the participation of supervisory staff in AML/CTF and ML/TF risk training is highlighted; however, in the case of the DNFBPs, although the main risk sectors are included in the risk analysis, it should be noted that as a result of the recent incorporation of new RIs, the matrices of the respective sectors present opportunities for improvement.

Risk-based supervision of compliance with AML/CFT requirements

a) Financial Sector

554. The BCU regulates and supervises the entities that make up the financial system, through the SSF, whose tasks and powers include issuing prudential regulations and particular instructions aimed at promoting the prevention and control of ML/TF; and developing the functions entrusted to it by law for the purpose of combating ML/TF offences provided for by the regulations in force. On this account, the SSF carries out on-site and remote supervision of RIs, in order to safeguard its duties.

555. The UIAF forms part of the SSF and is responsible for supervision of the AML/CFT component, with specialized staff from Money Laundering Control Units 1 and 2, made up of 11 officials (2 heads and 9 analysts). For supervisory purposes and possible enforcement of sanctions, the UIAF maintains close communication with the rest of the SSF dependencies, among others, with the Intendencies of Financial Regulation and Supervision, Market Methods and Conduct Departments, Administrative Area and Systems, among others.

556. The SSF defines the general supervision and regulation model of supervised entities in accordance with the provisions of the Strategic Framework and the Operational Framework, which the UIAF should comply with and enforce; these include the powers and mandates that the Law imposes on the BCU, particularly that of preventing the financial system from being used for ML/TF/FPWMD transactions, and its role as supervisor for the purpose of ensuring that the entities comply with regulatory requirements. It also contemplates the principle of applying a risk-based approach (definition of differential strategies, tools used for risk assessment, rating guidelines, supervisory cycles, among others).

557. Likewise, the SSF has defined a mandatory best practices document for financial intermediation companies and insurance companies (minimum management standards - EMG) and an evaluation methodology called CERT (C: corporate governance; E: economic-financial situation; R: risks; T: technology), which is the basis for evaluating the risk of ML/TF.

558. On-site and remote supervision activities are planned annually on the basis of the results of the risk matrices and previous procedures, with the participation of personnel from the supervision, risk, UIAF and market conduct units; as part of this work the entities to be visited in the following year are determined, as well as the type of supervision to be carried out and the units participating in each procedure. The purpose is to allocate the resources assigned giving priority to the supervision of the sectors and entities involving the greatest risk.

559. In addition to on-site procedures, the SSF and the UIAF carry out remote supervision procedures, which are applied to banks, securities dealers, insurances and AFISAS; these have a quarterly or half-yearly frequency, based on the type of entity, and their aim is to analyse regulatory compliance, financial information and other relevant aspects of the period under analysis.

560. The scope of an individual action is determined after compiling and analysing the information; for this purpose, the analysis takes into consideration information contained in the risk matrix, information from the centralized database, previous procedures, etc. The scope of each procedure is documented in the Scope Memorandum found in the TeamMate tool.

561. With regard to the frequency of supervision, the Operational Framework establishes certain cycles for the relevant entities. For FIs, in which the banking sector is included, the cycle is of 12 months; for the securities exchange market it is differentiated based on the ML/TF risk level and volume of transactions; for non-banking exchange market (financial services companies, exchange houses and fund transfer companies) it is defined according to the level of risk; for the insurance market, it is defined according to its importance for the stability and solvency of the system (not

considering ML/TF factors) and for those entities considered to be less risky, supervision is carried out remotely.

562. The development of on-site supervision consists of the application of procedures aimed at evaluating ML/TF risk management and regulatory compliance. After this, within the SSF departments, a stage of discussion of the observations identified and possible sanctions begins, a report is prepared with the findings, which is attached to a letter sent to the RI, followed by a meeting with the directors.

563. The letter sets out the observations and results of the risk matrix, emphasizes the main issues of ML/TF, sets out the instructions that the RI must comply with within a certain period of time, provides for the preparation of an action plan or informs the initiation of the sanctioning process. It should be noted that this letter is also sent to the home supervisor when the RI's parent company is abroad.

564. Upon receipt of the action plan, it is analysed to determine whether it is consistent or not, and this is reported to the entity. Onsite supervision can be comprehensive, follow-up, focused and Ad-Hoc.

565. The SSF has carried out the following procedures in the financial RIs, during 2014 - 2018:

Table 23. Supervision Procedures

Company	Type of Procedure	2014	2015	2016	2017	2018	Total
Financial Intermediation Companies	On-site procedures	13	12	10	10	11	56
Credit Management Companies	On-site procedures	1	2	1	3	1	8
Securities Dealers	On-site procedures	13	5	6	7	7	38
	Auditor Reports on ML/TF	9	12	10	4	9	44
Financial Services Companies	On-site procedures	7	7	6	3	2	25
	Auditor Reports on ML/TF	6	10	6	7	5	34
Exchange houses	On-site procedures	8	4	1	3	3	19
Fund Transfer Companies	On-site procedures	-	3	-	1	-	4
	Auditor Reports on ML/TF	3	2	4	2	1	12
Investment Fund Managers	On-site procedures	-	-	-	1	3	4
	Auditor Reports on ML/TF	-	-	-	6	2	8
Insurance Companies	On-site procedures	5	5	6	8	5	29
Service Providers	On-site procedures	-	-	-	-	1	1
Total On-Site Procedures		47	38	30	36	33	184
Total Auditor Reports on ML/TF		18	24	20	19	17	98
Grand Total							282

566. According to the statistics provided, the on-site procedures amount to 184 out of a total of 436 registered RIs. Cumulatively, most of the actions were carried out on financial intermediaries, securities dealers, financial services companies, exchange houses and insurance companies. However, no procedures have been carried out on investment advisors; and as regards exchange houses, fund transfer companies and investment fund administrators, there is limited supervision.

567. In addition to the above, the SSF requested the RIs to prepare 98 action plans related to the comments contained in the external audit reports on AML/CFT presented by the RIs during 2014-2018. The action plans are followed up within one year of the evaluation on which they were based, most of which are complied with to a significant extent. In the event of any negative results in terms of compliance with the action plan, more stringent measures may be adopted, such as sanctions, operational limitations and even closure of the entity.

568. Furthermore, as a result of the on-site procedures carried out by the SSF/UIAF, and in view of the findings identified, it is worth mentioning that within the 184 on-site procedures, 43 are follow-up to the identified weaknesses or recommendations provided, as follows:

Table 24. Follow-up Procedures

Company	Type of Procedure	2014	2015	2016	2017	2018	Total
Financial Intermediation Companies	On-site procedures	2	3	4	6	5	20
Credit Management Companies	On-site procedures	1	2	-	-	-	3
Securities Dealers	On-site procedures	1	2	1	1	-	5
Insurance Companies	On-site procedures	4	3	4	3	1	15
Total							43

569. It is observed that the SSF and the UIAF largely conduct supervision under a risk-based approach, relying on risk matrices, resources and tools necessary to carry out such activity.

b) DNFBP

570. As of 2016, the SENACLAFT is the body responsible for supervising compliance with AML/CFT requirements by the DNFBPs referred to in Article 13 of the AML Law under a risk-based approach. Before that, this work was carried out by the AIN. Supervisions are carried out by the Audit Department which is made up of 14 experts in auditing.

571. In order to fulfil its duties, the SENACLAFT prepared a Supervision Guide, whose methodology is based on risk-based supervision, taking into account the sectoral risk analyses prepared by the Strategic Analysis Observatory, which periodically generates the information inputs necessary for the Audit Department to define its annual supervision plans, directing efforts to those sectors and entities with the greatest risk in the area of ML/TF.

572. The on-site supervision activities carried out by the SENACLAFT begin with the preparation of the document called “field work planning”, which includes general information on the RI, risk

rating, conclusions of the last visit, negative history in open sources, the scope and areas of action and the communication letter of the visit to be carried out.

573. In the field activity, the application of procedures includes interviews with management, compliance area, other technical experts and employees. Qualitative and quantitative tests are also performed, including the following reviews: customer files, internal corporate governance and quality of controls and mitigators; anti-terrorist list checks, analysis of customer funds movements, preventive regime for offices in other jurisdictions.

574. With regard to the results of the on-site inspections, the inspector in charge prepares a preliminary report on the findings identified, which is forwarded to the head of inspection for review and comment. After this, the findings are verbally conveyed back to the RI and, once the procedures are concluded, they are communicated in writing.

575. The on-site actions carried out on DNFBPs during 2015-2018 are as follows:

Table 25. Supervision Procedures

Type of Reporting Institution	2015*	2016	2017	2018	Total
Free trade zones	-	61	168	200	429
Company Service Providers	4	53	-	14	71
Trusts**	-	-	-	27	27
Promoter and Building Companies	-	3	6	44	53
Notaries	3	56	218	206	483
Real Estate Companies	2	33	91	59	185
Auctioneers		25	15	-	40
Casinos	3	-	-	1	4
Galleries and Jewellery	8	25	13	-	46
Total	20	256	511	551	1,338

Notes:

*Procedures by the AIN.

**Procedures made to notaries, lawyers or any RI listed as a company service providers, acting as a trustee of a trust.

576. As indicated above, supervisory efforts have focused on those sectors and entities considered by the SENACLAFT to be of greater risk. From this account, the statistics provided show that, on a cumulative basis, the majority of on-site actions involved notaries, free trade zones and real estate agencies. However, it can be observed that supervision of casinos, auctioneers, company service providers and promoters and building companies (the latter considered high risk) has been more limited, which is partly due to the fact that the work of the SENACLAFT is relatively recent. Likewise, due to the recent nature of the regulations, there are sectors such as accountants that have not been supervised.

577. With regard to the supervision procedure, it should be noted that based on the files provided by the SENACLAFT and interviews conducted during the on-site visit, it was determined that it was focused on establishing whether the RI has a compliance officer and especially on reviewing customer due diligence compliance.

578. In this regard, supervision has been limited and has mainly consisted of outreach, sensitization and guidance to the RIs of the various sectors with respect to their AML/CFT obligations. The actions carried out during 2016-2018 have been of an initial nature, i.e. there have been no follow-up actions to action plans or corrective measures requested from the RIs; for this reason, there are limitations in determining the degree to which they have improved their ML/TF prevention system. This may in part be due to the recent monitoring by the SENACLAFT, which has undoubtedly made significant efforts. Even so, this task is at different stages of maturity, and it is considered necessary to broaden the resources and the process of supervision in the sectors of higher risk, thus guaranteeing the timely communication of the results obtained and their subsequent follow-up.

579. By virtue of the foregoing, although the SENACLAFT carries out supervision under a risk-based approach, relying on risk tools and matrices, it is observed that the goal is achieved to a certain degree, since some limitations are noted. This is the case of the resources available to carry out this work in a larger universe of RIs.

580. In conclusion, the supervisory efforts carried out by the SSF/UIAF and the SENACLAFT are appreciated. With regard to FIs, it is understood that they carry out supervision to a large extent under a risk-based approach; however, due to some limitations, especially in the supervision of DNFBPs, it is considered that the outcome of the core issue was achieved to some extent.

Remedial actions and effective, proportionate, and dissuasive sanctions

a) Financial Sector

581. The body with jurisdiction to apply sanctions in the field of AML/CFT is the SSF/UIAF. The SSF is empowered to apply warning sanctions and fines of up to 10% of the patrimonial responsibility of the Banks that do not comply with the rules issued, as well as to propose the application of more serious pecuniary sanctions or other measures. The BCU may also apply sanctions to private financial intermediation institutions that violate the laws and decrees governing financial intermediation.

582. The possible sanctions are: observation, warning, fines of up to 50% of the minimum net asset responsibility of banks, intervention (with total or partial substitution of the authorities), total or partial suspension of activities with specific terms, temporary or definitive revocation of the authorization of the financial companies and revocation of the authorization to operate. In the case of the latter, it will be resolved by the Executive Power with the express consent of the BCU. The range of applicable sanctions can also be found in the respective standards compilations for each sector.

583. In addition, the SSF has the power to sanction the representatives, directors, managers, administrators, agents, trustees and prosecutors of financial intermediation companies, which may be subject to fines between UR 100 and UR 10,000), equivalent to between USD 3,290 and USD 329,000, or disqualified from holding such positions for up to ten years. In relation to the securities exchange market, the BCU may sanction with observation, warning, fines, suspension or cancellation of the securities quotation, suspension or cancellation of the authorization to make a public offer and suspension or cancellation of activities.

584. During 2014-2018 the SSF issued 36 sanctions to financial RIs, which are detailed below:

Table 26. Annual Sanctions Enforced by the SSF/UIAF

TYPE OF COMPANY	2014	2015	2016	2017	2018	TOTAL
Financial Intermediation Companies	2	2	-	-	2	6
Securities Dealers	5	6	3	2	1	17
Financial Services Companies	2	1	1	-	2	6
Exchange houses	1	-	-	2	3	6
Accounting and Management Services Providers	-	-	-	-	1	1
TOTAL	10	9	4	4	9	36

585. In relation to the annual sanctions applied by the SSF, in terms of amount these account for 8.25% compared to the total RIs registered; there is a decline in 2016 and 2017 compared to previous years and 2018, as well as the absence of sanctions on the insurance sector and fund transfer companies.

586. The sanctions enforced by the SSF, taking into account the type of sanction, are detailed below:

Table 27. Sanctions Enforced by the SSF/UIAF by Type of Sanction

Type of Entity	Number of Sanctions	Withdrawals of Authorizations	Warnings	Fines	Fines Amounts in \$	Fines Amounts in USD
Financial Intermediation Companies	6	0	1	5	7,902,154	285,262
Securities Dealers	17	4	0	13	8,726,411	313,507
Financial Services Companies	6	0	1	5	14,717,140	522,855
Exchange houses	6	2	0	4	2,022,833	67,331
Accounting and Management Services Providers	1	0	0	1	615,000	19,401

TOTAL	36	6	2	28	33,983,537	1,208,356
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587. With respect to the above statistics, it should be pointed out that the reason for the withdrawal of the authorization to operate was due to weaknesses in the ML/TF prevention system, especially due to due diligence, monitoring, customers related to the shareholder, compliance officer does not provide information, transaction not reported, owner prosecuted for misappropriation and laundering, entity investigated for connection with ML. Likewise, the amount of pecuniary sanctions applied represents 0.03% in relation to the amount of assets of the financial system (USD 43,833 million), referred to June 30, 2018.

588. The sanctions enforced by the SSF/UIAF, taking into account the type of sanction, are detailed below:

Table 28. Sanctions Enforced by the SSF/UIAF by Reason for Sanction

Reason for Sanction	Number of Sanctions	Fines Amounts in \$	Fines Amounts in USD
Weaknesses in the ML/TF prevention system*	15	10,120,200	394,386
Repeated weaknesses in the ML/TF prevention system	6	7,071,374	238,297
Unreported transaction	2	1,923,284	62,001
Transactions not allowed	4	14,855,000	513,241
Mistakes in the information provided to the Database	1	13,680	432
TOTAL	28	33,983,538	1,208,356

*They include 2 sanctions without amount, one that is in the resolution stage for which no amount has been defined; and the other was not executed as a result of the withdrawal of the authorization to operate in 2016.

589. According to the previous statistics, the sanctions for weakness of the ML/TF prevention system and reiteration of its weaknesses were due especially to due diligence, monitoring, PEP, compliance officer, negative external auditor’s report, checking of lists, customer linked to money laundering and risk assessment.

590. Although the SSF has issued a series of administrative and pecuniary sanctions to the RIs, it should be noted that these have been limited in relation to the number of RIs registered, as well as the amount of assets represented by the financial system. Similarly, no sanctions have been issued in other sectors.

b) DNFBP

591. As regards DNFBPs, the SENACLAFT is the competent authority to sanction AML/CFT infringements. In particular, the SENACLAFT may apply administrative and financial sanctions for non-compliance with the obligations provided for RIs, which will be applied by assessing the infraction and the background of the offender and will consist of warning, observation, fine or

suspension of RIs when appropriate, temporarily (no more than 3 months), or with prior judicial authorization, definitively. The amount of the fines shall be graduated between a minimum of 1,000 IU (one thousand Indexed Units) and a maximum of 20,000,000 IU (twenty million Indexed Units), according to the circumstances of the case, the behaviour and the habitual turnover of the offender.

592. The SENACLAFT has established a set of guidelines for the application of sanctions, as set out in Resolution No. 016/2017, which establish three types of sanctions: serious, severe and minor; and the scale is defined based on the offender’s income category. In addition, without prejudice to the fine determined by the scale, this amount may be increased to the maximum ceiling of 20,000,000 indexed units (1 IU x \$4.20, equivalent to USD 0.12) or the suspension of the reporting institution may be applied according to the circumstances of the case.

593. From January 2016 to April 2019, the SENACLAFT issued 37 sanctions to DNFBPs, as follows:

Table 29. Annual Sanctions Applied by the SENACLAFT

TYPE OF COMPANY	2014	2015	2016	2017	2018	TOTAL
Notaries	-	-	14	13	13	40
Real Estate Companies	-	-	-	6	3	9
Company service Providers	-	-	-	-	1	1
TOTAL	-	-	14	18	17	50

594. In relation to statistics, it is noted that sanctions originate from 2016, which is when the SENACLAFT received the power to supervise and sanction DNFBPs. As shown in the table, the sanctions enforced are considered limited in relation to the amount of RI registered.

Table 30. Sanctions Enforced by the SENACLAFT per Type of RI and Sanction

Type of RI	Number of Sanctions	Warnings	Remarks	Fines		
				Quantity	Amount in Pesos \$	Amount in USD
Notaries	40	30	4	6	399,198	45,643
Real Estate Companies	9	7	-	2	7.002	804
Company service Providers	1	1	-	-	-	-
TOTAL	50	38	4	8	406,200	46,447

595. With respect to the statistics provided, it should be pointed out that the reason for the pecuniary fines, observations and warnings was due to the fact that most RIs did not carry out risk

analysis, did not prove the origin of funds, as well as the search in public and/or private sources of customer information; and, in some cases, it was due to not proving the beneficial owner.

596. In addition to the above, the SENACLAFT provided information on 94 sanctions that were issued during 2016-2018. However, they are still pending for the following reasons: 1) the resolution has not become final because appeals were filed, 2) the resolution has not been notified, 3) the application of a fine, observation or warning was suggested and the RI responded to the accusations made by the supervisor, reason why it is under study, 4) a final report was made suggesting the application of a fine, observation or warning and is currently pending for resolution, 5) a report was made by the Inspection Area that detected non-compliance, for a legal report and subsequent hearing. The sanctions are detailed below:

Table 31. Sanctions Enforced by the SENACLAFT with Pending Status per Type of RI and Sanction

Type of RI	Number of Sanctions	Warnings	Remarks	Fines		
				Quantity	Amount in Pesos \$	Amount in USD
Casinos	1	-	-	1	-	-
Building Companies	12	8	-	4	-	-
Notaries	24	8	5	11	40,048	4,562
Real Estate Companies	15	9	2	4	10,502	1,196
Company service Providers	4	1	-	3	-	-
Free trade zones	38	35	3	-	-	-
TOTAL	94	61	10	23	50,550	5,758

597. Although the SENACLAFT has issued administrative and pecuniary sanctions to DNFBPs, it should be noted that these have been limited in relation to the universe of registered RIs, especially pecuniary sanctions. Likewise, although during 2016-2018 various sanctions have been imposed, it should be mentioned that at the date of the on-site visit, these are at different stages of the administrative process.

598. In conclusion, it is noted that both the SSF/UIAF and the SENACLAFT have applied sanctions to AML/CFT RIs. However, derived from the limitations indicated, it is considered that the outcome of the core issue was achieved to some extent.

Impact of supervisory actions on compliance

a) Financial Sector

599. With regard to the banking sector, it was reported that the results of the effort made in the supervision of prevention systems are reflected in the observations (recommendations) made; banking institutions have multiplied the human and technological resources allocated to ML/TF prevention matters; and, in the case of private (foreign) capital entities, participation in supervisory boards in the countries of the parent companies is a very useful element for engaging shareholders in the improvements required in local entities, particularly those related to ML/TF prevention issues.

600. Other aspects reported are: the increase in suspicious transaction reports made by RIs from the financial sector, also as a result of better monitoring systems implemented by the institutions; feedback from the UIAF in relation to the evaluation of the quality of STRs; and although there is no sequence of evaluations, there are improvements in the ratings granted to the institutions. Notwithstanding the foregoing, and without prejudice to the data provided about the procedures carried out by the SSF, there was not enough evidence to demonstrate what was indicated in the preceding paragraphs, therefore there are no trends in the performance of FIs that allow to fully appreciate the impact of supervisory actions in the sector's compliance.

601. According to information provided by SSF/UIAF authorities, the securities exchange market and non-banking financial sectors (financial services companies, exchange houses, fund transfer companies) have made progress in the implementation of prevention systems to address their risks. However, these sectors have a lower level of maturity with regard to AML/CFT compliance.

b) DNFBP

602. With regard to DNFBPs, it was reported that the various supervisory actions adopted by the SENACLAFT were aimed at bringing about a change in the behaviour of the RIs, through the development of a significant perception of risk, in order to influence future compliance.

603. From June 2016 to December 2018, the SENACLAFT conducted 1,338 audits, which it has supplemented with training and dissemination of ML/TF risks and regulations. Another positive aspect of the period in question was the increase in the number of STRs, as well as the establishment of operational committees to liaise with RIs; professional associations and business chambers have played a notable role in raising awareness and disseminating information, and have been a channel for conducting consultations and establishing best practices for each sector.

604. For example, the activity of the Association of Notaries stands out, which in addition to the training activities carried out, and having established a form to guide its members in the development of customer due diligence, has implemented a support service for its members, through an office called Money Laundering Prevention Advisory System (SAPLA) of the Association of Notaries of Uruguay, which has ML/TF specialized personnel and answers to specific queries from notaries, giving them access to background databases and providing them with advice in specific cases.

605. Furthermore, it was reported that, among the indicators of RI's compliance, there is the notable difference between the magnitude of the non-compliances found in the actions carried out

in 2016 and part of 2017, with respect to those carried out in 2018. Likewise, the auditors themselves have noted a significant improvement in the level of knowledge of risks and due diligence obligations on the part of operators in the different sectors.

606. With regard to the foregoing, and despite the efforts indicated, the increase in STRs and the actions carried out by the SENACLAFT, which, as indicated above, have been more focused on RIs awareness and guidance, there are not sufficient elements or indications to show the impact of supervisory actions on RI's compliance.

607. In conclusion, it is observed that both the SSF/UIAF and the SENACLAFT have made efforts to ensure that supervisory actions have an impact on RI's compliance. However, based on the above, it is considered that the outcome of the core issue was achieved to some extent.

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

a) Financial Sector

608. As a result of the supervision procedure, the SSF/UIAF holds meetings with the RIs in order to inform them of the weaknesses identified and the courses of action to be taken to remedy them. In addition, depending on the level of non-compliance detected, particular instructions are given, or sanctions are applied as dissuasive mechanisms. At the regulatory level, moreover, there is also an exchange of information that results in an understanding of the regulatory framework that stipulates that RIs should conduct their risk assessments and define their procedures based on the results obtained.

609. The SSF has also defined minimum management standards (EMG), which establish the way in which the supervisor expects the entity to function (corporate governance) and manage its risks, including a special chapter for ML/TF risk management. It should be noted that these minimum standards are of a public nature and are mandatory for financial intermediation companies.

610. In addition, the SSF participates in events organized by the industry, where it deals with current issues as well as those in which difficulties have been detected in their implementation and those identified repeatedly in supervisory actions.

611. For its part, the UIAF has issued guidelines that seek to provide guidance on various topics, with a view to improving RI's ML/TF prevention systems. Such is the case of the guidelines on tax crime and on company service providers, which indicate various red flags.

b) DNFBP

612. The SENACLAFT has appointed operational committees to carry out the tasks entrusted to it, as in the case of the DNFBP Relationship Committee, which is made up of five working groups, namely: company management sector, casinos sector, real estate sector, auctioneers' sector and free trade zones sector. The objective of the working groups was to carry out a diagnosis of the situation and risk analysis of each sector, and in 2017 work was done with the DNFBPs on sectoral risk

analysis, establishing threats and preparing risk matrices; and in 2018, 32 meetings were held between the different sectors in order to discuss the Regulatory Decree of the AML Law.

613. In addition, the SENACLAFT has given DNFBPs a series of trainings, talks and face-to-face workshops on the regulations in force; it has also disseminated in the media the vision of risks arising from the NRA and the mitigating measures adopted to face those risks. Another important tool used to promote understanding of their obligations and ML/TF risks by DNFBPs is the online course launched in September 2016, which by 2018 exceeded 3,000 registered persons, 1,100 of whom approved it. By 2019 there are plans to update the content of the course on the basis of the AML Law.

614. In general, efforts are acknowledged with regard to feedback, communication and training of RIs so that they have a clear understanding of their AML/CFT obligations and ML/TF risks. However, in the case of DNFBPs, there is a need to continue to develop actions to strengthen the understanding of RIs with regard to their obligations and, with it, to increase the quantity and quality of STRs sent to the UIAF.

615. In conclusion, efforts are being made by the SSF/UIAF and the SENACLAFT to promote a clear understanding of AML/CFT obligations and ML/TF risks. However, in the case of DNFBPs, there is a need to continue to strengthen their level of understanding of the obligations, which means that the outcome of the core issue has been achieved to some degree.

Conclusions on Immediate Outcome 3

616. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key findings

- Basic information on the types and characteristics of legal persons and arrangements, such as the processes for their creation and general information, is of a public nature and is available on the DGR website.
- Competent authorities identify, assess and understand the risks of ML/TF to a large extent, as well as the vulnerability faced by legal persons and arrangements.
- The country has implemented measures to prevent the misuse of legal persons and arrangements for ML/TF purposes, although in the case of the full dissolution of legal entities, the authorities should consider taking additional measures.
- The communication of basic information and information on the BO to the BCU Registry is done through Form B, where it has been identified that a minimum number of RIs do not fill in all the information on the BO.

- It can be observed that the information of the vast majority of companies is already available in the BCU database. However, it was established that a small percentage of RIs have not communicated their information to the BCU.
- The information available in the BCU Registry is classified and its access is provided to certain agencies, without prejudice to this, the rest of the competent authorities may have access by means of a court order. In addition, the information available in the DGR is public and may be accessed electronically upon payment of a registration fee.
- The AIN needs adequate resources to strengthen the supervision and verification process and thus expand the scope of actions in the RIs, which represent an important universe.
- The UIAF is in charge of safeguarding BO's information. However, no analysis or reports were carried out to demonstrate its review.
- The AIN has the power to impose a range of sanctions on RIs that fail to comply with the obligation to communicate basic and BO information to the BCU. However, it should be noted that the pecuniary sanctions imposed have a significant room for improvement.

Recommended Actions

- Consider the adoption of measures to mitigate possible risks related to the full dissolution of legal persons that do not fulfil their BO obligations.
- Continue to make efforts so that the competent authorities identify, evaluate and understand the risks and the extent to which legal persons and legal arrangements can be misused for ML/TF.
- Strengthen the implementation of actions to ensure that all relevant legal persons and arrangements communicate basic and BO information to the BCU Registry.
- Strengthen the supervision and verification process carried out by the AIN.
- Increase resources and improve the operational capacity of the AIN, in order to strengthen the supervision and verification of compliance with BO obligations.
- Strengthen the application of effective, proportional and dissuasive sanctions to non-complying entities.
- Strengthen measures to ensure that basic and BO information is complete, adequate, accurate and up to date.
- Improve the treatment of the BO database by the UIAF to determine possible inconsistencies in the information.
- Reinforce the monitoring process of the cases entered in the BCU BO Registry, in order to guarantee that it is being properly generated, issuing reports to identify inconsistencies and timely report to the AIN.

The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24 and 25.¹⁸

Immediate Outcome 5 (legal persons and arrangements)

¹⁸The availability of accurate and up-to-date basic information on the final beneficial owner is also assessed by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the methodologies, objectives and scope of the FATF and Global Forum's Standards.

617. The regulation of legal persons and arrangements in Uruguay is contained in the Law of Commercial Companies (Commercial Code), Law 16.060, Law of Cooperatives (18.407), Law of Trust (17.703), Law 18.930 Obligation to inform the BCU Registry of Owners of Equity Interests, Law 19.288 Regulations for the purging of companies that did not comply with the identification requirements of their shareholders provided for in Laws 18.930 and 19.484, Regulations for Convergence with International Standards on International Tax Transparency, Prevention and Control of Money Laundering and Terrorist Financing.

618. Information on the types and characteristics of legal persons and arrangements, as well as the processes for their creation and registration of basic information, is publicly accessible and is available on the website of the DGR, which reports to the Ministry of Education and Culture, which is responsible for registries of personal and real property, legal persons and personal acts. The DGR provides for the following registries:

- Property Registry. Real Estate Section and Personal Property Section; the legal acts and businesses corresponding to real estate are registered, as well as those related to automobiles and non-transferable pledges of the corresponding property.
- National Registry of Commerce; keeps the registry of the articles of incorporation, appointments of administrators, directors and representatives, changes of head office, appointments of company liquidators and shareholder union agreements.
- National Registry of Personal Acts; certain acts relating to natural and legal persons are registered, and the constitution of this type of company is registered in the Horizontal Property Civil Societies Section.
- Legal Persons Registry. National Registry of Commerce; acts of a very dissimilar nature are registered, from the assignment and alienation of commercial establishments, to the constitution and modification of all types of commercial companies; among the acts that may be registered are the articles of incorporation of commercial companies, cooperatives, economic interest groups and consortiums.
- Legal Persons Registry. Registry of Civil Associations and Foundations; it keeps the registry and control of the civil associations and foundations constituted in the country.

619. There are also other government entities that have public information on their website related to the creation and types of legal persons and arrangements, such as the AIN, Ministry of Economy and Finance, Portal de Uruguay XXI (state investment promotion agency) and Empresa en el día (Electronic Government Agency and Information and Knowledge Society) and BCU (registry of owners of equity interests and registry of beneficial owners). (See R.24 and R.25 for details).

620. In Uruguay, legal persons must be registered with the National Registry of Commerce, which recognizes their legal personality. According to the information presented, as of 14/12/2018 the DGI has identified 119,766 legal persons and arrangements, as follows:

Table 32. Legal Persons and Arrangements

Type of Company	Quantity	%
Limited Liability Company	31,463	26%

Type of Company	Quantity	%
De facto corporation	29,812	25%
Public Limited Company with Nominative Shares	26,903	22%
Public Limited Company with Bearer Shares	22,061	18%
Cooperatives	3,845	3%
Non-Resident Entities (Foreign Legal Entities)	2,723	2%
Agricultural Associations and Companies	865	0.72%
Public Limited Company with Nominative Shares under Formation	725	0.61%
Trusts	591	0.49%
Public Limited Company with Bearer Shares under Formation	431	0.36%
Limited Partnerships Issuing Shares	120	0.10%
Limited Partnerships	113	0.09%
Public Limited Company with Book-Entry Shares	74	0.06%
Economic Interest Group	32	0.03%
Capital and Industry Company	8	0.01%
Total	119,766	100%

621. By virtue of the above, the objective has been largely achieved, as information on the creation and types of legal persons and legal arrangements in the country is publicly available.

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

622. In the 2017 NRA, Uruguay considered that one of the greatest vulnerabilities was the spurious use of corporate structures and other corporate benefits to help conducting tax crimes, or other acts of concealment of the beneficial owners' identity, or other actions that tend to establish successive layers of legal persons, abusing of the traditional liberal approach of the jurisdiction in commercial matters, as well as its broad international openness.

623. The country poses an inherently high risk for the placement of proceeds of crimes committed abroad, especially from neighbouring countries, particularly in the banking and real estate sector, for which legal persons and arrangements are used.

624. According to the 2017 NRA, public limited companies with bearer shares are the type of company with the highest risk of ML/TF, after the Uruguayan corporate tool most frequently used historically, the SAFI (a type of low-tax entity that was legally disqualified on January 1, 2011).

625. It should be noted, notwithstanding the foregoing, that the bearer equity interests are subject to a specific regime by which their holders must inform being so, and provide other identifying data to the issuing entity, who, in time, reports it to the BCU Registry, pursuant to the provisions of Law 18.930 and its Decree 247/012.

626. In addition to the conclusions of the NRA, Uruguay carried out an analysis of the different types of companies and trusts that can be created in the country, evaluating the associated risks in the area of ML/TF and describing the mitigating measures adopted to date; as well as an analysis of the materiality and vulnerability of the sector of company service providers, which was considered high risk because of the impact that the cases in which the sector has been involved have had on the country's international image and reputation.

627. In addition, in March 2019 the SENACLAFT updated the ML/TF risk analysis of legal persons and arrangements in Uruguay, with information provided by the DGI. For these purposes, the number and social type of entities, income, average equity and geographical distribution were considered, which, together with access to information and the social type linked to ML/TF cases, were weighted to obtain risk categories.

628. As a result of this report, it is indicated that the entities with a high risk category are: public limited companies with bearer shares, public limited companies with nominative shares, non-resident entities (foreign legal entities) and public limited companies with book-entry shares, which represent more than 80% of the total income and total equity declared by the entities; other entities considered medium and low risk are listed below, within this last category are included trusts (591), which represent only 0.32% of the total income, while the declared equity represents 2.34% of the total of all corporate types.

629. As a result of the cases investigated, the country has identified some typologies involving the use of legal persons for money laundering purposes, which have focused on fraud, drug trafficking, extortion, misappropriation, illicit arms trafficking and smuggling of more than USD 20,000, bribery and corruption.

630. By virtue of the foregoing, it is considered that, to a large extent, the authorities identify, assess and understand the vulnerabilities and the extent to which the legal persons and arrangements created in the country may be or are being misused for ML/TF.

Mitigating measures to prevent misuse of legal persons and arrangements

631. In recent years, Uruguay has adopted a series of measures and approved various laws and regulations with the aim of strengthening the transparency of legal persons and arrangements in order to prevent them from being used for illicit purposes and to mitigate the ML/TF risks associated with them. Among the mitigating measures implemented in relation to legal persons and arrangements, the following are mentioned:

- *Incorporation of tax crime as a predicate offence of ML:* The AML Law of 2017 incorporated tax crime as a predicate offense for ML, which is considered a fundamental measure to combat the illicit use of the country's companies and legal arrangements, in order to avoid the channelling of informal funds linked mainly to tax crimes committed in neighbouring countries.

- *Approval of Law 19.484 of 2017, which requires the identification and reporting to the BCU Registry of the BO of corporations and other legal arrangements:* This Law complements Law 18.930 of 2012, which requires the identification of shareholders of companies or other entities that issued bearer interests (shares, securities and other bearer equity interests) issued by any entity resident in the country, which had to provide information to the issuing entity, including when there was a holder or custodian, agent or someone exercising powers of representation, they had to provide information on both the holder and the person performing such functions of holding, custody or representation, and then be communicated to the TPPP Registry of the BCU.

For its part, Law 19.484 establishes the definition of BO and stipulates that, as of January 1, 2017, all entities resident in the country and non-resident (that comply with certain conditions), are subject to identify the BO, relying on documentation that reliably proves it, and should communicate their information to the BCU Registry, except personal corporations, agricultural societies and associations, de facto societies, civil societies and cooperatives, and private medical assistance institutions, integrated by natural persons, which should only identify the BO and keep all documentation that certifies it.

In addition to the foregoing, in the case of public limited companies with registered or book-entry shares, limited joint-stock companies, agricultural associations or any other legal person or entity authorized to issue shares or nominative titles shall communicate to the BCU, in addition to the BO information, the identifying data of its owners as well as the participation percentage in the corresponding share capital. It should be noted that RIs may not register acts and legal transactions in the Registries under the DGR of the Ministry of Education and Culture without proof of compliance with the provisions of Law 19.484.

- *Dissolution of the legal personality of companies with bearer shares that do not comply with the obligation to report under Law 18.930:* Law 19.288 of 2013 established rules for the purging of those companies that had not complied with the obligation contained in Law 18.930. To this end, it defined a series of mechanisms and deadlines to regularise the situation of non-compliant companies, and provided that those companies that did not comply with them would be considered dissolved in full right and the cancellation of registration in the RNC would be provided for. The companies had until May 29, 2015 to execute their liquidation.

The application of this provision led to a major purge of corporate registries, eliminating non-compliant companies with bearer shares, a type of company considered by the NRA to be the riskiest in terms of ML/TF. According to data provided by the DGR, 84,655 company dissolutions were registered, according to a communication from the DGI as of 24/02/2015.

With respect to this measure, it is worth mentioning that dissolved companies were inactive before the DGI.

- *Strengthening the supervision of DNFBPs:* Since June 2016, the SENACLAFT has conducted 1338 inspections of the various sectors, as mentioned in Immediate Outcome 3. With regard to company service providers, the SENACLAFT conducted 94 inspections, 67 of which were conducted on company managers and 27 on trust managers.
- *Measures to identify those who serve as shareholders or nominee directors;* this action was directed at DNFBPs registered with the SENACLAFT. The measure strengthens the

control exercised by the Secretariat over the activity in question, which is considered to be high risk.

632. Access to TPPP and BO information¹⁹ has enabled Uruguay to carry out investigations during 2015-2018, and to obtain ML prosecutions and judgments, resulting in the following outcomes:

- 13 prosecutions / formalization orders (25 persons prosecuted / formalised) and 13 convictions (13 persons convicted) for ML, in which the use of corporate structures has been verified.
- 17 prosecutions / formalization orders (29 persons prosecuted/formalized) and 13 convictions (41 persons convicted) for ML, in which the use of strawmen or frontmen has been verified.

633. For example, four cases have been investigated in Uruguay, which serve to expose the typologies detected, which have focused on fraud, drug trafficking, extortion, misappropriation, illicit arms trafficking and smuggling in excess of USD 20,000, bribery and corruption.

634. From the foregoing, it can be concluded that the country has implemented measures that enable it to prevent to a large extent the misuse of legal persons and legal arrangements for ML/TF purposes.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

635. Law 18.930 created the Registry of Bearer Equity Interests Owners, which is established within the BCU and administered by the UIAF. This standard establishes the obligation to identify bearer equity interests' holders of national entities, as well as holders of equity interests in non-resident entities that carry out commercial activities in or from the national territory.

636. In addition, the Registry of Beneficial Ownership of all companies and legal arrangements (except for exceptions expressly established in the Law), as well as the identification of the owners of equity interests in limited liability companies issuing nominative or book-entry shares, were incorporated into the aforementioned Registry. In this respect, it is up to the legal entity itself to make the declaration of its BO. The process is as follows:

- The shareholders of the entities should declare their condition before the entity (Form A), which applies for the obligations related to Law 18.930.
- The entity must complete in Form B the information received corresponding to its representatives or individual owners and the beneficial owners.
- A notary public is in charge of the notarial control of the existence and validity of the entity. It is also responsible for verifying that the information in the printed form coincides with that presented in the digital format.

¹⁹ It should be noted that in 2016 the information available in the BCU Registry was only on the shareholders of companies with bearer shares. The process of entry of the beneficial ownership information began in 2017 and was gradual; different deadlines were established for the entry of the information according to the type of company.

- This professional is the one who electronically sends the affidavit signed by the entity's representative to the BCU Registry.

637. Changes that occur in relation to the beneficial owners or to the ownership of the equity interests should be reported to the BCU Registry no later than 30 days after the changes are made, in the case of resident entities (except bearer shares whose term is 45 days) and 90 days if the owners of the shares or BO are non-resident, in accordance with Law 19.484. It should be noted that article 17 of Decree 166/017 stipulates that entities governed by the Law that is being regulated may not register acts or legal transactions in the registries of the DGR, of the MEC, without providing proof of receipt of the declaration by the BCU, and its incorporation into the registry at its own expense. Likewise, a declaration will be required from the entity that there have been no modifications subsequent to the date of said certificate.

638. Form B requires information on the type of entity and whether it is resident or not, identification data of the reporting entity, conformation of its equity participation, data of the holders of equity interests, data of persons belonging to the chain of shareholders and BO, summary of the percentage of the BO of legal persons and arrangements, data of the owners, beneficial owners, custodians, holders, agents, representatives, chain of shareholders and BO; it also has a sworn statement section in which each of the entity's representatives should provide their identification data and signature; and finally the notary's certification section.

639. In this regard, it should be noted that the aforementioned form includes the field "*Percentage of unknown beneficial owner*", which opens the possibility that in the process of determining the BO, cases may arise in which it is stated that a certain percentage of BO was not identified or is unknown; which is not a limitation to continue with the process of communication of information to the BCU Registry. Proof of this is that 44.933 of the RIs that complied with the obligation as of April 30, 2019, according to UIAF information, there are 269 cases²⁰ in which RIs stated that they had not identified a certain percentage of the BO (representing 0.5% of the total number of entities registered with the BCU). For the above, there is room for improvement regarding the collection of information.

640. In turn, Article 8 of Decree 166/017 exempts companies made up of natural persons from informing the BCU Registry, provided that they are the beneficial owners. The exception applies to personal partnerships (collective, limited partnership, capital and industry, limited liability, limited partnership by shares with respect to the limited partner), agrarian partnerships and associations (those regulated by Law 17.777), de facto partnerships, civil societies, cooperatives and private health care institutions of non-profit professionals, that meet this condition. However, these entities must comply with the obligation to identify the beneficial owner, and should keep all documentation in their possession, which may be requested at any time by the agencies that have access to the Registry maintained by the BCU, as well as by the AIN within the framework of its

²⁰The AIN reported that, after the on-site visit (September 2019), it carried out intensive control of a sample of 55 entities that declared that they were not aware of a % of BO (12 between 50% and 75% and 43 between 75% and 100%), as a result 16 incidents were established by mistake, 8 were of concerned since the BO was not identified, which will be included in the 2020 Annual Operational Plan. It is important to mention that this information was not considered by the assessment team since it was presented after the on-site visit.

control duties. It should also be noted that the competent authorities may obtain the information from the DGR, since information on the members of personal companies is of a public nature. In the case of entities that are not included in the obligations to identify or inform provided for in the provisions of the aforementioned Decree, pursuant to art. 17, this should be evidenced by notarial certificate or sworn affidavit of the entity, depending on whether or not the registered act requires notarial intervention.

641. In accordance with Laws 19.484 and 19.631, the deadlines for communicating information of the BO to the BCU Registry were as follows:

Table 33. Deadlines for Communicating BO Information

Group	Deadline	Covered Entities
1	31.10.2017	Entities under Law 18.930
2	30.06.2018	Nominative public limited companies
3	30.09.2018	Limited Liability Companies and Trusts Not under Law 18.930
4	30.11.2018	Other entities under Law 19.484

642. As of 30/04/2019, 44,933 legal persons and arrangements had reported TPPP and BO information to the BCU Registry²¹, as detailed below:

Table 34. Legal Persons and Arrangements which communicated BO information to the BCU

ENTITY TYPE	TOTAL
Cooperatives	63
Trusts (Art. 3 of Decree 166/017)	480
Trusts (Art. 1, I, d) of Decree 247/012)	3
Investment Funds (Art. 1, I, d) of Decree 247/012)	1
Investment Funds (Art. 3 of Decree 166/017)	3
Investment funds and trusts duly constituted and supervised by the BCU	2
Foundations (Law 19.484) or Civil Associations (Law 19.484)	579
Economic Interest Groups	12
Other	106
Other entities that issue bearer equity interests	1
Other companies covered by Article 23 of Law 19.484	66
Company whose equity interests titles are listed through the Stock Exchanges	30
Company whose equity interests titles are owned, directly or indirectly, by publicly listed companies	1
Company in liquidation	896

²¹ It should be noted that in 2016 the information available in the Registry was only on the shareholders of companies with bearer shares. The process of entry of the beneficial ownership information began in 2017 and was gradual; different deadlines were established for the entry of the information according to the type of company.



ENTITY TYPE	TOTAL
Public limited companies issuing bearer shares	193107
Public limited companies issuing nominative or book-entry shares	223169
Civil societies (Law 19.484)	70
Partnerships	9
Companies with bearer shares (non-residents)	51
Companies with book-entry shares	2
Companies with nominative shares (non-residents)	252
Capital and Industry Companies	1
De facto corporations	17
Limited Liability Companies	786
Limited joint-stock companies with bearer shares	66
Limited joint-stock companies with non-bearer shares	76
Limited Partnerships	8
Agricultural companies and associations regulated by Law 17.777 of May 21	76
Total	44,933

643. According to the statistics provided, it can be observed that, among others, companies considered by the country to be of greater risk, such as public limited companies with bearer shares, public limited companies with nominative shares, non-resident entities (foreign legal entities) and public limited companies with book-entry shares, have to a large extent provided basic and BO information to the BCU Registry, with approximately 7,429²² entities pending as of December 31, 2018, representing 14.19% of the total number of RIs. However, there is a universe of 67,404 entities, made up of de facto corporations, public limited companies, cooperatives and agrarian companies, which should be registered only in those cases in which the partners are not the BOs; likewise, companies with bearer shares and (non-resident) companies with nominative shares should be registered if their effective management headquarters is in the country, if they have a permanent establishment or if they have assets in the country of more than UI 2,500,000 (approximately USD 300,000). For purposes of establishing the above, the country relies on the work carried out by the Notary Public, in the sense that when drawing up documents involving these entities and detecting that some information is not correct or does not coincide with the BO, it should request its registration in the BCU Registry and in case of refusal and establishing any suspicion it should send a STR to the UIAF; except for the above, it was not observed that any other measure has been taken to determine at what moment any of these entities comply with the condition to communicate the information of the BO to the BCU. Moreover, it should be noted that in May 2019 the SENACLAFT made a descriptive report of the NPO sector, which indicates that,

²² With regard to non-compliant entities, the authorities indicated that on July 9, 2019 (post on-site visit), the AIN made communications for the DGI to carry out the suspension of the single certificate (CVA), which means inactivating them so that they cannot register legal acts and businesses in the Registries dependent on the DGR of the MEC, this with the aim that the entities that are operating communicate the information of the BO to the BCU. Those that do not do so will have their legal personality cancelled permanently. It is important to mention that this information was not considered by the assessment team since it was presented after the on-site visit.

derived from a census conducted in March 2019 by the MEC, there are 6,389 registered active organizations that are divided into 330 foundations and 6,059 civil associations, which, as observed, are not included in the statistics referred to above.

644. The information recorded in the TPPP and BO Registry of the BCU is classified according to the legal framework, and access to it is only available to the following bodies:

- General Tax Directorate: for the tax administration in case of formal inspections or for compliance with requests by competent authorities in matters of exchange of information,
- the UIAF and the SENACLAFT: for tasks related to the fulfilment of ML/TF prevention functions.
- The Board of Transparency and Public Ethics: provided that such information is requested once an action related to the scope of its competence has been formally initiated.
- Criminal Justice or the competent Family Court if a maintenance obligation is at stake.
- JUTEP: for certain tasks related to the prevention of public corruption.
- AIN: to monitor compliance with the obligations imposed by Laws 18.930 and 19.484, particularly on the obligation to identify and report TPPs and BO.

645. As already indicated, the competent authorities by legal mandate have access to basic and BO information, and in the case of the Ministry of Interior and the Public Prosecutor's Office, among others, for the purpose of fulfilling their duties in combating ML/TF, they have access with prior judicial authorization; in this regard, it should be noted that during the interviews conducted they indicated that in the cases required they have had access to information in a timely manner through the UIAF, which consults the database or requests information from the RIs. For their part, regulated entities in the financial and non-financial sectors may have access to the information in question by requesting it directly from their customers, since all entities are obliged to keep the sworn statements submitted to the registry; or they may make use of the information available in the DGR, which is of a public nature.

646. Notwithstanding the foregoing, in the case of companies, they must register their articles of incorporation with the RNC, as well as other relevant information, such as the appointments of managers, directors and representatives (as well as their cessation and revocation), changes of registered office, the appointments of liquidators of the company (as well as their cessation and revocation) and shareholder syndication agreements; from this account, basic information is available to the general public, including the possibility of requesting the information through the web. In effect, according to Article 72 of Law 16.871 of 1998, the Registries referred to in that law (including the RNC, the name of the commercial registry in Uruguay) will be public. *“Those who have an interest in finding out the current registration of property and persons may request the information from the relevant Registry”*. Also, from the portal of the DGR, information can be requested and prior payment of a registration fee, which can also be made online, the requested information shall be obtained, digitally signed.

647. The following statistics are provided on the TPPP and BO Registry information shared between 2016-2018 by the BCU to the competent authorities:²³

Table 35. Information shared by the BCU

Authority	2016	2017	2018
Judiciary	9	13	12
DGI	14	14	13
Judiciary: General requests for information about individuals, transactions or companies	132	146	137
Foreign FIUs	132	144	84
Total	287	317	246

648. There are two bodies that carry out control tasks with respect to basic and beneficial ownership information on legal persons and arrangements, these being the SENACLAFT (in its capacity as supervisor of DNFBPs) and mainly the AIN, which is responsible for monitoring compliance with the obligations provided for by Laws 18.930, 19.288 and 19.484.

649. The AIN has a commission of 8 persons specifically dedicated to this matter²⁴, who carry out actions from the office through which they validate the BO information communicated to the BCU. For the purposes of its duties, the AIN has the power to request information from the RIs of the DGR, the BPS and the DGI. It should be noted that for a better understanding and guidance in the identification of the BO, the AIN established guidelines that RIs should observe in order to comply with the aforementioned obligation. It also held talks, workshops and trainings in different forums and areas; attended face-to-face consultations, by telephone and by e-mail; and on its website it made available to the general public all the information, instructions and guidelines with examples of the different types of entities, frequently asked questions and communications related to compliance with applicable regulations.

650. From January 2018 to March 2019, the AIN carried out 508 actions in public limited companies with bearer shares, related to Law 19.484. In the cases that are considered appropriate, the AIN requires directly to the company the presentation of the books of shareholders to validate the chain of ownership. The findings identified in the proceedings are as follows:²⁵

²³ According to information provided by the authorities, this includes information on legal persons and arrangements; however, they indicated that the UIAF does not keep a separate register.

²⁴ The authorities informed that, as of July 2019, 3 more people joined the AIN team to work directly with the control of compliance with the regulations related to BO. It is worth mentioning that this information was not considered by the assessment team since it was after the on-site visit.

²⁵ The AIN reported that, of the entities that comply the obligation to communicate the BO information to the BCU Registry as of April 30, 2019, in September 2019, 541 entities were summoned to carry out the quality control of the information declared to the BCU (167 public limited companies with bearer shares, 5 non-resident public limited companies and 346 public limited companies with nominative shares), of which 23 entities did not attend; the control included comparing integrity, veracity, reliability and updating of the information, through the analysis of the documentation requested in the summons. The selection of the sample was based on the economic dimension based on assets and income and transfers of greater risk. They indicated that they were at the stage of analyzing information and awaiting the documentation requested. Without prejudice to this, they analyzed 372 entities of which 50 have observations

- 254 non-compliant companies were identified for failing to communicate BO information to the BCU, which was notified to the DGI for the suspension of the single certificate.
- 177 companies were identified with possible deficiencies in the communication of BO information to the BCU. Checks were carried out on the accuracy and truthfulness of the information, and ex officio proceedings were initiated for failure to duly communicate the information from the BO to the BCU.

651. It should be mentioned that the information of the BO is available to the competent authorities and that the notary is in charge of making notarial control of the existence and validity of the entity. Likewise, the notary is also responsible for verifying that the information presented in the physical form matches with the one presented in digital format, and for sending the affidavit signed by the entity's representative to the BCU Registry, which to some extent guarantees that the information is adequate, accurate and updated. However, it is necessary to strengthen the resources and capacities of supervision and sanction of the AIN, which has the responsibility to control that the legal persons and arrangements communicate basic and BO information to the BCU Registry, either initially or the appropriate updates.²⁶

652. In addition, it should be noted that even if the UIAF is in charge of safeguarding BO's information, there is room for improvement regarding the adoption of measures to review the information and to detect possible inconsistencies.²⁷

653. Considering all of the above, it is considered that the objective of having timely access to basic BO information and adequate, accurate and updated information on legal persons is achieved to a good extent.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

654. According to Law 17.703, the trust should be granted in writing under penalty of nullity, and its inscription in the National Registry of Personal Acts of the DGR rests with a notary, which includes the identification of the trustee, trustor and beneficiary, as well as the purpose of the trust. The lack of registration of the trust contract produces the unenforceability of the business, that is to say that the contract is valid between the parties that execute it, but not against third parties. In

and are of low criticality, 4 of these stated that they did not know a percentage of their BO and 44 had chains in their ownership structures. The observations detected did not give rise to the imposition of fines. It is worth mentioning that this information was not considered by the assessment team since it was after the on-site visit.

²⁶ The authorities reported that, as of July 2019, 3 more people joined the AIN team to work directly with the control of compliance with regulations related to BO. It is worth mentioning that this information was not considered by the assessment team since it was after the on-site visit.

²⁷ Authorities informed that, in order to verify the BO data available in the BCU registry, between July and August 2019 (after the on-site visit) the UIAF Strategic Analysis Unit conducted an analysis of the entities that complied with Law 19.484 as of November 2018. For this purpose, different risk factors were considered, a sample of 344 entities was selected, and in September 2019 the FIs were requested to report on the BOs included in their CDD procedures, from which it was established that in 25 cases (7.27%) there is a difference between the BO identified by the FIs and the information contained in the BCU registry. It is worth mentioning that this information was not considered by the assessment team since it was after the on-site visit.

the case of financial trusts, only financial intermediation entities or investment fund management companies, which are RIs in AML/CFT matters, can be trustees.

655. For its part, the AML Law establishes company service providers, trusts and, in general, any natural or legal person as reporting institution when they habitually exercise fiduciary functions in a trust or similar legal instrument, or when they provide for another person to exercise such functions.

656. In the case of legal arrangements, it is also applicable to observe the provisions of the previous Core Issue, especially those related to: the regulations, statistics, process and mechanism for communication of basic and BO information to the BCU Registry; the control work carried out by the AIN; the sources of access to information by competent authorities and RIs (financial institutions and DNFBPs); the weaknesses identified.

Effectiveness, proportionality and dissuasiveness of sanctions

657. Laws 18.930, 19.288 and 19.484 provide for various sanctions for entities that fail to comply with the obligation to submit statements with the corresponding data to the BCU Registry, including information on shareholders and beneficial owner: Fines for the non-compliant entity and its representatives for their personal actions, suspension of the issuance of the single certificate of the DGI, joint and several liability of the purchaser of equity interest titles, publication of a list of non-compliant parties by the Executive Power, impossibility of registration of legal acts before the DGR, non-payment of dividends and a fine for the maximum amount unduly distributed, fine for the use of inadequate legal forms, dissolution of the legal personality of the non-compliant companies.

658. As already mentioned, the AIN is the body responsible for monitoring compliance with corporate obligations provided for by laws 18.930, 19.288 and 19.484, relating to the identification of shareholders and beneficial owners, and their communication to the Registry that belongs to the BCU. The AIN is also responsible for imposing the corresponding sanctions in the event of non-compliance, for which it issued the Resolution of 6/04/2018 establishing the gradual nature of the sanctions for non-compliance with the obligations to identify and inform the beneficial owner (Arts. 23, 24, 29 and 30 of Law 19.484), which are based on the economic dimension of the entities, the term of non-compliance and considering the value of the maximum fine for contravention (MC) established in Article 95 of the Tax Code, as well as the percentage of participation with respect to which the beneficial owner is unknown.

659. With regard to Law 19.484 on BO, it should be noted that, as a result of the actions carried out by the AIN from May 2018 to March 2019, it applied the following sanctions to legal persons and arrangements:

Table 36. Sanctions issued by the AIN

Proceeding	Entity		Non-compliance	Term
	Quantity	Type		

Communication to DGI for CVA suspension ²⁸	254	Public Limited Companies with bearer shares	Not communicating information to the BCU	May to December 2018
Ex officio fines to non-compliant entities	78	Public Limited Companies with bearer shares and Public Limited Companies with nominative shares	Communicate to the BCU after deadline	June 2018 to March 2019
Voluntary fines	45	Public Limited Companies with bearer shares (13), Public Limited Companies with nominative shares (30) and non-residents (2)	Communicate to the BCU after deadline	June 2018 to March 2019

660. As a result of the fines indicated above, the amount collected by the AIN, expressed in Uruguayan pesos, is detailed below:

Table 37. Fines charged by the AIN

Fines Charged	Fines charged by agreement	Total Fines Imposed
\$651,100 (equivalent to USD 20,361.16)	\$57,510 (equivalent to USD 1,791,97)	\$708,610 (equivalent to USD 22,153.13)

661. In general, the sanctions imposed on legal persons and arrangements by the AIN are for failure to communicate basic and BO information to the BCU Registry, or for late reporting. In addition to pecuniary sanctions and the suspension of the DGI's single certificate, there is no information on other types of sanctions applied to the RIs.

662. Moreover, the amount of sanctions applied presents room for improvement regarding the universe of companies, which could be due to the recent BO regulations.

²⁸ Sanctions applied after the on-site visit: On 9/07/2019, the AIN made communications to the DGI for it to carry out the suspension of the single certificate (CVA) of 4,231 public limited companies with bearer shares and 146 non-resident entities governed by Law 18.930; and, on 16/09/2019 it communicated information of 4,989 public limited companies with nominative shares. In all cases there was non-compliance with the obligation to communicate BO information to the BCU. It is worth mentioning that this information was not considered by the assessment team since it was after the on-site visit.

663. In addition to the above, the AIN has also imposed sanctions related to the communication of TPPP information to the BCU Registry, within the framework of Laws 18.930 and 19.288, during 2013-2018, as follows:

Table 38. Sanctions imposed by the AIN related to Law 18.930

Procedure	Entity		Non-compliance	Term
	Quantity	Type		
Communication to DGI for CVA suspension	9,442	Public Companies with bearer shares (8,823) and Permanent establishments and limited partnerships with bearer shares (94)	Not communicating information to the BCU	June 2014
Ex officio fines to non-compliant entities	226	Public Companies with bearer shares (216), Permanent Establishments (8) and limited partnerships with bearer shares (2)	Communicate to the BCU after deadline	January 2015 to December 2018
Voluntary fines	334 (114 fines to holders and 220 to entities)	Public Companies with bearer shares (328), Permanent Establishments (4) and limited partnerships with bearer shares (2)	Communicate to the BCU after deadline	August 2013 to December 2018

Table 39. Sanctions imposed by the AIN related to Law 19.288

Procedure	Entity		Non-compliance	Term
	Quantity	Type		
Application of a fine of 50% of the assets to companies dissolved by Law 19.288	12	Public Companies with bearer shares	Not communicating information to the BCU before 29/01/2015	August 2015 to December 2018

664. As a result of the fines indicated above, the amount collected by the AIN, expressed in Uruguayan pesos, is detailed below:

Table 40. Fines charged by the AIN up to March 2019

Law	Fines Charged	Fines charged by agreement	Total Fines Imposed	Total in USD
18,930	\$40.605.495	\$2.573.100	\$43.178.595	1.166.989
19,288	\$6.001.353	\$858.300	\$6.859.653	185.396
19,484	\$ 651.100	\$ 702.100	\$ 1.353.200	36.573
Total	\$ 47.257.948	\$ 4.133.500	\$ 51.391.448	1.388.958

665. In general, the sanctions imposed on legal persons and arrangements by the AIN are for failure to communicate TPPP information to the BCU Registry, or for late reporting. In addition to pecuniary sanctions and the suspension of the DGI's single certificate, there is no information on other types of sanctions applied to the RIs.

666. It should be noted that, in addition to the AIN's control over BO identification, it also provides services to RIs through telephone and face-to-face consultations and through its website. The AIN also disseminates information through various information events.

667. In view of the foregoing, although the AIN has applied sanctions related to the obligation to communicate BO information to the BCU registry, it is considered that the amount is somewhat limited depending on the number of entities required and the challenges in terms of compliance. Regarding the range of available sanctions, it is considered that there is a proportional range of sanctions, since they can be applied from fines up to the inactivation of the single certificate of the entities, which does not allow non-compliant entities to perform acts or business. It is considered relevant to strengthen the application of effective, proportional and dissuasive sanctions for entities that fail to comply with their obligations.

Conclusions on Immediate Outcome 5

668. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key findings

- Uruguay has a legal and institutional framework that allows the competent authorities to provide MLA and extraditions in a constructive manner.
- Uruguay's approach to international cooperation is collaborative. International assistance is provided on request, and to a lesser extent spontaneously.

- For MLA the Central Authority has an action protocol, which establishes guidelines for prioritizing requests received from abroad in criminal matters, when they relate to a case of ML, corruption, illicit drug trafficking, among others.
- There are deficiencies with regard to the collection of statistics on MLA requests.
- In general, the country provides cooperation in a constructive manner. The UIAF and other competent authorities may provide international cooperation in the field of financial intelligence and investigative matters. Notwithstanding the previous, according to was informed some delegations regarding the exchange of financial intelligence, in some cases the time of response presented room for improvement.
- Uruguay identified as one of the main external threats the exposure to criminal funds from abroad, however, there is significant room for improvement regarding a greater number of requirements to other jurisdictions are identified.
- With regard to information on the beneficial owner, the Uruguayan authorities have a centralized registry. However, given the recent implementation of the database, there is room for improvement regarding the accuracy and updating of the information, which could limit the ability to provide constructive assistance in this area.

Recommended Actions

- Strengthen the existing mechanisms to improve the response times for international cooperation requests.
- It is recommended that the capacities of the central authority be strengthened, including the systematization of cases and the implementation of a statistical basis for international cooperation, as well as data generated by other national authorities that could intervene in the process.
- Adopt a more proactive policy in the search of timely international cooperation with other jurisdictions in order to adequately address the prosecution of domestic ML crimes linked to predicate offences committed abroad, given the risks and context of the country.
- With regard to international cooperation on the beneficial owner, it is recommended that the implementation of the registry continue, and that the quality of the information be improved in order to strengthen its capacity to provide cooperation in this area.

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)

669. Uruguay has a legal basis for providing a wide range of mutual legal assistance (MLA). Cooperation may be provided in accordance with bilateral and multilateral treaties on criminal matters ratified by the country, and in the absence of such treaties, on the basis of reciprocity.

670. In the NRA carried out by the country, it was established that the main threats come from abroad, considering that the country has operated as a regional financial market, due to the stability and structural conditions of its economic and financial system. In this context, international cooperation is a vital tool for Uruguay to adequately address its ML/TF risks.

Granting of mutual legal assistance (MLA) and extradition

671. The agencies linked to MLA are the Ministry of Education and Culture (MEC), through its Central Authority for International Legal Cooperation, the Judiciary, the Public Prosecutor’s Office and the Ministry of Foreign Affairs (MREE).

672. The Central Authority, linked to the MEC, is the competent entity to deal with requests from countries that have signed MLA treaties with Uruguay. It is also competent to process requests for assistance from foreign authorities concerning the investigation or prosecution of ML offences.

673. The MREE is the competent body to deal with requests from countries with which Uruguay does not have mutual legal assistance treaties, through their respective diplomatic representations.

674. During the period 2015-2018, Uruguay received a total of 132 requests for MLAs, of which 115 were granted, 5 were denied (because of the impossibility of obtaining a statement as an inquired person) and 12 are pending. During the same period, Uruguay received 10 requests for extradition, of which 9 were granted and 1 was refused because of the absence of the principle of double criminality.

Table 41. Passive MLA (2015 – 2018)

Country	2015	2016	2017	2018	Total
Argentina	8	14	13	17	52
Brazil	6	1	3	12	22
Switzerland	1	0	0	0	1
Spain	1	7	0	4	12
USA	1	0	1	0	2
Chile	0	1	1	0	2
Mexico	0	1	0	0	1
Ecuador	0	1	1	1	3
Panama	0	1	6	2	9
Colombia	0	1	0	0	1
France	0	1	0	0	1
Bolivia	0	1	0	0	1
Peru	0	1	5	3	9
Paraguay	0	1	2	2	5
Russia	0	0	1	0	1
Romania	0	0	1	0	1
Dominican Republic	0	0	1	0	1
Portugal	0	0	1	0	1

Andorra	0	0	0	3	3
Sweden	0	0	0	1	1
Turkey	0	0	0	3	3
Total	17	31	36	48	132

Table 42. Passive Extradition Requests

Country	2015	2016	2017	2018	Total
Argentina	1	1	0	2	4
Brazil	0	0	1	1	2
Andorra	0	0	1	0	1
Turkey	0	0	0	1	1
USA	0	1	0	0	1
Italy	0	0	1	0	1
Total	1	2	3	4	10

675. The main crimes in MLA requests were: i) crimes against public administration/corruption, which represented 32% of the requests; ii) ML, 21%; iii) drug trafficking and related crimes, 14%; iv) tax crime, 10%; v) economic crimes (fraud, fraudulent bankruptcy, misappropriation, private corruption), 9%; vii) smuggling, transportation in cash, monetary instruments and precious metals, 7%; viii) human trafficking, 5%, and ix) 2% for other ML predicate offences.

676. With regard to extradition, the offences underlying the request were: Crimes against public administration/corruption: 30%; drug trafficking and related offences: 30%; economic offences (fraud, fraudulent bankruptcy, misappropriation, private corruption): 20%; smuggling, transport in cash, monetary instruments and precious metals: 10%; and illicit human trafficking: 10%.

677. It should be noted that extradition requests, in principle, are those that record the shortest time for compliance. In addition, in accordance with the feedback received from the international community, Uruguay provides constructive and timely cooperation. With regard to the average time taken to respond to MLA requests, 70% of requests were processed in less than six months. With regard to the average time taken to comply with extradition requests, there has been a reduction in the processing time for extraditions since the entry into force of the new CPC, which was set in 2 months.

678. For MLA the Central Authority has an action protocol, which establishes guidelines for prioritizing requests received from abroad in criminal matters, when they relate to a case of ML, corruption, illicit drug trafficking, among others.

679. With regard to other MLA requests it is important to bear in mind that the times are closely linked to the type of criminal assistance measure required. Based on the responses from FATF Global Network member countries, the MLA is generally rated as good and useful.

680. There are also significant opportunities for improvement in the collection of statistics on international cooperation.²⁹

681. At the time of the on-site visit, the country had not had cases of repatriation and sharing of property with another jurisdiction. Currently, the FBD has two pending cases, one with Argentina and one with Turkey, which have not been concluded yet.

682. The authorities have had some difficulty in disaggregating statistical information on MLA and extradition. However, despite the above limitations of the information provided, it can be seen that the country has a legal system in line with the conventions in this area and has a constructive vision of international cooperation.

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

683. In the period under review, Uruguay made 64 MLA requests to other jurisdictions, mainly related to ML, drug trafficking and related crimes, as well as economic crimes. Of the total number of requests, 53 were answered and 11 are being processed. It should be noted that in many cases the reason for making the request is precisely for the purpose of determining the predicate offence committed abroad, by virtue of investigating in the country an alleged ML offence with predicate offence committed abroad, compatible therefore with the risk profile of the country.

Table 43. Active Mutual Legal Assistance

Country	2015	2016	2017	2018	Total
Argentina	14	9	7	9	39
Brazil	1	2	2	2	7
Spain	2	5	1	1	9
Paraguay	1	1	0	0	2
Peru	1	0	0	0	1
Colombia	1	0	0	0	1
USA	0	1	1	1	3
Mexico	0	0	1	0	1
Andorra	0	0	0	1	1
Total	20	18	12	14	64

²⁹In the framework of the on-site visit, mention was made of the work being done on the development of software that would allow the information to be held electronically and thus begin to pour out statistics on information exchange.

684. The main crime for which Uruguay sought MLA was, i) ML, which accounted for 29% of requests; ii) drug trafficking and related crimes, 23%; iii) economic crimes (fraud, fraudulent bankruptcy, misappropriation, private corruption), 23%; iv) crimes against public administration/corruption, 14%; v) illicit trafficking/human trafficking, 7%; and vi) smuggling, transport of cash, monetary instruments and precious metals.

685. Meanwhile, the number of extraditions that Uruguay has requested between 2015 and 2018 amounts to 7. Uruguay is a country that receives more requests for cooperation than the requests it makes. This fact is compatible with the country’s risk profile.

Table 44. Active Extradition Requests

Country	2015	2016	2017	2018	Total
Argentina	1	1	1	2	5
Spain	0	0	1	0	1
Portugal	0	0	1	0	1
Total	1	1	3	2	7

686. From the analysis of the information provided by the country it can be verified that Uruguay seeks MLA linked to predicate offences in accordance with its risk profile.

687. Taking into consideration the country’s context, and in accordance with the NRA, which identified illegal funds from abroad as one of the main threats, it is recommended to adopt a proactive policy in the search for international cooperation in order to be able to prosecute internally cases of ML with transnational elements.

Seeking other forms of international cooperation for AML/CFT purposes

688. Uruguayan authorities frequently use other forms of international cooperation for AML/CFT purposes to exchange information including through informal inter-agency cooperation and the use of networks to exchange information with foreign counterparts.

689. Uruguay has mechanisms that enable the Public Prosecutor’s Office (MP), police authorities, the National Customs Directorate, DGI, the UIAF and the SENACLAFT to cooperate rapidly with foreign counterparts in relation to ML offences and its predicate offences, including TF. These mechanisms function swiftly in both directions, i.e. they allow both seeking and offering cooperation to countries acting as counterparts.

690. The MP is part of the Ibero-American Network of International Legal Cooperation (IberRed), which allows for the exchange of information between contact points of central authorities, public ministries and the judiciary of the 22 countries that make up the Ibero-American Community of Nations.

691. The MP has signed bilateral framework agreements for inter-institutional cooperation with other public prosecutor’s offices to promote the exchange of non-formal information at the international level with Spain, Argentina, Chile, Paraguay, Brazil. Also in the area of the AIAMP (Ibero-America) that links it with Argentina, Brazil, Paraguay, Bolivia, Chile, Ecuador, Peru, Spain, Panama, Cuba, El Salvador, Guatemala, Colombia, Honduras, Mexico, Portugal, Dominican Republic; and REMPM (Mercosur) signed by Argentina, Brazil, Paraguay, Bolivia, Chile, Ecuador, Peru.

692. The country also exchanges informal information within the framework of the GAFILAT Asset Recovery Network (RRAG) in order to provide and request cooperation for the identification of property in other countries of the region in order to guide the asset recovery process in other jurisdictions.

693. The National Customs Authority (DNA) exchanges information with its global counterparts. This international cooperation is carried out within the framework of bilateral and multilateral agreements or the RILO Network, under the conditions existing in the instruments for the protection of sensitive official foreign trade data. Cooperation, assistance and exchange of information have as their specific tasks the fight against customs offences, as well as obtaining timely information for investigations, preliminary investigations or prosecutions initiated by the different competent authorities of the countries.

694. The DNA has a very fluid exchange interaction; the following table shows the requests in the period 2016-2018:

Table 45. DNA Information Exchange

Year	Requests Received	Alerts Received
2016	57	14
2017	70	12
2018	54	17

695. Likewise, since 2011, the General Tax Directorate (DGI) has signed a large number of cooperation agreements for the exchange of information on tax matters, including the signing of agreements with Argentina (approved by Law 19.032 of 27/12/12) and Brazil (approved by Law 19.303 of 29/12/14).

696. Uruguay ratified the Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol, through Law 19.428 of August 26, 2016 (filing made on August 31, 2016) and entered into force on December 1, 2016, applicable for tax years beginning on or after January 1, 2017. This Convention enables member countries to automatically exchange information regarding the categories of cases agreed upon by the Competent Authorities.

697. In this context, Uruguay’s commitment to implement the international standard for the automatic exchange of financial information for tax purposes (CRS), which provides for an annual

exchange between States of information on financial accounts, including balances, interest and profits from the sale of financial assets, was framed. It establishes the reporting obligations of FIs, the different types of accounts and the taxpayers covered, as well as the common due diligence procedures that FIs must follow for such purposes.

698. Within the framework of supervision there are Memoranda of Understanding with most home supervisors of banking entities located in the country, and the IOSCO Multilateral Memorandum of Understanding has been signed for entities operating in the securities market. According to the statistics of the SSF, 14 requests for information have been received and 5 requests for information have been made in the last 3 years under the IOSCO MOU.

699. In addition, the UIAF is a member of the Egmont Group of Financial Intelligence Units and exchanges information through the Egmont Secure Web. The UIAF is also a signatory to the GAFILAT multilateral MOU, which enables it to share financial intelligence information with a very significant number of counterparts from countries in the region. Uruguay also signed Agreements or Memoranda of Understanding with other FIUs. By virtue of the intense regional exchange, Uruguay signed a MOU with the Argentine Republic in October 2016; in the last two years 3 MOUs have also been signed: Ukraine (March 2017), Vatican City (March 2018) and Dominican Republic (July 2018).

700. The UIAF exchanges information at the request of foreign authorities and in turn seeks information from its counterparts. Below are the figures on international cooperation developed by the UIAF in recent years:

Table 46. Number of information requests requested to other FIUs:

Year	2015	2016	2017	2018
Number of requests	18	11	6	10

701. Without prejudice to the foregoing, the UIAF has also participated in international exchange mechanisms in cases with transnational repercussions, the last of which took place in Panama City in 2018.

702. In police matters, there is fluid collaboration within the respective police authorities. The Uruguayan police force is part of the International Criminal Police Organization (INTERPOL), where it constantly exchanges information with foreign counterparts.

Granting other forms of international cooperation for AML/CFT

703. The UIAF has held bilateral meetings with other FIUs relevant to Uruguay, where intense work agendas have been developed that included an important exchange of information between both authorities (UIF Argentina, 2018).

Table 47. Number of information requests received from other FIUs:



Year	2015	2016	2017	2018
Number of requests	64	96	79	84

704. The UIAF also exchanges information with FIUs in other regions of the Global Network. An example of this is the fruitful exchange of information between the UIAF of Uruguay and the FIU of Ukraine, which helped to resolve an important corruption case, which was presented at the last Egmont Plenary as a successful case of collaboration and exchange between FIUs.

705. In relation to the cooperation provided spontaneously, it should be noted that the Public Prosecutor's Office has on multiple occasions sent spontaneous information to their counterparts abroad for cases of relevance.

706. As indicated above, there is a constructive view of international cooperation in tax matters and in the area of financial supervision.

707. According to the DGI, in September 2018 Uruguay fulfilled its international commitment to the automatic exchange of financial information for tax purposes (CRS), and sent information on 15,087 financial accounts to 44 countries and jurisdictions, with which the Multilateral Agreement between Competent Authorities for the implementation of the CRS was active. In particular, it should be noted that the two countries to which the greatest number of accounts were reported were Argentina and Brazil, 11,400 and 1,601 respectively, which is consistent with the risk analysis arising from the NRA, especially the risk of remittance of assets from tax crimes perpetrated in bordering countries.

708. The DNA exchanges information with its foreign counterparts. In the 2016-2018 period, the DNA sent several requests and alerts to its counterparts, as can be seen in the following table:

Table 48. DNA Information Exchange Requests

Year	Applications sent	Alerts Sent
2016	26	8
2017	21	12
2018	36	7

709. The financial supervisory authorities, as part of the supervision process, have defined that at the end of their procedure they send a note to the supervisor of the FI's home country with the main weaknesses detected. This mechanism has been very useful to generate the required solutions and address the weaknesses detected in the local entities. This procedure is applied even if there is no MOU signed with the supervisor of the financial institution's home country. It also participates in the supervisory associations organized by the home supervisors of the entities established in the country.

710. Likewise, in the framework of exchanges through the RRAG, the following table shows, by year, the information provided by Uruguay on owners of real estate and personal property that can be registered, by individuals and legal entities, and the detail of the property that could be identified, as well as the value that arises from the transactions:

Table 49. Shared Information Summary Table

Year	Requests Received	Natural persons requested	Legal persons requested	Real estate properties reported	Value USD	Personal property reported	Value USD
2016	15	51	21	2	2,122,950	0	0
2017	32	153	44	41	6,651,500	2	535,900
2018	29	132	53	63	32,189,407	1	70,000
Total	76	336	118	106	40,963,857	3	605,900

711. Finally, it is noted that some jurisdictions referred to certain delays in the country’s responses to the requests submitted, mainly for exchange of financial intelligence, which presents an important opportunity for improvement given that this type of cooperation is expected to be more fluid than the MLA.

International exchange of basic and beneficial ownership information on legal persons and arrangements

712. In responses to requests for cooperation within the information exchanged by the Uruguayan authorities, regarding legal persons and arrangements, basic information is included, as well as information on owners of equity interests with respect to bearer shares, and information on beneficial owners where available.

713. Therefore, in all cases where the UIAF receives requests for information from its foreign counterparts, it sends the beneficial ownership information available in the registry. It should be noted that it is the UIAF that administers the registry of equity interests’ holders in respect of bearer shares and the registry of beneficial owners. In 2017 and 2018, respectively, 144 and 88 requests received and answered by the FIU are reported on corporate matters related to the identification of the beneficial owner.

714. It should also be mentioned that information on BO is available at the request of the Judiciary and other national authorities, so that this information could be shared when it is required to comply with a request for international cooperation. Similarly, the considerations relating to partial deficiencies as to the opportunity for cooperation are reflected in this point.

715. In this context, despite the great progress made in the implementation of the centralised registry of beneficial ownership (as described in detail in Immediate Outcome 5), given that the database has been relatively recently implemented, some deficiencies were detected in the



information recorded with regard to the accuracy and updating of the information, which could have an impact on the capacity to provide adequate assistance in this area.

General Conclusion on Immediate Outcome 2

716. Uruguay shows a **moderate level of effectiveness in Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

CT1. This annex provides a detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country's situation or risks, and it is limited to the analysis of the 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 the analysis conducted as part of the previous 2009 Mutual Evaluation. This report is available at <https://gafilat.org/index.php/es/biblioteca-virtual/miembros/uruguay-1/evaluaciones-mutuas-16/1949-informe-de-evaluacion-mutua-de-uruguay-3a-ronda/file>.

Recommendation 1 — Assessing Risks and Applying a Risk-Based Approach

CT3. This is a new Recommendation (R), which was not evaluated in the MER of Uruguay of the Third Round of Mutual Evaluations of GAFISUD (now GAFILAT).

CT4. *Criterion 1.1* – Uruguay identifies and assesses its ML/TF risks through the development of national risk assessments and sectoral risk assessments. In 2010 Uruguay completed its first NRA (2010 NRA), which was developed with the technical assistance of the IMF and with the coordination of the National Anti-Money Laundering Secretariat (SNAL, now SENACLAFT). Risk identification was carried out through sessions with the group of competent authorities and interviews with external experts from various sectors. At that time, the main crimes of ML were considered to be: (i) drug trafficking, (ii) smuggling, (iii) human trafficking and procuring, (iv) corruption. Similarly, other offences that had been identified as frequently committed were fraudulent corporate bankruptcy and insolvency and fraud. The economic sectors identified as high risk were foreign trade, sports and tourism.

CT5. Subsequently, Uruguay developed a second NRA in 2014, this time with the technical assistance of the IDB, and the process culminated in its formal approval in June 2017. The NRA was coordinated by the SNAL, with the participation of competent authorities in AML/CFT matters. The work was organised from the formation of 4 thematic working groups: Underground economy; criminal map and criminal economy; institutional quality; preventive regimen and its risks.

CT6. The crimes identified with the most impact on ML are: (i) Drug trafficking; (ii) smuggling; (iii) human trafficking and procuring; (iv) counterfeiting and offences against intellectual property (copyright); (v) fraud; and (vi) tax crime. In turn, it was determined that the greatest transnational threat comes from international criminal organisations, and that Uruguay is exposed to being used for ML from criminal activities carried out abroad. ML risks linked to vulnerabilities within the country were also identified. Significant legal deficiencies were identified, such as the notorious shortfall in DNFBPs and NPOs, the lack of criminalisation of tax crime as a predicate offence of ML, the need to expand investigation and parallel financial investigation techniques, the lack of an adequate CFT regime and CFT legislation, and the misuse of corporate structures and other

corporate benefits for the contribution to the international enforcement of tax crimes, or other acts for the concealment of the beneficial ownership identity. The NRA also identifies a number of priority areas of action and, on the basis of this evaluation, a report was prepared on mitigating measures that have been taken in parallel throughout the process. It is not observed that the NRA has addressed the risks of ML of predicate offences not covered by the legislation, such as environmental crimes, market manipulation and insider trading. The authorities mention that these offences do not have a real relevance in terms of ML/TF risks, so in the NRA they were not included as a risk factor to be considered.

CT7. In addition, the NRA of 2010 and 2014 are complemented by various sectoral risk studies prepared by the BCU and the SENACLAFT. With regard to the financial sector, the intersectoral risk matrix prepared by SSF in 2017 is noteworthy. It is fed by various sectoral risk matrices of the financial sector prepared by the UIAF, namely: Financial intermediation institutions, financial services companies, exchange houses, securities brokers, investment advisers, investment fund managers, general trustees and fund transfer companies. With regard to DNFBPs, the SENACLAFT approved in January 2019 the following sectoral risk studies: Corporate services; free trade zones; dealers of works of art; antiques and precious metals; casinos; real estate; and auctioneers. In the face of financial economic activities not assessed in the NRA, there is a limitation in terms of the scope of that assessment, since these were previously rated, without specifying technical objective data to validate such conclusion.

CT8. *Criterion 1.2* – The Coordinating Commission against ML/TF is the authority empowered to coordinate ML/TF risk assessment actions. It is established in Article 1 of Law 19.574 (AML Law). It should be noted that the Commission was created by Decree 245/007 of July 2, 2007, and subsequently adjusted by Decree 146/012 of May 2012.

CT9. *Criterion 1.3* – Uruguay states, in its second NRA, that such an assessment should be regularly updated, with a particular weight of its outcomes on an annual basis. At most, this assessment should be updated in a variable period between 3 and 5 years. In addition, following the publication of this NRA in 2017, risk studies of the financial sector were prepared in 2017 and on DNFBPs in 2019.

CT10. *Criterion 1.4* – Uruguay has mechanisms in place to disseminate the outcomes of its risk assessments. The NRA approved in 2017 was disseminated as follows: (i) one version for the competent authorities: A full version of the NRA was issued to the competent authorities; (ii) another version for the general public: It was shared on the SENACLAFT website through a document containing 2 parts. The first includes the risk assessment (with omission of confidential data) and the second contains information on the mitigating measures taken in the evaluation development process. In addition, after the adoption of the national strategy against ML/TF in December 2017, an explanatory paper was published.

CT11. In addition, with regard to DNFBPs, the SENACLAFT has operational committees of outreach to the RIs under its supervision. In this context, it has maintained an ongoing, regular and sustained relationship with representatives of the various sectors. Sectoral risks have also been

worked on and relevant feedback actions taken. With regard to the financial sector, the SENACLAFT and the BCU have organised outreach meetings and events aimed at FIs, where the results of the NRA, among other aspects, have been presented.

CT12. *Criterion 1.5* – Based on the NRAs, Uruguay developed and implemented two national strategies, a first one based of the 2010 NRA, and an update as a result of the NRA approved in 2017. Uruguay implemented an action plan that integrates the risk-based National Strategy against ML/TF/PWMD with objectives and strategic goals to reduce ML threats, with concrete actions to be implemented, and it identifies the institutions responsible for implementation and control of the Strategy, as well as the tentative timeframe to achieve each goal.

CT13. Furthermore, the adoption of the 2017 cross-sectoral risk matrix of the SSF is highlighted, whose results serve as a base to support the supervision strategy applied by the SSF in ML/TF risk matters, in order to direct the limited resources to the sectors that present greater relative risk. Similarly, based on DNFBPs' sectoral risk studies, the SENACLAFT adopted a risk-based oversight strategy.

CT14. *Criterion 1.6* – Uruguayan law does not cover cases in which the requirements of the FATF Recommendations are exempted from application.

CT15. *Criterion 1.7* – The AML Law provides in its Article 19 that, in the application of a risk approach, RIs should enhance the CDD procedures for the higher-risk categories of customers, business relationships or transactions, such as non-resident customers—especially those from countries that do not meet international standards in ML/TF—transactions that do not involve the physical presence of the parties, paying attention to threats that may arise from the use of new or developing technologies that promote anonymity in transactions, and in general all transactions that exhibit risk characteristics or red flags, as determined by the regulation. In addition, Article 19 provides that special CDD procedures should be defined for: (a) PEPs; (b) legal persons, in particular companies with bearer shares; (c) trusts, to determine their control structure and beneficial ownership. Likewise, sectoral regulations establish specific measures that should be implemented with respect to risky transactions or customers specific to certain activities.

CT16. *Criterion 1.8* – Article 17 of the AML Law establishes that RIs may apply, in the cases and under the conditions determined by regulations, simplified due diligence measures with respect to those customers, products or transactions that involve a reduced risk of ML/TF. Article 18 of the AML Law further provides that the application of simplified due diligence measures should be graduated according to risk, based on the following criteria: a) prior to the application of simplified due diligence measures with respect to a particular customer, product or operation, as determined by the regulation, RIs should verify that it effectively involves a reduced risk of ML/TF; b) the application of simplified due diligence measures should in all cases be in accordance with risk. RIs should not apply or cease to apply simplified due diligence measures as soon as they realise that a customer, product or transaction does not carry reduced ML/TF risks; c) RIs should in any case maintain a continuous monitoring sufficient to detect transactions susceptible to special

examination in accordance with the TFSs. Sectoral regulations provide for simplified CDD in line with the AML Law.

CT17. *Criterion 1.9* – Both the SSF and the SENACLAFT, which are the supervisory authorities of the financial and DNFBP sectors, apply oversight procedures that contemplate the evaluation of the application of the risk-based approach (for more details, refer to the analysis of Recommendations 26 and 28). Notwithstanding this, there are certain limitations in the implementation of the RBA by DNFBP sectors.

CT18. *Criterion 1.10* – Provisions concerning the identification, assessment and understanding of ML risks are found in RIs sectoral regulations. As far as FIs are concerned, Articles 291 of RNRCSF, 186 of the RNMV, 68 of the RNSR and 104.1 of the RNSP establish the obligation to identify the risk factors (products, services, customers, geographical areas and distribution channels) associated with their different lines of activity. With regard to DNFBPs, Article 4 of Decree 379/018 stipulates that they should carry out a ML/TF/PF risk assessment, taking appropriate measures to identify and evaluate them, and taking into account customer, geographical and operational risk. As regards the particular elements of this criterion, the following is mentioned:

- (a) As far as FIs are concerned, Articles 291 of the RNRCSF, 68 of the RNSR and 104.1 of the RNSP establish that institutions should document the risk assessments carried out in such a way as to be able to demonstrate their basis, keep them updated and have the appropriate mechanisms in place to provide information about said risk assessment when required. With regard to DNFBPs, Article 4 of Decree 379/018 provides that they should carry out an individual risk analysis of the customer and the main characteristics of the transactions that he or she intends to carry out. As a result of this analysis, the customer and/or transaction will be assigned a high, medium or low risk, as the case may be, and this will be recorded in writing.
- (b) With regard to FIs, Articles 291 of the RNRCSF, 186 of the RNMV, 68 of the RNSR and 104.1 of the RNSP establish the obligation to identify risk factors. As regards DNFBPs, the obligation is covered under Article 4 of Decree 379/018.
- (c) With regard to FIs, Articles 291 of the RNRCSF, 186 of the RNMV, 68 of the RNSR and 104.1 of the RNSP establish the obligation to keep assessments updated. As regards DNFBPs, Decree 379/018 Article 5 includes the obligation to keep evaluations updated.
- (d) Obligation to have appropriate mechanisms in place to provide risk assessment information to competent authorities: With regard to FIs, it is provided for in Articles 291 of the RNRCSF, 186 of the RNMV, 68 of the RNSR and 104.1 of the RNSP. With regard to DNFBPs, Article 15 of Decree 379/018 stipulates that records, supporting documentation of transactions, ML/TF risk assessments and CDD procedures and supporting documentation should be made available to the SENACLAFT, the criminal court or the competent criminal prosecutor's office, as appropriate, at their request. In addition, competent authorities have the power to require this information in the exercise of their supervisory function.

CT19. *Criterion 1.11* –

- (a) RIs sectoral regulations require the existence of procedures to manage and mitigate risks. In the case of FIs, Articles 291 of the RNRCFSF, 186 and 207.3/7 of the RNMV, 68 of the RNSR and 104.1 of the RNSP establish the duty to implement adequate control measures to mitigate the different types and levels of risk identified. With regard to DNFBPs, Article 5 of Decree 379/018 stipulates that they should develop policies and procedures for ML/TF/PF risk management that allow them to prevent, detect and report unusual or suspicious transactions to the UIAF. It also stipulates that for these purposes, they should reasonably: a) identify the risks inherent to the respective activity and category of customers; b) evaluate their possibilities of occurrence and impact; c) implement adequate control measures to mitigate the different types and levels of risk identified.
- (b) The RIs sectoral regulations require monitoring procedures. In the case of FIs, Articles 291 of the RNRCFSF, 186 of the RNMV, 68 of the RNSR and 104.1 of the RNSP establish the duty to permanently monitor the results of the controls applied and their degree of effectiveness, to detect those transactions that are unusual or suspicious and to correct existing deficiencies in the risk management process. With regard to DNFBPs, Article 5.d of Decree 379/018 establishes the duty to monitor periodically and in accordance with the specific activity of the regulated entity the results of the controls applied and their degree of effectiveness.
- (c) Article 19 of the AML Law establishes the obligation to apply enhanced measures in cases of higher risk. In particular, it provides that "in the application of a risk approach, RIs should enhance the customer due diligence procedures for the higher-risk categories of customers, business relationships or transactions, such as non-resident customers—especially those from countries that do not meet international standards in ML/TF matters—transactions that do not involve the physical presence of the parties, paying attention to threats that may arise from the use of new or developing technologies that promote anonymity in transactions, and in general all transactions that exhibit risk characteristics or red flags, as determined by the regulation."

CT20. *Criterion 1.12* – Article 17 of the AML Law establishes that RIs may apply, in the cases and under the conditions determined by regulations, simplified due diligence measures with respect to those customers, products or transactions that involve a reduced risk of ML/TF. Likewise, Article 18 of the AML Law provides that the application of simplified due diligence measures should be graduated according to risk and establishes that it is not appropriate to apply a simplified measure when it does not entail a reduced risk of ML/TF.

Weighting and Conclusion

CT21. Uruguay meets most of the requirements of the criteria in Recommendation 1. However, it is not observed that the NRA has addressed the risks of ML of predicate offences not covered by the legislation, such as environmental crimes, market manipulation and insider trading. In addition, in the face of economic financial activities not assessed in the NRA, there is a limitation in terms of the scope of such an assessment. There are certain limitations in the implementation of the RBA by DNFBP sectors. **Recommendation 1 is rated Largely Compliant.**

Recommendation 2 — National Cooperation and Coordination

CT22. In the report of the 3rd Round of Mutual Evaluations, under former R.31, Uruguay was rated C for coordination.

CT23. *Criterion 2.1* – In May 2018, by Decree 147/018, Uruguay approved the Risk-Based National Strategy against ML/TF/FPWMD, which provides for measures to be adopted to strengthen the ML/TF prevention system implemented for the period 2017-2020. As part of the National Strategy, an Action Plan is included that consists of 16 objectives divided as follows: I) general strengthening of the ML/TF system, II) strengthening prevention, III) strengthening financial detection/intelligence and IV) strengthening criminal repression. The Action Plan should be subject to annual updates, revisions and adjustments deemed necessary.

CT24. *Criterion 2.2* – The Coordinating Commission against ML/TF was created in 2007 by Decree 245/007, which was amended in 2012 and subsequently, in 2017, by the AML Law.

CT25. As mentioned in criterion 1.2, the Coordinating Commission depends on the Presidency of the Republic and is made up of representatives of the main agencies involved in Uruguay's AML/CFT system: The Assistant Secretary of the Presidency of the Republic, the National Secretary of the SENACLAFT, the Under-Secretaries of the Ministries of Interior, Economy and Finance, National Defence, Education and Culture (MEC), Foreign Affairs, the Director of the UIAF of the Central Bank of Uruguay and the President of the Board of Transparency and Public Ethics (JUTEP).

CT26. These bodies include the SENACLAFT. This Secretariat is the institution that convenes and coordinates the activities of the Coordinating Commission (which functions under the presidency of the Assistant Secretary of the Presidency of the Republic) and is also in charge of designing the general lines of action for the fight against ML/TF. The SENACLAFT has the following tasks: (i) to prepare and submit to the Executive Power for consideration national policies on ML/TF, in coordination with the agencies involved; (ii) to propose to the Executive Power the National Strategy, ensuring that general periodic diagnoses are carried out with a view to identifying vulnerabilities and risks; and (iii) to coordinate the implementation of national policies with the competent agencies in this area.

CT27. *Criterion 2.3* – The Coordinating Commission is responsible for developing coordinated actions among the competent agencies in the area of ML/TF. It also promotes the implementation of an information network that contributes to the work of the Judiciary, law enforcement authorities, the SENACLAFT and the UIAF, and makes it possible to generate educational and awareness-raising programmes on ML/TF risks. There is currently a working group on TF/FPWMD in Uruguay made up of the country's intelligence agencies, coordinated by the State Strategic Intelligence Secretariat (SIEE) and the SENACLAFT. In addition, there are operational committees for the formulation of action plans; one of these committees is in charge of relations with RIs, in which the SENACLAFT is responsible for strengthening relations and exchanges with all RIs under its supervision. Similarly, during 2018 Uruguay held meetings with the different operational

committees that group RIs in order to obtain inputs for the preparation and drafting of the regulation of the ML prevention law. In addition, a legal operational committee is in operation with the purpose of making the provisions of the AML Law compatible with the new CCP that entered into force on November 1, 2017. The members of that committee are: The Public Prosecutor's Office, the Judiciary, the UIAF, the SENACLAFT, the Legislative Power, Ministry of Defence, the Ministry of Interior, the MEC, the Ministry of Economy and Finance, the National Drug Secretariat and JUTEP.

CT28. *Criterion 2.4* – The above criterion specifies the creation of a working group on TF/FPWMD, which works on the prevention of these acts. The cooperation mechanisms provided for by the country's regulations mentioned above are applied to the PWMD. In addition, the Uruguayan authorities approved the national action plan for the implementation of United Nations Security Council Resolution 1540. This plan was developed with the technical assistance of the 1540 Committee's Group of Experts and the Inter-American Committee against Terrorism (CICTE).

CT29. *Criterion 2.5* – Both the UIAF and the SENACLAFT have powers of access to information by virtue of the cooperation that any agency should provide them in order to fulfil their duties. In this sense, Article 6 of the AML Law establishes that the SENACLAFT is empowered to request from RIs and public bodies any element it deems useful for the fulfilment of its functions, expressly adding that provisions related to secrecy or confidentiality will not be opposable to the SENACLAFT. Likewise, Article 26 of the same law provides for access to information by the UIAF with similar characteristics. With regard to the general regulations on the exchange of information and personal data, Articles 157 and 158 of Law 18.719 regulate the exchange of information between public entities, state or otherwise, promoting such exchange, with the purpose of avoiding duplication of efforts. Article 158 provides: *"The following are obligations of public state or non-state entities: A) Adopt the necessary measures and incorporate in their respective spheres of activity the technologies required to enable the exchange of information. B) The subjects involved in the exchange of information must comply with the obligations of secrecy, reserve or confidentiality. Likewise, adopt those measures necessary to guarantee adequate levels of security and confidentiality. C) Obtain consent in accordance with the provisions of Law 18.331 of August 11, 2008 on the Protection of Personal Data and Habeas Data Action. D) Respond for the veracity of the information at the time of the exchange."* In addition, Law 18.331 on the protection of personal data, in Article 9, subparagraph B), establishes that it is not necessary to obtain the prior consent of the owner of the data, when they are collected for the exercise of functions proper to the powers of the State or by virtue of a legal obligation.

Weighting and Conclusion

CT30. **Recommendation 2 is rated Compliant.**

Recommendation 3 — Money Laundering Offence

CT31. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.1 had been rated LC. At that time, it had been concluded that the country's law did not cover all ML predicate offences.

CT32. *Criterion 3.1* – ML is criminalised in Chapter V of the AML Law. The offence is criminalised in accordance with the Vienna Convention and the Palermo Convention. All the typical conducts established in these instruments are covered by governing verbs provided in the legislation, as follows:

- ✓ Article 30 penalises with a penalty of 2 to 15 years' imprisonment anyone who converts or transfers goods, products or instruments that come from any of the criminal activities established in Article 34 of the law (predicate offences).
- ✓ Article 31 punishes with a similar penalty anyone who acquires, possesses, uses, has in his possession or carries out any type of transaction on property, products or instruments that come from any of the predicate offences.
- ✓ Article 32 punishes with a penalty of 12 months to 6 years' imprisonment anyone who conceals, suppresses, alters evidence or prevents the real determination of the actual nature, origin, location, destination, movement or ownership of such property, or products or other rights relating to them that derive from any of the predicate offences.
- ✓ Article 33 punishes with a penalty of 12 months to 6 years in prison anyone who assists the agent(s) in the predicate offences, either to ensure the benefit or result of such activity, to obstruct the actions of justice or to evade the legal consequences of their actions, or who renders any help, assistance or advice, with the same purpose..

CT33. *Criterion 3.2* – Uruguay opted to establish a list of ML predicate criminal activities. These criminal activities are listed in Article 34 of the AML Law, and comprise most of the categories of predicate offences designated by the international standard. The following offences are not provided for as ML predicate offences: (i) environmental crimes, (ii) insider trading by persons other than public officials, market manipulation, and (iii) piracy.

CT34. *Criterion 3.3* – Uruguay does not apply a threshold-based approach. The country opted to establish a list of predicate offences, as indicated in the previous criterion.

CT35. *Criterion 3.4* – The ML offence extends to any type of property, regardless of its value. In particular, and as can be inferred from Articles 30, 31 and 32 of the AML Law, the material object of the ML offence consists of any property, product, instrument or other right that directly or indirectly derives from one of the predicate offences listed in Article 34 of the Law.

CT36. *Criterion 3.5* – According to Uruguayan law, in order for a ML action to prosper, it is not necessary to convict the perpetrator of a predicate offence. In particular, Article 36 of the AML Law expressly establishes that the ML offence is an autonomous crime and as such, should not require the prior indictment of the criminal activities established in Article 34 of the law (predicate offences). Moreover, the law adds that the existence of sufficient elements of conviction is enough for its configuration.

CT37. *Criterion 3.6* – In accordance with Article 37 of the AML Law, the offence is configured even if the previous criminal activity was committed abroad, provided that it had been typified in the laws of the place of commission and in those of the Uruguayan legal system.

CT38. *Criterion 3.7* – Self-laundering is criminalised in Uruguay. In accordance with Article 35 of the AML Law, anyone who has committed any of the predicate offences may also be considered the perpetrator of ML.

CT39. *Criterion 3.8* – In accordance with current criminal procedural legislation, the intention and knowledge required to prove the ML offence may be inferred from objective factual circumstances. Article 143 of the CCP establishes that evidence should be evaluated separately and jointly in accordance with the rules of sound criticism, except for a legal text that expressly provides for a different rule of appreciation. Article 143 adds that the court should specifically indicate the means of evidence that constitute the main basis of its decision. Moreover, Article 40 of the AML Law, relating to "intent," provides that fraud should be inferred from the circumstances of the case in accordance with general principles.

CT40. *Criterion 3.9* – The penalties provided for in articles 30, 31, 32, and 33 of the AML Law for the different modalities of ML range from 12 months to 15 years' imprisonment, depending on the offence in question. Likewise, Articles 38 and 39 of the AML Law provide for aggravating and special aggravating circumstances, which allow the sentence to be increased by up to one half or one third, respectively. In addition, the offence of ML is punishable by the generic aggravating circumstances provided for in Title III, Chapters II and III, of the Criminal Code.

CT41. In addition, General Instruction No. 10 of the Public Prosecutor's Office, of August 2018, on "Conditional Suspension of Proceedings and the Application of the Abbreviated Proceedings," provides that in ML cases where "there is a public interest in criminal prosecution," prosecutors may not opt for conditional suspension of the proceedings and, in the event of an abbreviated trial, the sentence established should establish, in whole or in part, a term of imprisonment.

CT42. Considering the elements described and depending on the scale of sanctions determined by the Uruguayan criminal system, which for the penitentiary foresees a maximum of 30 years (refer to Article 68 of the CC), it is concluded that the criminal sanctions established for ML offences are proportional and dissuasive.

CT43. *Criterion 3.10* – There is no regime of criminal liability and sanctions for legal persons. Criminal liability covers exclusively natural persons, and not legal persons, since Uruguayan criminal law is based on the principle of "*societas delinquere non potest*." This principle derives from the principle of culpability, which in turn arises from the Constitution of the Republic, the Criminal Code and the Code of Criminal Procedure. Notwithstanding the foregoing, administrative and civil penalties may be applied to legal persons who perform acts contrary to their corporate purpose, violate their regulations or are used for illicit purposes, in accordance with the provisions of the Law on Commercial Companies. These sanctions range from the application of fines to dissolution. There is also the possibility of applying sanctions to legal persons who are RIs and fail

to comply with AML/CFT measures, in accordance with the AML Law. However, there are no instructions or procedures requiring the initiation of administrative or civil sanctioning actions against legal persons involved in criminal proceedings.

CT44. *Criterion 3.11* – Uruguay punishes, with an autonomous figure, anyone who assists the agent(s) in the predicate offences, either to ensure the benefit or result of such activity, to obstruct the actions of justice or to evade the legal consequences of their actions, or who renders any help, assistance or advice (Article 34 of AML Law). This does not include the assistance or advice given by professionals to their customers to verify their legal status or within the framework of the exercise of the right of defence in judicial, administrative, arbitration or mediation matters.

CT45. Without prejudice to the fact that the behaviour constitutes one of the criminal types of ML, with regard to the forms of participation and execution of the criminal act, general rules of the Criminal Code apply.

CT46. Article 5 subparagraphs 1 and 2 of the CC include the attempt. Articles 60 and 61 of the Criminal Code regulate co-perpetration: Co-perpetrators are defined as those who determine others to commit the crime; public officials who, under the obligation to prevent, clarify or punish the crime, had, before execution and in order to decide on it, promised to cover it up; those who cooperate directly, in the period of consummation; those who cooperate in carrying it out, either in the preparatory phase, or in the executive phase, through an act without which the crime could not have been committed. Meanwhile, Article 62 defines as accomplice to anyone who, without being covered under the concept of perpetrator or co-perpetrator, cooperates morally or materially to the crime by committing acts prior or simultaneous to the execution, but separate and prior to the consummation.

CT47. Association or conspiracy is covered by Article 150 of the CC, which punishes those who associate to commit one or more crimes, by the simple act of association. Finally, incitement is covered by the crime of instigation of Article 157 of the CC, which punishes whoever publicly instigates to commit crimes, the mere act of instigation.

Weighting and Conclusion

CT48. Uruguayan law covers almost all the elements required by R.3. However, the following offences are not provided for as ML predicate offences: (i) Illicit trafficking in stolen goods and other property, (ii) environmental crimes, (iii) insider trading by persons other than public officials, market manipulation, and (iv) piracy. In turn, there are no instructions or procedures requiring the initiation of administrative or civil sanctioning actions against legal persons involved in criminal proceedings. Based on the foregoing, **R.3 is rated Largely Compliant**.

Recommendation 4 — Confiscation and Provisional Measures

CT49. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.3 had been rated LC. At that time the absence of the rules relating to the administrator of assets seized by the justice system had

been concluded. In addition, it was not possible to identify, through the statistical control system of the Confiscated Property Fund, which property is derived from the predicate offence of money laundering, identifying the underlying crimes and those originating from drug trafficking.

CT50. *Criterion 4.1* – Chapter VII of the AML Law regulates the scope of confiscation. In particular, Article 49 of the AML Law defines it as the definitive deprivation of any property, product, instrument, fund, asset, resource or economic means by decision of the competent criminal court at the request of the Public Prosecutor's Office, as an accessory legal consequence of the illicit activity. Meanwhile, Article 50, referred to the objective scope of the confiscation, establishes that in the final sentence of conviction for ML or any of its predicate offences, confiscation should be ordered for: Prohibited narcotics and psychotropic substances that were seized in the process (subparagraph "a"); property or instruments used to commit the offence or the punishable preparatory activity (subparagraph "b"); property and products that proceed from the offence (subparagraph "c"); property and products that proceed from the application of the proceeds of crime, including: Property and products into which the proceeds of crime have been transformed or converted, and property and products with which the proceeds of crime have been mixed up to the estimated value thereof (subparagraph "d"); and funds, assets, resources, economic means or incomes or other benefits derived from the property and products derived from the crime (subparagraph "e").

CT51. As to what is specifically required by the Criterion, it is worth mentioning:

- (a) Property laundered: They are covered by subparagraphs "b" and "c" of Article 50 of the AML Law, as referred to in the previous paragraph. However, the technical deficiencies identified in relation to the criminalisation of ML and TF partially limit the scope and possibility of implementing these measures.
- (b) Proceeds of (including income or other benefits derived from such proceeds), or instruments used or attempted to be used in ML or predicate offences: They are covered by subparagraphs "b," "c," "d," and "e" of Article 50 of the AML Law, as referred to in the previous paragraph.
- (c) Property that are the proceeds of, or were used or had as purpose, or were allocated to be used to finance terrorism, terrorist acts or terrorist organisations: They are covered by subparagraphs "b," "c," "d," and "e" of Article 50 of the AML Law, since the crime of TF is foreseen as a predicate offence for ML. However, the minor technical deficiency identified in relation to the criminalisation of TF limits the scope and the possibility of implementing these measures.
- (d) Property of corresponding value: They are covered by Article 51 of the AML Law, which provides that when such property, products, instruments, funds, assets, resources or economic means cannot be confiscated, the competent criminal court should order the confiscation of any other property of the convicted person for an equivalent value or, if this is not possible, should order the convicted person to pay a fine of identical value.

CT52. *Criterion 4.2* – As regards the measures that may be taken by the competent authorities, the following are reported:

- (a) The authorities have powers to identify and trace property subject to confiscation. Article 41 of the AML Law provides that whenever an investigation is initiated for any of the predicate offences, the competent criminal court, considering the circumstances of the case, should conduct a parallel economic-financial investigation, that is, a simultaneous investigation into the economic-financial matters related to the criminal activity under investigation, with the purpose of investigating the scope of the criminal networks and tracing proceeds of crime, terrorist funds or other assets that are subject to confiscation, or could be confiscated, and likewise develop evidence that can be used in the criminal proceedings. Likewise, Article 177 of the CCP provides that reports may be required on data contained in official or private registers. Articles 211 and 212 of the CCP, meanwhile, refer to the possibility of lifting bank secrecy and tax reserve.
- (b) The authorities may adopt measures to prevent handling, transfers or disposition of property subject to confiscation. Article 24 of the AML Law empowers the UIAF to instruct RIs to freeze funds or prevent suspicious transactions involving funds of criminal origin, subject to subsequent judicial confirmation. Article 43 of the AML Law provides that the criminal court may adopt, ex officio or at the request of a party, the necessary precautionary measures to ensure the availability of property subject to eventual confiscation. Article 47, furthermore, allows it to adopt specific measures that it deems indispensable, while Article 48 empowers it to adopt other provisional measures. Article 46 provides that the measures should be adopted in a reserved manner and no incident or request may prevent its fulfilment.
- (c) The authorities may adopt measures that prevent or nullify actions that damage the country's ability to freeze or seize or recover property subject to confiscation, in accordance with the provisions contained in Articles 24, 43, 47 and 48 of the AML Law, in addition to those provided for in the CCP.
- (d) Competent authorities may take appropriate measures to investigate, as described in the analysis of R.31. Notwithstanding the above, it is noted that Article 41 of the AML Law refers to the development of parallel economic-financial investigation. Article 42 of the AML Law, in turn, regulates the internal reserve of the investigation. Article 6 of the law provides for access to relevant information by the SENACLAFT. Article 26 contains faculties to access information held by the UIAF. Article 259 of the CCP refers to the confidentiality of investigative actions.

CT53. *Criterion 4.3* – The law protects the rights of *bona fide* third parties. Article 55 of the AML Law establishes that the provisions on confiscation and provisional measures should apply without prejudice to the rights of *bona fide* third parties. Article 56 provides for provisions on the allegation of a legitimate interest. Article 57 contains measures relating to the return of goods to the third party in good faith.

CT54. *Criterion 4.4* – Uruguay has mechanisms to handle and dispose of frozen, seized or confiscated property. Article 47 of the AML Law establishes that the court may appoint observers, auditors or intervenors, among other suitable measures for compliance with the precautionary purpose. Article 48, in turn, provides for the possibility of alienation of property subject to precautionary measures. Article 59 contains provisions on the ownership and destination of

confiscated assets, and Article 60 refers to cooperation with other States for the distribution of confiscated assets in cases of transnational organised crime.

CT55. The Supreme Court of Justice (SCJ) has also issued Circulars and Resolutions on administration or disposition of assets, including Circular 51/2010, Circular 142/2012 and Resolution 1009/12/450. For its part, the National Drugs Board (JND), which is the body that has the ownership and availability of confiscated property, has signed agreements with the SCJ (2009) for the early sale of seized property, and also with the National Association of Auctioneers, Appraisers and Real Estate Brokers (2011), for the auction of confiscated goods. Mention should also be made of the existence of the Confiscated Property Fund of the JND, created by Article 125 of Law 18.046 of 24/10/2006 as amended by Article 48 of Law 18.362 of 06/10/2008 (and reincorporated by Law 18.588), regulated by Decree 339/010 of 29/11/2010. Finally, within the scope of the SND, there is the Area of the Confiscated Property Fund, whose substantive tasks are the reception, inventory, administration, and adjudication (as resolved by the JND) of seized and confiscated property in drug trafficking and ML cases.

Weighting and Conclusion

CT56. Uruguayan legislation largely covers the elements required by R.4. However, the technical deficiencies identified in relation to the criminalisation of ML, and the minor deficiency identified with regard to TF, limit the scope and possibility of implementing these measures. Based on the foregoing, **R.4 is rated Largely Compliant.**

Recommendation 5 — Terrorist Financing Offence

CT57. In Uruguay's MER of the 3rd Round of Mutual Evaluations, Special Recommendation (SR) II had been rated LC. With regard to deficiencies, it was concluded at that time that the legislation was deficient in terms of the definition of the criminal types of terrorism and the modalities of financing persons or organisations for the development of terrorist acts.

CT58. *Criterion 5.1* – TF is typified in Article 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019 (CFT Law). The offence punishes with a penalty of three to eighteen years' imprisonment anyone who "*organises or, by any means whatsoever, directly or indirectly, provides or collects funds or assets of any nature, whether from a lawful source or not, to finance a terrorist organisation or a member thereof or an individual terrorist, with the intention that they will be used or knowing that they will be used, in whole or in part, in any type of terrorist activity or acts, or to a terrorist organisation or its members, regardless of the link or the occurrence of the terrorist acts and even if they are not deployed in the national territory.*"

CT59. In addition, Article 14 of Law 17.835, as amended by Law 19.749 of 2019, declares the following to be of a terrorist nature:

✓ Crimes committed for the purpose of intimidating a population or forcing a government or an international organisation to perform an act or refrain from doing so by means of the use of weapons of war, explosives, chemical or bacteriological agents, computer or technological agents

of any nature, or any other suitable means to terrorise the population, endangering the life, physical integrity, freedom or security of an indeterminate number of persons. Also included in this definition is any act intended to provoke a state of generalised terror or fear in part of the population or to cause death or serious bodily injury to a civilian or other person not taking a direct part in the hostilities of the armed conflict. It also provides that conspiracy and preparatory acts should be punishable by one third of the penalty for the completed offence (para. 1).

✓ Planning/preparing for or participating in terrorist acts, including providing or receiving training for terrorist purposes, regardless of whether the act is committed in the country (para. 2).

✓ All those covered by the International Convention for the Suppression of the Financing of Terrorism, approved by Law 17.704 and the Inter-American Convention against Terrorism, approved by Law 18.070 (para. 3).

CT60. As indicated in the above articles, the offence of TF was criminalised on the basis of the TF Convention. The typical conducts of Article 16 of Law 17.835, as amended by Law 19.749 of 2019, are consistent with those foreseen in subparagraph 1 of Article 2 of the referred Convention. Likewise, Article 14 of the law, as amended by Law 19.749 of 2019, covers the whole universe of terrorist acts foreseen in the Convention against TF, due to the fact that its last paragraph explicitly establishes that all those included in that treaty are included as terrorist acts.

CT61. *Criterion 5.2* – Article 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019, covers anyone who organises or, by any means whatsoever, directly or indirectly, provides or collects funds or assets of any nature, whether from a lawful source or not, to finance a terrorist organisation or a member thereof or an individual terrorist, with the intention that they will be used or knowing that they will be used, in whole or in part, in any type of terrorist activity or acts, or to a terrorist organisation or its members, regardless of the link or the occurrence of the terrorist acts and even if they are not deployed in the national territory.

CT62. It is relevant to note that the new wording of the standard covers all elements of the criterion and covers assets of any nature. When it refers to the financing of "any type of activity," it covers acts of mere financing of the individual or terrorist organisation, even in the absence of a link with a specific terrorist act or acts.

CT63. *Criterion 5.2 bis* - Behaviours relating to the travel of individuals travelling to a State other than the State of residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts or providing or receiving terrorist training are covered by the wording of Articles 14 and 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019.

CT64. In addition, Article 14 of the above-mentioned law, which defines what is to be understood by an act of terrorism, considers of a terrorist nature the planning or preparation of terrorist acts or participation in them, including providing or receiving training for terrorist purposes, regardless of whether the act is consummated in the country. Moreover, Article 16 of the same law, which criminalizes TF, includes acts of organisation, provision and collection of funds or assets of any nature to finance a terrorist organisation or a member thereof or an individual terrorist, with the intention that they be used, or knowing that they will be used, in whole or in part, in any type of

activity. Finally, Article 16 punishes with one third of the penalty those who perform acts of facilitation for the organization of those who commit or attempt to commit crimes of a terrorist nature.

CT65. *Criterion 5.3* – Article 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019, covers funds or assets of any nature, whether of lawful source or not, so that the material object of the TF offence is coherent with what is required by the criterion. It should be noted that the definition of goods or other assets is found in Article 1 of Decree No. 136/019, which regulates Law 19,749. The aforementioned article defines funds or other assets as “assets of any nature, tangible, intangible, movable and immovable, such as legal documents or instruments evidencing ownership or participation in said assets, interests or other gains due to accounts, and payments due under contracts, agreements or obligations arising before the date on which the accounts became subject to the provisions of UNSCR S / RES / 1718 (2006) and S / RES / 2231 (2015) ” Additionally, Article 460 of the Civil Code establishes that everything that may have a measure of value and be the object of property, whether physical or incorporeal, is understood as a good.

CT66. *Criterion 5.4* – In accordance with Article 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019, the offence is independent of the occurrence of the terrorist act. Therefore, the TF offence does not require that the funds have actually been used to carry out or attempt to carry out a terrorist act. Likewise, when repressing acts of organisation, provision and collection of funds or assets of any nature to finance a terrorist organisation or a member thereof or an individual terrorist, with the intention that they be used, or knowing that they will be used, in whole or in part, "in any type of activity," the regulation does not require that a link exists between the conduct and a specific terrorist act.

CT67. *Criterion 5.5* – In accordance with current criminal procedural legislation, the intention and knowledge required to prove the TF offence may be inferred from objective factual circumstances. Article 143 of the CCP establishes that evidence should be evaluated separately and jointly in accordance with the rules of sound criticism, except for a legal text that expressly provides for a different rule of appreciation. The Article adds that the court should specifically indicate the means of evidence that constitute the main basis of its decision.

CT68. *Criterion 5.6* – The penalties for TF range from 3 to 18 years' imprisonment. It should also be added that the generic aggravating factors provided for in Title III, Chapters II and III, of the Criminal Code are applicable to the offence of TF. Considering the elements described and depending on the scale of sanctions determined by the Uruguayan criminal system, which for the penitentiary foresees a maximum of 30 years (refer to Article 68 of the CC), it is concluded that the criminal sanctions established for TF offences are proportional and dissuasive.

CT69. *Criterion 5.7* – There is no regime of criminal liability and sanctions for legal persons. Criminal liability covers exclusively natural persons, since Uruguayan criminal law is based on the principle of "*societas delinquere non potest*." This principle derives from the principle of culpability, which in turn arises from the Constitution of the Republic, the Criminal Code and the Code of Criminal Procedure (CCP). Notwithstanding the foregoing, administrative penalties may

be applied to legal persons who perform acts contrary to their corporate purpose, violate their regulations or are used for illicit purposes, in accordance with the provisions of the Law on Commercial Companies. These sanctions range from the application of fines to dissolution. There is also the possibility of applying sanctions to legal persons who are RIs and fail to comply with AML/CFT measures, in accordance with the AML Law. However, there are no instructions or procedures requiring the initiation of administrative or civil sanctioning actions against legal persons involved in criminal proceedings.

CT70. *Criterion 5.8* – With regard to the forms of participation and execution of the TF offence, without prejudice to the provisions of Article 16 of Law 17.835, the general rules of the CC apply.

- (a) Article 5 paragraphs 1 and 2 of the CC include the attempt.
- (b) Articles 60 and 61 of the Criminal Code regulate co-perpetration: Co-perpetrators are defined as those who determine others to commit the crime; public officials who, under the obligation to prevent, clarify or punish the crime, had, before execution and in order to decide on it, promised to cover it up; those who cooperate directly, in the period of consummation; those who cooperate in carrying it out, either in the preparatory phase, or in the executive phase, through an act without which the crime could not have been committed. Meanwhile, Article 62 defines as accomplice to anyone who, without being covered under the concept of perpetrator or co-perpetrator, cooperates morally or materially to the crime by committing acts prior or simultaneous to the execution, but separate and prior to the consummation.
- (c) Instigation, conceived as determination or incitement to commit the crime, is foreseen as a hypothesis of authorship (Article 60.2 CC) or co-authorship (Article 61.1 CC). Moreover, incitement is covered by the crime of instigation of Article 157 of the CC, which punishes whoever publicly instigates to commit crimes, the mere act of instigation.
- (d) Association or conspiracy is covered by Article 150 of the CC, which punishes those who associate to commit one or more crimes, by the simple act of association.

CT71. *Criterion 5.9* – The offence of TF is designated as a predicate offence for ML, in accordance with Article 34 of the AML Law.

CT72. *Criterion 5.10* – The offence of TF can be configured even when the terrorist act to be financed "*is not committed in the national territory.*" Thus, the offence is also applicable in cases where the act of terrorism occurs in another country.

Weighting and Conclusion

CT73. The TF offence provided for in Article 16 of Law 17.835 of 2004, as amended by Law 19.749 of 2019, is consistent with almost all the criteria of the R. Without prejudice to this, no instructions or procedures are foreseen requiring administrative or civil sanctioning actions against legal persons involved in criminal proceedings. Consequently, **R.5 is rated Largely Compliant.**

Recommendation 6 — Targeted Financial Sanctions Related to Terrorism and Terrorist Financing

CT74. In Uruguay's MER of the 3rd Round of Mutual Evaluations, SR. III had been rated LC. At that time it had been concluded that there was no specific mechanism for communicating freezing actions; there were no detailed regulations providing for procedures describing the freezing mechanism; there were no specific procedures for removing persons from the list after verifying that they are not designated individuals, or when they are inadvertently affected by a freezing order, nor for the unfreezing of property of persons removed from the lists; and that Uruguay did not have a system in place for identifying, tracing, freezing, seizing and confiscating property related to terrorism. It should be noted that in May 2019, a new comprehensive CFT regulatory framework was adopted through the publication of the CFT Law and its Regulatory Decree 136/19.

CT75. *Criterion 6.1* – With regard to designations under UNSCR 1267/1989 and the sanctions regimes of UNSCR 1988, it is mentioned:

- (a) In accordance with Article 12 of Decree 136/2019, the competent authority responsible for proposing to the UNSCR 1267/1989 and 1988 Committees the designation of persons or entities is the Coordinating Commission against ML/TF, at the request of the UIAF, the SENACLAFT, the MRE or any other of its members, after approval by the Executive Power.
- (b) Article 7 of the CFT Law provides that the SENACLAFT, in coordination with the UIAF, the MRE and other competent authorities convened by the said Secretariat, should be responsible for the implementation of the processes for the identification of persons or entities that meet the designation criteria set out in the corresponding UNSCRs.
- (c) Article 12 of Decree 136/2019 provides that the Coordinating Commission against ML/TF may propose the inclusion in the lists of natural or legal persons or entities that meet the designation criteria established in the UNSCR. Since Article 12 provides that designation proposals must be made in accordance with the designation criteria set forth in the UNSCR, it is considered that the criterion for the assessment of the "reasonable grounds" or the "reasonable basis" is covered implicitly by the regulation.
- (d) In accordance with article 12 of Decree 136/019, the request for inclusion of natural or legal persons or entities should be processed through the MRE using the forms and procedures provided by each of the Sanctions Committees.
- (e) Under the provisions of Article 12 of Decree 136/019, the request for inclusion of natural or legal persons or entities should be accompanied by the greatest amount of existing information and a detailed report on the specific case, specifying whether the condition of the country as designating State can be disclosed.

CT76. *Criterion 6.2* – With respect to designations under UNSCR 1373, it is mentioned:

- (a) Pursuant to Article 15 of Decree 136/019, the Coordinating Commission against ML/TF may propose to the Executive Power, at the request of the UIAF, the SENACLAFT, the MRE or any other of its members, the incorporation of an individual, legal entity or entity to the domestic list in accordance with the provisions of UNSCR 1373, provided that there are reasonable grounds to believe that it meets the conditions for inclusion on the domestic

list. Pursuant to Article 10 of the Decree, when the MRE receives a request from a foreign competent authority through diplomatic or consular channels, it should immediately inform the UIAF and the SENACLAFT which, acting in a coordinated manner, will verify whether the criteria defined by UNSCR 1373 are met and, if so, will promptly inform the RIs of the natural or legal persons or entities subject to freezing measures. Once the measure has been complied with, the Coordinating Commission against ML/TF should be informed of the action taken. Requests from other countries should contain at least information from the competent authority submitting the request and as much existing information as is necessary to justify the request.

- (b) The mechanism for identifying the addressees of the designation on the basis of the designation criteria contained in UNSCR 1373 derives from Article 15 of Decree 136/19, which provides that the Coordinating Commission against ML/TF may propose designations to the Executive Power at the request of the UIAF, the SENACLAFT, the MRE or any other of its members, provided that there are reasonable grounds for believing that it meets the conditions for inclusion on the domestic list.
- (c) Article 10 of Decree 136/19 establishes that when the MRE receives through diplomatic or consular channels a request from a foreign competent authority, it should immediately communicate it to the UIAF and the SENACLAFT which, acting in a coordinated manner will verify if the criteria defined by UNSCR 1373 are met and, if affirmative, they will communicate without delay to the RIs the persons or entities subject to freezing. Article 1 of the Decree also provides that “without delay” implies executing the measures immediately and in a matter of hours, and that it should be interpreted as executing the measure when there are reasonable grounds or a reasonable basis to believe or suspect that a natural person, legal entity or entity is a terrorist, someone who finances terrorism or a terrorist organization. Requests from other countries should contain at least information from the competent authority submitting the request and as much existing information as is necessary to justify the request.
- (d) Pursuant to Article 15 of Decree 136/19, the Coordinating Commission against ML/TF may propose to the Executive Power, at the request of the UIAF, the SENACLAFT, the MRE or any other of its members, the incorporation of an individual, legal entity or entity to the domestic list in accordance with the provisions of UNSCR 1373, provided that there are reasonable grounds to believe that it meets the conditions for inclusion on the domestic list. The incorporation should have the approval of the Executive Power and should be based on the existence of a reasonable basis or grounds.
- (e) Article 15 of Decree 136/19 provides that the Coordinating Commission against ML/TF may request cooperation from a foreign country for the freezing of funds or other assets of a natural or legal person or entity designated on the domestic list through the MRE. Existing legislation does not expressly stipulate that all possible identifying and supporting information should be provided. Notwithstanding this, considering the principle of reciprocity, in addition to the principle of harmonic interpretation of the rules of the Decree, and that Article 10 of the Decree establishes that the requests of other countries must contain at least information from the competent authority submitting the request and the more existing information that justifies it, it is considered that this requirement is also reached for cooperation requests made to other countries.

CT77. *Criterion 6.3 –*

- (a) The Coordinating Commission against ML/TF may turn to its constituent authorities to request and gather relevant intelligence. Both the UIAF and the SENACLAFT, which form part of the Commission, have access to sources of information and RIs or public agencies may not oppose secrecy on them, in accordance with the provisions of Articles 6 and 26 of the AML Law of 2017. In addition, the Working Group on Financing of Terrorism and Proliferation of Weapons of Mass Destruction, which is composed of the relevant CFT authorities, is operational, meets periodically and exchanges CFT information. There is also an inter-institutional cooperation agreement between the agencies under the Ministries of Economy and Finance (DGI and DNA), the Ministry of Interior, the UIAF and the SENACLAFT for the purpose of cooperating in the exchange of information, operational assistance and logistics, which covers aspects of TF.
- (b) Competent authorities have powers and procedures or mechanisms to operate *ex parte* against a person or entity that has been identified and whose proposed designation is under consideration.

CT78. *Criterion 6.4 –* Uruguay has a regime that allows it to apply TFSs without delay. Article 3 of the CFT Law stipulates that public agencies and RIs should permanently check UNSC lists, including designations of natural or legal persons or entities under UNSCR 1373. If there are matches, the funds and other financial assets or economic resources of such persons or entities should be frozen immediately and without delay, and availability of funds should be prevented. With regard to requests from third countries, Article 10 of the Decree stipulates that when the MRE receives a request from a foreign competent authority through diplomatic or consular channels, it should immediately inform the UIAF and the SENACLAFT which, acting in a coordinated manner, will verify whether the criteria defined by UNSCR 1373 are met and, if so, will promptly inform the RIs of the natural or legal persons or entities subject to freezing measures. Article 4 of the CFT Law stipulates that RIs should immediately notify the UIAF that they have applied a preventive freezing measure, and the UIAF should inform the competent criminal court, which should have a period of up to 72 hours to determine whether the freezing measure corresponds to a listed person and, without prior notification, should decide whether or not to maintain said measure. Article 5 of the CFT Law provides that preventive freezing measures should be maintained until the person or entity is removed from the lists.

CT79. *Criterion 6.5 –* As regards the implementation of TFSs, it is mentioned:

- (a) The obligation to freeze funds or other assets without delay and without prior notification applies only to RIs and State agencies. The CFT regime has no provisions stipulating that the freezing measure should be applied by all natural and legal persons in the country.
- (b) In accordance with Article 5 of Decree 136/19, the freezing measure is applied on funds or other assets linked to natural or legal persons or entities included in the list. Since they are "linked assets," the provision covers all assets that may be related to the subjects. That is to say, not only those owned by them, but also those under their control.
- (c) Article 3 of the CFT Law stipulates that public agencies and RIs should prevent the availability of funds to designated subjects. Notwithstanding the foregoing, persons or

entities within the national territory are not prohibited from providing any funds or other assets, economic or financial resources, or other services related with, directly or indirectly, wholly or jointly, designated persons or entities or for the benefit of designated persons or entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.

- (d) Article 3 of the CFT Law and Article 3 of Decree 136/19 establish the permanent obligation of RIs to control and check the UNSC lists. Notwithstanding the foregoing, Article 4 of Decree 136/19 provides that communications regarding listings and delisting from the UNSC lists should be received directly by the UIAF and the SENACLAFT from the permanent mission of Uruguay to the United Nations (UN), and these should send them, immediately and by electronic communication, to the RIs. In addition, it is established that the updated lists will be available on the BCU and SENACLAFT websites.
- (e) Article 4 of the CFT Law establishes that RIs should immediately notify the UIAF that they have carried out a preventive freezing measure. In addition, Articles 12 and 13 of the AML Law include the obligation to report suspicious transactions to the UIAF, which includes attempted transactions by natural or legal persons or entities included in the UNSC lists.
- (f) Article 23 of the AML Law stipulates that compliance in good faith with the TFSs, as long as it conforms to the procedures, should not constitute a violation of professional or commercial secrecy or reserve. Consequently, it will not generate civil, commercial, labour, criminal, administrative or any other kind of liability. Likewise, Article 17 of Decree 136/19 establishes that natural or legal persons who apply in good faith the provisions set forth in the Decree should be exempt from administrative, civil and criminal liability in accordance with the provisions of Article 23 of the AML Law, and that the Decree should be applied without prejudice to the rights of *bona fide* third parties.

CT80. *Criterion 6.6* – With respect to procedures for removal from the lists and unfreezing of assets, the following is mentioned:

- (a) Articles 13 and 14 of Decree 136/19 establish procedures for submitting requests for removal from the lists to the 1267/1989 and 1988 Committees in the case of designated persons and entities who, in the opinion of the country, do not meet or no longer meet the criteria for designation.
- (b) Article 16 of Decree 136/19 contains a procedure for review and exclusion from the domestic list. The provision provides that the natural person, legal entity or entity that has been included in the domestic list may appeal the inclusion before the Judiciary.
- (c) Article 16 of Decree 136/19 provides that the natural person, legal person or entity that has been included in the domestic list may appeal the inclusion before the Judiciary.
- (d) Article 14 of Decree 136/19 establishes that all natural or legal persons or entities included in the UN lists may apply to the United Nations Office of the Ombudsman for their exclusion in accordance with Security Council Resolutions S/RES/1904 (2009), S/RES/1989 (2011) and S/RES/2083 (2012), or to the Focal Point established in Resolution S/RES/1730 (2006).

- (e) In accordance with Article 14 of Decree 136/19, natural or legal persons or entities that have been included on list 1267/1989 or 1988 may request their removal before the Office of the Ombudsman of the United Nations Security Council or before the MRE that will send it to the UNSC.
- (f) Article 6 of the CFT Law establishes that if after the freezing measure ordered by the competent criminal court it is proven by any reliable means that funds and other financial assets or economic resources have been frozen due to homonymy or false positives, at the request of the interested party the court should order the lifting of the freezing measure within a maximum period of 2 working days.
- (g) Article 4 of Decree 136/19 provides that communications regarding listings and delisting from the UNSC lists should be received directly by the UIAF and the SENACLAFT from the permanent mission of Uruguay to the United Nations (UN), and these should send them, immediately and by electronic communication, to the RIs, who should verify them and check them against their customer databases.

CT81. *Criterion 6.7* – Article 8 of Decree 136/19 establishes that the Judiciary may authorize the access or disposal of funds or other assets, in accordance with UNSCR 1452 for: a) the execution of liens of any nature agreed prior to the date on which the person was the object of the designation that generated the preventive freezing measure or sanction; b) making payments to a third party not sanctioned for the execution of contracts prior to the date of the payer's designation; c) coverage of the basic needs of the designated person or his family members and fees for legal assistance; d) expenses caused by ordinary services of custody or maintenance of the funds or other immobilized assets.

Weighting and Conclusion

CT82. Decree 136/19 established a comprehensive TFS regime for TF, which covers the vast majority of the elements required by the criteria of Recommendation 6. However, some deficiencies are noted in relation to Criteria 6.5 (a) and (c) but are considered to be minor deficiencies. **R.6 is rated Largely Compliant.**

Recommendation 7 — Targeted Financial Sanctions related to Proliferation

CT83. This is a new R. introduced in 2012. Therefore, it was not evaluated in the 3rd Round of MEs.

CT84. *Criterion 7.1* – Uruguay has a regime that allows it to apply TFSs without delay in matters of FPWMD, in accordance with UNSCR 1718(2006) and its successor resolutions. In this sense, Article 3.b of the CFT Law establishes that public agencies and RIs should permanently check the lists of individuals or entities linked to the FPWMD drawn up under UNSCR 1718, 1737, 2231 and successive UNSCRs. If there are matches, the funds and other financial assets or economic resources of such persons or entities should be frozen immediately and without delay, and the availability of funds should be prevented. Article 4 of the CFT Law stipulates that RIs should immediately notify the UIAF that they have applied a preventive freezing measure, and the UIAF

should inform the competent criminal court, which should have a period of up to 72 hours to determine whether the freezing measure corresponds to a listed person and, without prior notification, should decide whether or not to maintain said measure. Article 5 of the CFT Law provides that preventive freezing measures should be maintained until the person or entity is removed from the lists.

Criterion 7.2 – Uruguay has designated authorities to implement and enforce the TFSs in matters of FPWMD. Article 2 of the CFT Law establishes that the Coordinating Commission against ML/TF is the body in charge of implementing the provisions of the law, which includes that related to the UNSCRs.

- (a) Article 3 of the CFT Law stipulates that public agencies and RIs should permanently check UNSC lists, including designations of natural or legal persons or entities under UNSCR 1718, 1737, 2231 and successor resolutions. If there are matches, the funds and other financial assets or economic resources of such persons or entities should be frozen immediately and without delay, and the availability of funds should be prevented. The obligation to freeze funds or other assets without delay and without prior notification applies only to RIs and State agencies. There are no provisions stipulating that the freezing measure should be applied by all natural and legal persons in the country.
- (b) In accordance with Article 5 of Decree 136/19, the freezing measure is applied on funds or other assets linked to natural or legal persons or entities included in the list. Since they are "linked assets," the provision covers all assets that may be related to the subjects. That is to say, not only those owned by them, but also those under their control.
- (c) Article 3 of the CFT Law stipulates that public agencies and RIs should prevent the availability of funds to designated subjects. Notwithstanding the foregoing, there is no rule explicitly stating that persons or entities within the country should not provide funds or other assets to designated persons or entities, or for the benefit of designated persons or entities unless they have licenses or authorisations or similar notified in accordance with the corresponding UNSCRs.
- (d) Article 3 of the CFT Law and Article 3 of Decree 136/19 establish the permanent obligation of RIs to control and check the UNSC lists. Notwithstanding the foregoing, Article 4 of Decree 136/19 provides that communications regarding listings and delisting from the UNSC lists should be received directly by the UIAF and the SENACLAFT from the permanent mission of Uruguay to the UN, and these should send them, immediately and by electronic communication, to the RIs. In addition, it is established that the updated lists will be available on the BCU and SENACLAFT websites.
- (e) Article 4 of the CFT Law establishes that RIs should immediately notify the UIAF that they have carried out a preventive freezing measure. In addition, Articles 12 and 13 of the AML Law include the obligation to report suspicious transactions to the UIAF, which includes attempted transactions by natural or legal persons or entities included in the UNSC lists.
- (f) Article 23 of the AML Law stipulates that compliance in good faith with the TFSs, as long as it conforms to the procedures, should not constitute a violation of professional or commercial secrecy or reserve. Consequently, it will not generate civil, commercial, labour, criminal, administrative or any other kind of liability. Likewise, Article 17 of Decree 136/19 establishes that natural or legal persons who apply in good faith the

provisions set forth in the Decree should be exempt from administrative, civil and criminal liability in accordance with the provisions of Article 23 of the AML Law, and that the Decree should be applied without prejudice to the rights of *bona fide* third parties.

CT85. *Criterion 7.3* – Article 18 of Decree 136/19 provides that the UIAF and the SENACLAFT, within the framework of their powers, should control and supervise compliance with TFSs by RIs, and should be responsible for applying the administrative sanctions provided for in Articles 12 and 13 of the AML Law.

CT86. *Criterion 7.4* – Articles 13 and 14 of Decree 136/19 establish procedures for submitting requests for removal from the UNSCR lists in the case of designated persons and entities who, in the opinion of the country, do not meet or no longer meet the criteria for designation.

- (a) Article 14 of Decree 136/19 establishes that all natural or legal persons or entities included in the UN lists may request their removal before the Focal Point established in Resolution S/RES/1730 (2006).
- (b) Article 6 of the CFT Law establishes that if after the freezing measure ordered by the competent criminal court it is proven by any reliable means that funds and other financial assets or economic resources have been frozen due to homonymy or false positives, at the request of the interested party the court should order the lifting of the freezing measure within a maximum period of 2 working days.
- (c) Article 8 of Decree 136/19 establishes that the Judiciary may authorize the access or disposal of funds or other assets, in accordance with UNSCR 1452 for: a) the execution of liens of any nature agreed prior to the date on which the person was the object of the designation that generated the preventive freezing measure or sanction; b) making payments to a third party not sanctioned for the execution of contracts prior to the date of the payer's designation; c) coverage of the basic needs of the designated person or his family members and fees for legal assistance; d) expenses caused by ordinary services of custody or maintenance of the funds or other immobilized assets. However, there are no provisions authorising access to funds or other assets, where countries have determined that the exemption conditions set out in UNSCRs 1718 and 2231 are met, in accordance with the procedures set out in those Resolutions.
- (d) Article 4 of Decree 136/19 provides that communications regarding listings and delisting from the UNSC lists should be received directly by the UIAF and the SENACLAFT from the permanent mission of Uruguay to the United Nations (UN), and these should send them, immediately and by electronic communication, to the RIs, who should verify them and check them against their customer databases.

CT87. *Criterion 7.5* – With respect to contracts, agreements or obligations arising prior to the date on which the accounts became subject to TFSs, it is noted that:

- (a) Article 1 of Decree 136/019 includes in the definition of property or other assets property of any nature, tangible, intangible, movable and immovable, interests or other earnings due on the accounts, and payments due under contracts, agreements or obligations arising prior to the date on which the accounts became subject to the provisions of United Nations Security Council Resolutions 1718 (2006) and 2231 (2015).

- (b) Article 8.b of Decree 136/19 establishes that the Judiciary may authorize access to or availability of funds or other assets for making payments to a third party not sanctioned for the execution of contracts prior to the date of designation of the payer. However, the conditions required by sub criterion 7.5.b for payment to proceed are not provided.

Weighting and Conclusion

CT88. Uruguay has a TFS system on matters related to FPWMD that meets most of the requirements of R.7. However, there are deficiencies in relation to Criteria 7.2 (a) and (c), 7.4 (c) and 7.5 (b), but these are considered to be minor in terms of the elements covered by the regulation. **R.7 is rated Largely Compliant.**

Recommendation 8 — Non-Profit Organisations

CT89. The R.8, former SR. VIII, was rated PC in the 2009 MER. It was concluded that there is a shortage of resources for effective control of NPOs

Adoption of a Risk-Based Approach

CT90. *Criterion 8.1 –*

- (a) Uruguay included in its NRA the country's associations and foundations, concluding that there is a low risk that these organisations will be abused. In addition, in 2017 NPOs were included as RIs with the obligation to submit ML/TF suspicious transaction reports and under the supervision of the SENACLAFT (Article 13 subparagraph I of the AML Law). Uruguay has identified religious, sports and political parties' NPOs. In this regard, in March 2019 the Ministry of Education and Culture (MEC), which is the authority for this matter, conducted a census on the amount of existing NPOs, which resulted in 6.389 active organizations (these are divided into 330 foundations and 6.059 civil associations). Regarding specifically to TF risks, a "Working Group on Financing of Terrorism and Proliferation of Weapons of Mass Destruction" was created, composed of all the State's police and military intelligence agencies, the UIAF, the MRE, the CENACOT, which is coordinated by the newly created State Strategic Intelligence Secretariat (SIEE) and the SENACLAFT. Based on that census prepared by the MEC, the TF Group conducted an analysis based on the FATF definition and, considering various risk criteria, developed a list with the most vulnerable NPOs in TF matters, which are specifically monitored. The monitoring is carried out by the Ministry of Interior, UIAF and intelligence services. The results are presented periodically within the framework of the FT Group.
- (b) The MEC is the institution responsible for conducting a periodic study of Associations and Foundations registered in order to classify them according to their activities and size. The SENACLAFT started to work on the identification of NPOs from the beginning of 2018 based on the entities that were registered at the time and, subsequently, in order to update the information on operating NPOs, the MEC conducted a national census, which culminated in March 2019. According to the work carried out by the aforementioned

working group, an analysis was made of the nature of the threats that terrorist entities may pose to NPOs. This information is confidential.

- (c) Based on the previous paragraphs, the Working Group on FT/PWMD is responsible for providing specific follow-up on the activities of NPOs that may be abused to support TF. The actions of this group are of a reserved nature and therefore there are no publicly approved provisions on the follow-up process that this group performs to the NPOs of risk. However, it has the capacity to conduct some measures for their follow-up, such as the control of all financial movements of NPOs, which is carried out based on the information received by the UIAF, which allows analyzing their main cash movements and transfers. In addition, the National Investigations Directorate of the Ministry of Interior, the SIIIE and the Strategic Intelligence Directorate of the Ministry of Defense monitor the operations of these entities, including the monitoring of social networks and websites as well as physical surveillance through their agents if they deem it necessary, consultation to other national information resources and also use their information exchange requests with foreign intelligence agencies. In addition, the SENACLAFT is carrying out the supervision plan for the rest of the NPOs in their condition of RIs, in order to identify characteristics and types of NPOs that, according to the type of activities carried out, may pose ML risks.
- (d) The evaluation of higher risk NPOs should be conducted periodically and will be conducted on an ongoing basis by the TF working group referred to above. In addition, the UIAF and the SENACLAFT supervise financial movements in this sector in order to detect possible risks.

Ongoing outreach activities in relation to terrorist financing

CT91. *Criterion 8.2* – Uruguay has:

- (a) Policies that promote transparency in the administration and management of NPOs and information in this sector is public. All civil associations and foundations should register with the General Directorate of Registries, and the MEC grants them legal personality and authorizes their operation. The registry controls the legality of the statute, the identification of directors and the type of activity anticipated by the organisation. In the event of irregularities or lack of transparency in the management of associations, the Ministry of Education and Culture may send inspectors or even intervene by appointing an inspector or one or more administrators (Law 15.089). Additionally, during their authorisation process, by virtue of the provisions of Article 85 of Decree 379/018, the MEC may require a prior report from the SENACLAFT in the case of entities that are to receive contributions of money from abroad or plan to send funds abroad, where they have foreign members or where the characteristics of the activity to be developed require it.
- (b) The SENACLAFT, in coordination with the Agency for the Development of the Government of Electronic Management and the Information and Knowledge Society (AGESIC) and the educational platform EDUCANTEL, implement online training for DNFBPs on ML/TF prevention. In this regard, the classroom corresponding to non-profit organisations is being developed in accordance with the regulations approved for this sector in Decree 379/018, Articles 84-88.
- (c) In accordance with Article 3 of the AML Law, a Relations Committee was set up between the SENACLAFT and DNFBPs to carry out periodic outreach and continuous training

activities with each of the sectors. With regard to NPOs, this Committee is working on an approach to the possible risks and vulnerabilities of this sector. In addition, a guide to transactions and warning signals was issued in 2012, with the aim of collaborating in the detection of suspicious or unusual patterns in the behaviour of RIs' customers, whose activities could be related to TF (Communication 2012/191). This guide was initiated within the scope of the Strategic Analysis Observatory of the SENACLAFT with the support of the UIAF. Information was gathered from intelligence agencies with competence in the field. Subsequently, the Observatory prepared a document integrating the information received with other documents published by FATF, GAFILAT and CICTE.

- (d) On April 29, 2014, Law 19.210 on financial inclusion was approved, which indicates that a considerable portion of the transactions should be carried out compulsorily by means of electronic payment. By virtue of this law, NPOs are covered and encouraged to conduct transactions through regulated financial channels.

Targeted risk-based supervision or monitoring of NPOs

CT92. *Criterion 8.3* – In accordance with the provisions of the AML Law and Decree 379/018, the SENACLAFT has supervisory powers with respect to NPOs. Article 85 of the decree states that the SENACLAFT and the MEC should coordinate and cooperate in the application of the necessary measures to supervise the activity of NPOs. For its part, the aforementioned working group on FT/PWMD carried out an analysis to determine which NPOs in the country represent a greater risk in TF matters and on that basis established a process for monitoring the activities of these organisations. It should be noted that the AML/CFT supervision plan is related to NPOs that fall within the concept of RI (that is, those that exceed the threshold provided by Decree 379/18). TF monitoring is independent of this supervisory process and is carried out by the competent authorities of the TF Group. This monitoring is performed only on the NPO subgroup with the highest exposure to TF risk. For that effect, no threshold is considered.

CT93. *Criterion 8.4* –

- (a) The AML Law and Decree 379/018 determine that the SENACLAFT is the national institution in charge of the supervision of the NPO sector and should coordinate and cooperate with the MEC on the applicable supervision measures. (Articles 13 and 85, respectively). In addition, the UIAF and the SENACLAFT are working together to monitor the financial movements of NPOs in order to complete the ML/TF risk profiles of these organisations.
- (b) Decree Law 15.089 establishes that the MEC should be responsible for controlling the creation, operation, dissolution and liquidation of NPOs; it should have the power to sanction, intervene and even cancel legal persons (Article 1). Sanctions consist of warning, observation, fine, suspension of the NPO on a temporary or definitive basis if there is judicial authorisation. They should also be graduated according to the seriousness of the event, the existence of other infractions and the importance of the NPO (Article 2 of the same Law). In addition, Article 13 of the AML Law establishes sanctions for NPOs in case of non-compliance with their obligations as DNFBPs. Article 16 of Decree 379/018 indicates that NPOs should designate a compliance officer, who should be the person in charge of promoting the implementation of the procedures and all obligations established

for them. The sanctions applicable to NPOs are within the SENACLAFT's sanctions guidelines.

Effective information gathering and investigation

CT94. *Criterion 8.5 –*

- (a) As indicated in criterion 8.1 (a), Uruguay has a working group that exchanges information about FT/FPWMD risks presented by NPOs. In addition, there is also an inter-institutional cooperation agreement between the agencies under the Ministries of Economy and Finance (DGI and DNA), the Ministry of Interior, the UIAF of the BCU and the SENACLAFT for the purpose of ensuring cooperation in the exchange of information, and operational assistance. The SENACLAFT may request from NPOs all the information it deems necessary for the performance of its functions. With respect to exchange with national authorities, the UIAF may disclose to competent authorities the information received or generated on certain unusual or suspicious transactions when it considers that the participation of these authorities may assist in ongoing investigations (Article 6 and 28 of AML Law). In addition, collaboration is achieved when competent authorities request information to their foreign counterparts.
- (b) Uruguay has specialized courts and prosecutor's offices for the investigation of TF crimes, with the capacity to investigate NPOs that are being abused (Article 414 of Law 18.362, Acordada N° 7.932, Article 1 of Law 18.390 and Resolution N° 637/17).
- (c) Relevant competent authorities have the legal powers to access information on the administration and management of NPOs, including financial and programmatic information, within the framework of an investigation (Articles 6 and 26 of the AML Law). Both the UIAF and the SENACLAFT have broad investigative powers. In addition, Uruguayan law enforcement authorities have access to the documentation and information necessary for use in investigations and proceedings in which they are involved. The Public Prosecutor's Office may request from public institutions all necessary information that is available in the records for the investigation to be carried out (Article 45 subparagraph k of the CCP). Similarly, the prosecutor may request the court to lift bank secrecy and tax reserve in order to request information, documents and declarations when deemed appropriate (Articles 177, 211 and 212).
- (d) Competent authorities have the powers to ensure the exchange of information to take preventive or investigative action against suspicious NPOs. In turn, Article 5 of Decree 379/018 states that NPOs have the obligation to define policies and procedures that allow them to report cases related to FT/PWMD to the UIAF. In this regard, they should i) identify the risks inherent to the respective activity and category of customers, ii) evaluate their possibilities of occurrence and impact, iii) implement adequate control measures to mitigate the identified risks, and iv) periodically monitor the results of the controls applied. In addition to the information presented in criterion 8.1 c, Uruguay can carry out control actions at an administrative and criminal levels if there is a case that requires it. In that sense, the SENACLAFT has investigative and monitoring powers to require all types of information to NPOs under their control in accordance with the provisions of subparagraph E of Article 4 of the AML Law. On the other hand, the MEC controls the creation, operation and dissolution of associations and foundations, providing for the imposition of sanctions

for violation of legal, regulatory or statutory regulations, ranging from observation to cancellation of their legal status. Regarding control actions at a criminal level, the Working Group has the power to refer the case to the Public Prosecutor's Office if any TF suspicion elements arise that require further investigation of NPOs and apply special investigative techniques if necessary.

Effective capacity to respond to international requests for information on an NPO of concern

CT95. *Criterion 8.6* – While no specific points of contact are identified to respond to requests for information on NPOs, Uruguay may respond to such requests within the framework of the Working Group on FT/FPWMD. The MEC is the central authority for dealing with mutual legal assistance requests, including cases of NPOs suspected of TF. The UIAF being part of the Egmont Group of Financial Intelligence Units may share information with its foreign counterparts. For its part, the SENACLAFT through the GAFILAT Asset Recovery Network (RRAG) can make use of informal exchanges with members of that network, as well as informal asset recovery networks that exist worldwide.

Weighting and Conclusion

CT96. Uruguay meets the criterion of the R. **R.8 is rated Compliant.**

Recommendation 9 — Financial Institutions Secrecy Laws

CT97. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.4 had been rated C.

CT98. *Criterion 9.1* – The provisions on secrecy of financial institutions in Uruguay do not prevent the implementation of the FATF Recommendations. In accordance with Articles 15 and 25 of Law 15.322 on Financial Intermediation, financial secrecy provisions are not enforceable against the BCU and the competent judicial authority. Similarly, Articles 6 and 26 of the AML Law empower the SENACLAFT and the UIAF, respectively, to request information from RIs, which may not invoke secrecy or confidentiality rules.

Weighting and Conclusion

CT99. Uruguay meets the criterion of the R. **Recommendation 9 is rated Compliant.**

Recommendation 10 — Customer Due Diligence

CT100. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.5 had been rated PC. With regard to deficiencies, at that time, it had been concluded that not all of the R. criteria were met, particularly with regard to the annual threshold for initiating CDD processes for occasional customers of financial institutions.

CT101. In Uruguay there are the following categories of FIs: Financial intermediation entities (banks, financial houses, external financial institutions, financial intermediation cooperatives and administrators of pre-existing savings groups); entities that provide exchange financial services, domestic and foreign transfers, payment and collection services, coffer services, credit and other similar services, except those reserved for financial intermediation institutions; entities that provide funds transfer services; credit management companies; stock exchanges, securities brokers and securities custody or clearing and settlement entities; issuers of public offer; entities that make placements and financial investments with their own resources or with credits granted by certain third parties; insurance and reinsurance companies and mutual insurance companies; investment fund managing companies, professional trustees, investment funds and financial trusts of public offer; pension savings funds managing companies and the funds they administer; and entities that limit themselves to approaching or advising the parties in financial business without assuming any obligation or risk. All FIs defined by the FATF are covered by these categories.

CT102. *Criterion 10.1* – Article 14 of the AML Law establishes that "under no circumstances may RIs keep anonymous accounts or accounts with fictitious names."

CT103. *Criterion 10.2* – Article 14 of the AML Law, together with the corresponding sectoral regulations, establish the obligation to carry out CDD measures. In this regard, it mentions:

- (a) Article 14, subparagraph 3 of the AML Law establishes that CDD procedures should be applied to all new customers, upon establishing business relations or when they carry out occasional transactions above the thresholds designated for each activity.
- (b) Article 14, subparagraph 3 of the AML Law states that CDD procedures should be applied when performing occasional transactions above the thresholds designated for each activity. With regard to financial intermediation institutions, exchange houses, financial services companies and money transfer companies, the obligation to identify the customer of the transaction is waived in the case of transactions carried out with occasional customers whose individual amount does not exceed USD 3,000 or its equivalent in other currencies, except in the case of transfers of funds. This exception should not apply when it is found that the customer attempts to split a transaction in order to evade the requirement of identification (Article 296 of the RNRCFSF). However, above the threshold and for customers who carry out transactions of a non-permanent nature, with the exception of transfers of international funds for amounts greater than USD 1,000 or its equivalent in other currencies, for an amount less than USD 15,000 or its equivalent in other currencies, institutions are entitled to request less data from their customers in compliance with CDD procedures (Article 297 of the RNRCFSF). With regard to securities brokers and investment fund managing companies, in all cases regardless of the amount of the transaction, the customer identification obligation should be complied with. However, the regulations allow institutions to request a smaller amount of data for customers who carry out occasional transactions, including custody transfer, for an individual or accumulated amount within the threshold of USD 15,000 or its equivalent in other currencies (Article 191 of the RNMV). There are no thresholds for the insurance sector and electronic money issuers.

- (c) In accordance with Article 296 of the RNRCSF, FIs should identify the customer in all cases, regardless of the amount of the transfer. However, the regulations allow institutions to request less data in the case of transfers of domestic funds for an amount less than USD 15,000 or its equivalent in other currencies, as well as in the case of transfers of international funds for amounts less than USD 1,000 or its equivalent in other currencies, carried out by customers on an occasional basis (Article 297 of the RNRCSF). In addition, Articles 306 and 307 of the RNRCSF provide for the data required for the identification of the holder or originator in the case of both issued and received funds transfers. In turn, institutions are prohibited from making transfers if they lack all the data required by the regulations.
- (d) Article 14 of the AML Law provides that where there are suspicions of ML/TF, CDD procedures should be applied regardless of any exception, exemption or threshold established.
- (e) Similarly, Article 14 of the AML Law provides that when the RI has doubts about the veracity or sufficiency of previously obtained know-your-customer data, customer due diligence procedures should also be applied, regardless of any exception, exemption or threshold established.

CT104. *Criterion 10.3* – Article 14, subparagraph 3 of the AML Law establishes that CDD procedures should be applied to all new customers, upon establishing business relations or when they carry out occasional transactions above the thresholds designated for each activity. In addition, Article 15 of the AML Law provides that information on customers should be identified and verified using reliable data and information from independent sources.

CT105. *Criterion 10.4* – With regard to the financial sector, the sectoral regulations stipulate that when carrying out CDD it should be expressly stated whether the customer is acting on his own account or on behalf of a third party and, in the latter case, obtain the aforementioned data with regard to the beneficial owner of the account or transaction. Likewise, the aforementioned CDD data should be obtained for natural persons acting on behalf of the customer legal person, as well as for attorneys-in-fact and other persons authorized to operate on its behalf before the institution (Cf. Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF; 191 and 207.5 of the RNMV; 74.1 of the RNSR; 104 of the RNSP).

CT106. *Criterion 10.5* – Article 15.b of the AML Law establishes that in application of CDD measures, the BO should be identified, and reasonable measures taken to verify its identity. Likewise, the corresponding sectoral regulations provide that FIs should collect information to establish and record by effective means the identity of the beneficial owner of the account or transaction, as well as verify his identity (Articles 295, 316.6, 316.27, 316.41, 316.53 and 316.69 of the RNRCSF, 190.2 and 207.3 of the RNMV, 74 of the RNSR).

CT107. *Criterion 10.6* – Article 15.c of the AML Law establishes that in application of CDD measures, information should be gathered on the purpose of the commercial relationship and the nature of the business to be conducted, with the extent and depth that the reporting institution considers necessary based on the risk assigned to the customer, commercial relationship or type of

transaction to be carried out. Meanwhile, sectoral regulations of the financial sector determine that FIs should gather information to establish and record by effective means the purpose and nature of the business relationship with the customer or of the service provided, as the case may be (Articles 294, 316.5, 316.40, 316.52 of the RNRCSF; 190 of the RNMV; 73 of the RNSR).

CT108. *Criterion 10.7* – In relation to the ongoing CDD, it is mentioned:

(a) Article 15.d of the AML Law provides that a continuous monitoring of the business relationship should be carried out, where appropriate, and transactions should be examined to ensure that they are consistent with the available know-your-customer information and the risk profile assigned, including the source of funds where necessary. In addition, the relevant sectoral regulations require not only that they establish procedures for obtaining, verifying, recording, updating and retaining information on the true identity of the customer and his economic activity that makes it possible to adequately justify the origin of the funds managed, but also systems for monitoring accounts and transactions that make it possible to detect unusual or suspicious patterns in the behaviour of customers (Articles 293, 316.4, 316.27, 316.39, 316.51 and 316.66 of the RNRCSF; 189 and 207.3 of the RNMV, 72 of the RNSR).

(b) The final paragraph of Article 16 of the AML Law establishes that the RIs should establish policies that contemplate the periodic review and updating of existing data and information on customers, especially in the highest risk category.

CT109. *Criterion 10.8* – Article 15.c of the AML Law establishes that in application of CDD measures, information should be gathered on the purpose of the commercial relationship and the nature of the business to be conducted, with the extent and depth that the reporting institution considers necessary based on the risk assigned to the customer, commercial relationship or type of transaction to be carried out. In addition, the sectoral regulations of the financial sector establish as a minimum requirement that the main activity, volume of income, proof of registration in the beneficial ownership registry, and the ownership and control structure of the company should be requested from legal persons, with an indication of who its shareholders or owners are and proof of who the BO or controlling entity of the company is, if different from the above. The identification of the shareholders or owners should be applicable whenever they hold a percentage of the capital greater than 15% (Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF; 191 and 207.5 of the RNMV and 74.1 of the RNSR and 104.6 of the RNSP).

CT110. *Criterion 10.9* – With respect to the identification of legal persons or arrangements, it is noted:

- (a) Name, legal form and proof of existence: These requirements are among the minimum data that institutions should request from legal persons (Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF; 191 and 207.5 of the RNMV; 74.1 of the RNSR; and 104.6 of the RNSP).
- (b) Powers that regulate and bind the legal person or arrangement, as well as the names of the relevant persons who hold a senior management position within the legal person or arrangement: These requirements are among the minimum data that institutions should request from legal persons (Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF; 191 and 207.5 of the RNMV; 74.1 of the RNSR; and 104.6 of the RNSP).

- (c) Address of the registered office and, if different, a principal place of business. This requirement is included among the minimum data that institutions should request from legal persons (Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF; 191 and 207.5 of the RNMV; 74.1 of the RNSR; and 104.6 of the RNSP).

CT111. *Criterion 10.10* – With regard to the identification and verification of the identity of BOs, the following is mentioned:

- (a) Article 15.b of the AML Law establishes that the RIs should identify the BO and take reasonable measures to verify its identity. A BO should be understood to be a natural person who, directly or indirectly, owns at least 15% of the capital or its equivalent, or of the voting rights, or who by other means exercises final control over an entity, such being considered a legal person, a trust, an investment fund or any other patrimony of affectation or legal arrangement. BO should also be understood as the individual who contributes the funds to carry out an operation or on whose behalf an operation is carried out. Final control should be understood as that exercised directly or indirectly through a chain of ownership or through any other means of control. In the case of trusts, the individual or individuals who meet these conditions in relation to the trustor, trustee and beneficiary should be identified.
- (b) Reference is made to the provisions of sub criterion a).
- (c) The sectoral regulations require that the data requested for identification of customers who are legal persons should also be obtained in respect of natural persons acting on behalf of the customer who is a legal person, as well as for attorneys-in-fact and anyone authorised to operate on their behalf with the institution (Articles 297, 316.7, 316.29, 316.42, 316.54 and 316.70 of the RNRCSF, 191 of the RNMV, 74.1 of the RNSR). Consequently, the relevant natural person who occupies the position of the highest managerial officer should also be identified.

CT112. *Criterion 10.11* – As regards the identification of the BO of legal arrangements, it is mentioned:

- (a) Article 15.b of the AML Law establishes that the RIs should identify the BO and take reasonable measures to verify its identity. A BO should be understood to be a natural person who, directly or indirectly, owns at least 15% of the capital or its equivalent, or of the voting rights, or who by other means exercises final control over an entity, such being considered a legal person, a trust, an investment fund or any other patrimony of affectation or legal arrangement. BO should also be understood as the individual who contributes the funds to carry out an operation or on whose behalf an operation is carried out. Final control should be understood as that exercised directly or indirectly through a chain of ownership or through any other means of control. In the case of trusts, the individual or individuals who meet these conditions in relation to the trustor, trustee and beneficiary should be identified.
- (b) The requirements set out in sub criteria (a) apply to any legal arrangement.

CT113. *Criterion 10.12* – The regulation applicable to the insurance sector includes in the concept of customer not only the insured and policyholders, but also their beneficiaries (Article 72

of the RNSR). Consequently, CDD measures are applicable to the beneficiaries of the policies. In this regard, the following is added:

- (a) Article 74.1 of the RNSR requires institutions to identify natural persons with their full name and legal persons with their denomination.
- (b) The identification of the beneficiary of the policy, whether a natural or legal person, is satisfied by requesting the minimum information referred to in Article 74.1 of the RNSR.
- (c) The regulation of the insurance sector requires institutions to verify the identity of the beneficiary at the time of establishing a business relationship, and they should update the information collected in the framework of the identity identification and verification procedures on a regular basis (Articles 74 and 75 of the RNSR).

CT114. *Criterion 10.13* – Article 77 of the RNSR provides that companies should apply enhanced CDD procedures for the categories of customers, business relationships or transactions considered to be of higher risk, in accordance with the risk assessment carried out by the institution. In addition, the regulation adds that customers who have taken out life insurance with an annual premium greater than USD 10,000, or its equivalent in other currencies, and those with a single premium greater than USD 200,000, or its equivalent in other currencies, will be considered as higher risk (subparagraph e). It must be specified that Article 72 of the RNSR establishes that the CDD policies and procedures to be applied must consider the level of risk of the client and those situations that require an intensified CDD. Article 72 itself establishes that the insured, policyholders and beneficiaries of a policy shall be understood as a client. If the beneficiary is a legal person, according to Article 74 RNSR, the BO should be identified.

CT115. *Criterion 10.14* – Article 16 of the AML Law provides that verification of the identity of the customer or the BO should be carried out before or during the establishment of the business relationship or when carrying out transactions for occasional customers. In certain cases, when ML/TF risks can be managed effectively and when it is essential not to interrupt the normal development of the activity, the RI may complete the verification within a reasonable period after the establishment of the relationship with the customer. With regard to the special aspects of the standard, the following is added:

- (a) Sectoral regulations provide for a period of 60 days from the beginning of the relationship to complete the verification (Articles 294, 294.1, 316.5, 316.40, 316.52 and 316.67 of the RNRCFSF, 190 and 190.1 of the RNMV and 73 of the RNSR). Although the 60-day term is a maximum term, doubts remain as to whether this period is reasonable in view of the customer's risk.
- (b) The possibility of completing the verification of the identity within 60 days after the beginning of the business relationship is specifically provided for those cases where it is necessary not to interrupt the normal course of business (Articles 294, 294.1, 316.5, 316.40, 316.52 and 316.67 of the RNRCFSF, 190, 190.1 of the RNMV and 73 of the RNSR).
- (c) Article 16 of the AML Law provides for the possibility of completing subsequent verification only if ML/TF risks can be effectively managed.

CT116. *Criterion 10.15* – With regard to risk control, the sectoral regulations provide that during the period when identity verification is being completed, institutions should carry out a more

intensive monitoring of customer transactions (Articles 294, 294.1, 316.5, 316.40, 316.52 and 316.67 of the RNRCSF, 190 and 190.1 of the RNMV, 73 of the RNSR).

CT117. *Criterion 10.16* – Pursuant to Article 15 of the AML Law a continuous monitoring of the business relationship should be carried out, where appropriate, and transactions should be examined to ensure that they are consistent with the available know-your-customer information and the risk profile assigned, including the source of funds where necessary. In addition, Article 16 of the above law provides that CDD measures should be applied to all new customers and to existing customers based on their relative importance and a risk analysis. RIs should establish policies that contemplate the periodic review and updating of existing data and information on customers, especially in the highest risk category.

CT118. *Criterion 10.17* – Pursuant to Article 19 of the AML Law, RIs should enhance the CDD procedures for the higher-risk categories of customers, business relationships or transactions, such as non-resident customers—especially those from countries that do not meet international standards in ML/TF—transactions that do not involve the physical presence of the parties, paying attention to threats that may arise from the use of new or developing technologies that promote anonymity in transactions, and in general all transactions that exhibit risk characteristics or red flags, as determined by the regulation. Special due diligence procedures should also be defined for: a) Politically exposed persons (as well as relations with them, their families and close associates); b) legal persons, especially companies with bearer shares; c) trusts, to determine their control structure and their BO. In turn, sectoral regulations provide for specific measures for other high-risk cases (Articles 299, 316.9, 316.31, 316.44, 316.56 and 316.72 of the RNRCSF, 194 and 207.7 of the RNMV and 77 of the RNSR).

CT119. *Criterion 10.18* – Article 17 of the AML Law establishes that RIs may apply, in the cases and under the conditions determined by regulations, simplified CDD with respect to those customers, products or transactions that involve a reduced risk of ML/TF. To this effect, Article 18 of the AML Law provides that the application of simplified measures should be graduated according to risk, based on the following criteria: a) prior to the application of simplified measures with respect to a particular customer, product or transaction, as determined by the regulation, RIs should verify that it effectively involves a reduced risk of ML/TF; b) the application of simplified due diligence measures should in all cases be in accordance with risk. RIs should not apply or cease to apply simplified measures as soon as they realise that a customer, product or transaction does not carry reduced ML/TF risks; c) notwithstanding the aforementioned in previous items, RIs should in any case maintain a continuous monitoring sufficient to detect transactions susceptible to special examination in accordance with the TFSs measures. Meanwhile, the sectoral regulations provide for certain simplified measures applicable to low-risk cases, in line with the provisions of the law (Chapter II bis of Title I of Book III of the RNRCSF - Articles 311.1 and subsequent; Article 316.15.1; Article 83.1 and 83.2 of the RNSR).

CT120. *Criterion 10.19* – With respect to cases where the FI cannot comply with the relevant CDD measures, it is mentioned:

- (a) Article 16 of the AML Law provides that RIs should not establish business relationships or execute transactions when they are unable to apply due diligence measures under the law. When this impossibility is observed in the course of the business relationship, RIs should terminate it.
- (b) Likewise, Article 16 establishes that, in such cases, the RI should consider the pertinence of filing a suspicious transaction report to the UIAF, as determined by the regulation. This duty is reflected in the respective sectoral regulations of the financial sector (Articles 293, 316.4, 316.27, 316.39, 316.51, 316.66 of the RNRCSF, 189 and 207.3 of the RNMV and 72 of the RNSR).

CT121. *Criterion 10.20* – Financial sector regulations state that policies and procedures may provide that in exceptional cases, institutions may not complete due diligence when they realize that doing so would alert the customer, and that they should report such situation to the UIAF immediately (Articles 293, 316.4, 316.27, 316.39, 316.66 of the RNRCSF, 189 and 207.3 of the RNMV and 72 of the RNSR).

Weighting and Conclusion

CT122. Doubts remain as to whether the period of 60 days from the beginning of the relationship to complete the verification (Articles 294, 294.1, 316.5, 316.40, 316.52 and 316.67 of the RNRCSF, 190 and 190.1 of the RNMV and 73 of the RNSR) is reasonable in view of the customer's risk. **R.10 is rated Largely Compliant.**

Recommendation 11 — Record Keeping

CT123. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.10 had been rated C.

CT124. *Criterion 11.1* – The first paragraph of Article 21 of the AML Law establishes that RIs should keep records of all transactions carried out with their customers or for their customers, both national and international, for a minimum period of five years after the end of the business relationship or after the conclusion of the occasional transaction or for a longer period of up to ten years, in accordance with the provisions of the regulations.

CT125. *Criterion 11.2* – The first paragraph of Article 21 of the AML Law provides that RIs should keep records of all transactions carried out with their customers or for their customers, both national and international, including, in addition, all know-your-customer information obtained in the due diligence process.

CT126. *Criterion 11.3* – The second paragraph of Article 21 of the AML Law provides that the records of transactions and of the information obtained and compiled in the due diligence process should be sufficient to allow reconstruction of individual transactions and constitute elements of evidence in jurisdictional headquarters, if necessary.

CT127. *Criterion 11.4* – The third paragraph of Article 21 of the AML Law stipulates that records and information on customers and transactions should be made available to the supervisory authorities and the competent criminal court at their request. Law enforcement authorities, to the extent that the request is channelled through the Public Prosecutor's Office (and with the lifting of the respective secrets by the judge) may request the financial information they deem necessary in the framework of an investigation.

Weighting and Conclusion

CT128. Uruguay meets the criterion of the R. **R.11 is rated Compliant.**

Recommendation 12 — Politically Exposed Persons

CT129. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.6 had been rated PC. With regard to deficiencies, it had been concluded at that time that not all of the criteria in R.6 were met and that there was no assurance of a high degree of effectiveness in relation to enhanced CDD in relation to domestic PEP customers.

CT130. *Criterion 12.1* – In accordance with Article 19 of the AML Law relating to enhanced CDD measures to be applied by RIs, it is stated that special due diligence procedures should be defined for PEPs as well as relationships with them, their families and close associates. It should be clarified that enhanced CDD measures should be applied to PEPs. Article 20 establishes that PEPs are understood to be persons who perform or have performed in the last five years important public functions in the country or abroad, such as: Heads of State or Government, senior politicians, government officials, judicial or senior military personnel, representatives and senators of the Legislative Power, prominent leaders of political parties, directors and senior executives of state enterprises and other public entities.

A PEP is also understood as a person who holds or has held in the last five years a hierarchical position in an international organisation, such as: Members of senior management, directors, deputy directors, board members or equivalent functions. With respect to measures applicable to foreign PEPs, the following is mentioned:

- (a) Duty to implement risk management systems to determine whether a customer or beneficial owner is a PEP: The sectoral regulations establish that FIs should have procedures in place to determine when a customer or beneficial owner is a PEP, relative or close associate of these (Articles 301, 316.11, 316.33, 316.46, 316.57 and 316.74 of the RNRCSF; 196 and 207.9 of the RNMV; 78.1 of the RNSR, 109.3 of the RNCFP).
- (b) Duty to obtain senior management approval before establishing (or continuing, for existing customers) such business relationships: Sector regulations state that FIs should obtain approval from the main hierarchical levels of the institution when establishing or continuing a new relationship with PEPs (Articles 299 i), 316.9 i), 316.31 i), 316.44 i), 316.56 i) and 316.72 i) of the RNRCSF; 194 i) and 207.7 i) of the RNMV; and 77 i) of the RNSR).
- (c) Duty to adopt reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs: Sectoral regulations establish that

FIs should prepare a circumstantial report in which all elements that have been considered to elaborate their activity profile should be explained. The report should be adequately supported by documentation that allows establishing the patrimonial, economic and financial situation or justifying the origin of the funds managed by the customer. For these purposes, the customer should have accounting statements with a public accountant's report, tax returns, liability statements, profit distribution minutes, purchase and sale contracts or other documentation that allows compliance with the above.

- (d) Duty to conduct intensified monitoring of that relationship: Sectoral regulations require that in application of enhanced due diligence procedures, institutions carry out more intensive monitoring of the business relationship (Articles 299 iv), 316.9 iv), 316.31 iv), 316.44 iv), 316.56 iii) and 316.72 iv) of the RNRCSF, 194 iv) and 207.7 iv) of the RNMV and 77 iv) of the RNSR).

CT131. *Criterion 12.2* – As regards domestic PEPs or persons entrusted with a prominent role by an international organisation, it should be borne in mind that the legislation does not provide for measures to be applied to them other than those applicable to foreign PEPs. Thus, all of the enhanced CDD measures outlined in criterion 12.1 are applicable to them.

- (a) The sectoral regulations establish that FIs should have procedures in place to determine when a customer or beneficial owner is a PEP, relative or close associate of these (Articles 301, 316.11, 316.33, 316.46, 316.57 and 316.74 of the RNRCSF; 196 and 207.9 of the RNMV; 78.1 of the RNSR, 109.3 of the RNCFP).
- (b) Since the same measures apply to domestic and international organisations' PEPs as to foreign ones, reference is made to the analysis of criterion 12.1 (b) to (d).

CT132. *Criterion 12.3* – In accordance with Article 19 of the AML Law relating to enhanced CDD measures to be applied by RIs, it is stated that special due diligence procedures should be defined for PEPs as well as relationships with them, their families and close associates. Consequently, family members and close associates are subject to the same measures as PEPs. This provision is also reflected in the corresponding FI sector regulations (Articles 301, 316.11, 316.33, 316.46, 316.57 and 316.74 of the RNRCSF, 196 and 207.9 of the RNMV, 78.1 of the RNSR, 109.3 of the RNCFP).

CT133. *Criterion 12.4* – In accordance with Article 78.1 of the RNSR, insurance companies should have procedures that enable them to determine when a customer (whether policy holder, insured or beneficiary) or beneficial owner is a PEP, relative or close associate of a politically exposed person. If the institution identifies that the beneficiary of the policy or beneficial owner is a PEP, the regulations provide that this category of customer should be considered as a higher risk customer and therefore be subject to enhanced due diligence procedures. In line with the provisions of Article 77 of the RNSR, the application of such procedures implies the adoption by the institution of a series of special measures, namely: i. obtaining the approval of the main hierarchical levels of the institution when establishing or continuing a relationship with this type of customers; ii. preparing a detailed report explaining all the elements that have been considered in preparing its activity profile; iii. increasing the customer information updating frequency; iv. carrying out more intense monitoring of the business relationship, increasing the number and frequency of controls

applied. Regarding the payment of the policy, Article 77 RNSR -which refers to enhanced CDD-, requires that companies must prepare a circumstantial report and obtain the approval of the main hierarchical levels when establishing or continuing a relationship with clients of risk, including PEP. Meanwhile, Article 72, establishes that the insured, policyholders and beneficiaries of a policy shall be understood as clients. Consequently, senior management must be informed before proceeding with the payment of the policy.

Weighting and Conclusion

CT134. Uruguay covers all the criteria of the R. **R.12 is rated Compliant.**

Recommendation 13 — Correspondent Banking

CT135. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.7 had been rated PC. With regard to deficiencies, at that time, it had been concluded that the regulations issued by the BCU did not meet all the criteria of the R.

CT136. *Criterion 13.1* – Article 303 of the RNRCSF provides that financial intermediation institutions, financial services companies and fund transfer companies should apply special due diligence procedures when establishing correspondent relationships with foreign FIs, under operating conditions that enable them to maintain accounts or make payments or transfers of funds or securities for their own customers through the local institution. With regard to securities brokers, a similar provision is established in Article 197.1 of the RNMV. As regards specific obligations, it is mentioned:

- (a) Article 303.1 of the RNRCSF and Article 197.1 numeral 1) of the RNMV provide that entities should obtain sufficient information on such foreign institutions in order to know:
 - a) the nature of their business, the reputation of the institution, management, principal activities and where they are located;
 - b) the purpose of the account or transaction;
 - c) regulation and supervision in their country, including whether or not it has been the object of an ML/TF investigation or regulatory action.
- (b) In accordance with Article 303.2 of the RNRCSF and Article 197.1 (2) of the RNMV, entities should evaluate the policies and procedures of the foreign institution, including the controls implemented, to prevent themselves from being used for ML/TF, among others.
- (c) Articles 303.4 of the RNRCSF and 197.1 numeral 4) of the RNMV require that they obtain the approval of the main hierarchical levels of the institution when establishing the correspondent relationship.
- (d) Articles 303.3 of the RNRCSF and 197.1 numeral 3) of the RNMV provide that institutions should understand and document the respective responsibilities of each entity (Articles 303 of the RNRCSF and 197.1 numeral 3) of the RNMV).

CT137. *Criterion 13.2* – With respect to "payable through accounts," it is mentioned:

- (a) The regulations provide for institutions to evaluate the policies and procedures of the foreign institution, including the controls implemented (Articles 303 of the RNRCSF and 197.1 of the RNMV).

- (b) Article 303 of the RNRCSF and 197.1 of the RNMV establish that the respective responsibilities of each entity with respect to the know-your-customer policy should be documented. However, there is no obligation for the FI to be satisfied that the represented bank is able to provide important CDD information to the correspondent bank when requested.

CT138. *Criterion 13.3* – Articles 303 of the RNRCSF and 197.1 of the RNMV *in fine* prohibit financial intermediation institutions, financial services companies, fund transfer companies and securities brokers, respectively, from establishing business relationships with FIs incorporated in jurisdictions that do not require physical presence nor establish correspondent relationships with foreign FIs, when these allow their accounts to be used by these types of institutions.

Weighting and Conclusion

CT139. Uruguay meets most of the criteria in R.13. However, there is no obligation for the FI to be satisfied that the represented bank is able to provide important CDD information to the correspondent bank when requested. **R.13 is rated Largely Compliant.**

Recommendation 14 — Money or Value Transfer Services

CT140. In Uruguay's MER of the 3rd Round of Mutual Evaluations, SR. VI had been rated PC. With regard to deficiencies, at that time, it had been concluded that the relevant sectors were at the stage of implementation of the supervisory services.

CT141. *Criterion 14.1* – In Uruguay, the following entities may provide money or value transfer services (MVTs):

- ✓ Financial intermediation companies: They require prior authorisation to operate by the Executive Power with the favourable opinion of the BCU (Article 4, Law 15.322).
- ✓ Financial services companies: They require prior authorisation to operate by the SSF (Article 92 of the RNRCSF). The transactions they can carry out are taxatively established in Article 90 of the RNRCSF.
- ✓ Exchange houses: They are not authorized to carry out international transfers, but they are authorized to carry out domestic transfers (Article 103 of the RNRCSF). For this purpose, prior authorisation is required to operate, in this case, by the Superintendence of Financial Services (Article 105 of the RNRCSF).
- ✓ Fund transfer companies: They should be registered prior to commencement of activities in the Register kept by the SSF (Article 120, RNRCSF).
- ✓ Electronic money issuing institutions: They require prior authorisation by the BCU (Article 4, Law 19.210). In general, the entities that carry out these transactions are also registered as fund transfer companies.

CT142. *Criterion 14.2* – The BCU has broad inspection and supervisory powers with respect to entities engaged in activities that are subject to its jurisdiction (Article 15, Decree-Law 15.322).

However, there are doubts as to the scope of the measures undertaken to identify subjects that provide money or value transfer services without being registered.

CT143. *Criterion 14.3* – MVTS providers are included in the categories of regulated financial institutions and are subject to AML/CFT monitoring by the BCU.

CT144. *Criterion 14.4* – In the case of international money transfer companies that do not have an office in Uruguay, but operate in the country through agents, the registration obligation should extend to each of the companies authorized to act as direct agents of the firm, who should also be responsible for submitting the information required under the regulations on the subagents they have designated and the transactions they carry out (Article 120 of the RNRCSF). Institutions that are allowed to make transfers may contract financial correspondents with the prior authorisation of the BCU (Articles 35.5, 98.3 and 111.3 of the RNRCSF). Also, fund transfer companies may use subagents, and that information should be submitted at the time of requiring authorisation to operate (Article 121 b of the RNRCSF). The agents keep the list of subagents updated and it is available on the agent's website for the competent authorities of the countries where the MVTS provider and its agents operate.

CT145. *Criterion 14.5* – Article 290 of the RNRCSF states that the application of the AML/CFT prevention system should be extended to the entire organisation, including branches and subsidiaries, in the country and abroad. With regard to financial correspondents, for their part, there are a number of obligations aimed at implementing the institution's policies and procedures, including the AML/CFT prevention manuals (Articles 35.10 to 35.13).

Weighting and Conclusion

CT146. MVTS providers are subject to the registration obligation and the country covers most of the elements required in the criteria. However, there are doubts as to the scope of the measures undertaken to identify subjects that provide money or value transfer services without being registered. **R.14 is rated Largely Compliant.**

Recommendation 15 — New Technologies

CT147. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.8 had been rated PC. With regard to deficiencies, it had been concluded at that time that the BCU's rules on fund transfer companies did not cover all the criteria, and that there were limitations with respect to supervision to verify the level of compliance.

CT148. *Criterion 15.1* – Uruguay has not carried out a comprehensive identification and assessment of the risks associated with new products and business practices, and with the use of new technologies or developing technologies for new products or existing products. However, the country has carried out relevant studies related to new products and technologies, which allow to guide the authorities in the matter. Following the emergence of platforms providing peer-to-peer lending services, the SSF initiated a project aimed at regulating this activity, which resulted in the

issuance of Circular No. 2307/2018, which defines the activity, provides for limitations and prohibitions, and establishes the requirement of a ML/TF prevention system. The UIAF has also developed a detailed analysis on the Fintech industry, where reference is made to the risks it represents in terms of ML/TF.

CT149. Moreover, in relation to RIs, AML Law provides in its Article 19 that, in the application of a risk approach, RIs should enhance the due diligence procedures for the higher-risk categories of customers, business relationships or transactions, such as non-resident customers and transactions that do not involve the physical presence of the parties, paying attention to threats that may arise from the use of new or developing technologies that promote anonymity in transactions, and in general all transactions that exhibit risk characteristics or red flags, as determined by the regulation.

CT150. *Criterion 15.2* – With respect to new products, practices and technologies, it is mentioned:

- (a) The Minimum Management Standards document applicable to financial intermediation entities sets out different policies for the implementation of an appropriate ML/TF management system for entities. It should be noted that the Minimum Management Standards are mandatory for the respective entities, as is provided for in Articles 127 of the RNRCSF, 18.3 of the RNSR and 30.3.1 of the RNCA. In this context, Standard 68 expressly states that senior management should ensure that in the process of creating new products, the risk of ML/TF is explicitly considered. Moreover, Standard 69 establishes as a compliance officer's responsibility to participate in the development and updating of new products and processes to ensure adequate controls regarding ML/TF risk. Meanwhile, in accordance with Article 164 RNMV, securities intermediaries and investment fund managers must apply enhanced CDD procedures for the categories of clients, business relationships or operations considered of higher risk, in accordance with what arises of the risk assessment carried out by the institution. In this regard, the transactions of those persons that are linked to the entity through operations in which personal contact is not usual, as in the case of clients who carry out transactions through operational modalities that, using new or developing technologies, can favour the anonymity of customers. Without prejudice to this, there are doubts as to whether these provisions apply to securities sector entities and payment and collection service providers.
- (b) With regard to the financial sector, Article 291 of the RNRCSF, Article 185 of the RNMV and Article 68 of the RNSR, establish in their subparagraph (iii) the need to implement appropriate controls to mitigate the different types and levels of risk identified.

Weighting and Conclusion

CT151. Uruguay has not carried out a comprehensive identification and assessment of the risks associated with new technologies, but the country has carried out relevant studies related to new products and technologies, which allow to guide the authorities in the matter. There are doubts as to whether the provisions related to the risk assessment of new products and technologies apply to payment and collection service providers. However, it is considered that these are minor

deficiencies, because the country has carried out relevant studies and the provisions applicable to RIs cover the most relevant sectors. **R.15 is rated Largely Compliant.**

Recommendation 16 — Wire Transfers

CT152. In Uruguay's MER of the 3rd Round of Mutual Evaluations, SR. VII had been rated PC. With regard to deficiencies, it had been concluded at that time that the funds transfer companies were not being supervised by the regulator.

CT153. *Criterion 16.1* – With regard to transfers of international funds, Uruguayan legislation prescribes the following:

- (a) Article 306 of the RNRCSF requires institutions that originate transfers of funds to include in the transfer instruction message information on the full name of the holder or originator, his address or identification number, and the account number or a unique transaction reference identifying number. Institutions will not be able to make transfers if they do not have all the required data.
- (b) Article 306 of the RNRCSF states that institutions should also properly identify the beneficiaries of transfers. The full name and account number or a unique transaction reference identification number should be recorded in the message itself.

CT154. *Criterion 16.2* – Where there are several individual cross-border wire transfers from a single originator, grouped in a single batch processing file for transmission to beneficiaries, the same requirements apply as for any transfer. For information on these elements, reference is made to the analysis of the previous criterion.

CT155. *Criterion 16.3* – The regulation does not establish a minimum threshold for requiring information on cross-border electronic transfers. Thus, the requirements of criterion 16.1 are applicable to transfers of less than USD 1,000.

CT156. *Criterion 16.4* – Article 306 of the RNRCSF establishes that when the originator is a legal person, the physical person that represents it in the transaction should also be identified, verifying the information on his identity and representation. Article 296 of the RNRCSF establishes that when there is any indication or it is suspected that a transaction may be linked to ML or TF, the client must be properly identified.

CT157. *Criterion 16.5* – The information required under Article 306 of the RNRCSF also applies to domestic transfers. However, with respect to domestic transfers between bank accounts for amounts less than or equal to USD 10,000, or its equivalent in other currencies, the message may include only the account number of the originator and the beneficiary, provided that the originating institution can trace the transaction and complete the information at the request of the beneficiary institution or the competent authorities within a maximum of 48 working hours.

CT158. *Criterion 16.6* – In accordance with Article 306 of the RNRCSF, international and domestic transfers have the same identification requirements. Notwithstanding this, with respect to

domestic transfers between bank accounts for amounts less than or equal to USD 10,000, or its equivalent in other currencies, the message may include only the account number of the originator and the beneficiary, provided that the originating institution can trace the transaction and complete the information at the request of the beneficiary institution or the competent authorities within a maximum of 48 working hours. For their part, the competent authorities, particularly the UIAF, have the power to require the immediate submission of information.

CT159. *Criterion 16.7* – Article 21 of the AML Law requires RIs to keep records of all transactions with or for their customers for a minimum period of 5 years after the end of the business relationship or after the occasional transaction. This provision is covered by Article 297.2 of the RNRCSF, which establishes the same term for the maintenance of documentation by FIs.

CT160. *Criterion 16.8* – Article 306 of the RNRCSF establishes that institutions should not send transfers if they do not have all the data required in said article, that is to say, the requirements established in criteria 16.1 – 16.7.

CT161. *Criterion 16.9* – Article 308 of the RNRCSF requires that institutions that participate as intermediaries in a chain of transfers of funds, domestic or foreign, among other FIs, ensure that all information of the originator that accompanies the transfer received remains with the outgoing transfer.

CT162. *Criterion 16.10* – Article 21 of the AML Law requires RIs to keep records of all transactions with or for their customers for a minimum period of 5 years after the end of the business relationship or after the occasional transaction. This provision is covered by Article 297.2 of the RNRCSF, which establishes the same term for the maintenance of documentation by FIs. Consequently, if technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution should be required to keep a record, during such term, of all the information received from the ordering financial institution or another intermediary financial institution.

CT163. *Criterion 16.11* – All FIs that are authorized to carry out international or domestic transfers are subject to the provisions mentioned in the previous criteria, which provide for obligations not only of identification of the originator and beneficiary of the transfers, but also prescribes that transfers should not be carried out if they do not have all the data required in the regulations (Article 306, RNRCSF).

CT164. *Criterion 16.12* – The general CDD provisions for processing transfers and transactions apply to intermediary entities. In accordance with the AML Law and the RNRCSF, they are subject to the obligation to define policies and procedures, particularly as regards measures for obtaining information from customers, as well as the definition of a customer acceptance policy (Article 293, RNRCSF). The same Article provides that institutions should not establish business relations or carry out transactions when they are unable to apply due diligence procedures. Where

this possibility is observed in the course of the business relationship, the institutions should terminate it and should consider the appropriateness of filing a STR with the UIAF.

CT165. *Criterion 16.13* – Article 307 of the RNRCSF provides that institutions receiving transfers of funds should have effective procedures in place to detect transfers received that do not include complete information on the originator, at a minimum his full name, address or identification number, and the account number or unique reference identifying number of the transaction. Institutions are also required to properly identify the beneficiaries of transfers received by recording their full name, address or identification number and the account number or unique identification number of the transaction.

CT166. *Criterion 16.14* – Articles 294, 294.1, 295 and 296 of the RNRCSF require identification and verification of the identity of customers and beneficial owners.

CT167. *Criterion 16.15* – Article 307 of the RNRCSF requires that in addition to having procedures to detect transactions without full details of the originator or beneficiary, FIs carry out a detailed examination of transactions to determine whether they constitute an unusual or suspicious transaction that should be reported to the UIAF. In addition, the regulations state that the institution receiving transfers should consider the convenience of restricting or terminating its business relationship with those FIs that do not comply with the standards for identification of the originators of transfers.

CT168. *Criterion 16.16* – The above detailed regulation covers both FIs and providers of money or value transfer services. Article 290 of the RNRCSF also provides that the application of the comprehensive ML/TF prevention system should be extended to the entire organisation, including branches and subsidiaries, in the country and abroad. In such a case, the institutions should verify that their branches or subsidiaries abroad adequately apply all the prevention and control measures provided for by said comprehensive system.

CT169. *Criterion 16.17* – In the case of providers of money or value transfer services that control both the originating party and the beneficiary of an electronic transfer, it is mentioned:

- (a) The regulations are applicable to all providers of money or value transfer services, so they should take into account all information, both on the originator's side and on the beneficiary's side, in order to determine whether or not to file a STR.
- (b) It is not clear that the regulations provide for the obligation to file a STR in the country affected by the suspicious electronic transfer and that it should provide the relevant information on the transaction to the respective Financial Intelligence Unit.

CT170. *Criterion 16.18* – Uruguay has a TFSs regime that allows for the adequate application of asset freezing actions and prohibitions to carry out transactions with designated persons and entities in accordance with UNSCR 1267 and 1373 and their successor resolutions. For further information please refer to the analysis of R.6.

Weighting and Conclusion

CT171. Uruguay meets most of the requirements in R.16. Notwithstanding the above, it is not clear that the regulations provide for the obligation to file a STR in the country affected by the suspicious electronic transfer and that it should provide the relevant information on the transaction to the respective FIU. However, these deficiencies are considered minor in relation to the level of compliance. **R.16 is rated Largely Compliant.**

Recommendation 17 — Reliance on Third Parties

CT172. In the MER of the 3rd Round of Evaluations, R.17 (former R.9) was rated LC. At that time, it was identified that the country has a legal framework in place that sets out the procedures to be followed in relation to information or services provided by third parties. Although supervision was undertaken by the regulator, it is not sufficient with respect to the insurance sector, which in practice uses third party services in the application of CDD procedures.

CT173. *Criterion 17.1* – The regulations do not enable third-party dependence on CDD measures under the terms provided in this Recommendation. The CDD must be carried out by the entity itself or within the framework of an agency contract, in which the procedures of the financial entity itself must be applied (Article 304 RNRCSF and 198 RNMV). Therefore, Recommendation 17 is **non applicable**.

Recommendation 18 — Internal Controls and Foreign Branches and Subsidiaries

CT174. In the MER of the 3rd Round, R.15 and 22 were rated PC. The fact that the BCU supervises a smaller percentage of the entities subject to its control made it difficult to assess the extent of compliance with the regulations. Likewise, the regulations for securities brokers and fund administrators do not specify the need for Compliance Officers to be at the management level. The regulations applicable to insurance and reinsurance companies and fund transfer companies do not specify the obligation to maintain an independent audit function, which should report on the adequacy of ML/TF prevention policies. In the case of financial entities subject to BCU supervision, the regulations do not comply with the criterion of establishing pre-selection procedures to guarantee strict standards in the recruitment of employees. Finally, in the case of branches and subsidiaries of supervised financial institutions, the regulations should be revised to comply with the criteria of the corresponding R.

CT175. *Criterion 18.1* – Uruguay establishes provisions for the definition and implementation of policies and procedures for ML/TF risk management in FIs as follows:

- (a) Article 291 of the RNRCSF establishes the policies and procedures applicable to financial intermediation companies, financial services companies, exchange houses and money transfer companies. On the one hand, policies and procedures are established for ML/TF risk management that include: i) identifying risk factors for each line of activity, ii) evaluating possibilities of occurrence and impact, iii) implementing adequate control

measures to mitigate risks, iv) permanently monitoring the results of the controls applied and their degree of effectiveness, to detect suspicious transactions and correct existing deficiencies, and v) documenting risk assessments, keeping them updated and having mechanisms to provide information if required. RIs should have a senior Compliance Officer with the training, and hierarchy within the organisation, and the human and material resources deemed necessary to perform their duties autonomously and efficiently.

- (b) and (c) On the other hand, there are policies and procedures for personnel that ensure a high level of personnel integrity (considering personal, labour and patrimonial background), as well as permanent training that allows them to know the regulations and recognize transactions that may be related to ML/TF.

Similar requirements apply to the other entities under Articles 316.1, 316.3, 316.19, 316.24, 316.26, 316.38, 316.50, 316.62, 316.63 and 316.65 of the RNRCSF, Articles 186, 188 and 207 of the RNMV, Articles 67 and 71 of the RNSR, Article 109 of the RNCFP and Article 104 of the RNSP.

- (d) Finally, in relation to having an independent audit function to test the system, Article 140 of the RNRCSF provides for the obligation to have an internal audit for financial intermediation companies. In addition, Standard 21 of the EMG establishes the need to have an internal audit that complies with certain characteristics that help strengthen the control structure of its entity. The requirement is replicated for the insurance market (Article 18.18 of the RNSR) and for pension savings funds managing companies (Article 30.3.12 of the RNCFP). There should also be an external auditor authorized to issue ML/TF reports to periodically evaluate the effectiveness of the risk management system implemented by the entities (Articles 145, 147, 605, 605.1 and 636 of the RNRCSF, Articles 151.1, 293, 166 and 316 of the RNMV, Article 138.1 of the RNSR and Article 104.28 of the RNSP).

CT176. *Criterion 18.2* – Under Uruguayan law, the BROU is the only body that operates with branches or subsidiaries abroad. Without prejudice to the foregoing, Article 290 of the RNRCSF stipulates that financial intermediation companies, exchange houses, financial services companies and money transfer companies should implement a comprehensive ML/TF prevention system and its application should be extended to branches and subsidiaries in the country and abroad. This requirement is similarly applied to other entities under Article 185 of the RNMV, Article 67 of the RNSR, Article 316 of the RNRCSF and Article 104 of the RNSP.

CT177. *Criterion 18.3* – Financial intermediation companies, exchange houses, financial services companies and money transfer companies should verify that their branches or subsidiaries abroad adequately apply prevention and control measures. When the AML/CFT requirements of the host country of the branch or subsidiary are less stringent than those of Uruguay, they should ensure that the requirements established by Uruguay are implemented to the extent permitted by the regulations of the host country. If the country does not allow such implementation, institutions should apply additional measures to manage ML/TF risks and inform the UIAF.

CT178. This requirement applies similarly to other entities based on Article 185 of the RNMV, Article 67 of the RNSR, Article 316 of the RNRCSF and Article 104 of the RNSP.

*Weighting and Conclusion*

CT179. Uruguay meets all the criteria of the R. **R.18 is rated Compliant.**

Recommendation 19 — Higher-Risk Countries

CT180. Uruguay was rated LC in the former R.21 in its last MER. It was identified that control agencies should verify that institutions comply with legal requirements regarding measures with non-cooperative countries.

CT181. *Criterion 19.1* – In accordance with Article 19 of the AML Law, all RIs should apply enhanced DD to higher risk customers, business relationships or transactions, such as customers from countries that do not comply with international ML/TF standards, in general to transactions that present a risk or red flags. FIs should implement a series of special measures provided for in the Financial System Regulations (Articles 299, 316.9, 316.31, 316.44, 316.56 and 316.72), Securities Regulations (Articles 194 and 207.7) and Insurance Regulations (Article 77) for the application of enhanced DD measures. For DNFBBs, however, enhanced DD measures should be applied to business relations and transactions i) with non-resident customers from countries that are not FATF members or from similar regional groups such as GAFILAT, CFATF, MENAFATF, APG, or from countries that are subject to special measures by these groups for failure to apply FATF Recommendations, or that come from countries subject to UNSC financial sanctions; or ii) with resident natural or legal persons, or located in countries with low or no taxation according to the list issued by the Tax Revenue Office.

CT182. *Criterion 19.2* – Uruguay may apply financial sanctions and countermeasures against third countries that involve higher ML, terrorism, TF and FPWMD risks, according to the proposal made by the Coordinating Commission (Article 2 of the AML Law and Article 9 of the CFT Law). Compliance with these sanctions should be monitored by the BCU with respect to the financial RIs referred to in Article 12 of the AML Law, and by the SENACLAFT with respect to the DNFBBs referred to in Article 13 of the same Law.

CT183. *Criterion 19.3* – The SENACLAFT and the UIAF publish and update on their websites FATF calls for countries with weaknesses in their respective AML/CFT systems. This information is available to RIs and it is verified in the oversight actions that RIs consult these lists during the CDD process.

Weighting and Conclusion

CT184. Uruguay meets all the criteria of the R. **R.19 is rated Compliant.**

Recommendation 20 — Reporting of Suspicious Transactions

CT185. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.13 was rated LC, while SR. IV was rated PC. At that time, it had been concluded that red flags were not well defined to enable FI personnel to detect possible TF cases.

CT186. *Criterion 20.1* – Article 12 of the AML Law Establishes the obligation to send STRs to the UIAF. Said article provides that FIs "*shall be required to report transactions, carried out or not, that in the use and customs of the respective activity are unusual, are made without clear economic or legal justification or are presented with unusual or unjustified complexity. Financial transactions involving assets suspected of being illegitimate shall also be reported for the purpose of preventing the money laundering offences defined in Articles 30 to 33 of this Law and also preventing the offence of terrorist financing. In the latter case, the obligation to report extends even to those transactions that, even involving assets of lawful origin, are suspected to be linked to natural or legal persons covered by the offence or intended to finance any terrorist activity.*" Without prejudice to this, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML limit the scope of the obligation to report.

CT187. With regard to the timeframe for reporting suspicious transactions, the sectoral regulations stipulate that they should be made immediately, once they have been identified as such. With regard to the financial sector, this obligation is provided for in Articles 313, 316.16, 316.22, 316.36, 316.48, 316.60 and 316.81 of the RNRCSF; Articles 202 and 208.4 of the RNMV; Article 84 of the RNSR; Article 112 of the RNCFP and Article 104.24 of the RNSP.

CT188. *Criterion 20.2* – Articles 12 and 13 of the AML Law establish the duty of FIs and DNFBPs to communicate STRs to the UIAF, and include transactions "carried out or not," which includes attempts to carry out transactions regardless of their amount.

Weighting and Conclusion

CT189. Most of the elements required by the criteria are covered by the legislation. However, the technical deficiencies identified with regard to the criminalisation of ML limit the scope of the reporting obligation, but these are considered minor deficiencies in relation to the elements covered by the legislation. **R.20 is rated Largely Compliant.**

Recommendation 21 — Tipping-Off and Confidentiality

CT190. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.14 had been rated C.

CT191. *Criterion 21.1* – Article 23 of the AML Law provides that good faith compliance with the obligation to report suspicious transactions to the UIAF, insofar as it complies with the procedures set forth in the legislation, should not constitute a violation of professional or business secrecy or reserve and, consequently, should not give rise to civil, commercial, criminal, administrative or any other kind of liability.

CT192. *Criterion 21.2* – Article 22 of the AML Law establishes the duty of reserve for all RIs. In particular, it provides that "no reporting institution, including persons contractually related to it may disclose to participants or third parties the actions and reports made or produced about them, in compliance with the obligation imposed in Articles 5, 12, 13 and 26 of this law." Given that the obligation of confidentiality applies to "third parties," it is understood that it does not prevent the exchange of information provided for in R.18.

Weighting and Conclusion

CT193. Uruguay meets all the criteria of the R. **R.21 is rated Compliant.**

Recommendation 22 — DNFBP: Customer Due Diligence

CT194. In the MER of the 3rd Round of Mutual Evaluations, former R.12 was rated PC. The deficiency identified was that the regulations were not sufficient to regulate the activity of DNFBPs and therefore some of these activities were outside the supervisory scope.

CT195. In Uruguay there are the following categories of DNFBPs: Casinos; real estate agents, real estate developers, construction companies and other intermediaries in transactions involving real estate, with the exception of leases; lawyers; notaries or any natural or legal person; auctioneers; natural or legal persons engaged in intermediation or mediation in transactions involving the purchase and sale of antiques, works of art, and precious metals and stones; exporters and direct and indirect users of free trade zones; suppliers of corporate services, trusts and in general, any natural or legal person when they habitually carry out transactions for their customers to incorporate companies, integrate the board of directors or exercise management functions of a company, exercise fiduciary functions in a trust, exercise shareholder functions, sale of legal persons and trusts; civil associations, foundations, political parties, groups and in general, any non-profit organisation or organisation without legal personality; and public accountants. All DNFBPs defined by the FATF are covered by these categories.

CT196. *Criterion 22.1* – The AML Law and Decree 379/018 include DNFBPs, which are required to comply with the CDD requirements contemplated in R.10, the foregoing, pursuant to Article 14 of the above law. These requirements are applied in the following situations:

- (a) Casinos should apply CDD requirements when they carry out transactions with their customers, such as fund transfers and currency conversions for an amount exceeding USD 3,000 or its equivalent in other currencies (Article 22 of Decree 379/018).
- (b) Article 30 of Decree 379/018 provides that CDD procedures should be applied when they engage in financial transactions for their customers for the purchase and sale of real estate, regardless of the amount of the transaction.
- (c) Article 64 of Decree 379/018 provides that CDD procedures should be applied when they carry out transactions with a customer for an amount equal to or greater than USD 15,000 or its equivalent in other currencies.

- (d) Lawyers, notaries, other legal professionals and accountants should perform CDD procedures in accordance with the activities applicable to their sector described in this criterion (Articles 39-41 of Decree 379/018).
- (e) Trust and company service providers should perform CDD procedures in accordance with the activities applicable to their sector described in this criterion (Article 77 of Decree 379/018).

CT197. In addition, with regard to the identification and verification of the BO identity, refer to the analysis of criterion 10.10, subcriteria a and b. It should be borne in mind that Decree 379/018, which regulates DNFBPs, establishes within the obligations referred to each sector that of collecting names, surnames and identity documents of directors. With regard to CDD and tipping-off measures (criterion 10.20), there is no evidence of the existence of regulations under which DNFBPs that have suspicions of ML/TF, and that believe that the CDD process can tip-off the customer, are allowed not to carry out such process and instead submit a STR.

CT198. *Criterion 22.2* – Article 21 of the AML Law establishes the criteria to be considered by DNFBPs for the keeping of records of all transactions carried out in accordance with R.11, previously analysed. Without prejudice to the foregoing, the information is supplemented by Article 15 of Decree 379/018 regulating the DNFBP sector to keep records on both domestic and foreign transactions, risk assessments and CDD procedures, for a period of at least five years after the end of the transaction. Similarly, CDD records should be sufficient to reconstruct transactions to provide evidence, if necessary. All records should be made available to the SENACLAFT and the competent criminal court or prosecutor's office upon request. Moreover, as mentioned under criterion 11.4, law enforcement authorities, to the extent that the request is channelled through the Public Prosecutor's Office (and with the lifting of the respective secrets by the judge) may request the financial information they deem necessary in the framework of an investigation.

CT199. *Criterion 22.3* – Article 19 of the AML Law and Article 13, subparagraph f of Decree 379/018 provide that enhanced DD measures should be defined and taken for PEPs. In the same sense, Article 14 of the same Decree provides that DNFBPs, in accordance with a risk-based approach and as applicable to the sector they belong to, should (i) adopt adequate procedures to determine whether the customer or the BO is a PEP, (ii) obtain senior management approval to establish (or continue, in the case of existing customers) business relationships, (iii) take reasonable measures to establish the source of funds, and (iv) conduct enhanced monitoring of the business relationship.

CT200. *Criterion 22.4* – In accordance with the requirements of R.15 on new technologies, Article 19 of the AML Law, as well as Article 13 of Decree 319/018, establish that, in application of a RBA, DNFBPs should enhance CDD procedures by paying attention to threats that may arise from the use of new or developing technologies. In addition, Article 7 of Decree 379/018 establishes that due diligence measures should be applied to all new customers, as well as to existing customers based on the risk analysis carried out, and in all cases when contracting new products or services, among others. Article 10 foresees that RIs should apply due diligence measures using a RBA, taking into account the type of customer, business relationship, product, transaction or

geographical location, and enhanced due diligence measures in transactions that do not involve the physical presence of the parties or those who represent them and in the use of new or developing technologies that favour anonymity in transactions (Article 13, subparagraphs d and e).

CT201. *Criterion 22.5* – Article 13 entitles the Executive Power to establish the requirements to be met by DNFBPs for transaction recording and CDD development. In this regard, Article 19 of Decree 379/018 stipulates that DNFBPs may rely on third parties to carry out CDD procedures, provided that the third party is a DNFBP subject to Article 13 of the AML Law. In such cases, the CDD performed, and the information obtained should be provided immediately to the delegating RI and kept; and the final responsibility for these CDD measures, together with the reporting obligation, remains with the delegating RI, which may be sanctioned for non-compliance. In terms of R.17 on reliance on third parties, DNFBPs comply with the requirements of criterion 17.1, while criteria 17.2 and 17.3 do not apply to this sector. As for criterion 17.2 the third party can only be a DNFBP operating within Uruguay (17.2), while 17.3 only applies to FIs.

Weighting and Conclusion

CT202. DNFBPs covered by the AML Law and Decree 379/018 relating to this R. comply with CDD requirements and are required to keep records on CDD transactions and procedures they carry out with their customers for a period of at least five years after the transaction is completed. These CDD records are enough to reconstruct transactions and are made available to the SENACLAFT upon request. However, with regard to CDD and tipping-off measures, there is no evidence of the existence of regulations under which DNFBPs that have suspicions of ML/TF, and that believe that the CDD process can tip-off the customer, are allowed not to carry out such process and instead submit a STR. DNFBPs should also enhance CDD procedures by paying attention to threats that may arise from the use of new or developing technologies. **R.22 is rated Largely Compliant.**

Recommendation 23 — DNFBP: Other Measures

CT203. In the 2009 MER of the 3rd Round of Evaluations, R.14 was rated NC since the lack of supervision of DNFBPs by the respective authority resulted in no suspicious transaction reports to the UIAF. The private casino was the only RI to report such transactions.

CT204. *Criterion 23.1* – Article 13 of the AML Law requires DNFBPs to report unusual transactions, whether carried out or not, with no threshold, as well as financial transactions involving assets whose origin is suspicious (refer to criterion 20.1). Decree 379/018 stipulates that the report should be filed immediately with the UIAF. This communication should include i) identification of the natural or legal persons involved, ii) description of the transactions, dates, amounts, type of transaction, and data deemed necessary, and iii) detail of the reason why the transaction is considered suspicious (Articles 89 and 90). In compliance with this Recommendation, the following are required to report:

- (a) Lawyers, notaries, other legal professionals and accountants who engage in a transaction that complies with the activities described in criterion 22.1 (d). Without prejudice to the

foregoing, lawyers and accountants "should not be bound by the obligation to report unusual or suspicious transactions if the information they receive from one of their customers or through one of their customers was obtained to verify the legal status of their customer or within the framework of the exercise of the right of defence in judicial, administrative, arbitral or mediation matters."

- (b) Dealers in precious metals and stones.
- (c) Trust and company service providers who engage in a transaction in relation to the activities described in criterion 22.1(e).

CT205. Without prejudice to this, according to the analysis of R.20, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML limit the scope of the obligation to report.

CT206. *Criterion 23.2* – Article 14 of the AML Law states that RIs should define and implement DD policies and procedures for all customers. Likewise, RIs should have the position of Compliance Officer to promote the implementation of the procedures and their obligations and act as liaison with the UIAF and the SENACLAFT. RIs are required to provide periodic training to personnel to enable them to be familiar with the AML/CFT/PWMD regulations and to recognize suspicious transactions and how to proceed in such situations (Articles 16-18 of the AML Law). In compliance with the requirements of criterion 18.1, there is no specification of rigorous selection procedures to guarantee high standards in the recruitment of personnel, nor that there is an independent audit function to test the system.

CT207. *Criterion 23.3* – According to Article 19 of the AML Law, DNFBPs should enhance the DD procedure for higher risk business relationships and transactions, particularly those involving countries called for by the FATF. Uruguay may apply proportionate financial sanctions and countermeasures against third countries that involve higher ML, terrorism, TF and FPWMD risks, according to the proposal made by the Coordinating Commission (Article 2 of the AML Law and Article 9 of the CFT Law). The SENACLAFT and the UIAF publish and update on their websites FATF calls for countries with weaknesses in their respective AML/CFT systems. This information is available to RIs and it is verified in the oversight actions that RIs consult these lists during the CDD process.

CT208. *Criterion 23.4* – Based on what was previously described in R.21, DNFBPs are required to comply with the provisions of Articles 22 and 23 of the AML Law, which correspond to the confidentiality obligation with respect to suspicious transaction reports submitted, as well as compliance in good faith, as long as it complies with the procedures established by the BCU, should not mean breach of secrecy or confidentiality. In addition, Article 91 of Decree 379/018 reaffirms that no RI may inform those involved or third parties about the reports made on them.

Weighting and Conclusion

CT209. Lawyers, notaries, accountants, legal professionals, dealers in precious metals and stones as well as trust service providers are required to file suspicious transaction reports where

suspicion exists. Without prejudice to this, according to the analysis of R.20, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML limit the scope of the obligation to report. In addition, RIs implement internal policies, procedures and controls. However, in compliance with the requirements of criterion 18.1, there is no specification of rigorous selection procedures to guarantee high standards in the recruitment of personnel, nor that there is an independent audit function to test the system. **R.23 is rated Largely Compliant.**

Recommendation 24 — Transparency and Beneficial Ownership of Legal Persons

CT210. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.33 had been rated LC. At that time, it had been concluded that there were insufficient human resources and that there was still a need to load information into the systems.

CT211. *Criterion 24.1* – The types and characteristics of legal persons in Uruguay are regulated by the Commercial Code (CCom), Law 16.060 on commercial companies (LSC), Law 18.407 on cooperatives and Law 18.930 on registration of bearer's equity interests. The types, forms and basic characteristics of legal persons, as well as the processes for their creation and registration of basic and BO information, can be consulted by the public through the following websites of the Uruguayan government:

(i) *General Directorate of Registries*: Registry of Legal Entities - National Registry of Commerce, National Registry of Cooperatives and Registry of Civil Associations and Foundations:

- ✓ <http://portal.dgr.gub.uy/index.php/usuarios/requisitos/documentos>
- ✓ <http://portal.dgr.gub.uy/index.php/usuarios/requisitos/solicitudes>
- ✓ http://www.dgr.gub.uy/faq/faq_persona_juridica.html

(ii) *Agency for the Development of the Government of Electronic Management and the Information and Knowledge Society*: National Business Registration System (SINARE):

- ✓ <https://www.agesic.gub.uy/innovaportal/v/6407/17/agesic/crea-tu-empresa.html?idPadre=2462>

(iii) *National Internal Audit Office*:

- ✓ <https://www.mef.gub.uy/357/11/areas/division-sociedades-anonimas.html>
- ✓ <https://www.mef.gub.uy/6799/11/areas/tramites-y-requisitos-para-sociedades-anonimas.html>
- ✓ <http://ain.mef.gub.uy/365/11/areas/division-cooperativas.html>
- ✓ <https://www.mef.gub.uy/6701/11/areas/tramites-y-requisitos.html>

(iv) *Ministry of Economy and Finance*

- ✓ <https://www.mef.gub.uy/237/8/areas/empresas.html>
- ✓ <https://www.mef.gub.uy/11684/1/areas/informacion-sobre-sociedades-anonimas.html>

(v) *Central Bank of Uruguay*: Registry of Equity Stakeholders and Registry of Beneficial Owners

- ✓ https://www.bcu.gub.uy/Acerca-de-BCU/Paginas/Formulario_Ley_18930.aspx

CT212. *Criterion 24.2* – Uruguay developed a NRA that refers to certain risks associated with all the legal persons and includes statistical references on different types of companies existing in the country. Likewise, in March 2019, the SENACLAFT updated the ML/TF risk report on legal persons and arrangements available in the country.

CT213. *Criterion 24.3* – In accordance with Article 8 of the LSC, companies should be deemed to be regularly incorporated with their registration in the National Registry of Commerce (RNC), except for public limited companies and limited liability companies, for whose regularity they should make the corresponding publications. According to Article 7 of the LSC, the commercial company contract should be registered in the RNC corresponding to its registered office. Article 6 of the LSC, for its part, establishes that the commercial company contract should contain a precise identification of those who enter into it, the type of company adopted, name, domicile, object or activity proposed to be carried out, capital, contributions, the manner in which profits should be distributed and losses should be borne, the administration and term of the company. Article 86 adds, in turn, that any appointment of manager, director or representative by act different from the contract or bylaws, as well as its cessation or revocation, should be registered in the RNC. The actions of companies with unregistered managers, representatives or directors should render the act or contract in question unenforceable. Any change of registered office should also be registered with the RNC. Article 72 of Law 16.871 on Public Registries establishes the public nature of the registries and provides that those interested in ascertaining the current registration status of assets and persons may request information from the corresponding Registry.

CT214. *Criterion 24.4* – In accordance with Article 333 of the LSC, companies that issue provisional certificates, shares, beneficial parties or nominative negotiable obligations should keep the respective register books, in which the order number of each security, its value, and the identification of the holder should be noted. All legal transactions carried out with them and any other mention deriving from their respective legal situations and their modifications should also be recorded. In the case of provisional certificates, the integrations made should also be recorded. Meanwhile, in accordance with Article 334 of the LSC, if the statute provides for book-entry shares, the company should keep a register of book-entry shares. In accordance with Article 51 of Law 16.871 on Public Registries, the RNC should authorize the books that companies are legally obliged to keep.

CT215. With respect to entities and companies that issue bearer' shares or equity interests, their holders should inform such character and other identifying data to the issuing entity, which in turn should inform the BCU Registry, in accordance with the provisions of Law 18.930 on "regulation of information on bearer's equity interests for the BCU" and its Regulatory Decree 247/012.

CT216. *Criterion 24.5* – Regarding the accuracy and updating of the basic information of legal persons, Article 10 of the LSC provides that amendments to the corporate contract should be registered. Article 333 of the LSC also provides for the duty to register changes related to nominative titles in the respective register books of nominative titles. Similarly, Law 18.930 provides for the duty of entities issuing bearer equity participations to notify the BCU of changes in the respective shares (Article 7).

CT217. As regards compliance with reporting obligations by commercial companies, the body in charge of control is the AIN, in accordance with the provisions of Articles 4 of Law 18.930 and

28 of Law 19.484. Similarly, the control of compliance with reporting obligations by holders of bearer's equity interests and entities issuing such instruments is also the AIN, in accordance with Law 18.930. It is the AIN's responsibility to control the accuracy and updating of the information of all resident and non-resident entities that have to comply with the provisions of Law 19.484. Likewise, it should be mentioned that the last paragraph of Article 26 of Law 19.484 indicates that the information of the beneficial owner will be kept up to date, under the conditions established by law. With respect to the updating of BO information, Article 11 of Decree 166/017 establishes that any amendment of the data contained in the declaration, with the exception of the variation of the nominal value that does not alter the percentage of participation should be communicated by the reporting institution within 30 days of its verification. This period should be 90 days in the case of BOs or holders of non-resident registered shares or securities. In the event that the shareholding percentage of the shareholders, partners or participants in the integrated capital or its equivalent or in the equity, as the case may be, is altered as a consequence of the modification of the corporate contract or equivalent instrument, or of the integrated capital increase, the period referred to in the previous paragraphs should be calculated from the date of the corresponding act or resolution of the competent corporate body, which determines the modification in the shareholdings of the owners or beneficial owners. The means of controlling that a given entity has complied with the updating of data is provided by Article 17 of Decree 166/017, which provides that RIs may not register legal acts or business in the Registries unless they certify the receipt of the statement by the BCU and its incorporation into the registry at its expense. Likewise, a declaration will be required from the entity that there have been no modifications subsequent to the date of said certificate. Notwithstanding this, it is not clear whether these mechanisms fully guarantee that the basic information is accurate and kept up to date.

CT218. *Criterion 24.6* – In Uruguay, a BO is defined as "*a natural person who, directly or indirectly, owns at least 15% of the capital or its equivalent, or of the voting rights, or who by other means exercises final control over an entity, such being considered a legal person, a trust, an investment fund or any other patrimony of affectation or legal structure. Final control shall be understood as that exercised directly or indirectly through a chain of ownership or through any other means of control. In the case of trusts, the individual or individuals who meet the conditions provided for in the subsections above in relation to the trustor, trustee and beneficiary must be identified.*" This definition is complemented by the provisions of Regulatory Decree 166/017, which establishes that "*the same procedure shall apply in the case of foundations and obligated civil associations in relation to the members of the Management Board or of the Board of Directors or of the corresponding administrative body*" (Article 1).

(a) Through Law 19.484 and its Regulatory Decree 166/017, Uruguay established a mechanism through which commercial companies and legal arrangements should identify and inform the BCU's Register of Equity Owners of the beneficial owners identified, indicating the participation percentages, as well as those exercising final control, if applicable. Information relating to the chain of ownership is included in cases where the beneficial owner is so indirectly or by other means exercises final control. Said communication should have the force of an affidavit (see Article 29 of Law 19.484 and Article 3 of Decree 166/017).

(b) N/A

(c) N/A

CT219. *Criterion 24.7* – Article 25 of Law 19.484 establishes that public limited companies with registered or book-entry shares, limited joint-stock companies, agricultural associations or any other legal person or entity authorized to issue shares or nominative titles should communicate to the BCU about any modification related to the beneficial owner, to the identifying data of its owners or to the participation percentage in the corresponding share capital. The period for such communication should be 30 days from the date of its verification. This period should be 90 days if the holders of the shares or registered securities are non-residents. Meanwhile, Article 26 of that law provides that entities should adopt measures to keep the information updated under the conditions established by law, although it is not specifically indicated how often. In addition, Article 4 and subsequent articles of Decree 247/012 establish, with respect to holders of bearer shares, the obligation to notify changes within 15 days of their occurrence. In turn, the issuer has a period of 30 days, counted from the expiration of the previous period, to notify changes to the aforementioned Register of Owners. Notwithstanding the foregoing, the regulations do not explicitly contemplate the requirements that information on BO be as precise and up-to-date as possible.

CT220. *Criterion 24.8* – Laws 18.930 and 19.484 establish the obligation of legal persons to provide to the BCU Registry with the information corresponding to the identification of the beneficial owner. Similarly, basic information on legal persons should be provided to the RNC, in accordance with the LSC and Law 16.871 on Public Registries. Likewise, within the framework of the provisions of Laws 18.930 and 19.484, the AIN may directly request entities to provide information or documentation on the BO.

CT221. *Criterion 24.9* – According to Article 56 of Decree 597/988, all taxpayers, commercial companies, associations and agricultural corporations, trusts, investment funds, civil associations and foundations, even if part or all of their assets or income are not subject to taxation in Uruguay, should keep books, documentation and correspondence at the address established, for the statute of limitations of the right to collect taxes, which is 5 to 10 years. Likewise, with regard to information on shareholders and beneficial owners, Article 26 of Law 19.484 establishes that RIs (commercial companies are included in this category) should keep the supporting documentation of the required information under the same conditions as those established for the mandatory corporate books of commercial companies. This requirement includes information relating to the chain of ownership is included in cases where the beneficial owner is so indirectly or by other means exercises final control. Notwithstanding the foregoing, doubts remain as to whether the five-year conservation period applies from the date on which the company is dissolved or otherwise ceases to exist, or five years from the date on which the company ceases to be a customer of the professional intermediary or the financial institution. In the case of RIs, according to article 21 of the AML Law, the requirement to keep information includes a minimum period of 5 years after the end of the commercial relationship or the completion of the occasional transaction or for a longer period that may reach 10 years in accordance with the regulations.

CT222. *Criterion 24.10* – Regarding basic information, according to Article 72 of Law 16.871, the registers are public, so they can be consulted by any authority. Likewise, the Public Prosecutor's Office and the Ministry of Interior may have timely access to information on the BO, subject to judicial authorisation. In addition, this regulation and article refer to the registers of legal persons and arrangements in charge of the General Directorate of Registries, not the BO register kept by the BCU. Article 26 of the AML Law provides that the UIAF may request reports, background information and any other information it deems useful for the performance of its functions from all public agencies which should be required to provide it within the time limit set by it. In addition, this Article provides that public agencies should facilitate UIAF's direct access to their sources of information in order to ensure the agility and confidentiality of investigations.

CT223. With regard to information on the BO, in accordance with Article 5 of Law 18.930 and Article 39 of Law 19.484, the following agencies should have access to information on the beneficial owner contained in the Register of Equity Stakeholders: The DGI, provided that the information is requested once an inspection has been formally initiated linked to specific taxpayers, or for compliance with express and well-founded requests by the competent authority of a foreign State, in the framework of international conventions ratified by the Republic in matters of exchange of information or to avoid double taxation, which are in force; the UIAF and the SENACLAFT, in the development of tasks related to the fight against ML/TF; the Board of Transparency and Public Ethics, provided that such information is requested once an action related to its area of competence has been formally initiated; Criminal Justice and Family Justice (in food cases). Without prejudice to this, there are still doubts about the other law enforcement authorities having the power to obtain timely access to basic and BO information.

CT224. *Criterion 24.11* – In Uruguay, bearer shares or equity interests may be issued. However, a series of legal requirements should be complied with, as indicated below.

- (a) N/A
- (b) Article 17 of Law 18.930 provides for the possibility of transforming bearer shares into nominative or book-entry shares.
- (c) N/A
- (d) In accordance with Articles 1 and 2 of Law 18.930, the holders of bearer's equity interests should provide the following information to the issuing entity for the BCU: (i) Data that enable them to be identified as holders of bearer shares, securities and other equity interests. In the event that there is a holder or custodian, representative or someone exercising the powers of representation, with powers of administration and disposition of the equity interests with the same powers as its holder, the identification should include the holder of the titles and anyone who fulfils ownership, custody or representation functions; (ii) the face value of the shares and other securities held by the bearer. In accordance with Article 6 of the Law, the issuing entity should notify the BCU by means of an affidavit: (i) The information received from the holder; (ii) the total amount of the integrated capital or its equivalent, or of the patrimony as appropriate, at nominal values, and the participation in the entity belonging to each one of the shareholders, partners or participants. The issuing entity should keep the affidavits of its shareholders, partners or participants under the same conditions as those established for the compulsory corporate books of commercial

companies. Once the affidavit has been filed with the BCU, the issuing entity should issue a certificate for the holder of the equity interest, which should include the inclusion in the register of the data sent to him by the holder. Failure to deliver the referred certificate within the deadline should enable the holder to register directly, by means of an affidavit, his identifying data and the amount of his equity interest in the BCU. Furthermore, Article 7 also provides for the obligation to report changes in the percentage of ownership in the company.

(e) N/A

CT225. *Criterion 24.12* – With respect to the possibility of having nominative shares and nominee directors, the following mechanism applies in Uruguay:

(a) Article 13(h) of the AML Law includes as RIs to company service providers, trusts and any natural or legal person, when they routinely make certain transactions for their customers about the following activities: (1) Establish companies or other legal persons; (2) Integrate the board of directors or exercise management functions in a company, be a partner of an association or hold a similar position in relation to other legal persons or to provide for another person to perform those functions, under the terms established by the regulations. (3) Provide a registered office or head office to a company, association or any other legal instrument or person, in the terms established by the regulations. 4) Exercise trustee functions in a trust or similar legal instrument or provide that another person exercises such functions. (5) Exercise functions as a nominal shareholder on behalf of another person, with the exception of companies listed on a regulated market and subject to legally compliant information requirements, or have another person perform those functions, on the terms established by the regulations. (6) Sale of legal entities, trusts or other legal institutes. Moreover, Article 83 of Decree 379/2018, concerning the registration of DNFBPs under the SENACLAFT, states: "*at the time of registration of RIs in accordance with Chapter XII of this Decree, shareholders or nominal directors shall disclose the identity of their nominee and report on the companies served.*" However, the legislation does not seem to explicitly include the obligation for nominal shareholders and directors to disclose the identity of their nominee to the company and to other records other than that of the SENACLAFT.

(b) N/A

(c) N/A

CT226. *Criterion 24.13* – With regard to basic information, Article 412 empowers the State supervisory body to apply warning sanctions with publication and fine to public limited companies, their administrators, directors or private control officers, in the case of violation of the law, statute or regulation. Without prejudice to this, it is not clear the range of sanctions that can be applied to other corporate types. With regard to information on the BO, Article 33 of Law 19.484 provides that entities that fail to comply with the obligations may not pay profits or dividends, bailouts, breaks or the result of the liquidation of the entity. Failure to comply with the provisions mentioned should be punishable with a fine the maximum of which should be equivalent to the amount improperly distributed. Article 35 of Law 19.484 provides that whoever prevents knowing his beneficial owner or misdirects the obligation to identify, declaring or enforcing inappropriate legal

forms, should be liable to the application of a fine the amount of which will be up to one hundred times the maximum value of the fine for breach set out in Article 95 of the Tax Code.

CT227. *Criterion 24.14* – With regard to international cooperation, the following is mentioned:

- (a) In accordance with Article 72 of Law 16.871, the information of the RNC is public and provides that "those who have an interest in finding out the current registration of property and persons may request the information from the relevant Registry." Also, from the portal of the General Directorate of Registries, information can be requested and prior payment of a registration fee, which can also be made online, the requested information should be obtained, digitally signed. In addition, Uruguay has a legal framework that allows its competent authorities to provide international cooperation in this area (for more information refer to R.37 to 40).
- (b) In accordance with Article 27 of the AML Law, the UIAF is empowered to exchange information with foreign financial intelligence units. Moreover, according to Article 5 of Law 18.930 and Article 39 of Law 19.484, the DGI may request the information contained in the Register of equity stakeholders when it comes to complying with express and well-founded requests on the part of the competent authority of a foreign State, within the framework of ratified international conventions on the exchange of information or to avoid double taxation, which are in force.
- (c) Competent authorities may use their powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts.

CT228. *Criterion 24.15* – The authorities reported that each agency exchanging BO information with foreign counterparts monitors the quality of the information received, especially with those countries with which more information is exchanged. However, no procedures or mechanisms related to such monitoring are observed.

Weighting and Conclusion

CT229. Various requirements required by the Criteria are covered by the legislation. Without prejudice to this, a number of technical deficiencies are noted, namely: The regulations do not explicitly contemplate the requirements that information on BO be as precise and up-to-date as possible. Doubts remain as to whether the five-year conservation period applies from the date on which the company is dissolved or otherwise ceases to exist, or five years from the date on which the company ceases to be a customer of the professional intermediary or the financial institution. The legislation does not seem to explicitly include the obligation for nominal shareholders and directors to disclose the identity of their nominee to the company and to other records other than that of the SENACLAFT. The range of sanctions for non-compliance with basic information requirements that may apply to corporate forms other than public limited companies is unclear. There are no procedures or mechanisms for monitoring the quality of information received. **R.24 is rated Largely Compliant.**

Recommendation 25 — Transparency and Beneficial Ownership of Legal Arrangements

CT230. In the Uruguayan MER of the 3rd Round of Mutual Evaluations, R.34 had been rated Largely Compliant. At that time, it had been concluded that there were insufficient human resources and that there was a need to expand the computer system.

CT231. *Criterion 25.1* – In Uruguay, trusts are regulated by Law 17.703 of 2003. The trust is to be granted in writing under penalty of nullity and should be registered in the National Registry of Personal Acts of the General Directorate of Registries. In the case of financial trusts, only financial intermediaries or investment fund managing companies may be trustees. For its part, the AML Law establishes company service providers, trusts and, in general, any natural or legal person as reporting institution when they habitually exercise fiduciary functions in a trust or similar legal instrument, or when they provide for another person to exercise such functions (cf. Article 13.h.4 of the AML Law). In addition, Article 77 of Regulatory Decree 379/018 defines the criterion of regularity, understood as the reiteration of the activity at least three times in the period of one calendar year. With respect to the obligations of trustees, it should be borne in mind:

- (a) Articles 2 and 5 of Decree 516/003 establish the obligation to identify the parties involved in a trust contract. This obligation is applicable to all trusts granted and registered in the Registry. Article 3 of Decree 166/017 includes trusts between resident and non-resident entities that should identify the BO in the terms provided by Articles 23 and 24 of Law 19.484. Likewise, they should keep the corresponding supporting documentation. Also, Article 15.b of the AML Law establishes the obligation of trustees who are RIs to identify the trustor, trustee and beneficiary, in addition to the beneficial ownership. Article 21 of the AML Law also provides for the obligation to keep records for a minimum period of 5 years. With regard to the updating of information, Article 30 of Law 19.484 stipulates that subjects should communicate any change that occurs in relation to the information recorded, within 30 days following its verification, through the filing of a new affidavit. Such period should be 90 days in the case of non-resident BOs.
- (b) Article 293 of the RNRCFSF provides that when financial intermediation institutions act in a fiduciary capacity, customers should be understood to be not only the settlors and beneficiaries of the trusts they administer, but also all those persons from whom they receive funds for said trusts. They should therefore apply customer due diligence policies and procedures to enable them to have adequate knowledge of their customers. The same applies to investment fund managing companies when they act in a fiduciary capacity with respect to the shareholders, trustors, beneficiaries of the trusts they administer and all those persons from whom they receive funds for such trusts (Article 189 of the RNMV). However, it is not observed that there is an obligation for trustees to keep basic information on other regulated agents of the trust and service providers for the trust, including investment advisors or managers, accountants and tax advisors.
- (c) According to Article 26 of Law 19.484, trustees in general should keep the supporting documentation of the information under the same conditions as those established for the mandatory corporate books of commercial companies, which is 20 years. In addition, in accordance with Article 21 of the AML Law, trustees are required to keep records for a minimum period of 5 years.

CT232. *Criterion 25.2* – In accordance with Article 16 of the AML Law, trustees should establish policies that provide for the periodic review and updating of existing data and information on their customers. With regard to the updating of information, Article 30 of Law 19.484 stipulates that subjects should communicate any change that occurs in relation to the information recorded, within 30 days following its verification, through the filing of a new affidavit. Such period should be 90 days in the case of non-resident BOs. According to Article 17 of Decree 166/017, entities may not register acts or legal transactions in the registers without proving the receipt of the declaration by the BCU and its incorporation in the register. Likewise, a declaration will be required from the entity that there have been no modifications subsequent to the date of said certificate.

CT233. *Criterion 25.3* – In accordance with Article 15 of the AML Law, RIs should identify and verify information on customers, using reliable data and information from independent sources. They should also identify the beneficial owner and take reasonable measures to verify his identity. Beneficial owner should be understood to be a natural person who, directly or indirectly, owns at least 15% of the capital or its equivalent, or of the voting rights, or who by other means exercises final control over an entity, such being considered a legal person, a trust, an investment fund or any other patrimony of affectation or legal structure. Beneficial owners should also be understood as the individual who contributes the funds to carry out an operation or on whose behalf an operation is carried out. In the case of trusts, the trustor, trustee and beneficiary should be identified. The trustees must disclose their status as such to the FIs and DNFBPs in the context of due diligence.

CT234. *Criterion 25.4* – With regard to competent authorities, Article 21 of the AML Law stipulates that records of transactions, as well as information on customers should be made available to supervisory authorities and the competent criminal court upon request. It is not clear whether the Public Prosecutor's Office and the Ministry of Interior have direct access to the information. In addition, Article 26 of the AML Law provides that the UIAF should be empowered to request reports, background information and any other element it deems useful for the fulfilment of its functions, and RIs are required to provide them within the fixed term without being able to oppose secrecy or confidentiality. With regard to FIs and DNFBPs, Article 15 of the AML Law provides that they should identify the beneficial owners and obtain information on the purpose of the business relationship and the nature of the business to be developed. It should be noted that trustees are also required to provide information to the AIN in accordance with the provisions of Law 19.484.

CT235. *Criterion 25.5* – With regard to access to information held by RIs, Articles 6 and 26 of the AML Law authorize the SENACLAFT and the UIAF, respectively, to request reports, background information and any other element they deem useful for the fulfilment of their functions, and RIs should provide them within the fixed term without being able to oppose secrecy or confidentiality. Article 21 of the AML Law provides that the records kept by RIs should be made available to supervisors at their request. Likewise, the Public Prosecutor's Office and the Ministry of Interior may have timely access to information on the BO, subject to judicial authorisation.

CT236. *Criterion 25.6* – With regard to international cooperation, the following is mentioned:

- (a) In accordance with Article 72 of Law 16.871, the information of the National Registry of Personal Acts, where the documents of constitution of trusts are registered, is public. Said Article provides that "*those who have an interest in finding out the current registration of property and persons may request the information from the relevant Registry.*" Also, from the portal of the General Directorate of Registries, information can be requested and prior payment of a registration fee, which can also be made online, the requested information shall be obtained, digitally signed. In addition, Uruguay has a legal framework that allows its competent authorities to provide international cooperation in this area (for more information refer to R.37 to 40).
- (b) In accordance with Article 27 of the AML Law, the UIAF is empowered to exchange information with foreign financial intelligence units. Moreover, according to Article 5 of Law 18.930 and Article 39 of Law 19.484, the DGI may request the information contained in the Register of equity stakeholders when it comes to complying with express and well-founded requests on the part of the competent authority of a foreign State, within the framework of ratified international conventions on exchange of information.
- (c) Competent authorities may use their powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts.

CT237. *Criterion 25.7* – Article 13 of the AML Law provides that if the trustee fails to comply with his obligations as a reporting institution, he should be subject to the application of sanctions by the SENACLAFT. These sanctions will be applied taking into account the entity of the infraction and the background of the offender and will consist of warning, observation, fine or suspension of RI, when appropriate, temporarily or, with prior judicial authorisation, definitively. Temporary suspensions may not exceed the limit of three months. The amount of the fines should be graduated between a minimum of 1000 Indexed Units and a maximum of 20,000,000 Indexed Units, according to the circumstances of the case, the behaviour and the habitual turnover of the offender. With respect to non-RI trustees, Article 35 of Law 19.484 establishes that whoever hinders his BO or deceives about the identification obligation should be punished with a fine of up to one thousand times the maximum value of the fine for contravention established in Article 95 of the Tax Code.

CT238. *Criterion 25.8* – Article 13 of the AML Law provides that if the trustee fails to comply with his obligations as a reporting institution, he should be subject to the application of sanctions mentioned in the previous criterion by the SENACLAFT. This includes non-compliance with the duty to provide the information required by the UIAF, the SENACLAFT and supervisors.

Weighting and Conclusion

CT239. Most of the elements required by the criteria are covered by the legislation. Notwithstanding the foregoing, there is no obligation for trustees to retain basic information on other regulated agents of the trust and service providers for the trust, including investment advisors or managers, accountants and tax advisors. **R.25 is rated Largely Compliant.**

Recommendation 26 — Regulation and Supervision of Financial Institutions

CT240. In the MER of the 3rd Round of Mutual Evaluations, former R.23 was rated PC. It was identified that at the time of the evaluation it was not possible to assert that the insurance sector was subject to adequate ML/TF regulation and supervision as there is no effective inspection of existing companies. In the case of the securities sector, in 3 years only 15% of the total number of entities were subject to ML/TF supervision visits. With regard to money transfer companies, it was not possible to show that progress has been made in this area, given that the formation of a supervisory unit at the UIAF to deal with these companies was only recently being studied for the future.

CT241. *Criterion 26.1* – Article 34 of the Organic Charter Ordered Text (TOCO) establishes that the BCU, through the SSF, should exercise the function of regulating and supervising compliance with AML/CFT requirements by FIs, also included under this same article. Likewise, subparagraph A of Article 35, among the tasks and attributions of the SSF, establishes that the SSF may issue prudential rules and particular instructions tending to promote the prevention and control of ML/TF, and subparagraph V, that the SSF should develop the functions legally entrusted to the BCU with the purpose of combating these crimes foreseen in the legislation.

CT242. In addition, there are other agents that participate in the payment system, which are regulated and supervised in ML/TF prevention matters by the Payment System Regulations and Oversight Department of the Payments System Area of the BCU (Articles 82, 104 and subsequent, Book VII of the Compilation of Payment System Regulations).

CT243. The UIAF, which operates within the SSF, carries out financial research and analysis in ML/TF matters and is also responsible for carrying out supervisory activities at the level of the various entities that make up the financial system in order to promote the implementation of adequate ML/TF prevention systems. The SSF Operational Framework indicates the organisational structure of the UIAF, stipulating that it should carry out micro-prudential supervision and participate in the planning of activities, and that it should be responsible for the supervision of financial services companies (ESF), exchange houses (CC), money transfer companies (ETF), service providers to foreign financial companies and those entities under the control of the payment system area (ASP).

Market Entry

CT244. *Criterion 26.2* – The Executive Power grants authorisation to operate to institutions that make up the financial intermediation system (Article 6, Law 15.322), insurance companies (Article 2 Law 16.426) and provisional savings fund managing companies (Article 93 Law 16.713). Once the operation license is authorized, the SSF should enable the installation of these institutions (Article 35, subparagraph B of the TOCO). In addition, the SSF should grant the authorisation to operate to exchange houses, domestic and foreign transfers, securities exchanges, securities brokers and custody or clearing and settlement of securities entities (Article 34, subparagraph C of the TOCO).

CT245. The regulations of rules applicable to institutions of financial intermediation, securities market, issuers of electronic money establish that the request for authorisation should include reasons of legality, timeliness and convenience. Credit management companies, fund transfer companies, securities transport companies, leasing service providers and safekeeping of security boxes, should apply for registration in the Register kept by the SSF, prior to the beginning of their activities (Articles 85, 120, 125.5, 125.11 of the RNRCFSF). Issuers of public offering securities, investment fund management companies, investment advisors, and stock exchanges should register with the SSF (Articles 7, 79, 125 of the RNMV). Professional trustees, in accordance with the provisions of Article 12 of Law 17.703, should be registered in the Securities Exchange Market Registry.

CT246. "Shell banks" are not allowed, since from the requirements it follows that financial intermediation companies should have a physical presence in the country (Article 16 subparagraphs a and d, and Article 23 subparagraph b of the RNRCFSF).

CT247. *Criterion 26.3* – As part of the supervisors' measures to prevent criminals or their associates from having a significant participation or management position in the FI, Article 35 of the TOCO in its subparagraph P indicates that supervised entities should make restructurings of organisation or substitutions of their senior staff, as well as changes to the structure and composition of the share capital.

CT248. Additionally, in Books I of each one of the Financial RI Compilations of Standards, requirements are established that should be complied with by the shareholders and part of the Senior Staff (directors, general manager, trustees).³⁰ In line with the above, Article 17, subparagraph d of the RNRCFSF establishes that the shareholder should present an affidavit, detailing the chain of shareholders until the subject of law that exercises effective control of the group is identified. It should not be admitted that in this chain there are companies with bearer shares that are transferable by simple delivery. This declaration should have a notarial certificate of signature and a notarial certificate of representation of the legal person. The same requirements apply to all other entities. With regard to senior staff, the Compilations of Standards refer to the appointment of the positions of director and general manager that can only be filled if the SSF does not object to this appointment.

CT249. With regard to the issuance and transfer of provisional shares or certificates, the related rules are found in Book I of each of the Compilations of Standards (Articles 31 to 35 of the RNRCFSF, Articles 14 and 15 of the RNSR and Articles 16 and 17 of the RNCFP), and should have the prior authorisation of the SSF for such purposes. In addition, as part of the authorisation for the establishment of financial RIs in the country, the personal and judicial background information of the shareholders and senior staff of the financial institution should be checked.

³⁰ For such purpose, the following should be considered: Articles 1 to 125.15 of the RNRCFSF, Articles 1 to 143.16 of the RNMV, Articles 1 to 12 RNSR and Articles 1 to 10 of the RNCFP.

Risk-based approach to supervision and monitoring

CT250. *Criterion 26.4 –*

- (a) Book III of each of the Compilation of Standards establishes the rules relating to the protection of the financial system against illicit activities (Articles 290 to 317 of the RNRCSF, 185 to 208 of the RNMV and 67 to 86 of the RNSR), establishing the requirements that the comprehensive system should have for the prevention of ML/TF.
- (b) Article 290 of the RNRCSF also provides that the application of the comprehensive ML/TF prevention system should be extended to the entire organisation, including branches and subsidiaries, in the country and abroad. Similar requirements apply for securities exchange market entities (Article 185 of the RNMV) and the insurance market (Article 67 of the RNSR). In the case of institutions issuing electronic money, supervised and regulated by the payment systems area of the BCU, Article 104 of the RNSP stipulates that the application of the comprehensive ML/TF prevention system should be extended to the entire organisation, including those entities in which processes are outsourced. In addition, Article 1 of Law 17.613 refers to the consolidated supervision of entities that form an economic group, establishing that the BCU should exercise its regulatory, control and sanctioning powers over financial intermediation entities that integrate an economic group with other companies.

In the case of institutions not subject to the core principles but subject to the regulation and supervision of the BCU, the same articles apply as to companies subject to the Core Principles.

CT251. *Criterion 26.5 –* With regard to the intensity and frequency of supervision in Uruguay, it is based on the following:

- (a) The SSF/UIAF has a methodology to evaluate the ML/TF risk of FIs. For this purpose, risk matrices have been designed by type of entity (banks, financial services companies and exchange houses, securities brokers, investment advisors, investment fund managing companies) and risk is analysed on the basis of their products, customers, geographical areas and distribution channels. Some structural factors of the institutions (size, years of operation, shareholders, compliance culture, etc). are also considered. Finally, for the purpose of determining residual risk, elements of corporate governance and the quality of ML/TF risk management are considered. Based on the results of the matrix, the institutions are rated at low, medium and high risk, on the basis of which the supervisory activities for the institutions are determined. The SSF Operational Framework indicates that supervision cycles should be risk-based and establishes the frequency with which supervision should be conducted. For the type of institutions that represent a lower risk of ML/TF, a supervisory cycle is not established but rather remote supervision is carried out for their follow-up.
- (b) The NRA is used as an essential input for the development of the risk matrices mentioned above, in order to contemplate the main risks identified and thus use these elements in the effective planning of supervisory activities. It is not clear whether this planning of supervisory activities includes the intensity and frequency to carry them out.

- (c) The UIAF analyses the ML/TF risk at the intersectoral level on a regular basis to identify which sectors of the financial system present a higher ML/TF risk and require more intensive supervision. To this end, an intersectoral risk matrix was designed. Likewise, the "SSF Operational Framework" defines the supervision strategies and risk-based approach methodologies.

CT252. *Criterion 26.6* – The institutions' individual risk matrices are updated remotely on an annual basis, based on quantitative information and the annual reports of external auditors on the ML/TF prevention system. Likewise, when the SSF carries out an on-site inspection, the factors related to the quality of ML/TF management are updated.

CT253. In the SSF Operational Framework document, supervision strategies and risk-based approach methodologies are defined for the financial RIs that are within its supervision scope. In addition, the SSF processes are certified by the Quality Standard ISO 9001:2015, which ensures their permanent updating and effective application, as well as the implementation of a management system that focuses on the concept of continuous improvement.

Weighting and Conclusion

CT254. Uruguay meets all the criteria of the R. **R.26 is rated Compliant.**

Recommendation 27 — Powers of Supervisors

CT255. In the past MER, Uruguay was rated C in the former R.29.

CT256. *Criterion 27.1* – The SSF, which depends on the BCU, has the power to issue prudential regulations to promote the prevention and control of ML/TF, as well as to develop the functions entrusted to the BCU in order to combat these crimes (Article 35, subparagraphs A and V of the TOCO). In addition, the Superintendence may require supervised entities to provide information, records and documents with the regularity deemed necessary, as well as the exhibition of records (Article 35, subparagraphs H and I of the TOCO). Book VI of the Compilations of Standards applicable to the Financial System, Insurance, Securities and Savings Fund Administrators establishes that the BCU should have access to the information and documentation necessary for compliance with its faculties established in Uruguayan regulations. For such purposes, the natural or legal persons that the BCU provides for these purposes are obliged to provide such information in a timely, formal and accurate manner.

CT257. *Criterion 27.2* – Article 15 of Decree-Law 15.322, subparagraph A, establishes that the BCU has powers of inspection, oversight and investigation in relation to FIs. In addition, according to subparagraph B, BCU officials should have the same powers as the Tax Revenue Service found in Article 53 of Law 12.804, and may: i) require taxpayers to present books, documents and commercial correspondence; ii) seize books and documents for a period of 6 days, which may be extended by judicial resolution; iii) conduct inspections of real and personal property occupied by taxpayers and responsible parties. Inspections of private homes should be conducted

with prior judicial order; and iv) requiring information from third parties who could be summoned to appear before the administrative authority.

CT258. *Criterion 27.3* – Pursuant to Article 14, subparagraph B of Decree-Law 15.322, the BCU may require financial intermediation companies and institutions to provide information as often and in the manner it deems necessary. Likewise, in accordance with the provisions of criterion 27.1, the SSF has the power to request the information, records and documents it considers pertinent with the frequency required. In addition, in accordance with subparagraphs J and K of Article 35 of the TOCO, the Superintendence may regulate the periodic publication of financial statements and evaluate the economic-financial situation of the supervised entities. Book VI of the Compilations of Standards applicable to the financial system, insurance, securities and savings fund managing companies establishes that the BCU should have access to the information and documentation necessary for compliance with its powers established in Uruguayan regulations. For such purposes, the natural or legal persons that the BCU provides for these purposes are obliged to provide such information in a timely, formal and accurate manner.

CT259. *Criterion 27.4* – The SSF is empowered to apply observation sanctions and fines of up to 10% of the basic patrimonial responsibility of the banks, to entities listed in Article 34 of the TOCO, that do not comply with the rules issued for this sector, as well as to propose the application of more serious pecuniary sanctions or other measures, such as suspension of activities or revocation of the authorisation to operate. Likewise, sanctions may be imposed in the case of infractions against the senior staff of any of these supervised entities, such as representatives, directors, managers, administrators, mandataries, trustees and auditors of the entities (Article 35, subparagraphs L-N of the TOCO, Article 23 of Decree-Law 15.322). According to Article 20 of Decree-Law 15.322, the BCU may apply sanctions to private financial intermediation institutions that infringe applicable laws, such as fines of up to 50% of the minimum net worth responsibility for the operation of banks, intervention, which may be accompanied by partial or total substitution of the authorities, temporary or definitive revocation of the authorisation of financial companies or revocation of the authorisation to operate. In line with the foregoing, Book VII of each of the Standard Compilations establishes the sanctioning regime applicable to the financial system, insurance, securities and savings fund managing companies (Articles 602 to 724 of the RNRCSF, Articles 351 to 394 of the RNMV, Articles 167 to 194 of the RNCFP and Articles 160 to 164 of the RNSR).

Weighting and Conclusion

CT260. **Uruguay meets all the criteria. R.27 is rated Compliant.**

Recommendation 28 — Regulation and Supervision of DNFBPs

CT261. Former R.24 was rated PC in the framework of the MER of the 3rd Round of evaluations. It was identified that there is a regulation aimed at supervising and controlling DNFBPs, but this activity is not carried out throughout the sector.

CT262. *Criterion 28.1* – With regard to AML/CFT regulation and supervision of casinos, the following is mentioned:

- (a) Casinos are required to obtain a license to operate. Currently, the following three types of casinos operate: (i) State casinos under the General Casino Directorate of the MEF, whose operation is controlled by the AIN. In this type of casinos there are two systems (traditional and mixed), ii) Municipal Casinos that depend on the respective service of the Municipal Intendance of Montevideo, and iii) Private Casino that operates under the control of the AIN. It is controlled through the External Audit that reports directly to the AIN periodic visits of the supervisor and analysis of the established procedures. The legal authorisation for the operation of casinos is granted by the Executive Legislative.
- (b) According to the information submitted, competent authorities carry out control on the potential private owners of the casinos and on those who participate with the State in the mixed system of casinos. The State may operate the casinos at its disposal through the concessions system. To grant these concessions, the background and solvency of the bidder should be taken into account, as well as the higher hierarchy and security of the guarantees offered (Article 20 of Decree Law 14.335 and Article 12, numeral 6 of Regulatory Decree 588/975). With regard to the mixed casino system, Article 37 of Decree 488/008 sets out the requirements that interested parties should meet for the establishment of a casino, such as requiring information on the origin of funds to be designated for investment proposal and legal documentation of the interested party proving their existence and representation. In the case of State operation, either directly or through a mixed system, the functions are performed by public officials, governed by the Statute of Public Officials, Law 19.121, articles 81 and 82 which provide that the commission of a crime is cause for dismissal.
- (c) Pursuant to Article 4 of the AML Law, the SENACLAFT supervises casinos for compliance with AML/CFT requirements, since this sector is under the competence of the Secretariat as a DNFBP, under Article 13 of the same Law.

CT263. *Criterion 28.2* – The SENACLAFT is the agency responsible for monitoring and ensuring compliance with AML/CFT requirements by DNFBPs. This regulation makes no distinction with regard to the supervision of casinos and other RIs.

CT264. *Criterion 28.3* – All categories of DNFBPs are subject to monitoring and supervision by the SENACLAFT.

CT265. *Criterion 28.4* –

- (a) The AML Law establishes the powers of the SENACLAFT as supervisor of DNFBPs. It should design the general lines of action for combating ML/TF and it has autonomous technical action. For the performance of its functions, the Secretariat may monitor compliance by its RIs, request information and documents it deems necessary, summon the RIs to appear before the administrative authority, carry out inspections and sign national and international agreements, and receive such information as the UIAF determines necessary in the manner and with the frequency established by both institutions for the supervision of RIs (Articles 4, 6, 7).
- (b) Law 15.750 establishes the possibility of the SCJ to suspend lawyers who have committed fraudulent crimes incompatible with the exercise of their profession (Article 140). For its

part, the Notarial Regulations of the SCJ stipulate that notaries who are under trial or who have been convicted for a fraudulent or ultra-intentional crime may not operate as notaries. While there are provisions for lawyers and notaries under Uruguayan law to adopt measures to prevent criminals from obtaining professional accreditation, no similar provisions exist for the rest of the DNFBPs to adopt measures to prevent offenders and their associates from obtaining professional accreditation or being the BO, or holding a managerial position.

- (c) The SENACLAFT has sanctioning powers in accordance with Article 13 of the AML Law. The sanctions will be applied taking into account the entity and the background of the offender. These consist of warning, observation, fine or suspension.

CT266. *Criterion 28.5* – Regulatory Decree 379/018 provides for the obligations of DNFBPs to implement a risk-based approach and determines the degree of application of the measures according to their risk. On this basis, the SENACLAFT, as a supervisor for these RIs, should consider the characteristics of each RI sector, thereby developing Supervision Guidelines (November 2018) which establish a methodology for risk-based supervision. These guidelines take into account the sectoral risk analyses prepared by the SENACLAFT's Strategic Analysis Observatory, which regularly generates information inputs so that the Audit Department can define the annual supervision plans. Resolution 022/2018 approves the 2019 annual supervision plan, which sets out the sectors to be visited, the number of entities in each sector to be oversights and the geographical distribution of the actions to be carried out throughout the year.

Weighting and Conclusion

CT267. Casinos and other DNFBPs are regulated and monitored by the SENACLAFT. Moreover, the AML Law establish the appropriate powers for the SENACLAFT to conduct its duties as a supervisory authority in accordance with DNFBPs' AML/CFT requirements, and to apply sanctions in case of non-compliance. There are provisions for casinos, lawyers and notaries under Uruguayan law to adopt measures to prevent criminals from obtaining professional accreditation, no similar provisions exist for the rest of the DNFBPs to adopt measures to prevent offenders and their associates from obtaining professional accreditation or being the BO, or holding a managerial position in DNFBPs. **R.28 is rated Largely Compliant.**

Recommendation 29 — Financial Intelligence Units

CT268. In Uruguay's MER of the 3rd Round of Mutual Evaluations, R.26 had been rated LC. With regard to deficiencies, it had been concluded at that time that it was necessary to acquire a greater degree of independence with regard to the use of servers (information backup policies) and physical security.

CT269. *Criterion 29.1* – The Financial Information and Analysis Unit (UIAF) is the national authority that was established to act as a national centre for the reception and analysis of suspicious transaction reports and other information relating to ML and TF, as well as for the dissemination of the results of such analysis.

CT270. The UIAF is established by Article 36 of the TOCO of the BCU, which created it within the sphere of the Superintendence of Financial Services of the BCU, and empowered it to receive, request, analyse and forward to the competent justice, when appropriate, information on financial transactions and other information that it deems useful for the purpose of preventing ML and TF offences.

CT271. *Criterion 29.2* – The UIAF is entitled to receive:

(a) Suspicious transaction reports, as provided for in Articles 12 and 13 of the AML Law.

(b) Systematic Reports:

- ✓ Financial intermediation institutions, with the exception of the administrators of pre-existing savings groups, should provide annual information on transactions and services, grouped according to risk factors for ML/TF (Article 549.2 of the RNRCSF).
- ✓ Financial services companies and exchange houses should provide annual information on transactions and services, grouped according to risk factors for ML/TF (Article 613.3 of the RNRCSF).
- ✓ Funds transfer companies are required to provide the UIAF with information on natural or legal persons who receive or send money orders and transfers, both domestic and foreign, for amounts in excess of USD 1,000 (Article 658 of the RNRCSF).
- ✓ Companies that administer platforms for loans between persons should provide the UIAF with information on natural persons granting loans in excess of USD 10,000 or its equivalent in other currencies. The reporting obligation arises when the grantor pays the funds in cash, in a single transaction or in several transactions whose amount exceeds the threshold in the course of a calendar month (Article 661.14 of the RNRCSF).
- ✓ Securities brokers and investment fund managing companies are required to provide the UIAF with information on natural or legal persons who carry out the following transactions: i. reception of cash from customers in excess of USD 10,000 or its equivalent in other currencies; ii. cash withdrawals by customers in excess of USD 10,000 or its equivalent in other currencies; iii. reception of funds (both from customers and from third parties for customers) by means of local or foreign drafts and transfers, for amounts in excess of USD 1,000 or its equivalent in other currencies, whatever the operational modality used for its execution; iv. delivery of funds (either to customers or to third parties on behalf of customers) by means of local or foreign drafts and transfers, for amounts in excess of USD 1,000 or its equivalent in other currencies, whatever the operational modality used for its execution. In transactions included in numerals i. and ii. information should also be communicated on transactions for amounts below the defined threshold, when the amount of transactions carried out in a given account exceeds USD 10,000 or its equivalent in other currencies, in the course of a calendar month (Articles 204 and 204.1 of the RNMV).
- ✓ Securities brokers, investment advisors and investment fund managing companies should provide annual information on transactions and services, grouped according to ML/TF risk factors (Articles 298.1, 308.1.2 and 325.3 of the RNMV).

CT272. *Criterion 29.3* – With respect to the requirements of the Criterion:

- (a) Article 26 of the AML Law empowers the UIAF to request reports, background information and any useful element for the fulfilment of its duties from any reporting institution bound by law or any public agency, no secret or reservation being opposable.
- (b) In addition to the generic powers mentioned in sub criterion a), and in addition to its access to information from the systematic reports described in criterion 29.2 b), the UIAF has access to the different following sources of information (for all sources, see IO.6).

CT273. *Criterion 29.4* – Regarding the analysis activity, it is mentioned:

- (a) The UIAF has an Operational Analysis Unit, which performs the functions of a financial intelligence unit entrusted to the UIAF. Its core activities are: (i) transactions analysis (STR), (ii) national and international cooperation for ML/TF investigation through the exchange of information; and (iii) participation in multidisciplinary working groups formed under the judicial or Public Prosecutor's Office sphere.
- (b) The UIAF also has a Strategic Analysis Unit, which complements the financial intelligence work through the analysis of available sources of information, in order to obtain aggregate information, identify trends, typologies, patterns of behaviour, detect new developments and evaluate new ML/TF risks.

CT274. It is worth mentioning that the quality of the UIAF's analysis processes are certified by the ISO 9001:2015 standard since 2015. As a result of the strategic analysis, strategic analysis products and guidelines are prepared for RIs, and feedback is provided on various aspects related to the submission of reports or systematic information to the UIAF. The Strategic Analysis Unit prepares the UIAF's Annual Report, which presents statistical information on the various activities of the UIAF (national and international cooperation, information on suspicious transaction reports received, etc).

CT275. *Criterion 29.5* – In accordance with Article 36 of the TOCO of the BCU, the UIAF is responsible for forwarding to the competent courts the information on financial transactions and other information it deems useful. The article does not establish limitations with respect to whether the remission should be made spontaneously or upon request, so it includes both cases. In addition, Article 28 of the AML Law provides that the UIAF may disclose to ML/TF specialized public agencies, information relating to unusual or suspicious transactions, when it considers that the participation of such agencies is essential to complete ongoing investigations, for the purpose of obtaining the elements of judgment necessary to link the transactions under investigation with the aforementioned offences and to enable the competent criminal court to be informed. The respective communication is channelled through the BCU's legal services. There are no specific mechanisms for the communication of reports.

CT276. *Criterion 29.6* – With regard to the protection of information by the UIAF:

- (a) The BCU Official Statute, in its Article 17. d) establishes that the official "*should keep strict secrecy and absolute confidentiality on all matters that come to his knowledge in the exercise of his functions, under the corresponding administrative responsibility, and criminal if applicable.*" In addition, with regard to the technological system, the BCU has an information security policy aligned with ISO 27.001, which applies to aspects of security

organisation, information asset management, acceptable use of information assets and resources, personnel-related security, physical and environmental security, communications and transactions, access control, acquisition, development and maintenance of information systems, incident management, business continuity and compliance. There is also an alert system that immediately reports any inconvenience or attempted violation of security measures or access to information. The policies adequately safeguard the security and confidentiality of UIAF information.

- (b) There are periodic sessions of security awareness, and the UIAF directly manages access to the information resources used by its officials, either directly in the information system used or through requests for permissions to access resources through the centralized IT help desk, which has specific processes for the task, and it should request the authorisations required in each case. UIAF staff, depending on their tasks, have necessary security clearance levels. UIAF staff are aware of and understand their responsibilities in handling and communicating sensitive and confidential information.
- (c) Uruguay has physical access control processes to facilities as well as information systems and equipment, and access is controlled through the proximity card to its facilities. Also, for information systems, two-factor authentication is used, with a security token held by officials plus a password.

CT277. *Criterion 29.7* – With regard to the operational independence and autonomy of the UIAF, it is mentioned:

- (a) Article 36 of the TOCO provides that the UIAF is the agency responsible for receiving, requesting, analysing and communicating information on transactions and other relevant information to prevent ML/TF. These functions are exercised exclusively by the UIAF, which has the authority and capacity to make decisions autonomously.
- (b) Article 27 of the AML Law provides for the power of the UIAF to exchange information and enter into memoranda of understanding with foreign counterparts. Meanwhile, Article 28 of the AML Law provides for the possibility of exchanging information with national competent authorities.
- (c) The UIAF is established within the Superintendence of Financial Services of the BCU. Article 36 of the TOCO, as well as Articles 22 and 24 of the AML Law, provide for central functions other than those of the Superintendence of Financial Services.
- (d) The UIAF may use the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence. The personnel of the UIAF staff is recruited through an internal competitive process within the BCU. Each position, including that of the manager, should meet a series of formal and material requirements, which are set out in profiles established for each position. The UIAF is structured into four units with different functions and a number of 22 officers, who are exclusively responsible for suspicious transaction analysis, national and international cooperation and ML/TF risk supervision. IT support and other tasks necessary for the management of human and material resources (procurement and other administrative services, human resources, security, etc). are provided by the relevant sectors of the BCU.

Without prejudice to the foregoing, it is important to strengthen the UIAF's resources in order to enhance the performance of its functions.

CT278. *Criterion 29.8* – The UIAF has been a member of the Egmont Group since June 2009.

Weighting and Conclusion

CT279. Uruguay has the UIAF, which is the national body in charge of receiving and analysing suspicious transaction reports and other information relating to ML and TF, and of disclosing the results of such analysis; it complies with almost all the requirements of the R. Notwithstanding this, no specific mechanisms are provided for the communication of reports, and it is important to strengthen UIAF's resources in order to enhance the performance of its functions. **R.29 is rated Largely Compliant.**

Recommendation 30 — Responsibilities of Law Enforcement and Investigative Authorities

CT280. Uruguay was rated C in the former R.27 in its 2009 MER.

CT281. *Criterion 30.1* – Based on the CCP, it is indicated that criminal action corresponds to the Public Prosecutor's Office, who must carry out the corresponding procedures in an investigation. Likewise, when a criminal act becomes known it should promote criminal prosecution with the support of the administrative authority, and it may not be suspended, interrupted or cause its course to cease, except in the cases provided for by law (Article 43). The criminal process should be public, and the adversarial principle should apply. In accordance with this principle, no proceedings may be initiated, no pretrial detention or measures limiting freedom of movement may be ordered, no conviction or security measures may be imposed, except at the request of the Public Prosecutor (Article 9). On this basis, Resolution No. 637/17 of October 12, 2017 of the Public Prosecutor's Office ordered 4 Prosecutor's Offices to deal with ML matters.

CT282. Memorandum No. 007/2017 of the SPA Implementation Unit of the Public Prosecutor's Office indicates the expertise that prosecutors may require in the framework of a criminal investigation. In the specific case of ML, it is possible to assist in proceedings such as the seizure of documents and involvement in the study of possible relations between persons and commercial companies that are linked to the investigation. Likewise, through this Memorandum, the Public Prosecutor's Office determined the general investigative criteria for the collection of information and evidence to elaborate the theory of a case and establish guidelines for the joint action of the competent authorities.

CT283. With regard to the Ministry of Interior, Article 5 of Law 19.315 of February 18, 2015 empowers the National Police to investigate and develop the investigation process, as well as to submit to the jurisdiction of the competent court the persons presumed responsible for criminal acts. This unit is integrated by: i) General Directorate of Police Information and Intelligence - Anti-Terrorism Department (Article 14), ii) General Directorate for Combating Organised Crime and Interpol - Financial Crimes Department (Article 27), iii) General Directorate for the Suppression

of Illicit Drug Trafficking - Property Investigation and Money Laundering Department (Article 28). Also, the CCP indicates that the National Police, the National Naval Prefecture and the National Air Police should be auxiliaries to the Public Prosecutor's Office in investigation tasks and should conduct the necessary diligence in compliance with the provisions of the CCP, which should be under the direction and responsibility of the prosecutors (Articles 49 and 50).

CT284. Criterion 30.2 – Article 41 of the AML Law stipulates that when an investigation is initiated for any of the predicate offences, the competent criminal court should conduct a parallel economic-financial investigation in order to investigate the scope of the criminal networks and to trace the assets, terrorist funds or other assets subject to confiscation. In addition to the above, in relation to investigations related to ML crimes (Articles 30-33) and to those under Article 34, it is established that the confidentiality period of the actions on the accused, his counsel and other parties involved, regulated in Article 259.3 of the CCP, should not apply.

CT285. *Criterion 30.3* – The UIAF is the authority responsible for indicating to RIs that they may not allow, for a period of up to 72 hours, the performance of transactions that may involve assets related to any criminal activity, the execution of any type of order that implies the return, transmission or transfer of funds, as well as access to security boxes (Article 24 of AML Law). The CCP refers to the fact that the prosecutor has the capacity to immediately authorize the exhibition of movable property or the seizure of real estate, which should be duly recorded and registered in the corresponding public registry (Article 199).

CT286. The criminal court may adopt the necessary precautionary measures to ensure the availability of assets subject to eventual confiscation for ML or predicate offences. Said court should be able to dispose of another measure if it is more efficient, should establish the scope and term of it and should provide for the amendment, substitution and termination thereof. (Articles 43-48 of the AML Law).

CT287. *Criterion 30.4* – Uruguay does not establish other competent authorities that are not law enforcement to carry out financial investigations of predicate offense, therefore, this criterion does not apply.

CT288. *Criterion 30.5* – Based on criterion 30.1, First Instance Courts have jurisdiction at the national level and over the predicate offences listed in Article 34 of the AML Law, among which corruption is included. The Public Prosecutor's Office should carry out the necessary steps for the investigation. Likewise, the competent criminal court has the power, at the request of the Public Prosecutor's Office, to conduct the seizure of property or proceeds of corruption. Likewise, the JUTEP, as a State organ acting within the Executive Power, focuses on promoting public policies, regulations and actions that strengthen transparency in State management, advising the Judiciary and the Public Administration in the fight against corruption, receiving and guarding the patrimonial sworn statements of regulated public officials, offering training and dissemination programs, meeting the requirements of international cooperation and exercising the functions of superior control organ in the matter. The JUTEP participates in ML investigations in its capacity as an auxiliary to Justice.

Weighting and Conclusion

CT289. Uruguay meets all criteria of the R. **R.30 is rated Compliant.**

Recommendation 31 — Powers of Law Enforcement and Investigative Authorities

CT290. In the MER of the third round, Uruguay was rated Compliant in the former R.28.

CT291. *Criterion 31.1* – Uruguayan law enforcement authorities have access to the documentation and information necessary for use in investigations and proceedings as follows:

- (a) Article 45, subparagraph k of the CCP provides that the Public Prosecutor's Office may request from public institutions all necessary information that is available in the records for the investigation to be carried out (Article 45 subparagraph k of the CCP). Reports on data contained in official or private registers. The omission or delay in the response, false information in the report or concealment of data should result in the corresponding responsibilities. Similarly, the prosecutor may request the court to lift bank secrecy and tax reserve in order to request information, documents and declarations when deemed appropriate (Articles 177, 211 and 212).
- (b) In accordance with the provisions of the CCP, use may be made of inspections of persons, places, things, fingerprints and other material effects that may serve as evidence in an investigation or that the accused may be in a certain place. Judicial inspections should be carried out with the participation of witnesses and experts (Articles 183, 186, 189). Searches of private domiciles may only be conducted by order of the judge (Article 195).
- (c) The Public Prosecutor's Office may require the presence of persons it considers can contribute elements to the investigation, including the complainant, witnesses and experts. The prosecutor may request the appearance of a person during the conduct of the investigation and may request the judge to order that the person appear if he or she fails to do so. In the event of refusal to testify, the witness is brought before the competent court for appropriate criminal liability (Articles 45, 147 and 261 of the CCP).
- (d) In accordance with the CCP, all documents or any type of property that may serve as evidence in an investigation should be presented; in the event of a refusal, the prosecutor should apply to the court for a seizure order. The court will decide on the required documents that cannot be presented for legitimate reasons. The prosecutor should keep a copy of the seized documents and give a copy of the minutes to the person or office where the seizure was made. Seized property should be registered and individualized, indicating who assumes the role of depositary (Articles 173, 199, 203 and 204).

CT292. *Criterion 31.2* – Chapter VIII of the AML Law provides for a range of special investigative techniques for ML/TF offences.

- (a) At the request of the Public Prosecutor's Office, the Courts of First Instance Specialized in organised crime, with jurisdiction in the national territory over the offences provided for in Articles 30-33 of the AML Law, Article 34 on predicate offences and Articles 14-16 of Law 17.835 relating to terrorism and its financing, may authorize public officials to act

- under a presumed identity, which is granted by the Ministry of Interior for a period of six months and they should be empowered to act in all matters relating to the investigation (Article 64).
- (b) Uruguayan authorities may use all available technological means to facilitate the ML and predicate offences investigation, including TF. Electronic surveillance should be ordered by the investigating court or at the request of the Public Prosecutor's Office. The evidence should be transcribed in certified minutes so that they can be included in the proceedings and the court will be in charge of the custody of the electronic media (Article 62). Now, based on the provisions of Article 208 of the CCP, the prosecutor has the capacity to ask the judge for the intervention and recording of telephone, radio or other forms of communication. Such a measure may not exceed a period of six months.
 - (c) Based on Article 205 of the CCP, the Public Prosecutor should request the competent court to intercept, seize, open or search any correspondence, postal delivery, electronic mail or similar addressed to or sent by the accused. Likewise, subparagraphs (a), (b) and (d) are applicable to access to computer systems.
 - (d) The competent criminal court, at the request of the Public Prosecutor's Office, may authorize the controlled delivery of property that may be subject to the offence of ML/TF, subject to the strictest confidentiality. Likewise, the use of a collaborator for an ongoing investigation is included as an investigative technique (Articles 61 and 63).

CT293. *Criterion 31.3 –*

- (a) As mentioned in criterion 31.1, the Public Prosecutor's Office has the power to request the information it deems necessary, according to its sphere of competence, so that it may be used in the development of an investigation in compliance with its obligations established in the AML Law. Public entities, whatever their legal nature, are required to provide information, advice and collaboration in the aspects and in the manner required (Article 11 of the AML Law). In this sense, in order to identify whether a natural or legal person has or controls accounts, the prosecutor may request the court to lift bank secrecy in order to obtain the relevant documentation (Article 211 of the CCP). Article 177 of the CCP provides that reports may be required on data contained in official or private registers. The omission or delay in the response, false information in the report or concealment of data should result in the corresponding responsibilities. Pursuant to Article 25 of the AML Law, the UIAF has the power to request the information it deems necessary, including certain accesses to databases. In addition, Article 28 provides for the exchange of information with national authorities, and the UIAF may support law enforcement and investigative authorities by sharing information regarding asset identification.
- (b) In accordance with Article 24 of the AML Law, the UIAF may instruct the RIs to prevent, for a period of up to 72 hours, the realization of any transactions suspected of involving assets from ML and predicate offenses. The decision must be communicated to the competent criminal court, which, considering the circumstances of the case, will determine if it corresponds, without prior notice, the immobilization of the assets of the participants, their representative titles, as well as access to security boxes. Regarding TF, Article 4 of Law 19,749 establishes that the RI must immediately notify the UIAF if they made a provisional freezing of assets, and notify the competent criminal court, which will have a

period of up to 72 hours, to determine whether said freezing corresponds to a natural or legal person or entity mentioned by the UN in the lists that correspond to the UNSC, without prior notification, and will decide whether or not to maintain the freezing.

CT294. *Criterion 31.4* – In accordance with criterion 31.1 (a), the Public Prosecutor's Office may request from public institutions all necessary information that is available in the records for the investigation to be carried out (Article 45 subparagraph k of the CCP).

Weighting and Conclusion

CT295. Uruguay meets all the criteria. **R.31 is rated Compliant.**

Recommendation 32 — Cash Couriers

CT296. In Uruguay's MER of the 3rd Round of Mutual Evaluations, SR. IX had been rated LC. On that occasion, it had been concluded that there was a need to strengthen human resources and improve technological resources.

CT297. *Criterion 32.1* – Article 29 of the AML Law establishes the obligation to declare the transport of cash, precious metals or other monetary instruments across the border in excess of USD 10,000 or its equivalent in other currencies, both upon entry into and exit from the national territory. In the case of natural and legal persons subject to the control of the BCU, regardless of the modality involved, the declaration should be made before the BCU itself in accordance with Article 317 of the RNRCFSF and the procedure foreseen in Communication 2013/069, which establishes an electronic declaration system.

CT298. As regards natural and legal persons not under the control of the BCU, Decree 379/018 applies, which in Article 100 provides that natural or legal persons not subject to the control of the BCU who transport cash, precious metals or other monetary instruments across the border in an amount greater than USD 10,000 should declare it to the DNA. In the case of accompanied luggage, it should be declared on the Accompanied Luggage Declaration Form established by the Executing Unit. In the case of luggage arriving in cargo condition, it should be declared in the corresponding cargo guides or documentation.

CT299. *Criterion 32.2* –

- (a) N/A
- (b) Article 29 of the AML Law establishes the obligation to declare the transport of cash, precious metals or other monetary instruments across the border in excess of USD 10,000 or its equivalent in other currencies, both upon entry into and exit from the national territory.
- (c) N/A

CT300. *Criterion 32.3* – Uruguay has a declaration system, not a disclosure system.

CT301. *Criterion 32.4* – When a false declaration of currency or bearer negotiable instruments is discovered, or in the absence of a declaration, the customs and judicial authorities are empowered to request the information they understand to be relevant. Within this framework, Article 29 of the AML Law adds that, in the event that the transportation of funds or securities is found to be in violation of the provisions of the law, the competent authority should proceed with their detention, immediately adopt the pertinent measures for the purposes of the initiation of the corresponding administrative procedure and request, within the following 48 working hours, the necessary precautionary measures to ensure the State's right to collect the applicable fine. In addition, Article 29 provides that the competent authority should immediately request the judicial order of seizure when there are well-founded suspicions that the undeclared funds or securities come from any of the crimes typified in the AML Law or from the predicate criminal activities established in Article 34 of the Law. Proof of a different origin produced by the owner of the seized funds or securities should determine their return, without prejudice to the precautionary measures taken to ensure payment of the fine. Article 100 of Decree 379/18, which regulates article 29 of the AML Law, adds in subparagraph 5: Once the non-compliance of the obligation has been established, either by omission to declare or by lack of accuracy in the declaration, the DNA should proceed to the detention of the funds or securities, should immediately submit the information to the Ministry of Economy and Finance for the initiation of the corresponding administrative procedure for the purpose of the application of the fine, should report to the competent Criminal Justice, should inform the UIAF and should request, within the following 48 working hours, the necessary precautionary measures to ensure the State's right to its collection.

CT302. *Criterion 32.5* – Persons who make a false declaration or disclosure are subject to proportional and dissuasive sanctions, in accordance with Article 29 of the AML Law. In the case of FIs, sanctions foreseen in Article 12 of the AML Law are applicable to them, which enables the application of the range of sanctions established in Law 15.322, namely: Observation, warning, fines, intervention, total or partial substitution of authorities, total or partial suspension of activities with express setting of term, temporary or definitive revocation of the authorisation of financial companies and revocation of the authorisation to operate. With respect to persons not subject to the control of the BCU, they should be subject to a fine up to the amount of the undeclared amount.

CT303. *Criterion 32.6* – The computer system that receives the declarations made by the persons subject to the control of the BCU is administered directly by the UIAF. In addition, the DNA sends to the UIAF files with the information of the declarations made by the rest of the natural and legal persons, in accordance with Article 3 of Decree 255/006.

CT304. *Criterion 32.7* – The UIAF receives information from the DNA, in accordance with Article 3 of Decree 255/006. Likewise, in accordance with Decree 471/006, whenever the DNA finds that the declaration of transport of valuables across the border is false, the official acting should immediately report the fact to the competent Criminal Justice. It is appreciated the existence of coordination between the DNA and other relevant authorities with respect to the implementation of the declarations and their control.

CT305. *Criterion 32.8* – With regard to the powers of competent authorities, it is mentioned:

- (a) Article 29 of the AML Law provides that the competent authority should immediately request the judicial order of seizure when there are well-founded suspicions that the undeclared funds or securities come from any of the crimes typified in the AML Law or from the predicate criminal activities established in Article 34 of the Law, even when committed abroad.
- (b) Article 29 of the AML Law provides that once the illegal transportation of values is found, the competent authority should proceed with their detention, immediately adopt the pertinent measures for the purposes of the initiation of the corresponding administrative procedure and request, within the following 48 working hours, the necessary precautionary measures to ensure the State's right to collect the applicable fine.

CT306. *Criterion 32.9* – There are no legal restrictions on providing international cooperation and assistance with respect to information relating to R.32. It should be mentioned that all information on the transportation of cash and bearer negotiable instruments received by the UIAF may be shared with national competent authorities and foreign financial intelligence units.

CT307. *Criterion 32.10* – Information gathered through the declaration system is subject to the rules applicable to competent authorities on confidentiality and proper use. There are no indications that trade payments or free movement of capital are restricted or affected by the obligation to declare.

CT308. *Criterion 32.11* – Persons transporting foreign exchange and BNIs related to ML/TF and/or predicate offences are subject to the corresponding administrative and criminal sanctions. Moreover, it should be highlighted that Article 29 of the AML Law provides that in the event that the transportation of funds or securities is found to be in violation of the provisions of the law, the competent authority should proceed with their detention, immediately adopt the pertinent measures for the purposes of the initiation of the corresponding administrative procedure and request, within the following forty-eight working hours, the necessary precautionary measures to ensure the State's right to collect the applicable fine. The judge should fix the term during which the measures ordered should be maintained, which may not exceed six months and may be extended for well-founded reasons.

CT309. Without prejudice to the foregoing, the competent authority should immediately request the judicial order for seizure, when there are well-founded suspicions that the undeclared funds or securities come from any of the crimes typified in the law, or from ML predicate criminal activities, even when committed abroad, under the condition that the behaviour also constitutes a crime in Uruguayan law. Proof of a different origin produced by the owner of the seized funds or securities should determine their return, without prejudice to the precautionary measures taken to ensure payment of the corresponding fine.

Weighting and Conclusion

CT310. Uruguay meets all the criteria of the R. **R.32 is rated Compliant.**

Recommendation 33 — Statistics

CT311. In the IEM of the 3rd Round of Mutual Evaluations, Uruguay was rated LC for former R.32 corresponding to statistics. In this regard, it was identified that although the country has statistics on seized and confiscated goods, no distinction is made as to which of these goods originate from ML. The SSF maintains statistics related to the inspections carried out on the entities it supervises, highlighting those carried out on financial intermediation institutions, exchange houses, securities brokers and investment fund managing companies. Statistics were also identified on STRs, cross-border transportation of cash, national cooperation and coordination, as well as mutual legal assistance.

CT312. *Criterion 33.1* – The SENACLAFT, based on Article 4 of the AML Law, subparagraph G, should prepare and disseminate periodic statistics on the functioning of the national AML/CFT system. To this end, all agencies possessing relevant information on the matter should provide the information required by the Secretariat within the time limits established by it. In addition, in 2015, Uruguay, with the assistance of the Inter-American Development Bank (IDB), implemented a work plan to improve the data generation, analysis, maintenance and sharing capacity of the different national institutions of the national AML/CFT/FPWMD system. As a result, a National System of Statistics was developed that to date collects information only from the SENACLAFT, the BCU/UIAF, the National Directorate of Registries (DGR), the Seized Property Fund (FBD), the Ministry of Interior and the Judiciary, since not all institutions have yet been incorporated into this computer system for the presentation of information. The system works by loading a series of indicators provided by the above-mentioned agencies, which provide statistical information for analysis in SENACLAFT's Strategic Analysis Observatory. The information is translated into statistical tables that help to observe ML/TF trends and typologies, as well as to identify risks, establish patterns of future risks and measure the performance of the AML/CFT system in terms of national and international cooperation and collaboration.

CT313. The indicators provided by the institutions correspond to the following statistics:

- a) The BCU and the UIAF maintain statistics on STRs received and submitted to the courts, and financial transaction reports. Similarly, supervisory actions and entities supervised, as well as information on the transportation of cross-border securities are recorded.
- b) The Ministry of Interior keeps statistics on criminal complaints, cases initiated by the prosecutor's office, number of cases prosecuted with charges for predicate offences and ML. In addition, the statistics maintained by the Judiciary correspond to convictions and prosecutions related to the crime of ML, its predicate offences and TF.
- c) The FBD presents values and property seized, confiscated, returned and auctioned by type of crime and property, open and closed cases by type of crime, amounts of money by currency.
- d) Requests for cooperation exchanged by the FIU are covered in the information submitted by the BCU/UIAF, while requests made through the RRAG are provided through the SENACLAFT. MLA requests are provided by the Central Authority for International



Cooperation and are manually integrated into the system since this institution is not yet incorporated.

Weighting and Conclusion

CT314. Uruguay meets all the criteria. **R.33 is rated Compliant.**

Recommendation 34 — Guidance and Feedback

CT315. In the 2009 MER, Uruguay was rated NC in the former R.25. The main deficiency identified was that the lack of effective supervision and control of DNFBPs results in competent authorities not providing feedback to the supervised entities.

CT316. *Criterion 34.1* – The UIAF has published a set of guidelines with the objective of assisting RIs in detecting unusual patterns in customer transactions and FT-related irregularities. In addition, the UIAF prepared a best practices document for suspicious transaction reporting and based on this document, feedback sessions have been developed with the main reporters to analyse the quality of suspicious transaction reports.

CT317. With regard to financial RIs, Article 35 subparagraph A of the TOCO provides that the SSF may issue general prudential rules, as well as specific instructions to promote, among other tasks, the prevention and control of ML/TF. Uruguay also has a "Minimum Management Standards" document that establishes a set of good practices for ML/TF risk management. This document is applicable to banks, insurance companies and pension fund managers, and can be extrapolated to other market sectors.

CT318. For its part, the SENACLAFT is empowered to issue guides or guidelines to support RIs in understanding and fulfilling their obligations. In addition, in Article 3 of the AML Law, the Coordinating Commission against ML/TF has the power to appoint Operational Committees in the areas it considers relevant, and the final paragraph of the article states that these committees may "be constituted as a support and advisory structure for public and private entities." By virtue of the foregoing, the SENACLAFT created, within the framework of the liaison committee with DNFBPs, working groups with the different sectors, namely: Casinos, Auctioneers, Real Estate and Company Administrators (incorporating the new DNFBPs provided for in the AML Law into these groups). These working groups are a forum for exchange between the RIs and the supervisor, where consultations are held, and the supervisor gives feedback on the degree of compliance with the DNFBPs' obligations.

Weighting and Conclusion

CT319. Uruguay meets all the requirements. **R.34 is rated Compliant.**

Recommendation 35 — Sanctions

CT320. Uruguay was rated C in the former R.17 in the MER of the 3rd Round of Mutual Evaluations.

CT321. *Criterion 35.1* – Article 12 of Law 19.547 provides that sanctions and administrative measures provided for in Article 20 of Decree-Law 15.322 should be applied to the RIs of the financial sector supervised by the BCU in case of non-compliance with their AML/CFT obligations. The SSF is empowered to apply observation sanctions and fines of up to 10% of the basic patrimonial responsibility of the banks, as well as to propose the application of more serious pecuniary sanctions or other measures, such as suspension of activities or revocation of the authorisation to operate. In addition, there is a range of sanctions applicable in the respective Compilations of Standards: Articles 664 of the RNRCSF, 351 of the RNMV, 160 of the RNSR, 167 of the RNCFP and 53 of the RNSP.

CT322. With regard to the DNFBP sector, Article 13 of the AML Law provides that the SENACLAFT is the authority in charge of imposing the corresponding sanctions for non-compliance with the obligations foreseen for the RIs listed in the same article. By means of Resolution 016/17 of October 24, 2017, the SENACLAFT established a series of guidelines for the application of sanctions defined in the law, which serve as a guide for RIs to be previously aware of them and of what certain conduct of non-compliance entails. The document classifies possible sanctions as minor, severe and serious, imposing them as follows: i) minor: warning, observation or fine³¹; ii) severe: fine and may be sanctioned with an observation according to the profile of the RI and the volume of the operation; and iii) severe: fine, temporary or definitive suspension with prior judicial authorisation. In this sense, in order to carry out the sanctions, the criteria established in this document should be taken into account, such as the magnitude of the infraction, the amount of the transaction, the profile of the RI and its economic capacity.

CT323. *Criterion 35.2* – With regard to the financial sector, Article 23 of Decree-Law 15.322 states that the BCU has the power to apply sanctions to representatives, directors, managers, administrators, mandataries, trustees and auditors of financial intermediation companies that fail to perform their functions. Sanctions include fines between 100 and 10,000 RU, or disqualification from holding office for a period of up to 10 years. Similarly, the SSF may investigate the personnel of the supervised entities and propose to the Board of Directors of the BCU that the above-mentioned sanctions be applied (Article 35, subparagraph N of the TOCO). In addition, DNFBPs are subject to administrative sanctions on either natural or legal persons; however, there is no regulation providing for the application of administrative sanctions to directors or senior managers.

Weighting and Conclusion

CT324. Uruguay has a range of administrative sanctions to be applied to natural or legal persons in case of non-compliance with their AML/CFT obligations. Directors and senior managers of the financial sector may be sanctioned; however, in the DNFBP sector, Uruguay does not have a regulation that includes sanctions for such administrative positions. **R.35 is rated Largely Compliant.**

³¹ Fines range from at least 1,000 IU and maximum 20,000,000 IU.

Recommendation 36 — International Instruments

CT325. In the 2009 MER of the 3rd Round of Evaluations, R.36 was rated LC (former R.35, SR. I). The main deficiencies identified were that i) the Palermo Convention was not yet fully implemented with regard to the criminalisation of ML, the disposal of confiscated assets, freezing mechanisms, among other aspects, ii) the International Convention for the Suppression of the Financing of Terrorism remains not fully in force with regard to the criminalisation of TF, and iii) there are no procedures describing the freezing mechanism.

CT326. *Criterion 36.1* – Uruguay approved the Vienna Convention on September 21, 1994 (Law 16.579), the Palermo Convention on December 15, 2004 (Law 17.861), the Merida Convention on November 20, 2006 (Law 18.056) and the International Convention for the Suppression of the Financing of Terrorism on October 27, 2003 (Law 17.704).

Criterion 36.2 – Uruguay implemented the provisions of the Vienna, Palermo and Merida Conventions in accordance with the AML Law. Whereas the International Convention for the Suppression of the Financing of Terrorism is addressed by the CFT Law.

Weighting and Conclusion

CT327. The Vienna Convention and the Palermo Convention are fully implemented in terms of ML. **R.36 is rated Compliant.**

Recommendation 37 — Mutual Legal Assistance

CT328. Former R.36 and SR. V were rated LC in the MER of the 3rd Round of Mutual Evaluations. It was concluded that the procedure should be improved to expedite mutual legal assistance and that procedures should be in place to ensure expeditious mutual legal assistance in the absence of international agreements.

CT329. *Criterion 37.1* – Uruguay has the AML Law as the legal basis for mutual legal assistance (MLA), which may be provided in accordance with bilateral and multilateral treaties ratified by the country, and in the absence of such treaties, based on the principle of reciprocity. The agencies responsible for administering the MLA are the MEC, through its Central Authority for International Legal Cooperation, the Judiciary, the Public Prosecutor's Office and the Ministry of Foreign Affairs. The competent authorities of Uruguay should provide MLA in accordance with Articles 68-77 of the Law.

CT330. Article 68 determines that the Directorate of International Legal Cooperation and Justice of the MEC receives and processes requests for international legal cooperation from foreign authorities in relation to ML offences and predicate offences. On the basis of the international treaties in force at the national level, these requests should be sent directly and without delay to the

competent national authorities for their processing. At the same time, the courts should verify that the request is duly founded, contains the necessary information of the applicant and the translation into Spanish, if necessary (Article 70). However, deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.

CT331. *Criterion 37.2* – Based on the aforementioned criterion, the Central Authority is the competent entity to deal with MLA requests from countries Uruguay has signed treaties with. This authority follows up the cases received and prioritizes them on the basis of the type of offence in question; a record is made and subsequently an analysis is conducted to refer them to the corresponding courts. For its part, the Ministry of Foreign Affairs deals with requests from countries with which no MLA treaties have been signed. In these cases, the general principles of law are applied, which state that in the absence of a treaty, the information should be requested through diplomatic channels.

CT332. Requests should be sent directly and without delay to the competent national authorities, and the courts should verify that they comply with the requirements established in the AML Law for processing and attention.

CT333. *Criterion 37.3* – MLA is not prohibited or subject to unreasonable or undue restrictive conditions. MLA is established as a doctrinal principle and in Uruguayan jurisprudence. Article 73 states that MLA requests may only be rejected by national courts when they conclude that they may seriously affect public order, as well as the security of the Uruguayan State.

CT334. *Criterion 37.4* –

- (a) National legislation does not provide for refusal of MLA in cases where the offence also involves tax matters. Article 34, numeral 25 of the AML Law establishes that the tax offence is a predicate offence for ML.
- (b) Similarly, the possibility of denying MLA for reasons of secrecy or confidentiality requirements of FIs or DNFBPs is not contemplated. Article 25 of Decree Law 15.322 indicates that financial secrecy is not opposable before criminal justice resolutions. In the case of a foreign request for suspension of financial secrecy, the Central Authority submits the request to the competent criminal court, which, after intervention by the competent prosecutor, should consider the request to determine whether its granting is justified (Article 72 of the AML Law and Article 211 of the CCP).

CT335. *Criterion 37.5* – By virtue of the principles contained in the bilateral and multilateral treaties signed by Uruguay, as well as the provisions of Article 42 of the AML Law, the country keeps MLA requests confidential. The reservation period contemplated in Article 259 of the CCP, which states that investigations carried out by the Public Prosecutor's Office and the administrative authority should be reserved for third parties not involved in the procedure, should not apply. The prosecutor is entitled to order that certain actions, records or documents used in the investigation remain confidential for a period of 40 days for the accused if he considers it necessary to ensure the effectiveness of the investigation.

CT336. *Criterion 37.6* – Dual criminality is not required when the assistance requested is basic, evidentiary or merely procedural, with the exception of cases in which precautionary measures are requested. Likewise, the MLA should be provided by the courts if the conduct that motivates the investigation, prosecution or procedure constitute a crime or not in Uruguay (Article 71 of the AML Law).

CT337. *Criterion 37.7* – In accordance with Article 71 of the AML Law, "in cases of international legal cooperation in criminal matters, it should be provided by the national courts, and the judge should examine whether the conduct motivating the investigation, prosecution or procedure in the requesting State constitutes a crime or not, in accordance with national law." Dual criminality is determined on the basis of the predicate criminal behaviour and not on the basis of the name given to the criminal offence.

CT338. *Criterion 37.8* – The powers and investigative techniques required in R.31 are available for use by national competent authorities in response to MLA requests.

- (a) Competent authorities have the power to request all information and documentation needed to support an ongoing investigation. In criminal proceedings, legal substance includes the production, search and seizure of documents or evidence, statements, delivery of subpoenas, identification of assets and imposition of preventive measures or confiscation, extradition and enforcement of court judgments. The foregoing is in accordance with Articles 147-165 and 197-212 of the CCP.
- (b) In accordance with the provisions of the AML Law, authorities have the power to exchange information available at the national level with foreign counterparts for purposes of investigation of ML/TF offences and predicate offences. Authorities may employ the techniques described in R.31 and numbered in Articles 205-210 of the CCP, as well as special investigative techniques such as controlled delivery, electronic surveillance and undercover agents (Articles 61-67).

Weighting and Conclusion

CT339. Uruguay has the legal framework that allows it to provide MLA. However, it should be pointed out that the technical deficiencies identified with regard to the criminalisation of ML, and the minor deficiency identified with regard to TF, limit the authorities' power to provide MLA. **R.37 is rated Largely Compliant.**

Recommendation 38 — Mutual Legal Assistance: Freezing and Confiscation

CT340. In the MER of the 3rd Round of Mutual Evaluations, R.38 was rated LC. At that time, it was identified that there are no specific provisions relating to procedures for coordinating the seizure and confiscation actions of other countries.

CT341. *Criterion 38.1* – Pursuant to the foregoing in R.37, in accordance with the provisions of the AML Law, the Directorate of International Legal Cooperation and Justice of the MEC should receive and process requests for international legal cooperation from foreign competent authorities

that refer to legal assistance in relation to procedures, evidences, precautionary measures, or freezing measures, confiscation or transfer of assets related to ML/TF. The Directorate should send these requests directly and without delay to the administrative authorities so that the request may be processed. National courts with jurisdiction in the matter should verify that the request is duly substantiated containing the information of the applicant and, as the case may be, that it is translated into Spanish (Articles 68 and 70).

CT342. In special situations where requests for searches, lifting of bank secrecy, seizure and delivery of any object are filed, the national court should determine whether it has the necessary information to justify the requested measure (Article 72). For such purposes, whenever an investigation is initiated for predicate offences, the court, considering the circumstances of the case, should conduct a parallel economic-financial investigation for the identification and tracking of assets, terrorist funds or other assets that are subject to confiscation (Article 41).

CT343. In addition, the court may adopt precautionary measures to ensure the availability of property that may be confiscated as a consequence of the commission of ML crimes and predicate offences. It should provide, at the request of the Public Prosecutor's Office, for the confiscation of:

- (a) Property and proceeds of crime, property and proceeds from the application of proceeds of crime,
- (b) Funds, assets or resources derived from the property and proceeds of crime,
- (c) Property or instrumentalities used to commit the ML/TF offence,
- (d) No reference is made to instruments intended to be used in ML, predicate offences or TF.
- (e) Property for an equivalent value.

CT344. The foregoing in accordance with Articles 43, 50 and 51 of the AML Law. In addition, it is important to mention that the deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.

CT345. *Criterion 38.2* – Non-conviction-based procedures and measures are provided for in the AML Law. Article 52 applies to full confiscation when the competent court, at any stage in which the accused was not present, issues the corresponding detention order, when the freezing of assets has been applied in accordance with Article 24, and when the funds or securities not declared in accordance with Article 29 have been seized. In the above cases, if no evidence is presented within a period of six months that the assets do not proceed from ML/TF, the right over the property, products, instruments, funds, assets or resources that have been seized should be forfeited. Full confiscation also applies if it is identified that property comes from ML/TF and is not claimed. In the event of death, the property seized should be confiscated once its illicit origin is established without the need for a criminal conviction (Article 54).

CT346. *Criterion 38.3* – Article 59 of the AML Law provides that confiscated property, products or instruments that are not destroyed and that are not harmful to the population should be made available to the National Narcotics Board. The Board may determine the destination of the funds and assets kept and may assign them for official use to public or private entities involved in programs or projects related to the prevention of drug abuse, ML/TF. Likewise, in order to

coordinate seizure and confiscation actions, the Eastern Republic of Uruguay signed a framework agreement with the Republic of Argentina for the disposition of confiscated assets.

CT347. *Criterion 38.4* – Article 60 of the AML Law establishes in terms of distribution of confiscated property that cooperation with other States is a priority, in order to recover property involved in transnational organised crime. In each case, the nature and importance of the property recovered should be considered, as well as the complexity and effectiveness of the cooperation provided by each of the States participating in the recovery. Uruguay has the power to sign agreements in this area. The Framework Agreement for the Disposition of Confiscated Property from Transnational Organised Crime in MERCOSUR was recently adopted.

Weighting and Conclusion

CT348. Uruguay has the power to take action in response to requests to identify, freeze, seize or confiscate laundered proceeds of ML/TF and instruments used in connection with it. However, no reference is made to instruments intended to be used in ML, predicate offences or TF. Moreover, the AML Law establishes in terms of distribution of confiscated property that cooperation with other States is a priority, in order to recover property involved in transnational organised crime. In addition, without prejudice to the foregoing, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML, and the minor deficiency identified with regard to TF, limit the power of the authorities to provide cooperation in accordance with this R. **R.38 is rated Largely Compliant.**

Recommendation 39 — Extradition

CT349. R.39 was rated C in the 2009 MER.

CT350. *Criterion 39.1* – In Uruguay extradition is governed by international conventions and agreements ratified by the country. To date there are eight international instruments and eleven bilateral agreements. It is also regulated under Articles 329 to 350 of the CCP. Uruguayan legislation provides for extradition for ML and TF, regardless of the nationality of the requested individual.

- (a) While the CCP regulates extradition, Article 76 of the AML Law stipulates that ML offences and predicate offences, including TF, are extraditable.
- (b) Article 329 of the CCP establishes that the extradition process should be governed by the norms of international treaties or conventions ratified by Uruguay. In addition, based on Article 334 of the CCP, extradition requests should be submitted to the Ministry of Foreign Affairs by the representative of the requesting country, or directly from Government to Government, accompanied by the documentation described in Article 336 of the CCP. Once the extradition request has been received, the Executive Power, with the intervention of the Central Authority, should forward it to the Supreme Court of Justice so that it may send it to the appropriate Legal Court (Article 340 of the CCP). The general extradition procedure is contained in Articles 334, 336 and 340-349 of the CCP. In addition, on the basis of the "Protocol of Action" of the Central Cooperation Authority, it will examine and

report the extradition request, immediately referring it to the appropriate authority. It is also stipulated that when communication is received from the requested authorities that extradition has been granted, it should be communicated immediately to the requesting authorities, and in all cases the information should be forwarded electronically.

- (c) There are no unreasonable restrictive conditions in the execution of requests under Uruguayan law. It is only mentioned that Article 335 of the CCP provides that the Executive Power may reject extradition requests if they could be detrimental to the internal order of the country or if they do not allow it to conduct its international relations properly. A request may also be refused if the requesting country does not have similar legislation to that of Uruguay.

CT351. However, deficiencies in the criminalisation of ML prevent full compliance with this criterion.

CT352. *Criterion 39.2 –*

- (a) In accordance with Article 333 of the CCP, there is no impediment for Uruguayan nationals to be extradited.
- (b) Not applicable.

CT353. *Criterion 39.3 –* Article 331, subparagraph f of the CCP indicates that extradition should not proceed if the conduct that motivates it is not provided for as an offence in both legislations. In order to prove this, attention should not be paid to the denomination of the offences, but to the similarity of the respective typical descriptions. Moreover, Article 71 of the AML Law related to the dual criminalisation, sets forth that in cases of international legal cooperation in criminal matters, it should be examined whether the conduct motivating the investigation, prosecution or procedure in the requesting State constitutes a crime or not, in accordance with national law.

CT354. *Criterion 39.4 –* Through Article 344 of the CCP, Uruguay has simplified extradition mechanisms in place, where the court should ask the requested person to express consent or object to extradition. If there is consent, then the court should carry it out without further formalities and this resolution does not admit an appeal. Similarly, in the event of emergency situations, the preventive arrest of the requested person may be requested and the seizure of the effects or instruments of the crime in his or her possession may be ordered (Article 338 of the CCP). Some of the treaties signed by Uruguay provide for this extradition procedure.

Weighting and Conclusion

CT355. Uruguay can execute extradition requests in relation to ML/TF, nationals can be extradited, there are no unreasonable restrictive conditions to deny an extradition request and it has simplified extradition mechanisms. In addition, without prejudice to the foregoing, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML limit the

power of the authorities to provide cooperation in accordance with this R. **R.39 is rated Largely Compliant.**

Recommendation 40 — Other Forms of International Cooperation

CT356. In the past MER of the 3rd Round, R.40 was rated Compliant.

General Principles

CT357. *Criterion 40.1* – The UIAF, the Public Prosecutor’s Office, police authorities, the DNA and the SENACLAFT are empowered under the AML Law to provide the widest range of cooperation expeditiously with their foreign counterparts in relation to ML offences and their predicate offences, including FT. The Central Authority, the Judiciary and the Public Prosecutor’s Office, as part of the Ibero-American Network of International Legal Cooperation (IberRed) can exchange information between contact points of the central authorities, Public Prosecutor's Office and the judiciary of the member countries.

CT358. The Public Prosecutor’s Office has signed bilateral agreements with other Public Prosecutor's Offices and Prosecutors to promote the exchange of non-formal information at the international level, as well as agreements within the framework of the Ibero-American Association of Prosecutor' Offices (AIAMP) and the Specialized Meeting of Mercosur Prosecutor's Offices. Uruguay has used the spontaneous submission of information by the Public Prosecutor’s Office. For its part, the UIAF may exchange information with its counterparts for the investigation of ML crimes and predicate offences and may sign memorandums of understanding for such purposes (Article 27). The DNA is a member of the World Customs Organisation (WCO) and information is exchanged through the contact points for combating customs fraud and dismantling transnational criminal organisations. The SENACLAFT exchanges informal information on property and persons and it is the contact point of the GAFILAT Asset Recovery Network. However, deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.

CT359. *Criterion 40.2* – Uruguay has a legal framework that allows its competent authorities to provide international cooperation. In this sense:

- (a) As mentioned in criterion 40.1, Article 27 of the AML Law states that, on the basis of the principle of reciprocity, the UIAF may exchange information with its counterparts for the investigation of ML and predicate offences. The UIAF may sign memoranda of understanding.

Uruguay has multilateral instruments to provide international cooperation, which are approved in the country's legislation. These agreements were signed in the areas of mutual assistance, corruption, transnational organised crime, illicit drug trafficking, terrorism and international child trafficking. It also has bilateral agreements with seven countries.

- (b) Uruguay has the instruments or agreements that make it possible for it to offer the widest possible cooperation and to use the means that are deemed most efficient, without any limitations. The legal provision does not establish any restrictions on information to be

shared by the UIAF as long as it is relevant to an investigation and the criteria of reciprocity are met.

- (c) Competent authorities have clear and secure channels that allow for the transmission and execution of requests.

The UIAF is a member of the Egmont Group which allows the Unit to exchange information with other FIUs through the Egmont Secure Web. The SENACLAFT conducts its requests and exchanges with RRAG members using the secure Information Platform and as a member of this Network, Uruguay can exchange informal information with other international asset recovery networks. The DNA has a Customs Enforcement Network that allows for the collection of non-nominal data and information and acts as a central repository for seizures and customs offences. Finally, the Central Authority, the Public Prosecutor's Office and the Judiciary, being part of the IberRed, have access to a secure non-formal communication network and it is used to advance urgent requests for cooperation that will subsequently have to be made by formal means.

- (d) The UIAF has defined a procedure for dealing with information requests received. The process is quality certified in accordance with ISO 9001:2015. With regard to the DNA, it has an Information Exchange Procedure that ensures timely assistance and response. Notwithstanding the foregoing, there is no evidence that the other competent authorities have this power.
- (e) Information can only be provided under confidentiality rules and is treated in the same way as national information. Information requests received and sent by the UIAF are handled in a secure system (SIDELAV), which has restricted access and through tokens. The exchange of information and assistance is managed by DNA through the Mantis auditable application and ensuring transparency in the procedure. The DNA performs the assistance and information requests received and sent by means of established procedures, safeguarding the integrity of its contents. These are processed on the basis of audit guidelines, which may examine the activities carried out by the recipients and those in charge of processing the requests, as well as their content, through a secure exchange channel. The Risk Control and Management Area has Management Indicators that allow the evaluation of the information exchange procedure in its degree of compliance and their response time.

CT360. *Criterion 40.3* – Pursuant to Article 27 of the AML Law, the UIAF may enter into memoranda of understanding with its counterparts for the exchange of information. The Public Prosecutor's Office, within the framework of Mercosur, contemplates two fundamental legal instruments for the strengthening of international cooperation in the region based on the principle of mutual recognition (CMC/DEC 22/2010). Similarly, the MERCOSUR meeting of Ministers of Justice adopted an amendment to the Protocol on Mutual Legal Assistance in Criminal Matters that facilitates cooperation in border areas, which was approved by CMC/DEC 6/2018. Uruguay is also a member of the IOSCO Multilateral Agreement of Understanding on Consultation, Cooperation and Exchange of Information. The SENACLAFT does not require the signing of agreements in order to carry out the exchange of information. It is not clear whether other law enforcement authorities can enter into bilateral or multilateral agreements when necessary or, as the case may be, that they are not needed for the exchange of information.

CT361. *Criterion 40.4* – In case feedback is requested with respect to the assistance provided and the usefulness of the information, the Uruguayan authorities have no legal limitations to be able to provide such feedback. However, it is not specified that this should be provided in a timely manner if any request is made.

CT362. *Criterion 40.5* – The AML Law provides that competent authorities should provide the widest range of cooperation, always in accordance with the principle of reciprocity. In the particular case of the UIAF, Article 27 of the AML Law indicates the criteria that should be met in order to provide information. Uruguay's legislation does not establish unreasonable or undue restrictions on the exchange of information. In this sense:

- (a) In accordance with Article 34 of the AML Law, the tax offence is incorporated as a predicate offence of ML, so it is possible to provide international cooperation. It is also indicated that, for purposes of exchange of information between countries, the thresholds established within the numerals of this article should not apply.
- (b) RIs are required to provide the information required on ML/TF matters and the provisions relating to secrecy or secrecy of information are not enforceable (Articles 6 and 26 of the AML Law).
- (c) There are no rules that prevent cooperation in case there is an inquiry, investigation or procedure in Uruguay. If the case arises, the information request should be channelled through international legal cooperation mechanisms.
- (d) With respect to the UIAF, there are no rules for rejecting the request because of the nature or condition of the foreign counterpart. There is no evidence that the same criteria apply to other competent authorities.

CT363. *Criterion 40.6* – Article 22 of the AML Law determines that information received by the UIAF from its foreign counterparts should be treated in the same manner as suspicious transaction reports. Such information may not be used in criminal or administrative proceedings in Uruguay nor may it be shared with another national authority, except with the authorisation of its counterpart. There is no evidence that the same criteria apply to the other competent authorities.

CT364. *Criterion 40.7* – In addition to the foregoing criterion, Article 27 subparagraph (b) of the same law provides that, as a requirement for the exchange of information, if the counterpart is not part of the Egmont Group, it should be verified that the institution and its officials are subject to the same obligations of professional secrecy that apply to the UIAF. If this requirement is not met, then the UIAF may refuse to provide the requested information. There is no evidence that the same criteria apply to the other competent authorities.

CT365. *Criterion 40.8* – Competent authorities have the ability to exchange available information with their foreign counterparts for the investigation of ML and predicate offences. The UIAF and DNA have no restrictions to conduct investigations. However, there is no reference in the AML Law to competent authorities conducting inquiries on behalf of foreign counterparts.

Exchange of Information between FIUs

CT366. *Criterion 40.9* – Pursuant to Article 27 of the AML Law, the UIAF may cooperate with the authorities of other countries, on the basis of the principle of reciprocity, to exchange information relevant to the investigation of ML offences and predicate offences, including TF. In addition, as mentioned above, the UIAF may enter into memoranda of understanding with its counterparts. However, deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.

CT367. *Criterion 40.10* – The UIAF provides feedback to its foreign counterparts regarding the use of the information provided. In the framework of a meeting held in 2018 with the FIU of Argentina, both authorities analysed the quality of the exchange of information that has been taking place between their Units and how it could be improved in order to favour investigations in their respective countries.

CT368. *Criterion 40.11* – The UIAF is empowered to exchange information under the AML Law:

- (a) and (b) Based on Article 27, subparagraph A, the UIAF may provide relevant information to its foreign counterparts if it is to be used to investigate a case related to the offence of ML, predicate offences, or TF. The foregoing, in accordance with the principle of reciprocity. Likewise, pursuant to Article 26 of the AML Law, the UIAF has the power to request the information it deems necessary from RIs and the national authorities to strengthen the response.

Exchange of information between financial supervisors

CT369. *Criterion 40.12* – Article 35 subparagraph U of the TOCO authorizes the SSF to sign cooperation agreements with international financial organisations and supervisory agencies of foreign countries in the areas related to their tasks and attributions, for the purpose of exchanging information. The information exchanged may not include data considered confidential (Article 25 of Decree Law 15.322).

CT370. *Criterion 40.13* – The BCU signed the IOSCO Multilateral Agreement of Understanding on Consultation, Cooperation and Exchange of Information. Under this agreement, the information and documentation available in the files of the requested authority is to be provided. For its part, the SSF has signed MOUs with all home supervisors of banking entities based in the country. The information refers to any information that the financial supervisor may obtain from its obligations.

CT371. *Criterion 40.14* – Financial supervisors may exchange information with foreign counterparts.

- (a) Information on the national legislative system. Such information is of a public nature.
- (b) and (c) Prudential information, information on internal AML/CFT policies and procedures of FIs, CDD, files, and transaction information. Such information is provided for supervisory purposes only.

CT372. *Criterion 40.15* – For the Securities Exchange Market, the IOSCO Multilateral Understanding Agreement provides for the possibility of conducting inquiries on behalf of its foreign counterparts. Meanwhile, the MOUs for banks and insurance do not provide for the SSF to conduct inquiries at the request of supervisors of other countries but contemplates the possibility of *on-site* actions in Uruguay.

CT373. *Criterion 40.16* – The MOUs signed include provisions aimed at ensuring the confidentiality of information shared. It is provided that i) the information provided may not be disclosed to third parties without prior consent, ii) it should be used only for supervisory purposes, and iii) the foreign supervisor and its officers should have the same level of confidentiality and professional secrecy as the BCU.

Exchange of information between law enforcement authorities

CT374. *Criterion 40.17* – Pursuant to the AML Law, law enforcement authorities should have the authority to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, predicate offences and TF, including the identification and tracking of the assets that are the proceeds of the crimes mentioned. However, deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.

CT375. *Criterion 40.18* – Law enforcement authorities are authorized to use special investigative techniques to conduct inquiries and obtain information such as controlled deliveries, electronic surveillance, telephone and mail interception, and use of undercover agents (refer to criteria 31.1 and 37.8).

CT376. *Criterion 40.19* – Uruguay ratified the Framework Cooperation Agreement between Mercosur and Associated States for the Creation of Joint Investigation Teams (CMC-DEC-22/2010). Similarly, when research is requested through international legal cooperation, it is possible to form joint teams to facilitate the development of cooperative investigations.

CT377. *Criterion 40.20* – The SENACLAFT has the capacity to exchange information indirectly as long as the request is made through the RRAG contact points. The information request should be duly substantiated. There is no need for the authority to exchange information indirectly with those who are not counterparts to the other competent authorities.

Weighting and Conclusion

CT378. Competent authorities of Uruguay may provide international cooperation under the principle of reciprocity in relation to ML/TF offences and predicate offences. The FIU, the Public Prosecutor's Office and the SENACLAFT may enter into bilateral and multilateral agreements to facilitate this cooperation; however, it is not clear whether other law enforcement authorities may enter into these agreements when necessary or, where appropriate, that they are not needed for the



exchange of information. Additionally, it is not specified that feedback should be provided in a timely manner if any request is made. The UIAF has a procedure for dealing with information requests and for safeguarding the information it receives, but the same criteria are not applied to other competent authorities. Likewise, there is no need for the authority to exchange information indirectly with anyone who is not a counterpart, except for the SENACLAFT. In addition, it should be pointed out that the technical deficiencies identified as regards the criminalisation of ML, and the minor deficiency identified with regard to TF, limit the power of the authorities to provide other forms of cooperation in accordance with this R. **R.40 is rated Largely Compliant.**

Summary of Technical Compliance - Main Deficiencies

Compliance with the FATF Recommendations		
Recommendation	Rating	Factor(s) underlying rating
1. <i>Assessing risks and applying a risk-based approach</i>	LC	<ul style="list-style-type: none"> It is not observed that the NRA has addressed the risks of ML of predicate offences not covered by the legislation, such as environmental crimes, market manipulation and insider trading. Doubts remain as to whether, beyond the dissemination of the NRA, there have been additional feedback actions with the financial sector. There are certain limitations in the implementation of the RBA by DNFBP sectors.
2. <i>National Cooperation and Coordination</i>	C	
3. <i>Money Laundering Offence</i>	LC	<ul style="list-style-type: none"> The following offences are not provided for as ML predicate offences: (i) Illicit trafficking in stolen goods and other property, (ii) environmental crimes, and (iii) insider trading by persons other than public officials, and market manipulation. There are no instructions or procedures requiring the initiation of administrative or civil sanctioning actions against legal persons involved in criminal proceedings.
4. <i>Confiscation and Provisional Measures</i>	LC	<ul style="list-style-type: none"> The technical deficiency identified in relation to the criminalisation of ML limits the scope and possibility of implementing these measures.
5. <i>Terrorist Financing Offence</i>	LC	<ul style="list-style-type: none"> There are no instructions or procedures requiring the initiation of administrative or civil sanctioning actions against legal persons involved in criminal proceedings.
6. <i>Targeted Financial Sanctions Related to Terrorism and Terrorist Financing</i>	LC	<ul style="list-style-type: none"> The obligation to freeze funds or other assets without delay and without prior notice applies only to RIs and State agencies but does not apply to all natural and legal persons in the country. Persons or entities within the national territory are not prohibited from providing any funds or other assets, economic or financial resources, or other services related with, directly or indirectly, wholly or jointly, designated persons or entities or for the benefit of designated persons or entities; entities owned or controlled, directly or indirectly, by

Compliance with the FATF Recommendations		
Recommendation	Rating	Factor(s) underlying rating
		designated persons or entities; and persons and entities acting on behalf of, or at the direction of designated persons or entities.
<i>7. Targeted Financial Sanctions Related to Proliferation</i>	LC	<ul style="list-style-type: none"> • There are no provisions stipulating that the freezing measure should be applied by all natural and legal persons in the country. • There is no rule explicitly stating that persons or entities within the country should not provide funds or other assets to designated persons or entities, or for the benefit of designated persons or entities unless they have licenses or authorisations or the like notified in accordance with the corresponding UNSCRs. • There are no provisions authorising access to funds or other assets, where countries have determined that the exemption conditions set out in UNSCRs 1718 and 2231 are met, in accordance with the procedures set out in those Resolutions. • The conditions required for payment due under a contract entered into before the person or entity has been listed are not provided for.
<i>8. Non-Profit Organisations</i>	C	
<i>9. Financial Institutions Secrecy Laws</i>	C	
<i>10. Customer Due Diligence</i>	LC	<ul style="list-style-type: none"> • Doubts remain as to whether the period of 60 days from the beginning of the relationship to complete the verification (Articles 294, 294.1, 316.5, 316.40, 316.52 and 316.67 of the RNRCSF, 190 and 190.1 of the RNMV and 73 of the RNSR) is reasonable in view of the customer's risk.
<i>11. Record Keeping</i>	C	
<i>12. Politically Exposed Persons</i>	C	
<i>13. Correspondent Banking</i>	LC	<ul style="list-style-type: none"> • There is no obligation for the FI to be satisfied that the represented bank is able to provide important CDD information to the correspondent bank when requested.

Compliance with the FATF Recommendations		
Recommendation	Rating	Factor(s) underlying rating
14. Money or Value Transfer Services	LC	<ul style="list-style-type: none"> The scope of measures undertaken to identify subjects who provide money or value transfer services without registration is not addressed.
15. New Technologies	LC	<ul style="list-style-type: none"> Uruguay has not carried out a comprehensive identification and evaluation of the risks associated with new products and business practices, and with the use of new technologies or developing technologies for new products or existing products. There is no evidence that provisions for conducting risk assessments prior to the launch or use of new products, practices and technologies are applicable to payment and collection service providers.
16. Wire Transfers	LC	<ul style="list-style-type: none"> The regulations do not provide for the obligation to file a STR in the country affected by the suspicious electronic transfer and that it should provide the relevant information on the transaction to the respective Financial Intelligence Unit.
17. Reliance on Third Parties	Not applicable	
18. Internal Controls and Foreign Branches and Subsidiaries	C	
19. Higher-Risk Countries	C	
20. Suspicious Transaction Report	LC	<ul style="list-style-type: none"> The technical deficiencies identified as regards the criminalisation of ML limit the scope of the obligation to report.
21. Tipping-Off and Confidentiality	C	
22. DNFBP: Customer Due Diligence	LC	<ul style="list-style-type: none"> With regard to CDD and tipping-off measures, there is no evidence of the existence of regulations under which DNFBPs that have suspicions of ML/TF, and that believe that the CDD process can tip-off the customer, are allowed not to carry out such process and instead submit a STR.
23. DNFBP: Other Measures	LC	<ul style="list-style-type: none"> Based on the analysis of R.20, it should be pointed out that the technical deficiencies identified as

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		<p>regards the criminalisation of ML limit the scope of the obligation to report.</p> <ul style="list-style-type: none"> • In compliance with the requirements of criterion R.18, there is no specification of rigorous selection procedures to guarantee high standards in the recruitment of personnel, nor that there is an independent audit function to test the system.
<i>24. Transparency and Beneficial Owner of Legal Persons</i>	LC	<ul style="list-style-type: none"> • The regulations do not explicitly contemplate the requirements that information on BO be as precise and up-to-date as possible. • It is not clarified whether the five-year conservation period applies from the date on which the company is dissolved or otherwise ceases to exist, or five years from the date on which the company ceases to be a customer of the professional intermediary or the financial institution. • The obligation for shareholders and nominal directors to disclose the identity of their nominee to the company and to registries other than that of the SENACLAFT is not determined. • The range of sanctions for non-compliance with basic information requirements that may apply to corporate forms other than public limited companies is unclear. • There are no procedures or mechanisms for monitoring the quality of information received.
<i>25. Transparency and Beneficial Owner of other Legal Arrangements</i>	LC	<ul style="list-style-type: none"> • It is not observed that there is an obligation for trustees to keep basic information on other regulated agents of the trust and service providers for the trust, including investment advisors or managers, accountants and tax advisors.
<i>26. Regulation and Supervision of Financial Institutions</i>	C	
<i>27. Powers of Supervisors</i>	C	
<i>28. Regulation and Supervision of DNFBPs</i>	LC	<ul style="list-style-type: none"> • It is not determined that the necessary legal and regulatory measures should be taken to prevent criminals and their associates from having, or being

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		the BO, of a significant interest or holding a managerial position in a casino.
29. <i>Financial Intelligence Units</i>	LC	<ul style="list-style-type: none"> There are no specific mechanisms for the communication of reports to the Public Prosecutor's Office. Strengthen the UIAF's resources in order to enhance the performance of its functions.
30. <i>Responsibilities of Law Enforcement and Investigative Authorities</i>	C	
31. <i>Powers of Law Enforcement and Investigative Authorities</i>	C	
32. <i>Cash Couriers</i>	C	
33. <i>Statistics</i>	C	
34. <i>Guidance and Feedback</i>	C	
35. <i>Sanctions</i>	LC	<ul style="list-style-type: none"> There is no rule providing for administrative sanctions on directors or senior managers.
36. <i>International Instruments</i>	C	
37. <i>Mutual Legal Assistance</i>	LC	<ul style="list-style-type: none"> deficiencies in the criminalisation of ML, and the minor deficiency identified with regard to TF, prevent full compliance with this criterion.
38. <i>Mutual Legal Assistance: Freezing and Confiscation</i>	LC	<ul style="list-style-type: none"> Uruguay has the power to take action in response to requests to identify, freeze, seize or confiscate laundered proceeds of ML/TF and instruments used in connection with it. However, no reference is made to instruments intended to be used in ML, predicate offences or TF. Furthermore, there is no reference to agreements signed with other countries to coordinate seizure and confiscation actions.
39. <i>Extradition</i>	LC	<ul style="list-style-type: none"> The general extradition procedure is provided for under Articles 334, 336, 340-349 of the CCP; however, it is not clear whether there exists a case management system and how they are prioritized.

Compliance with the FATF Recommendations		
Recommendation	Rating	Factor(s) underlying rating
40. Other Forms of International Cooperation	LC	<ul style="list-style-type: none"> Deficiencies in the criminalisation of ML prevent full compliance with this Recommendation. The UIAF has defined a procedure for dealing with received information requests. This power is not addressed in relation to the other competent authorities. There are no clear processes to safeguard the information received from all competent authorities. The UIAF, the Public Prosecutor’s Office and the SENACLAFT may sign MOUs with their counterparts for the exchange of information, but it is unclear whether the other authorities can enter into bilateral or multilateral agreements where necessary. With respect to the UIAF, there are no rules for rejecting the request because of the nature or condition of the foreign counterpart. There is no evidence that the same criteria apply to other competent authorities. There is no evidence that the AML Law applies to all competent authorities to ensure that information received from foreign counterparts is not used in criminal or administrative proceedings in Uruguay or shared with another national authority, unless authorized by the counterpart. There is no obligation to maintain the confidentiality of any cooperation request for all competent authorities in Uruguay. There is no reference in the AML Law to competent authorities conducting inquiries on behalf of foreign counterparts. There is no need for the authority to exchange information indirectly with those who are not counterparts to the other competent authorities. It is not specified that feedback should be provided in a timely manner if a request is made by another country.

Abbreviations and Acronyms

AFAP	Pension Savings Funds Managing Companies
AIN	National Internal Audit Office
ALA Law	Anti-Money Laundering Law
ALA/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BCU	Central Bank of Uruguay
BF	Beneficial Ownership
BPS	Banco de Previsión Social
BROU	Bank of the Eastern Republic of Uruguay
CDD	Customer due diligence
CENACOT	National Counter-Terrorism Coordination Centre
CFATF	Caribbean Financial Action Task Force
CFT Law	Counter Terrorist Financing Law
CGE	Army General Command
CICTE	Inter-American Committee against Terrorism
CODENA	National Defense Council
CP	Criminal Code
CPP	Code of Criminal Procedure
DGI	Tax Revenue Service
DGIIP	General Directorate of Police Information and Intelligence
DGLCCOI	General Directorate for The Fight against Organized Crime and Interpol
DGR	Directorate of Registries
DGRTID	Directorate for the Suppression of Illicit Drug Trafficking of the Directorate of Investigations
DNA	National Customs Authority
DNFBP	Designated non-financial businesses and professions
DNI	National Investigation Directorate
EMG	Minimum Management Standards
ESF	Financial services companies
ETF	Money transfer companies
FATF	Financial Action Task Force
FBD	Seized Property Fund
FGN	Public Prosecutor's Office
FI	Financial Institutions
GAFILAT	Financial Action Task Force of Latin America
GDP	Gross Domestic Product
GRIA	Customs Response and Intelligence Group
IDB	Inter-American Development Bank

IMF	International Monetary Fund
IO	Immediate Outcome
ITF	Forensic Technical Institute
JND	National Drugs Board
JUTEP	Board of Transparency and Public Ethics
MEC	Ministry of Education and Culture
MEF	Ministry of Economy and Finance
MER	Mutual Evaluation Report
Mercosur	Southern Common Market
ML	Money Laundering
MLA	Mutual Legal Assistance
MP	Public Prosecutor's Office
MRREE	Ministry of Foreign Affairs
MVTS	money or value transfer services
NPO	Non-profit organization
NRA	National Risk Assessment
PEP	Politically exposed persons
PF	Proliferation Financing
PJ	Judiciary
PWMD	Proliferation of Weapons of Mass Destruction
RBA	Risk based approach
RI	Reporting Institution
RNRCFP	Compilation of Regulatory and Control Standards for Pension Funds
RNRCMV	Compilation of Regulatory and Control Standards for the Securities Exchange Market
RNRCSF	Compilation of Regulatory and Control Standards for the Financial System
RNRCSR	Compilation of Regulatory and Control Standards for Insurance and Reinsurance
RNSP	Compilation of Regulatory and Control Standards for payment systems
RNSR	Compilation of Regulatory and Control Standards for Insurance
RPC	Commerce Public Registry
RRAG	GAFILAT Asset Recovery Network
SCJ	Supreme Court of Justice
SENACLAFT	National Secretariat for the Fight against Money Laundering and the Financing of Terrorism
SIEE	State Strategic Intelligence Secretariat
SRA	Sectorial Risk Assessment
SSF	Superintendencia de Servicios Financieros
STR	Suspicious Transaction Report
TF	Terrorist Financing



TFS	Targeted Financial Sanctions
TOCO	Organic Charter Ordered Text
TTE	Cross-border transportation of cash
UIAF	Financial Information and Analysis Unit
UN	United Nations Organization
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolutions