



Middle East and North Africa  
Financial Action Task Force

## Mutual Evaluation Report

Anti-Money Laundering and  
Combating the Financing of Terrorism

19 May 2009

EGYPT

Egypt is a member of the MENAFATF. This evaluation was conducted by the World Bank and was then discussed and adopted by the Plenary of the MENAFATF as a 1<sup>st</sup> mutual evaluation on 19 May 2009.

# **ARAB REPUBLIC OF EGYPT**

## **DETAILED ASSESSMENT REPORT ON ANTI- MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM**

**MAY 2009**



**WORLD BANK**



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## ACRONYMS

ACA	Administrative Control Authority
ACH	Automated Clearing House
AIB	Arab International Bank
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BL	Banking Law
BCP	Basel Core Principles
c	Criterion /Criteria
CASE	Cairo and Alexandria Stock Exchange
CBE	Central Bank of Egypt
CDD	Customer Due Diligence
CCP	Code of Criminal Procedure
CMA	Capital Market Authority
CSP	Company Service Provider
DNFBP	Designated Non-Financial Businesses and Professions
EBI	Egyptian Banking Institute
EGP	Egyptian Pound
EGX	Egyptian Exchange
EIU	Economist Intelligence Unit
EISA	Egyptian Insurance Supervisory Authority
EMLCU	Egyptian Money Laundering Combating Unit
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
FSRB	FATF-style Regional Body
FT	Financing of terrorism
GDP	Gross Domestic Product
GNI	Gross National Income
IAIS	International Association of Insurance Supervisors
ID	Identity
KYC	Know your customer/client
LC	Letter of Credit
LG	Letter of Guarantee
MEF	Ministry of Economy and Finance
MENAFATF	Middle East and North Africa Financial Action Task Force
MFA	Ministry of Foreign Affairs
MFD	Monetary and Financial Systems Department of the IMF
ML	Money laundering
MLA	Mutual legal assistance
MLRO	Money Laundering Reporting Officer
MoI	Ministry of Interior
MOU	Memorandum of Understanding
NBFI	Non-bank financial institution

NGO	Non-Governmental Organization
NPL	Non Performing Loan
NPO	Nonprofit organization
NSB	Nasser Social Bank
PC	Penal Code
PEP	Politically-exposed person
ROSC	Report on Observance of Standards and Codes
SPO	Supreme State Security Prosecutor Office
SRO	Self-regulatory organization
STR	Suspicious Transaction Report
TF	Terrorist Financing / Financing of Terrorism
UAE	United Arab Emirates
UCITS	Undertaking in Collective Investment in Transferable Securities
UK	United Kingdom
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution
US	United States
USD	US Dollar
WCO	World Customs Organization
YE	Year End

## PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Arab Republic of Egypt (Egypt) is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as updated in February 2008. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from 12 to 26 October 2008, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the detailed assessment report.

The assessment was conducted by a team of assessors composed of staff of the World Bank and two experts acting under the supervision of the World Bank. The evaluation team consisted of: Latifah Merican Cheong (Team leader); Cedric Mousset (co-team leader and financial expert), Stuart Yikona (legal expert); and Isaku Endo (financial expert), all from the Financial Market Integrity unit (FPDFI) and Horst Intscher (FIU expert, Consultant) and Younus Almoalem, (Law enforcement expert, Consultant). The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in Egypt at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Egypt's levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). The report was produced by the World Bank as part of the Financial Sector Assessment Program (FSAP) of Egypt. It was also presented to the MENA FATF and endorsed by this organization at its plenary meeting in Bahrain on 19 May 2009.

The assessors would like to express their gratitude to the Egyptian authorities for their assistance and cooperation throughout the assessment mission.

## EXECUTIVE SUMMARY

### Introduction

1. This Summary of Key Findings covers the compliance of the Arab Republic of Egypt with the FATF Forty recommendations (2003) on Anti-Money Laundering (AML) and the Nine Special Recommendations (2001 and 2004) on Combating the Financing of Terrorism (CFT). It includes recommendations to enhance the compliance and effectiveness of the Egyptian AML /CFT regime. The views expressed in this document are those of the assessment team and do not necessarily reflect the views of the Board of the World Bank.

### Information and methodology used

2. The Summary was prepared by the World Bank assessment team, using the AML/CFT assessment Methodology 2004 (as updated in February 2008). In preparing the detailed assessment, assessors reviewed the institutional framework, the laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (TF) through financial institutions and designated non-financial businesses and professions (DNFBPs). The team also considered all information relevant to assess the effectiveness of the AML/CFT framework, including issues such as transparency, good governance and the capacity of the different stakeholders. This Report takes account of the AML /CFT measures in effect in Egypt as at December 25, 2008, based on analysis of information received during the on-site visit and thereafter.

3. This summary of key findings is based on inputs given by the authorities. Some of the needed documents were provided just before the on-site visit, while much of the relevant materials were received during the months after the on-site mission (and with many documents only available in Arabic). The World Bank offered to undertake the translation in order to ensure that the English versions could be ready in a timely manner, so that the process of conducting this assessment will be faithful to the schedule and timetable set by the Middle East and North Africa Financial Action Task Force (MENAFATF), and to support the Authorities' commitment that the Report would be ready for discussions at the MENAFATF Plenary meetings in May 2009.

### Key Findings

4. The Government of Egypt has taken significant steps to set up an AML/CFT regime, compared to 2002, when none existed. The AML/CFT Law criminalizes money laundering in Egypt, the material elements are broadly in line with the Palermo and Vienna Conventions, but participation in some forms of organized crime and adult human trafficking are not criminalized. Terrorism financing is criminalized in the Penal code, but its provisions capture neither the financing of an individual terrorist, nor the collection of funds with the unlawful intention that they should be used or in the knowledge that they are to be used to carry out a terrorist act or acts. With regard to implementation of United Nations Security Council Resolutions, information provided to support the authorities' claim of implementing the Resolutions did not fully meet the requirements set out by the methodology.

5. The legal and regulatory framework that has been established for the EMLCU, the Egyptian financial intelligence unit, is sound and comprehensive. A strong effort has been made to put in place key customer due diligence (CDD) requirements for financial institutions but significant gaps remain (especially on beneficial ownership, on unusual transactions as defined by Recommendation 11 and for three institutions including a large bank, Arab International Bank). Significant efforts have been made to supervise banks and, more recently, brokers, efforts that need to be sustained and extended to other institutions, where AML /CFT supervision still appears weak. The outcomes, in terms of numbers of suspicious transaction reporting, are low, and even lower for cases that are referred to prosecution.

During the past four years, only four money laundering cases were taken to trial, and only one conviction was achieved.

6. Egypt has issued AML/CFT regulations for some sectors of the Designated Non Financial Businesses and Professions, DNFBPs (casinos are covered for some activities; real estate brokers and dealer of precious metals and stones were brought under coverage during the on-site mission,). Lawyers and accountants are not subject to AML /CFT regulations.

7. The Egyptian system is structured to ensure that legal entities are not used for unlawful purposes and legal provisions on the establishment, registration and monitoring of non-governmental organizations are strictly enforced. Egypt's domestic cooperation and coordination has been fairly robust and Egypt has a strong legislative framework for the provision of mutual legal assistance and extradition.

8. The assessors have identified the following recommendations as short term priorities to improve the effectiveness of the AML/CFT regime and help address the very low numbers of suspicious transactions reporting, ML and TF prosecutions and convictions: (i) develop a comprehensive data base on AML/CFT issues, and a set of indicators to assess the effectiveness of the AML/CFT regime, (ii) promulgate clear processes and procedures for implementing the UN Security Council Resolutions 1267 and 1373, (iii) criminalize participation in organized criminal groups and human trafficking, (iv) strengthen the AML /CFT supervisory regime for the three banks not supervised by the CBE and intensify their on-site supervision, (v) include the remaining DNFBPs in the AML /CFT framework, or develop safeguards so that their continued exclusion does not impair the effectiveness of the AML /CFT regime.

#### **Legal Systems and Related Institutional Measures**

9. The AML/CFT Law criminalizes money laundering in Egypt, and the material elements are broadly in line with the Palermo and Vienna Conventions, which Egypt has ratified and implemented. Egypt adopts a list approach to the scope of coverage of predicate offences. The covered offences include 18 of the designated offences itemized in the FATF Recommendations except for criminalization of participation of some forms of organized crime and adult human trafficking activities. However, as drafted in the AML/CFT Law, the definition of the ML offence under Article 2 requires the prosecution to prove that an accused person had a purpose to concealing of the proceeds of crime as well as the acquisition or holding of the proceeds of crime. This is contrary to the provisions of the Palermo Convention which only requires that a purpose be established in respect to the conversion or transfer of the proceeds of crime.

10. The authorities across the relevant agencies have in some cases, although not in significant numbers, used the AML/CFT Law in conducting their investigations in financial crimes. The authorities have the legal basis to prosecute a person for money laundering without securing a conviction for the underlying offence, as well as to prosecute someone for both the predicate offence and money laundering – self-laundering. However, there is a lack of overall effectiveness of the AML/CFT system due to low ML investigations and prosecutions of profit generating crimes.

11. Egypt has ratified the United Nations Convention on the Suppression of the Financing of Terrorism. The criminalization of FT in Egypt is covered under Articles 86, 86 Bis and 86 Bis A of the Penal Code. However, the provisions of the Penal Code only capture the financing of terrorist acts, and terrorist organizations. They do not capture financing of an individual terrorist. Furthermore, the Penal Code does not cover the “collection of funds” with the unlawful intention that they should be used or in the knowledge that they are to be used to carry out a terrorist act or acts.

12. With regard to implementation of United Nations Security Council Resolutions, subsequent to the onsite visit, the authorities provided the assessors with information that outlined the process for implementing UNSCR 1267. This represents a series of steps for actions by the relevant agencies and

entities. In this regard, the authorities advised that the Ministry of Foreign Affairs receives the UN lists and sends such lists to the EMLCU, which then directs concerned agencies to take the required actions. The process however falls short of the requirements of the FATF standards. The shortcomings relate to the necessary measures and procedures for competent authorities to be able to freeze or seize assets without delay. There are also no specific procedures related to un-freezing of assets. Moreover, relying on a judicial process will inevitably cause unnecessary delays and defeat the rationale for taking expedited freezing action in relation to individuals and legal persons designated on the UN List. Furthermore, there is no designation process established by the authorities pursuant to Resolutions 1373 and also no process by which Egypt can review lists sent by foreign jurisdictions.

13. The AML/CFT Law, the AML/CFT Executive Regulations, the Code of Criminal Procedures (CCP), and the Penal Code (PC) adequately provide for the freezing, seizure and confiscation of assets related to FT and ML. In Egypt, provisional measures to allow early freezing of assets, further facilitate investigations prior to and during prosecution. Confiscation is conviction based. Adequate powers are available for tracing and identifying proceeds of crime. However, there was limited statistics on the use of provisional and confiscation measures in relation to assets related to predicate crimes. Without comprehensive statistics, it is difficult to determine the effectiveness of the overall confiscation framework in Egypt.

14. The legal and regulatory framework that has been established for the EMLCU is sound and comprehensive. The EMLCU has a robust mandate and is well established at the centre of the group of state entities engaged in the fight against money laundering and terrorism financing. It is well funded and well staffed, with a staff of 40 persons and an operating budget of LE 16 million (approximately USD 3 million). It is characterized by a solid governance structure that easily protects the operational independence of the EMLCU. The centralization of all AML/CFT decisions at EMLCU is balanced by appropriate oversight, independent budget process, and powers that grant independence to the EMLCU.

15. The strong oversight and coordination are embodied in the Council of Trustees of the EMLCU, with very senior representation from key agencies, who demonstrate sound knowledge of AML/CFT issues. Independence of the EMLCU is reflected in the law which prohibits the removal of its Chairman, as well as direct reporting to the President. The EMLCU, together with the financial supervisory authorities, provides direction and guidance to covered reporting entities as to their CDD, record keeping and reporting obligations. The EMLCU specifies the form and manner of reporting and has issued a standard format to be used in making Suspicious Transaction Reports. It also provides feedback to entities on the reports they have filed.

16. Other public institutions in the AML/CFT regime also show commitment to putting in place AML/CFT systems. Specialized AML/CFT units have been set up and are operating in the Ministry of Interior (undertaking intelligence work on cases), the Public Prosecutors Office on two fronts, the prosecution and the international cooperation units, AML supervision of banks and foreign exchange businesses, the Mortgage Authority, at the Central Bank of Egypt (CBE), and securities supervision at the Capital Markets Authority (CMA). Good coordination between the Administrative Control Unit and the EMLCU adds strength to support some degree of effectiveness of the regime. The National Committee on Terrorism, which existed before enactment of the AML/CFT Law, has since included financing terrorism in its mandate. Moreover, it was noted that the state security department is the designated body with ability to investigate FT, in addition to the Customs authority which monitors entry and exit of cash and the declaration of carriage of cash as provided under the CBE, the AML/CFT Law and its AML/CFT Executive Regulations.

17. There are several law enforcement agencies investigating ML and FT cases, but there is no designated central specialist-based investigative unit for the investigation of ML/ FT matters. Egypt, however, has set up a Unit which ensures coordination of the AML/CFT investigations that are undertaken by various departments within the Ministry of Interior. The same practice is seen in the Public

Prosecutors' Office. This arrangement appears to be effective, while conserving resources and ensuring optimization of investigation skills for ML and TF cases.

18. There are indications that many aspects of the AML/CFT regime have been implemented. However, indicators of effectiveness of implementation and data to show that the objectives of the regime are met, as required under the methodology, have not adequately been provided. Indicators that create doubts about effectiveness of the AML/CFT regime include the low numbers of STR reports compared to other jurisdictions and the very low number of cases that have proceeded to the courts. Only 4 cases have been brought to trial over the last 4 years, and in only one of these has a conviction been secured. The other 3 cases are still before the courts. Analysis of the underlying factors that result in the low numbers and quality of reporting of STRs should be undertaken, with a view to increasing the quality and quantity of STRs filed by reporting entities. A review of the processes in the chain of events leading to prosecution and trial could also provide a better basis for developing measures that can expedite and raise the number of prosecutions and convictions.

### **Preventive Measures—Financial Institutions**

19. The financial sector is dominated by banks, but most types of financial institutions as defined by the FATF exist in Egypt and have significant operations. Relevant characteristics include (i) a common use of cash in transactions, even for large amounts (ii) a liberalized foreign exchange regime and a common use of USD, (iii) the attractiveness of the Egyptian stock market for foreign investors and (iv) the existence of institutions that carry out banking activities but are not supervised by the CBE (Arab International Bank, AIB, CBE as a financial institution and Nasser Social Bank, NSB). Since the early 2000s, a comprehensive reform program has been implemented in the financial sector, which facilitates a proper implementation of AML/CFT requirements. Moreover, the approach followed by the Egyptian authorities fostered a rapid pick up in implementation by banks of AML/CFT requirements, following their recent adoption in 2002. All implementing regulations for banks supervised by the CBE were issued within a year of the adoption of the AML/CFT Law, and regularly updated since. Similar efforts have been undertaken for most other financial institutions. Although the assessors were informed that similar requirements had been issued for the three banks not supervised by the CBE (Arab International Bank, AIB, Nasser Social Bank, NSB, and Central Bank of Egypt as a financial institution), they were either not communicated to the assessors (CBE) or lacked adequate sanctions (AIB and NSB) to be considered as enforceable. A strong effort has been made to put in place key customer due diligence (CDD) requirements for financial institutions and issue regulations tailored to the risks of the different financial institutions. However, there are significant weaknesses in the current framework, especially with regard to requirements on beneficial ownership (beneficial owners not restricted to natural persons and limited requirements on the process to be followed), and unusual transactions as defined by Recommendation 11 (too vague definition of unusual transactions and limited requirements on the process to be followed by institutions). These weaknesses are compounded by the lack of enforceable implementing regulations for the three banks not supervised by the CBE (e.g. lack of requirement to obtain information on the intent of a business relationship, to undertake ongoing monitoring of business relationships or on wire transfers and correspondent banking relationships).

20. Detailed requirements have been established on internal control for financial institutions, especially with regard to the responsibilities of Money laundering reporting officers and staff training. Efforts undertaken in the past few years to appoint skilled Money Laundering Reporting Officers and provide them with adequate powers and resources appear to have been largely successful in banks, brokers and the post office, while the situation appeared weaker in other financial institutions (e.g. lack of compliance officer or insufficient AML /CFT expertise). Efforts have also been undertaken to improve internal audit, but significant progress is still needed (e.g. in some cases, the internal audit did not appear to review the

activities of the AML /CFT compliance function or to pay sufficient attention to the activities undertaken at the head office, as opposed to those carried out in branches).

21. Overall, the effectiveness of the existing regime for the financial sector still needs to be improved. The collection of identification documents has made dramatic progress for new customers in the past two years but sometimes remains challenging for existing ones and the verification of information on customers' risk profiles often appears focused on borrowers only. Similarly, requirements on introduced business are often not well understood, unduly leading to reduced monitoring of introduced relationships. In addition, ongoing monitoring remains simple and relies primarily on the vigilance of every employee and on some periodic threshold based alerts analyzed by compliance officers. Staff vigilance has been hampered by the fact that AML /CFT requirements are still relatively recent in Egypt, that training has often been limited to a day and that some employees have not yet received any AML /CFT training (despite training provided by the Egyptian Banking Institution and AML /CFT training at institutions being actively promoted by the authorities).

22. Significant efforts have been made to supervise banks and, more recently, brokers, and those efforts need to be sustained and extended to other institutions. Both the CBE (for banks) and the CMA (for brokers) have stepped up their AML/CFT supervision, put in place specific off and on-site supervisory arrangements, identified some significant shortcomings and have taken some supervisory actions. Those efforts need to be sustained to foster an effective implementation of AML/CFT requirements. The regime of sanctions could usefully be strengthened, (i) as fines contemplated by the AML /CFT law appear low and (ii) as some supervisors would benefit from a broader range of available administrative sanctions (e.g. fines). Moreover, supervision still needs to be strengthened in other areas, with priority to be given to insurance companies, to those securities firms that are not yet adequately monitored by the CMA and to the three banks not supervised by the CBE. For the latter, The mandate of the supervisor (currently the EMLCU) needs to be strengthened so that it can issue all necessary regulations, review the fitness and properness of directors and senior managers and take appropriate sanctions, when necessary. At the time of the on-site mission, also, too few resources were dedicated to supervision by the EMLCU. Similarly, supervisory arrangements for the Post office should be revisited as the Ministry of Communications and Information technology does not have powers to take sanctions and does not enjoy sufficient independence.

23. While banks account for about three quarters of suspicious transactions reported to the EMLCU, the number of reporting to the EMLCU is very low (259 in 2007). The sanitized cases which banks agreed to discuss with the mission involved a limited number of transactions over a short period of time and were very straightforward. The reporting requirement also appears too narrow, as it only addresses suspicions of money laundering and terrorism financing. More guidance on monitoring and intensified supervision, with increased attention to each bank's internal processes and to the risks it effectively faces, would foster a more effective implementation of existing reporting requirements.

#### **Preventive Measures—Designated Non-Financial Businesses and Professions**

24. Egypt has issued AML/CFT regulations on some DNFBP sectors. While neither the AML Law nor the Executive Regulations cover Casinos, supervision of the 28 Casinos is shared between the Ministry of Tourism and the CBE. Operations related to gaming activities are regulated by the Ministry of Tourism, while foreign exchange businesses at Casinos are licensed and supervised by CBE. More recently, in October 2008, real estate and precious metals were brought under the AML/CFT regime. New regulations issued after the on-site visit need time to be evaluated for its effectiveness. Lawyers and Accountants are not subject to AML/CFT regulations.

25. With respect to the Casino sector, measures to contain AML/CFT risks include: the limited services allowed to be provided by casinos, only foreigners are allowed to operate in casinos, casinos record



identity details of the players and take a copy of their passports, and CBE ensures that AML/CFT regulations are applied with respect to foreign exchange dealings. Closure of a casino in mid-2008 was at the request of the CBE for non-compliance with AML/CFT regulations issued by the CBE. While assessors do acknowledge that current CBE supervision of the foreign exchange bureaux within casinos meets part of the AML/CFT compliance requirements, significant gaps remain. It is recommended that Authorities introduce provisions in the legal framework to explicitly cover AML/CFT supervision of Casinos. Following this measure, and in light of the significant risks of ML, especially for Casinos at border towns, there should be improvement in coordination between CBE and the Ministry of Tourism to evaluate risks and develop a coordinated (as opposed to the current dichotomized regulation) system of AML/CFT regulations for the casino sector.

### **Legal Persons and Arrangements & Non-Profit Organizations**

26. The Egyptian system is structured to ensure that legal entities are not used for unlawful purposes. It was evident from discussions with the authorities, and the manner in which foreign applications are processed, that there are measures to verify who the ultimate beneficial owner is in a company. Further, the requirement to submit a notarized power of attorney is an adequate control mechanism to ensure that the authorities know on whose behalf such nominees are acting. However, in terms of timely access to beneficial ownership information, the manual nature of how the information is kept has the potential to affect how efficiently law enforcement agencies can access the information.

27. The establishment, registration and monitoring of non-governmental organizations (NGO) is governed by Law n° 84 of 2002 (the NGO Law), and is strictly enforced. There are also strict controls on how NGOs can raise their funds and spend their resources, therefore reducing risks that they could finance terrorism. The monitoring of NGOs is done through the local government and municipalities in all the 29 Governorates. The tools used by the supervisors to ensure that NGOs are complying with the NGO Law include: periodical review and preparing technical, financial and administrative reports for such NGOs; reviewing the NGOs financial statements and balance sheet; and providing answers to all enquiries and resolving legal problems for the NGOs. Moreover, the authorities do check whether the funds that an NGO has received, has been used for the purpose that was described in the application to operate as an NGO. The Ministry of Social Solidarity approves all donations made to the NGO whether domestic or foreign.

### **National and International Co-operation**

28. Egypt's domestic cooperation and coordination has been fairly robust, through the National Committee for Coordination in Combating Money Laundering and Terrorism Financing (National Committee), which comprises all the relevant stakeholders. At the operational level, there is cooperation by relevant operational agencies, namely, the EMLCU, the CBE, the Ministry of Interior, the State Security Investigative Service, the Administrative Control Authority, the Public Prosecutor, the CMA and the Ministry of Social Solidarity. The legal framework that governs the operations of the EMLCU, independence accorded to the Chairman of EMLCU and the oversight by the Council of Trustees, sets the basis for effective interagency cooperation, with some best practices in addressing potential inter-agency conflicts. The powers of centralization of AML/CFT matters accorded to the EMLCU also include overriding ability to require other agencies to cooperate on AML/CFT matters. The Chairman of EMLCU has broad powers to go directly to law enforcement agencies. Operationally, the evidence of a number of money laundering cases that have been investigated indicates that the authorities do work closely in addressing the threat of ML and FT. In view of the important role that the Customs Authority plays in implementing the cross-border transportation of currency measures, it is recommended that it be formally included in the National Committee for Coordination in Combating Money Laundering and Terrorism Financing (National Committee).

29. International Cooperation is implemented based on multilateral and bilateral treaties, reciprocal arrangements and unilateral support. The Institutional framework for international cooperation has been strengthened with special units in law enforcement agencies, as well as in the Public Prosecutor's Office. Examples of effective cooperation on money laundering issues were shown in cases involving criminal proceeds in Italy, UAE, and Switzerland. On terrorism financing, cooperation is broad-based with Asian, African and European countries, on the basis of bilateral agreements, notwithstanding any political differences between the two countries.

30. Egypt has a strong legislative framework for the provision of mutual legal assistance and extradition that is not unduly restrictive. An added strength to this framework is that Egypt can also provide assistance on the basis of the principle of reciprocity as well as international courtesy. Furthermore, it has ratified all the international conventions relevant to ML and FT, and entered into more than 30 bilateral agreements. However, no compelling evidence was provided on the timeliness and turnaround of requests that were received from other countries. Moreover, none of the agreements reviewed contained guidance as to how long the authorities are supposed to take in executing a MLA request.

31. Egypt has shown a high level of cooperation on terrorism financing. Close monitoring of international linkages of extremist groups is undertaken. According to the Egyptian authorities, information from Egyptian database assisted the international community with investigations on the 9/11 events.

#### **Other Issues - Statistics**

32. The EMLCU produces a reasonable range of statistical information on the STRs and information it receives and disseminates. Discussions on statistical issues revealed that the collection, analysis, and dissemination of statistics required greater priority attention of the EMLCU as the coordinating agency, as agencies other than the Ministry of Social Solidarity have limited understanding of the value of these statistics in tracking the progress of implementation. It was evident that collection of statistics was new to many agencies and is not a standard requirement in their operations. The data that were provided by the interlocutors were limited and it was very difficult to compare to the statistics emanating from other elements of the community.

33. Throughout the on-site visit, much time was required to build understanding of statistics requested. To a large extent, the errors in the initial submission reflect the lack of appreciation on how the relationships among the many lines of statistics can contribute to analysis of effectiveness. Discussions with most authorities revealed that a system of collecting, compilation and analysis of the various indicators on AML/CFT implementation, was not in place at the time of the on-site visit.

34. While statistics are not the only indicators of effectiveness, absence of comprehensive statistics does impact the ability of assessors to gain understanding of the degree of implementation or the effectiveness of the national system of combating money laundering and terrorism financing. The current arrangement, where the EMLCU is the central agency to collect data on AML/CFT matters, also means that more work is required by EMLCU to develop better understanding among agencies of the significance and importance of data collection in their own areas of implementing the AML/CFT regime. Such efforts would address the shortcoming among a number of entities interviewed.

#### **Priorities for recommended plan of action**

35. The assessors have identified the key areas below, in no order of priority, to assist authorities in their continuous efforts to strengthen the AML/CFT regime in the Egyptian context. The ultimate objective of these detailed measures should be to increase the number and quality of suspicious

transaction reports received by the EMLCU, the number of cases prosecuted as well as the number of ML/TF convictions obtained, which were all very low at the time of the mission:

- Develop a comprehensive data base on AML/CFT issues, and a set of indicators to assess effectiveness of implementation of the AML/CFT regime and a monitoring system of these indicators;
- Promulgate clear procedures for implementing the UN Security Council Resolutions 1267 and 1373;
- Criminalize participation in some forms of organized criminal groups and adult human trafficking;
- Strengthen the AML /CFT supervisory regime for Arab International Bank (AIB), Nasser Social Bank and the Central Bank of Egypt (as a financial institution) and intensify on-site supervision for these institutions, especially AIB which carry out a broad range of banking activities,
- Include the remaining businesses and professionals in the DNFBP sector, or develop safeguards that the continued exclusion of lawyers and accountants would not create risks in the regime, or offset gains in implementation of the regime in other sectors.

## 1. GENERAL

### 1.1. General Information on Egypt

36. Egypt is located in the north-east corner of Africa and the Sinai Peninsula, and has a total area of 1,001,450 square kilometers (a land area of 995,450 square kilometers and water of 6,000 square kilometers). It has common borders with four countries – Libya on the west, Sudan in the south, and Israel and Palestine on the east.<sup>1</sup> It also borders with the Mediterranean Sea to the north and the Red Sea to the east. About 8% of the land area is inhabited and cultivated, the rest being uninhabitable desert land, where there are 5 major oases, with only date palms and citrus groves. The population of approximately 75million is highly concentrated in the Cairo metropolitan area and Alexandria and in a narrow band along the Nile River.

37. The annual population growth rate is 1.68%, and reducing this growth rate is a challenge to the Government, given a youthful population (about half is between the ages of 14-45 years old). Only 6% of the population is more than 60 years old, while 30% are under the age of 14 years. The adult literacy rate is 71.4% (as of 2005) and life expectancy is 74.5 years for female and 69.3 years for males.<sup>2</sup> The official language is Arabic.

### Political System

38. Egypt is a Republic, with the elected President as Head of State and Commander of the Armed Forces, and elected by universal suffrage. The Government is led by the Prime Minister. The Peoples Assembly is the legislative body. Executive authority of the President includes formal appointment of the Prime Minister, ministers, provincial governors, chiefs of the armed forces and security, major religious figures and high court judges.

39. Egypt has a unitary government based in the capital, Cairo. Administratively, the country consists of 28 governorates and Luxor City (which has a special status).

40. The Constitution provides for the separation of powers between the executive, the legislature and the judiciary. The executive branch includes the elected President and appointed Vice-President and Cabinet. Legislative power is exercised by the Peoples' Assembly which consists of 454 seats, 444 elected by popular vote and 10 Presidential appointees. All members serve 5 year terms. The upper chamber, the Shura Council was granted a legislative role after the passing of a constitutional amendment in March 2007. Since then, obtaining approval of the Shura Council is mandatory to pass laws complementing the Constitution. The Council has 264 members two thirds of whom are elected and the other third appointed by the President. The judicial branch consists of the Supreme Constitutional Court, the Court of Cassation, the Courts of Appeal, and the Courts of First Instance.

### Economy

41. Egypt is a low middle income country with the most diversified economy in the Middle East and the North Africa region. Gross Domestic Product (GDP) amounted to USD 128.1 billion in 2007 and the per capita income (GNI per capita) is USD 1,580 (EGP 8,611).<sup>3</sup> After several years of stagnation, real GDP growth has been rising from 4.1 % in 2004 to 7.1% in 2007 and 7.5% during the first 9 months of 2008. Sources of growth are broad-based across manufacturing, tourism, agriculture, wholesale and retail

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<sup>1</sup> Egypt State Information Service <<http://www.sis.gov.eg>>

<sup>2</sup> CIA Factbook

<sup>3</sup> World Bank, WDI

trade, construction, irrigation and Suez Canal.<sup>4</sup> Gross investments have been rising significantly, contributing to the strong growth in income levels. As a result, increasing numbers of job creation led to stabilization of the unemployment rate to 9% of the labor force (only 5.6% for males relative to 20.5% for females). Other indicators of strengthening economic fundamentals include rising capitalization in the stock exchange, containment of inflationary pressures to 20.1% in the first 9 months of 2008, improving external debt to GDP ratio at 16% and steady increase in external reserves to USD 35 billion (8 months of imports) at end September 2008.

42. The main sources of foreign exchange income are tourism, remittances from foreign workers abroad, revenues from the Suez Canal, and from oil. The external-sector is showing strength with surplus in its current account derived from higher services earnings and remittances. Foreign investment has been rising, reaching USD 13.4 billion on a net basis in 2007, mostly in the sectors of finance, communications and information technology and manufacturing, in addition to the oil sector.

43. The CBE Economic review reported that 12.3 million tourists visited Egypt from July 2007 to September 2008, generating USD 10.8 billion in direct tourism revenues and a total of USD 12 billion in visible and invisible receipts. Europe represented about 60% of arrivals, the Middle East 25% and Asia 6%. Remittances are reported to be a growing source of foreign exchange inflows, driven by the recent high oil boom in the Gulf Cooperation Council (GCC) countries, which led to significant increase in remittances, reaching USD 6.32 billion in FY 2006/2007.<sup>5</sup> However, recent global economic developments and lower oil prices could lead to lower remittances inflows over the near-term. (World Bank estimates that remittance flows to Middle East and North Africa could decline by 7% in 2009, with remittances from GCC countries likely to record the largest decline of 9% in 2009, compared to an increase of 38% in 2008. This decline will be larger if lower oil prices and the economic downturn leads to declines in migrant workers to the GCC countries).

44. The currency of Egypt is the Egyptian Pound. Egypt has maintained a *de facto* pegged exchange rate vis-à-vis the U.S. dollar. Main trading partners are the United States, and the European Union (mainly, Italy, Germany, France, Spain, and the United Kingdom).

45. Access to the banking system is low, with measures being taken for expansion of access, especially among public sector employees. There are only about 15 million customers having bank accounts, representing 20% of the population. Financial transactions being conducted outside the banking system is reflected in use of cash as the preferred means of payment among Egyptians, even for large amounts, in both Egyptian pounds (EGP) and in USD. Banknotes and coins in EGP totaled EGP 92.2 billion (about USD 17 billion) as of June 2007<sup>6</sup>. Highest value banknotes, which were introduced in May 2007, come in 200 EGP denominations. As of June 2007, 50 and 100 EGP banknotes represented the bulk of the notes in circulation (30% and 51% of the total respectively).

46. As of 2005, Egyptians working abroad totaled 3.9 million, 5.3% of the population or 18.3% of the labor force (22.5 million). Main destinations are Saudi Arabia (1.2 million), Libya (0.36 million), and United States (0.13 million).<sup>7</sup> Egypt also hosts over 1.5 million Sudanese citizens.<sup>8</sup> Authorities informed assessors that in recent years, there have been a growing number of migrants using Egypt as a transit point to eventually enter the EU countries. Egypt has been proactive in providing information on enquiries received from the EU countries.

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<sup>4</sup> Central Bank of Egypt, Annual Report 2006/2007

<sup>5</sup> Ibid. World Bank data on remittances show higher remittance inflows to Egypt of US\$9.5 billion in 2008

<sup>6</sup> CBE Annual report 2006 /2007

<sup>7</sup> World Bank Prospects Group

<sup>8</sup> International Organization for Migration – Country Profile

## **Recent Economic, Financial and Social Reforms**

47. Since 2002, Egypt has implemented significant reforms in the financial, economic and social sectors. In the financial sector, a comprehensive reform program has facilitated a proper implementation of AML/CFT requirements. The banking sector has been transformed with the exit of several weak banks, the divestiture of state shares in private banks, the privatization of a major state-owned bank and the restructuring of the banking system to incorporate better risk management frameworks. The reforms included a new banking law, regulatory reforms in banking, capital markets, and other sectors, improving financial sector infrastructure through strengthening creditor rights, improving the credit registry and setting up a new credit bureau, and ongoing efforts to strengthen financial supervision. The creation of a single supervisor for non-bank financial institutions (NBFIs) is now contemplated. A bill on the establishment of a single Financial Supervisory Authority for non-bank financial institutions was recently referred to the People's Assembly and the Shura Council for deliberations.

48. Economic reforms included: unifying the foreign exchange market and eliminating the parallel market; implementing measures to promote private sector participation in the economy; in a number of geographic areas; creating an enabling environment to encourage domestic and foreign investments; and greater integration of Egypt into the global economy. Significant reforms on the investment front, such as setting up a one-stop centre for registration of businesses, resulted in Egypt becoming one of the top reformers in reducing the cost of doing business in year 2007.<sup>9</sup>

49. In the social sector, efforts focused on improving access to finance to the poorer segments of society through increasing lending for housing to small-scale enterprises, which aimed at better resource allocation and sustaining longer-term growth. There have been significant shifts in public policy on corruption, aimed at improving transparency on corruption indicators, identification of sources of corruption and design of measures to address corruption.

50. Egypt is implementing these structural reforms through the Economic Reform and Structural Adjustment Program (ERSAP) and a Structural Adjustment Monitoring Program (SAMP) formed in cooperation with the World Bank and supported by other donors such as the EU, the African Development Bank and United States Agency for International Development (USAID).

## **Legal System**

51. The Egyptian judicial system has evolved over its extended history. In the relatively modern era, as early as 1845, specialized judicial councils were established, with a broad jurisdiction to hear disputes relating to legal, administrative and military matters. Thirty years later, in 1875, the Egyptian government established the so called "Mixed Courts" to handle legal disputes in which foreigners were either parties to or had a stake in the outcomes. In 1883, "National Courts" were established for the first time for the citizens of Egypt. Each of these court systems had different civil, commercial, criminal and procedural codes. These courts were derived mostly from foreign sources, and in particular, the French law. In the Twentieth Century, a major legal and judicial reform was undertaken. The Mixed Courts were abolished in 1949 along with the mixed codes. Unified codes that apply to both citizens and aliens were issued. A State Council (Conseil D'Etat) was created in 1946 to preside over administrative disputes. These reforms have led to the legal and judicial structures that exist today.

52. The Egyptian criminal justice system is structured on a multi level system with the Court of Cassation at the top. On the lowest level, there are the first instance courts, which are separated into a number of circuits upon which the caseload of the court is divided. They are competent to review

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<sup>9</sup> Doing Business in Egypt 2008, *Overview*, p. 1

misdemeanor cases. Their decisions are subject to appeal on both facts and law before the competent Court of Appeal. The second level comprise of the Courts of Appeal for misdemeanors divided into different circuits. In addition, there are also the Courts of Felonies, which are divided into circuits, and which consist of three counselors. They are charged with reviewing cases that are considered felonies. Their decisions are also final, enforceable and of immediate effect except for capital punishment sentences, which must be affirmed by the Court of Cassation before being carried out.

53. At the top of the criminal justice system, there is the Court of Cassation “Court De Cassation”. It is the highest court in the criminal justice system. It is also divided into circuits each of which consists of five justices of the highest echelons of the judiciary. The jurisdiction of this court is mainly to review the final judgments of the courts of appeal and felony courts upon submission of a motion for cassation from one of the parties, including the Prosecutor General. The motion may seek cassation on the basis of misapplication or misinterpretation of law, void judgments, and void proceedings affecting the judgments. It is only within these limits that a motion can be admitted since the court of cassation is a court of law not of facts.

54. An important feature of the Egyptian legal system is that, under Article 151 of the Constitution, any bilateral or multilateral international agreement that the Republic enters into and ratifies has the force of law like any other law enacted by the National Assembly. When the President of the Republic signs conventions and other international agreements, these are transmitted to the National Assembly for ratification. Following ratification by the National Assembly, no additional measures are required for their incorporation into national legislation. Article 151 of the constitution stipulates that “the President of the Republic shall conclude treaties and communicate them to the People’s Assembly, accompanied with a suitable clarification. They have the force of law after their conclusion, ratification and publication according to the established procedures.”

## **Structural Elements for Ensuring Effective Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) System**

### **Transparency and Good Governance**

55. The Egyptian AML/CFT regime is underpinned by a broad-based governance structure, and legal framework that governs actions and performance of all officials involved in the AML/CFT regime. Appointments of senior public officials require proper vetting and there exist codes of ethics and asset declaration requirements to ensure their integrity. Discussions with a cross section of organizations and entities yielded assertions that measures and mechanisms to ensure high ethical and professional requirements for police officers, prosecutors, judges, etc., are implemented and observed. Disciplinary actions are taken for violations of these laws and ethics by disciplinary councils comprising judges only, as required by law. Authorities reported that disciplinary actions have been taken in the Public Prosecutors Office in cases where rules on ethics and integrity have been violated.

56. A strength of the AML/CFT framework in Egypt is the independence accorded to related institutions, buttressed by the fact that the heads of key agencies (such as the Chairman of the EMLCU Council, the Controller of the Administrative Control Authority, the Chief Public Prosecutor as well as all Deputy Prosecutors) cannot against their will be removed from office, nor transferred before the expiry of their terms, unless under disciplinary remand.

57. A reasonably efficient court system ensures that judicial decisions are properly enforced. The Constitution establishes the Judicial Authority in Egypt and guarantees its independence by providing that “judges shall be independent, subject to no other authority but the law, and no authority can interfere in justice matters”. Further, the Constitution provides that “judges shall not be removed from office”. The independence of the judiciary has been consistently re-affirmed by the Supreme Constitutional Court in cases it has heard on the matter, in respect of both the executive and legislative actions. Indeed, in June

2006, a series of amendments to the Judiciary Law that regulates the judiciary was passed; one of the key changes was the transfer of control over the annual judicial budget from the executive branch to the judiciary

58. The Public Prosecutor's Office in Egypt is an integral part of the Egyptian Judiciary. Its members enjoy judicial independence and irrevocability, that is, "judges and prosecutors may not be discharged". Accordingly, public prosecutors are independent and have the same rights, immunities and privileges as judges. In addition, the Public Prosecutor of Egypt is a member of the Supreme Judicial Council that is, exclusively, charged with matters of appointing, promoting, seconding, and taking disciplinary actions against prosecutors and judges.

59. More recently, the Government has made concerted efforts to take steps to improve transparency and integrity. The Committee on Transparency and Integrity was set up under the Ministry of State for Administrative Development, with the aim of meeting international anti-corruption guidelines and implementing the United Nations Convention Against Corruption (UNCAC – Merida Convention). Recent efforts by the Committee on Transparency and Integrity to address corruption within state bodies and develop new indicators to guide policy formulation point in the right direction. This Committee is finalizing the strategy for addressing corruption and promoting an incentive environment towards a culture of upholding citizen's rights.

60. Egypt is also active in the United Nations Centre for Good Governance (based in South Korea), and chairs the OECD Initiative to promote good governance in the Arab world.

### **Measures to Fight Corruption**

61. Egypt has ratified the United Nations Convention against Corruption (Merida Convention) in February 2005. Addressing corruption issues continues to be a challenge. Egypt has in place the legal and administrative framework to detect and punish acts of corruption. The existence of a specialized anti-corruption entity; i.e. the "Administrative Control Agency" (ACA) which is provided with adequate human and financial resources, does mitigate vulnerability to corruption. Such vulnerability can be inevitable as decisions to prosecute have to take account of the high administrative costs of investigation and prosecution of acts of corruption in the public sector. The authorities acknowledge this exposure to corruption risks and anti-corruption issues are now an important agenda in the package of economic reforms. The setting up of the Committee on Transparency and Integrity has made progress in implementing the anti-corruption strategy. While recent steps being taken by Egypt to address corruption have not changed the international perception, more recently, however, the global integrity index ranks Egypt more favorably on issues of transparency in government contracts, taxes and customs.

62. The institutional framework in Egypt to deal with corruption consists of several monitoring, investigation and prosecution agencies. The Administrative Control Authority (ACA), set up in 1964, is responsible for monitoring the soundness of administrative performance and safeguarding integrity among public employees. The Administrative Control Agency's mandates include proposing taking disciplinary actions against personnel, or suspending them temporarily. ACA investigates around 400 - 450 cases annually, of which 65% are related to bribery, public funds misappropriations and transgression thereon. The "Illicit gains" department is affiliated to the Ministry of Justice.

63. The new strategy on preventing and combating corruption has 13 main pillars, focusing on institutional and legislative framework; developing national indicators of corruption; monitoring and receiving enquiries from the public; mechanisms for blocking corruption loopholes, setting principles for civil servants to combat illicit enrichments; instituting a culture of upholding rights of citizens; working with international institutions; and liaison with civil society. The strategy adopts a diagnostic approach of research to understand the nature of corruption in Egypt, establish new indicators of corruption and its perception, and then design a program of initiatives to address corruption and promote good governance.



64. Overall, the strategy so far is forward looking with early initiatives to create a system that will make “irregular” payments difficult. Studies by the University of Cairo show that corruption in Egypt is mainly related to “irregular payments”, with 89% of such payments being mainly for legal activities, such as expediting approvals. Illicit gains or high level corruption are reported to be less significant. On the basis of these findings, recent measures being implemented include introducing more transparent electronic means of granting approvals and reducing the need for face-to face relations, between the service holder and the service provider. This approach was adopted in July 2007 for university applications, and Egypt is ready to close the regular window and move towards exclusively electronic approvals, and one stop shops. In the public sector, recent measures to combat corruption include: lowering customs tariffs and simplifying procedures of customs release; issuing the new tax law and depending on sampling in examination; drafting the Public Function Law; and preparing a Purchase Manual which will be binding on all government entities.

65. In spite of the authorities’ strong efforts, however, domestic and international perceptions of corruption in Egypt are slow to change and remain high. According to the new index developed by the Egyptian Cabinet’s Information and Decision Support Center<sup>10</sup> to measure the degree of citizens’ perception in public institutions, corruption is perceived to be higher in urban areas (69.2 points), compared to rural areas (62.9 points). At the international level, Egypt is ranked at 115 out of 180 countries in the 2008 Corruption Perception Index with a score of 2.8 out of 10.<sup>11</sup> The World Bank’s governance indicator on control of corruption show Egypt with a percentile ranking of 35.7 out of 100, which is on the lower end among the Middle East and North Africa region.

**Table 1: Indices on Perception of Corruption and Governance**

Year	Corruption Perception Index	Corruption Perception Ranking	Voice and Accountability	Political Stability	Government Effectiveness	Regulatory Quality	Rule of Law	Control of Corruption
2008/2007*	2.8 / 10	115 / 180	11.5 / 100*	21.6 / 100*	38.9 / 100*	43.2 / 100*	51.9 / 100*	35.7 / 100*
2004	3.2 / 10	77 / 146	20.2 / 100	18.3 / 100	46.0 / 100	36.6 / 100	53.3 / 100	43.2 / 100
<i>Sources</i>	TI	TI	WBI	WBI	WBI	WBI	WBI	WBI

Notes: 1) \*2007

2) TI: Transparency International, WBI: World Bank Institute

3) WBI data shows Percentile Rank (1-100)

<sup>10</sup> IDSC website <<http://www.idsc.gov.eg/>> Arabic Only.

<sup>11</sup> Transparency International, 2008

## 1.2. General Situation of Money Laundering and Financing of Terrorism

### Money Laundering

**Table 2: Number of Predicate Offences Reported**

Designated Category of Offences	2004	2005	2006	2007
Participation in an organized criminal group	1	0	0	1
Terrorism, including terrorism financing	2	2	2	0
Trafficking in human beings and migrant trafficking				
Sexual exploitation (including of children)	798	732	725	682
Illicit trafficking in narcotic drugs	12,884	12,060	16,040	15,271
Illicit Arms Trafficking	432	993	309	63
Corruption and bribery	1,263	1,267	1,353	1,616
Illicit trafficking in stolen and other goods				
Fraud	3,592	10,696	9,930	12,770
Counterfeiting currency	234	306	327	375
Counterfeiting and piracy of products				
Environmental crime	0	15	2	25
Murder, grievous bodily injury				
Kidnapping, illegal restraint and hostage taking				
Robbery or theft	46,031	46,538	47,441	50,138
Smuggling				
Extortion	0	0	0	4
Forgery	1516	1581	1410	1376
Piracy				
Insider trading and market manipulation				
Other (Trading in antiquities)	200	203	246	309
Other (violation of intellectual property rights)	10,917	14,293	18,232	17,751
Other (crimes of receiving money in violation of law 146 of 1988)	1	1	1	4

66. In discussions with authorities, there was a common perception that Egypt is not viewed as a centre for money laundering activities. Reported numbers of the predicate crime listed in the FATF methodology are also low relative to the size of the population.

67. The number of money laundering cases that have been investigated is not high and less than 15% result in prosecutions, difficulties of obtaining evidence being a factor. Authorities attribute this phenomenon to: 1) a large proportion of the predicate crimes are misdemeanors, such as theft, fraud, breach of trust, cheating, deceit; which do generate need for ML; 2) Given the petty nature of crimes, proceeds are mainly belongings and other movables, rather than cash; 3) many crimes listed in table above do not generate funds, e.g. robbery, possession of personal weaponry; 4) in many cases of

embezzlement, speculation, aiding to commit speculation and profiteering, criminals often return stolen funds during investigations in order to redress damage, reconciliation, or benefiting from the legal exemption of penalty provided under Article 33 of Law No. 88 of 2003.

**Table 3: Money Laundering Cases**

	2004	2005	2006	2007
Number of investigations involving AML component	265	169	164	139
Number of ML prosecutions	9	14	6	20
Number of ML cases referred to the courts		2		2
Number of convictions in ML crimes		1		

68. In view of the threat of some forms of organized crimes, broad powers were given to the Intelligence arm of the Interior Ministry to address money-laundering in drug trafficking, weapons of mass destruction (WMD), trading of humans and human organs, illegal trafficking in antiquities, and forgery, particularly for immigration purposes. The amendments to the AML/CFT Law to allow prosecution of both the predicate crime and the money-laundering of the proceeds further strengthen the possibilities of more cases being prosecuted.

69. Crimes related to weapons trading are not large in number and declined after a sharp increase in 2005. More cases are associated with risks through migration abroad. According to statistics provided by the authorities, the numbers of cases which were detected and prosecuted show that theft and misappropriation of funds (properties) are the largest source of proceeds of crime (see Table above). Drug related crimes (planting, manufacturing, transporting, smuggling, and exporting) accounts for approximately 16 percent of the predicate offences. Corruption and bribery cases, while rising in numbers represent a small share of total predicate crimes. The Administrative Control Authority reported investigations of about 450 cases (corruption, etc.) a year, of which less than one quarter were considered for prosecution.

### **Terrorist Financing - trends and methods of financing**

70. Egypt has an established history of policies and operational procedures to address terrorism. Since the Conference called by the national leadership in 1986, Egypt has implemented measures to address terrorism. It has ratified the United Nations Convention on Financing of Terrorism, and implemented a system of detection and investigation.

71. Taking measures to pursue international terrorists is the responsibility of the Terrorism Committee, which now includes the financing of terrorism issues, following the implementation of the AML/CFT Law. Law Number 84 of 2002 governing non-governmental organizations (NGOs) also has strict regulations and oversight which significantly circumscribe the ability to use Egyptian financial institutions or organizations to finance terrorism activities.

72. The implementation of measures relating to financing of terrorism is supported by a comprehensive and effective structure of domestic and international coordination. Terrorism issues are well coordinated among the Ministry of Foreign Affairs, the Ministry of Interior, the CBE and the Public Prosecutor's Office. Egypt has a strong track record of a comprehensive strategy, and has been successful in early

disruption of terrorist groups. To date, the strategy that targets prevention of terrorism for public safety include early analysis of terrorist activity and tracking and monitoring of terrorist elements.

### **Assessing Egypt's Risk/Vulnerabilities to Money Laundering and Terrorism Financing**

73. The Document, "Egypt's Strategy on Combating Money Laundering and Terrorism Financing" of December 2006 indicated that Egypt has undertaken studies on potential ML and TF risks to Egypt's financial and other sectors. The contents of these studies were only provided to assessors in January 2009, after receiving the first draft of the DAR. Analysis of Egypt's risk/vulnerabilities to AML/CFT is based on both the Strategy document as well as the latest update of the "Risk Assessment of Money Laundering and Terrorism Financing in Egypt".

74. Overall, the authorities have undertaken studies to identify risks and plan mitigating actions. Some of these plans are now in various stages of implementation (to reduce use of cash, implementing regulations on selected DNFPB sectors like real estate and precious stones), while specific control measures are already implemented (reporting of unusual cash transactions, and transactions in foreign exchange bureaus). Authorities reported that many important amendments to regulations were implemented as a result of the studies on risk analysis (amendments to Law No. 80 of 2002, made by Law No. 78 in 2003 and Law No.181 in 2008, amendments to the KYC Rules and FI Regulations). The risks addressed in the Strategy Documents as well as the risks associated with an economy where cash transactions are the norm, is analyzed in the following paragraphs. Moreover, the additional materials provided indicate that research on risks is followed up with policy measures to address these risks. In this exercise, authorities noted the importance that risks cannot be underestimated, in order that policy measures will be appropriate, proportionate and effective.

75. One of the major risks identified was the low access to banking facilities; hence the economy is largely a cash economy, where large transactions are conducted in cash. Assessors were informed that single transactions involving quite large amounts were not uncommon. In addressing this risk, authorities have taken a two-pronged approach—a longer-term plan to improve access to finance through developing the payments system, and a system of monitoring cash transactions by financial institutions to address current risks.

76. At the financial system level, a comprehensive plan of action is being implemented in several stages, to increase access to financial institutions and reduce overall dependence on cash transactions. This plan of action is embodied in the overall strategy to enhance the payments system. The premise is that through a stronger infrastructure that supports non-cash payments, the AML/CFT risks will be reduced. The target is to raise access by increasing the number of bank accounts and issues of debit cards to 10-12 million within 4 years (from current 4.5 million). New ATMs is target to reach 6000 in the next 3 years, mainly to facilitate implementation of public sector salary payments away from cash to payment via credits in bank accounts. Within the private sector, the CBE is promoting use of debit cards, starting with use for payment of government services, and setting up systems for direct debit in bill payments. At the same time, all legal, regulatory and technical infrastructures are being put in place to facilitate a shift away from cash-based transactions.

77. These measures represent a structured approach to address the risk of cash transactions for the longer-term. Specific to AML/CFT risks, authorities concur with assessors that these measures take time. Meanwhile, monitoring and mitigating risks of cash transactions is required. In this respect, authorities' have introduced regulations requiring monitoring of unusual cash transactions at financial institutions, including exchange bureaus. The regulations also include identification of 12 red flags to guide financial institutions to identify suspicious cash-based transactions. Other prudential rules being implemented also complement the cash monitoring regulations. These include regulations at the Capital Market Authority (CMA) and the Mortgage Finance Authority (MFA). In the real estate sector, regulations have just been

introduced. Please refer to analysis of R 19 for more details on monitoring of cash transactions at financial institutions.

78. Another area of risks concerns money transmission services. There are only 2 companies licensed to transfer money and they are subject to the AML/CFT regulations issued by the CBE to money transmission companies. These two companies conduct most of the money transfer transactions. A common threshold for large transactions is not imposed. Instead, the CBE tasks the companies to set individual thresholds that correspond to the nature and characteristics of the companies' transactions and clients. During the on-site visit, CBE examiners test the suitability of the thresholds and require changes to be made if required. All exchange houses are monitored to ensure that they are implementing these regulations, which include obtaining full data about customers and reporting to EMLCU, any suspicious transactions, even if the transaction is not eventually carried out.

79. Technology related risks are low in Egypt. The use of technology platform to deliver financial services is still limited in the Egyptian banking sector. Only few banks have introduced high technology financial services, and with high level of restrictions. Such transactions are controlled and monitored through internal Unusual Transactions Reports (UTRs). These financial services can only be introduced if licensed and authorized by the CBE.

80. The private sector recognizes that predicate offences such as drug trafficking, corruption (illicit gains), and trading in antiquities constitute the major money laundering risks in Egypt. In recognition of risks related to activities in the real estate and dealing in precious metals and stones, authorities have recently brought these businesses under coverage of the AML Law and have issued regulations to these entities. The existing Egyptian legal system includes two types of registration for all entities dealing in real estate brokerage namely: commercial registry for all entities engaged in the businesses and registration in the Register dedicated to Commercial Intermediaries. While registration at the Commercial Registry is not specifically a measure introduced under the AML/CFT framework, such registration nevertheless allows authorities to monitor real estate brokerage activities, where necessary.

81. Intelligence on terrorism financing risks is now focused on immigration. The Ministry of Interior undertakes identity and background checks on Egyptian nationals and non-Egyptians passing through Egypt to seek employment abroad. This source of risks is seen as growing with large numbers of individuals passing through Egypt to seek employment in the Mediterranean States. The Ministry of Interior is responding to a large number of requests on individuals, and checks are done to verify affiliations with extremist activities. Forged documents were identified as significant risks. The introduction of the national identification system has made verification easier for Egyptian nationals. Verification of identity for non-Egyptian nationals remains a challenge. Similar functions are also vested with other Ministries. The most significant is the Ministry of Manpower, which, in coordination with other entities, conducts the necessary checks in response to all requests.

### 1.3. Overview of the Financial Sector

82. Only institutions listed in table 4 are allowed to carry out in Egypt financial activities as defined by FATF.

**Table 4: Overview of Egyptian financial institutions (2007)**

- As of 2007 -	Number*	Total Assets* (unless otherwise mentioned)	
		M EGP	M USD
<b>Banking industry (covered by law n° 88 – Banking Law)</b>			
- Banks and branches of foreign banks	39	1,020,013	187,158

<b>Other deposit taking institutions</b>			
- Post office	1	66,700	12,239
- Arab international Bank	1	---	4,057
- Nasser social bank	1	na	Na
<b>Insurance industry</b>			
- Life insurance companies (figures refer to policy holders rights)	12	9,684	1,777
- Insurance brokers	na	---	---
- Pension funds (private insurance funds)	625	20,456	3,753
<b>Securities industry<sup>12</sup></b>			
- Brokers	141	na	Na
- Securities underwriters	40	na	Na
- Mutual funds	37	na	Na
- Fund management companies	50	na	Na
- Portfolio management companies	30	na	Na
- Venture capital firms	18	na	Na
- Private equity firms	111	na	Na
- Custodians	29	na	Na
- Central securities depository and registry	1	na	Na
<b>Other financial institutions</b>			
- Foreign exchange companies	167	na	Na
- Money and value transfer companies	2	38	7
- Factoring companies	na	na	Na
- Leasing companies	na	na	Na
- Microfinance institutions	na	na	Na
- Mortgage finance companies	6	532	98
- Entities specializing in mortgage securitization	2	na	Na
- Central bank of Egypt (CBE)	1	447,550	82,119

\* (na) stands for not available & (---) for not applicable

Source: CBE, CMA, EISA, MFA

**Table 5: Overview of the relative size of financial institutions (2006)**

- As of 2006 -	Number	Assets as a percentage of GDP	Percentage of total assets
<b>Total assets of financial institutions</b> (not including market capitalization)		<b>133.1%</b>	<b>100%</b>

<sup>12</sup> The entities listed here exercise at least one of the following activities covered under the FATF definition of a financial institution:

- Trading in: (a) Money market instruments (cheques, bills, CDs, derivatives etc.), (b) Foreign exchange. (c) Exchange, interest rate and index instruments, (d) Transferable securities, (e) Commodity futures trading.
- Participation in securities issues and the provision of financial services related to such issues.
- Individual and collective portfolio management.
- Safekeeping and administration of cash or liquid securities on behalf of other persons.
- Otherwise investing, administering or managing funds or money on behalf of other persons.

Including:			
<b>Banking industry (covered by law n° 88)</b>	43	126.2%	94.8%
- State Owned Banks	7	68%	51.1%
- Domestic Private Banks	14	23.8%	17.9%
- Foreign & Foreign Branches	20	30.1%	22.6%
- Islamic Banks	2	4.3%	3.2%
<b>Insurance industry</b>			
- Insurance Companies (life and non life)	21	3%	2.3%
- Pension funds (private insurance funds)	628	2.7%	2%
<b>Securities industry</b>			
- Mutual funds	-	1.2%	0.9%
<i>Market Capitalization (Not included in the total assets of financial institutions)</i>		80%	
<b>Other financial institutions</b>			
- Mortgage Finance Companies	2	0%	0%

Source: CBE, CMA, EISA, EMLCU, MFA & calculations of the FSAP team

### **Banking industry (covered by law n° 88 – Banking Law)**

83. The banking sector is experiencing significant growth “with total deposits increasing by 14 percent to reach EGP 682 million at the end of October 2007, together with a 37 percent surge in net foreign assets.” (CASE, Yearbook 2007)

84. The banking sector, which dominates the Egyptian financial sector, is undergoing significant reforms, with the ongoing restructuring of state-owned banks and the growing importance of foreign banks. The Egyptian authorities embarked on ambitious efforts to restructure the banking sector following severe problems in the early 2000s<sup>13</sup>. A four pillar reform plan was approved in 2004 and is being implemented:

- Privatization and consolidation of the banking system. The number of banks decreased from 54 in December 2004 to 40 in August 2008 and SanPaolo IMI acquired 80% of Bank of Alexandria when it was privatized in 2006,
- Streamlining the financial and managerial structure of state-owned banks<sup>14</sup>,
- Addressing the issue of non-performing loans. Workout units in banks managed to settle 78% of nonperforming loans from January 2004 to November 2007<sup>15</sup> (that percentage excludes non performing public enterprises’ debts),
- Upgrading CBE banking supervision (see 3.10).

<sup>13</sup> According to FitchRatings, “poor asset quality has been one of the main problems in the Egyptian banking sector in recent years. A combination of factors in the late 1990s contributed to the problem: poor standards of credit appraisal, very basic risk management systems, lack of appropriate monitoring of loans and in the case of state-owned banks, lending that was often politically connected. In addition, foreign currency lending to customers with insufficient foreign currency earnings caused problems, especially during the rapid devaluation of the Egyptian pound” (FitchRatings, Egyptian banking system and prudential regulations, June 2008).

<sup>14</sup> ABN Amro and ING are assisting the two biggest state-owned banks (Banque Misr and National Bank of Egypt) to upgrade their risk management systems.

<sup>15</sup> CBE, Economic Review, Vol. 48 n° 1, 2007 /2008

85. The banking system is characterized by a strong presence of state-owned banks and, increasingly, of banks controlled by other Arab and European financial institutions. Foreign institutions are requested to buy into existing institutions and restructure them. Since 1982, only one new license was granted, for the creation of United Bank which resulted from the merger of several different banks. There are 42 banks in Egypt, of which 39 are supervised by the CBE as of August 2008. Another 3 are directly supervised by the EMLCU, but only with respect to the AML/CFT compliance:

- 6 public banks<sup>16</sup>. The three major state-owned banks<sup>17</sup> are the largest Egyptian banks and control around 45% of banking assets
- 26 private banks<sup>18</sup> controlled by institutions from the European Union, other Arab countries and Iran (with significant stakes from the Egyptian state in some of them),
- 7 branches of foreign banks<sup>19</sup>, mainly from the European Union and Gulf states.

86. Egypt has a large banking sector for its per capita income (Bank assets amounted to 126% of GDP and bank deposits to 95% of GDP at the end of 2006) but credit to the private sector is not comparatively high (42% of GDP at the end of 2006). Other relevant characteristics of the banking sector include:

- A relatively high degree of dollarization of banking assets and liabilities (almost 30% of deposits are in foreign currencies);
- Cash is very commonly used in banking transactions (e.g. deposits and withdrawals), even for large amounts. The mission was informed that transactions in cash reaching the equivalent of USD 100,00 and more were common;
- Nonperforming loans are still high (estimated at 25% of total loans in 2007);
- Bank deposits remain primarily retail, although those of the business sector are growing. Lending is concentrated on corporations, although banks are now keen to develop retail and SME banking activities. Loans to deposit ratios still hover only around 55%;
- Interest income is the main source of bank revenues, although fees are becoming very significant for some private banks. Some banks offer non bank financial services through direct subsidiaries (brokerage, money management and life insurance in particular) and play major roles in the securities and life insurance sectors;

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<sup>16</sup> Banque Misr, Banque Du Caire, National Bank of Egypt, Egyptian Arab Land Bank, Industrial Development and Workers Bank of Egypt, The Principal Bank for Development and Agricultural Credit.

<sup>17</sup> National Bank of Egypt, Banque Misr and Banque du Caire.

<sup>18</sup> Bank of Alexandria, Commercial International Bank, Blom Bank, BNP Paribas, Suez Canal Bank, Piraeus Bank, Audi Bank, Faisal Islamic Bank of Egypt, Egyptian Saudi Finance Bank, Al Watany Bank of Egypt, National Bank For Development, Union National Bank – Egypt, Egyptian Gulf Bank, HSBC Bank, Egyptian Workers Bank, The United Bank, Misr Iran Development Bank, Barclays Bank, Societe Arabe Internationale de Banque, Credit Agricole, Nationale Societe Generale Bank, Federal Arab Bank For Investment & Development, Housing and Development Bank, Arab African International Bank, Arab Banking Corporation – Egypt, Export Development Bank of Egypt.

<sup>19</sup> National Bank of Abu Dhabi, Citibank, Arab Bank, The Bank of Nova Scotia, Mashreq Bank, National Bank of Greece, National Bank of Oman.



- Access to financial services is still low, with 15 million customers having access to normal banking services offered by banks;
- 11 banks are authorized to offer e-banking services (including internet and mobile banking, consultation and transaction services). The banks which the mission met indicated that no account could be opened without face to face contacts; and
- Private banking has been recently introduced in Egypt for high net worth individuals. Some Egyptian banks also refer their customers to large foreign international institutions which can offer them a wider range of private banking services (variety of products, access to off-shore jurisdictions etc.).

### **Other deposit taking institutions not supervised by the CBE**

#### **Post office**

87. The Post Office has the largest number of customers (close to 18 Million) and branches (3,600) among Egyptian financial institutions. The Egyptian Post office is especially strong in rural areas and usually has long term relationships with its customers. It considers that its employees have a very good personal knowledge of their customers.

88. It is undergoing a significant modernization, which include an increased use of IT and a diversification of its financial services:

- The main characteristics of the savings account, which remains the Post Office's key product, are:
- The amounts collected are very significant (EGP 66.7 billion in 2007, approximately USD 12.2 billion). They are transferred to the National Investment Bank (NIB), as the Post office is not authorized to make loans;
- The amounts which can be deposited on savings accounts are high and deposits as well as withdrawals still almost exclusively take place in cash: (i) a customer can only have one savings account but anyone can deposit up to EGP 3 million (ca. USD 550,000) and in some cases up to EGP 5 million (ca. USD 918,000) and (ii) deposits and withdrawals can take place in any branch;
- Average deposits and number of transactions per account during a year are low (below two); and

Money transfers (including money orders) are offered only within Egypt and up to EGP 100,000 (ca. USD 18,000) per transaction. This service is available to occasional customers.

89. The Post office is undergoing a significant modernization and introducing new modern electronic means of carrying out financial transactions. It aims at extending its financial services: (i) by introducing modern payment cards (from "the straightforward debit card with a Visa sign, to the smart card that carries your account on a chip and the prepaid card that can be loaded with cash<sup>20</sup>"), 37 ATMs are in place and the Egyptian Post office is working with foreign counterparts to offer cross-border money transfers in the future, (ii) by launching in 2007 a savings account with services that include investment in the stock market. The portfolio is managed by EFG Hermes, an Egyptian securities firm. Any customer of the Post office can invest in such a product (without there being any maximum investment). A few

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<sup>20</sup> Business monthly, Journal of the American chamber of commerce in Egypt, October 2008

hundred million Egyptian pounds (equivalent to a few dozen million US dollars) were initially collected, but have for the most part been withdrawn (due to the poor performance of the stock exchange in 2008).

### **Arab International Bank (AIB)**

90. AIB is a commercial bank governed by an international treaty which gives it certain privileges. Its main activities are that:

- AIB can only operate in foreign currencies;
- AIB mainly collects deposits from individuals (Egyptian expatriates, exporters and investors). Total customer deposits amount to USD 3 billion (2007);
- Assets comprise mainly securities held outside Egypt. AIB embarked on an effort to increase its loan portfolio. A Country Intelligence report mentions a relatively high number of non-performing loans (NPLs) in the currently small loan portfolio<sup>21</sup> (respectively 18% and USD 153 million as of June 2007); and
- AIB has for a long time been heavily involved in correspondent banking<sup>22</sup> and trade financing (letters of credit, LCs, and of guarantee, LG).

91. It is not subject to Egyptian banking regulations and supervision and enjoys a high degree of confidentiality (which is advertised in the annual report<sup>23</sup>). AIB is controlled by five Arab countries (Egypt, Libya, Abu Dhabi, Qatar and Oman), with Egypt having a 30% stake. A report by Country Intelligence<sup>24</sup> mentions that “the absent central bank supervision is mitigated by the appointment of two senior CBE representatives to the Board in addition to three CBE appointed staff members”. However, with respect to AML/CFT compliance, AIB is monitored by the EMLCU, which has received STRs from the AIB.

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<sup>21</sup> “In percentage terms, NPLs represented 18.35% of gross loans [as of June 2007] (FYE 6/06: 35.48%) with the majority of problems credits classified in bad category. The relatively high NPL ratio is mitigated by the comparatively small share of loans in total assets combined with the good level of provisioning”. Country Intelligence, Arab International Bank, September 2008

<sup>22</sup> “When AIB was established it was assigned the specific role of facilitating international trade and foreign exchange transactions through use of its special status. The bank currently operates along the lines of a wholesale and investment bank in addition to providing correspondent banking services and facilities to domestic and regional Arab banks”. Country Intelligence, Arab International Bank, September 2008

<sup>23</sup> “By virtue of the treaty, the Bank enjoys certain privileges in the territories of the member states (shareholders) including: (i) exemption from laws regulating banks, credit, exchange control, statutory auditing requirements, public institutions, public companies and joint stock companies, (ii) immunity from all form of nationalization and seizure of shares in and deposits with the Bank, (iii) the Bank’s documents, records and files are inviolable and immune from judicial, administrative and accounting control and inspection rules and law, (iv) confidentiality of customers’ accounts with the Bank which are not subject to judicial or administrative restraining orders, (v) exemption of tax of any kind on its funds, profits, dividends and all its activities and different transactions, (vii) exemption from taxation and any obligations for the payment, withholding or collection of any tax or duty, which may be imposed on its customers”.

<sup>24</sup> Country Intelligence, Arab International Bank, September 2008

92. AIB controls two Egyptian banks: Suez Canal Bank (38% stake) and Société Arabe Internationale de Banque (46% stake). These two banks are supervised by the CBE.

### **Nasser Social Bank**

93. The Egyptian authorities indicated Nasser social bank was established by “a law of a special nature due to the special nature of its activities” and is supervised by the Ministry of social solidarity.

### **Insurance Industry**

94. Life insurance activities are growing rapidly, but remain at a low number when compared to the size of the Egyptian economy:

- Twelve companies offer life insurance policies in Egypt (six of them are exclusively engaged in the life insurance business and mainly foreign owned, while the other are mainly state-owned companies). Profits of life business reached EGP 1,95 billion (approximately USD 358 million ), in 2006/2007<sup>25</sup>;
- 837,000 people had life insurance policies as of June 2007, mainly through policies contracted by their employers;
- The sums assured amounted to EGP 94 billion at the end of June 2007<sup>26</sup> (ca. USD 17 billion) and premium collected from June 2006 to June 2007<sup>27</sup> to EGP 3 billion (ca. USD 550 million);
- Premiums collected rose dramatically on an annual basis (+37% overall and +71% for new business). The strong growth is recorded mainly by foreign-owned insurers; and
- Information is not available regarding the breakdown between “pure” life insurance policies (including those which can only be redeemed when the policyholder dies) and policies which characteristics of investment products (e.g. unit linked). The latter nonetheless appear significant based on the information collected by the mission.

95. Private insurance funds are occupational pension arrangements designed to supplement state social security benefits. Most schemes have in the past been arranged by state owned enterprises although a growing number are being created by private sector employers

- There were 625 private insurance funds at the end of June 2007, with 41 of them being in run-off;
- The total fund size amounted to EGP 20.5 billion (approximately USD 3.7 billion) at end June 2007 and their profits, EGP 4.8 billion for 2006 /2007 (ca. USD 880 million); and
- The funds are described as defined benefit funds because benefits are typically related on some base salary calculation. In around 70% of cases the employer does not make any contributions to

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<sup>25</sup> The Egyptian fiscal year is generally from June to June.

<sup>26</sup> 1/3 corresponding to individual policies and 2/3 to group policies

<sup>27</sup> 3/4 corresponding to individual policies and 1/4 to group policies (from June 06 to June 07).

the fund. Only funds which have employee contributions must be licensed by the insurance supervisor (EISA).

## **Securities Industry**

96. A broad range of products are traded on the Egyptian Exchange (EGX), although stocks dominate the market both in terms of value and of liquidity. Products include stocks, government bonds, corporate bonds, securitized bonds, and close-ended funds. Stocks are primarily listed on the Cairo and Alexandria Stock Exchange<sup>28</sup> (CASE). No taxes are levied on dividends, capital gain and interest on bonds for individuals, mutual funds and international funds and there are no restrictions on foreign investment or profit repatriation in the Egyptian securities market.

97. Since it started its modernization in 1997, the Egyptian stock exchange has grown significantly and attracted foreign investors:

- The Egyptian stock exchange (CASE) has two locations, Cairo and Alexandria, which are managed by the same chairman and members of Boards of directors;
- The number of listed companies fell from 595 in 2006 to 435 in 2007 and 375 in June 2008. This resulted from the stock exchange's policy affecting revision of listing, disclosure and corporate governance rules;
- According to the Economist Intelligence Unit<sup>29</sup> (EIU), "the 30 most liquid companies account for the bulk of value traded and only about 150-200 stocks trade actively. Nevertheless, the government is determined that Egypt should become a regional financial hub and the authorities have made strenuous efforts to improve the bourse in terms of technology and legislation";
- The total value traded on the market expanded by 26% in 2007 to EGP 363 billion (ca. USD 67 billion). According to the CASE 2007 Annual report: (i) liquidity is still dominated by retail investors, although institutional investors are increasing their participation in the market, accounting for 45% of the value traded in 2007 (40% in 2006) and (ii) foreign investors are increasingly active and represented almost a third of the value traded in 2007<sup>30</sup>;
- Market capitalization grew from 30% of Egyptian GDP in 2001 to 105 % in 2007. However, the stock market was affected by the subprime crisis, and the stock market price index fell (as of 8 October 2008, it was down 44% compared to end December 2007);

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<sup>28</sup> A market for small and medium companies was launched in 2007 (the NILEX, which is affiliated to CASE)

<sup>29</sup> Egypt, Country Profile, 2007

<sup>30</sup> In 2007, foreign portfolio inflows primarily came from the United Kingdom (40%), the United States (17%), Saudi Arabia (16%), United Arab Emirates (8%) and Kuwait (8%)

- CASE introduced online trading to the market in May 2006, whereby investors can place their buy /sell orders directly on the internet, which are entered into the trading system through the gateway of each client’s broker<sup>31</sup>. Online trading represented 5% of the transactions in 2007; and
- According to the CASE 2007 Annual report, it also “provides omnibus accounts trading, allowing asset managers to trade in their names during the session and then make the proper reallocation of their executed transactions on a pro rata basis to their clients’ names”.

98. The structure of the securities industry is the following:

- 141 brokers are operating on the CASE (as of 2007). The top 30 brokers accounted for more than 78% percent of the traded value in 2007;
- 37 local funds exist in Egypt: 34 open ended funds and 3 closed ended funds;
- 30 fund management companies;
- 50 portfolio management firms;
- 40 underwriters;
- 18 venture capital firms;
- 111 private equity firms;
- 29 custodians (which are also banks); and
- 1 Central securities depository and registry.

### **Other financial institutions**

#### Foreign exchange dealer companies & Foreign exchange market

99. The parallel foreign exchange market which was buoyant in the early 2000s disappeared following the reforms introduced since 2003 (including the creation of the USD interbank market in 2004). Banks dominate the foreign exchange markets. Foreign exchange dealer companies have only a small market share (15% of utilizations and 11% of resources). There are 167 such foreign exchange companies. According to the authorities, the medium term appreciation of the EGP (ca +25% from 2003 to 2007), “led the individuals to surrender their US dollars holdings in return for Egyptian pound, and consequently foreign exchange resources have become increasingly available<sup>32</sup>”,

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<sup>31</sup> In its 2007 Country profile for Egypt, the Economist Intelligence Unit (EIU) indicates that online trading in Egypt is not occurring through websites in which the investor independently completes transactions, but is primarily a service for investors who are already customers of the brokerage houses.

<sup>32</sup> CBE Annual report 2006 /2007 (p. 19)

**Table 6: Foreign Exchange Markets in 2006/2007**

Foreign exchange markets in 2006 /2007

- in M USD-	Utilizations (Assets)	Resources (Liabilities)	Surplus /Deficit (-)
Banks	28,277	39,124	10,847
Foreign exchange dealer companies	5,017	4,974	-43
<b>Total</b>	<b>33,294</b>	<b>44,098</b>	<b>10,804</b>

Source: CBE Annual report 2006 /2007

Money and value transfer companies

100. In the money and value transfer businesses, banks and money transfer companies are key market players. In addition to normal wire transfers, some banks have arrangements with money transfer companies such as Western Union and MoneyGram as well as money changers from some of other Arab countries. There are two licensed money transfer companies: Sphinx (an agent of MoneyGram) and International Business Associates (an agent of Western Union). The two companies were granted licenses for money transfer activities by the Ministry of Economy and Foreign Trade, the former supervisory authority. Both companies are locally incorporated. Sphinx has one office, while IBA has 38 branches in Egypt. Sphinx has a parent company in the United States. MVT services are mostly cash-to-cash transfers and cash-to-account transfers.

Factoring companies, leasing companies & microfinance institutions

101. No detailed information is available on factoring companies, leasing companies and microfinance institutions.

Mortgage finance companies and entities specializing in mortgage securitization

102. According to the Economist Intelligence Unit, there are ten mortgage finance companies, compared with only two in 2007, and 16 banks also offer home-loan schemes. Although a mortgage law was passed by Parliament in 2001, the first mortgage loan was not approved until 2005 following a relaxation of the regulations governing property registration in 2004. Only around 1/3 of the population are “owner-occupiers”, compared with ¾ in neighboring Jordan. The banks have a 70% share of outstanding mortgage loans, but their mortgage commitments are restricted to 5% of their total portfolios.

**Central Bank of Egypt (CBE)**

103. According to the information provided to the mission, the Central Bank of Egypt (CBE) carries out activities which are covered by the FATF definition of a financial institution:

- The Central Bank of Egypt (CBE) maintains correspondent banking relationships with Egyptian and foreign banks;
- The CBE offers a wide range of wholesale banking services to the Government;
- The CBE only offers a limited range of retail banking products and only to its staff;

104. The assessors were informed that the CBE offered limited cash management services (i.e. damaged notes can only be exchanged at the central bank for new notes of a similar value). The CBE does not offer foreign exchange services.

#### **National investment Bank (NIB)**

105. With regard to National Investment Bank, the Egyptian authorities indicated that “in spite of being called a bank, it is considered a governmental unit, affiliated to the Ministry of finance whose mandates includes managing state funds and budget. Therefore it is not an ordinary financial institution that provides financial services as indicated in the definition of financial institution in the Methodology. NIB is not considered as a financial institution as defined by FATF.

### **1.4. Overview of the DNFBP Sector**

106. Two DNFBP sectors have recently been brought under the AML/CFT regime. The Prime Minister’s Decree of October 16, 2008 brings dealers of real estate and precious metals and stones under the cover of the AML/CFT regime. Regulations have only been issued recently, and need time before effectiveness can be assessed. Casinos are licensed by the Ministry of Tourism (for gaming functions) and the CBE (for foreign exchange dealing). Only the latter function is covered by the AML/CFT Law.

107. There are 28 casinos in Egypt (14 in Cairo, 8 in Sharm el Sheikh, 4 in Taba, 1 in Hurghada and 1 in Alexandria). Casinos are licensed by the Ministry of Tourism in respect of gaming operations. Only holders of foreign passports may enter the premises and gamble in these casinos. Casinos all have foreign exchange dealerships within their premises, licensed and supervised by the CBE, but only in respect of their foreign exchange dealings. CBE provides direction and guidance to these facilities, and conducts regular inspections. Apart from the foreign exchange transactions, other aspects of operations of Casinos do not appear to be covered by the AML/CFT Law.

108. In October 2008 Egypt issued a Ministerial degree to include the real estate and precious metals and stones sectors under the AML/CFT Law. Regulations to the industry were issued soon thereafter. The Ministry of Trade and Industry has been designated as the entity responsible for AML/CFT supervision of real estate brokerages and dealers of precious metals and stones.

109. Article 3 of Law no. 17 of 1983 promulgating the law practice code provides that “without prejudice to provisions of laws governing judicial authorities and provisions of Civil and Commercial Prosecution Law no person, except lawyers, may practice law.” Accordingly, authorities reported that no lawyer can practice law or carry out any businesses related thereto without being registered with the Bar Association. Out of the 300,000 registered with the Bar Council, only 50% practice law, mainly to defend the accused and provide legal consultancy. Most of registered lawyers work individually. Article 3 of the Law 17 also specifies activities of lawyers, which is limited to verifying legal position of clients, defending them or representing them in the judiciary, administrative or arbitration proceedings. Permitted activities of lawyers, however, include drafting of contracts and taking steps to notarize them. In this activity, lawyers can be involved in drafting contracts of a financial nature (although they may not be involved in financial intermediation activities).

110. Although lawyers are not currently covered under the AML/CFT Law, issues of professional confidentiality are limited to matters that fall within the ambit of legal representation of a client in court. It does not extend to commercial or related transactions or activities. It was reported to assessors that lawyers are not permitted to perform “non-legal” activities on behalf of clients (e.g. receiving or disbursing funds, holding funds in trust, transferring funds to other jurisdictions, etc).

111. Accountants and audit professions in Egypt are regulated by Law No. 133 of 1951. The scope of the profession covers revisions and approval of balance sheets and accounts of all sorts of banks,

economic institutions, cooperatives, private businesses, unions and sport clubs. Accountants are also organized through a legally established association, but their numbers could not be determined. As with lawyers, accountants are prevented from revealing information about their client's affairs to third parties. Reportedly, if accountants in the course of their audits encounter signs of money laundering or fraud that would affect the materiality of the audit findings, they are required to withdraw from the client and file a report with the independent audit committee of the client.

## **1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements**

112. The types of legal persons and legal arrangements that exist in Egypt are companies, sole proprietorship and partnerships. It should be noted, however, that sole proprietorships do not constitute legal persons. However, the Egyptian law permits several forms of companies that have legal personality; these types of companies are partnerships, limited partnerships, joint stock companies, limited by share companies and limited liability companies.

113. *Limited Companies* – These companies are established under Law 159 of 1981. Articles 15-18 of Law 159 together with the provisions in the Executive Regulations stipulate the procedures for registering limited liability companies. The instruments of registration to be submitted must include the articles of association; the primary contract of the company as to who has the authority to bind the company; information on all the founding members of the company whether natural or legal persons; and names of the board of directors. As at October 16, 2008, there were 2.6m commercial records, divided as follows: individual – 2.2m; personal or partnership – 286,000; and capital companies – 78,000.

114. *Partnerships, Sole Proprietorships* - These are registered under the Chapter of the old Code of Commerce for partnerships. For a partnership, registration is done under Law 27 of 1999, the commercial registry requires the partners to submit a certification as to which partner will be liable for the partnership; and partnership agreement or contract. Application to the commercial registry for a sole proprietorship requires a tax number from the tax authority. Trade activities in Egypt can be conducted through a sole proprietorship that is conducting trade without taking on any of the company's forms applicable in Egypt.

115. *Foreign companies*: For foreign companies interested in investing in Egypt, the registration process is done at the GAFI office, which is the one stop shop for the registration of all foreign companies seeking to invest in Egypt. In addition to meeting the requirements under Law 159, the applicants are required to provide notarized copies of their registration documents to the Egyptian Embassy in the home country; these are then sent to the Ministry of Foreign Affairs for certification and determination that they satisfy the requirements of Egyptian commercial laws; and all the information of the shareholders and ultimate beneficiaries.

116. *Trusts*: Egypt does not recognize trusts or similar legal arrangements. But trusts are permitted and administered by the Court of Family Affairs Status. These arrangements are restricted to inheritance issues rather than for business purposes.

117. Currently, all information is kept manually, although the commercial registry is being computerized. This information is updated on a weekly basis. The Commercial Registry is being automated in collaboration with USAID. As a result, several major Commercial Registry offices have now automated information systems. The project is expected to be completed in 2010.

## **1.6. Overview of strategy to prevent money laundering and terrorist financing**

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

118. The Egypt Money Laundering Control Unit, in December 2006, completed a document entitled "Egypt's Strategy on Combating Money Laundering and Terrorism Financing. The document provides a



report of the current situation in terms of actions already taken by authorities to implement the AML/CFT regime in Egypt and the further actions needed. In terms of the current situation, the strategy takes as its starting point the assumption that adequate legislative and control frameworks and institutional arrangements have been established.

119. The document also outlines the roles, responsibilities and accountabilities of the various authorities assigned to implement various aspects of Egypt's AML/CFT regime. It describes the internal coordination arrangements. Without specifying the gaps in the regime and assessment of the implications of these gaps on Egypt's vulnerabilities to AML/CFT risks, the document notes the desirability of incremental improvements and enhancements in some areas. These include examining the possibility of bringing certain DNFBPs under coverage of the law, expanding the scope of predicate offences; strengthening national cooperation, including emphasis that the EMLCU can play an active role in the new committee to address corruption; update oversight controls by regulatory authorities through expanding benchmark indicators for identifying STRs for both ML and TF, achieving more flexibility in defining obligations of financial institutions and requiring financial institutions to adopt risk-based approaches; expand and upgrade training for all participants in the AML/CFT initiative; and enhancing regional cooperation.

120. While the objectives set in the Strategy are of a generic nature, their implementation requires specific plans for implementation. Implementation is undertaken in light of the studies discussed in the National Committee and the proposals presented by an ad-hoc committee formed to propose the necessary legislative amendments. The goals of the Strategy are prioritized according to the weight of their importance (i.e. legislative amendments take supremacy over issuing amended Supervisory Regulations).

### **The Institutional Framework for Combating Money Laundering and Terrorist Financing**

121. Egypt has put in place an institutional framework to implement the AML/CFT Law. This comprehensive institutional structure revolves around the EMLCU as the central body, supported by dedicated AML/CFT Units in other public sector bodies which have responsibilities to implement various aspects of the AML/CFT regime. This structure is in turn supported by a sound administrative framework of coordination among domestic agencies as well as their respective responsibilities on international cooperation on AML/CFT matters.

122. **The National Committee for International Cooperation in the Field of Combating Terrorism (the Terrorism Committee):** The Terrorism Committee established by virtue of Decree No. 847 of 1998, comprises the Ministry of Justice (as Chair), the Ministry of Foreign Affairs, the Ministry of Interior, the National Security Agency, and the EMLCU. The responsibilities of the committee are taking measures that are necessary for pursuing international terrorists in accordance with provisions of international law and applicable laws and agreements as well as coordinating international working mechanisms in this area.

123. **The National Committee for Coordination in Combating Money Laundering and Terrorism Financing (National Committee):** The National Committee was established by virtue of Decree No. 63 of 2005 and is chaired by the Chairman of the Council of Trustees of the EMLCU, who is the Assistant Minister of Justice. It is tasked with coordinating national efforts in the AML/CFT area and contributing to the effective enforcement of the laws, regulations, decrees and other relevant measures to combat money laundering and financing of terrorism. Its membership is comprised of: the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Social Solidarity, the Public Prosecution, the National Security Authority, the State Security Investigative Service, the ACA, the CBE, the CMA, the EMLCU, and the EBI.

124. **Public Prosecution:** Pursuant to Circular No. 2 of 2004, the Public Prosecutor is responsible for the investigation and prosecution of all money laundering and terrorist financing crimes in Egypt. The

Public Prosecutor has the authority to order access to, or obtaining, any data or information related to accounts, deposits, trusts, safes, or transactions linked to such accounts, if this can lead to revealing to crimes stipulated in the AML/CFT Law. The Public Prosecutor is also the central authority responsible for facilitating international cooperation with foreign judicial authorities.

125. **Administrative Control Authority:** The ACA is a body responsible for monitoring the performance of the public sector agencies and is accountable to the office of the Prime Minister administratively. It was created under Law 54 of 1964. In monitoring the activities of the public sector agencies, it is responsible for detecting and preventing administrative and financial contraventions, abuse of public funds by public officials; conducting investigations on illegal gain case (unjust enrichment); and conducting investigations on suspicious financial operations that might include money laundering by coordinating and exchanging information with the EMLCU. The ACA is a member of the National Committee.

126. **Ministry of Interior:** Within the framework of coordination between the EMLCU and law enforcement agencies, Decree no. 9821 was issued in 2003 Concerning the Establishment of the Money Laundering Crimes Investigation Department (MLCID), within the Department of Public Funds. As a result, a special Department was set up within MoI, to coordinate all aspects of the Ministry's responsibilities in the implementation of Egypt's AML/CFT regime. This department coordinates specific work related to AML/CFT issues within 3 other Departments in MoI, namely, the Drug Enforcement Department; the Civilian Affairs Department (responsible for issuing of national identity cards); and the Terrorism Department.

127. **Ministry of Foreign Affairs:** The Ministry is the main counterpart for the United Nations Counter Terrorism Committee. Working together with the EMLCU, the Ministry is responsible for sending out the UN Consolidated list to various entities and providing guidance as to what action has to be taken should assets or funds of persons and entities on the UN List be found in Egypt. The Ministry is also the Coordinator for Counter Terrorism in Egypt.

128. **Customs Authority:** The Customs Authority is responsible for monitoring the entry and exit of currency and other negotiable instruments into and out of the country. It implements the declaration system established under the AML/CFT Law and its Regulations.

129. **Supervisory (Control) Authorities:** The AML law and its Executive Regulations define the supervisory authorities, referred as Control Authorities, which have responsibilities to ensure that financial institutions under their jurisdictions implement AML/CFT measures. These Control Authorities include the Central Bank of Egypt (CBE), the Egyptian Capital Market Authority (CMA), the Egyptian Insurance Supervisory Authority (ISA), the General Authority for Investment and Free Trade Zones, the Ministry of Communications and Information Technology and the Mortgage Finance Authority.

130. **Egyptian Money Laundering Combating Unit:** The EMLCU is an independent unit set up as the agency dedicated to combating ML and TF in Egypt. The EMLCU is mandated with receiving suspicious transactions reports involving ML and TF; analyzing the reports to determine indicators of ML or TF, and, when appropriate, disseminating the reports to the Public Prosecutor's office for investigation and prosecution as the case may be. The EMLCU is responsible for designing and ensuring AML/CFT compliance by all supervisory (control) authorities. Where entities are not under the supervision of any authority under the respective laws governing their responsibilities and operations, the EMLCU is entrusted to directly supervise and monitoring AML/CFT compliance for such entities.

131. **Ministry of Social Solidarity:** This is a new Ministry created in 2005 by merging the former Ministry of Social Affairs and Ministry of Supply. The Ministry's main responsibilities are related to matters affecting the low income population and the poor, including raising living standards of this group and the link to human development indicators. In this context, the Ministry is responsible for registering

and supervising the non-governmental associations and organizations, and is accountable to ensuring AML/CFT compliance of this sector.

132. **Egyptian Banking Institute (EBI):** The AML National Coordination Committee attaches importance to training and building capacity on AML/CFT issues. The Committee set up a sub-committee on training centered in the EBI. Together with the EMLCU, EBI takes the lead in providing training to both officials of the CBE as well as the financial community. AML/CFT training is also provided to law enforcement officials and prosecutors. The EBI is working on an accreditation program on AML/CFT compliance, and partners with international institutions on train the trainers AML/CFT programs. It also helps the FIU in awareness training on new AML/CFT regulations to the various stakeholders.

### **Approach Concerning Risk**

133. The Strategy Document of 2006 has a section on “Endeavour to limit risks of ML and TF”. Measures relevant to managing AML/CFT risks cover several areas including the unofficial money transfer system, use of cash in financial transactions, risks of bank transactions through modern payment tools and risks of cross-border money trafficking. Egypt has been strict in application of AML/CFT regulations, in that it has not allowed any type of customers, business relationships, transactions or product to be treated as low risks. While this may impact efficiency, authorities felt this to be a necessary trade-off while the AML/CFT regime is still being developed.

134. The Strategy Document has identified some additional specific actions to address risks in financial institutions, including reviewing controls on electronic banking, adopt a risk based approach to AML/CFT supervision, committing DNFBPs to AML/CFT regulations and modernizing the cross-border declaration systems. The latter 2 issues have been partially implemented. The EMLCU conducts studies on risk assessment which forms the basis of adjustments to policies and changes in laws and regulations.

135. The EMLCU undertakes risk assessment on a regular basis, with the latest update completed at the end of October 2008. The study analyses risks and the impact of the controls introduced to address these risks. Results of the controls in detecting criminal activities have been reported in some of the financial activities. In the latest update, there were no recommendations on changes in policies or proposals on new measures.

136. In the finance sector, this risk assessment study covers assessment of risks by type of institutions, the risks at the customer and product level, as well as the geographical/regional sources of risks. Risk assessments are also undertaken for industries/activities under the broader DNFBP classification. Similar to the Strategy Document, risks are viewed as low in most cases, except for banks, money exchange companies, post offices, NPOs, precious metals and cross-border fund transfers. Casinos were identified as high risks. (See also Section on “Assessing Egypt’s Risk/Vulnerabilities to ML and TF” above).

### **Progress since the last WB/IMF assessment or mutual evaluation**

137. This is the first time Egypt is being assessed. In the more recent period, Egypt has continued to improve the AML/CFT regime, including setting up a sub-committee on training reporting to the National Committee, and introducing disclosure of carriage of foreign currency by travelers at sea and airports. In 2008, Egypt amended the AML/CFT Law in order to be able to prosecute an accused person for both the predicate crime as well as the ML offence. It has raised its profile in international cooperation, especially related to terrorism financing, and intensified training across a broad sector of reporting institutions. Egypt also began to mentor and support other countries which were in the process of gaining Egmont membership.

## **2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES**

### **2.1. Criminalization of Money Laundering (R.1 & 2)**

#### **2.1.1. Description and Analysis**

##### **Legal Framework**

138. Law No. 80 of 2002 as amended by Law No. 78 for 2003 and Law No. 181 of 2008 (AML/CFT Law); Executive Regulations of the AML/CFT Law (AML/CFT Executive Regulations); Penal Code (PC); and the Code of Criminal Procedure (CCP). Money Laundering is criminalized in Article 2 of the AML/CFT Law and complemented by Article 2 of the AML/CFT Executive Regulations; ancillary offences are covered in Article 40 of the PC; and legal liability of persons is covered in Article 16 of the AML/CFT Law.

139. Egypt ratified the Vienna Convention in 1991 and the Palermo Convention in 2004.

140. In Egypt, laws or codes are the primary source of legal rules and norms. After the Constitution and International Convention to which Egypt is a party, laws are the most important piece of legislation that govern any subject matter in Egypt. As for Executive Regulations, these are a secondary source of legal rules and norms. Indeed, the Executive Regulations assist governmental technical officials to apply the Law in more detailed procedures. In this respect, for purposes of the criminal justice framework, Executive Regulations cannot create criminal penalties but can determine the cases considered as criminal acts. The Executive Regulations are a question of removing any ambiguity that may be in the law and not the law itself; thus the Executive Regulations cannot overrule the government's power as laid down in the law.

##### **Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offence)**

141. The offence of ML has been criminalized broadly in line with the Vienna and Palermo Conventions. Article 2 of the AML/CFT Law defines ML as follows: “any conduct involving the acquisition, holding, disposing of, managing, keeping, exchanging, depositing, guaranteeing, investing, moving or transferring funds, or tampering with their value, if such funds are the proceeds of any of the crimes stipulated in the - AML/CFT Law -, with the knowledge of that, where the purpose of such conduct is to conceal funds, alter the nature, source, location, ownership, any interest therein, change the reality, or prevent the discovery thereof or impede the identification of the perpetrators of the crime wherefrom such funds are generated.”

142. Article 2 of the AML/CFT Law fulfils the requirements established in Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by capturing the general principles outlined in the two conventions. Moreover, the ML offence satisfies the physical and material elements of the offence as required by the two Conventions, namely, (a) the conversion or transfer of proceeds; (b) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to proceeds; and (c) subject to the principles of a country's legal system, the acquisition, possession or use of proceeds. Indeed, the AML/CFT Law in its criminalization of ML extends to a predicate offence if the offence has been committed outside Egypt, provided that such predicate offences are penalized by both Egyptian and the foreign laws.

143. Specifically, the ML offence sets out three elements as covered in Article 1(b) defining the term of ML. It addresses, (i) arrangements in respect of proceeds of crime, that is, conduct involving the disposing of, exchanging, depositing, guaranteeing, investing, moving or transferring funds (under

Egyptian AML/CFT Law, the term used is ‘funds’ but has the same meaning as property); (ii) concealing the proceeds of crime, that is, the act of concealing funds, alter the nature, source, location, ownership, change the reality, or any interest of the crime where from such funds are generated; and (iii) acquisition, holding, managing or keeping the proceeds of crime.

144. However, while the principles enunciated in the conventions are captured in the AML/CFT Law, there is nevertheless an issue that relates to the manner in which the definition seeks to capture the convention requirements. As drafted in the AML/CFT Law, the definition under Article 2 requires the prosecution to prove that an accused person had a purpose to concealing of the proceeds of crime as well as the acquisition or holding of the proceeds of crime. This is in addition to the offence of conversion or transfer of proceeds of crime. This is contrary to the provisions of the Palermo Convention which only requires that a purpose be established in respect to the conversion or transfer of the proceeds of crime. In other words, Article 2 of the AML/CFT Law has an omnibus requirement for the prosecution to prove that there was a purpose to all the three elements of the ML offence. The specific language used is: “...with the knowledge of that, *where the purpose of such conduct* is to conceal funds, alter the nature, source, location, ownership, any interest therein, change the reality, or prevent the discovery thereof or impede the identification of the perpetrators of the crime wherefrom such funds are generated.” The ‘purposive element’ under the convention only applies to the material act of ‘conversion or transfer’.

### **The Laundered Property (c. 1.2)**

145. The definitions of funds and the proceeds as stipulated in the AML/CFT Law and the AML/CFT Executive Regulations are very broad. The provisions under Article 1 of the AML/CFT Law and Article 1 of the AML/CFT Executive Regulations are identical and cover “the national currency, foreign currencies, securities, commercial papers, any valuable items, whether real estate, or tangible or intangible movable property, or any rights related thereto, and deeds and documents evidencing any rights attached to such assets”.

146. Further, under the AML/CFT Law and the AML/CFT Executive Regulations, proceeds of crime covers “funds directly or indirectly generated from committing any of the predicate offences stipulated in Article 2 of the AML/CFT Law”, as indicated in the table of offences below. It includes any funds that has later been converted, transformed or intermingled, as well as income, capital or other economic gains derived from such funds at any time from the commission of the crime. Thus, it is clear that the offence of ML extends to all types of property.

### **Proving Property is the Proceeds of Crime (c. 1.2.1)**

147. Under the AML/CFT Law, conviction in a predicate offence is not a prerequisite to prove that an asset is the proceeds of crime. In discussions with the authorities, it was indicated that the offence of ML is supposedly linked to a predicate offence as provided for in Article 2 of the AML/CFT Law. It is in this regard sufficient to only demonstrate to the court that there exists elements of the ML crime and that the funds generated are the proceeds of a predicate offence. The demonstration or proof is based on presumptions and evidence exhibited by the prosecution. In the words of the authorities in asserting that ML is an autonomous offence in Egypt stated that: “according to this course of action adopted by the Egyptian legislators, the predicate offence is regarded as a standalone offence, separate from the subsequent ML offence. In many cases, ML activity proves to be a smoking gun leading to the discovery of the predicate offence. Moreover, it is even conceivable that a predicate offence may lapse (if it is a

misdemeanor) but still a conviction of ML may be secured.”<sup>33</sup> However, no case law was cited by the authorities in making this assertion on the autonomous nature of the ML offence.

### **The Scope of the Predicate Offences (c. 1.3)**

148. The predicate crimes for ML cover offences under the PC and other laws criminalizing various offences. However, the offences of participation in some forms of organized criminal group and human trafficking are not criminalized under the PC or other criminal law. The authorities asserted, based on Article 151 of the Constitution, that in view of the fact that the Palermo Convention has been ratified by Egypt and is therefore a part of Egyptian Law, the offences stipulated under the Convention are captured under Egypt’s criminal laws.

149. The assertion by the authorities is problematic as it is difficult to envisage a situation where an Egyptian court can convict someone for a crime when there is no procedure or penalty provided for under national law. Moreover, the standard requires that an offence is criminalized under a national law – in this case Egypt’s criminal laws; and it is doubtful that the Convention in and of itself is sufficient in so far as capturing participation in some forms of organized crime is concerned. Moreover, the authorities provided the team with a copy of a Referral Order of case no. 414 of 2009 which was said to deal with human trafficking. However, a review of the Referral Order indicated that the case dealt with exploitation of children which is criminalized under Egyptian law. Indeed, the facts of the referral deal with the selling of babies and the accused persons are charged under the provisions dealing with exploitation of children and not adult human trafficking.

150. Furthermore, the authorities also advised that participation in aspects of some form of organized crimes is captured under provisions dealing with Auctions and Tenders; Customs Law; Illicit Gains Law; AML/CFT Law; Taxation Law and Capital Market Law. However, there was no supporting evidence to demonstrate that cases have been prosecuted under these laws or the specific provisions under these laws that address some forms of human trafficking. The table below indicates the designated offences covered under Egypt’s laws as itemized in the FATF Recommendations:

**Table 7: Designated Category of Offences**

<b>Designated Category of Offences</b>	<b>Relevant Law and Specific sections</b>
Participation in an organized criminal group	Criminalized participation in some forms of organized crimes
Terrorism, including terrorism financing	Article 86 bis and 86 bis-A of the PC
Trafficking in human beings and migrant trafficking	Criminalized some forms of human trafficking
Sexual exploitation (including of children)	Article 116 bis a of Law 12 of 1996 of the Child Law, and Anti-Male and Female Prostitution Law
Illicit trafficking in narcotic drugs	Law 34 of 1971 & Article 42 of Law 182 of 1960

<sup>33</sup> Two authorities were cited to augment this point: Dr. Ebrahim Hamed Tantawy, *Legislative Confrontation of Money Laundering in Egypt*, Dar Al-Nahda Al- Arabia, p 57 (2003); Dr Mohammed Ali Suweilam, *Comments on Money Laundering Law in Light of Jurisprudence, Judiciary and International Conventions*, Dar Al-Nahda Al-Arabia, p 138 (2008) (arguing that it is legally established that proof of predicate offences does not necessarily require a conviction, thus the offence of money laundering does materialize even if the offender was not prosecuted for the predicate offence).

Illicit Arms Trafficking	Article 102 of the PC, and Article 12 of Law no. 394 of 1954 on Weapons & Ammunitions
Corruption and bribery	Article 112 & 113 of the PC
Illicit trafficking in stolen and other goods	Articles 1, 2, 6, 8, 40 & 44 of Law 117 on the Protection of Antiquities which deals with illicit trafficking in stolen goods.
Fraud	Article 112-119 of the PC
Counterfeiting currency	Article 202 of the PC
Counterfeiting and piracy of products	Law 82 of 2002
Environmental crime	Articles 84-101 of Law No. 4 of 1994
Murder, grievous bodily injury	Article 230 of the PC
Kidnapping, illegal restraint and hostage taking	Article 280 of the PC
Robbery or theft	Article 311, 325 & 326 of the PC
Smuggling	Article 121 of the Customs Law
Extortion	Article 327 of the PC
Forgery	Article 206 of the PC
Piracy	Article 280 of PC
Insider trading and market manipulation	Article 64 of Law No. 95 of 1992

151. In addition to the 18 designated offences under the international standards, Egypt has also included as predicate crimes such as crimes of illicit gains (targeting public officials who acquire unexplained wealth) and crimes of receiving money contrary to Law No. 146 of 1988 (Law regarding Companies Receiving Funds for Investment).

#### **Threshold Approach for Predicate Offences (c. 1.4)**

152. Egypt takes a list approach in designating predicate offences for ML. Using this approach, Egypt in addition to having most of the designated predicate offences as listed by FATF, it has also included offences not specified in the FATF recommendations.

#### **Extraterritorially Committed Predicate Offences (c. 1.5)**

153. The ML offence as stipulated in the AML/CFT Law, applies whether “the ML or the predicate crimes are committed within the Egyptian territories or abroad, provided that such crimes are criminalized by both Egyptian and foreign laws.” Moreover, Article 2 of the AML/CFT Executive Regulations reinforces the AML/CFT Law by providing that “using the proceeds derived from the predicate crimes...represent a ML crime, whether such predicate crimes, or the ML crime, are committed within the Egyptian territories or abroad, provided such crimes are criminalized on both the Egyptian and foreign laws.”

#### **Laundering One’s Own Illicit Funds (c. 1.6)**

154. The laundering of one’s own illicit funds was incorporated in the AML/CFT Law pursuant to Law No. 181 of 2008 amending the AML/CFT Law. Self-laundering is provided for in Article 14 of the AML/CFT Law. The offence was added as an exception to paragraph two of Article 32 of the PC which provides as follows: “if several crimes are committed for the same purpose and are so interconnected that

they are indivisible, they shall be considered one crime and a ruling shall be passed inflicting the penalty that is prescribed for the most serious of these crimes.”

155. Consequently, the offence applies regardless of whether the accused person is also the perpetrator of the predicate crime. In making the amendment, it was argued by the authorities to the legislators that limiting the ML offence from applying to perpetrators of predicate offences would limit the effectiveness of the AML/CFT Law. Consequently, prosecution of the same person for both the predicate offence and ML was affirmed in Law No. 181 of 2008. Indeed, during the on-site visit, the authorities shared with the assessors’ one case where the defendant was charged and convicted with both the predicate crime and ML, the Court of Cassation ruled that the basis on which the facts stood in the ML offence were different from that of the predicate offence. This meant that each separate case has its own independent identity and private circumstances. It was ruled by the court that, if a person is convicted in the predicate crime, this should not inhibit his prosecution for the offence of ML if its basic legal elements are there.<sup>34</sup> Moreover, the Public Prosecution office has referred three cases of predicate offences to court and indicted the perpetrators of such offences of laundering the proceeds of such crimes.

### **Ancillary Offences (c. 1.7)**

156. Ancillary offences to the offence of ML are found in Articles 39 to 44 bis of the PC. Ancillary offences cover conspiracy, aiding, abetting, facilitation and directing. Any person committing these offences becomes an accomplice and is punishable by the same penalty provided for the original or primary perpetrator of the crime.

### **Additional Element—If an act overseas which do not constitute an offence overseas, but would be a predicate offence if occurred domestically, lead to an offence of ML (c. 1.8)**

157. The prosecution for ML involving an underlying act, which if it was committed in a country that did not criminalize the act but which would have constituted an offence had it occurred in Egypt cannot be done. Egypt follows a dual criminality principle in this regard.

### **Liability of Natural and Legal Persons (c. 2.1 & 2.3)**

158. The offence of ML applies to natural and legal persons. For a natural person, Article 14 of the AML/CFT Law provides as follows: “any person who commits or attempts to commit, the money laundering crime stipulated in Article 2 of the AML/CFT Law, shall be imprisoned for a period not exceeding seven years and fined a sum twice the amount of money the subject of the crime.”

159. But in regard to the liability of a legal person, according to the Egyptian legal system, the company as "moral" judicial person cannot be subject of any criminal prosecution nor penalties. In other words, the company cannot be prosecuted in a similar way as an individual offender. However, the physique person responsible of the company such as the Chief Executive Officer, principal partner or general Manger shall be subject to all criminal procedures. At the same time, the company shall be responsible for all financial penalties or damages. Therefore, the general rule in Egyptian legislation is that only natural persons can be criminally prosecuted. The reason for this is that the Egyptian legislature does not envision criminal liability without free will and awareness. Such free will can only exist in human beings. While the Egyptian legal system recognizes juridical persons, as a group of individuals enjoying legal personality, it does not recognize the possibility of criminally prosecuting juridical persons. Rather, criminal acts are attributed to the legal representative of the company - he who voices its will - who is always the one held criminally liable.

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<sup>34</sup> Cassation ruling on June 5, 2005, on appeal for cassation No. 42630 of year 74/Court of Cassation.



160. It is in the light of this Egyptian company law jurisprudence that Article 16 of the AML/CFT Law provides that “where the crime is committed by a legal person, the natural person responsible for actual management of the violating legal person shall be penalized by the same penalties stipulated for the acts committed in violation of the AML/CFT Law and the crime is committed as a result of the violation of the job duties of such a person” and under article 16, the legal person is liable for the payment of any financial penalties and damages if the crime is committed in its name and interest. Furthermore, the penalty has to include publication of the verdict against the legal person in two daily widely read newspapers at its own expense and the possibility of suspending its activities for a period of no more than one year.

161. Moreover, other sanctions can also be imposed such as confiscation of a company’s assets if such assets have been used in the commission of a criminal offence.

### **The Mental Element of the ML Offence (c. 2.2)**

162. As in any civil law system, proof of the basic elements of an offence is subject to the general rules of criminal proof in Egyptian legislation, where the judge is free to form his or her own judgment with respect to the evidence submitted. This is in line with Article 302 of the Code of Criminal Procedure (CCP), which states that: “the judge shall rule in the case according to the belief reached thereby with full freedom.”

163. Therefore, for the offence of ML to be proven, two basic elements are required; material and moral. The material is represented in any action that implies acquisition, possession, disposition, management, exchange, deposit, guarantee, investment, movement, transfer, or manipulation of funds, if acquired by means of a predicate offence. The accused person should have committed any of the acts outlined knowing that the funds are acquired through a predicate offence. This is the universal criminal intent. Secondly, the moral element is represented in the accused person’s intention to conceal the funds with respect to its nature, source, location, ownership, or rightful holder, or disguise its true nature, inhibit its discovery, or obstruct efforts to identify the person who committed the offence by means of which the funds were acquired. This is the specific criminal intent.

164. Moreover, evidence is not necessarily required to be direct evidence; it may be indirect as well, in line with a ruling by the Court of Cassation stating that, “the law does not require evidence upon which a sentence is based to be direct evidence, standing witness in itself without a medium, to the truth sought, but it shall suffice to lead to that truth through a logical process undertaken by the court.”<sup>35</sup> Furthermore, the Court of Cassation has also ruled that, “evidence is not required to be explicitly self-evident of the action sought to prove, it shall suffice to lead to it by means of inference through what has been revealed to the court by way of presumptions, circumstances and conclusion”.<sup>36</sup> Indeed, what is clear is that all verdicts must specify the reasons on which they are based, and a guilty verdict must also specify the punishment and provision of the PC or law on which it is based (Article 310 of the CCP).

165. To this end, Article 1 of the AML/CFT Executive Regulations provides that knowledge can be inferred from objective factual circumstances or surrounding considerations.

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<sup>35</sup> Cassation ruling, April 23, 1972; Cassation ruling November 25, 1973; also Dr. Mahmoud Naguib Hosni, *Criminal Procedure Code Explained*, Dar Al-Nahda Al-Arabia p 866, 1998.

<sup>36</sup> Cassation ruling, March 31, 1982. Indeed, in a 1937 ruling, the Court has ruled that condemnation can be based on presumptions alone, stating that: “presumptions is one of the genuine proof methods in criminal provisions, so a judge may rely solely on it, and the concluded opinion may not be challenged if it is acceptably sound and reasonable.”

### **Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings (c. 2.4)**

166. As indicated above in discussing the liability of legal persons, juridical persons cannot be criminally prosecuted under Egyptian law. While a legal person cannot be criminally liable, civil or administrative sanctions can be imposed such as termination of a contract, cancellation of a license or official closure of the business premises. Civil and administrative proceedings can occur without the occurrence of a criminal offence or after the commission of a criminal offence such as ML by a legal representative of the legal person. This is particularly the case when it involves a financial institution such as a bank. For example, Article 135 of the Central Bank, Banking System and Money Law and the Capital Market Law, gives power to the CBE and the CMA to impose sanctions on banks and securities companies in addition to that which is imposed by the AML/CFT Law or any other law for that matter. However, the authorities did not provide an example when such an action was taken.

### **Sanctions for ML (c. 2.5)**

167. In addition, to Articles 15 and 16 of the AML/CFT Law, the sanctions for engaging in ML activities are also contained in Article 14 of the AML/CFT Law. Any person who commits or attempts to commit an act in violation of the prohibition against ML is liable for imprisonment for a term of seven years and a fine of twice the amount of money involved in the crime committed. Furthermore, pursuant to Article 14, in all cases upon conviction, the court is mandated to order the confiscation of any seized funds or an additional fine equivalent to such funds if they cannot be seized or where such funds are in the hands of a bona fide third party.

168. Indeed, the sanction regime in Egypt has been strengthened by ensuring that where in a ML case, there are multiple offences committed for the same purpose, the sentence or punishment should be in respect of each offence committed. This position is an exception to a long standing principle in Egyptian criminal justice jurisprudence summed in Article 32 of the PC which states that “if multiple offences were committed for the same purpose and were integrally connected together, they should all be regarded as one subject to the gravest penalty.” According to the authorities, this means that if one person has committed a predicate offence, and its subsequent ML is connected together, the integral connection is thereby established and both offences are to be regarded as one subject to the gravest penalty. However, the legislature in Egypt created an exception to this principle by providing under Article 14 of the AML/CFT Law that a perpetrator of a predicate offence subject to a severe penalty than ML shall not escape the penalty given upon a ML conviction.

169. A further aspect buttressing the sanctions framework is the discretion that is given to the court to be able to exempt a co-perpetrator from the penalty of imprisonment and fine if such a person cooperates with the authorities in an investigation of a ML crime (Article 17 of the AML/CFT Law). The important factor is that the cooperation has to lead to the arrest of other perpetrators or the seizure of funds related to the ML crime.

170. The sanction imposed is demonstrated in a seminal case of antiquity smuggling and laundering of the proceeds of this crime. The case involved the smuggling of antiquities from the city of Luxor to Switzerland, bribing of public officials responsible for monitoring and protecting such antiquities as well as customs officials at the airport who facilitated this transshipment. In this case, the primary defendant was found guilty for both the predicate offence of smuggling as well as ML. He was sentenced to 35 years imprisonment and a fine as prescribed under Article 14 of the AML/CFT Law. In imposing the sentence, the Court of Cassation ruled that “the association between the material action in the smuggling offence and the laundering offence led to a connection which was subject to the gravest prescribed penalty.”

171. In addition to this seminal case, the Supreme State Security Prosecution Office (SPO), has prosecuted 3 cases in the last few years. The cases involved misappropriation of funds belonging to a

private charitable foundation and the laundering of these funds. In addition, however, the prosecution office has investigated many ML suspected cases – 29 in total – that have been referred to the SPO by the Egyptian Money Laundering Combating Unit (EMLCU). Of these 29 cases, 15 have been filed due to lack of sufficient evidence or because of the occurrence of the laundering conduct prior to the promulgation of the AML/CFT Law. The number of cases still under investigation is 10.

172. Notwithstanding the important case example involving smuggling of antiquities, the number of proceeds generating crimes reported to law enforcement authorities is considerably high, with very low corresponding ML cases. This is seen in the Table below:

**Table 8: Number of Reported Predicate Offences generating proceeds**

Category of Predicate Offences	2004	2005	2006	2007
Sexual exploitation (including of children)	798	732	725	682
Illicit trafficking in narcotic drugs	12,884	12,060	16,040	15,271
Illicit Arms Trafficking	432	993	309	63
Corruption and bribery	1,263	1,267	1,353	1,616
Fraud	3,592	10,696	9,930	12,570
Forgery	1516	1581	1410	1376
Other (Trading in antiquities)	200	203	246	309

#### **Analysis of effectiveness**

173. The ML offence as provided in the Egyptian AML/CFT Law is broadly in line with international standards and the material elements are generally capture the principles enunciated in the Vienna and Palermo Conventions. However, as drafted the language of the offence narrows the scope that prosecutors need to have in proving a money laundering case by requiring that a purpose be established even in the case of concealing or acquiring of the proceeds of crime. This would make it difficult for the prosecution to successfully prove their ML cases. They will need to prove that there was a purpose to every material acts of the offence whether it is concealment or acquisition. But this runs counter to the rationale underlying the elements in the convention which only requires proof that concealment or acquisition was in relation to proceeds of crime irrespective of the reason for such acts. It is only in relation to conversion or transfer that the prosecution has to establish that the purpose was either to conceal or to evade the consequences of such illegal conduct.

174. The scope of the offences is broad and the authorities across the relevant agencies have used the AML/CFT Law as often as the investigation has permitted them. An added complement is the fact that the authorities can prosecute persons for ML without securing a conviction of the underlying offence as well as prosecuting someone for both the predicate offence and ML – self laundering. This can only strengthen the anti-money laundering system and add tools to combating financial crime in Egypt. Moreover, the authorities have in addition to the 18 designated offence required by FATF included other crimes that generate proceeds of crime in Egypt.

175. On the other hand, despite the prosecution of a few ML cases, there are 10 cases yet to be brought to trial. At the time of the assessment mission, 4 cases had been referred to court; one conviction had been secured; the trial of three cases is still ongoing. With respect to the remaining 10 cases; some are still under investigation and/or in the process of intelligence gathering; some have been filed due to insufficient evidence; while for others, the authorities have sought mutual legal assistance from other jurisdictions and the requests are still pending.

176. Moreover, with thousands of reported predicate crimes that generate proceeds, there are a significant low number of ML investigations and prosecutions arising out of such predicate crimes. Authorities attribute this phenomenon to 1) many crimes do not generate funds or generate small funds that do not create need for ML; 2) in many cases of embezzlement and others involved profiteering, criminals often return stolen fund during investigations, benefiting from legal exemption from penalty provided under Article 33 f Law No.88 of 2003; 3) in bribery cases, amounts are returned as criminals are caught red-handed. Without evidence of amounts returned and the number of cases involved, this explanation does not explain the disconnect between the large number of proceeds generating crimes and the investigations of these crimes. For example, in 2007 alone, there were 15, 271 drug related cases reported and a large percentage of such crimes do generate financial or material proceeds. Another predicate offence reported in large numbers is corruption and bribery. But in both cases and others, there were no ML cases that were investigated following such reports. There is a conspicuous disconnect between the reported proceeds generating crime; ML investigations related to the proceeds generating crimes; and inevitably an absence of ML prosecutions arising out of such crimes.

177. In discussions with the law enforcement agencies and other competent authorities, however, the above reasons were not indicated to the assessors as accounting for such low investigations and prosecutions. However, one possible explanation is a financial investigation skills gap among the relevant competent authorities. On the other hand, with regard to the perceived skills gap, the authorities dispute this observation and are of the view that the members of the SPO have the requisite technical skills in investigating crimes. Moreover, it was argued that all the prosecutors have attended on a regular basis training courses domestically and internationally. Courses are offered by the Judicial Studies Center, Criminal Research Center and the Egyptian Banking Institute. Further, prosecutors have also participated in workshops offered in Luxembourg, UK and the USA.

178. It is nevertheless noteworthy that despite significant deficiencies in the investigation and prosecution of profit generating crimes, discussions with relevant agencies indicate that the AML/CFT Law has been used in several investigations in relation to ML cases. But as noted above, such cases have been low as to be dispositive in determining whether the AML/CFT Law has been sufficiently used and tested, considering that it has been on the books for the last six years.

179. Moreover, legal persons cannot be criminally prosecuted and any penalty that can be imposed is predicated on a representative of the legal person engaging in a criminal offence or for that matter ML or TF. While a period of seven years imprisonment for a natural person who is convicted of a ML offence is proportionate, a lack of criminal sanctions against a legal person is a glaring gap in Egypt's sanctioning framework. Linking sanctions on a legal person to offences committed by natural persons only creates significant challenges to making the sanctions effective and dissuasive.

## Statistics (R.32)

**Table 9: Money Laundering Cases**

	2004	2005	2006	2007
Number of investigations involving ML component	265	169	164	139
Number of ML prosecutions	9	14	6	20
Number of ML cases referred to the courts		2		2
Number of convictions in ML crimes		1		

### 2.1.2. Recommendations and Comments

180. The authorities should:

- Amend the ML offence to ensure that the material elements of (i) concealing, and (ii) of acquisition do not require the prosecution to establish a purpose for such conduct.
- Fully criminalize under Egypt’s criminal laws engaging in participation in all forms of organized crime activities; and human trafficking.
- Expedite bringing to trial the outstanding cases that have been referred to the SPO by the EMLCU.
- Require that legal persons be criminally prosecuted if engaging in or being used for ML/TF activities
- Investigate ML indicators in the profit generating crimes that are reported with a view to initiating ML prosecutions
- Consider reviewing the factors that have led to the delay of the trials in the remaining cases such as for example whether it is due to a skills gap or lack of resources at relevant agencies.

### 2.1.3. Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
<b>R.1</b>	LC	<ul style="list-style-type: none"> <li>• The material elements of concealing and acquisition require proof of purpose</li> <li>• Lack of overall effectiveness of the AML/CFT system as reflected in low ML investigations and prosecutions arising out of profit generating crimes</li> <li>• Scope of predicate offences does not extend to participation in all forms of organized crimes and all forms of human trafficking</li> </ul>
<b>R.2</b>	LC	<ul style="list-style-type: none"> <li>• Legal Persons cannot be criminally prosecuted and any penalty to be imposed has to be linked to a representative of the legal person</li> <li>• Low number of ML cases brought to trial</li> <li>• Sanctions are not effective and dissuasive</li> </ul>

## 2.2. Criminalization of Terrorist Financing (SR.II)

### 2.2.1. Description and Analysis

#### Legal Framework

181. The PC, AML/CFT Law, [Order of the Military Ruler], and AML/CFT Executive Regulations.

182. As noted in the discussion under the section on *Criminalization of ML*, the AML/CFT Executive Regulations cannot create criminal offences or penalties. The Regulations are secondary to the AML/CFT Law and only provide the detailed procedures on how the AML/CFT Law is to be implemented by all the relevant stakeholders. As such, the discussion below on how Egypt criminalizes TF is based on the provisions in the PC.

183. Egypt ratified the International Convention on the Suppression of Financing of Terrorism (SFT) in 2004.

### **Criminalization of Financing of Terrorism (c. II.1)**

184. Article 2 of the AML/CFT Law in making the crimes of terrorism and their financing predicate offences for ML, cross references the coverage of TF to the provisions as stipulated in the PC: Article 2 simply provides that, “it shall be prohibited to launder funds generated from crimes of terrorism and financing thereof as stipulated in the PC, or in any other law.”

185. In this regard, the criminalization of FT in Egypt is covered under Articles 86, 86 bis and 86 bis A of the PC. In addition to Order 4 of 1992 of the Military Ruler mentioned below, Articles 88 bis and 96 of the PC also capture the criminalization of FT. Article 86 of the PC provides for the definition of terrorism as follows: “Terrorism, in applying the provisions of [the PC], shall mean all use of force, violence, threatening, or frightening, to which a felon resorts in execution of *an individual or collective criminal scheme*, with the aim of disturbing public order, or exposing the safety and security of society to danger, if this is liable to harm the persons, or throw horror among them, expose their life, freedom or security to danger, damage the environment, causes detriments to communications, transport, property and funds, buildings, public or private properties, occupying or taking possession of them, preventing or obstructing the work of public authorities, worship houses, or educational institutions, or interrupting the application of the constitution, laws, or statutes.” It would not matter if the terrorist act is not committed in Egypt or directed against Egyptian nationals. It is in this regard that the scope of criminality of terrorist acts extends to those committed outside Egypt irrespective of the nationality of the injured party or parties.

186. Indeed, the acts envisaged in this provision captures acts as provided for in the UN Anti-Terrorism Conventions, which Egypt has ratified, namely: on offences committed on board aircraft; offences related to unlawful seizure of aircraft; offences against the safety of civil aviation; offences against protected persons including diplomatic agents; offences against taking hostages; offences against violence at airports; offences against the safety of maritime navigation; offences against the safety of fixed platforms located on the continental shelf; and offences on the marking of plastic explosives for the purpose of detection.

187. With regard to financing of terrorism, Article 86 bis provides that “imprisonment shall be the inflicted penalty on whoever establishes, founds, organizes, or runs, contrary to the provisions of the law, an association, corporation, organization, group, or band, the purpose of which is to call by any method, for interrupting the provisions of the constitution or laws, or preventing any of the State’s institutions or public authorities from exercising its works, or encroaching on the personal freedom of citizens or other freedoms and public rights as guaranteed by the constitution or the law, or impairing the national unity or social peace. Aggravated imprisonment shall be the punishment inflicted on any one assuming leadership or command of their formations, or *supplying them with physical or financial assistance*, while being aware of the purpose they call for.”

188. Furthermore, Article 86 bis A, contains similar language to Article 86 bis. It states that: “capital punishment or life imprisonment shall be the penalty prescribed in the first clause of the previous article (i.e. 86 bis), if terrorism is one of the methods used in realizing or executing the purposes called for by the association, corporation, organization, group, or band as mentioned in that clause. The same penalty shall be inflicted on whoever provides them with arms, ammunitions, explosives, materials, machines, funds, property, or information while being aware of what they call for, and of their means in realizing or executing their purposes.” Indeed, as mentioned below, in the Al Azhar bombing case, the accused persons in that case were charged with providing financial support to a terrorist group. The language used in finding the accused persons guilty was that “they provided the group with financial support, while knowing the purposes it calls for.”

189. With respect to the issue of “collection of funds”, in addition, to the provisions in the PC, Article 1, Paragraph 6 of the Order of the Military Ruler No. 44 of 1992, provides as follows: The commitment of any of the following acts is considered illegal - “To collect, receive, raise or announce funds, or to throw

celebrations or fundraising events, or throw sporting events, or any other fundraising event in order to face the consequences of disasters, accidents or dangers, or for any other reasons, without a permit from the minister of social affairs, and according to the provisions and rules that he determines for each case. Any person who has received funds in a way that is inconsistent with the provisions of the previous paragraph, has to notify the Minister of Social Affairs (now Ministry of Social Solidarity), within 15 days from the date of this order, with a list of the funds and the amount that was spent and the way it was spent.” This paragraph does indeed criminalize the collection of funds in whatever situation and without permission from the Minister of Social Affairs. However, what is still not clear is whether if for instance a permit is obtained to collect funds but such collection turns out to be for FT would such action be covered under the paragraph? In this regard, the assessors did not have any information on whether this provision has been used for purposes of prosecuting individuals or organizations that have engaged in collecting funds in terrorist financing situation.

190. In reviewing the provisions of Articles 86, 86 bis and 86 bis A of the PC, they cover terrorist activities that are required under the SFT Convention. In addition, financing of terrorism is covered in the context of an association, organization or group of individuals. Specifically, the reading of Article 86 bis and 86 bis A of the PC clearly refer to financing of organizations and does not extend to financing of individual terrorists. The international standards require that terrorist financing offences extend to the carrying out of a terrorist act; by a terrorist organization; or an individual terrorist. The provisions of the PC only capture the financing of terrorist acts, and terrorist organizations. They do not capture financing of an individual terrorist. It is possible for an individual to finance an association or organization but not an individual. But as noted in the preceding paragraph, it is possible under the Order of the Military Ruler to prosecute individuals if they collect funds without a permit from the Minister of Social Solidarity. What is however not evident is whether were permission is given or is legitimate, an individual or organization can be prosecuted. Not having any precedent to demonstrate that this is possible makes it difficult to conclude that the provision in the Order of the Military Ruler is sufficient for TF purposes.

191. However, the authorities argue that the definition of financing of terrorism as provided for in the Egyptian legislative framework includes all forms of financing. It is argued by the authorities that “collection of funds” is criminalized under Article 86 bis A of the PC, under the term “supplying” which is interpreted by the Egyptian criminal jurisprudence as encompassing collection. Such jurisprudence was not made available to the assessors. Indeed, the Arabic and English versions of the PC both contain the word “supplying” and is understood in its ordinary meaning. While it is plausible to be a collector of funds and then supply them to another person, the issue under the international standards requires specific criminalization of “collection of fund”. Moreover, they point to the provision in the Order of the Military Ruler as being sufficient to capture TF under Egyptian law.

192. It is further argued by the authorities that Item three of Article 40 of the PC penalizes the criminal participation with the same punishment of the doer, and in this regard the collection of funds is regarded as a form of criminal participation. Item three Article 40 provides as follows with respect to an accomplice in the crime: “A person who gives the doer(s) an arm, device, or any other object that has been used in committing the crime while being aware of it, or helps them by any way, in the deeds preparing for, causing or completing its commitment.”

193. But the provision in Article 40 is applicable to FT on an accomplice basis and does not cover FT as an autonomous offence as required under the international standards. Without any compelling evidence to the contrary, the applicability of the accomplice provision to capturing the act or offence of collecting of funds for FT purposes is not adequate in satisfying the international requirement.

194. Moreover, in addition, to the provisions in the PC, Article 2 of the AML/CFT Executive Regulations, defines TF as follows: “providing funds or making them available, by any means, for a terrorist, terroristic act or terroristic association, entity, organization or group, directly or indirectly, or to use or intend to use such funds to carry out terrorist acts with knowledge of such intention.” However, as

mentioned in the introduction to the discussion on the Criminalization of ML, the Executive Regulations cannot create a criminal offence or criminal penalty. It is clear from Article 2 of the Executive Regulations that it goes beyond the provisions of the AML/CFT Law which only refers to the provisions of the PC when it addresses the issue of terrorism and its financing.

195. The authorities however pointed out that the AML/CFT Executive Regulations only define financing of terrorism for the purpose of explaining what is meant by financing. Nevertheless this is a point that has to be clarified as Article 2 of the AML/CFT Executive Regulations appears to create the offence of TF.

196. Consequently, when one looks at the provisions in the PC dealing with TF, it is clear that they do not cover the “collection of funds” with the unlawful intention that they should be used or in the knowledge that they are to be used to carry out a terrorist act or acts. Indeed, the PC while clearly prohibiting the *‘supplying of associations, organizations or groups with physical or financial assistance’*, it does not extend this prohibition to individuals.

197. In light of the discussion in the preceding paragraphs, it is evident that the CFT framework in Egypt does not capture the requirements of the international standards in ensuring that financing of terrorism is criminalized. The offences in the PC and the AML/CFT Law do not cover the use or collection of funds to finance terrorist activities by an individual. Moreover, the fact that the term “individual” terrorist is not used in the provisions cited above, does raise the realistic potential legal challenges whether domestically or in the context of international cooperation, on whether or not financing of individual terrorists is captured under Egyptian criminal laws.

198. As will be recommended below, the authorities should revisit this issue by providing clarity to the PC so as not to leave any doubts as to the coverage of individual terrorist and ensuring that the definition of TF is provided for either in the PC or the AML/CFT Law.

#### **Predicate Offence for Money Laundering (c. II.2)**

199. Offences relating to FT are predicate offences for ML by virtue of the fact that the ML offences under the AML/CFT Law apply to predicate crimes listed in that law of which FT is one.

#### **Jurisdiction for Terrorist Financing Offence (c. II.3)**

200. Article 2 of the AML/CFT Law includes acts of terrorist financing committed outside Egypt – providing as follows “a crime committed within the Egyptian territories or abroad.” Furthermore, the jurisdiction extends to any person who commits abroad a deed that renders him or her a doer or accomplice in an offence that takes place wholly or partially in Egypt (Article 2 of the PC).

#### **The Mental Element of the FT Offence (applying c. 2.2 in R.2)**

201. See earlier discussion on money laundering offences.

#### **Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2)**

202. See earlier discussion on money laundering offences.

#### **Sanctions for FT (applying c. 2.5 in R.2)**

203. The penalty for FT ranges from some term of imprisonment (5-10 years), to life imprisonment and to the death penalty in some cases. It all depends on the gravity of the action taken such for example whether a terrorist act actually takes place. For instance article 86 bis-A of the PC provides a penalty of



death or life sentence for supplying terrorist groups with material that assist them in carrying out their aims.

204. Recently in the Al Azhar bombing case, involving EGP 750, several individuals were charged with providing support to a terrorist group. It also involved an Egyptian national whose brother was based in an Arab country and provided him with financial support. The support was for his personal upkeep. Unfortunately, the brother used the financial resources to buy material to make explosives that were used in the blast. The brother who supported one of the accused persons was acquitted of the offence of financing a terrorist act on the ground that he did not know that the money would be used for terrorist purposes. The case nevertheless ended up with conviction verdicts with respect to two of the accused persons, as they were proven to have financially supported the individuals carrying out the terrorist acts. However, a copy of the case shared with the assessors indicated that the basis for charging the accused persons was that they provided support to a group that carried out the terrorist bombing. If this is the case, it will be consistent with the provisions under Article 86 bis A of PC.

### Analysis of effectiveness

205. The provisions criminalizing FT are not consistent with the international standards. While there has been one case that was brought to trial although there was an acquittal, the provisions in the PC do not cover all the requirements in the SFT. The provision under the Order of the Military Ruler does make it illegal to collect or receive funds but it is only in relation to getting permission from the Ministry of Social Solidarity. Indeed, the paragraph as provided to the assessors does not indicate whether legitimate collection of funds by itself with the permission of the Ministry of Social Solidarity is criminalized in the event that such collection is for TF purposes. Clarity may be required to be made in order to demonstrate that collection of funds is captured under Egyptian legislative framework. Consequently, there is still doubt as to whether or not collection of funds is criminalized under Egyptian law. Furthermore, the provision in the AML/CFT Executive Regulations is not adequate as they are *ultra vires* the AML/CFT Law under which the Regulations are issued. On the other hand, the fact that a case was sent for trial is an indication that the provisions of the law relating to TF were used.

206. The penalties as provided in the PC for a person that is found guilty of engaging in financing terrorist acts are effective, dissuasive and proportionate.

### 2.2.2. Recommendations and Comments

207. The authorities should introduce provisions that ensures:

- Financing of terrorism with respect to an individual terrorist is covered under the PC and the AML/CFT Law.
- Collection of funds is covered as part of the definition of financing of terrorism under the PC, the Order of the Military Ruler, and the AML/CFT Law
- Article 2 of the AML/CFT Executive Regulations on the issue of TF is consistent with the AML/CFT Law.
- The TF framework fully complies with the relevant provisions of the SFT.

### 2.2.3. Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	PC	<ul style="list-style-type: none"> <li>• Definition of TF is not fully captured under the Penal Code</li> </ul>

		<ul style="list-style-type: none"> <li>• Financing of individual terrorist is not covered</li> <li>• Collection of funds is not covered</li> </ul>
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### 2.3. Confiscation, freezing and seizing of proceeds of crime (R.3)

#### 2.3.1. Description and Analysis

##### Legal Framework

208. The AML/CFT Law; the AML/CFT Executive Regulations; the PC; and the CCP. The specific provisions are: Articles 5 & 14 of the AML/CFT Law; Article 98 of Law n° 88 on the central bank, the banking sector and money, 2003 (the Banking Law); Articles 30, 88 bis-B & 98-E of the PC; Articles 208 bis-A, 208 bis-B and 208 bis-C of the CCP.<sup>37</sup>

209. The Egyptian confiscation framework provides for the confiscation of property which represents proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of money laundering, terrorism financing or other predicate offences and property of corresponding value. Provisional measures according to the authorities are organized in Articles 208 bis a – 208 bis d of CCP. However, the Public Prosecutor issued in this regard Circular 5 of 1999 on the Regulation of Provisional Measures. Also Circular 2 of 2004 was issued in this regard by the Public Prosecutor on Investigation of Money Laundering or any of the crimes stipulated in Article 2 of the AML/CFT Law including taking of provisional measures in their respect.

210. Egypt has a criminal confiscation framework, meaning that confiscation can only be ordered by the court upon conviction of an accused person.

##### **Confiscation of Property related to ML, FT or other predicate offences including property of corresponding value (c. 3.1)**

211. Confiscation is available when an accused person has been convicted of a money laundering offence or any other offence for that matter as long as it does not belong to a bona fide third party.

212. Specifically, with respect to ML, the principle provision giving authority to the court to order the confiscation of laundered property is Article 14 of the AML/CFT Law. According to this article, “the verdict (i.e. conviction) shall in all cases ordain confiscation of the seized funds, or an additional fine equivalent to the value thereof, where such funds cannot be seized, or in case of disposal thereof to bona fide third parties.” And in the light of the definition of funds discussed earlier, the confiscation of seized

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<sup>37</sup> It is important to note that the Egyptian Constitution empowers the President to declare a state of emergency “for a limited period” and according to law, and extend the period of emergency. These powers have now been enshrined in the Constitution under Article 179. It provides as follows: “The State shall seek to safeguard public security to counter dangers of terror. The law shall, under the supervision of the judiciary, regulate special provisions related to evidence and investigation procedures required to counter those dangers. The procedure stipulated in paragraph 1 of Articles 41 and 44 and paragraph 2 of Article 45 of the Constitution shall in no way preclude such counter-terror action. The President may refer any terror crime to any judiciary body stipulated in the Constitution or the law.”

This provision gives the President powers of search and seizure, and expressly exempts the exercise of those powers from the rules of the CCP. It also empowers the President to order the confiscation of property among other things.

funds applies to things, rights or benefits or assets of equivalent value that have been acquired by the convicted person either by himself or through a third person.

213. In addition with respect to instrumentality used or intended to be used in the commission of a crime, Article 30 of the PC provides that “the judge, if he passes a penalty sentence in a felony or misdemeanor case, may rule that the objects seized as a result of the crime, and the arms and equipment that were used or are likely to be used, be confiscated, without derogation to the rights of a third party of good faith.” Moreover, with regard to FT, the PC in Article 98-E provides the power to a court to order the confiscation of property connected to FT. It provides in respect of terrorist groups or associations that, “the court shall, in cases of terrorism related offences, ...order the confiscation of their property, funds, effects, articles, papers, and other objects that might have been used or prepared and provided for use in committing the crime, or which are found in the places appropriated for the meeting of the members of these associations, organizations or branches. The ruling shall also confiscate all the property and funds resulting from the crime, or which in appearance form part of the property of the convict, if there are presumptions leading to this fact.”

214. In all these provisions articulated above, the authorities have the requisite legal authority to seize not just seized funds acquired by a convicted person, but where the seized funds cannot be found, the authorities can seize funds of equivalent value.

#### **Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1)**

215. As stated when discussing earlier the criminalization of ML, funds is broadly defined to cover every description of property. In addition, as noted in the provisions in the PC discussed in the preceding paragraph, any proceeds of crime can be confiscated. Indeed, this is supported by the fact that funds include any rights or benefits gained through the acquisition of such funds. Moreover, it also extends to any act meant to prevent the discovery or impede the identification of the perpetrator of a crime from which the proceeds of crime were generated, thus include a situation in which the proceeds of crime are held by a third party.

#### **Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2)**

216. Pursuant to Article 5 of the AML/CFT Law, provisional measures can be taken by the public prosecutor in accordance with the provisions of the CCP. Most specifically, Article 5 provides for the “EMLCU...to inform the public prosecution of the indications revealed by investigation as to the commitment of any of the crimes stipulated in the AML/CFT Law.” Upon such request, the Public Prosecutor can take provisional measures pursuant to Articles 208 bis A, B and C of the CCP. The provisional measures related to the search, freezing and seizing of assets that are suspected of being related to predicate crimes.

217. Article 208 Bis A of the CCP stipulates that: “in the cases where investigators reveal sufficient indicators to the seriousness of the accusation in any of the crimes stipulated in Chapter IV of Book II of the PC; in other crimes committed against the funds owned by the state, any public entity or institution, units affiliated thereto or any public legal persons; and in the crimes in which the law obliges the court to rule – of its volition or initiative – the refunding of amounts or value of the items subject of the crime and compensation of the victim entity, if the Public Prosecution deems it necessary to take provisional measures against the funds of the accused, including preventing him from disposing of such funds or management thereof, it shall present the matter to the competent court of felonies requesting such ruling, to guarantee payment of the fines, refund or compensation that may be ruled.” In addition, the SPO can also take measures against the funds of the accused, including preventing him from disposing of such funds or their management. Under Article 208, where the SPO issues a provisional order without a court ruling, the SPO is required to present a request to the court within 7 seven days for an order to prevent the

disposition and management of funds by an accused person. Article 208 Bis A further provides that, “in all cases, the Public Prosecutor shall present the Prevention Order to the competent court of felonies within seven days, at most, from the date of publication, requesting a ruling on the prevention from disposition and management or it shall be null and void.”

218. Moreover, in event that the funds are in the hands or custody of a relation of the accused such as a spouse, the court upon request by the Public Prosecutor can impose provisional measures against the funds in the hands of a spouse if there are sufficient indicators that such funds are generated from a crime which is the subject of the investigation and that the spouse received such funds from the accused person.

219. In discussions with the authorities, it was indicated to the assessor team by show of several case examples that these provisional powers have been used effectively such as the seizure and freezing powers. In some of them it involved cases that dealt with crimes committed outside Egypt but with some of the proceeds transferred to Egypt. In one case in 2006, where a person was accused of committing a crime of laundering funds, resulting from misappropriation and forgery crimes, in order to conceal and disguise the source of these funds. During his work in a foreign jurisdiction from 2002 to 2005, the accused person committed misappropriation by counterfeiting documents, and issued counterfeit checks and bank transfer orders, through which the funds were misappropriated. The accused person registered commercial enterprises as fronts to channel the proceeds of crimes. Moreover, he and his partners purchased many real estates and movables and deposited part of these funds in several banks with a view to concealing their source and disguising their nature. The Egyptian judicial authorities upon request of their counterparts in the foreign jurisdiction affected took provisional measures and seized the real estates of the accused as well as freezing of his accounts; and a money laundering case was commenced against the accused persons and tried before the Egyptian courts.

220. In another case involving theft and forgery, the Public Prosecutor issued a seizure order and referred the suspects to the court of felonies on the ground of laundering money illegally gained from theft and forgery crimes, and entering Egypt with foreign currency in excess of US\$10,000 without disclosing this amount to the competent authorities. The accused persons were sentenced to seven and five year prison terms.

221. In yet another case of forgery involving the sum of EGP 6 million that was wire transferred from an overseas account to the account of a suspect residing in Egypt. In the light of investigations by the SPO, a seizure and freezing order was issued. The case is still ongoing.

222. In a case involving theft of public funds, the SPO had to issue an order to the effect of preventing a company’s board chairman and managing director from undertaking any action in respect of their liquid money, movable and immovable assets, properties, shares and stocks in banks, companies and other entities operating in Egypt and blocking the company’s account. The case is still pending.

### **Ex Parte Application for Provisional Measures (c. 3.3)**

223. When making a request for a provisional measure including funds that are subject to confiscation, the SPO can make it without prior notice in accordance with articles 208 bis A and B of the CCP.

### **Identification and Tracing of Property subject to Confiscation (c. 3.4)**

224. The CCP provides a wide range of powers for the identification and tracing of property subject to confiscation. This is complemented by the AML/CFT Law and the AML/CFT Executive Regulations. All searches are required to be conducted pursuant to a search warrant issued by the Public Prosecutor or the SPO. The Public Prosecution takes provisional measures in accordance with Articles 208 bis a-d. The EMLCU, on the other hand, requests the Public Prosecution to take provisional measures according to Article 5 of the AML/CFT Law and Article 9 of the AML/CFT Executive Regulations. In this regard,

Article 9 of the AML/CFT Executive Regulations stipulates that “the Unit may request the Public Prosecution, with respect to the ML crime, TF crime or any of the crimes stipulated in Article 2 of the Law, to take provisional measures in accordance with Articles 208a (bis), 208b (bis) and 208c (bis) of the CCP; such provisional measures include prevention from the disposal of the Funds, the management thereof as well as the freezing of the balances.”

225. *Search Warrants:* Articles 91 and 206 bis of the CCP gives the requisite authority to either the court or the Public Prosecution office to issue a search warrant. In practice, because the Public Prosecutor has investigative powers rather than to an examining magistrate, warrants to make searches of individuals, homes or business premises are issued by the Public Prosecutor. The warrant is based on the authorities having sufficient indicators that indicates or suggests that a suspect has a connection to a crime that is the subject of the search (Article 206 of the CCP). In other words, the authorities should have sufficient indicators indicating that the evidence of the crime including financial records, for example, will be found in the premises. In the words of an Egyptian scholar, “a lawful search may encompass any part of the home in which fruits, instrumentalities, documents, or other evidence of the crime may be found, and all such items may be seized (Article 91 of the CCP).”<sup>38</sup>

226. Furthermore, under Circular No. 2 of 2004, the Public Prosecution office has the authority to immediately order access to, or obtaining, any data or information related to accounts, deposits, trusts, safes, or transactions linked to such accounts, if this can lead to revealing of crimes stipulated in the AML/CFT Law. Indeed, in discussions with the various law enforcement agencies as well as the EMLCU, it was confirmed that the SPO has used the powers to carry out searches of financial records and other funds in the hands of accused persons that were the subject of an investigation. Among the measures applied were those related to the prevention of the management and disposal of funds by a suspect or accused person and freezing of bank accounts. In addition, the SPO has issued measures to prevent suspects from smuggling or hiding their funds (Article 9 of AML/CFT Executive Regulations).

227. Complementing the provisions in the CCP is Article 98 of the Banking Law. Article 98 gives the power for the Public Prosecutor to, “of his own accord, or upon request of an official party or interested party ask the Cairo Court of Appeal to pass an order for reviewing or obtaining any data or information related to any accounts, deposits, trusts, or safes or their relevant transactions, whenever this is required to reveal a fact in a felony or misdemeanor the perpetration of which is established by strong evidences.” Importantly, the article further provides that the Public Prosecutor, upon getting the court order, shall order access to or obtain the information related to the financial records if it reveals crimes in the PC or the AML/CFT Law.

228. As in other civil law jurisdictions, law enforcement agencies in Egypt such as the MoI, anti-corruption, anti-drug authority and customs, the authority to use provisional measures including those of search warrants is exercised by the Public Prosecutor.

### **Protection of Bona Fide Third Parties (c. 3.5)**

229. Protection of the rights of bona fide third parties is guaranteed in every case where provisional measures or confiscation orders are to be made. Whether it is the power to order confiscation in Article 14 of the AML/CFT Law, or Articles 30, 88 bis-B and 98-E of the PC, which establish the framework for the confiscation of proceeds of crime or terrorist assets. All court orders are made without prejudice to the rights of bona fide third parties.

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<sup>38</sup> Sadiq Reza, Egypt, Criminal Procedure p 121 (2007)

**Power to Void Actions (c. 3.6)**

230. Any agreement in violation of the provisional measures or confiscation order is null and void. Pursuant to Article 125 of the Civil Code, “where the subject of obligation in a contract violates public order, the contract becomes void.”

**Additional Elements (Rec 3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7)**

231. Egypt does not have a provision in the CCP or PC for confiscation of the property from organizations principally criminal in nature and neither does it have a civil forfeiture framework.

**Statistics on seizures and confiscations (R. 32)**

232. Egypt does not have a systematic mechanism for maintaining statistics with respect to seized, frozen or confiscated assets. In several discussions with relevant agencies, inquiry was made to get a sense of how much in monetary terms assets related to ML or FT the authorities had seized. No information was provided as to the monetary value of the assets. However, below is a table provided by the authorities of some of the statistics that were shared with the assessor team.

**Table 10: Freezing, Seizure and Confiscation of Money Laundering Related Assets**

	2004	2005	2006	2007
Number of cases involving freezing of ML related assets	1	4	2	17
Number of cases involving confiscation of ML related assets	X	1	x	x

233. The authorities did indicate that the Office of Provisional Measures at the SPO manages the funds against which provisional measures have been taken and maintains statistics on such funds. The assessors were further advised that funds that are confiscated by virtue of a final court ruling are deposited in the State Treasury managed by the Ministry of Finance in accordance with Article 506 of the CCP..

**Analysis of effectiveness**

234. The Egyptian provisional measures and confiscation framework is comprehensive and gives the Public Prosecutor sufficient powers to freeze, seize and confiscate funds that are proceeds of crime. The Public Prosecutor has used the powers to make provisional measures in cases that have been sent to the office as indicated in the case examples cited in the discussion above. However, the authorities did not share comprehensive statistics on the use of provisional and confiscation measures in relation to assets related to predicate crimes. Without such statistics it is difficult to determine the effectiveness of the overall confiscation framework in Egypt. In the absence of any evidence to indicate whether or not a confiscation action was taken, there are doubts as to the effectiveness of the implementation of the system. Further, there are no monetary figures available in order to determine whether the assets being frozen, seized or confiscate are high enough taking into consideration the number of reported crimes, i.e. profit generating crimes.

235. Additionally, while the legal provisions for freezing, seizing and confiscating proceeds of crime are adequate, the authorities do not have an appropriate tracking system to monitor frozen, seized or

confiscated assets. This is even more so since the management and recording of the confiscated assets is handled by the Ministry of Finance. A lack of such an important mechanism deprives the authorities with an important tool that can be of assistance in assessing whether or not the confiscation framework is functioning effectively.

### 2.3.2. Recommendations and Comments

236. The authorities should establish an appropriate mechanism to track assets that are frozen, seized and confiscated not just in terms of number of cases but also their monetary values.

237. The authorities should utilize the confiscation framework fully in ML cases

### 2.3.3. Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	LC	<ul style="list-style-type: none"> <li>Confiscation framework has not been used much in ML cases to determine overall effectiveness of system</li> </ul>

## 2.4. Freezing of funds used for terrorist financing (SR.III)

### 2.4.1. Description and Analysis

#### Legal Framework

238. The AML/CFT Law; the AML/CFT Executive Regulations; and the CCP. In discussing the implementation of the United Nations Security Council Resolutions 1267 and 1373 by Egypt, a brief background on the general requirements of the Resolutions are laid out. Following this background, a discussion will then be outlined on how Egypt has attempted to implement the UN requirements. The purpose for using this approach in describing and analyzing the situation in Egypt, is to provide an appropriate context for assessing the Egyptian framework.

239. The FATF Special Recommendation III requires all countries to implement measures to freeze or, if appropriate, seize without delay assets of terrorists, those who finance terrorism and terrorist organizations in accordance with the relevant UN resolutions. Countries are also required to have measures in place, which would enable competent authorities to seize and confiscate property that is the proceeds of, use in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organizations. The objective to freezing or seizing without delay terrorist related assets is based on a suspicion that such assets could be used to finance terrorist activity.

240. In terms of Security Council Resolution 1267, the requirement is for member states to freeze without delay the assets owned or controlled by them or by persons acting on their behalf or at their direction. Freezing must occur without prior notice to targets and member states shall ensure that no funds or financial resources are made available for such person's benefit, by their nationals or by any person within their territory. Moreover, member states are required to bring proceedings against those that violate the above mentioned measures and impose appropriate penalties.

241. With respect to Security Council Resolution 1373, it obliges member states to take among others the following measures: to criminalize the financing of terrorism; to freeze without delay the funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds or other assets derived or generated from property owned or

controlled, directly or indirectly by such persons and associated persons and entities; prohibit their nationals or other persons and entities within their territories from making any funds or financial or other related services available for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

242. Under Resolution 1373, each member state has the authority to designate the persons and entities that should have their assets frozen. Designations are made by countries and not by the Security Council. Moreover, to ensure the effective cooperation among countries, countries should examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other countries.

243. Consequently, the implementation of the two Security Council Resolutions requires member states to take preventative measures that should not be reliant upon criminal standards set out in national laws. This means that countries should adopt special procedures or other administrative mechanisms dealing with their obligations under these Security Council Resolutions and existing criminal laws could be used as complementary tools. The main rationale for such an approach is that general criminal laws of a country only allow freezing or seizing of assets that are proceeds of crime; the freezing or seizing actions are limited in time and cannot last for an indefinite period; and the Security Council Resolutions and the list of designated persons do not include evidences of any kinds which would be available during the criminal process.

### **Overview of the Egyptian Framework**

244. According to the authorities, the principle body that is responsible for implementing the requirements related to combating terrorism is the National Committee for International Cooperation in the Field of Combating Terrorism (Terrorism Committee). This body was established by virtue of Prime Ministerial Decree No. 847 of 1998. It is headed by the Minister of Justice or whoever he delegates the responsibility to. Its members are: The Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Interior, the National Security Agency, and the EMLCU.

245. The responsibilities of the committee are outlined in Article 2 of the Decree as follows – (i) taking measures that are necessary for pursuing international terrorists in accordance with provisions of international law and applicable laws and agreements as well as coordinating international working mechanisms in this area; (ii) preparing files concerned with requests of extradition of Egyptians abroad, against whom rulings in terrorism cases have been issued or those who have been involved in terrorist acts; (iii) proposing conclusions of the international agreement for extradition, and participating with the concerned authorities; (iv) working on the enhancement of international cooperation in the field of combating terrorism and proposing the means for overcoming any difficulties encountered; and (v) studying mechanisms that's makes combating terrorist activities possible.

246. Moreover, the authorities advised the assessors that members of a subcommittee of the Terrorism Committee meet frequently, at least twice a week and at times if necessary daily to make decisions with respect to issues related to the implementation of the UN List.

247. In concert with the Terrorism Committee described above, pursuant to Article 49 of the AML/CFT Executive Regulations, the EMLCU has also got the responsibility to handle international cooperation affairs with committees established in the Security Council and other international organizations and bodies in matters related to combating ML and FT. Moreover, under this same provision, the EMLCU is required to take necessary measures with respect to lists and other instruments issued by committees affiliated to the Security Council pursuant to the provisions in the relevant laws and decrees in Egypt. Article 49 provides as follows: “the EMLCU shall handle international cooperation affairs with committees established in the Security Council and other international organization and bodies in matters related to combating money laundering and terrorism financing. The EMLCU shall take necessary



measures with respect to lists and other instruments issued by committees affiliated to the said Council, pursuant to provisions of the relevant laws, decrees and the provisions stipulated in these Executive Regulations.”

### **Freezing Assets under S/Res/1267 (c. III.1)**

248. To this end, in discussions with the authorities, they advised the assessors that Articles 208 bis A and B of the CCP are used as the basis for enforcing the Security Council Resolutions. Specifically, Article 208 bis A provides that “in cases where investigations reveal sufficient indicators to the seriousness of the accusation in any crimes in the PC, the Public Prosecutor can take provisional measures to prevent the disposing of the funds of an accused person”. As observed earlier under the section dealing with *Provisional measures and confiscation*, where the SPO issues a provisional order without a court ruling, the SPO is required to present a request to the court within seven days for an order to prevent the disposition and management of funds by an accused person. Following such a request, the court is required to make a ruling within 15 days from the date of presentation by the Prosecutor. Under Article 208 Bis A, the action taken by the SPO and the Courts is predicated on there being a connection with any of the crimes stipulated in the Penal Code. It does not take cognizance of a situation envisaged under the Security Council Resolutions.<sup>39</sup>

249. Furthermore, there is an appeal process against a decision made by the court under Article 208 Bis A. The appeal process is provided for under Article 208 Bis B, which states that, “every person against whom an Order of prevention from disposal or management is issued may appeal such an order before the competent court of felonies after the relapse of three months from the date of the ruling. If such an appeal is refused, the appeal may be renewed after the relapse of three months from the date of the ruling of refusal...During examination of the case, the competent court may, of its own volition (initiative), or upon the request from the Public Prosecution or the interested parties, rule the termination of the ruling of prevention from disposal or management, amend its context or execution measures...In call cases, prevention from disposal or management shall be terminated if a ruling is issued dismissing the case or a final judgment of acquittal is issued or after the complete execution of ruled financial sanctions and compensations.” As in the case of Article 208 bis A, the appeal process is in the context of a criminal judicial procedure. Indeed, the fact that the court can terminate a freezing or seizure order would be contrary to the requirements of Resolution 1267. Moreover, it can be argued that this procedure does not contemplate a situation where an action has to be taken based on suspicion and not judicial evidentiary procedures – as is the case under the CCP.

250. In addition to the CCP, the authorities indicated to the assessors that the provisions in the CCP are complemented by the primary provision that encapsulates the framework for implementing the United Nations Security Council Resolutions 1267 and 1373. This provision is Article 7 bis of the AML/CFT Executive Regulations. This Article provides as follows: “The EMLCU shall take necessary measures to implement Resolutions issued by the Security Council, with regard to funds relating to terrorism financing, in accordance with the following measures – (a) the EMLCU shall receive lists stipulated in the Resolutions referred to in the preceding paragraph; (b) the EMLCU shall distribute such lists and any subsequent amendments thereto to the Central Bank, the Capital Market Authority, the Commercial Register Authority, Corporations Authority, General Authority for Investment and Free Zones, Notary Public and other entities. Such entities shall report to the EMLCU any data available thereto on funds of persons and entities included in such lists; the EMLCU shall send lists and any subsequent amendments thereto to the Customs Authority to take them into consideration while exercising its functions concerning

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<sup>39</sup> As indicated in footnote 37, the powers under Article 179 of the Constitution can be used to address the dangers of terror such as the financing of terrorism activities.

disclosure in accordance with Article 14 of the Executive Regulations; and (c) the EMLCU shall take the necessary legal measures to prevent disposal of funds (freeze) referred to in item (b).”

251. The entities that receive the list are required under Article 7 bis to report to the EMLCU if they discover within their institution funds of persons and entities on the list.

252. However, as at the time of the assessment, the authorities did not indicate what the necessary legal measures Egypt has taken in order to give effect to the requirements of Resolution 1267 in freezing or seizing terrorist related assets without delay. Indeed, part of the legal measures the authorities referred to were those under the CCP which as noted earlier envision a judicial process. By definition, a judicial process is more likely than not to be fraught with delay and appeal procedures. Thus, the AML/CFT Executive Regulations do not provide any further processes and procedures on the implementation of the resolutions.

253. Subsequent to the onsite visit, the authorities provided the assessors with information that outlined the process for implementing UNSCR 1267. This represents a series of steps for actions by the relevant agencies and entities. In this regard, the authorities advised that the Ministry of Foreign Affairs receives the UN lists and sends such lists to the EMLCU, which then directs concerned agencies to take the required actions. The process however falls short of the requirements of the FATF standards. The shortcomings relate to the necessary measures and procedures for competent authorities to be able to freeze or seize assets without delay. The EMLCU circulates the lists to all institutions subject to the AML/CFT Law and as indicated above. Following this circulation, the supervisory authorities send the lists to institutions subject to their supervision and request them to take necessary measures, as the case may be. Where assets belonging to a listed person are identified, the EMLCU can freeze the assets immediately.

254. In the event that there is a challenge to the freezing action, the authorities in their post on site visit information advise that the EMLCU coordinates with the Ministry of Foreign Affairs to send the names subject to the challenge to the Sanctions Committee of the Al-Qaeda and Taliban to review such challenge. Moreover, the EMLCU is said to coordinate with supervisory authorities to ensure compliance of the financial institutions.

255. While this information outlined in the preceding paragraph sheds light on the implementation process with respect to the 1267 Resolution, the assessors were not able to verify this information including seeing the actual documentation that would confirm the information shared with the team. As a consequence, the assessors are not in a position to make a judgment on the efficacy of this process. Indeed, the letters that the authorities shared with the assessors after the on-site visit were between the Ministry of Foreign Affairs and the EMLCU as well as the CBE. This letter mentioned some amendments made to the 1267 list and did not provide any more information related to the implementation procedures. Another letter which was translated into English by the authorities was generic and not addressed to any specific bank but appeared to be an omnibus standard letter to all banking institutions. Moreover, it also did not specify or refer to any procedures to be followed other than making reference to correspondence made in November 2008 and stating that “kindly advice for taking the necessary measures”. It is therefore still difficult to make a judgment as to what the procedures are for giving effect to the Security Council resolutions.

256. The authorities indicated that in so far as the lists they have received are concerned, there was a freeze of assets of one person whose name was on the UNSCR list of designated persons and entities, issued by the 1267 Committee. The funds belonging to this person were in real estate. No financial balances belonging to him were found in financial institutions in Egypt.

### **Freezing Assets under S/Res/1373 (c. III.2)**

257. Egypt does not have an established procedure to designate an individual or legal person as a terrorist or terrorist organization.

258. In terms of freezing or seizing of assets based on a list sent by a foreign jurisdiction, the same mechanism that applies to Resolution 1267 applies to Resolution 1373. In discussions with the authorities, they advise that country lists sent to Egypt are reviewed by the a committee in the Ministry of Foreign Affairs and if any evidence is revealed after an investigation by the SPO, then the country that sent the list will be informed of any action to be taken. Otherwise, Egypt does not provide any feedback to countries unless there is reason to do so, that is, there is sufficient evidence that there are assets belonging to the person on the country list. Furthermore, no timeframe was provided as to how long the review process would take.

259. As in the case of information with respect to the implementing process for UNSCR 1267, the information on Security Council resolution 1373 was received subsequent to the onsite visit. The authorities advise that in implementing resolution 1373, law enforcement agencies list persons and organizations who are terrorists according to local applicable rules. Such names are presented to the Terrorism Committee for taking the necessary action. According to the authorities, the EMLCU also takes action in accordance with Article 5 of the AML/CFT Law and Article 7 bis of the AML/CFT Executive Regulations. The EMLCU circulates the 1373 lists to supervisory authorities for onward circulation to their institutions. For entities not subject to a supervisory authority, the EMLCU circulates such lists. Lifting freezing orders is done in accordance with legal provisions stipulated in Articles 208 bis “a” to 208 bis “d” of the CCP and Circular No. 5 of 1999 of the Public Prosecutor.

260. In the case of freezing requests from other foreign countries, they are reviewed by the Terrorism Committee and presented to the EMLCU to take any necessary action as per the provisions of the CCP mentioned above.

261. As in the case of the process related to Resolution 1267, this information could not be verified and therefore the assessors cannot make judgment as to their effectiveness.

### **Freezing Actions Taken by Other Countries (c. III.3)**

262. According to the authorities the Terrorism Committee reviews all matters related to terrorism including the measures taken by other countries with respect freezing actions by such countries. The Terrorism Committee follows up on the situation in Egypt to check the availability of any assets belonging to terrorists designated according to the actions taken by other countries, through the Central Bank.

### **Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4)**

263. As discussed under the section dealing with the Criminalization of terrorist financing, freezing of assets extends to those owned and controlled by terrorist groups or associations. But there is no mechanism that deals with individual terrorists.

### **Communication to the Financial Sector (c. III.5)**

264. The authorities communicate with the financial sector in the form of a letter that accompanies the UN List. The communication is sent through the various supervisory agencies including the CBE; the EMLCU; and the CMA. A copy of a generic letter that was sent to some financial institutions was shared with the assessors. Indeed, meetings with the banking sector showed that (i) banks appear to receive such lists while some other financial institutions indicated not to have received them and (ii) some banks

appeared to check only new customers, while others included transactions and carried out periodic checks on their entire customer portfolio. Moreover, in the absence of documentary evidence, it is unclear how long this process takes place and whether it is an expedited communication mechanism.

#### **Guidance to Financial Institutions (c. III.6)**

265. Article 7 bis of the AML/CFT Executive Regulations require entities to whom the list is circulated to report back to the EMLCU on any information related to funds belonging to persons and entities on the list. According to the authorities, the letters that are sent to the financial institutions contain clear instructions as to what steps the financial institutions, that is, to immediately freeze any funds or assets belonging to any individual or entities on the UN List. The letters also include an articulation on the obligations of the financial institutions in providing prompt feedback on their findings with respect to the individuals on the list. In the month of September 2008 for example, the authorities sent out 29 letters to all the relevant agencies – private and public – circulating names of individuals on the latest UN List. As indicated above, the assessors received only one copy of a letter sent to a financial institution.

#### **De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7)**

266. As indicated above, the sub-committee of the Terrorism Committee meets every week to review all issues relating to the UN List and among these issues is considering any de-listing requests and unfreezing of funds. The committee will verify the names on the list and send it to all relevant agencies, which checks to see whether the name is the correct one. If the name is the wrong one, this information is sent to the EMLCU and the competent authorities who then advise the banks to unfreeze the account. In cases however, where the mistake is an obvious one, the EMLCU can proceed to make a correction without waiting for a decision of the sub-committee. So far, the authorities advise that they have not taken any de-listing action.

267. However, the authorities indicated that one of the challenges they face as an implementing agency is that quite often the United Nations itself makes a lot of mistakes in the names that are sent to the authorities. This makes it rather difficult for the country to fulfill its obligations in an efficient and constructive manner. In this regard, the authorities have worked with the United Nations Security Council in order to assist the Council in ensuring the accuracy of the names added onto the UN List.

#### **Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8)**

268. The authorities did not make available to the assessors any evidence to indicate the unfreezing procedures of funds of persons inadvertently affected by the freezing mechanism. As observed above, the necessary legal measures to be applied by the EMLCU have not been issued and the provisions of the CCP deal with cases where there are indicators of crimes. As this is not the case with regard to the UN Lists, it is difficult to determine whether the existing criminal procedures are sufficient to satisfy the requirements of the UN Resolutions. Indeed, although the authorities suggest that Article 7 bis of the AML/CFT Executive Regulations give the EMLCU the power to unfreeze funds, a reading of the provision does not indicate that this is the case. It clearly does give the authority to freeze funds but provides no power to unfreeze the funds. In the absence of such an explicit power it is doubtful that this is the case. Further, there being no documentary evidence to suggest that administrative powers are available to unfreeze funds; it is difficult to see how Article 7 bis can provide the applicable powers to the authorities.

### **Access to frozen funds for expenses and other purposes (c. III.9)**

269. There are no provisions or processes with respect to authorizing access to frozen funds necessary for use in basic expenses. The authorities however advised that Decree No. 2119 of 1999 concerning Rules of Selecting Management Agents and Regulation of Rulings implementing the provisional measures under Articles 208 (bis a and b) of the CCP would apply. Review of Freezing Decisions (c. III.10)

270. According to the authorities, Article 208 bis b of the CCP is the basis upon which they suggested a review process would be conducted. However, the procedures under the CCP are judicial and do not address what is required with respect to reviewing freezing decisions under the UN Resolutions.

### **Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11)**

271. See discussion under the Section 2.3 dealing with Provisional Measures and Confiscation.

### **Protection of Rights of Third Parties (c. III.12)**

272. The protection that is provided is the same as in article 30 of the PC and other similar confiscation provisions in the CCP.

### **Enforcing the Obligations under SR III (c. III.13)**

273. The authorities cited Article 123 of the Banking Law to assert that where there is failure to comply, the EMLCU or the Terrorism Committee can take action. However, this article cited, only deals with banks under the supervision of the CBE and it doubtful whether this provision can be considered as a mechanism to monitor compliance with Article 7 bis by all entities in Egypt's public and private sectors.

### **Additional Element (SR III)—Implementation of Measures in Best Practices Paper for SR III (c. III.14)**

274. The Egyptian authorities do cooperate fully with foreign governments and international institutions with respect to sharing information as it pertains to freezing of terrorist related assets and funds. The authorities have submitted their own list to the Security Council demonstrating their commitment to combating terrorism and it's financing.

275. Through the Terrorism Committee, Egypt has established an appropriate framework in which follow up investigation, cooperation among law enforcement, intelligence and security agencies can share information and ensure that feedback is provided to the private sector. It is indeed for this reason that they should be clear processes put in place on the full implementation of the SR III obligations.

### **Additional Element (SR III)—Implementation of Procedures to Access Frozen Funds (c. III.15)**

276. As noted above, it is not evident from the AML/CFT Executive Regulations what procedures exist to allow an affected person to access frozen funds.

### **Analysis of effectiveness**

277. The provision in the AML/CFT Executive Regulation goes a long way in providing a basis upon which to take action to freeze assets belonging to persons and entities on the Security Council list or that of another country. The EMLCU upon receiving the UN List from the Ministry of Foreign Affairs

coordinates with other agencies such as the CBE and the Public Prosecutor to implement the processes on a regular basis. The list is accompanied by a letter with clear instructions to the recipient entities on taking freezing actions and providing a feedback to the Ministry or the EMLCU. But as mentioned in the description and analysis section above, the letters provided to the assessors did not elaborate on the procedures to be followed by the banking institutions to whom the letter was addressed. The provisions under the AML/CFT Executive Regulations are fairly adequate and explicitly provide the necessary legal basis for the authorities to give effect to the UN Security Council Resolutions. However, in the absence of documentary evidence on the necessary measures issued by the authorities, it is difficult to conclude that the competent authorities can freeze or seize assets without delay. Moreover, relying on a judicial process will inevitably cause unnecessary delays and defeat the rationale for taking expedited freezing action in relation to individuals and legal persons designated on the UN List.

278. Furthermore, there is no designation process established by the authorities pursuant to Resolutions 1373 and also a process by which Egypt can review lists sent by foreign jurisdictions.

279. Authorities have in place processes which are on the EMLCU website in Arabic which only represent steps to be followed. There are, however, no detailed procedures on each step. In this regard, therefore, it is really an open question as to whether reliance upon the formal judicial procedures satisfies the requirements in the international standards. This is especially so since the authorities have not exercised their powers under Article 7 bis in order to provide an insight into whether for example the Egyptian authorities can review requests for de-listing, or lift a freezing action, or accessing frozen funds, or even how the obligations under SR III are in practice enforced. It is in this respect that the monitoring mechanism appears not to be clearly laid out and remains an open question whether the EMLCU as envisioned under the AML/CFT Executive Regulations is responsible for implementing SR III or it is the Ministry of Foreign Affairs as is the case in practice.

280. Moreover, the mission was not in a position to check the situation of DNFBPs in that regard. This feedback indicates that compliance with directives relating to the UN lists is not consistent across institutions and industry.

281. Furthermore, apart from the provision in the AML/CFT Executive Regulations and the information shared by the authorities, it is difficult to conclude how the steps the authorities say they have taken meets all the requirements in SR III in terms of the processes and procedures.

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

282. The authorities should take steps to significantly enhance the current processes by establishing clear procedures and making this information available:

- On freezing or seizing without delay assets for persons or legal entities on the UN List and clearly indicating which body is responsible for executing this requirement
- On designating individuals or legal entities as required under Resolution 1373
- On reviewing lists of suspected terrorist or legal entities sent by foreign jurisdictions pursuant to Resolution 1373
- On de-listing and unfreezing of funds for persons wrongly listed
- On circulating the UN list to public and private sector players (DNFBPs) and not just financial institutions
- On unfreezing of funds belonging to persons or entities that are not designated persons
- Providing a mechanism through which a person or entity can challenge a freezing action
- By which persons subject to a freezing order is able to access funds or assets for basic expenses
- To monitor compliance with the AML/CFT Executive Regulation with respect to the Security Council Resolutions

- Providing for an effective mechanism to receive feedback from across all relevant sectors that receive the UN List

### 2.4.3. Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	PC	<ul style="list-style-type: none"> <li>• There is no legal basis for freezing or seizing without delay terrorist assets for persons or legal entities on the UN list.</li> </ul> <p>Although there are actions taken, and internal coordination among relevant authorities to implement the UN lists, there are:</p> <ul style="list-style-type: none"> <li>• No procedures for freezing or seizing without delay terrorist assets for persons or legal entities on the UN List</li> <li>• No procedures for designating individuals or legal entities as required under Resolution 1373</li> <li>• No procedures for reviewing lists of suspected terrorist or legal entities sent by foreign jurisdictions pursuant to Resolution 1373</li> <li>• No procedures for de-listing and unfreezing of funds for persons wrongly listed</li> <li>• No procedures providing a mechanism through which a person or entity can challenge a freezing action</li> <li>• No procedures by which persons subject to a freezing order is able to access funds or assets for basic expenses</li> <li>• No effective mechanism for receiving a feedback from across all relevant sectors that receive the UN List</li> <li>• DNFBPs are not covered in the circulation of the UN List</li> </ul>

## 2.5. The Financial Intelligence Unit and its Functions (R.26)

### 2.5.1. Description and Analysis

### 2.5.2. Legal Framework

283. The Egyptian Financial Intelligence Unit is established by the AML/CFT Law, referenced above, supplemented by Presidential Decree 164 of 2002 and Presidential Decree 28 of 2003, as well as by AML/CFT Regulations.

284. These laws and regulations establish and define the powers and responsibilities of the Egyptian Money Laundering Combating Unit (EMLCU), and give definition to its management/oversight and its organization. The Unit is established as an independent organization which encompasses the operating EMLCU as well as the (also independent) Council of Trustees that supervises the Unit and approves policies, strategies and priorities, and determines the annual budget of the Unit.

285. The FIU is headed by an Executive Director who has independence in matters related to the operational work of the FIU and directs the analytic work of the Unit. The FIU is governed by a board of

management, known as the Council of Trustees, which is chaired by an individual drawn from the Court of the Cassation, who is a Justice and holds the rank of Deputy Chairman of the Court of Cassation. He enjoys the independence and immunities of the judiciary, and cannot be removed from his position at the EMLCU without his consent. The Council supervises the Unit and approves policies, strategies and priorities and determines the annual budget of the Unit.

286. Articles 3-6 of the AML/CFT Law provide for the establishment of the independent EMLCU, specify its mandate as receiving reports from financial institutions and other entities, analyzing and examining them, and, where appropriate, referring them to the public prosecutor. The law also authorizes the Unit to request the public prosecutor to take provisional measures, when appropriate, to secure assets or suspend transactions. Personnel of the Unit are designated by the Minister of Justice to have the powers of law enforcement officers.

287. The AML/CFT Law, in Article 7 also specifies that existing financial supervisory bodies are charged with ensuring that the institutions under their supervision comply with the AML/CFT provisions and that they report as required to the EMLCU. Article 8 requires: the reporting of suspicious transactions and attempted transactions; client identification and the recording of such identification information; recording transactions; and, the retention of such information. The act also provides immunity for persons and entities reporting suspicious transactions, and forbids tipping off. It also requires the declaration of currency and instruments in excess of USD 10,000, or equivalent, on entering or leaving the country. The data collected through these declarations are sent to the EMLCU according to arrangements agreed upon between the EMLCU and the Customs Authority, as provided for by Article 14 of the Executive Regulations of the AML/CFT Law.

#### **Establishment of FIU as National Centre (c. 26.1)**

288. The Egyptian financial intelligence unit (FIU) was legally established by the AML/CFT Law, specifically by Articles 3-6 of that Law. The FIU, known as the Egyptian Money Laundering Combating Unit (EMLCU), is headed by an Executive Director and is a pivotal body in the Egyptian system of combating ML and FT.

289. It is an administrative FIU, established as “an independent unit with a special nature” at the Central Bank of Egypt (CBE), and is comprised of the EMLCU and a Council of Trustees that sets policy for and supervises the EMLCU.

290. The Unit, as provided for by the Law, gives instructions and guidelines to reporting entities as to the form and manner of their required reporting. Mandated reporting can only be made to the Unit which, after analyzing those reports and other information it obtains from dedicated units of the Ministry of the Interior or other external sources, is empowered to make a determination as to whether there are indications of money laundering or terrorism financing. It has exclusive authority to refer such information to the Supreme State Security Public Prosecution, a division of the Office of the Public Prosecutor of Egypt. In the Egyptian legal system it is the Public Prosecution that has the responsibility and the powers to conduct a formal investigation and to determine whether the case will be taken to trial.

291. The Mission Statement of the EMLCU reads: “EMLCU is the central agency in the Egyptian AML/CFT system that leads the national AML/CFT regime towards efficiency and effectiveness in order to prevent money laundering, criminal proceeds, and financing terrorism.”

292. The Council of Trustees of the EMLCU (the Council), chaired by an Assistant Minister of Justice, includes senior representatives of key stakeholder organizations, specifically: the Senior Deputy-Governor of the CBE, the Chairman of the Capital Market Authority, a representative of the Egyptian Banking Federation (nominated by the Federation) and an expert in financial and banking affairs, selected by the Prime Minister. According to Article 15 of the Executive Regulations of the AML Law, the Council is responsible for managing the EMLCU’s affairs, formulating its general policy, and following



up on the fulfillment of the objectives of that policy. It also approves forms and rules and guidelines as to client identification, beneficial owners. It proposes disclosure rules, and approves rules of coordination among financial supervisory authorities, and sets the rules for ensuring that reporting entities comply with the rules set out in the law. It ensures that the FIU is able to generate financial intelligence needed by the judicial authorities to address cases of money laundering and terrorism financing. It also proposes systems and procedures for combating money laundering and terrorism financing.

293. The Council also plays a role in overseeing the administrative management of the EMLCU. It approves the budget of the Unit, and sets regulations organizing the financial, administrative and human resource affairs of the Unit and establishes the structural organization of the Unit. The Council endorses training and qualifying programs for staff of the Unit, and the rules of assisting other competent entities and financial institutions in training and qualifying their staff. Finally, the Council is responsible for approving the rules and procedures for cooperation with foreign entities and the rules for exchange of information with foreign counterpart organization.

294. The Chair of the Council has a dual role, in that he also chairs the National Committee for Coordination in Combating Money Laundering and Terrorism Financing (the National Committee), created by Prime Minister's Decree 63 of 2005, and whose membership includes a wide range of relevant state entities that play a role in the fight against money laundering and terrorism financing. Specifically, membership includes the Executive Director of the EMLCU and senior representatives of: Ministry of Foreign Affairs, Ministry of the Interior, Social Solidarity, Public Prosecution, National Security Agency, Administrative Control Agency, the Egyptian Banking Institute, and the CBE. The Customs Authority and the Ministry of Finance, are not members of the National Committee, but the Committee has authority to invite them as well as any other bodies to specific meetings. The perspective of the financial sector is provided through the banking sector representative on the Council of Trustees.

295. This dual role of the Chair of the Council imbues the EMLCU and the Chair of the Council/National Committee with a very powerful coordinating role for all public sector entities engaged in the fight against money laundering and terrorism financing in Egypt. It is one of the outstanding characteristics of the Egyptian AML/CFT system.

### **Guidance to Financial Institutions on Reporting STR (c. 26.2)**

296. Article 3.12 of the EMLCU Regulations authorizes the EMLCU to specify the form and manner of reporting suspicious transactions, and to instruct financial institutions and other reporting entities as to the information to be included in such reports. Together with the financial sector supervisory bodies, the EMLCU is responsible for ensuring that these requirements are met.

297. The EMLCU has issued "know your customer" rules to reporting entities, in particular as regards: ensuring the efficiency and integrity of financial entity employees; setting a customer acceptance policy; customer identification and verification requirements; updating customer identification data; ongoing monitoring of transactions; AML/CFT risk management systems; enhanced due diligence for high risk customers, services, and financial transactions; and, wire transfer rules.

298. The EMLCU also gives guidance to financial institutions concerning the quality of the STRs received from them. In addition, it has the responsibility to ensure that FIs appoint an appropriate and competent MLRO.

299. The EMLCU indicates that it provides feedback to reporting entities: to acknowledge receipt of STRs; when provisional measures (e.g. freezing accounts or suspending transactions) are taken by the prosecutor; when referring a case involving reports by a reporting entity to judicial entities; and, when a final verdict is issued in a ML case. While this is generally corroborated by banks, discussions with other financial entities suggest that there is less comprehensive feedback provided to the non-bank reporting sectors.

300. It was evident from discussions with the authorities and meetings with the reporting entities that the EMLCU has issued clear guidelines to its reporting entities. In the case of several financial institutions not supervised by the CBE but supervised directly by the EMLCU on AML/CFT matters, EMLCU reported that all AML/CFT regulations and KYC rules are also binding on these institutions, as “requirements are binding on all banks operating in Egypt (and their branches abroad and branches of foreign banks operating in Egypt), not only banks registered in Egypt”. The EMLCU sends STR forms, AML/CFT KYC rules which are approved by the Council of Trustees, to these institutions.

#### **Access to Information on Timely Basis by FIU (c. 26.3)**

301. The AML/CFT Law (Article 7) and AML/CFT Executive Regulations (Articles 14 bis and 14a bis) provide the EMLCU with broad authority to access a wide range of information sources in furtherance of its responsibility to determine whether there are sufficient indications of suspected ML or FT to warrant referring the case to the public prosecutor. In practice, some of these information sources are accessed directly by the EMLCU, while others may be accessed on its behalf by designated law enforcement entities of the MoI, or by financial supervisory authorities.

302. The EMLCU can also obtain information directly from financial institutions. It can and does access law enforcement information, without restrictions or conditions. It obtains information from: property registries; corporate registries; reverse telephone directories; credit information (via the CBE); commercial information services (e.g. World Check); media sources; internet searches, etc. Some of the information is obtained by the EMLCU directly, particularly the non-government information from commercial sources. Other information is obtained for it by the investigative entities of Ministry of Interior.

#### **Additional Information from Reporting Parties (c. 26.4)**

303. The EMLCU has explicit authority (Articles 14 bis and 14a bis) of the AML/CFT Regulations) to seek information from obliged reporting entities, and regularly exercises that authority in examining and analyzing STRs. They make a formal request to the financial institution. The requests for such additional information are not confined to the institution that filed the particular STR.

#### **Dissemination of Information (c. 26.5)**

304. The EMLCU is authorized by the AML/CFT Law to disseminate information about suspected ML or FT to the public prosecutor (Article 7 of the AML/CFT Executive Regulations). In practice, this disclosure is made to the office of the Supreme State Security Public Prosecution (SPO) when the EMLCU has determined that there are sufficient indicators of suspected ML or FT. Investigative bodies in the MoI that conduct information gathering for the EMLCU can not disclose their findings directly to the prosecutor, but must forward their information to the EMLCU, which has the exclusive authority to refer such cases of suspected ML or FT to the prosecutor.

#### **Operational Independence (c. 26.6)**

305. The EMLCU enjoys a high degree of power and operational independence. It has authority to obtain any information it needs from any governmental source as well as from a variety of non-governmental sources. It does not receive operational direction from any other party. The Executive Director directs the analysis and dissemination of reports by the EMLCU. He selects and appoints the staff. The EMLCU controls its own data base which is not accessible by any other party, controls its own security arrangements, including the screening and monitoring of staff. The independent Council provides guidance as to the policies and priorities of the EMLCU’s work and management. The Chair of the

Council is appointed for a fixed term, and cannot be removed from his position before the completion of his term (as he enjoys the protections of his rank as a judge of the Court of Cassation).

306. The EMLCU conducts its analysis and examination according to its own judgment, and has exclusive authority to determine whether any information/case should be disclosed to the public prosecutor. The Chairman, or whomever he delegates for this purpose (in practice the Executive Director), submits such reports to the Public Prosecutor.

307. The Council of Trustees has the power to set the budget of the EMLCU without reference to or approval by any other authority (and has the authority to exercise the powers of the Governor of the CBE in this particular regard). The budget is derived from the overall CBE budget, but is determined and set by the Council.

#### **Protection of Information Held by FIU (c. 26.7)**

308. The operational data of the EMLCU is held in a secure, access-controlled, facility, with visitor control effected by security staff of the EMLCU. The data server is not accessible to staff except those in the IT department that need to access it. Access to the data is controlled, and limited to the analysts who conduct the analyses, and their manager. Access is logged and logs are periodically reviewed. The AML/CFT Law, Article 11, prohibits the unauthorized disclosure of any information of reporting, investigation or examination of financial transactions suspected of involving ML or FT. Article 15 provides for financial penalties, albeit relatively modest ones, of not less than EGP 5,000 (approx. USD 1,000) and not more than EGP 20,000 (approx. USD 3,700) for unauthorized disclosure.

#### **Publication of Annual Reports (c. 26.8)**

309. The EMLCU prepares an annual report that is posted to the publicly accessible website of the EMLCU. At the time of writing, the assessment team had not received a translated copy of the Annual Report. EMLCU staff indicated that the Report does not include statistical information, nor analysis of typologies and trends. EMLCU staff noted, however, that information about typologies and trends is separately posted to the EMLCU web site.

#### **Membership of Egmont Group (c. 26.9)**

310. The EMLCU has been a member of the Egmont Group since 2004, and has been an active participant of the Outreach Working Group and the Legal Working Group of Egmont. In 2006, the EMLCU hosted the spring Egmont Working Group Meeting in Cairo (the combined working groups of the Egmont Group). Moreover, Egypt has sponsored other FIUs for membership to Egmont.

#### **Egmont Principles of Exchange of Information Among FIUs (c. 26.10)**

311. The EMLCU adheres to the Egmont principles governing the exchange of information, and in particular the protection of information received from foreign FIUs from further disclosure without the prior approval of the providing FIU. The Council approves exchanges with other FIUs and approves any MOUs that are concluded for that purpose. MOUs for the exchange of information have been signed with 6 FIUs, and three more were under negotiation at the time of the on-site mission.

312. Since 2004, the EMLCU has received 114 information requests from foreign FIUs, of which all but one were granted.

### **Adequacy of Resources to FIU (c. 30.1)**

313. According to Presidential Decree 164 of 2002, the EMLCU's funding is provided by the CBE, The Council has the power to approve the EMLCU's budget. The AML/CFT Law permits the Council to exercise the powers of the Governor of the CBE for these and related purposes.

314. The EMLCU consists of 40 persons of which 28, including the Executive Director, are professional staff and 12 persons provide various support functions. It has an annual budget of EGP 16 million (approx. USD 3 million).

315. EMLCU staff is allocated as follows:

Executive Director	1
Technical Experts Office (legal)	3
Examination & Investigation	10
Communication/International Cooperation	3
Research	3
Information Technology	5
Administrative Affairs	3
Support	12

These resources would appear to be sufficient for the workload as it has been described by the EMLCU.

### **Integrity of FIU Authorities (c. 30.2)**

316. The management and staff of the EMLCU are carefully screened and vetted prior to their engagement. In all instances, this includes background checks and checks of criminal and law enforcement records, rigorous reference checks, and, for certain positions that involve access to especially sensitive material, there are also special screening checks undertaken by the National Security Agency.

317. All management and staff are required to submit asset declarations that are verified, and periodically renewed. These declarations are forwarded to the Illicit Gains section of the Public Prosecutor.

318. Much of the staff has been recruited from other positions of trust in the banking sector, and from financial supervisors. Some are recruited right out of university, and some are former law enforcement officers.

### **Training for FIU Staff (c. 30.3)**

319. Staff is provided with continuous training of both a general and specialized nature. Much of the training is delivered through the Egyptian Banking Institute, including training aimed at certification of staff (as well as employees of other governmental entities as well as some financial institution staff). In addition, some specialized training is provided within the Unit, including through technical assistance provided by international organizations or bilaterally by other FIUs. The EMLCU has also prepared procedures manuals that cover the relevant legislation, the nature and scope of ML, the role of the components of the AML system as well as about the specific responsibilities of each of the sub-units of the EMLCU.

320. Staff members that were met by the assessment team appeared to be quite knowledgeable and conversant with the business of the EMLCU, and with the techniques employed by the EMLCU in its work.

### Statistics (applying R.32 to FIU)

321. The few data that were provided pertaining to the work of the EMLCU are presented in the analysis of effectiveness that appears immediately below. Statistics as to suspicious transaction reporting were aggregated by broad reporting entity categories (banks, insurance, and all other entities) but were not broken down by reporting entity. The “other entities” grouping was not broken down further. No information was provided to explain the sharp decline in numbers from reported STRs (around 275 per year) to referrals to the public prosecutor (fewer than 10 per year) or the process by which this reduction takes place. No data were provided as to the number of currency import/export declarations received by the EMLCU. Nor were any data provided as to number of “wire transfers” reported to the FIU.

### Analysis of effectiveness

322. The legal and regulatory framework that has been established for the EMLCU, appears to be sound and comprehensive. The EMLCU has a robust mandate and is well established at the centre of the group of state entities engaged in the fight against money laundering and terrorism financing. It is well funded and well staffed, and is characterized by a solid governance structure that easily protects the operational independence of the EMLCU.

323. An important indicator of effectiveness is the number of STR reporting to the EMLCU, the analysis of those cases by the EMLCU, and the number of cases referred by the EMLCU to the public prosecutor for further investigation and for trial, as the case may be. The limited data provided by the EMLCU in this regard are presented in the following three tables.

**Table 11: Suspicious Transaction Reporting by Type of Reporting Entity**

RE Type	2004	2005	2006	2007	2008*
Banks (40)	403	290	277	259	220
Insurance Sector	2	1	24	15	1
All other entities	101	84	73	63	54
Total	506	375	374	337	275*

Grand total 2004-2008 1867

\* 2008 data to 30/06/2008

Source: EMLCU

**Table 12: STRs Disseminated to LEAs to obtain further Information**

	2004	2005	2006	2007	2008*
Ministry of Interior	244	142	148	116	85
Other LEAs	21	27	16	23	16
Total	265	169	164	139	101

Grand total 2004-2008 838

\* 2008 data to 30/06/2008

Source: EMLCU

**Table 13: STRs Forwarded by EMLCU to Public Prosecutor**

	2004	2005	2006	2007	2008*	TOTAL
Number of STRS forwarded to Public Prosecutor	9	8	2	7	3	29

\* 2008 data to 30/06/2008

Source: EMLCU

324. Discussion with the FIU showed that the FIU's analysis and consideration of the STRs reported to it is thorough and conscientious, and that the FIU makes use of a wide range of other information sources in coming to its determination as to whether cases should be referred to prosecution. The numbers reflected in the tables above are perplexing, however, as the trend line seems to be going in the wrong direction for STRs received, for referrals to LEAs for further information, and for disclosure to Prosecution. This is especially puzzling since the data on reported serious crimes shows an increase of nearly 25% during the same period.

325. The assessors judge that the overall numbers of reporting of STRs are low, for the size and nature of the economy, and in light of the generally available information about the nature and character of crime in Egypt. Statistics, presumably emanating from the MoI, provided by the EMLCU to the assessment team, in relation to reported crime numbers in Egypt, show a significant disconnect between reported crimes on one side and suspicious transaction reporting and prosecution of ML cases on the other, as can be seen in the table below, which was created from data supplied by the EMLCU and the Ministry of Interior.

326. The Egyptian authorities state that many of the crimes reported involve only very small amounts of money, or sometimes funds are returned to victims as part of the prosecution, or sometimes the funds are seized when the accused are apprehended. No substantiation of these interpretations was provided to assessors, and no statistical detail was forthcoming. The explanation seems inconsistent with the high frequency of profit motivated serious crimes included in the reported crime statistics.

**Table 14: Reported Crimes Compared to STR Reporting and Disposition of STRs, 2004-2007**

	2004	2005	2006	2007
Serious Crimes Reported*	77,968	88,857	96,190	101,176
STRs to EMLCU from financial sector	506	375	374	337
STRs EMLCU to LEA seeking information	265	169	164	139
STRs EMLCU to Public Prosecutor	9	8	2	7
ML Cases referred to Court	-	2	-	2
ML Convictions	-	1	-	-

\*High frequency serious crimes include: drug related offences; illegal importation, trading and manufacturing of weapons and explosives; misappropriation of public funds; forgery and forgery of banknotes; theft and misappropriation of funds; deceit and fraud; violations of intellectual property.

327. Part of the explanation for the obvious disconnect reflected in Table 4 above is found in the observation that there seem to be two, parallel, systems for investigating and prosecuting predicate offences and money laundering derived from those cases on one hand, and on the other hand money

laundering cases sparked by the reporting of suspicious transactions by financial reporting entities to the EMLCU.

328. ML/TF cases begin with suspicions reported by financial reporting entities, reports made to the EMLCU, referral of some of those reports to specialized and dedicated (and small) law enforcement groups in the MoI, with the results fed back to the EMLCU which then in turn refers some (a much smaller number) of those cases to a special prosecutor, the SPO whose responsibility it is to prosecute ML and FT.

329. Meanwhile, other serious crimes are reported to the general law enforcement agencies of the MoI, and those cases are forwarded to the general Public Prosecution for investigation and prosecution. The EMLCU indicates that when investigation or prosecution of such cases reveal indications of money laundering or terrorism financing that information is reported to the EMLCU and to the prosecutor dealing with ML/TF. As far as can be determined from the data available to the assessors, there have been few, if any, ML cases flowing from that general investigation of serious crimes. This may partly be due to the fact that until very recently, suspects could not be tried for both the predicate offence and for money laundering related to that offence. However, as discussed early in this report under criminalization of money laundering, an amendment to the AML/CFT Law in 2008 removed this impediment. It is too soon however, to tell what impact, if any, it will have on the overall number of money laundering cases that are tried in the future.

330. Some of the assessment team’s interlocutors noted that some proceeds of crime cases are prosecuted under other statutes, for example those crimes detected through the work of the ACA and specialized units in the MoI. Tables 5 and 6 below depict the prosecutions and convictions of corruption related cases and cases of “illicit gains”.

**Table 15: Prosecution of Illicit Gains Crimes**

	2004	2005	2006	2007
No. of reported crimes	585	449	847	746
No. of crimes detected	9	9	22	12
No. Illicit Gains prosecutions	381	228	1758	5014
No. of cases referred to court	19	25	35	53
No. of convictions	6	11	11	9

*Source:* EMLCU

**Table 16: Corruption Related Crimes (Administrative Control Authority)**

	2004	2005	2006	2007
No. of crimes reported	228	274	331	287
No. of crimes detected	228	274	331	287
No. of prosecutions	228	274	331	287
No. of cases referred to court	45	50	43	24
No. of convictions	29	23	25	8

*Source:* EMLCU

331. It is not known whether the prosecutions and convictions noted in the tables above relate to “predicate offences” only, or whether they also include prosecutions of the proceeds of those crimes.

332. The AML/CFT Law and AML/CFT Regulations require that all travelers entering or leaving the country declare to Customs authorities whether they are carrying currency in excess of USD 10,000 (or equivalent in other currency) in cash or negotiable monetary instruments or deeds to properties. Anecdotal information suggests that the requirement to make a declaration is not universally applied. The AML/CFT Law requires that copies of declarations must be forwarded by Customs to the EMLCU as per an agreed upon arrangement (authority provided by AML Law). The assessors were not able to obtain data as to the number of such declarations made to Customs, nor the numbers that are transmitted to the EMLCU. By mutual agreement between Customs and the EMLCU, the forwarding requirement has been “operationalized” to mean that Customs need only forward those declarations that are “suspicious”. Information provided by the EMLCU states that the criteria for determining suspicion are: high value of amount declared; frequency of traveling; intelligence from other agencies; countries traveled to; and, personal discretion of the customs officer.

333. It is the view of the assessors that the triage of customs declarations in this fashion is undesirable, as the EMLCU appears to be denying itself the ready access to information that may be valuable in the EMLCU’s analysis of all of the STRs that it receives. Since the on-site visit of the assessment team, the agreement between Customs and the EMLCU has reportedly been modified and the EMLCU has begun to receive all of the cross-border declarations.

### **Comments**

334. Reporting of suspicious transactions appears to be low, relative to the size of the economy, the heavy reliance on cash for substantial transactions, and relative to the number of reported serious crimes.

335. Effectiveness of measures aimed at improving quality of STRs is doubtful given that the ratio of STRs sent to public prosecution has not increased over the past 4 years.

336. The AML/CFT Law and Executive Regulations require that cross border currency declarations be forwarded to the EMLCU. By agreement between Customs and EMLCU (as permitted by law), this information transmittal has been limited to mean only “suspicious” declarations being forwarded, and the EMLCU had thereby deprived itself of the routine access to information potentially valuable for its analysis of ML and TF suspicions. Assessors have been informed that since the on-site visit the EMLCU and Customs modified their agreement and it now provides that all cross border currency declarations be sent to the EMLCU

337. The EMLCU has a mandate to raise public awareness of money laundering and terrorism financing. It has undertaken extensive outreach in this regard, including at schools and universities, and other specialized audiences, but there does not appear to be any baseline information about the level of awareness among the general public.

### **Recommendations**

338. The authorities should consider taking the following actions:

- The EMLCU and the financial sector supervisory bodies should undertake a study of the suspicious transaction reporting numbers and devise initiatives to stimulate more comprehensive reporting.
- Adding other DNFBPs such as vendors of other high value goods (cars, boats, etc) and establishing more effective supervision of casinos, so as to expand the range and quantity of transaction reporting flowing to the EMLCU.



- Intensifying the implementation of the cross border currency declaration requirement.
- While it is not required by the methodology, assessors are of the view that in light of the cash intensive nature of the Egyptian economy and financial system there could be an important element risk of money laundering through large cash transactions. Assessors suggest that it may be worthwhile for Egyptian authorities, in the context of any renewed assessment of money laundering risks, to reconsider the utility and value of implementing a Large Cash Transaction reporting requirement as part of the financial sector’s reporting to the EMLCU.

### 2.5.3. Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
<b>R.26</b>	LC	<ul style="list-style-type: none"> <li>• Low number of reporting of suspicious transactions</li> <li>• Low number of case referrals from FIU to the State Prosecutor</li> <li>• Published Annual Report does not include statistical information</li> </ul>

## 2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, & 28)

### 2.6.1. Description and Analysis

#### Legal Framework

339. The CCP, Circular No. 2 of 2004; Law 54 of 1964 and Police Act No. 109 of 1971 form the basis of the legal framework for the work of the law enforcement agencies, prosecution and other competent authorities.

340. Due to the security situation that prevailed in the 1980s and 90s, Egypt took measures to establish several law enforcement agencies such as the MoI to combat all kind of crimes, pursuant to the CCP and Circular No 2 of the Public Prosecutor for 2004. Law enforcement agencies conduct ML/FT investigations under the legal and judicial supervision of the Public Prosecution, which as indicated below, is the entity responsible for investigating and disposal of such investigations, pursuant to the general rules stipulated in the CCP and Circular No 2 of 2004.

341. There are three law enforcement agencies: the MoI, which consists of officers that have been granted the powers of law enforcement, who are entrusted with the authority to gather intelligence on all crimes including ML/FT.

342. The Administrative Control Authority (ACA) is the second law enforcement agency, which is responsible for investigating corruption (illicit gains) crimes in government administrative bodies.

343. The third law enforcement agency is the National Security Agency, which is responsible for protecting the safety of the government against threats from abroad.

344. As will be discussed below, the principal authority in the investigation of ML/TF matters is the SPO. Whilst the police force can conduct investigation up to a point, it is the Public Prosecutor’s office, which controls the primary conduct of ML/FT investigations, provisional measures and confiscation action. Similarly cross border interdiction of cash and negotiable instruments, whilst the responsibility of the Customs Authority, is a matter that is sent to the Public Prosecution office for Administrative and Financial Affairs for decision as to any further action necessary.

345. The SPO is the specific department that handles all ML and FT crimes. Other financial crime and traditional fraud offences are dealt with by the Public Prosecution office generally.

#### **Designation of Authorities ML/FT Investigations (c. 27.1)**

346. There are three divisions created that have a bearing on the work of AML/CFT, namely, the Public Funds Department; the Civilian Affairs Unit (responsible for issuing of national identity cards); and the Terrorism Unit under the State Security Investigative Service. The Service is responsible for combating terrorism and its financing, in cooperation and coordination with other relevant entities within the Ministry of Interior.

347. In Egypt, there are several agencies that are designated as investigative units and who have responsibility for ensuring that ML/ FT offences are properly investigated. It is important however, to observe that these agencies coordinate their operations and are represented on the National Committee.

348. **Ministry of Interior (MoI):** Within the framework of coordination between the EMLCU and law enforcement agencies, the Minister of Interior issued Decree no. 9821 for 2003 Concerning the Establishment of the Money Laundering Crimes Investigation Department (MLCID), within the Department of Public Funds. This department supervises three units, located in the General Department for Tourism and Antiquities Police, Vice Squad and Drugs Unit. Most prominent among the responsibilities of this department are:

- Combating crimes involving money laundering derived from the crimes stipulated in the AML/CFT Law.
- Receiving and examining reports and information sent to the Department, especially from the EMLCU, conducting investigations, collecting of evidence, searching surveillance, arresting the persons involved in money laundering activities and seizing.

349. The Manager of this Department acts as the contact person who is responsible for coordinating with the EMLCU, and other competent entities.

350. **Customs Authority:** The Customs Authority is responsible for monitoring the entry and exit of cash as well as bearer and negotiable securities and commercial papers as per the Law on the Central Bank, AML/CFT Law, the AML/CFT Executive Regulations and Administrative Orders No 219 of 2003 issued by the Ministry of Finance governing the declaration system. Declarations are required when carrying into or out of Egypt more than USD 10,000 or their equivalent in foreign currencies. At the same time, according to Article " 116" of Law no. 88 of 2003 (the Banking Law) "Passengers arriving in or departing from the country may hold Egyptian banknotes, not exceeding five thousand Egyptian pounds" and Article 126 of the same law states that "Whoever violates any of the provisions of Article (116) of this Law shall be liable to imprisonment for a period not exceeding three months and a fine of not less than five thousand pounds, and not more than twenty thousand pounds, or either penalty". This however, means that passengers are not allowed to carry more than the amount stated in the above Article regardless of the declaration and in case of violation are subject to the abovementioned sanctions. Furthermore, to enhance the control systems, international baggage is screened, although they are faced with a number of challenges such as inadequate financial expertise, and lack of money sniffer dogs.

351. **Supreme State Security Prosecution Office (SPO):** Pursuant to Circular No. 2 of 2004, the SPO, which is one of the Specialized Public Prosecution Office affiliated directly to the Public Prosecutor Office, is responsible for the investigation and prosecution of all money laundering and terrorist financing crimes in Egypt. The Public Prosecutor or any of the General Advocates he delegates have the authority to immediately order access to, or obtaining, any data or information related to accounts, deposits, trusts, safes, or transactions linked to such accounts, if this can lead to revealing to crimes stipulated in the AML/CFT Law. Furthermore, Article 5 of the AML/CFT Law grants the authority to take provisional

measures in the hands of the Public Prosecution. In any criminal case, the public prosecution has all powers of investigation. It investigates the case with sole purpose of uncovering the truth about the case at hand. Thus, it seeks out all evidence that would help revealing the truth whether incriminating, or exonerating evidence.

352. In relation to the SPO, they are assigned responsibility for the conduct of ML/FT cases. From the past experience, the SPO have developed the requisite knowledge in conducting investigations in relation to ML/FT. Moreover, the SPO has been involved in all the investigations and prosecution of ML/FT cases that have been referred to the office by the EMLCU and law enforcement agencies.

353. **Administrative Control Authority (ACA):** The ACA is a body responsible for monitoring the performance of the public sector agencies and is accountable to the office of the Prime Minister administratively. It was created under Law 54 of 1964. In monitoring the activities of the public sector agencies, it is responsible for detecting and preventing administrative and financial contraventions, abuse of public funds by public officials; conducting investigations on illicit gain cases (unjust enrichment); and conducting investigations on suspicious financial operations that might include money laundering by coordinating and exchanging information with the EMLCU.

354. It has jurisdiction over the public sector and private sector players undertaking any public work. In pursuing this authority, it combats corruption in government departments, and institutions to which the state contributes a portion of capital. In fulfilling its task and conduct of investigations, it can carry out: searches to collect evidence and seize documents from individuals and business premises; field and technical surveillance; and custody and confiscations. An AML unit has been setup within the organization to investigate proceeds of crime resulting from corruption. This unit submits STRs to the EMLCU when they are suspected ML arising out of corruption.

#### **Ability to Postpone / Waive Arrest of Suspects or Seizure of Property (c. 27.2)**

355. Law enforcement agencies can in all investigations, use legal means that enables them to discover all aspects of criminal behavior, all accomplices and the funds involved therein, including delaying the arrest of the suspects, as long as this does not prejudice the investigation.

356. The rulings issued by the Court of Cassation reinforce this trend. For example, in one ruling the Court ruled that "it is well known that law enforcement officers and their subordinates have the authority to use different means when investigating crimes to discover their perpetrators, even if they resort to camouflage or take on any capacity to make the perpetrator be at ease therewith and feel safe from any harm. The act of the officer in getting along with the perpetrators to find out a crime that was carried out does not violate the law, or considered abatement for committing the crime inasmuch as the perpetrators' intent exists and is free."

357. Moreover, the Court of Cassation has also ruled that "law enforcement officers seconded to execute the search warrant issued by the Public Prosecutor, have the authority to determine the time suitable to make such search more fruitful as long as the search is carried out within the time limit of the warrant. Given that the search carried out by the police officer is legally warranted, the way such search is conducted is up to the person executing it." Furthermore, in another ruling, the Court of Cassation decided that "it is acknowledged that the law enforcement officer seconded to implement the search warrant has the authority to choose the circumstances most suitable for conducting it, in a fruitful manner and at the time deemed appropriate as long as it is carried out within the time limit of the warrant. Any appeals in this concern will be a baseless objective argument the Court of Cassation may not accept."

358. It should be pointed out that the rulings of the Court of Cassation are considered, one of the explanatory sources of legislation, from which judges may seek guidance.

**Additional Element—Ability to Use Special Investigative Techniques (c. 27.3 & 27.4)**

359. Law enforcement agencies have direct access to the full range of special investigative techniques including communication interception, listening devices, controlled deliveries, physical and electronic surveillance, and use of undercover officers. Deployment of phone interception requires written permission from the public prosecution office. In this regard, SPO staff is made available at anytime to facilitate such request. The full range of the special investigative techniques is used in conducting ML/TF investigations.

**Additional Element—Specialized Investigation Groups & Conducting Multi-National Cooperative Investigations (c. 27.5)**

360. Law enforcement agencies including the Customs Authority, do conduct joint operations of ML/TF related crimes, subject to coordination with the Public Prosecutor.

**Additional Elements—Review of ML & FT Trends by Law Enforcement Authorities (c. 27.6)**

361. Reviews of AML/CFT methods are discussed at the National Committee, and typologies are posted on the EMLCU website. The EMLCU has conducted training seminars for law enforcement agencies, in which ML/TF matters are discussed.

**Ability to Compel Production of and Searches for Documents and Information (c. 28.1)**

362. Articles 21-29 of the CCP regulate the matters pertaining to law enforcement officers and their duties. Article 23 of the CCP defines law enforcement officers as the persons responsible for intelligence gathering, in accordance with, the general rules in ML, FT, and all other predicate crimes stipulated in the AML/CFT Law. The Article states that "law enforcement officers will include in their respective jurisdiction the following: members of the Public Prosecution office; and law enforcement officers".

363. For detailed discussion on the powers of competent authorities to compel production of; search persons or premises for; and seize and obtain financial data and other related documents, see section 2.3 on Confiscation, freezing and seizing of proceeds of crime.

**Power to Take Witnesses' Statement (c. 28.2)**

364. With respect to taking witnesses' statement, Articles 110-122 of the CCP provides the competent authorities with the power to take witness's statement.

**Adequacy of Resources to Law Enforcement and Other AML/CFT Investigative or Prosecutorial Agencies (c. 30.1)**

365. All agencies visited appeared to be well staffed, accommodated in good offices with access to a wide range of equipment and facilities. There are about 3,500 public prosecutors, and a support staff for administrative matters of about 18,000. At present 18 prosecutors are dedicated to combating ML and FT cases in the SPO, while 10 prosecutors are dedicated to the international cooperation department of the General Prosecutors office (the equivalent of Attorney General) responsible for MLA and extradition matters.

366. ACA appeared to be well staffed, accommodated in modern offices and have established specialist sections for dealing with targeted crimes. It has 500 judicial officers, with a support staff of 1500.

367. Customs Authority is very well resourced with a staff of about 14,000 officers, of which, 4,000 are located at all designated entry points. Given the lack of information on cases referred to EMLCU of suspicious records, it is not possible to establish the competence and skills of customs in detecting ML/TF transactions from the declaration forms.

### **Integrity of Competent Authorities (c. 30.2)**

368. The laws governing the work of the law enforcement agencies have set high professional standards for the staff of such agencies, such as high standard of education, confidentiality, integrity and adequacy of skills. All applicants are the subject of personal interviews, and where appropriate the security agencies are in a position to provide background profiles of individuals.

369. The Public Prosecution office is provided with the requisite independence, ensuring its protection against any interference when investigating and prosecuting such crimes. The Public Prosecution in Egypt is an integral part of the Egyptian Judiciary. Its members enjoy judicial independence and irrevocability according to article 67 of the Judicial Authority Code of 1972 concerning the judicial Authority which states that “judges and prosecutors may not be discharged”. Accordingly, public prosecutors are independent and have the same rights, immunities and privileges as judges. Moreover, the public prosecution is the only power entrusted by the CCP to conduct judicial investigations and refer criminal cases to the courts.

370. Moreover, the Judicial Inspection Department makes an annual random check on the conduct and action done by a prosecutor within a 2 month period. By examining such actions the expectation is that the inspection exercise can reveal violations of the code of conduct to which prosecutors are bound. Furthermore, the public can submit complaints to the Inspection Department against a public prosecutor. Disciplinary action such as a warning which is put on the file of the affected prosecutor; a transfer of the prosecutor to another place; or submission of the misconduct case to an internal council so as to be removed from office or taken to court if there is criminality involved.

### **Training for Competent Authorities (c. 30.3)**

371. The Institute of Judicial Studies division of the Ministry of Justice organizes and conducts training for staff in crimes covered by different laws, regulations and decrees.

372. With regard to ML/FT, members of the public prosecution and law enforcement agencies, attend training programs to increase their knowledge in the latest developments in this area. Also law enforcement agencies also provide their staff with specialized training courses on a regular basis. There is a six week training course on combating ML/FT crimes offered at the Police Training Institute. In addition, both the public prosecution office staff and the law enforcement agencies participate in AML programs organized by the EMLCU at the Egyptian Banking Institute (EBI). In addition to regular basic training courses at the EBI, courses are offered by the National Centre for Judicial Studies, Social and Criminal Research Centre, the MOI Training Centre and training centers affiliated to Universities. Prosecutors and law enforcement officers have also participated in workshops offered in Luxembourg, UK and the USA. However, as noted elsewhere in this report and as indicated below, a major challenge for the law enforcement agencies is the inability to be able to identify ML cases arising out of the hundreds of reported proceeds generating crimes. It remains unclear that the training currently being provided for the public prosecution and law enforcement agencies has been effective in building the financial investigation capabilities of the staff.

### **Additional Element - Special Training for Judges (c. 30.4)**

373. There is special training for judges in AML/CFT issues, through the National Center for Judicial Studies and the Criminal Research Centre.

### **Statistics (applying R.32)**

374. The authorities did not make available the statistics with respect to ML cases arising out of the predicate crimes they had investigated.

### **Analysis of effectiveness**

375. The law enforcement agencies have adequate powers to conduct ML/FT investigations and discussions with the authorities indicate that they are aware of these powers and have exercised them in cases including traditional financial crime cases such as fraud, economic crimes and illicit gains. Moreover, there is evidence that the authorities through the Public Prosecutors office have accessed and compelled the production of financial records from financial institutions. However, suffice to mention here that given the low numbers of investigations and prosecutions, it is difficult to determine the effectiveness of document production, and search and seizure powers. More evidence as to how these powers have been used in ML cases or other predicate crimes such as fraud will be required in order to come to a conclusion as to whether or not the powers are effectively utilized. Further, with respect to FT cases, it is noted that the State Security has utilized those powers to gather intelligence, surveillance and investigate groups engaged in terrorist activities.

376. Moreover, because of the dispersed nature of the responsibilities of the different units, it is difficult to fully utilize the requisite specialized skills for investigations, even if these are available among law enforcement officers and investigators. Assessors were not able to obtain information to verify the investigations driven from other reports than STRs. Furthermore, with respect to the appointment of the dedicated unit in the MoI which has three persons as points of contacts, further evidence is required to determine the effectiveness of the arrangements in practice.

377. The main concern for all the law enforcement agencies and the prosecution authorities is the insufficient training that has been undertaken to be able to adequately investigate and identify ML indicators from predicate crimes.

### **2.6.2. Recommendations and Comments**

378. The authorities should consider:

- Availing the law enforcement agencies with training at various Police Academies within the Arab League.
- Ensuring that law enforcement agencies maintain in a systematic manner statistics in relation to ML/FT investigations, prosecutions and seizure of proceeds of crime.
- Streamlining the operations of the many units that are involved in ML investigations in order to strengthen their efficiency.
- Enhancing the investigative capacity of the law enforcement agencies to enable them to identify ML indicators arising from predicate crimes.

### 2.6.3. Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
<b>R.27</b>	LC	<ul style="list-style-type: none"> <li>Low number of identifying ML indicators in reported crimes raises questions on whether ML cases are properly investigated</li> </ul>
<b>R.28</b>	LC	<ul style="list-style-type: none"> <li>Low numbers of investigations and prosecutions, make it difficult to determine the effectiveness of document production, and search and seizure powers</li> </ul>

## 2.7. Cross Border Declaration or Disclosure (SR.IX)

### 2.7.1. Description and Analysis

#### Legal Framework

379. Articles 116 and 126 of the Law on the Central Bank, Banking Sector and Money, promulgated by Law no. 88 for 2003 (Banking Law); Article 12 of the AML/CFT Law, Article 14 of the AML/CFT Executive Regulations; and Administrative Order No 219 of 2007 issued by the Ministry of Finance.

380. The monitoring of the cross-border physical transportation of currency is conducted by virtue of Article 14 of the AML/CFT Executive Regulations which requires that any person entering or leaving Egypt at any point of entry or exit shall, in a manner prescribed by the Customs Authority declare all currency above the US\$10,000 or the equivalent in local currency to a Customs officer.

381. The AML/CFT Executive Regulations are complemented by the Banking Law which has a similar requirement of declaring currency in excess of US\$10,000 (Article 116).

#### Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1)

382. Article 12 of the AML/CFT Law provides the legal basis for the monitoring of the cross-border physical transportation of currency. It provides as follows: "Any passenger, upon entering into or exiting from the country, shall declare to the customs authorities any amounts he/she carries of foreign currencies, securities and negotiable bearer commercial papers, where their value exceeds US\$10,000 or their equivalent in foreign currencies...Declaration shall be made in accordance with the rules and procedures to be set by the Executive Regulations." In this regard consequently, Article 14 of the AML/CFT Executive Regulations, establishes the framework for a declaration system of cross-border transportation of currency. It requires every passenger travelling to and from Egypt to declare to customs authorities their possession of foreign currencies in excess of USD10,000 or their equivalent in foreign currency including negotiable instruments. Such declaration to the customs authorities has to be made at any point of entry and exit. The ceiling applies to all age groups and incoming cash by way of mail, shipment, air and land. Declaration forms are handed over to passengers in the arrival hall by custom officers and to be handed over at the point of exit. The system is a declaration and not disclosure one.

383. Due to tight Exchange Control regulation prior to the AML/CFT Law, the level of awareness across the operational customs units is high and senior level officials displayed a working knowledge of the applicable laws and regulations. In addition to this, there is a deliberate effort on the part of the customs authorities to raise the public awareness by way of publishing a magazine on a monthly basis. It sensitizes the public on the rules regarding the declaration mechanism. There are samples of the declaration forms for arrival and departure included in the magazine.

384. In addition to use of screening machine, the customs officers rely on the expertise of its staff to monitor passengers by way of body language, and many successful cases have been recorded using such techniques and reported to the public prosecution office.

#### **Request Information on Origin and Use of Currency (c. IX.2)**

385. In the event that the passenger fails to declare that they are carrying cash or negotiable instruments over the threshold, and it's discovered that they are in fact carrying such amount, the custom officers are authorized under the AML/CFT Executive Regulations to enquire as to the reason for non-declaration.

#### **Restraint of Currency (c. IX.3)**

386. Custom officers if not convinced to the reasons provided for non-declaration, are authorized by the Regulation to seize the cash or negotiable instruments and transfer the amount to the public prosecution office to initiate further investigation. However, there was no information on seizures made under this power.

#### **Retention of Information of Currency and Identification Data by Authorities when appropriate (c. IX.4)**

387. As per the AML/CFT Executive Regulations and Administrative Order No 219, data on declaration forms is recorded and registered in Currency Declaration books for follow up purposes. The AML/CFT Law requires that copies of declarations must be forwarded by Customs to the EMLCU as per an agreed upon arrangement (authority provided by AML/CFT Law). In practice, this has been operationalized to mean that Customs only need forward those declaration forms that are "suspicious". The assessors were not able to obtain data as to the number of such declarations made to Customs, nor the numbers that are transmitted to the EMLCU. By agreement between Customs and EMLCU (as permitted by law) this information transmittal has been limited to mean only "suspicious" declarations being forwarded, and the EMLCU had thereby deprived itself of the routine access to information potentially valuable for its analysis of ML and TF suspicions. Information provided by the EMLCU states that the criteria for determining suspicion are: high value of amount declared; frequency of traveling; intelligence from other agencies; countries traveled to; and, personal discretion of the customs officer. Since the on-site visit of the assessment team, the agreement between Customs and the EMLCU has reportedly been modified and the EMLCU has begun to receive all of the cross-border declarations.

#### **Access of Information to FIU (c. IX.5)**

388. The original forms of the declaration that are "suspicious" are sent to the EMLCU as discussed above. The EMLCU includes the data from the declaration forms in its database and takes necessary measures in case of suspicious in ML/FT transactions.

#### **Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6)**

389. Various state agencies indicated that the coordination by the EMLCU has resulted in cooperation between customs, immigration and related authorities.

#### **International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (c. IX.7)**

390. The Customs Authority has bilateral agreements with its counterparts in other countries in the form of MOUs. Cooperation involves coordination and exchanging of information at the Ministerial level,



through membership in the WCO. The Customs Authority attends meetings of the WCO regularly and exchanges information through the competent authorities via the C.E.N, which enable it to access the latest means of hiding and trafficking.

**Sanctions for Making False Declarations / Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8)**

391. Customs Authorities, may, in case of failure to declare or providing false information, question the violator the source of any currencies or negotiable instruments in his possession above the threshold limit, and the purposes of their use. If not convinced, the customs officer is empowered to take measures for seizing the currencies, and the violator may be liable to imprisonment for a period not exceeding three months and a fine of not less than EGP 5,000 (approx. USD 1,000), and not more than EGP 20,000 (approx. USD 3,700).

**Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or FT (applying c. 17.1-17.4 in R.17, c. IX.9)**

392. Egypt has procedures in place to impose sanctions on non declaration, including seizing currencies and imposing fines. Specifically, Article 12 of the AML/CFT Law gives authority to the customs authorities to take measures for seizing the currencies or negotiable instruments where there is violation of the declaration requirements. Moreover, where there are indications of committing a ML or TF crime, the customs authorities are required to report such indications to the competent authority and provide the EMLCU with a copy of such action. Furthermore, Article 126 of the Central Bank Law provides in respect of violation of the requirement of entry to or exit from Egypt with US\$10,000, that “in all cases, the amounts and articles of the legal action shall be seized and confiscated by a court ruling. If the objects are not seized, an additional fine equivalent to their value shall be ruled.”

**Confiscation of Currency Related to ML/FT (applying c. 3.1-3.6 in R.3, c. IX.10)**

393. The confiscation powers discussed earlier can also be used to confiscate currency that is related to ML/FT. However, no statistical information was provided.

**Confiscation of Currency Pursuant to UN SCRs (applying c. III.1-III.10 in SR III, c. IX.11)**

394. The EMLCU circulates the UN lists to all concerned agencies including Customs. It should be noted that Customs do not have an authority to freeze assets; as its role is confined to seizing, preparing seizure reports and sending them to the concerned entities. Such entities cooperate with the Customs Authority in order to detect any violator who tries to commit such violation for a second time, or tries to cross borders. The Customs Authority also follows up on the outcomes of seizure reports and the way they have been disposed of by judicial entities. This is done through the Legal Affairs Department, at the Customs Authority.

**Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):**

395. Cooperation within Egypt and with other countries is coordinated through security agencies, in case of smuggling of precious stones and metals through their borders. This is done by way of exchange of information related to the movement of precious metals and stones in and out of Egypt.

**Safeguards for Proper Use of Information (c. IX.13)**

396. Declaration or disclosure data are delivered to EMLCU; there are no special procedures for safeguarding information other than the usual requirement concerning access to restricted information by

members of the public. To this end, original declaration forms are kept for a period of five years by the Customs Authority, to provide them to the competent authorities when requested. They are kept in a secure place in the Technology Sector of the Customs Authority.

**Additional Element—Implementation of SR.IX Best Practices (c. IX.15)**

397. The Customs authorities have implemented the best practice on cross border transportation of cash by terrorist and other criminal groups.

**Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.15)**

398. Customs and immigration authorities retain incoming and outgoing passenger records in hard copy and computerized format. Moreover, they are representatives from the MoI – National Security Authority - in all border posts. They are responsible for maintaining the security and combating smuggling among other things. However, there is no link with all the border posts and law enforcement agencies. In this regard, the authorities have received assistance from the United States government to set up a comprehensive on line computer system to capture all the data declare by all travelers. The project will be completed in 2009.

**Analysis of effectiveness**

399. Implementation of currency declaration is intermittent.

400. The legal framework for the declaration and seizure of currency is adequate and the authorities have instituted measures at the points of entry and exit. But there was no evidence to indicate that the seizure provisions have been utilized by the authorities.

401. Moreover, assessment of effectiveness is constrained by the lack of information on safeguards for the use of currency declaration mechanism as well as the basis on which Customs performs the triage on currency declaration forms to be forwarded to the EMLCU. The analysis of these databases can be useful to the EMLCU for analysis of suspicious declaration and to Customs for profiling travelers.

402. The computerization project will enhance the quality and quantity of monitoring, seizing and prosecution of currency declaration violation. The use of other techniques to monitor travelers is an added strength to the system although it has not resulted in tangible evidence yet. Furthermore, the cooperation among other law enforcement agencies that monitor the movement of persons in and out of the country is fairly robust. Membership of the WCO is an added value.

**2.7.2. Recommendations and Comments**

403. The authorities should:

- Adopt a national strategic approach to the management of the cross border transportation of cash and negotiable instruments.
- Consider a coordinated approach to passenger profiling using intelligence led model in conjunction with other law enforcement agencies.
- Develop a systematic collaboration in order that both the Customs and the EMLCU will have complete records of all currency declarations, and undertake analysis of such records to develop indicators of detection of violations..

### 2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	PC	<ul style="list-style-type: none"><li>• Lack of effective implementation of system</li><li>• No evidence of thoroughness of reporting suspicious declaration forms</li><li>• No proper safeguards for proper use of currency declaration information</li></ul>

## 3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS

### 3.1. Risk of money laundering or terrorist financing

404. For what concerns the coverage of financial institutions by AML /CFT requirements, Egypt has not decided not to apply certain requirements, or to reduce or simplify the measures being taken, on the basis that there is low or little risk of money laundering or terrorist financing. For what concerns the AML /CFT requirements which financial institutions have to implement, Egypt has not considered that some types of customers, business relationships, transactions or product could be treated as low risks by financial institutions. These choices fall within what FATF Recommendations allow.

### 3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)

#### 3.2.1 Description and Analysis

##### Legal Framework

405. The law n° 80 promulgating the Anti-Money Laundering Law was passed in 2002 (and updated in 2003 and 2008), as well as its Executive regulation. In the rest of the document, those texts are referred to as the AML /CFT law and the AML /CFT Executive Regulation. These texts are considered as “laws and regulations” as defined by FATF<sup>40</sup>. The AML /CFT law, and its Executive regulation, covers all Egyptian financial institutions. The list of covered financial institutions includes (i) all institutions mentioned in the AML /CFT law, and its Executive regulation, as well as (ii) “other entities” designated by a Prime Minister decree.

406. While the AML /CFT law only names covered financial institutions (art. 1-c), its Executive regulation generally mentions the Egyptian laws which define and regulate them (art. 1). There is only one exception which relates to “banks operating in Egypt, their branches abroad, and branches of foreign banks operating in Egypt”. The mission was informed that the Egyptian lawmaker intended<sup>41</sup> that this

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<sup>40</sup> The Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations indicates that “Law or regulation refers to primary and secondary legislation, such as laws, decrees, implementing regulations or other similar requirements, issued or authorized by a legislative body, and which impose mandatory requirements with sanctions for non-compliance. The sanctions for non-compliance should be effective, proportionate and dissuasive.”

<sup>41</sup> In the minutes of a meeting held on 5 September 2006, the Committee of technical experts responsible for suggesting possible amendments to the AML /CFT law recommended: “to explicitly include the EMLCU among those authorities entitled to monitor the implementation of institutions obligations. [...] One reason to introduce such an amendment is to enable the Unit [EMLCU] to directly monitor financial institutions not subject to any

(continued)

wording include (i) banks covered by the law n° 88, the banking law, as well as (ii) any other institution carrying out banking business in Egypt, although not subject to the provisions of the banking law. Arab International Bank, Nasser Social Bank, and the Central Bank of Egypt (for what concerns its financial activities) are thereby covered by the AML /CFT law and its Executive regulation (see section 3.10 for a comprehensive analysis of this matter). Similarly, microfinance companies could be considered as covered by these texts.

407. No Prime Minister decree was issued to define as “other entities” any financial institution as defined by FATF<sup>42</sup>.

408. Know your customer (KYC) regulations have been issued by the EMLCU for banks supervised by the CBE, the Post office, insurance companies, securities firms, leasing companies, factoring companies, mortgage finance companies foreign exchange companies and money transfer companies. These regulations are implementing the AML /CFT law<sup>43</sup> and supervisors can use their powers to impose administrative sanctions where violations are identified. These regulations are considered as “law or regulation”, (i) as they were authorized by a legislative body (i.e. the AML /CFT explicitly requires the EMLCU to issue such regulations) and (ii) as there are effective sanctions in cases of violations (e.g. those contemplated by the AML /CFT law and, critically, the administrative sanctions which supervisors can take).

409. AML /CFT regulations have been issued for banks supervised by the CBE<sup>44</sup>, insurance companies, securities firms, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange companies and money transfer companies by their respective supervisors. These regulations are considered as “other enforceable means” as sanctions can be and have been applied where shortcomings are identified, although these regulations are not directly related to primary or secondary legislations (see c. 23-1).

410. The Egyptian authorities indicated that the EMLCU issued KYC rules for Arab International Bank, Nasser Social Bank and the Central Bank of Egypt which were exactly the same as those applicable to banks supervised by the CBE. Similarly, the EMLCU indicated it had issued regulations for these three institutions which were exactly similar to those the CBE released for the banks it supervises. English translations of the documents issued for AIB and NSB (but not for the CBE) were communicated to the assessors after the on-site mission, but were issued before it<sup>45</sup>. Such documents cannot be recognized as

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supervisory authority.” The detailed amendments recommended by this Committee are now part of the AML /CFT law.

<sup>42</sup> On the contrary, some DNFBPs were defined as “other entities” by such a Prime Minister decree (see section 4).

<sup>43</sup> Article 3-13 of the AML /CFT Executive Regulation requires the EMLCU to set the rules to be used in establishing the identity and the legal status of customers and beneficial owners.

<sup>44</sup> For the avoidance of doubt, it should be noted that only regulations issued by the CBE for the banks it supervises have been communicated to the assessors.

<sup>45</sup> AIB: In a letter to the Managing Director of AIB dated 6 August 2008, the Executive Director of the EMLCU indicated the following: “It gives me the pleasure to attach herewith the AML/CFT Regulations that have to be observed by all banks operating in Egypt, including your Bank. Kindly take the necessary measures to ensure compliance with the AML/CFT Regulations.”

NSB: In a letter to the Chairman of Nasser Social Bank dated 6 August 2008, the Chairman of the Council of Trustees of the indicated the following: “It gives me the pleasure to attach herewith the AML/CFT Regulations that have to be observed by all banks operating in Egypt, including your Bank. Kindly take the necessary measures to ensure compliance with the AML/CFT Regulations.”

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“law or regulation” or “other enforceable means” as the EMLCU does not have appropriate powers to impose effective, proportionate and dissuasive sanctions if such regulations were to be breached (see section 3.9).

411. The assessors have only taken into account those regulations which they have been able to review. The table below lists the laws and regulations which are considered as being in place for rating purposes.

**Table 17: AML /CFT laws and regulations applicable to financial institutions in Egypt**

Structure of the financial industry	AML CFT Law (law n° 80, 2002)	AML CFT Executive regulation	Other AML /CFT regulations
<u>Banking industry (covered by law n° 88, 2003)</u>			
Banks	Yes	Yes	- EMLCU, AML /CFT KYC rules for banks, 2008
Branches of foreign banks	(Art. 1-c-1)	(Art. 1-FI-1)	- CBE, AML /CFT Regulation for banks, 2003
<u>Other deposit taking institutions</u>			
Post office	Yes (Art. 1-c-6)	Yes (Art. 1-FI-6)	- EMLCU, AML /CFT KYC rules for the Post office [No date mentioned] - Ministry of Communications and IT, AML /CFT Regulation for the Post office, [No date mentioned]
Arab international Bank	Yes	Yes	No other AML /CFT regulation (which the assessors could review)
Nasser social bank	(Art. 1-c-6)	(Art. 1-FI-6)	
<u>Insurance industry</u>			
Life and non life insurance companies			- EMLCU, AML /CFT KYC rules for insurance companies [No date mentioned]
- Life insurance			
- Non life insurance	Yes (Art. 1-c-10)	Yes (Art. 1-FI-10)	- EISA, AML /CFT Regulation for insurance companies, 2003
Pension funds (private insurance funds)			
Insurance brokers			
<u>Securities industry</u>			
- Brokers			
- Securities promoters & underwriters			
- Mutual funds			
- Fund management companies	Yes (Art. 1-c-4)	Yes (Art. 1-FI-4)	- EMLCU, AML /CFT KYC rules for securities firms [No date mentioned] - CMA, AML /CFT Regulation for securities firms, 2003
- Venture capital firms			
- Private equity firms			
- Custodians			
- Central securities depository and registry			
<u>Other financial institutions</u>			
Foreign exchange companies	Yes (Art. 1-c-2)	Yes (Art. 1-FI-2)	- EMLCU, AML /CFT KYC rules for foreign exchange companies [No date mentioned] - CBE, AML /CFT Regulation for foreign exchange companies, 2003
Money and value transfer companies	Yes (Art. 1-c-3)	Yes (Art. 1-FI-3)	- EMLCU, AML /CFT KYC rules for money transfer companies [No date mentioned] - CBE, AML /CFT Regulation for money transfer companies, 2003
Factoring companies	Yes (Art. 1-c-9)	Yes (Art. 1-FI-9)	- EMLCU AML /CFT KYC rules for leasing, factoring and mortgage finance companies [No date mentioned] - GAFI, AML /CFT Regulation for factoring and leasing companies, 2003
Leasing companies	Yes (Art. 1-c-8)	Yes (Art. 1-FI-8)	- EMLCU AML /CFT KYC rules for leasing, factoring and mortgage finance companies [No date mentioned] - GAFI, AML /CFT Regulation for factoring and leasing companies, 2003
Microfinance companies	Yes (Art. 1-c-6)	Yes (Art. 1-FI-6)	No other AML /CFT regulation
Mortgage finance companies			
Entities specializing in mortgage related securitization	Yes (Art. 1-c-7)	Yes (Art. 1-FI-7)	- EMLCU AML /CFT KYC rules for leasing, factoring and mortgage finance companies [No date mentioned] - MFA, AML /CFT Regulation for entities operating in the field of mortgage finance, 2003
Central bank of Egypt (CBE)	Yes (Art. 1-c-6)	Yes (Art. 1-FI-6)	No other AML /CFT regulation (which the assessors could review)

Box 1: Translation of the EMLCU KYC rules for financial institutions  
and AML /CFT regulations issued by supervisors

The EMLCU informed the mission that both in the translations of the (i) AML /CFT Know your customer rules for the different financial institutions issued by the EMLCU and (ii) in the AML /CFT Regulation issued by supervisors for the financial institutions they are responsible for, the term “shall” had been inappropriately translated as “should” (see Annex 3). As a consequence, “should” is to be replaced by “shall” in those documents, wherever it appears, to be consistent with the official Arabic version (therefore creating a binding requirement, with a significant impact for rating purposes).

**Prohibition of Anonymous Accounts (c. 5.1\*<sup>46</sup>)**

412. Financial institutions are prohibited from opening and maintaining anonymous accounts and accounts under false or fictitious names by the AML /CFT law (Art. 8-2) and its executive regulation (Art. 33). Article 8-2 of the AML /CFT law reads: “Financial institutions may not open anonymous accounts or accept anonymous deposits, funds or trusts or under false or fictitious names”. Article 33 of the AML /CFT Executive Regulation indicates that: “financial institutions and other entities shall not open accounts, *keep* or accept deposits or funds of anonymous sources or under false or fictitious names”. The latter article covers the *maintenance* of anonymous accounts and accounts under false or fictitious names.

**When CDD is required (c. 5.2\*)**

413. Article 22 of the AML /CFT Executive Regulation indicates that all financial institutions are required to identify their customers and their beneficial owners:

- When opening accounts or establishing a business relationship (Art. 22 (1) ),
- When conducting any occasional financial transaction exceeding the threshold set by the supervisory authorities, in coordination with the EMLCU (Art. 22 (1) ),
- “When there is a suspicion of ML or TF, regardless of the value of the occasional transaction” (Art. 22 (1)).

414. The AML /CFT Executive Regulation does not cover (i) cases where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data and (ii) occasional transactions that are wire transfers in the specific circumstances covered by the Interpretative Note to SR VII (see below the EMLCU KYC rules for banks on the latter). The EMLCU KYC rules for banks require banks supervised by the CBE to identify customers in those two cases<sup>47</sup>. According to the

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<sup>46</sup> Some of the basic obligations under Recommendations 5, 10 and 13 have to be set out in “laws and regulations” according to FATF interpretative notes. The relevant criteria are followed by an \*.

<sup>47</sup> Banks supervised by the CBE are required by the EMLCU KYC rules to identify customers (i) when starting a business relationship with a customer (Section 4-1), when conducting an occasional transaction, excluding transfers, above 50,000 EGP (ca. 9,000 USD) or the equivalent in foreign currencies (Section 4-1), (iii) when conducting an occasional transaction which is a wire transfer, without regard to any threshold (Section 9). This requirements

(continued)

FATF, these requirements have to be in “laws or regulations”, which is not the case in Egypt for AIB, the CBE and NSB.

415. For what concerns occasional customers, the AML /CFT Executive regulation only requires financial institutions to identify them when conducting an occasional transaction *exceeding* the threshold set by the supervisory authorities, in coordination with the EMLCU. After the EMLCU consulted with the industry, it set that threshold at EGP 50,000 (approximately USD 9,000) for banks supervised by the CBE, the Post office and foreign exchange dealer companies. That threshold complies with FATF Recommendations (EUR /USD 15,000), but appears high for Egypt (almost six times the per capita income of Egyptians in 2007). No threshold has been set for other financial institutions. The assessors were informed by the Egyptian authorities that these institutions were not allowed to deal with occasional customers<sup>48</sup>.

**Table 18: Overview of the requirements created by EMLCU KYC regulations**

	Banking industry supervised	Insurance industry	Securities industry	Post office	Foreign exchange companies	Money transfer companies	Leasing and factoring companies
- Threshold above which occasional customers need to be identified	50,000 EGP (section 4.1)	No requirement	No requirement	50,000 EGP (section 4.1)	50,000 EGP (section 3)	No requirement	No requirement
- Occasional transactions that are wire transfers	Existing requirement /No threshold (section 4.1)	No requirement	No requirement	Existing requirement /No threshold (section 9)	No requirement	Existing requirement /No threshold (section 4)	No requirement
- Cases where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data	Existing requirement (section 4.1)	Existing requirement (section 4.1)	Existing requirement (section 4.1)	Existing requirement (section 4.1)	No requirement (which is explained by the authorities by the fact that foreign exchange companies only have occasional customers)	Existing requirement (section 3)	No requirement

### Identification measures and verification sources (c. 5.3\*)

416. Article 8 of the AML /CFT law reads: “Financial institutions shall [...] establish systems adequate for obtaining information on the identification and legal status of customers and the beneficial owners, whether natural or legal persons, through official or *acceptable customary verification means*”. Article 21 of the AML /CFT Executive regulation restricts the latter possibility by requiring that identity be established “through legal identification documents”. The latter requirement is close but not equivalent to the FATF requirement of using reliable and independent source(s) of identification<sup>49</sup> (e.g. when it comes to dealing with some foreign documents).

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applies to occasional customers who are beneficiaries as well as ordering parties of the wire transfers, (iv) when there is a suspicion of ML /TF (Section 4-1) and (v) when “suspecting the accuracy of the information provided to the bank when opening the account or deeming it insufficient and requiring its completion” (Section 4-1).

<sup>48</sup> The Egyptian authorities indicated the following to support their assessment that securities and insurance companies could not deal with occasional customers: “In order for a securities firm to conduct transactions for their customers, an account must be opened in the securities firm. According to article (256) of the Executive Regulations of the Capital Market Law, securities brokerage companies have to open accounts to all their customers in order to conduct transactions for them. [...]. The nature of insurance business in Egypt is a long term relationship bound by an insurance policy or a similar insurance agreement. So they are required to apply KYC requirements to all their clients [...]. Taking into consideration the above mentioned reasons, the KYC rules issued to both securities and insurance companies didn't include requirements for occasional customers, yet the KYC rules for banks included separate provisions related to occasional customers.

<sup>49</sup> The mission was for instance informed that this is only in 1999 that secure ID cards were introduced in Egypt and only in 2007 that it became compulsory to use such secure ID cards.

417. Moreover, the EMLCU is responsible for “setting the rules to be used in establishing the identity and the legal status of customers and beneficial owners, for natural and legal persons, through legal identification documents” (Article 3-13 of the AML /CFT Executive Regulation). The EMLCU KYC rules do not contain any general requirement that financial institutions<sup>50</sup> use reliable and independent source, documents, data or information for identification purposes, but include useful detailed requirement which in most cases (see c. 5-4) make it necessary for financial institutions to use reliable and independent sources of identification.

#### **Identification of legal persons or legal arrangements (c. 5.4)**

418. The AML /CFT Executive regulation sets broad principles with regard to the identification of legal persons (and does not mention legal arrangements, be they domestic or foreign<sup>51</sup>). For legal persons, article 22-1 requires financial institutions to establish the identity of persons authorized to act on behalf of occasional or permanent customers. Article 22-4 requires that “when establishing the identity and the legal status of customers and beneficial owners for legal persons, data establishing its nature, legal status, name, origin, legal proxy, and documents relating thereto, financial structure, types of activity, addresses of partners or shareholders who own more than 10% of the company’s capital, as the case may be, shall be had and documents evidencing such data shall be attached”.

419. Section 4-3-a) of the EMLCU KYC rules for banks supervised by the CBE includes a detailed list of identification information and document which need to be collected for legal persons. They include (for companies and sole proprietorships):

- With regard to the persons purporting to act on behalf of the legal person, the names and addresses of the persons authorized to deal on the account, documents establishing the delegation from the establishment or the company to those representing natural person(s) and signature specimen,
- For what concerns the legal status of the person:
- The legal form of the person and a copy of the incorporation contract, the articles of incorporation (and a copy of the gazette where they were published), the primary contract (where the company is being formed) signed by the founders and “indicating the shares pro rata, the names of the founders’ proxy and a copy of the power of attorney”,
- the number, date and place of commercial registration (and a copy of the latter),
- the number and place of issuance of a tax card (and a copy of the latter),
- With regard to the control of the legal person:
- The names and addresses of owners (in the case of sole proprietorships) and their ID documents (as well as those of those authorized to act on their behalf),

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<sup>50</sup> Banks, the Post office, insurance companies, securities firms, foreign exchange companies and money transfer companies.

<sup>51</sup> The Egyptian authorities indicated to the assessors that “there are no legal arrangements in Egypt. Therefore, it will not be plausible to include any legal provisions to deal with financial services not applied in Egypt”.



- The names and addresses of partners (in the case of partnerships) and their ID documents (as well as those of those authorized to act on their behalf),
- The names and addresses of stakeholders owning 10% or more in the company's capital (in case of corporation) and their ID documents (as well as those of those authorized to act on their behalf).

420. Detailed requirements are also set out for non-profit organizations in the EMLCU KYC rules for banks. In other cases, that regulation mentions that “banks should obtain the above mentioned documents and documents according to the nature and activity of each legal person. Any other information or documents necessary for those persons to perform their activities should also be obtained”. There are no other specific provisions for legal arrangements, including for example foreign trusts<sup>52</sup> (e.g. obtain the name of trustees in the case of trusts).

421. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, leasing companies, factoring companies and mortgage finance companies. The EMLCU KYC rules for foreign exchange companies and money transfer companies are slightly less detailed.

#### **Identification of Beneficial Owners (c. 5.5\* & 5.5.1\*)**

422. There are some requirements which apply to all financial institutions with regard to the identification of beneficial owners. However, they are not comprehensive and thus do not foster an effective and proactive approach to determining who ultimate beneficial owners are:

- The AML /CFT law requires financial institutions to identify beneficial owners (art. 8<sup>53</sup>);
- The AML /CFT Executive regulation (art. 21 & 22) requires financial institutions to establish the identity of a beneficial owner in a way similar to that of a customer (i.e. once a beneficial owner has been identified, he /she must be identified using legal identification documents, as a customer would be);
- There is no requirement for financial institutions *to take reasonable measures* to verify the identity of the beneficial owners of its customers *so that financial institutions are satisfied that they know* who those beneficial owners are. Egyptian financial institutions are not required to meet these requirements concerning the process to be followed and the outcome to be achieved when determining who beneficial owners are. Such a situation does not foster an effective and proactive approach to determining who ultimate beneficial owners are and falls short of meeting FATF recommendations.

423. Moreover, article 1 of the AML /CFT Executive Regulation defines a beneficial owner as: “the natural *or legal persons* for [whose] interest or on [whose] behalf transactions are conducted. It also indicates those persons who exercise ultimate or effective control over a legal person or those who legally have the capacity to act as a guardian or by proxy or under any other capacity”. That definition does not restrict beneficial owners to the *natural* person(s) who ultimately own(s) or control(s) a customer and/or

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<sup>52</sup> The Egyptian authorities indicated to the assessors that “there are no legal arrangements in Egypt. Therefore, it will not be plausible to include any legal provisions to deal with financial services not applied in Egypt”.

<sup>53</sup> “Financial institutions [...] shall establish systems adequate for obtaining information on the identification and legal status of customers and the beneficial owners”.

the person on whose behalf a transaction is being conducted, as recommended by the FATF. In a few regulations issued by the EMLCU<sup>54</sup>, the definition of a beneficial owner is restricted to natural persons as requested by the FATF (i.e. those applicable to insurance companies, foreign exchange dealer companies and money transfer companies).

**Table 19: Definition of a beneficial owner (where available)**

	Natural person only	Natural or legal person
Banking industry supervised by the CBE		Relevant EMLCU KYC rules
Insurance industry	Relevant EMLCU KYC rules	EISA AML /CFT Regulation
Securities industry		Relevant EMLCU KYC rules CMA AML /CFT Regulation
Post office		Relevant EMLCU KYC rules Ministry of Communication AML /CFT Regulation
Foreign exchange dealer companies	Relevant EMLCU KYC rules	
Money transfer companies	Relevant EMLCU KYC rules	
Leasing companies		Relevant EMLCU KYC Rules GAFI AML /CFT Regulation
Factoring companies		Relevant EMLCU KYC Rules GAFI AML /CFT Regulation
Mortgage finance companies		Relevant EMLCU KYC Rules MFA AML /CFT Regulation

#### **Identification of Beneficial Owners (c. 5.5.2)**

424. Requirements to understand the ownership and control structure of legal persons are found in most EMLCU KYC rules for financial institutions (see c. 5-4)

425. For customers that are legal persons or legal arrangements, financial institutions are not specifically required by “law or regulation” to take reasonable measures to determine who are the natural persons that ultimately own or control the customer (see detailed discussion on c. 5.5). Only partial requirements are set in that area by the article 22-4 of the AML /CFT Executive regulation (financial institutions have to collect document evidencing “addresses of partners or shareholders who own more than 10% of the company’s capital”) on which the EMLCU KYC rules issued for different financial institutions elaborate (a detailed description of those is included under criterion 5.4).

#### **Information on Purpose and Nature of Business Relationship (c. 5.6)**

426. There is no requirement in the AML /CFT law, or in its Executive regulation, for financial institutions to obtain information on the purpose and intended nature of the business relationship. The AML /CFT Executive Regulation only partially and indirectly tackles that issue by requiring that financial institutions (i) establish the activity of their customers as part of their customer identification processes (art. 22) and (ii) classify their customers into risk-based categories (art. 32), without mentioning what risk factors should be taken into account.

427. Section 4-1 of the EMLCU KYC rules for banks requires that the banks it covers know “the purpose and nature of dealing on the account”, when CDD must be performed. Such a requirement also

<sup>54</sup> These regulations are not considered as “laws or regulations” as defined by FATF, but as “other enforceable means”.

exists in the EMLCU KYC rules for insurance companies, securities firms and the post office. There is no such requirement in the EMLCU KYC rules for foreign exchange companies, money transfer companies, leasing companies, factoring companies and mortgage finance companies. For foreign exchange companies and money transfer companies, the Egyptian authorities explain the latter by the fact that the licenses do not allow them to open accounts for their customers.

### **Ongoing Due Diligence on Business Relationship (c. 5.7\*, 5.7.1 & 5.7.2)**

428. There is no requirement in the AML /CFT law, or in its Executive regulation, for financial institutions to scrutinize transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary, the source of funds. The AML /CFT Executive Regulation only partially and indirectly tackles that issue by requiring that financial institutions (i) classify their customers into risk-based categories and "put in place necessary measures to deal with such risks in a way appropriate to such risks" (art. 32) and (ii) monitor closely and continuously the politically exposed persons' accounts and transactions (art. 32 bis). With regard to keeping relevant information up to date, article 22-3 of the AML /CFT Executive Regulation, which covers financial institutions, indicates that "updating data related to [...] customer identity and legal status shall be made periodically, taking risk it consideration".

429. The EMLCU KYC rules for banks supervised by the CBE set requirements to undertake ongoing due diligence on business relationships in line with FATF recommendations:

- Section 6 of the EMLCU KYC rules for banks requires that the banks it covers "set up internal systems allowing them to *continually monitor* their customers' transactions to ensure their consistency with the information available to the bank on the customers and nature of their activities". It also indicates that "the level of monitoring [shall] be determined according to the risk level of the customer, the nature and size of his /her business activity, as well as his /her job<sup>55</sup>, nationality and relationship with the outside world".
- Section 7 requires that banks "review customer risk based classification on a yearly basis as a minimum, or in case of changes calling for such review".

430. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, leasing companies, factoring companies, mortgage finance companies, money transfer companies and foreign exchange companies.

### **Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8)**

431. The AML /CFT Executive Regulation requires financial institutions to undertake enhanced due diligence measures for higher risk customers. Article 32 of the AML /CFT Executive Regulation reads: "institutions shall establish a money laundering and terrorism financing risk management system that includes classifying customers into risk-based categories, and *shall put in place necessary measures to deal with such risks in a way appropriate to such risk level*. Classification shall be reviewed periodically and whenever changes warranting such renewal take place."

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<sup>55</sup> The mention of "job" appears odd for legal persons or arrangements, but there is no other indication that those requirements would only apply to natural persons only. The assessors are therefore of the opinion that these requirements apply to all customers.

432. Section 3 of the EMLCU AML /CFT Know your customer rules for banks requires banks supervised by the CBE to (i) pay special attention when establishing the identity and the legal status of high risk customers and (ii) ensure that policies and procedures include the definition of the latter. Section 7 of that regulation includes the risk dimensions which need to be taken into account (product, customer and geographical risks) as well as a list of situations which have to be considered as a high risk. Section 7-1 indicates that banks have to take into account services identified as high risk by the EMCLU in coordination with the CBE. There are mechanisms designed to ensure a proper cooperation between the CBE and the EMLCU, the Egyptian authorities indicated that they were being used<sup>56</sup> but no evidence of that use was provided to the assessors.

433. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, money transfer companies, foreign exchange companies, leasing, factoring and mortgage finance companies.

#### **Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9 to 5.12)**

434. There is no case where the AML /CFT law, or its Executive Regulation, allows financial institutions to apply low or reduced CDD measures (including when identifying beneficial owners). For the avoidance of doubts, it should be noted that financial institutions are required to classify their customers into risk categories (art. 32 of the AML /CFT Executive Regulation) but are not allowed to implement reduced CDD measures for low risk customers.

#### **Timing of Verification of Identity—General Rule (c. 5.13)**

435. Financial institutions are required to verify the identity of the customer and beneficial owner before or in the course of establishing a business relationship or conducting transactions for occasional customers (see c. 5-2 to 5-5 for comments on the content rather than the timing of identification). Article 22 of the AML /CFT Executive Regulation requires financial institutions to establish the identity of their customers in particular when opening an account, establishing a business relationship or conducting any occasional financial transaction exceeding the threshold set by the supervisory authorities in coordination with the EMLCU (Article 22-2).

#### **Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 & 5.14.1)**

436. Egyptian financial institutions are not permitted to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship.

#### **Failure to Complete CDD before commencing the Business Relationship (c. 5.15)**

437. When a financial institution is unable to complete CDD measures, neither the AML /CFT law, nor its Executive regulation, indicate that (i) they are not permitted to open the account, commence business relations or perform the transaction and (ii) should consider making a suspicious transaction report.

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<sup>56</sup> The Egyptian authorities indicated that “there is an ongoing mechanism for cooperation between the central bank and EMLCU. This is confirmed by the very senior representation of the central bank in the Council of trustees and the National Committee. This cooperation proved very fruitful in practice. One example of the fruits of such coordination is a case in which it was revealed that some criminals abused some service provided by a bank, and in which the necessary remedial measures were taken”.

438. For the banks it covers, section 4 of the EMLCU AML /CFT KYC rules for banks indicates that where they are not able to complete customer identification procedures (including the verification of identity), (i) they are not allowed to open an account, enter into a banking relationship or conduct any transaction with the customer and (ii) should contemplate filing a suspicious transaction report with the EMLCU.

439. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, money transfer companies, leasing companies, factoring companies, mortgage finance companies and foreign exchange companies.

#### **Failure to Complete CDD after commencing the Business Relationship (c. 5.16)**

440. Egyptian financial institutions are not permitted to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship.

#### **Existing Customers—CDD Requirements (c. 5.17)**

441. The AML /CFT law (art. 9) requires financial institutions to “update data related to customers, beneficial owners and transactions periodically”.

442. For the banks it covers, section 5 of the EMLCU AML /CFT KYC rules for banks indicates that “customers’ data and documents [shall] be updated as follows: (i) once every five years at least. This period [shall] be minimized with regard to high risk customers, (ii) when there appears a change to or a suspicion regarding the customer at any stage, (iii) when there appears a major change in the pattern of using the account, (iv) when there is a need for more information on the customer according to the bank discretion”.

443. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, leasing companies, factoring companies and mortgage finance companies. There is no such requirement for money transfer companies and foreign exchange companies. The authorities explain such a situation by the fact that money transfer companies and foreign exchange companies have only occasional customers, which appears satisfactory (see c. 5-6 for more details).

#### **Existing Anonymous-account Customers – CDD Requirements (c. 5.18)**

444. There is no specific requirement with regard to existing customers if they are customers to whom Criterion 5.1 applies (i.e. anonymous accounts and accounts under false or fictitious names). However, the requirement to update customer information every 5 years created a similar requirement at the time of the on-site mission (as the law was passed more than 5 years ago)

#### **Politically exposed persons (PEPs)**

445. PEPs are defined in the AML /CFT Executive Regulation as foreign officials who are or have been entrusted with prominent public functions in their countries<sup>57</sup>.

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<sup>57</sup> Article 1 of the AML /CFT Executive Regulation indicates that PEPs are “foreigners who are or have been entrusted with prominent public functions in their countries, for example Heads of state or of government, senior politicians, senior government, military and judicial officials, senior executives of state-owned corporations and senior officials of politically parties”

### **PEPs—Requirement to Identify (c. 6.1)**

446. Article 32 bis-1 of the AML /CFT Executive Regulation requires financial institutions to establish appropriate systems to obtain sufficient information to identify whether customers, persons authorized to act on their behalf and their beneficial owners are politically exposed persons (PEP).

447. The EMLCU AML /CFT KYC rules for banks supervised by the CBE provides additional details with regard to the information which the banks it covers have to use (“Information directly provided by the customer, information obtained from other entities, public information and electronic databases containing such information”, Section 8-2 1<sup>st</sup> bullet point). Moreover, that regulation requires that the “names of the PEPs be put in a special list to be kept and regularly updated by the bank” (Section 8-2 4<sup>th</sup> bullet point).

448. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, money transfer companies, leasing companies, factoring companies and mortgage finance companies.

449. The EMLCU KYC rules for foreign exchange companies and money transfer companies also provide additional details with regard to the information which the banks it covers have to use (see above for more details). The main difference with the abovementioned rules for other financial institutions is that there is no requirement that the “names of the PEPs be put in a special list to be kept and regularly updated by the bank” (Section 8-2 4<sup>th</sup> bullet point).

### **PEPs - Senior management approval (c. 6.2 & 6.2.1)**

450. Article 32 bis-2 of the AML /CFT Executive Regulation requires financial institutions to obtain the approval of the senior management at the beginning of a relationship with a PEP or “during the relationship, where the customer, persons authorized to act on their behalf and beneficial owners turn out to be a politically exposed person”.

451. The EMLCU AML /CFT Know your customer rules for banks gives additional details with regards to the process which the banks it covers have to follow. For those banks, the compliance department at the bank head office needs to be consulted before the senior management can approve a new relationship with a PEP (or a beneficial owner of a PEP).

452. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, securities firms, money transfer companies, leasing companies, factoring companies and mortgage finance companies. There is no such requirement for foreign exchange companies (which are therefore only covered by the requirements set in the AML /CFT Executive regulation, which are mentioned above).

### **PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3)**

453. When dealing with a PEP, article 32 bis-3 of the AML /CFT Executive Regulation requires financial institutions to “identify the source of wealth and funds *of the customer*”. For what concerns customers, the requirement goes beyond that of Recommendation 6 which is *to take reasonable measures* to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs.

454. However, the wording of the AML /CFT Executive Regulation is slightly ambiguous as it refers only to the customer, which could be understood as excluding beneficial owners. The EMLCU KYC rules for banks clarify this issue as it states that banks have to “establish the source of wealth and funds of the customer or beneficial owner” (section 8-2). Similar requirements are found in the EMLCU KYC rules for securities firms, insurance companies, the Post office, mortgage finance companies, leasing

companies, factoring companies and money transfer companies. There are no such enforceable requirements for foreign exchange companies, AIB, NSB and the CBE.

#### **PEPs—Ongoing Monitoring (c. 6.4)**

455. Article 32 bis-4 of the AML /CFT Executive Regulation requires financial institutions to monitor closely and continuously the politically exposed persons' accounts and transactions.

456. Moreover, the EMLCU AML /CFT Know your customer rules for banks requires that the banks it covers (i) monitor such customers through periodical reports on their activities (Section 8-2 6<sup>th</sup> bullet point), (ii) use sophisticated technological tools for monitoring these accounts, where appropriate (Section 8-2 6<sup>th</sup> bullet point) and (iii) periodically review PEPs' risk management procedures and policies and implement necessary corrective actions in that regard when necessary (Section 8-2 7<sup>th</sup> bullet point).

457. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office, insurance companies, leasing companies, factoring companies and mortgage finance companies and securities firms (but not for money transfer companies and foreign exchange companies).

#### **Domestic PEPs—Requirements (Additional Element c. 6.5)**

458. Requirements related to politically exposed persons do not extend to domestic PEPs (i.e. only foreigners are covered under the definition of PEPs).

#### **Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6)**

459. The Arab Republic of Egypt ratified the Merida Convention in February 2005.

#### **Cross Border Correspondent Accounts and Similar Relationships – introduction**

460. Specific provisions for correspondent banking are included in the AML /CFT Know your customer rules for banks issued in 2008 by the EMLCU. This text only applies to banks supervised by the CBE (see Legal framework in 3.2.1).

461. There is no requirement for relationships similar to correspondent banking, such as those established for securities transactions, whether for the cross-border financial institution as principal or for its customers.

#### **Requirement to Obtain Information on Respondent Institution (c. 7.1)**

462. The EMLCU AML /CFT Know your customer rules for banks supervised by the CBE issued by the EMLCU, requires covered banks to obtain “sufficient information on the correspondent bank to fully understand the bank's nature of work, its reputation and types of supervision exercised thereon. Such information also includes verifying that the bank, any of its Board members or any shareholder with a controlling interest has been subjected to ML /TF investigations, or any other penalties or administrative arrangements (sanctions)” (Section 4-4 1<sup>st</sup> bullet point).

#### **Assessment of AML/CFT Controls in Respondent Institution (c. 7.2)**

463. The EMLCU AML /CFT Know your customer rules for banks requires covered banks to fill out “a questionnaire outlining the status of the bank in terms of its commitment to the related local legislations and regulations, as well as its commitments to applying CDD measures on its customers, its AML /CFT

efforts and whether the correspondent bank has effective AML /CFT policies” (Section 4-4 4<sup>th</sup> bullet point).

### **Approval of Establishing Correspondent Relationships (c. 7.3)**

464. The AML /CFT Know your customer rules for banks issued in 2008 by the EMLCU requires covered banks to obtain “the approval of the senior management of the bank before initiating a relationship with a correspondent bank” (Section 4-4 1<sup>st</sup> bullet point).

### **Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4)**

465. The EMCLU AML /CFT KYC rules for banks require banks supervised by the CBE to determine “in writing the AML /CFT responsibilities of both the respondent and the correspondent bank” (Section 4-4 5<sup>th</sup> bullet point).

### **Payable-Through Accounts (c. 7.5)**

466. There is no specific AML /CFT requirement concerning payable through accounts. The authorities informed the assessors that payable through accounts were not authorized in Egypt, as (i) the provision of such service would have to be mentioned in the banking license and (ii) no banking license mentions payable through accounts<sup>58</sup>.

### **Misuse of New Technology for ML/FT (c. 8.1)**

467. Article 32-3 of the AML /CFT Executive regulation requires that financial institutions “devise policies and take necessary measures to prevent abuse of modern technology development in money laundering and terrorism financing”.

468. For the banks it covers, the EMCLU AML /CFT Know your customer rules for banks requires them to “develop policies and internal controls for banking transactions and services involving modern technological tools” (Section 8-5). More specific requirements are set for prepaid card services and mobile phone payment. This regulations also mentions that the “the CBE electronic banking transactions regulations which were sent to banks by virtue of a circular n° 359 issued on 10 March 2002 should be observed”.

469. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the Post office.

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<sup>58</sup> The Egyptian authorities indicated that “according to article 4 of the Executive Regulations of the law of Central Bank, Banking sector and Money, banks, prior to establishment, must submit a statement about the services to be provided. Article 38 of the previous mentioned law stipulates that “the Central Bank shall be notified of any modification required in the deed of association of any bank or in its statute. Any modification in the data submitted on application for registration shall also be notified. The notification shall be submitted according to the form prepared for this purpose by the Central Bank. This modification shall be applied only after its approval by the Central Bank and its annotation in the margin of the register. Therefore, banks are not allowed to introduce a new banking service or product unless they obtain the prior consent of Supervision and Control Sector at the CBE. No bank applied to provide "payable through accounts" service, and it is not likely to be provided by banks in Egypt. Therefore, the absence of requirements regarding this service is natural; and banks are not allowed to provide them unless they contact the supervisory authority.



470. Section VII-b of the EMCLU AML /CFT KYC rules for securities and insurance companies require them to consider as high risk, and apply related measures (see c. 5-8), “indirect transactions, especially those going through modern technology means (electronic dealings)”. This falls short of requiring them to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

471. There is no such requirement related to the misuse of modern technologies (c. 8-1) for foreign exchange companies, money transfer companies, leasing companies, factoring companies and mortgage finance companies. The Egyptian authorities explain this situation by the lack of use modern technology by these types of financial institutions (although there is no legal prohibition in this area).

### **Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1)**

472. The risk of non face to face business relationships is not addressed in the AML /CFT law<sup>59</sup> or in its Executive regulation.

473. For the banks it covers, the EMLCU AML /CFT Know your customer rules for banks requires that they have effective internal controls and policies with regard to non face to face transactions for AML /CFT purposes (Section 8-4). Such measures include (i) the certification of documents when initiating a relationship, (ii) “establishing a direct contact between the bank and the customer”, (iii) relying as much as possible on a third party to introduce the customer and (iv) requesting, as much as possible, that the first payment come from another financial institution which applies similar CDD measures.

474. Requirements similar to those for banks supervised by the CBE are found in the EMLCU KYC Rules for the insurance companies, securities firms, leasing companies, factoring companies and mortgage finance companies. There are no such requirements for the post office, money transfer companies and foreign exchange bureaus. The Egyptian authorities explained that situation by the fact that foreign exchange companies are prohibited from conducting non face to face transactions, while money transfer companies and the Post office in practice do not conduct such activities<sup>60</sup>.

### **Analysis of effectiveness**

475. During the on-site mission, the assessors met with five banks supervised by the CBE (four of which were subsidiaries or branches of large international institutions), Arab International Bank, the CBE (as a financial institution), two brokers, the stock exchange, a life insurance company (jointly controlled by a major international insurer and a large Egyptian bank), Egypt post, a foreign exchange dealer, two money

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<sup>59</sup> The AML /CFT law and its Executive regulation are the only existing requirements for Arab international Bank, Nasser social bank, factoring companies, leasing companies, microfinance institutions, mortgage finance companies, entities specializing in mortgage related securitization, the Central bank of Egypt (as a financial institution and National investment Bank.

<sup>60</sup> The Egyptian authorities indicated that “concerning foreign exchange companies, they are prohibited from conducting non face to face transactions, pursuant to article 38 of the law n° 88 of 2003 concerning central bank, banking sector and money that stipulated dealings of a bureau de change shall be conducted in cash, with its customers, at its domicile. For money transmission companies, their nature of activity does not require such requirements. For according to supervisory regulations governing their business issued by the central bank, the single transfer must not exceed 5 thousand dollars. In case the transfer exceeded this amount, the customer has to perform that transfer through one of the accredited already covered by the requirements of indirect transactions. As for the Post office, the activities it provides do not require such requirements as there is no non face to face transactions with customers.”

transfer companies, a micro-finance institution and most of their respective supervisors (see Annex 2 for more details). This analysis of effectiveness is based on information gathered during those meetings<sup>61</sup>.

476. There is a broad perception among financial institutions of a lack of or a risk of ML /TF across the entire financial sector (with the banks being the most alert to the types of predicate offences which may generate proceeds to be laundered and the risks which they may face).

477. Most financial institutions mentioned dramatic improvements in the implementation of customer identification requirements in the past two years (i) with customers becoming more aware of AML /CFT requirements and better accepting them, (ii) with a more effective implementation of AML /CFT requirements across the entire banking sector leaving less room for customers to pick the less demanding bank to open an account and (iii) with all Egyptian individuals acquiring secure ID cards.

478. The updating of existing customers' identification documents was mentioned as more difficult. This leaves a potential significant backlog of customers for which full CDD measures have not yet been implemented. Some banks indicated that they were addressing this issue through the monitoring of transactions (i.e. compulsory updating of customer identification before certain transactions can be completed), but not all financial institutions had such controls in place.

479. Banks mentioned that they were dealing with a limited number of domestic and international companies, whose shareholders and beneficial owners were well-known. The due diligence measures implemented to identify beneficial owners appeared strictly limited to the letter of Egyptian AML /CFT laws and regulations (i.e. identification of shareholders owning more 10% of their capital, persons having a power of attorney etc.).

480. Banks indicated that they were collecting information on the intent and purpose of business relationships. Limited verification appeared to be undertaken when a company is only using deposit and cash management services and not borrowing (e.g. financial statements are only collected on a regular basis for borrowers). The verification of information on customers' business and risk profiles was also compounded by the very cash intensive nature of the economy as well as the size of the informal sector (i.e. it is common that individuals use their personal accounts for business purposes).

481. Ongoing monitoring remained simple and relied primarily (i) on the vigilance of every employee and (ii) on some periodic threshold based alerts analyzed by compliance officers. No specific AML /CFT monitoring appeared to have yet been put in place with regard to modern technology such as internet banking or payment cards. Staff vigilance was hampered by the fact that (i) AML /CFT requirements remain recent in Egypt, (ii) training is often limited to a day and (iii) some employees had not yet received any AML /CFT training (up to a third of the target population in some of the largest banks).

482. The implementation of enhanced due diligence measures for higher risk customers appeared largely limited to the banking sector (with one broker also reporting doing so). All banks indicated that they had classified their customers among low, medium and high risk categories as requested by Egyptian regulations. However, internal procedures did not cover specific due diligence measures to be implemented for high risk customers in some cases. Other institutions did not appear to identify high risk customers.

483. Similarly, only banks and brokers appeared to identify politically exposed persons. A few of them included domestic individuals among PEPs (as a result of group policies decided abroad) and one indicated having filed a suspicious transaction report related to a domestic PEP.

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<sup>61</sup> For the avoidance of doubt, this analysis of effectiveness does not take into account any individual supervisory information. The assessors did not have access to any individual supervisory information, such as on-site examination reports or periodic AML /CFT reports filed by financial institutions.

484. With regard to correspondent banking relationships, decisions were in most cases made by foreign head offices based on requirements broadly, but not completely, in line with Egyptian requirements (i.e. some information such as whether the correspondent bank was having PEP as customers were sometimes not available). Information on foreign correspondent banks appeared to have been primarily collected through questionnaires.

### 3.2.1. Recommendations and Comments

485. Since the early 2000s, an impressive and comprehensive reform program has been implemented in the financial sector, which facilitates a proper implementation of AML/CFT requirements. The banking sector has been substantially reformed, with the exit of several weak banks, large scale financial and risk management restructuring, the divestiture of state shares in private banks, and the privatization of a major state-owned bank. The program has also included a new banking law, regulatory reforms in banking, capital markets, and other sectors, and ongoing efforts to strengthen financial supervision. Moreover, progress also seems to be made in addressing non performing loans (which remain at a fairly high number) and in ensuring proper disclosure from listed companies<sup>62</sup> (thanks to the forceful delisting policy implemented by the Capital market authority for the numerous companies which failed to comply with disclosure requirements).

486. Similar efforts have been undertaken for the insurance and securities sector, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange companies and money value transfer companies. Although the assessors were informed that similar requirements had been issued for the three banks not supervised by the CBE (Arab International Bank, AIB, Nasser Social Bank, NSB, and Central Bank of Egypt as a financial institution), they were either not communicated to the assessors (CBE) or lacked adequate sanctions (AIB and NSB) to be considered as “other enforceable means” and taken into account for rating purposes.

487. Requirements to identify beneficial owners are less demanding than what is recommended by the FATF. The main weaknesses are (i) the lack of requirement for financial institutions to *take reasonable measures* to verify the identity of the beneficial owners *so that financial institutions are satisfied that they know* who those beneficial owners are and (ii) the ambiguous definition of a beneficial owner which, for most financial institutions, encompasses both natural *and* legal persons who ultimately control a customer. These regulatory weaknesses in terms of process to be followed (*take reasonable measures*) and in terms of outcomes to be achieved (*be satisfied that to know* who the *natural person(s)* who ultimately control a customer is /are), did not appear to be redressed by the practices of the financial institutions the mission met with.

488. These weaknesses are compounded by the lack of implementing regulations for the three banks not supervised by the CBE (e.g. lack of requirement to obtain information on the intent of a business relationship, to undertake ongoing monitoring of business relationships or on correspondent banking relationships).

489. Although implementing regulations require most financial institutions to undertake ongoing monitoring, these requirements should be set in “laws and regulations” as defined by FATF for AIB, NSB and the CBE as a financial institution. More importantly, despite the existing requirements, significant efforts remain necessary to ensure their effective implementation (including for higher risk customers).

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<sup>62</sup> Although not directly AML /CFT relevant, the issue of non performing loans provides useful indications as to the ability of financial institutions to manage their risk in cases where they have strong incentives to do so as they face a direct risk of loss (which is not the case for ML /TF). Similarly, disclosure practices of listed companies, which are closely regulated in that domain and are thus very likely to be the best performers in terms of disclosure, provides a useful glimpse of the Egyptian environment in terms of disclosure and transparency.

Even for the banks which the assessors met, which appeared ahead of other financial institutions<sup>63</sup>, ongoing monitoring remained simple and relied primarily on the vigilance of every employee and on some periodic threshold based alerts analyzed by compliance officers. No specific monitoring appeared to have yet been put in place with regard to modern technology and staff vigilance was hampered by the fact that many have not yet been adequately trained (despite efforts to address that situation undertaken jointly by financial institutions and the Egyptian authorities).

490. The Egyptian authorities should consider the following measures to improve the AML /CFT regulatory framework. For the specific recommendations related to Arab International Bank, Nasser Social Bank and the Central Bank, it should be noted that, in most cases, it would be sufficient to give adequate powers to their AML /CFT supervisor (especially in terms of sanctions) for the regulations issued to them to be considered as “other enforceable means” (see 3.10 for more details).

### **Recommendation 5**

- Require AIB, NSB and the CBE by “law or regulation” to identify their customers and beneficial owners (i) in cases where those financial institution have doubts about the veracity or adequacy of previously obtained customer identification data and (ii) occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;
- Set the threshold above which occasional customers have to be identified for financial institutions, other than banks supervised by the CBE, the Post office and foreign exchange companies for which is has been done (or document the fact that some financial institutions do not deal with occasional customers and put a framework in place to make sure that this assessment remains up to date). Where appropriate, that threshold should be set at a level commensurate with the Egyptian environment (and below EUR /USD 15,000 as requested by FATF). The assessors recommend that the Egyptian authorities use this opportunity to revisit the adequacy of the threshold set for banks supervised by the CBE, the Post office and foreign exchange dealers, which appears high (50,000 EGP, approximately USD 9,000);
- Clarify that financial institutions have to use reliable and independent sources of identification (as the current wording is close but not equivalent to that);
- When dealing with legal arrangement (including foreign legal arrangements), require all financial institutions to (i) verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person; and (ii) verify the legal status of the legal arrangement;
- Restrict the definition of a beneficial owner to the *natural* person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted (as opposed to the *natural and legal* person who ultimately owns or controls a customer, as is currently the case for any financial institution other than an insurance company, a foreign exchange dealer or a money transfer company);

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<sup>63</sup> With the possible exception of brokers for what concerns the detection of securities offences (e.g. market manipulation, insider fraud), and then their laundering.

- Require all financial institutions to *take reasonable measures* to verify the identity of the beneficial owners of its customers *so that financial institutions are satisfied that they know who those beneficial owners are*;
- Require the institutions covered only by the AML /CFT law (as well as foreign exchange companies and money transfer companies) to obtain information on the purpose and intent of their business relationships;
- Require by “law or regulation” AIB, NSB and the CBE to conduct ongoing due diligence on their business relationships (as, where they exist, such requirements are currently set in “other enforceable means”);
- Set a general requirement for the institutions covered only by the AML /CFT law to scrutinize transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer;
- When an institution covered only by the AML /CFT law is unable to complete CDD measures, indicate that (i) it is not permitted to open the account, commence business relations or perform the transaction and (ii) should consider making a suspicious transaction report;
- For institutions covered only by the AML /CFT law, clarify the existing general requirement to update customer information by indicating that this should be done *on the basis of materiality and risk* (i.e. more often when there is a higher risk);

#### **Recommendation 6**

- Clarify that all financial institutions have to take measures to establish the source of wealth and of funds of beneficial owners who are PEPs (as the AML /CFT Executive regulation is slightly ambiguous on the latter);

#### **Recommendation 7**

- Require all financial institutions which maintain cross-border correspondent banking relationships (and not only banks supervised by the CBE) as well as institutions which maintain similar relationships (e.g. those established for securities transactions or funds transfers, whether for the cross-border financial institution as principal or for its customers) to:
  - Gather sufficient information about a respondent institution to understand fully the nature of the respondent’s business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;
  - Assess the respondent institution’s AML/CFT controls, and ascertain that they are adequate and effective;
  - Obtain approval from senior management before establishing new correspondent relationships;
  - Document the respective AML/CFT responsibilities of each institution;

## Recommendation 8

- Require the Post office, money transfer companies, and the institutions covered only by the AML/CFT law to have policies and procedures in place to address all kinds of specific risks associated with non-face to face business relationships or transactions which have to be applied when establishing customer relationships and when conducting ongoing due diligence

### 3.2.2. Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
<b>R.5</b>	PC	<ul style="list-style-type: none"> <li>• Incomplete requirement regarding beneficial owners (definition of beneficial owners not restricted to natural persons and nature of the due diligence to be implemented)</li> <li>• Key weaknesses regarding the customer due diligence requirements for the three institutions which carry out banking activities although they not supervised by the CBE (in particular concerning the scope of customer identification requirements, the lack of requirement to collect of information on the purpose and intent of the business relationship, or to undertake ongoing monitoring or a risk-based updating of customer information</li> <li>• Lack of adequate identification requirements when dealing with trusts and other legal arrangements</li> <li>• Lack of effectiveness (weaknesses in implementing ongoing monitoring requirements, including for higher risk customers, in updating customer information etc.)</li> </ul>
<b>R.6</b>	PC	<ul style="list-style-type: none"> <li>• Lack of effectiveness (e.g. lack of awareness of existing requirements by some financial institutions which the mission met, and hence of implementation of these requirements)</li> <li>• Ambiguous requirements regarding the identification of the sources of the wealth and funds of PEPs' beneficial owners for foreign exchange companies and the three banks not supervised by the CBE</li> </ul>
<b>R.7</b>	PC	<ul style="list-style-type: none"> <li>• Lack of enforceable requirement for the three institutions not supervised by the CBE that carry out banking business and for institutions that carry out relationships similar to correspondent banking (e.g. in the securities sector) to (i) gather sufficient information about a respondent institution, (ii) assess its AML/CFT controls, (iii) obtain approval from senior management before establishing new relationships and (iv) document the respective AML/CFT responsibilities of each institution</li> </ul>
<b>R.8</b>	LC	<ul style="list-style-type: none"> <li>• Incomplete requirements for foreign exchange companies, money transfer companies, leasing companies, factoring companies, mortgage finance companies and banks not supervised by the CBE</li> <li>• Lack of effectiveness (e.g. weaknesses in the implementation of requirements related to modern technologies)</li> </ul>

### **3.3. Third Parties and Introduced Business (R.9)**

#### **3.3.1. Description and Analysis**

##### **Legal Framework (see 3-2 for more details)**

491. AML /CFT law (Law n° 80) and AML /CFT Executive Regulation;

492. EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, leasing companies, factoring companies, mortgage finance companies, foreign exchange companies and money transfer companies;

493. AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, , leasing companies, factoring companies, mortgage finance companies, the Post office, foreign exchange companies and money transfer companies by their respective supervisors.

494. Neither the AML /CFT law, nor its Executive regulation, address introduced business. Only the EMLCU AML /CFT KYC rules for banks authorize the latter to rely on third parties. The Egyptian authorities therefore consider that other financial institutions are not authorized to rely on third parties.

495. Section 4 of the EMLCU AML /CFT KYC rules for banks mentions that banks supervised by the CBE may depend on another financial institution for completing the required information or verifying the information submitted. These banks shall:

- Promptly obtain from the financial institution the required KYC information (c. 9.1),
- Take the necessary steps to ensure that the financial institution shall without delay present copies of customer identification documents and other KYC relevant information (c. 9.2),
- Ensure that the financial institution is duly regulated and supervised and has appropriate customer identification and record keeping procedures in place (c 9.3). The requirements in place do not cover ongoing monitoring, which is a key component of the CDD process and should therefore be covered when applying Recommendation 9,,
- Where the financial institution is operating in a foreign country, the bank should ensure that this country applies the FATF recommendations in light of the information made available by the EMLCU (c 9.4). The assessors were informed that a circular n° 22-4 dated 23 April 2008 was communicated to all banks by the CBE to comply with the UN Security Council Resolution n° 1803 concerning sanctions on Iran. According to the Egyptian authorities, banks were requested to exercise vigilance with foreign trade services offered to Iranian nationals and banks domiciled in Iran. The assessors did not have access to the text of that circular.

496. Section 4 of the EMLCU AML /CFT KYC rules for banks supervised by the CBE indicates that in such cases « the final responsibility falls upon the bank » (c. 9-5).

### Analysis of effectiveness<sup>64</sup>

497. Introduced business is a common practice for some Egyptian financial institutions (banks, insurance and securities firms), although the Egyptian authorities indicated that banks supervised by the CBE are the only institutions authorized to rely on third parties for CDD purposes. Introducers are both domestic and foreign financial institutions<sup>65</sup>. For instance, (i) Egyptian customers can be introduced by banks to Egyptian brokers or life insurance companies, (ii) foreign parent company can introduce customers to their Egyptian subsidiary or branch (including introducing correspondent banks as customers), (iii) foreign banks can introduce expatriate Egyptian workers to Egyptian banks or (iv) foreign brokers can introduce customers to Egyptian brokers.

498. Moreover, some banks supervised by the CBE did not appear familiar with specific AML /CFT requirements for introduced business. More important, there was a widespread perception that introduced customers were to be treated as low risks and a lack of clear understanding of what the responsibilities of the different financial institutions involved were (including in terms of ongoing monitoring).

#### 3.3.2. Recommendations and Comments

499. The Egyptian authorities should consider (i) extending the relevant requirements set in the EMLCU KYC rules for banks supervised by the CBE to all other financial institutions or (ii) effectively take measures so that institutions which are not authorized to do so, do not in practice rely on third parties for CDD purposes. Moreover, efforts are needed for these requirements to be well understood by banks supervised by the CBE and thus properly implemented (i.e. avoid an unintended lack of vigilance in those cases as institutions expect the introducer to perform all CDD measures).

#### 3.3.3. Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	PC	<ul style="list-style-type: none"><li>Lack of effectiveness (e.g. excessive reliance of some institutions on their introducer to perform CDD measures)</li></ul>

### 3.4. Financial Institution Secrecy or Confidentiality (R.4)

#### 3.4.1. Description and Analysis

##### Legal Framework (see 3-2 for more details)

- AML /CFT law and its Executive regulation;
- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, foreign exchange companies and money transfer companies;

<sup>64</sup> The approach followed is described under the analysis of effectiveness for Recommendations 5, 6, 7 and 8

<sup>65</sup> The Egyptian authorities indicated that only banks and insurance companies were allowed to rely on introduced business. "As for other financial institutions, due to the nature of their activities, they are not allowed to depend on third parties to identify customers". The legal basis of the latter prohibition was not provided to the assessors.



- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, foreign exchange companies and money transfer companies by their respective supervisors;
- Law n° 88 on the central bank, the banking sector and money and its Executive regulation. In the rest of the document, these texts are referred to as the banking law and the Executive regulation of the banking law.

### **Inhibition of Implementation of FATF Recommendations (c. 4.1)**

500. The AML /CFT law allows competent authorities to access information of financial institutions when needed to perform their functions in combating ML or TF. Article 9-1 reads: “financial institutions shall [...] provide access to such records and documents [related to customers, beneficial owners and transactions] to judicial authorities and the entities responsible for the enforcement of this law, when requested during examination, investigation, and collection of indications; or enquiry or trial on any of the crimes subject to those provisions”. For what concerns institutions covered by the banking law, the latter reiterates that its strong banking secrecy provisions do not apply in the field of AML /CFT<sup>66</sup>.

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<sup>66</sup> Section – 4: Maintaining the secrecy of accounts

Article 97: All accounts, deposits, trusts, and safes of the customers at banks, as well as their related dealings, shall be kept secret. Having access to or giving particulars about these accounts directly or indirectly shall be prohibited, except by written permission from the owner of the account, deposit, trust, or safe, any of his heirs, or any legatee of all or part of these funds, or from the legal representative or the proxy delegated in this regard or on the basis of a judicial ruling or an arbitration award.

The prohibition stipulated in the previous clause shall apply to all persons and parties, including those empowered by law to have access to or obtain the papers or data, divulging the secrecy of which, is prohibited according to the provisions of this Law. This prohibition shall continue to exist even if the relation between the customer and the bank is terminated for any reason.

Article 98: The Attorney General or any one he delegates from among at least the first public attorneys may, of his own accord, or upon the request of an official party or interested party ask the Cairo Court of Appeal to pass an order for reviewing or obtaining any data or information related to any accounts, deposits, trusts, or safes prescribed in the previous Article, or their relevant transactions, whenever this is required to reveal a fact in a felony or misdemeanor the perpetration of which is established by strong evidences.

Any interested party, on declaration of one’s wealth when a garnishment order is served on one of the banks subject to the provisions of this Law, may submit the request referred to in the previous clause to the relevant court of appeal.

The court, held in camera, shall decide the request within the three days subsequent to the date of its submission, after hearing the statement of the public prosecution or the interested party.

The Attorney General or the one/s he delegates for that purpose from among at least the first public attorneys, and the concerned parties, according to each case, shall notify the bank and interested parties of the court order within the three days subsequent to passing it.

The time specified for the declaration of one’s wealth shall begin from the date of notifying the bank of the said court order.

The Attorney General, or the one he delegates from among at least the first public attorneys shall directly order the access to, or the obtaining of any data or information related to the accounts, deposits, trusts, or safes prescribed in Article (97) of this Law, or their related transactions. He shall do so if this is required to reveal a fact in one of the crimes prescribed in Book – 2, Part – 2, Section – 1, of the Penal Code, *and in the crimes prescribed in the anti-Money Laundering Law as promulgated by Law No. 80 of the year 2002.*

[Article 99]

Article 100: The board chairman and members of banks, their directors or staff shall be prohibited from giving or disclosing any information or data related to bank customers, accounts, deposits, trusts or safes or their transactions in respect thereof, or from enabling other parties to have access to them in cases other than those permitted by virtue of the provisions of this Law.

This prohibition shall also apply to any one who, by virtue of his profession, position, or work, reviews and has access, directly or indirectly, to the said data and information.

Article 101: The provisions of Article (97) and (100) of this Law shall not prejudice the following:

The legal tasks assigned to auditors of banks and with the powers legally vested for the Central Bank,

The bank’s commitment to issue a certificate of the reasons for refusing to cash a check, upon the demand of whoever is entitled to that right,

The bank’s right to reveal all or part of the data concerning customer’s transactions, which are necessary to establish his/her right in judicial litigation, arising between the bank and its customer concerning these transactions,

*The conditions prescribed in the laws and provisions regulating money laundering combat.*

501. There are also clear provisions with regard to the sharing of supervisory information with the EMLCU (art. 26 of the AML /CFT Executive regulation<sup>67</sup>).

502. There is no provision related to the sharing of information between financial institutions where this is required by R.7, R.9 or SR.VII.

### **Analysis of effectiveness**

503. The Egyptian authorities which the mission met mentioned that they were able to access and share all relevant AML /CFT information, as contemplated by the AML /CFT law and its Executive regulation. The financial institutions which the mission met did not mention any case where they were not allowed to share relevant AML /CFT information.

#### **3.4.2. Recommendations and Comments**

504. A specific legal provision should be included to allow financial institutions to share information where this is required by R.7, R.9 or SR.VII.

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

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.4</b>	LC	<ul style="list-style-type: none"> <li>No specific provision related to the sharing of information between financial institutions (where required by Rec. 7, 9 and SR VII)</li> </ul>

### **3.5. Record keeping and wire transfer rules (R.10 & SR.VII)**

#### **3.5.1. Description and Analysis**

##### **Legal Framework (see 3-2 for more details)**

- AML /CFT law and its Executive regulation;
- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, foreign exchange companies and money transfer companies;
- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, foreign exchange companies and money transfer companies by their respective supervisors.

##### **Record-Keeping & Reconstruction of Transaction Records (c. 10.1\* & 10.1.1)**

505. The AML /CFT law (art. 9<sup>68</sup>), complemented by the AML /CFT Executive regulation (art. 34), requires that financial institutions maintain all necessary records on transactions, both domestic and

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<sup>67</sup> Article 26: “supervisory authorities shall take all measures and provide all the means necessary for exchanging information and coordinating with the unit [EMLCU] with regard to combating money laundering and terrorism financing, including the establishment of a database for all the information available to them in that respect”.

international, for at least five years following completion of the transaction. This requirement applies regardless of whether the account or business relationship is ongoing or has been terminated.

506. There is no specific requirement that transaction records be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity (see paragraph above on general requirements to keep “all necessary records on transactions”).

#### **Record-Keeping for Identification Data, Files and Correspondence (c. 10.2\*)**

507. The AML /CFT law (art. 9), complemented by the AML /CFT Executive regulation (art. 34<sup>69</sup>), requires covered financial institutions to maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business.

508. Article 40 of the AML /CFT Executive Regulation requires financial institutions to dedicate special files for suspected transactions, wherein copies of reports on these transactions, data and documents related thereto shall be kept for a period of not less than five years, *or until a final verdict or judgment is rendered in its regard, whichever is longer*. In other cases (e.g. where the financial institution did not file an STR), keeping records longer than five years if requested by a competent authority in specific cases upon proper authority is not contemplated by the AML /CFT Executive regulation.

#### **Availability of Records to Competent Authorities in a Timely Manner (c. 10.3\*)**

509. The AML /CFT law<sup>70</sup>, and its Executive Regulation, does not explicitly require financial institutions to ensure that all customer and transaction records and information are available *on a timely basis* to domestic competent authorities upon appropriate authority. The Egyptian authorities (especially the supervisors) mentioned that in practice they could access necessary information in a timely manner.

510. The AML /CFT regulation issued by the CBE for the banks it supervises requirements covered banks to keep records “in a manner ensuring that they are easily accessible and retrievable. Any data or information requested should be sufficiently provided without delay”. There are similar requirements in the AML /CFT regulations issued by the EISA for insurance companies, by the CMA for securities

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<sup>68</sup> Article 9: “financial institutions shall maintain records and documents for domestic and international transactions that contain sufficient data for identifying such transactions, keep such documents on customer and beneficiaries data [...] for a period of no less than five years from the date of completing the transaction with the financial institution, or from the date of closing the account, as the case may be”.

<sup>69</sup> Article 34 of the AML /CFT Executive Regulation: “Each Financial Institution and other entity, according to the nature of its activities, shall keep registers and documents for national and international transactions conducted by it, provided that such registers and documents include sufficient data for identifying such transactions, and shall keep such registers and documents and registers of customers, and the persons authorized to act on their behalf and beneficial owners for five years at least, taking into consideration that starting calculation of the said period should be as follows:

- For accounts opened for natural and legal persons at banks, financial institutions and other entities, records and documents related to such accounts, shall be kept, including account opening application, copies of personal identification documents and correspondence with such persons, as from the date of closing the account,
- For transactions conducted for natural and legal persons having no accounts, documents and records related to such transaction, including copies of personal identification documents and correspondence with such persons, shall be kept as from the date of concluding the transaction.”

<sup>70</sup> The AML /CFT law and its Executive regulation are the only existing requirements for Arab international Bank, Nasser social bank and the Central bank of Egypt (as a financial institution).

companies, by the Ministry of Communications and Information Technology for the Post office, foreign exchange companies and money transfer companies.

### **Wire transfers (SR VII)**

511. Neither the AML /CFT law, nor its Executive regulation, contain any provision related to wire transfers. Some of the institutions for which no other AML /CFT regulation applies carry out such activities.

### **Obtain Originator Information for Wire Transfers (applying c. 5.2 & 5.3 in R.5, c.VII.1 to VII-3)**

512. For all wire transfers (domestic and cross-border), ordering banks supervised by the CBE are required by the EMLCU KYC rules for banks to obtain, *verify* and maintain information on the originator and incorporate such information in full in the wire transfer form (section 9-1). Such information includes: (i) the name of the originator, (ii) its account number (or a unique reference number if there is no account), (iii) the address of the originator, (iv) the purpose of the transfer, (v) the name of the beneficiary, (vi) the address of the beneficiary and (vii) the account number of the beneficiary (if any). It is unclear how a bank could *verify* information on the beneficiary (including his /her address) in such circumstances and no guidance is given on that matter.

513. For the avoidance of doubt, it should be noted that there is no distinction between domestic and cross-border wire transfers. Neither is there any specific provision in cases where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries in another country.

514. According to the information provided to the assessors, domestic money orders are the only wire transfer services offered by the Post office (although there are projects to offer cross-border money orders, as described in section 1.3<sup>71</sup>):

- When a money order is sent, the EMLCU KYC rules for the Post office requires it “in addition to customer identification and verification [...] enter the following information in transfer forms: customer name, a distinctive code number, address of applicant, purpose of transfer, name of payee, address of payee” (section IX-1). The verification of the originator of a money order by the Post office is similar to that of any customer;
- When a money order is received, Section IX-2 requires the Post office to obtain full information on the “payee” (and to keep a copy of its ID document).

### **Maintenance of originator information (c.VII.4)**

515. Intermediary banks supervised by the CBE are required by the EMLCU KYC rules for banks to (i) maintain the originator information accompanying the transfer form and (ii) notify the receiving bank when sending a transfer for which there is incomplete originator information (section 9-3).

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<sup>71</sup> The Egyptian authorities informed the assessors that the AML /CFT regulation for the Post office would cover such situations as it includes as “Guidelines for identifying transactions suspected of involving money laundering and terrorist finance” [...] (i) receiving transfers in large amounts which are inconsistent with the customer business, (ii) frequent incoming or outgoing transfers from different parties with no clear relationship to the customer, (iii) frequent and large transfers from territories known for certain crimes as planting or trafficking drugs, or from countries with insufficient AML/CFT systems, (iv) frequent outgoing transfers in large amounts which are inconsistent with the customer business and (v) frequent outgoing transfers, the sum of which during a certain period of time is inconsistent with the customer business”.

### **Risk Based Procedures for Transfers Not Accompanied by Originator Information (c. VII.5)**

516. Banks supervised by the CBE are required by the EMLCU KYC rules for banks to develop effective measures for determining and dealing with wire transfers not accompanied with full information on the originator (section 9-2). Moreover, the EMLCU KYC rules for banks mentions that the lack of full information on the originator could be considered as a factor in determining whether there is a suspicion in the transfer or the associated transactions (section 9-2). The EMLCU KYC rules for the Post office contain similar requirements (section IX-2<sup>72</sup>).

### **Monitoring of Implementation (c. VII.6) & application of Sanctions (c. VII.7: applying c.17.1 – 17.4)**

517. There are neither specific monitoring arrangements, nor specific sanctions with regard to the situations contemplated by Special Recommendation VII. General supervisory arrangements and powers to sanction apply (see 3.10). The assessors were informed that STRs had been identified thanks to the specific monitoring of wire transfer put in place by financial institutions (but did not have access to any additional detail). Sanctions were never imposed for shortcomings related to recommendations covered by SR. VII.

### **Additional elements: elimination of thresholds (c. VII.8 and c. VII.9)**

518. For the banks supervised by the CBE, the EMLCU KYC rules for banks requires that all incoming and outgoing cross-border wire transfers contain full and accurate originator information.

### **Analysis of effectiveness**

519. All financial institutions indicated to the assessors that they were keeping records according to Egyptian laws and regulations. There is no indication that this might not be the case.

520. Banks indicated that they were fulfilling all requirements related to SR VII and none mentioned any difficulty in that regard. In most cases, controls of wire transfers appeared to be manual and staff vigilance thus played a critical role (with possible adverse consequence of remaining weaknesses related to training, see c. 15-3).

521. Relying extensively on manual controls also appeared to hamper the ability of institutions to properly monitor wire transfers, which typically represent a very large number of daily transactions<sup>73</sup>. Moreover, the assessors were not informed by any bank of risk criteria specific to wire transfers that are used to monitor this activity. A bank indicated it had identified a few cases where an originator's information was missing in a cross-border wire transfer and then managed to gather additional information from its correspondent bank abroad. Banking supervisors did not identify material weaknesses in the implementation of SR VII. On the other hand, the EMLCU indicated after the on-site mission that some STRs had been identified thanks to financial institutions' specific monitoring of wire transfers

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<sup>72</sup> Section IX-2 reads: "on receiving as money order, post offices shall adopt effective procedures to identify and deal with orders unaccompanied by full information on the applicant. This may be taken into account upon evaluation of suspicious transfers or related operations, and subsequently reporting them to the EMLCU through {the Post office] manager in charge of combating money laundering and terrorism financing".

<sup>73</sup> For example, almost 540,000 wire transfers were carried out by Egyptian financial institutions during fiscal year 2006 /2007 (according to the CBE Annual report 2006 /2007).

### 3.5.2. Recommendations and Comments

522. Some institutions which carry out wire transfers are not covered by any specific enforceable requirement (Arab International Bank, Central Bank of Egypt and Nasser Social Bank).

523. Key requirements on wire transfers have been put in place for banks supervised by the CBE. However, it appears that most of these banks do not yet have adequate monitoring arrangements in place to ensure that transfers are accompanied by adequate information. Supervisory efforts in that area should be stepped up.

524. As the Post office is planning on developing its offer of transfer services (including carrying out cross-border transfers), it will also be important to make sure that the regulatory framework provides sufficiently detailed requirements for all those situations.

525. The Egyptian authorities should also consider the following detailed amendments to the regulatory framework:

#### Recommendation 10

- Specifically require all financial institutions that their transaction records be sufficient to permit the reconstruction of individual transactions, so as to provide, if necessary, evidence for prosecution of criminal activity;
- Broaden existing requirement so that financial institutions have to keep records for longer than five years if requested by a competent authority in all specific cases if requested upon proper authority (the current drafting only addresses cases where an STR was initially filed);

#### Special recommendation VII

- Set detailed requirements for all financial institutions allowed to carry out wire transfers in line with SR VII (and not only for banks supervised by the CBE and some activities of the Post office).

### 3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
<b>R.10</b>	LC	<ul style="list-style-type: none"><li>• Some institutions not specifically required to keep sufficient records for criminal prosecution</li></ul>
<b>SR.VII</b>	PC	<ul style="list-style-type: none"><li>• Three institutions allowed to offer wire transfer without there being any specific AML /CFT requirement (i.e. banks not supervised by the CBE)</li><li>• Insufficient monitoring by banks supervised by the CBE</li></ul>

## 3.6. Monitoring of Transactions and Relationships (R.11 & 21)

### 3.6.1. Description and Analysis

#### Legal Framework (see 3.1 for more details)

- AML /CFT law and its Executive regulation;

- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, leasing companies, factoring companies, mortgage finance companies, foreign exchange companies and money transfer companies;
- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, leasing companies, factoring companies, mortgage finance companies, the Post office, foreign exchange companies and money transfer companies by their respective supervisors.

### **Special Attention to Complex, Unusual Large Transactions (c. 11.1)**

526. Egyptian AML /CFT laws and regulations only partially address the requirements set in Recommendation 11 (i.e. that financial institutions pay special attention to all complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose):

- The AML/CFT Executive Regulation requires that Money Laundering Reporting Officers (MLRO) receive information on “unusual transactions”, “examine” them and decide whether to make an STR or not (art. 36). Decisions “not to take action shall be justified”. These different activities have to be included within the scope of the annual report prepared by MLROs (art. 38). These provisions do not meet the requirements of Recommendation 11 as they are too imprecise in the absence of a definition of an “unusual transaction”. That wording *may* cover all complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. However, financial institutions may have different understandings of what an unusual transaction is. For instance some may define it like an *internal* suspicious transaction reports, while others may include all transactions above a given threshold. In both cases, the requirements of Recommendation 11 are not met,
- The EMLCU KYC rules for banks supervised by the CBE and the AML /CFT Regulation for these same banks issued by the CBE set requirements on enhanced due diligence which are to be undertaken in high risk situations (see c. 5-8 for more details). They only partially meet the requirements set by Recommendation 11:
- The EMLCU KYC rules for banks requires that customers be classified according to risk and that the “frequent appearance of customer name in unusual transaction reports” be taken into account when updating the risk classification of a customer (section 7). It also specifically requires covered banks to identify “unusual transactions” for non residents, prepaid cards and mobile phone payments which are considered as high risk customers and transactions (section 8). Moreover, it defines “criteria [which] *may* be used as *guidance* when determining [high] risks”. They address some of the situations covered by Recommendation 11<sup>74</sup>, but not all and are not mandatory,
- The AML /CFT Regulation for banks issued by the CBE requires the banks it covers to undertake enhanced due diligence where red flags are identified. Such red flags cover some but not all cases

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<sup>74</sup> These criteria include (i) inconsistency of the transaction with the stated purpose, (ii) inconsistency of services provided to customers with their nature of activity, (iii) conducting unjustified complicated or large transactions, (iv) conducting transactions with large amounts of cash despite the fact that the customer activities are not cash intensive or (v) customers whose pattern of transaction change clearly with no clear justification (section 7-2)

contemplated by Recommendation 11 (section 7): (i) large cash deposits not consistent with the customer business, (ii) large cash deposits transferred within a short period of time to other entities with no apparent connection to the customer business, (iii) carrying out credit and debit cash movements on the same account during short periods of time with no apparent justification and (iv) importing or exporting goods, the value of which is inconsistent with the nature and volume of the customer business.

- The requirements established for the insurance and securities companies, the Post office, foreign exchange companies and money value transfer companies are broadly in line with those established for banks supervised by the CBE (taking into account the specific characteristics of each industry).

### **Examination of Complex & Unusual Transactions (c. 11.2)**

527. There is no requirement for all financial institutions (i) to examine as far as possible the background and purpose of such transactions and (ii) to set forth their findings in writing. The AML /CFT Executive regulation only requires that MLROs “examine” “unusual transactions” (see c. 11-1), which is too vague to meet the requirements set in Recommendation 11.

528. For the banks they cover [supervised by CBE], the EMLCU KYC rules for banks and the AML /CFT Regulation for banks issued by the CBE, the requirement boil down to carryout out enhanced due diligence measures (see. c. 5-8), which also falls short of meeting the requirements set in criterion 11-2. Similar requirements exist for the insurance and securities companies, the Post office, foreign exchange companies and money value transfer companies.

### **Record-Keeping of Findings of Examination (c. 11.3)**

529. There is no requirement for all financial institutions to keep findings of the examination of complex and unusual transactions covered by criterion 11-2 available for competent authorities and auditors for at least five years.

530. Section 4 of the AML /CFT Regulation for banks issued by the CBE requires covered banks to keep records of “unusual transaction disclosures and the documents providing review thereof” (section 4). Similar requirements exist for the insurance and securities companies, the Post office, foreign exchange companies and money value transfer companies.

### **Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1)**

531. There is no requirement in the AML /CFT law, or in its Executive Regulation, for all financial institutions to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations. The AML /CFT Executive Regulation only requires financial institutions to undertake enhanced due diligence measures for higher risk customers, without explicitly mentioning the situations covered by Recommendation 21 as *having to* be considered as high risk (see. c. 5-8).

532. However, section 7 of the EMCLU KYC rules for banks mentions as criteria which have to be taken into account<sup>75</sup> (i) countries subject to sanctions, embargoes or similar measures from the United

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<sup>75</sup> The translation provided to the assessors before the on-site mission indicated that institutions *may* take these criteria into account, which were therefore not binding. The assessors were informed after the on-site that the translation was misleading and that these criteria *had to* be taken into account by institutions and that they were binding. This latter approach is reflected in the current drafting.



Nations, (ii) countries identified by the EMLCU, in coordination with the CBE, as lacking appropriate AML/CFT legislation, regulations and other measures, not applying FATF recommendations or insufficiently applying them, or providing funding or support for terrorist activities and (iii) countries known for having significant numbers of corruption, or other illegal activities such as drug trafficking, planting or weapons smuggling. Section 8.3 also requires banks to pay special attention to business relationships and transactions related to persons residing or belonging to countries not fully or sufficiently implementing FATF's recommendations (including legal persons and other financial institutions). Such measures include but not limited to (i) scrutinizing those customers' transactions, and identifying purpose thereof and reporting to the EMLCU in case of no clear economic purpose or having any suspicion thereon and (ii) minimizing transactions or relationships with such countries or persons staying or belonging thereto.

533. Requirements which are largely similar exist for insurance companies, securities firms<sup>76</sup>, leasing companies, factoring companies, mortgage finance companies and the Post office. EMLCU KYC rules for foreign exchange dealers and money value transfer companies focus on high risk customers only<sup>77</sup>, and do not pay sufficient attention to high risk transactions.

#### **Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2)**

534. If those transactions have no apparent economic or visible lawful purpose, there is no specific requirement that financial institution examine, as far as possible, the background and purpose of such transactions, and that written findings be available to assist competent authorities (e.g. supervisors, law enforcement agencies and the FIU) and auditors (also see description related to c. 11.1 and 21.1).

#### **Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3)**

535. As mentioned under c. 21-1, where a country is identified by the EMLCU, in coordination with the CBE, as lacking appropriate AML/CFT legislation, regulations and other measures, not applying FATF recommendations or insufficiently applying them, or providing funding or support for terrorist activities, the Egyptian authorities can indicate to financial institutions covered by the relevant EMLCU KYC rules that they should be treated as a higher risk for CDD purposes. There is no other specific measure that Egypt can apply where a country continues not to apply or insufficiently applies the FATF Recommendations.

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<sup>76</sup> Countries subject to sanctions, embargoes or similar measures from the United Nations are not mentioned in the EMLCU KYC rules for securities firms.

<sup>77</sup> The EMLCU KYC rules for foreign exchange focuses on customers only and not on business relationships *and transactions* with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations, as requested by Recommendation 21. Section V reads: "the following are some standards that may guide the determination of [high risk customers]: customers from countries lacking proper legislations to combat money laundering and terrorism financing, or those who do not apply or insufficiently apply FATF recommendations or finance or support terrorist activities. In order to identify such customers, a company may rely on lists provided by the [EMLCU], in collaboration with the Central Bank of Egypt".

## Analysis of effectiveness

536. Most financial institutions which the assessors met did not appear to have a structured process in place to identify and deal with “unusual transactions” in the manner recommended in Recommendation 11. A few banks, which belonged to large international banking groups, appeared to implement a process largely in line with that recommendation. Across the entire financial industry, very little attention was paid to unusual *patterns* of transactions.

537. Some banks, which belonged to large international banking groups, appeared to have their own lists of “high risk” jurisdictions which were set by their foreign head office and for which they implemented enhanced due diligence measures. Beyond the banking industry there appeared to be little if any structured process to pay attention to countries that not insufficiently implementing FATF recommendations (i.e. it is only *on their own initiative* that employees may in some cases pay special attention to transactions with countries which *they* perceive as high risk).

538. The assessors were also informed by the Egyptian authorities that a circular n° 22-4 dated 23 April 2008 was communicated to all banks by the CBE to comply with the UN Security Council Resolution n° 1803 concerning sanctions on Iran. According to the Egyptian authorities, banks were requested to exercise vigilance with foreign trade services offered to Iranian nationals and banks domiciled in Iran.

### 3.6.2. Recommendations and Comments

539. Egyptian laws and regulations contain provisions which aim at implementing Recommendations 11. However, these provisions are very general and sometimes not mandatory. Although the guidance given is useful, they are not sufficient to ensure compliance with Recommendations 11. Shortcomings in that area should be addressed as a priority and significant efforts should be made to ensure the proper implementation of the measures included in Recommendation 11.

540. The Egyptian authorities should also consider the following detailed amendments to the regulatory framework:

#### Recommendation 11

- Require *all* financial institutions to pay special attention to *all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose*;
- Require *all* financial institutions to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing;
- Require *all* financial institutions to keep such findings available for competent authorities and auditors for at least five years.

#### Recommendation 21

- Require banks not supervised by the CBE to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations;
- If those transactions have no apparent economic or visible lawful purpose, all financial institutions should be explicitly required to examine the background and purpose of such

transactions, as far as possible, (and written findings should be available to assist competent authorities and auditors).

### 3.6.3. Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
<b>R.11</b>	PC	<ul style="list-style-type: none"> <li>• Content of recommendation 11 addressed in too general term:</li> <li>• (e.g. no mention of unusual patterns of transactions, of a lack of economic or lawful purpose etc.), especially for those institutions only covered by the AML /CFT law and its Executive regulation</li> <li>• Lack of effectiveness (e.g. very little attention paid to unusual patterns of transactions, across the financial industry)</li> </ul>
<b>R.21</b>	LC	<ul style="list-style-type: none"> <li>• No specific requirement regarding the examination of transactions with no apparent economic or visible lawful purpose from countries not sufficiently applying FATF Recommendations</li> </ul>

### 3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

#### 3.7.1. Description and Analysis<sup>78</sup>

##### Legal Framework (see 3.1 for more details)

- AML /CFT law and its Executive regulation;
- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, foreign exchange companies and money transfer companies;
- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, foreign exchange companies and money transfer companies by their respective supervisors.

##### Requirement to make STRs on the proceeds of criminal activities to the FIU (c. 13.1\* & IV.1)

541. Article 31 of the AML /CFT Executive Regulation reads: “each financial institution and other entity shall report the unit [EMLCU] transactions suspected of involving money laundering and terrorism financing and trials [attempts] to conduct such transactions.” The requirement does not cover reporting

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<sup>78</sup> The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

suspicious that funds are the proceeds of a criminal activity (as recommended by FATF<sup>79</sup>) but a narrower scope<sup>80</sup> (suspicious of ML or TF).

542. Moreover, supervisory authorities are also required to file STRs (art. 28 of the AML /CFT Executive Regulation). Article 40 of the AML /CFT Executive regulation also requires covered financial institutions to “dedicate special files for suspected transactions, wherein copies of reports on these transactions, data and documents related thereto shall be kept for a period not less than five years, or until a final verdict or judgment is rendered in that regard, whichever is longer”.

#### **Requirement to make STRs on funds for terrorism, terrorist acts and terrorism financing (c. 13.2\*)**

543. Financial institutions are required to file STRs when they suspect transactions involve terrorism financing (Art. 31 of the AML /CFT Executive Regulation). This requirement is slightly different from that of Recommendation 13 which is to report funds that are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism (see SR II for more details on the criminalization terrorism financing).

#### **No reporting threshold for STRs (c. 13.3\*)**

544. All suspicious transactions, including attempted transactions, have to be reported regardless of the amount of the transaction.

#### **Making of ML and TF STRs regardless of possible involvement of tax matters (c. 13.4 & IV.2)**

545. There is no mention that the requirement to report suspicious transactions apply regardless of whether they are thought, among other things, to involve tax matters<sup>81</sup>, yet the requirement to report such transactions is not restricted by any exception and that includes the situation where these transactions would involve tax matters.

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<sup>79</sup> Criterion 13-1 indicates that, at a minimum, the obligation to make a STR should apply to funds that are the proceeds of all offences that are required to be included as predicate offences under Recommendation 1.

<sup>80</sup> The Egyptian authorities state that the reporting obligations extend to all funds that are the proceeds of a criminal activity based on the fact (i) that the EMLCU has to report to the public prosecution suspicions of ML, TF as well as any other predicate offence of ML as defined by article 2 of the AML /CFT law (art. 3 of the AML /CFT Executive regulation), (ii) that the reporting forms established for the different reporting institutions do not restrict the reasons for suspicion to ML and TF and (iii) that some institutions in practice file STRs when they suspect funds may be the proceeds of criminal activity, even though it might neither be ML nor TF (see analysis of effectiveness for more details). However, (i) reporting requirements for financial institutions cannot be inferred from those of the EMLCU and only clear and direct requirements on financial institutions imposed by “laws or regulations” can be taken into account for the purposes of Recommendation 13, (ii) as reporting forms are silent regarding what needs to be reported, one may consider that these institutions may report when they suspect that funds are the proceeds of a criminal activity, but not that they are required to do so and (iii) similarly, reporting practices by some entities do not prove the existence of a reporting requirement (moreover, the assessors did not have sufficient information to assess whether these entities were financial institutions or not).

<sup>81</sup> As tax offences are not predicate offence of money laundering, this creates a risk that suspicious transactions are not reported when transactions can be explained by tax reasons (i.e. the possible involvement of tax matters may be considered to be a sufficient reason not to investigate further).

### **Additional element - reporting of all criminal acts (c. 13.5)**

546. Financial institutions are not required to report to the EMLCU when they suspect or have reasonable grounds to suspect that funds are the proceeds of all criminal acts that would constitute a predicate offence for money laundering domestically (see. c. 13-1).

### **Protection for making STRs (c. 14.1)**

547. Financial institutions and their directors, officers and employees are protected by law from criminal liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU. Article 10 of the AML /CFT law reads: “criminal liability shall not apply to any person who, in good faith, fulfils the obligation of reporting suspicious transactions subject to the provisions of this law, or provides information or data thereon in violation of the rules imposed to ensure their secrecy.

548. Protection from civil liability is also contemplated for those who file STRs. However, it does not apply to all cases where a person acted in good faith, but only when there were reasonable grounds to file a STR, which slightly differs both from what Recommendation 14 contemplates and from the criteria when STRs have to be filed in Egypt (see c. 13-1). Article 10 of the AML /CFT law reads: “civil liability shall not apply if such suspicion is believed to be founded on reasonable grounds”. In order to be protected from civil liability, the person who filed an STR (the defendant) has to prove that its suspicion was founded on reasonable grounds which is more demanding than having the other party (who introduced the lawsuit) prove that he /she was of bad faith when filing an STR.

### **Prohibition against tipping-off (c. 14.2)**

549. Article 11 of the AML /CFT law reads: “it shall be prohibited to disclose to a customer, beneficiary or any person other than the authorities and entities responsible for enforcing the provisions of this law, any of the reporting, investigation or examination procedures taken with regard to financial transactions suspected of involving money laundering or terrorism financing or any information related thereto”.

### **Additional Element—Confidentiality of Reporting Staff (c. 14.3)**

550. There are no laws, regulations or any other measures which specifically ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by the FIU (except for general provisions related to the confidentiality of the activities of the EMLCU, see 2.5). Such information can therefore be shared with other institutions in some cases (e.g. a copy of an STR mentioning the name of the reporting officer may be communicated to a Prosecutor). The Egyptian authorities indicated that such confidentiality was guaranteed in practice<sup>82</sup>.

### **Consideration of reporting of currency transactions above a threshold (c. 19.1 – 19.3)**

551. A study was undertaken in December 2007 to assess the opportunity of establishing a national large cash transaction reporting system in Egypt along the lines mentioned in Recommendation 19. This was

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<sup>82</sup> The Egyptian authorities indicated that “the institutional arrangements with LEA [Law Enforcement Authorities] and the Public Prosecution ensure that such entities receive only information on suspicious transactions. In no case do such entities receive a copy of the STR received by EMLCU, which includes name of the MLRO at the reporting institution”.

deemed inappropriate<sup>83</sup> as (i) cash transactions are extremely frequent and (ii) this was considered as potentially creating disincentives for financial institutions to undertake their own monitoring of large cash transactions.

### **Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.1)**

552. The AML /CFT Executive regulation contains a few specific requirements regarding the content of suspicious transaction reports (art. 4): (i) nature of the suspicious transaction, parties involved, how it was detected and its current condition, (ii) value of the suspected transaction and (iii) reasons explaining the decision by the MLRO to make an STR (and his signature). The EMLCU also issued standardized STR forms for banks, securities firms, insurance companies, foreign exchange dealer companies and other financial institutions. (See also section 2.5).

### **Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2)**

553. See analysis in section 2.5 (criterion 26-2).

### **Analysis of effectiveness**

The statistics provided to the assessors show:

- A relatively low and stable number of STRs every year from 2004 to 2007 (around 400 every year). The number of STRs filed in 2007 is slightly lower than in 2004, but the EMLCU explained to the assessors that the relevance and quality of the STRs filed had significantly improved;
- STRs which are in their vast majority related to ML, and a few which cover TF issues;

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<sup>83</sup> The study mentions that: “(i) Currency is the principal payment instrument in Egypt (89% of the total payment means), (ii) A very big share of cash transactions is conducted for natural and legal persons, (iii) Obligating financial institutions to report cash transactions means that a very large number of cash transaction will be reported to the CBE unit, (iv) All banks have internal systems to detect abnormal cash transactions. Reports are prepared on all transactions above a fixed amount. The amount varies depending on whether the customer is a natural or legal person, the lawful entity of the legal person, the size of his transactions and nature of his business. This amount also varies from one bank to another and from branch to another branch of the same bank. The amount set out for the natural person in the vast majority of the banks is LE 100,000 and (v) Setting out a limit for reporting cash transactions will be non-representative, due to the following: If this limit is dramatically increased to reduce the number of reported cases, this will mean that customers obligated to report may not include low-income account holders who are excluded in spite of their possible involvement in transactions non-matching with their income (which could include suspicious money laundering transactions). If the limit is drastically reduced, this will mean that financial institutions will report most of their transactions. Thus, the CBE unit will not be able to take action regarding these reported transactions, and the effort will be useless.

Based on what is mentioned above, we see no need now to obligate financial institutions to report cash transactions above a fixed amount. The current system obligates the financial institution to report any suspicious transaction. The institutions notify the CBE unit in cases of suspicion, regardless of the amount of the transaction. This procedure provides the financial institution with the flexibility of reporting suspicious transactions regardless of the amount set out for reporting”.

- Concerning institutions which report STRs:
- Most STRs are filed by banks (between 75 and 80% of the total). It could not be determined whether all banks report STRs or only a few of them (the assessors were only informed that a low number of reporting could trigger an on-site examination),
- Insurance companies submitted a significant number of STRs in 2006 and 2007 (24 and 15 respectively), compared to 2 and 1 in 2004 and 2005. The assessors met with a life insurance company which level of reporting appears to make the bulk of the reporting of the insurance sector. The assessors consider that most insurance companies do not file or file a very limited number of STRs,
- No detail is available for 2007 concerning STRs filed by other financial institutions, except that the total number of STRs filed by public stakeholders (customs, supervisors etc.) and other financial institutions totaled 63. Based on the interviews conducted by the assessors, it appears that Arab International Bank and the Post office make the bulk of STRs filed by other financial institutions. The assessors are of the opinion that most non bank financial institutions do not file or file a very limited number of STRs.
- No information was provided by the authorities regarding the grounds for suspicion or the predicate offences underpinning STRs (for the period covered by the assessment, i.e. until 25 December 2008). During the discussions which the assessors had with financial institutions indicate, only simple suspicious cases were mentioned (foreigners wishing to open an account without there being any business rationale, transfers from high risk jurisdictions, large cash deposits without proper explanation etc.). These cases were generally identified quickly after transactions occurred. No suspicious transaction identified thanks to a review of lasting patterns of transactions over a significant period of time was mentioned to the assessors. The assessors were informed by the Egyptian authorities that, in practice, some institutions (financial, non financial and public authorities) file suspicious transaction reports when they suspect that funds may be the proceeds of criminal activity, even though it might neither be money laundering nor terrorist financing<sup>84</sup>.
- The financial institutions appeared confident that the confidentiality of STRs they made would be adequately maintained by the Egyptian authorities and had procedures in place to avoid tipping off. The assessors were not informed that any case of tipping off ever occurred in Egypt.

### **3.7.2. Recommendations and Comments**

554. Significant outreach has been done by the Egyptian authorities and guidance has been included in AML /CFT regulations issued for some financial institutions. Despite these efforts, the number of

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<sup>84</sup> In an email dated 9 April 2009, the Egyptian authorities indicated the following: “the Unit conducted a statistic concerning STRs not related to ML /TF for the period starting from 1/7/2009 till the end of March 2009. The statistic reflected that the number of those STRs reached 52 STRs out of 407 STRs received during that period & the details of which are as follows: 1 Embezzlement (1), 2 Misappropriation of Funds (3), 3 Insider Trading (1), 4 Drugs Trafficking (3), 5 Forgery (34), 6 Tax Evasion (2), 7 Receiving Funds for Investment in Violation of Law no. 146 for 1988 (2), 8 Breach of Trust (1), 9 Stealing (1) and 10 Fraud (4)”.

reporting remains low, especially for non banks. Moreover, reporting requirements are not as extensive as what is recommended by FATF.

555. The assessors were informed that the Egyptian authorities had considered putting in place a large cash transaction reporting system and that this had been deemed inappropriate as cash transactions are extremely frequent and this could have created disincentives for financial institutions to undertake their own monitoring of large cash transactions. The use of cash is a key characteristic of the Egyptian environment, and financial institutions therefore have to handle significant and regular inflows and outflows of cash. No individual institution is by definition able get an overall view of large cash flows in the country. A more detailed study could usefully be undertaken to deepen the analysis of the opportunity of having a national large cash transaction system in Egypt, which may be as an effective venue to strengthen further the Egyptian AML /CFT regime.

556. The Egyptian authorities should also consider the following detailed amendments to the regulatory framework:

**Recommendation 13**

- Financial institutions should be required to report to the EMLCU when it suspects that funds are the proceeds of a criminal activity (and not only when they have suspicions of money laundering or terrorism financing);

**Recommendation 14**

- Financial institutions and their directors, officers and employees should be protected by law from civil liability for breach of any restriction on disclosure of information, if they report their suspicions *in good faith* to the EMLCU (and not only when this is based on reasonable grounds);

**Recommendation 25**

- Issuing guidelines for all financial institutions (i.e. including the Central bank of Egypt);

**Special Recommendation IV**

- Clarify that all suspicions that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism should be reported.

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

	Rating	Summary of factors underlying rating
<b>R.13</b>	PC	<ul style="list-style-type: none"> <li>• Too narrow reporting obligation (i.e. only suspicion of money laundering or terrorism financing)</li> <li>• Lack of effectiveness (low number of reporting, especially for non banks)</li> </ul>
<b>R.14</b>	LC	<ul style="list-style-type: none"> <li>• Too narrow protection from civil liability (i.e. requirement that there have been reasonable grounds for filing an STR and not that reporting was done in good faith)</li> </ul>



<b>R.19</b>	C	
<b>R.25</b>	PC	<ul style="list-style-type: none"> <li>No guideline issued for the Central bank of Egypt</li> </ul>
<b>SR.IV</b>	LC	<ul style="list-style-type: none"> <li>Reporting obligation slightly too narrow (terrorism financing instead of suspicion that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism)</li> </ul>

### 3.8. Internal Controls, Compliance, Audit and Foreign Branches (R.15 & 22)

#### 3.8.1. Description and Analysis

##### Legal Framework (see 3.2 for more details)

- AML /CFT law and its Executive regulation;
- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, leasing companies, factories companies, mortgage finance companies, foreign exchange companies and money transfer companies;
- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange companies and money transfer companies by their respective supervisors.

##### Establish and maintain internal controls to prevent ML and TF (c. 15.1)

557. The AML /CFT Executive regulation contains general provisions on internal control, which taken alone are not sufficient to satisfy Recommendation 15:

- Article 30 of the AML /CFT Executive regulation requires financial institutions to “establish a *special system* to establish the *identity* and the legal status of customers and beneficial owners”,
- Article 32 of the AML /CFT Executive Regulation requires financial institutions to “*establish a money laundering and terrorism financing risk management system* that includes classifying customers into risk-based categories”.

558. For banks supervised by the CBE, a whole section of the relevant AML/CFT regulation for banks issued by the CBE establishes detailed internal control requirement for the banks it covers (Section 5). These requirements cover the recommendations included in 15-1:

- AML /CFT policies need to be approved by the Board of director of the bank,
- AML /CFT procedures have to cover “exact duties and responsibilities according to the relevant policies”.
- AML /CFT systems need to be verified periodically, including the detection mechanisms to report unusual and suspicious transactions to the MLRO. The MLRO and the internal audit function should work together in those matters,
- Identified shortcomings need to be remedied.

559. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance companies, securities companies, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange and money transfer companies.

**Designation and responsibilities of the AML /CFT compliance officer (c. 15-1-1 & 15-1-2)**

560. Detailed requirements have been set for Money Laundering Reporting Officers (MLROs) in the AML /CFT Executive Regulation<sup>85</sup>, as well as AML /CFT regulation for banks issued by the CBE.

561. A whole section of the AML /CFT regulation for banks issued by the CBE establishes the requirements for the MLRO (section 2):

- All banks supervised by the CBE need to have an MLRO, a person has to be designated to replace the him when he is unavailable, the EMLCU needs to be informed of the name of the MLRO (and of any change in that regard),
- The MLRO should be independent:
  - He needs to occupy a senior position within the bank and have a relevant expertise,
  - He shall not be in charge of any task which would conflict with his missions as an MLRO,
  - He needs to have access to all information “necessary for carrying out its assignments”,
  - He shall be permitted to present reports to the bank’s senior management or Board of directors,
  - Procedures have to clearly establish that he is the person to whom unusual and suspicious transactions shall be reported and that he shall examine those and send suspicious transaction reports (STR to the EMLCU where appropriate,
- His responsibilities shall include:
  - Examine unusual and suspicious transactions he receives and (i) report such transactions to the EMLCU or (ii) document the reasons explaining that such reporting was not deemed appropriate,
  - Propose measures to improve and update the bank’s AML /CFT policies, procedures and systems,
  - “Ensure compliance of different *bank branches* with AML /CFT laws, regulations and AML CFT internal systems, via off-site and on-site supervision”,
  - Set AML /CFT training plans for the staff of the bank (in cooperation with the unit responsible for training within the bank),
  - Prepare a periodic report (at least yearly) on the bank’s AML /CFP framework<sup>86</sup>. Such report shall be reviewed by the Board of directors and then communicated to the EMLCU.

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<sup>85</sup> Article 35 of the AML /CFT Executive regulation requires covered financial institutions to “appoint a money laundering officer, who shall be of a senior job level and have sufficient academic and practical experience”, Article 36 covers the responsibilities of the MLRO, Article 37 the independence of the MLRO, Article 38 the yearly report the MLRO has to prepare and its communication to the EMLCU and Article 39 the communication of information from the MLRO to the EMLCU.

562. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance companies, securities companies, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange and money transfer companies.

#### **Independent audit of internal controls to prevent ML and TF (c. 15.2)**

563. Neither the AML /CFT law nor its Executive regulation, require financial institutions to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with these procedures, policies and controls.

564. The AML /CFT regulation for banks issued by the CBE requires the internal audit function, in coordination with the MLRO, to examine existing systems and ensure effectiveness and efficiency thereof in AML /CFT, as well as propose whatever necessary to improve and upgrade such systems (Section 5-5). The resource and independence of the audit function are not addressed in that regulation.

565. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance companies, securities companies, the Post office, foreign exchange and money transfer companies.

#### **Ongoing employee training on AML/CFT matters (c. 15.3)**

566. The AML /CFT Executive Regulation requires that relevant staff receives adequate AML /CFT training (art. 41<sup>87</sup>). The MLRO is responsible for such training programs (art. 39), which need to include external training (art. 42<sup>88</sup>) and therefore cannot be exclusively in-house. The AML /CFT law and its Executive regulation are silent on their periodicity (ongoing) and content (which according to Recommendation 15 need to include a clear explanation of all aspects of AML/CFT laws and obligations, in particular requirements concerning CDD and suspicious transaction reporting, as well as information on new developments, including on current ML and FT techniques, methods and trends).

567. The AML /CFT regulation for banks issued by the CBE includes details on the periodicity and content of training programs. Section 6 indicates that banks have to develop continuous plans and training programs to train their staff in order to enhance compliance with AML/CFT rules and systems, and ensure that they are updated on the latest AML/CFT developments related to ML/TF methods and trends and

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<sup>86</sup> Such a report shall cover (i) efforts exerted during the report period on unusual and suspicious transactions and the decisions taken in their regard, (ii) weaknesses found during the periodic review of the bank AML /CFT systems and procedures, and proposals to rectify such weaknesses, including the bank internal disclosures on unusual transaction, (iii) any amendments to the bank AML /CFT policies, internal systems or procedures during the period covered by the report, (iv) degree of commitment to the implementation of approved off-site and on-site supervision plans to assess compliance of *different bank branches* with AML /CFT laws, regulations and internal systems, (v) plan set for the offsite and on-site supervision on bank branches for the period following the reporting period and (vi) details of the AML /CFT training programs for the bank staff during the reporting period.

<sup>87</sup> Article 41 of the AML /CFT Executive regulation requires covered financial institutions to set plans and programs for training and qualifying their staff, to which responsibilities relating to money laundering are assigned, so that they be well prepared for carrying out such responsibilities, coping with international developments, and enforcing rules of professional sound work in this field. Such programs shall be devised through coordination among the institutions, the supervisory authorities, public control entities and the EMLCU.

<sup>88</sup> Article 42 reads: “assistance of local or foreign institutes, established for this purpose [training], or among whose purpose is combating money laundering and terrorism financing, *shall* be sought in carrying out training and qualifying programs, while benefiting from local and international experience in this respect. Such assistance seeking shall be conducted within the unit’s general training and qualifying policy”.

systems for their prevention, and on the latest relevant developments on the regional and international levels. The AML /CFT regulation for banks issued by the CBE also requires the banks it covers to keep records of their training programs<sup>89</sup> and to communicate such information to the EMLCU (Section 6-4).

#### **Employee screening procedures (c. 15.4)**

568. Neither the AML /CFT law, nor its Executive regulation, require financial institutions to put in place screening procedures to ensure high standards when hiring employees.

569. Section 2 of the EMLCU AML /CFT KYC rules for banks supervised by the CBE requires “banks [to] have in place the procedures ensuring collection of sufficient data on their employees, to ensure high levels of efficiency and integrity”.

570. Similar requirements are established by the EMLCU AML /CFT KYC rules for insurance companies, securities companies, the Post office, leasing companies, factoring companies, mortgage finance companies, foreign exchange and money transfer companies.

#### **Additional element—Independence of the compliance officer (c. 15.5)**

571. Article 37 of the AML /CFT Executive regulation requires financial institutions to provide the MLRO “with what enables him to exercise his jurisdictions independently, guarantee the secrecy of all the information received by him and the measures he takes”.

572. The AML /CFT regulation for banks issued by the CBE also sets detailed requirements which aim at ensuring the independence of money laundering reporting officers in the banks this text covers.

573. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance companies, securities companies, the Post office, foreign exchange and money transfer companies.

#### **Application of AML/CFT Measures to Foreign Branches & Subsidiaries (c. 22.1, 22.1.1 & 22.1.2)**

574. All provisions of the AML /CFT law and its Executive regulation apply to banks “and their branches abroad” (art. 1-c of the AML /CFT law). Foreign Subsidiaries of Egyptian banks and foreign branches and subsidiaries of other financial institutions are not covered by the AML /CFT law and its Executive regulation. The Egyptian authorities informed the assessors that subsidiaries were included in the law before it was last revised and that this was removed by mistake<sup>90</sup>. For the avoidance of doubts, subsidiaries are not considered as covered by the provisions of the AML /CFT law at the time of the assessment.

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<sup>89</sup> Section 4 requires covered banks to keep “records on training programs, provided that such records include data on all relevant AML /CFT programs offered to bank staff, names, of trainees, their division /departments, content and timeframe, of training programs, and training entities, whether at home or abroad”.

<sup>90</sup> A letter was sent on 25 March 2009 by the Deputy Governor of the CBE to the banks it supervises mentioning: “With reference to the AML/CFT Regulations issued by CBE on 29 July 2008, the Central Bank of Egypt hereby confirms that the said Regulations apply to all branches *and subsidiaries* of your Bank abroad. Where there are differences in the regulatory systems of the host country in which banks have *branches*, the Bank shall observe the more strict regulations.” This letter (i) was sent after the period covered by the assessment (i.e. after 25 December 2008), (ii) only applies to banks supervised by the CBE and (iii) when it comes to applying the strictest regulations of the Host and the Home countries, it seems to cover only branches.

575. The AML /CFT regulation for banks issued by the CBE indicates that it applies to “all branches and financial companies [banks] abroad affiliated to Egyptian banks. It should be noted that in case of any discrepancy between these regulations and those applied in the host country, the strictest regulation shall be applied, *without prejudice to the legislations and regulations of the host country*”.

576. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance and securities companies.

#### **Requirement to Inform Home Country Supervisor if Foreign Branches & Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2)**

577. The AML /CFT law and its Executive regulation only creates obligations for foreign branches of Egyptian banks and does not contemplate that the latter be unable to observe appropriate AML/CFT measures because this is prohibited by local (*i.e.* host country) laws, regulations or other measures.

578. AML /CFT Regulation for banks issued by the CBE requires the banks it cover to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (*i.e.* host country) laws, regulations or other measures.

579. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance and securities companies.

#### **Additional Element—Consistency of CDD Measures at Group Level (c. 22.3)**

580. Section 4 of the AML /CFT KYC rules for banks supervised by the CBE issued by the EMLCU indicates that, when applying due diligence for customer identification, banks affiliated to a financial group shall take into consideration customer relationships with the different branches of the group. Similar requirements are established by the AML /CFT regulations issued by the supervisors of insurance and securities companies.

#### **Analysis of effectiveness**

581. Significant efforts have been undertaken by key Egyptian financial institutions in the past few years to appoint skilled MLROs and provide them with adequate powers and resources. Banking and securities supervisors have simultaneously stepped up their efforts in that regard and sanctions have been taken by the CBE for shortcomings in that area (see 3.10). These efforts appear to have been largely successful. The MLROs which the mission met at banks, brokers and the post office were well versed in AML /CFT issues, had a good knowledge of the business mix of their institutions, appeared effectively involved in the detection of suspicious transactions and, generally, in the training of their staff and had regular contacts with their senior management which helped keep them posted on AML /CFT issues. The situation often appeared weaker for other financial institutions (e.g. lack of compliance officer or insufficient AML /CFT expertise).

582. Efforts have also been undertaken to improve internal audit (on AML /CFT relevant issues). Even in some large banks, significant progress is still needed (e.g. in some cases, the internal audit did not appear to review the activities of the AML /CFT compliance function or to pay sufficient attention to the activities undertaken at the head office, as opposed to those carried out in branches).

583. Considerable efforts have been made both by financial institutions and by the authorities to train staff and thus make an effective implementation of the AML /CFT law and regulations possible. Major Progress has been made in a relatively short period of time. However, even in large banks, it was not uncommon at the time of the on-site mission that only two thirds of relevant staff has received AML /CFT training (not to mention refresher courses). Moreover, in one bank, the MLRO mentioned the very

poor response received until recently from staff in branches when the MLRO requested additional information after identifying an unusual transaction (i.e. a significant part of those requests remained unanswered). Such a situation probably reflects a low priority given to AML /CFT and a lack of awareness of the latter.

584. Training arrangements include in-house and external training. The latter is mainly organized by the Egyptian Banking Institute (EBI) for banks<sup>91</sup>. Some banks rely extensively on the EBI, which offer the advantage of being able to train a large number of people in a relatively short period of time and of including key FATF requirements in a six hour course (or an eighteen hour course for the most advanced one). The EBI efforts are helping quickly bridge the gap between the number of people effectively trained and those needing to be. However, in some cases, institutions appeared to rely too extensively on the EBI. In such cases, staff was not adequately trained as internal processes were not mentioned, specifics of the institution's activity not incorporated and practical risks related to a given position not touched on.

585. Financial institutions which the assessors met indicated that they had screening procedures in place when hiring new employees. It was also mentioned that internal frauds were relatively rare.

586. Egyptian banks have a limited presence overseas. The assessors were only able to identify the presence of Egyptian banks in the US and in the West bank and Gaza. It was not possible to know whether the latter were branches or subsidiaries. No difficulty was mentioned when implementing Egyptian AML /CFT requirements (or more stringent requirements) in foreign branches of Egyptian banks (where appropriate).

### **3.8.2. Recommendations and Comments**

587. Significant efforts have been undertaken by key Egyptian financial institutions in the past few years to appoint skilled MLROs and provide them with adequate powers and resources. Appropriate guidance have been given in regulations issued for banks supervised by the CBE, insurance and securities firms, leasing companies, factoring companies, mortgage finance companies, the Post office as well as money transfer and foreign exchange companies. However, some institutions<sup>92</sup> are only covered by the provisions of the AML law and its Executive regulation and additional enforceable requirements in line with Recommendation 15 need to be defined for them (also see Comments related to Rec. 5 to 8 on this issue).

588. Moreover, significant efforts remain necessary to train all relevant staff (despite the considerable efforts already undertaken in that area). Efforts should be maintained and more attention given to internal trainings. Eventually, the internal audit did not always appear to be sufficiently involved in examining AML /CFT compliance (additional attention through the supervisory process would be welcome and help improve the implementation of existing requirements).

589. The Egyptian authorities should also consider the following detailed amendments to the regulatory framework:

#### **Recommendation 15**

- Set enforceable requirements for AIB, NSB and the CBE :

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<sup>91</sup> The Egyptian authorities indicated that the number of participants, from the banking sector only, that attended AML /CFT programs reached 9,840 in 2007, whereas the number of attendees from other financial institutions amounted to 290 persons”.

<sup>92</sup> Arab international Bank, Nasser social bank, , the Central bank of Egypt as a financial institution

- To establish and maintain internal procedures, policies and controls to prevent ML and FT and to communicate these to their employees. These procedures, policies and controls should cover, *inter alia*, CDD, record retention, the detection of unusual and suspicious transactions and the reporting obligation;
- To maintain an adequately resourced and independent audit function to test compliance (including sample testing) with procedures, policies and controls;
- To put in place screening procedures to ensure high standards when hiring employees.

### Recommendation 22

- Require financial institutions to ensure that their foreign subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (*i.e.* host country) laws and regulations permit; especially
- To pay particular attention that this principle is observed with respect to subsidiaries in countries which do not or insufficiently apply the FATF Recommendations;
- To apply the higher standard, to the extent that local (*i.e.* host country) laws and regulations permit, where the minimum AML/CFT requirements of the home and host countries differ,
- Require Egyptian financial institutions to inform their Egyptian supervisor when their foreign subsidiaries are unable to observe appropriate AML/CFT measures because this is prohibited by local (*i.e.* host country) laws, regulations or other measures.

### 3.8.3. Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
<b>R.15</b>	PC	<ul style="list-style-type: none"> <li>• For financial institutions covered <i>only</i> by the AML /CFT law, insufficient enforceable requirements on AML /CFT internal control and lack of obligations related to internal audit and employee screening</li> <li>• Still insufficient staff training across the financial industry, despite considerable efforts undertaken in that area in the past few years</li> </ul>
<b>R.22</b>	PC	<ul style="list-style-type: none"> <li>• Foreign subsidiaries not required to observe AML/CFT measures consistent with home country requirements</li> <li>• Egyptian financial institutions not required to inform their Egyptian supervisor when their foreign subsidiaries are unable to observe appropriate AML/CFT measures</li> </ul>

### 3.9. Shell Banks (R.18)

#### 3.9.1. Description and Analysis

##### Legal Framework (see 3.2 for more details):

- Law n° 80 promulgating the Anti-money laundering law (the AML /CFT law),

- Executive regulation of the Anti-money laundering law (the AML /CFT Executive Regulation),
- AML /CFT Know your customer rules for banks issued in 2008 by the EMLCU (the EMLCU KYC rules for banks),
- AML /CFT Regulation for banks issued in 2003 by the CBE.

**Prohibition of establishment shell banks (c. 18.1):**

590. Licensing requirements for banks prohibit the establishment of shell banks (see 3.10).

**Prohibition of correspondent banking with shell banks and verification that respondent financial institutions prohibit the use of the accounts by shell banks (c. 18.2 & 18-3)**

591. Neither the AML /CFT law nor its Executive regulation contain specific provisions prohibiting financial institutions from having correspondent banking relationships with shell banks and requiring verification that respondent financial institutions prohibit the use of the accounts by shell banks. The AML /CFT law and its Executive regulation are the only existing requirements for Arab international Bank, Nasser social bank, microfinance institutions, and the Central bank of Egypt (as a financial institution).

592. Section 4-4 of the AML /CFT KYC rules for banks issued by the EMLCU requires banks supervised by the CBE to “refrain from entering into a correspondent relationship with shell banks or banks that provide correspondent services to shell banks”. Banks supervised by the CBE are not explicitly prohibited from continuing correspondent banking relationships with shell banks. No other AML /CFT KYC rules issued by the EMLCU addresses the issue of correspondent banking (e.g. that for the Post office).

**Analysis of effectiveness**

593. There does not appear to be any shell bank in Egypt. Four institutions carry out banking business without being licensed by the CBE (Arab International Bank, Nasser Social Bank, and the Central Bank of Egypt), but are not shell banks within the meaning of FATF<sup>93</sup>. According to the information provided to the assessors, they were established by a law or an international treaty, their beneficial owners are identified and they have operations in Egypt.

594. Based on the interviews the assessors had, the prohibition of correspondent banking with shell banks and the verification that respondent financial institutions prohibit the use of the accounts by shell banks appear to be relatively recent. Banks are in the process of updating their information in that regard, using mainly questionnaires. The banks which the mission met considered that there was a low risk that their correspondent banks may have relationships with shell banks as they were mostly major international banking groups subject to requirements in line with Recommendation 18.

**3.9.2. Recommendations and Comments**

595. The prohibition of correspondent banking with shell banks and the verification that respondent financial institutions prohibit the use of the accounts by shell banks should be extended to all financial

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<sup>93</sup> FATF defines a shell bank as a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision.



institutions which can have correspondent banking relationships (e.g. Arab International Bank, Central Bank of Egypt, Post office etc.).

### 3.9.3. Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
<b>R.18</b>	LC	<ul style="list-style-type: none"> <li>• Only banks supervised by the CBE are prohibited from entering into correspondent relationships with shell banks</li> <li>• No prohibition from continuing correspondent banking relationships with shell banks</li> </ul>

### 3.10. The Supervisory and Oversight system - Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 17, 23, 25 & 29)

#### 3.10.1. Description and Analysis

##### Legal Framework

- AML /CFT law and its Executive regulation;
- EMLCU KYC rules for banks supervised by the CBE, the Post office, insurance companies, securities firms, leasing companies, mortgage finance companies, factoring companies, foreign exchange companies and money transfer companies;
- AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, leasing companies, mortgage finance companies, factoring companies, foreign exchange companies and money transfer companies by their respective supervisors;
- Other relevant general laws and regulations\* applicable to financial institutions (i.e. not AML /CFT related):

**Table 20: Legal Framework for Financial Institutions**

Banking industry (covered by law n° 88)	
- Banks and branches of foreign banks	- Law n° 88 on the central bank, the banking sector and money (2003) - Executive Regulations n° 101 of the law on the central bank, the banking sector and money (2004)
Other deposit taking institutions	
- Post office	
- Arab international Bank	- Decree of the President of the Arab Republic of Egypt n° 547 establishing Arab International Bank (1974)
- Nasser social bank	
Insurance industry	

- Life insurance companies (figures refer to policy holders rights)	- Law on the supervision and control of insurance (document neither numbered nor dated) - Law n° 118 amending the law on the supervision and control of insurance (2008) - Executive regulation n° 362 on the supervision and control of insurance (1996)
- Insurance brokers	
- Pension funds (private insurance funds)	- Law n° 54 on private insurance funds (1975) - Executive regulation n° 78 of the law on private insurance funds (1977)
Securities industry	
- Brokers	
- Securities promoters and underwriters	
- Mutual funds	
- Fund management companies	- Law n° 95 on capital markets (1992)
- Venture capital firms	- Executive regulation of the capital market law n° 95 (1998)
- Private equity firms	
- Custodians	
- Central securities depository and registry	
Other financial institutions	
- Foreign exchange dealer companies	- Law n° 88 on the central bank, the banking sector and money (2003) –currently do not cover money and value transfer companies
- Money and value transfer companies	- Executive Regulations n° 101 of the law on the central bank, the banking sector and money (2004)
- Factoring companies	
- Leasing companies	
- Microfinance institutions	
- Mortgage finance companies	- Law n° 148 on real estate finance (2001)
- Entities specializing in mortgage securitization	- Executive regulation of the law n° 148 on real estate finance (2001)
- Central bank of Egypt (CBE)	- Law n° 88 on the central bank, the banking sector and money (2003) - Executive Regulations n° 101 of the law on the central bank, the banking sector and money (2004)

\* Only laws and regulations which were made available to the assessors are mentioned here.

### **Regulation and Supervision of Financial Institutions (c. 23.1 & 23.2)**

596. The AML /CFT law, and its Executive Regulation, establishes that:

- Prudential supervisors<sup>94</sup> are in charge of ensuring that the institutions they supervise comply with AML /CFT requirements (Art. 7-1 of the AML /CFT law). Article 1 of the AML /CFT Executive regulation spells out in detail the institutions which each prudential supervisor has to oversee (see table below);
- The EMLCU also has some supervisory responsibilities. However, the wording of the AML /CFT law and of its Executive regulation are not as clear cut as for prudential supervisors: (i) for those institutions which have a prudential supervisor, the EMLCU’s role is mainly to coordinate with the latter (Art. 15, 20 and 21 of the AML /CFT Executive Regulation) and make sure prudential supervisors properly discharge their duties and (ii) for those few institutions which do not have a

<sup>94</sup> Throughout the report, the term “prudential supervisor” refers to those institutions which the AML /CFT law and its Executive Regulation define as “supervisory authorities”.

prudential supervisor<sup>95</sup>, the Egyptian authorities consider that the EMLCU is entrusted by the AML /CFT law, and its Executive Regulation, to be their sole AML /CFT supervisor. The assessors do not have information contradicting this analysis.

- Article 7-2 of the AML /CFT law requires that the EMLCU make sure that both prudential supervisors and financial institutions comply with AML /CFT requirements. According to the analysis presented to the assessors by the Egyptian authorities, where there is no prudential supervisor, the EMLCU directly has to ensure that those institutions comply with AML /CFT requirements where there is no prudential supervisor, and is thus empowered to be their supervisor for AML /CFT purposes;
- Article 3-13 of the AML /CFT Executive Regulation mentions that the EMLCU has to ensure, in coordination with prudential supervisors, that financial institutions implement its regulations on customer identification. It therefore gives it a supervisory mandate, but only in the specific area of customer identification.

**Table 21: Financial Industry and Primary Supervisors for AML/CFT**

<b>Structure of the financial industry</b>	<b>Primary supervisor for AML /CFT purposes</b> (Legal basis)
<b>Banking industry (covered by law n° 88)</b>	
- Banks and branches of foreign banks	CBE (art. 1 AML /CFT Executive Reg.)
<b>Other deposit taking institutions</b>	
- Post office	Ministry of communications and information technology (art. 1 AML /CFT Executive Reg.)
- Arab international Bank	EMLCU
- Nasser social bank	
<b>Insurance industry</b>	
- Life insurance companies	EISA (art. 1 AML /CFT Executive Reg.)
- Insurance brokers	
- Pension funds (private insurance funds)	
<b>Securities industry</b>	
- Brokers	CMA (art. 1 AML /CFT Executive Reg.)
- Securities underwriters	
- Mutual funds	
- Fund management companies	
- Portfolio management companies	
- Venture capital firms	
- Private equity firms	
- Custodians	
- Central securities depository and registry	
<b>Other financial institutions</b>	
- Foreign exchange companies	CBE (art. 1 AML /CFT Executive Reg.)
- Money and value transfer companies	
- Factoring companies	General Authority for Investment and free zones

<sup>95</sup> Arab International Bank, Nasser Social Bank, and the Central Bank of Egypt (as a financial institution) .

- Leasing companies	(art. 1 AML /CFT Executive Reg.)
- Mortgage finance companies	MFA (art. 1 AML /CFT Executive Reg.)
- Entities specializing in mortgage securitization	
- Central bank of Egypt (CBE)	EMLCU

597. The AML /CFT Executive Regulation defines the regulatory powers of the prudential supervisors and of the EMLCU in the AML /CFT domain:

- The prudential supervisors can issue any regulation which they deem necessary to implement the AML /CFT law and its Executive Regulation (Article 20<sup>96</sup> of the AML /CFT Executive Regulation). They have to coordinate with the EMLCU when establishing such regulations;
- The EMLCU is only responsible for issuing regulations related to customer identification (Article 3-13<sup>97</sup> of the AML /CFT Executive Regulation). For those few cases where the EMLCU it is the sole AML /CFT supervisor, its regulatory powers remain limited to customer identification only.

### **Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3.1)**

598. The following comments are based on the review of relevant law and their Executive regulations (which contain some detailed elements related to fit and proper criteria) and on information obtained during meetings with supervisors (see Annex 2 for a detailed list of the meetings held). The assessors did not have access to any specific regulations related to licensing (nor to internal methodologies used by the different supervisors).

599. Supervisors have to review that the owners, directors and senior managers of banks supervised by the CBE, insurance companies and securities firms do not have criminal records and have adequate skills and experience (e.g. art. 5 of the executive regulation of the banking law for the banks supervised by the CBE and art. 135 of the executive regulation of the capital market law for the securities firms). However, there is no requirement for them (i) to take into account disciplinary or administrative sanctions which those persons may have faced and (ii) to get in touch with foreign supervisors where appropriate (i.e. where the person was previously working for a foreign institution). In practice, the assessors were informed that the CBE organize interviews with applicants as a routine practice. Bank, securities and insurance supervisors also appear to rely on extensive background checks for Egyptian applicants, involving in some cases the Ministry of interior or intelligence services. For non residents, background

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<sup>96</sup> Article 20 reads: “each supervisory authority, in coordination with the Unit [the EMLCU] shall set regulations for financial institutions and other entities supervised thereby in the field of policies and plans of combating money laundering and terrorism financing, define the obligations such institutions and entities have to fulfill to enforce such regulations, develop and update such regulations to cope with local and international developments”.

For the avoidance of doubt, it should be stressed that “other entities” refer only to “other entities defined by a Prime Minister Decree determining their obligations and the entities responsible for supervising thereof” (Article 1 of the AML /CFT Executive Regulation). Only some designated non financial business and professions were defined as other entities by a prime minister decree (see section 4 for more details on the latter).

<sup>97</sup> Article 3-13 empowers the EMLCU to set “the rules to be used in establishing the identity and the legal status of customers and beneficial owners, for natural and legal persons, through legal identification documents”.

checks are less systematic (e.g. former employers abroad or foreign references appear to be very rarely contacted).

600. Detailed information on significant shareholders and beneficial owners are also required for banks supervised by the CBE<sup>98</sup>, insurance and securities firms (at the licensing stage and on an ongoing basis). There are partial requirements related to the transparency of ownership of beneficial ownership for banks supervised by the CBE<sup>99</sup> and none for insurance and securities firms.

601. No information is required by law or regulation on the fitness and propriety of owners, directors and senior managers of institutions which carry out banking activities but are not supervised by the CBE (e.g. Arab International Bank, Nasser Social Bank etc.). Similarly, no information is required on significant shareholders and beneficial owners of those institutions.

#### **Application of Prudential Regulations to AML/CFT (c. 23.4)**

602. Article 20 of the AML /CFT Executive Regulation reads: “each supervisory authority, in coordination with the unit [EMLCU], shall set regulations for financial institutions and other entities supervised thereby in the field of policies and plans of combating money laundering and terrorism financing, define the obligations such institutions and entities have to fulfill to enforce such regulations, develop and update such regulations to cope with local and international developments”.

#### **Licensing or Registration of Value Transfer/Exchange Services (c. 23.5)**

603. Article 115 bis of the Banking Law provides that money transfer companies should be licensed by the Central Bank.

#### **Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6)**

604. (See c. VI.3)

#### **Guidelines for Financial Institutions (c. 25.1)**

605. The AML /CFT Regulation for banks supervised by the CBE, insurance companies, securities firms, the Post office, mortgage finance companies, leasing companies, factoring companies, foreign exchange companies and money transfer companies by their respective supervisors issued in 2003 include guidelines which aim at assisting covered financial institutions to identify unusual and suspicious transactions (Section 7). Detailed red flags (four pages) are provided both for terrorism financing and for

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<sup>98</sup> e.g. the banking law (Art. 51) requires the CBE approval of persons who own more than 10% of the issued capital of any bank or any percentage leading to actual control over the bank, thereby implying that ownership over 10% is considered “significant”. “Actual control” is defined by ownership of any legal or natural person the ownership of which would allow such person to appoint the majority of board members or influence, in any manner, the decisions to be issued by the board. Common ownership, for purposes of control, extends to family members to the fourth degree and to legal persons and the related directors and shareholders.

<sup>99</sup> Article 12 of the Executive regulation of the law on the central bank, the banking sector and money also mentions that “when examining applications for approving the ownership by any natural or legal person of more than (10%) of the issued capital of any bank, or any percentage leading to actual control over that bank according to the provisions of Article (51) of the Law, the Board of Directors of the Central Bank shall observe the following: [...] the extent of participations by the applicant and the connected parties in the bank to which the applicant applies for ownership of its shares, as well as its participation in other banks and financial institutions in Egypt”.

money laundering (including in the latter case specific paragraphs on cash transactions, large and complex transactions, transfers, letters of credit, letters of guarantees, credit, credit cards, foreign exchange transactions and travelers checks and safe deposit services). According to the information provided to the assessors, these red flags have been updated in 2008.

#### **Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1)**

606. The AML /CFT law and its Executive regulation clearly require prudential supervisors to carry out AML /CFT supervision on the institutions they supervise (art. 7 of the AML /CFT law<sup>100</sup> and art. 19 of the Executive regulation in particular). Article 19 is very clear in that regard stating that: “each supervisory authority is obliged to establish and provide the means necessary for ensuring that financial institutions and other entities it supervises comply with systems and rules prescribed by law to combat money laundering and terrorism financing, in accordance with the nature of such institutions’ and entities”.

607. See description related to criteria 23-1 and 23-2 for what concerns financial institutions which supervisors are not identified in the AML /CFT law.

#### **Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2)**

608. Laws and regulations clearly powers to conduct on-site examinations to prudential supervisors. For the EMLCU, it appears to come under its powers to access information necessary to discharge its duties. Although the basis giving power to conduct on-site examinations is not as clear cut for the EMLCU as for prudential supervisors, the EMLCU indicated that it had adequate powers and that it was demonstrated by the fact that was effectively undertaking on-site examinations. The assessors do not have element which would lead them to question this approach.

609. Almost half the banks are examined every year by the CBE for prudential purposes<sup>101</sup>. Annual examination plans are prepared including AML /CFT relevant inputs (e.g. using inputs from the EMLCU on STRs, information contained in reports regularly filed by MLROs etc.). AML /CFT on-site examinations in banks generally involve three people for two to three weeks. The CBE never encountered any difficulty to access bank information. Sample transactions are reviewed during on-site examinations. The main shortcomings identified in banks are (i) a lack of proper training, either for the MLRO or for the staff and (ii) some missing customer identification documents. It is unclear whether CBE examiners have access to STRs during their on-site examinations. During their mission in Egypt, the assessors were repeatedly informed by CBE examiners that they did not have access to STRs when conducting an on-site examination. After the on-site mission, the Egyptian authorities emphasized that CBE examiners could access such information. Indeed, there is no legal or regulatory provision which would prohibit such an access.

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<sup>100</sup> Article 7 of the AML /CFT law reads: “entities assigned by different laws and systems to supervise financial institutions shall establish and provide adequate means for ensuring that institutions comply with the systems and rules prescribed by the law for combating money laundering or terrorism financing, including the reporting of transactions suspected of involving money laundering or terrorism financing”.

<sup>101</sup> As mentioned in the 2006 /2007 annual report of the CBE, “an examination plan for 2007 was designed to cover a number of banks holding more than half of the assets of the banking system. According to this plan, the examination of any of these banks should be completed within two years, and priority is given to banks with high exposures”.

**Table 22: AML /CFT on-site examinations undertaken by the CBE during fiscal year 07-08\***

	Number of on-site examinations	Comments
Banks	21	6 AML /CFT only examinations 15 full scope examinations with an AML /CFT component
Foreign exchange bureaus	283	
Including casinos	10	
Money transfer companies	8	
Total	312	

Source: CBE

\* July 2007 to June 2008

610. The CMA has recently stepped up its efforts to strengthen its AML /CFT supervision (both through “sudden” and periodic inspections of brokerage firms). Significant shortcomings have been identified and sanctions taken. At the time of the on-site mission, these efforts were still focused on brokers and not all brokers’ activities had yet been examined on-site for AML /CFT purposes.

**Table 23: On-site Examination Including AML/CFT Component for securities firms**

	2004	2005	2006	2007
Number of on-site examinations including AML/CFT component	70	22	64	98
Number of cases involving sanctions for AML/CFT related violation *	19	10	25	12

Source: EMLCU

611. The EISA undertakes on-site missions which cover AML/CFT among other issues all insurance companies every year. According to EISA, “a quarterly examination mission is conducted by EISA supervisors and also whenever deemed necessary, according to RBS approach” [Risk based supervision approach]. There appears to be limited interactions with the staff of the insurance firms during on-site examinations, which alter the quality of this work (i.e. most of the work relate to the examination of documents without discussing them with the staff of the company, unless major shortcomings are identified).

612. The Ministry of Communications and Information Technology only has AML /CFT supervisory responsibilities (i.e. it is responsible for no other prudential issues). It has a team of four AML /CFT examiners, which conduct on-site examinations. Six large branches are examined every year during missions which typically last two weeks. The few shortcomings identified during on-site examinations were related to (i) wrong or missing customer addresses and (ii) records only showing part of the name of a person.

613. For what concerns the institutions covered by the EMLCU, the mission was informed that one or two missions had been undertaken during the past 12 month at Arab International Bank. These missions lasted one or two days, which appears very short, and no shortcomings were identified. The assessors

were not informed that any examination was undertaken for the other financial institutions which the EMLCU is meant to supervise.

### **Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1)**

614. The CBE, EISA and CMA have clear powers to compel the production of records where necessary.

### **Powers of Enforcement & Sanction (c. 29.4& 17-1 to 17-4)**

#### Criminal and civil sanctions

615. The AML /CFT law (art. 15) contemplates sanctions when its articles 8, 9 and 11 are not complied with (i.e. failure to report suspicious transactions (art. 8), failure to create adequate systems for identifying customers and beneficial owners (art. 8), failure to comply with the prohibition to open or maintain anonymous accounts or accounts under false or fictitious names (art. 8); failure to keep adequate records of transactions and customer identification (art. 9) or tipping off a customer (art. 11)).

616. In such cases, the sanctions are jail and /or a fine of EGP 5,000 to 20,000 (approximately USD 900 and 3,700). Such sanctions can be applied to any person violating the aforementioned articles of the AML /CFT law (i.e. both legal and natural persons). Fines appear very low, especially when compared to the thresholds above which occasional customers have to be identified (EGP 50,000, approximately USD 9,000 in the case of banks supervised by the CBE).

617. These sanctions apply to natural persons (with the possibility of a joint responsibility of the legal persons for paying fines). In regard to the liability of a legal person, according to the Egyptian legal system, the company as "moral" judicial person cannot be subject of any criminal prosecution nor penalties. In other words, the company cannot be prosecuted in a similar way as an individual offender (see Rec. 2). Article 16 of the AML /CFT law reads: "where the crime is committed by a legal person, the natural person responsible for actual management of the violating legal person shall be penalized by the same penalties stipulated for the acts committed in violation of the provisions of this law, if knowledge thereof is established, and the crime is committed as a result of the violation of the job duties of such person. The legal person shall be jointly liable for the payment of any financial penalties and damages if the crime committed in violation of this law is perpetrated by one of its staff in its name and interest. The court shall ordain publication of the verdict at the expense of the legal person in two daily widespread newspapers. The court may order suspension of the activity of the legal person for a period not exceeding one year."

618. According to the information provided to the assessors, the sanctions defined by articles 15 and 16 of the AML /CFT law have never been used.

#### Administrative sanctions

619. For any other AML /CFT shortcoming than those contemplated by the AML /CFT law, supervisors can use their *general* powers to impose sanctions (i.e. for prudential purposes in most cases). Article 23 of the Executive regulation indeed reads: "each supervisory authority [prudential supervisor] shall take [...] the necessary action prescribed for violating any of these provisions in accordance with the relevant laws and systems. The penalties prescribed in the law *do not prohibit* the application of the administrative penalties prescribed in the law and systems related to the violating financial institutions".

620. The CBE, CMA and EISA have powers to impose sanctions which range from lodging a warning (caution) to dismissing the senior management or withdrawing a license. Powers to impose fines are fairly



limited and do not appear to encompass shortcomings in AML /CFT frameworks<sup>102</sup>. The assessors were informed that the CBE, CMA and EISA are allowed to make their sanctions public (but not all sanctions have to be made public). In practice, only the CMA appears to regularly publish its sanctions (one AML /CFT sanction is mentioned on its website).

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<sup>102</sup> The Egyptian authorities emphasized the wide range of sanctions available to the prudential supervisors (CBE, CMA, EISA etc.) and their track records in using them (for violations of prudential regulations and AML /CFT regulations, as described below for the latter):

For banks supervised by the CBE, "Article 135 of the same law stipulates " Without prejudice to the penalties and other sanctions stated in this Law, or any other law, in case a bank is found to violate the provisions of this Law, the statutes of the Central Bank or decisions issued by its Board of Directors, the said Board may take any of the following measures:

- Obligate the violating bank to deposit non-interest bearing balances at the Central Bank, for the period it chooses, in addition to the credit balance stipulated in Article (74) of this Law.
- Reduce or suspend the credit facilities granted to the violating bank
- Prevent the violating bank from conducting certain transactions, or limit the size of the credit offered thereby.

For securities firms, Article 31 [of the Capital Market Law promulgated by Law 95/1992] states as follows: "The Authority's Board of Directors may take any of the following measures in case of an emerging danger affecting the stability of the capital market, or the company's shareholders interest, or the interest of the people who are dealing with such a company:

- give an admonition to the company.
- prevent the company from performing part or all of its licensed activities.
- The company's chairman is called upon to convene a board meeting to look into law violations with which the company is charged, and to take necessary measures to remove the same. The meeting should be attended by one or more officials representing the Authority.
- Appointing an observer on the board of the company for a period to be specified by the Authority's Board, and he shall take part in the board discussions and record his opinion on decisions taken.
- Dissolve the board of the company and appoint commissioner to manage the company temporarily until a new board is appointed in accordance with the governing laws in this respect.
- Obligate the infringing company to increase the amount of insurance paid.

In addition, the CMA publishes any sanctions it imposed on any of the securities firms on its website and on the exchange's screen."

Art. 59 of the insurance law states that "the board of the Authority is authorized to take the corrective action and in particular: a) to warn the company, b) to limit the company's, acceptance of new business, or renew its existing business in respect of all or some classes of insurance which the company is authorized to transact, c) to oblige the company to prepare the financial statements and annual accounts for periods less than a year, d) to invite the board of directors of the company to study and to take the required action to eliminate the irregularities attributed to the company. In such case a representative of the Authority or more shall attend the meeting of the board, e) to appoint a controller in the board of directors of the company for a period determined by the board of directors of the Authority. The controller shall have the right to share the discussions of the board, and to express his views in the presented issues without having voting counted, f) to allocate the distributable surplus to the shareholders or part of it to strengthen the net assets of the company, g) to amend the investment policies and reinsurance arrangements of the company, h) to separate one or more of the executives of the company and i) to disintegrate the board and appoint a delegator to run temporarily the company until the appointment of the new board."

621. The EMLCU does not appear to be able to impose administrative sanctions on the institutions which it considers to be within its remit (i.e. Arab International Bank, Nasser Social Bank, Central Bank of Egypt and microfinance institutions). The EMLCU is indeed not a “supervisory authority” as defined by the AML /CFT law and is not empowered by any law to impose “administrative penalties”.

622. Similarly, the Ministry of Communications and Information Technology does not appear to have the power to impose administrative sanctions to the Post office. The assessors were informed that the Minister of Communications and Information Technology could decide on remedial measures the Post office would have to implement, should shortcomings be identified. Some conflicts of interests exist. The Minister has control over the Post office (being its sole owner), a situation of ownership, which is different from that of a supervisor. The above mentioned action has never been taken.

623. Administrative sanctions have been imposed by the CBE for banks, the CMA for brokers and the EISA for insurance companies. Sanctions imposed by the CBE and EISA have mainly targeted MLRO, rather than the institutions which they were working for. No fine for AML /CFT shortcomings was ever imposed. According to the information provided to the assessors, only one sanction has been made public (by the CMA).

**Table 24: Overview of AML/CFT Administrative Sanctions Imposed by Supervisors**

Overview of AML /CFT administrative sanctions imposed by supervisors\*

<b>Supervisor (supervised financial institutions )</b>	<b>Shortcomings identified - Nature and scope of the sanctions - Date</b>
<b>CBE</b> (banks, foreign exchange companies, money transfer companies)	- Lack of independence of the MLRO, insufficient updating of KYC and lack of review of unusual transactions by the MLRO - <b>Dismissal of the MLRO</b> - 2007 and 2008 (two cases)
<b>EISA</b> (Insurance industry)	- Lack of transmission of AML /CFT reports to the EISA - <b>Warning of the MLRO</b> - dates not available (2 cases) - Lack of identification of beneficiaries of insurance policies - <b>Warning of insurance companies</b> - dates not available (many cases)
<b>CMA</b> (Securities industry)	- Incomplete files (ID and KYC forms) - <b>Warning of the broker</b> - dates not available (2 cases)
<b>Ministry of communications and information technology</b> (Post office)	No sanction
<b>MFA</b> (Mortgage finance companies and entities specializing in mortgage securitization)	No sanction
<b>GAIF</b> (leasing and factoring companies)	No sanction
<b>EMLCU</b> (Arab international Bank, Nasser social bank, microfinance institutions, CBE)	No sanction

\* Based on interviews of the CBE, EISA, CMA, Ministry of communications and information technology, MFA and EMLCU (the assessors did not have access to copies of sanctions)

### **Adequacy of Resources for Competent Authorities (c. 30.1)**

624. There are clear provisions in the AML /CFT Executive regulation which require that prudential supervisors dedicate adequate resources to AML /CFT supervision (Art. 19 and 21). Such provisions do not apply to cases where the EMLCU is the sole AML /CFT supervisor.

625. Both the CBE, the CMA and the EISA have significant supervisory resources<sup>103</sup> (which are dealing with all prudential issues, including AML /CFT). The CBE appears to have significant AML /CFT specific resources and the CMA to be stepping up its efforts in that area. Although the EISA has fraud and AML /CFT experts, the latter appear to be almost exclusively dedicated to fraud issues.

626. According to the information provided to the assessors, the EMLCU does not have full time staff dedicated to AML /CFT supervision and punctually dedicate some of its staff to supervision (e.g. on-site examination) when necessary.

**Table 25: Supervisory Authorities and their Staff for AML/CFT**

<b>Supervisor (supervised financial institutions )</b>	<b>Supervisory staff (Staff dedicated to AML /CFT only)</b>
<b>CBE</b> (banks, foreign exchange companies, money transfer companies)	430 people, including 100 off-site banking supervisors and 60 examiners (4 AML /CFT specialists)
<b>EISA</b> (Insurance industry)	280 people, including 30 on-site examiners (5 AML /CFT and fraud specialists)
<b>CMA</b> (Securities industry)	400 employees, including 25 on-site examiners (no AML /CFT specialists)
<b>Ministry of communications and information technology</b> (Post office)	4 on-site examiners
<b>MFA</b> (Mortgage finance companies and entities specializing in mortgage securitization)	137 people, including 16 off and on-site supervisors and 6 people dedicated to licensing (no AML /CFT specialists)
<b>EMLCU</b> (Arab international Bank, Nasser social bank, factoring and leasing companies, microfinance institutions, CBE and National investment bank)	No specific staff dedicated to supervision, i.e. one person involved when necessary (total staff of 40, dedicated to AML /CFT see 2.6)

Source: CBE, EISA, CMA, Ministry of communications and information technology, MFA and EMLCU

### **Integrity of Competent Authorities (c. 30.2)**

627. Background checks are performed by the CBE, CMA, EISA and EMLCU before hiring new staff. Those institutions also have adopted code of ethics for their staff. The assessors were not informed of any significant cases of internal frauds within these supervisory agencies.

### **Training for Competent Authorities (c. 30.3)**

628. Article 3-15 of the AML /CFT Executive regulation states that the EMLCU is responsible for “contributing to the preparation and implementation of [training programs] for the staff of supervisory authorities, other competent authorities prescribed by the law and financial institutions either on its own or with the assistance of local and foreign specialized training centers and entities”. Similar provisions are to be found in Article 15-11 of the AML /CFT Executive regulation.

<sup>103</sup> The assessors were informed that the CBE had increased its IT resources which totaled at the time of the onsite mission 500 desktops and 100 laptops.

629. The supervisors which the mission met appeared to have received trainings from the EMCLU and other institutions (including the EBI and foreign counterparts) targeted on AML /CFT supervision. No comprehensive statistics on trainings was available at the time of the on-site mission<sup>104</sup>.

### **Statistics (applying R.32)**

630. At the time of the on-site mission, some statistics were available. Statistics which were communicated to the assessors included (i) STRs filed by banks, insurance companies and other entities (see. The analysis of effectiveness of Recommendation 13), (ii) number and assets of the main financial institutions and (iii) number of examinations undertaken for banks supervised by the CBE, securities firms and mortgage finance companies (as well as the number of shortcomings identified). These statistics are useful but neither comprehensive nor sufficiently detailed. Moreover, it appeared difficult to access more detailed information when necessary.

### **3.10.2. Recommendations and Comments**

631. Significant efforts have been made to supervise banks and, more recently, brokers, and those efforts need to be sustained and extended to other institutions. Both the CBE (for banks) and the CMA (for brokers) have stepped up their AML/CFT supervision, put in place specific off and on-site supervisory arrangements, identified some significant shortcomings and taken supervisory actions (e.g. dismissal of MLROs and prohibition of new branches' openings by the CBE in 2007). Those efforts need to be maintained to foster an effective implementation of AML/CFT requirements. A more frequent public release of sanctions could also foster the implementation of AML /CFT requirements. Moreover, AML/CFT supervision still appears too limited for life insurance, foreign exchange bureaus and money transfer companies.

632. Supervisory arrangements for financial institutions which are not covered by proper implementing regulations (Arab International Bank and al.) need to be improved as the EMCLU currently does not have a strong mandate to do so (e.g. it cannot issue all necessary regulations, which appropriate sanctions attached to them) and only dedicate limited resources to supervision. Similarly, supervisory arrangements for the Post office need to be strengthened as the Ministry of Communications and Information technology does not have powers to take sanctions and does not enjoy sufficient independence.

633. More precisely, the Egyptian authorities should consider the following measures:

- Clarify the supervisory responsibilities of the EMLCU, which include giving it adequate powers to issue all relevant regulations and impose sanctions where appropriate;
- Revisit regulatory arrangements for the Post office to make sure that AML /CFT supervisor (i) has adequate independence (i.e. it is currently supervised by its owner) and (ii) has adequate powers to issue regulations and impose sanction where appropriate;
- Establish licensing requirements for Arab International Bank, Nasser Social Bank as well as the CBE, at a minimum for directors and senior managers ;
- Formalize and strengthen further the existing licensing process for banks, insurance and securities companies (including the review of the fitness and propriety of non residents and the transparency of ownership of applicants and of their beneficial owners);

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<sup>104</sup> E.g. Dates of training, number of people trained, issues covered etc.

- Issue guidelines for the Central bank of Egypt;
- Review the level of financial sanctions created by the AML /CFT law which appear very low;
- Broadens the examination of securities firms beyond brokers (as was contemplated by the CMA at the time of the on-site mission);
- Strengthen the supervision of insurance companies;
- Strengthen the process of collecting supervisory statistics so that the EMLCU be effectively in a position to ensure that proper supervision is implemented across the financial industry;
- Clarify that all examiners (including those of the CBE) can have access to STRs when undertaking on-site examinations (as the current framework appears to create potential ambiguities in that regard).

634. With a view of strengthening further the dissuasiveness of the AML /CFT regime, the Egyptian authorities could also usefully contemplate (i) making sanctions more regularly public to make them more dissuasive (especially as the experience of the CMA appears successful in that matter) and (ii) create specific AML /CFT administrative financial sanctions which could be used by supervisors where AML /CFT shortcomings are identified.

### 3.10.3. Compliance with Recommendations 17, 23, 25 & 29

	Rating	Summary of factors underlying rating
<b>R.17</b>	PC	<ul style="list-style-type: none"> <li>• Lack of criminal liability of legal persons and very low financial sanctions contemplated by the AML /CFT law</li> <li>• Lack of administrative sanctions for some institutions (e.g. Arab International Bank, Post office etc.)</li> <li>• Administrative sanctions not adequately dissuasive (e.g. no appropriate administrative financial sanctions)</li> </ul>
<b>R.23</b>	PC	<ul style="list-style-type: none"> <li>• Licensing requirements: lack of requirements for the three banks not supervised by the CBE and incomplete requirements regarding the transparency of ownership of other financial institutions</li> <li>• Lack of enforceable AML /CFT regulations for AIB, NSB and the CBE (i.e. no dissuasive and proportionate sanctions)</li> <li>• Too limited AML/CFT supervision for life insurance, foreign exchange bureaus and money transfer companies</li> </ul>
<b>R.25</b>	PC	<ul style="list-style-type: none"> <li>• Lack of comprehensive regulatory powers for the EMLCU for the three banks not supervised by the CBE</li> </ul>
<b>R.29</b>	PC	<ul style="list-style-type: none"> <li>• Lack of adequate supervision for insurance companies and financial institutions only covered by the AML /CFT law (Arab International Bank, Nasser social bank and the Central Bank of Egypt)</li> </ul>

### **3.11. Money or Value Transfer Services (SR.VI)**

#### **3.11.1. Description and Analysis**

##### **Legal Framework**

635. Entities engaged in money or value transfer services were originally licensed and supervised by the Ministry of Economy and Foreign Trade. The Experts General Administration of the Ministry used to carry out examinations on the 2 MVT companies licensed by the Ministry. In 2001, the role of the Ministry with respect to supervision of MVT companies was terminated by the Decree No. 415. Subsequently, the Prime Minister's Decree No. 245 was issued in 2002, delegating supervision of MVT companies to the Governor of the CBE and to exercise the powers of the competent Minister specified according to Law No. 38 of 1994.

636. The Law 88 (the Banking Law), and its Executive Regulations in 2003 further provide the CBE with powers on the licensing and supervision of money transfer companies. The Banking Law authorizes and governs entities which carry out all foreign exchange transactions including inward and outward transfers and stipulates that the CBE may grant licenses to money transfer companies<sup>105</sup>. There are also provisions with regard to obligations for entities specific to the money transfer activities.

637. Money transfer companies are covered by the AML/CFT regulations for money transfer entities by the CBE and KYC rules for money transfer entities issued by EMLCU.

638. There are only two licensed money transfer companies: Sphinx Trading as an agent of MoneyGram, and International Business Associates (IBA) as an agent of Western Union, operating in Egypt. These two money transfer companies were licensed by the Ministry of Economy and Foreign Trade, then the responsible authority for MVT, by virtue of the Prime Minister's Decree of 1995. While these two companies were brought under supervision of the CBE in 2003, they continue to operate by virtue of the license issued by the Ministry. Legally, new requirements for entities operating foreign exchange and money value transfer businesses as stipulated in the Banking Law, do not to apply to these companies.

639. Given the policy decision on the part of the Government to bring the money value transfer entities under strict CBE supervision, MVT companies will continue to be covered under the CBE supervisory framework, whereby they are required to observe the AML/CFT requirements issued by the CBE and the EMLCU. Accordingly, CBE officials agreed on the need for clarity in the legal basis for CBE as the competent authority for licensing and supervision of MVT companies.

640. Notwithstanding this complexity on the legal framework for licensing and supervision of MVT companies, the AML/CFT Law and its AML/CFT Executive Regulations do include entities engaged in money transmission activities as financial institutions. The AML/CFT Executive regulations provide the CBE with the power to issue regulations and guidelines to MVT companies on AML/CFT.

641. Accordingly, AML/CFT regulations for money transfer entities, issued by the CBE, stipulate requirements relating to compliance with KYC rules, obligations and qualifications of money laundering and terrorist financing reporting officer, procedures for reporting suspicious transactions, record keeping, AML training, and AML/CFT red flags. The KYC rules for money transmission companies, issued by

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<sup>105</sup> Article 115 (bis) Banking Law

EMLCU, also stipulate the requirements and procedures for customer and beneficial owner identification and verification; constant monitoring of transactions; and putting in place risk management systems.

642. The main operation of MVT companies is the transfer of remittances, namely payments to families of Egyptians working abroad. As of 2005, there were 2.4 million Egyptian nationals living abroad, mainly in Saudi Arabia, Libya, and the United States. Recently, destinations of Egyptian workers in the Gulf countries have shifted to the United Arab Emirates and Qatar. According to the CBE, the total amount of remittance inflows is estimated to reach USD 8 billion in 2008 (compared to USD 6.4 billion in latest official data at end 2006.)

643. Only restricted money transfer services are permitted by the CBE. Money transfer companies are allowed to disburse in a single currency, which is the U.S. Dollar. Money transfer companies are allowed to pay out cash up to USD 5,000.

644. In addition to Western Union and MoneyGram, other financial institutions providing money transfer services are the Egyptian banks and the Egyptian Post. Egyptian banks offer money transfer services through partnership with money transfer companies and money exchangers abroad, mainly for transfers from the Gulf countries (e.g. Kuwait, Bahrain, Saudi Arabia, and UAE) and Jordan, where Egyptian migrants reside. Remittance services offered by Egypt Post are currently limited to domestic transfers. Egypt Post is planning on expand to cross-border remittance services through Universal Postal Union's International Financial System (IFS) network. The Ministry of Information and Communication supervises Egypt Post.

#### **Designation of Registration or Licensing Authority (c. VI.1)**

645. The Article 115 (bis) of the Banking Law provides that the CBE is the competent authority to grant licenses for money transfer companies. However, the two money transfer companies were granted licenses by the Ministry of Economy and Trade, then the competent authority. MVT companies are designated as financial institutions under the AML Law and the Executive Regulations of EMLCU are applied to these companies. Banks providing money transfer services operate by virtue of license under the Banking Law. In the case of Postal Services, they are supervised by the Ministry of Communication and Information and subject to the AML/CFT rules.

#### **Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23, & SRI-IX)(c. VI.2)**

646. AML/CFT Regulations for money transfer entities and KYC rules for money transfer companies require money transfer companies to comply with the FATF Recommendations. With respect to KYC requirements, money transfer companies obtain a copy of the national ID for a natural person and a copy of corporate registry certificate of a company and a national ID of a representing person for a legal person. The same requirements for the identification of legal persons are applied, as indicated in c.5.4. These companies are required to keep records for not less than five years from the date the transaction is completed. With respect to R. 13 and R. 15, one of the companies has never submitted an STR and does not establish an on-going employee training.

#### **Monitoring of Value Transfer Service Operators (c. VI.3)**

647. The CBE conducts onsite and offsite examinations on licensed MVT companies. Examiners visit each outlet of licensed MVT companies approximately every three months. In case, outlets are in banks, examinations are conducted at the time of bank examinations. Examiners assess policies and procedures, records of all transactions with copies of IDs, compliance with AML/CFT, staff training, unusual and suspicious transactions.

648. The National Postal Authority, the postal administration, supervises post offices for AML/CFT through internal control mechanisms. (Please see Supervision section.). In the case of the Arab International Bank, AML supervision is effected by EMLCU.

#### **List of Agents (c. VI.4)**

649. The CBE maintains lists of all branches of licensed MVT companies and visits every branch of the money transfer companies for onsite supervision purposes. Licensed money transfer companies have in total 39 outlets (1 Sphinx Trading and 38 IBA). Other outlets of MoneyGram and Western Union are the bank branches of National Societe General Bank and the Arab International Bank.

#### **Sanctions (applying c. 17.1-17.4 in R.17)(c. VI.5)**

650. The CBE can penalize those who violate any provisions of Article 113 of the Banking Law. Those violating the Law shall be liable to a fine of not less than ten thousand pounds, and not more than twenty thousand pounds.<sup>106</sup> However, no sanctions have been applied to money transfer companies, and no case of illegal money transfer operators have been reported to CBE.

#### **Additional Element—Applying Best Practices Paper for SR VI (c. VI.6)**

651. Some international best practices are observed. AML/CFT Regulations for Money Transfer Entities require money transfer companies to conduct customer identification, record keeping, suspicious transaction reporting. Frequent onsite examinations of all outlets ensure that the companies comply with the AML/CFT regulations. The CBE's onsite and offsite examinations cover issues beyond AML/CFT.

652. However, limited efforts have been made to identify unlicensed money transfer services and raise awareness of licensing among such service providers. With respect to detection of unlicensed service providers, the CBE does not have any structures to receive information from the public and to identify them. The CBE has the perception that such unlicensed activities are taken care of by the police.

#### **Analysis of effectiveness**

653. Although the CBE is the competent authority for money transfer companies under the Banking Law, it has not granted, renewed, and revoked any licenses of money transfer companies. The CBE has not imposed any sanctions on the two money transfer companies. Thus, the CBE has only exercised its power on monitoring these companies by onsite and offsite examinations.

654. Knowledge and understanding of money laundering and terrorist financing typologies as well as ML/FT risks among money transfer companies is limited. Their perception of money laundering and terrorist financing being typically associated with large volume of cash transactions, create risks of missed opportunities in detecting terrorism financing. Training for companies' staff is focused on policies and procedures, and does not include AML/CFT risk issues. One of the companies does not establish on-going staff training. This may have affected the number and quality of STRs. Only one of the two companies has submitted STRs.

655. The CBE frequently monitors money transfer services by examining licensed companies and their outlets. However, CBE does not have any procedures or guidance to supervisors on detecting money transfer services that could be provided by unlicensed operators.

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<sup>106</sup> Article 126, the Banking Law of 2003.



656. Awareness of legal and regulatory requirements in terms of KYC and other measures by money transfer companies is high. Frequent on-site visits appear to encourage licensed companies to observe compliance with AML/CFT regulations imposed by the CBE and the EMLCU.

**3.11.2. Recommendations and Comments**

657. The Egyptian authorities should:

- Take steps to ensure legal and regulatory consistency between regulations imposed by CBE on MVT companies and the oversight by EMLCU as the overseer of AML/CFT matters;
- (CBE) develop procedures to detect money transfer services being provided by unlicensed entities;
- Raise the MVT companies’ awareness of money laundering and terrorist financing typologies and risks;
- Ensure that the training of MVT companies by EMLCU and EBI includes typologies and risks assessments;
- EMLCU to provide relevant information to money transfer operators through regular communication;
- Regular feedback by EMLCU on STRs filed by money transfer companies will also raise knowledge on money laundering and terrorist financing issues among MVT companies.

**3.11.3. Compliance with Special Recommendation VI**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>SR.VI</b>	LC	<ul style="list-style-type: none"> <li>• No sanction has been imposed on any money transfer companies and activities while shortcomings have been identified.</li> <li>• Weaknesses in supervisory framework to detect illegal money transfer services.</li> <li>• One of the two licensed money transfer companies does not establish on-going staff training.</li> </ul>

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

**4.1. Customer Due Diligence and Record-keeping (R.12)**

**4.1.1. Description and Analysis**

**Legal Framework**

658. At the beginning of the assessment visit, most DNFBPs were not covered by the Egyptian AML/CFT regime. During the visit, two business sectors, (real estate brokers, and dealers of precious metals and stones) were brought under coverage of the AML/CFT Law by Prime Ministerial Decree 2676 for 2008, and the Ministry concerned with trade affairs shall be the competent authority. In early 2009,

assessors were informed that regulations had been issued to these entities at the end of December 2008. Lawyers and accountants are not covered by the AML Law. Casinos *per se* appear not to be fully covered by the Law. Foreign exchange dealings within casinos are licensed by the Central Bank and AML/CFT supervision of the foreign exchange function in casinos is exercised by the Supervisory Department of the Central Bank of Egypt. Other vendors of high value goods are not subject to the AML Law.

659. Casinos are not found among the listed entities of the AML/CFT Law nor in the AML/CFT Regulations. There is provision in the Executive Regulations for entities not included in the original legislation and regulations to be brought under coverage of the Law by Prime Minister's Decree, but no such decree was found regarding Casinos.

660. Casinos are subject to a dual licensing system and supervision system. The Ministry of Tourism is the entity that issues casino operating licenses. The CBE issues foreign exchange dealing licenses to a foreign exchange bureau function that is contained within the casino premises (under Article 114 of the Central Bank Law No.88 of 2003). The Central Bank Financial Supervision Department is the supervising entity for these, and all other, foreign exchange dealers in Egypt. The CDD, record-keeping and reporting requirements are fully dealt with in Section 3 of this report. The AML/CFT Risk Assessment Study by the EMLCU identifies casino operations as high risk.

661. Assessors were advised that the CBE Supervision Department has issued an AML/CFT regulation for casinos, but a copy of that regulation has not been provided to assessors. Assessors reviewed a translated document (AML/CFT Regulations for Foreign Exchange Companies) issued by the Central Bank of Egypt dated June 8, 2008. This document provides generic AML/CFT direction and guidance to foreign exchange dealers, but gives no casino-specific direction. It also does not make any mention of sanctions for weak compliance or non-compliance with the regulations. The Central Bank Law No. 88 provides for sanctions only with respect to violations of the foreign exchange dealings by the Casino (suspension for one year and cancellation of license for repeated violations).

662. The assessors met with senior officials of the Ministry of Trade and Industry, which has been designated as the entity responsible for AML/CFT supervision of real estate brokerages and dealers of precious metals and stones. Officials were confident that the Ministry would be able to issue regulations and directives to the real estate sector and to the precious metals and stones sector within weeks. Translated copies of the text of those regulations signed by the Minister at the end of December 2008 were received in early 2009. .

663. Assessors also met with representatives of the legal profession and the audit accounting profession, both of whom stated that they are not subject to the AML/CFT Law, that the laws governing their professions prohibit them from conducting or facilitating any transactions on behalf of their clients, and prohibit them from reporting to third parties information about their clients affairs. This is also the position that had been reported to assessors by the EMLCU. Lawyers and accountants are not listed among the covered entities or professions in the AML/CFT Law, and assessors could find no Prime Minister's Decree bringing them under coverage.

### **Analysis of Effectiveness**

664. Assessors have not obtained translated copies of the legislation governing the legal and accounting professions, although just prior to finalizing the Report, translations of some relevant sections of those statutes were sent to assessors. These sections do not appear to fully support the assertion of the authorities who stated that these professions do not engage in any activities that would fall under the ambit of the FATF Recommendations. In fact, Article 3 of the law governing the legal profession provides that lawyers can prepare contracts and take steps to notarize them. Moreover, lawyers while not involved in the setting up of trusts, do nevertheless participate in the formation or registration of companies. In this respect, there is no specific company service business sector in Egypt as envisaged

under the FATF standards. This would appear to fall within the ambit of Recommendation 12 (d) of the FATF Forty Recommendations. Article 14 prohibits practicing law and “engaging in trade”. Articles 69, 70, and 79 of the Legal Profession Law requires lawyers to abstain from disclosing information about their clients and their clients’ affairs.

665. With respect to accountants, the translated section of Article 27 of the law governing the accounting profession indicates that it is possible for accountants to obtain the permission of their regulatory body to engage in activities other than accounting (but no further information has been provided to assessors).

666. Real estate brokerages and dealers of precious metals and stones have been brought under coverage of the AML/CFT Law by virtue of Prime Ministerial Decree 2676 of 2008. In discussions with Ministry officials at the time of the on-site visit, it was stated that the Ministry was confident that implementation in the precious metals and stones sector could be accomplished fairly rapidly, as these businesses are already organized into an association, as well as having a subgroup of their own in the chambers of commerce and are already accustomed to registration and reporting in relation to attempted disposition of stolen property. Officials acknowledged that implementation in the real estate brokerage sector will be more challenging and may take longer, noting that these business are more numerous, more widely dispersed, not centrally registered anywhere, and currently unregulated (the only pre-existing requirement being that they register locally as a business). Ministry officials anticipated that it might take as long as two to three years to fully implement and assess the results of the AML/CFT regime in the real estate sector.

667. A review of the regulations issued recently for the precious metals and the real estate sector, shows that these are more like guidelines and procedures. They set out steps to be taken by the new reporting entities in client identification, and record keeping, and in reporting suspicious transactions to the EMLCU. However, they contain no mention of sanctions for non-compliance.

668. As noted earlier in this report, Egypt has a cash intensive economy, and assessors received anecdotal information from a variety of sources about the very frequent use of cash for even large value purchases. The initiative taken by the authorities in respect of dealers of precious metals and stones and real estate brokers is a significant step in the right direction, although it is too early to assess the effectiveness of implementation. It would be useful also to consider extending the regime to other vendors of high value goods, such as boats, luxury cars, airplanes, as well as dealers of art and antiquities.

669. There is lack of clarity as to whether casinos are fully and effectively subject to the AML/CFT Law. There is a dual licensing system in place for casinos. The foreign exchange function within casinos is licensed and supervised by the Central Bank of Egypt, (as a financial business), while casinos, *per se*, are licensed by the Ministry of Tourism. In respect of the foreign exchange dealings, casinos have reportedly received an AML/CFT regulation (from the Central Bank) but assessors have not succeeded in obtaining a copy of the casino regulation in question although they have the general regulation issued for foreign exchange dealers.

670. In discussion with CBE supervisory officials it was stated that the CBE supervisory department regularly examines the foreign exchange functions of casinos, and can and does apply sanctions for compliance weakness or failure, up to and including (in one case) suspension of the foreign exchange dealing license of the casino. The CBE supervisory department stated that it does not have the responsibility to regulate or supervise any of the gaming parts of the casino, nor, apparently does it provide guidance or regulations in respect of due diligence or record keeping or reporting in relation to that part of the casino’s business. Although a meeting was requested, the Ministry of Tourism did not meet with assessors to discuss the nature and extent of the AML/CFT direction, guidance and supervision that the Ministry provides to the casino sector (which numbers 28 casinos in Egypt).

671. Assessors met with the manager of one casino in Cairo. The interlocutor confirmed that the CBE has issued directives and guidelines in respect of the operations of the foreign exchange dealership within the casino, but those directives and guidelines have not been made available to assessors. It was reported that CBE supervisory officers frequently make inspection visits to the foreign exchange unit in the casino. It was also stated that the casino records the identities of all players, and records all money/gambling transactions at tables. Ministry of Tourism inspectors visit the casino at least weekly, primarily to satisfy themselves that the Ministry is receiving its full share of casino revenues. Apart from staff, and regulators, only holders of foreign passports are granted entry to casinos. According to casino officials, casinos record the identity of all persons entering the casino (foreign passports must be produced) as well as recording all money/gambling transactions, but do so of their own accord and have reportedly received no directives or guidance from the Ministry of Tourism in respect of any due diligence, monitoring, record keeping or reporting requirements in regard to possible money laundering or terrorism financing.

672. All play in casinos is conducted in US dollars, and patrons may bring any amount of that currency with them or may exchange other currencies for US dollars at the foreign exchange booth in the casino, where the customer is identified and the transactions recorded. At the end of play at any table, the patron is given chips for his winnings which can be redeemed for US dollars at the cashier. Patrons may leave funds on deposit with a casino, but those cannot be transferred to another casino or other institution or person, and can only be withdrawn in person by the individual who deposited them. Without fuller information as to how funds played at any given table are recorded and connected to an identified patron, it is difficult to assess fully the effectiveness of the AML/CFT controls in place for casinos.

#### 4.1.2. Recommendations and Comments

673. The authorities should continue their efforts to achieve full implementation as soon as possible by the sectors recently brought under coverage (dealers of precious metals and stones and real estate brokers).

674. Steps should be taken to clarify and strengthen the AML/CFT measures for casinos so as to bring them fully under AML/CFT Law, particularly in light of the fact that casino operations have been evaluated as high risk by authorities.

675. Lawyers and accountants should be brought under coverage of the AML/CFT Law.

676. Consideration should be given to bringing other DNFBPS, including other vendors of high value goods (such as luxury cars, boats, airplanes) under the umbrella of the AML/CFT framework.

#### 4.1.3. Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
<b>R.12</b>	PC	<ul style="list-style-type: none"> <li>• Lawyers and accountants are not covered in the AML/CFT framework.</li> <li>• Effectiveness of regulations issued recently in respect of real estate brokers and dealers of precious metals and stones, cannot yet be assessed as implementation is just beginning</li> <li>• Casinos are not fully covered by the AML Law (only the foreign exchange dealing aspect appears to be covered)</li> </ul>

## 4.2. Suspicious Transaction Reporting (R.16)

### 4.2.1. Description and Analysis

#### Legal Framework:

677. The AML/CFT Law provides the authority, by Prime Minister Decree, to add businesses to the list of entities that are subject to the requirements of the Law. Those requirements include the reporting of suspicious transactions. Two entity types (real estate brokers and dealers of precious metals and stones) were brought under coverage by Prime Minister's Decree 2676 of 2008 on October 16, 2008, and are now subject to the record keeping, reporting and other requirements of the AML/CFT Law. Regulations/guidelines were only very recently issued to those sectors, and at this early stage it is not possible to assess effectiveness of implementation. Assessors are not aware that any STR reporting has occurred.

678. The foreign exchange function of casinos is covered through the Banking Law, article 114, relating to foreign exchange dealers. Those dealers are required among other things to report suspicious transactions. They are supervised by the CBE Supervision Department and regularly inspected.

679. Lawyers and accountants have not been brought under coverage of the AML/CFT Law

### 4.2.2. Comments and Recommendations

680. Dealers of precious metals and stones and real estate brokers have only recently been brought under coverage of the AML Law, and implementation has only just begun. Authorities report that the EMLCU has begun to receive STRs from those sectors.

681. Foreign exchange bureaus at casinos have reportedly been submitting STRs for some time, but the available statistics on STR reporting to EMLCU do not provide a breakout of numbers for STRS reported by foreign exchanges as a group, nor for foreign exchanges located in casinos, so it is difficult to assess effectiveness.

### 4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
<b>R.16</b>	PC	<ul style="list-style-type: none"><li>• Casino based foreign exchange bureau are submitting STRs, but no information available as to numbers of STRS, and location of reporting casinos.</li><li>• Lawyers and accountants are not covered.</li><li>• Real estate brokers and dealers in precious metals and stones have recently been brought under coverage of the AML/CFT Law but too recently to judge effectiveness.</li></ul>

### 4.2.4. Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

682. Casinos are licensed by the Ministry of Tourism, and the foreign exchange function of casinos is licensed and supervised by the CBE. Assessors were unable to obtain a meeting with the Ministry of Tourism and have not received any information as to the AML/CFT direction or regulation provided by the Ministry to casinos. No evidence was seen to suggest that such direction and supervision is being

provided by the licensing authority for casinos. Lawyers, notaries and accountants are outside the AML/CFT regime, but recently provided information, including translated portions of legislation referred to above indicate that lawyers, and possibly also accountants, should be brought under coverage of the AML/CFT Law.

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
<b>R.24</b>	NC	<ul style="list-style-type: none"> <li>• No information as to the policies, procedures, conditions applied by the licensing authority to casino licensees.</li> <li>• No information as to due diligence and measures to prevent criminals or associates from being casino operators.</li> <li>• Supervision only applied to foreign exchange function, and casinos as entities are not covered by the AML Law Regulations for real estate brokers and dealers of precious metals and stones not clear as to compliance monitoring and do not provide any sanctions for non-compliance. Coverage is too recent to assess.</li> <li>• Lawyers and accountants are not covered by the AML Law</li> </ul>
<b>R.25</b>	PC	<ul style="list-style-type: none"> <li>• Some DNFBPs (lawyers and accountants) sectors are not covered by the AML Law.</li> <li>• Implementation is just beginning in respect of entities added to the list during the onsite visit (precious metals and stones, and real estate brokers).</li> <li>• There are no guidelines specific to casinos, except for the foreign exchange operations that are covered under the general regulations covering all licensed foreign exchange bureaus.</li> </ul>

#### **4.3. Other Non-Financial Businesses and Professions—Modern-Secure Transaction Techniques (R.20)**

##### **4.3.1. Description and Analysis**

###### **Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 & 21 c. 20.1)**

683. In their risk assessment of money laundering and terrorist financing prepared in 2008, the Egyptian authorities considered the opportunity to apply AML /CFT requirements to auction houses and gambling houses. It was not deemed necessary as these businesses were not considered at risk of being used for ML or TF because of other controls existing in the Egyptian system (i.e. not AML /CFT specific). The report specifically mentions that mortgage shops do not exist, but does not specifically analyze risks which dealers in high value and luxury goods (beyond entities dealing in precious metals and stones, which are FATF defines as DNFBPs) may pose. It “concluded that there are no other categories of financial businesses or professions that be exploited in money laundering or terrorism financing in Egypt.

## **Modernization of Conduct of Financial Transactions (c. 20.2):**

684. The assessors were provided with a “study on Egypt’s efforts for shifting from a cash-intensive society to a cashless society<sup>107</sup>”. This ten page study identifies approaches followed by Egypt to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. These approaches include (i) the creation of a National Council of payments responsible for promoting the use of non cash payment instruments<sup>108</sup> (e.g. preparation of a strategy for this purpose, elaboration of a conducive regulatory environment and awareness raising campaigns) and (ii) the willingness to increase government payments through modern means of payment (e.g. payroll and pension payments, tax collection etc.). Moreover, the report emphasizes that there is no large denomination banknote in Egypt and that payment transfers can only go through banks and money transfer companies, which are both subject to AML /CFT requirements.

### **Analysis of effectiveness<sup>109</sup>**

685. Cash remains by far the preferred means of payments in Egypt and, despite efforts by the Egyptian authorities<sup>110</sup> and recent improvements in that matter, modern means of payments remain underdeveloped. People the mission met with indicated that most transactions were still settled in cash to avoid fees and

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<sup>107</sup> The document provided has no date and the agency which drafted it is not mentioned.

<sup>108</sup> The study provided to the assessors indicates that: “The National Council for Payments has been established by virtue of CBE Deputy Governor’s decision No. 31 for 2005. Among its membership, the council comprises members representing all entities concerned with payment systems in Egypt, members from the Central Bank, the Ministry of Finance, Ministry of Administrative Development, Ministry of communication and Information Technology, two major public sector banks (Bank Misr and Al Ahly Bank), a major private bank (International Commercial Bank), Misr Clearing and Central Deposit Company, the Egyptian Banks Company for Technological Advancement (a clearing company engaged in the settlement of card payments), a legal expert, and an information security expert.

As for this plan, the Council plays the following role:

- Setting out supervisory rules for banks and other institutions engaged in the activities of e-payment systems.
- Updating guidelines for banks engaged in the areas of e-payment systems, including:
  - Guidance on designing the infrastructure of the e-payment systems.
  - Guidance criteria for the efficiency and quality of e-payment systems.
  - Guidance criteria for pricing the services related to e-payment systems (mutual commissions among banks relating to card holders use of electronic distribution channels of the banks in the local market).
  - Laying out the governing rules for clearing and settlements among the parties engaged in the e-payment systems.
- Devising clear strategies for the spread of e-payment systems, and the application of these systems to all bank products and services provided to customers.
- Studying the legislative environment in a way suitable for the applications of e-payment systems, and proposing what needs to be done in this respect.
- Organizing a national campaign to increase people’s awareness of the importance of shifting to electronic payment systems and using payment cards as an alternative for banknotes (paper money).”

<sup>109</sup> The assessors were not in a position to discuss the implementation of the recommendations of the “study on Egypt’s efforts for shifting from a cash-intensive society to a cashless society”, as they were only informed after the on-site mission of the existence and of the content of this study.

<sup>110</sup> The above mentioned study indicates that “the implementation of policies led to achieving several results which contributed to increasing awareness of the importance of using non-cash payment devices (the e-cards only). The project of disbursing the entitlements of government employees, under the auspices of the Ministry of Finance, resulted in issuing 149 thousand cards<sup>110</sup> at the beginning of 2006. The significance of this number becomes clearer when we take into consideration that the state wage item amounts to LE 47 billion.”

delays. The average value of the cheques cleared remains very high (above USD 6,000). It is estimated that about 2 million debit cards and 800,000 credit cards are in circulation in Egypt.

**Table 26: Statistics related to transfers and cheques (2006/2007)**

**Statistics related to transfers and cheques (2006 /2007)**

	Number	Value	Average value of a transaction		Year to year changes (Based on Value)
		in M EGP	in EGP	in USD	
SWIFT Transfers					
- carried out in EGP	525,236	2,280,198	4,341,283	796,566	37%
- carried out in USD	12,070	78,997	6,544,905	1,200,900	99%
Cheques cleared by the ACH of the CBE	10,481,000	356,900	34,052	6,248	24%

Source: CBE Annual report 2006 /2007

#### 4.3.2. Recommendations and Comments

686. The Egyptian authorities should consider amplifying their efforts to encourage the development and the use of modern and secure techniques for conducting financial transactions. It would also be useful to give special consideration to ML /TF risks that dealers in high value and luxury goods may pose.

#### 4.3.3. Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
<b>R.20</b>	LC	<ul style="list-style-type: none"> <li>• Too limited effectiveness of the measures implemented to encourage the development and use of modern and secure techniques for conducting financial transactions</li> <li>• No specific analysis of the opportunity to include dealers in high value and luxury goods within the AML /CFT framework</li> </ul>

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

### 5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

#### 5.1.1. Description and Analysis

##### Legal Framework

687. Law 34 of 1976 (Commercial Registry Law); Law 27 of 1999 (Code of Commerce for individuals); Law 159 of 1981 (Capital Companies).

688. All limited companies and sole proprietorships in Egypt are registered at the Commercial Registration Authority office. The main role of this office is to incorporate limited companies; keep a record of company information submitted under the commercial laws; and make the information available



to the public and law enforcement agencies. As at October 16, 2008, there were 2.6m commercial records, divided as follows: individual – 2.2m; personal or partnership – 286,000; and capital companies – 78,000.

689. Foreign companies that are interested in investing in Egypt are registered at the Ministry of Investment with the General Authority for Investment and Free Zones (GAFI). GAFI has an additional process besides that which is required under Law 159.

690. No commercial activity can take place without registering with the commercial registry and submitting the applicable documentation. Further, an entity cannot open a bank account without obtaining a commercial registration certificate from the commercial registry.

691. The following types of legal persons and arrangements may be created:

692. *Limited Companies* – These companies are established under Law 159 of 1981. Articles 15-18 of Law 159 together with the provisions in the Executive Regulations stipulate the procedures for registering limited liability companies. The instruments of registration to be submitted must include the articles of association; the primary contract of the company as to who has the authority to bind the company; information on all the founding members of the company whether natural or legal persons; and names of the board of directors. In addition, in parallel to processing the registration of a company, the individuals registering such a company are required to obtain an activity registration with the Chamber of Commerce and a tax number. A certificate of registration will be issued, and the company will be recorded as registered.

693. *Partnerships, Sole Proprietorships* - These are registered under the Chapter of a company of the old Code of Commerce for partnerships. For a partnership, registration is done under Law 27 of 1999, the commercial registry requires the partners to submit a certification as to which partner will be liable for the partnership; and partnership agreement or contract. For a sole proprietorship, before submitting an application to the commercial registry is required to obtain a tax number from the tax authority.

694. *Foreign companies*: For foreign companies interested in investing in Egypt, the registration process is done at the GAFI office. In addition to meeting the requirements under Law 159, the applicants are required to submit notarized copies of their registration documents to the Egyptian Embassy in the home country; these are then sent to the Ministry of Foreign Affairs for certification and that they satisfy the requirements of Egyptian commercial laws; and all the information of the shareholders and ultimate beneficiaries.

695. With respect to identification documents, for Egyptian citizens, the national ID is the only document required to be submitted. For foreign applicants it is a passport that should be provided.

### **Measures to Prevent Unlawful Use of Legal Persons (c. 33.1)**

696. Law 159 of 1981 requires the authorities to obtain all the information on the ultimate beneficiaries in a company. Where a nominee director or shareholder is appointed, the commercial registry requires the nominating person to submit a notarized power of attorney indicating whether or not the person so nominated has the authority to be a director or shareholder in the company. In Egypt, this is required to be issued by the Public Notary. This also applies to foreign applicants as well.

697. In addition, information on the ownership and control of all companies is maintained by the commercial registry. The information that is publicly available relates to documents such names of authorized individuals that can bind the company; the share capital of the company; the physical address of the company headquarters; and judicial decisions impacting the company. However, other information that is required to be submitted to the Commercial Registry is kept confidential. These include the names of the shareholders; and general assembly reports. Such information is only available through a court order.

698. Each entity is also expected to keep all documents of ownership and any changes in ownership that may take place at the company headquarters (Article 30 of Law 27 of 1999). Moreover, for foreign companies there is a further requirement to maintain proper financial accounting records. This information that is required to be maintained also includes information on the beneficial owners of the i.e. the ultimate beneficial owners.

699. The penalties for violating the provisions of the commercial laws are however inadequate and seldom applied in practice. But if there are any violations, then a report has to be submitted to a judge in order to close down the business – application is made to the Court of First Instance.

#### **Access to Information on Beneficial Owners of Legal Persons (c. 33.2)**

700. Currently, all information is kept manually although the commercial registry is being computerized and the exercise should be completed in 2010. This information is updated on a weekly basis. Law enforcement agencies can access confidential information including that of beneficial owners of companies if they obtain a search warrant issued by the Public Prosecutor or judge. However, in order to obtain such a warrant there has to be sufficient indicators of criminality involving a company for which information is sought such as investigating the beneficial owner of the company.

701. Consequently, competent authorities can obtain and review updated sufficient and accurate information on beneficial owners of legal persons and control structure in a timely manner – usually in a matter of minutes or an hour.

#### **Prevention of Misuse of Bearer Shares (c. 33.3)**

702. While bearer shares are not explicitly prohibited, the Executive Regulations of Law 159 specifically require that all share certificates SHALL bear the name of its owner (Article 129). According to the Company Law No. 159 of 1981, all shares are nominal, which is the prevailing case in the Egyptian legal system and in practice. However, the Capital Market Law allows joint stock companies only to issue bearer shares according to strict rules and conditions, provided that the bearer shares percentage does not exceed 25 per cent of the total amount of shares and the issuing company obtains permission from the CMA. What these rules and conditions are was not provided to the assessors. According to the authorities, bearer shares are seldom issued due to the fact that such types of shares do not give the owner the right to vote in companies' general assembly.

703. There is also no mechanism to minimize the potential abuse of bearer shares due to the anonymous nature of such shares. The authorities however, did not indicate the extent to which non-public companies issue bearer shares other than to advise that companies that are traded on the stock exchange are prohibited from issuing bearer shares.

#### **Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions)(c. 33.4)**

704. Banks do require corporate entities seeking to open accounts to provide information on who the directors and shareholders are. However, as discussed in the section on Preventive measures for financial institutions, there is no requirement for financial institutions to take reasonable measures to verify the identity of the beneficial owners of its customers so that financial institutions are satisfied that they know who those beneficial owners are. Indeed, banks are not proactive in using the commercial registry to check on information on beneficial owners.

## Analysis of effectiveness

705. The Egyptian system is adequate to ensure that legal entities are not used for unlawful purposes. It was evident from discussions with the authorities, and the manner in which foreign applications are processed, that there are measures to verify who the ultimate beneficial owner is in a company. Further, notwithstanding the fact that Egypt allows the appointment of nominees in companies, the requirement to submit a notarized power attorney is an adequate control mechanism to ensure that the authorities know on whose behalf such nominees are acting.

706. However, in terms of timely access to beneficial ownership information, the manual nature of how the information is kept has the potential to affect how efficiently law enforcement agencies can access the information. Moreover, maintaining the commercial record in manual form can potentially compromise the accuracy of the information due to misplacing of some company documents. In this regard, the efforts to computerize the registry are a welcome action on the part of the authorities and will minimize the potential of information going missing.

707. The penalties for violation of the requirements of the commercial registry are seldom applied in practice.

708. With regard to bearer shares, their issuance is permissible under Egyptian commercial laws. This creates a potential for such shares being abused for ML purposes (e.g. to hide the identity of the launderer). Moreover, there are no measures in place to prevent them from such abuse.

### 5.1.2. Recommendations and Comments

709. The authorities should consider:

- Mechanism to maintain beneficial information in such a manner as to be timely available and accurate for law enforcement agencies
- Strengthening the enforcement mechanism for the commercial registry office for violations of the commercial laws by companies.
- Explicitly prohibiting the issuance of bearer shares or ensuring that there is a mechanism to know who the holders of bearer shares are.

### 5.1.3. Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
<b>R.33</b>	PC	<ul style="list-style-type: none"><li>• Beneficial ownership information is kept manually and potentially compromise accuracy of information</li><li>• Weak enforcement mechanism where a company fails to maintain accurate information</li><li>• No appropriate mechanism to prevent abuse of bearer shares</li></ul>

## 5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

### 5.2.1. Description and Analysis

#### Legal Framework

710. Egypt does not recognize trusts or similar legal arrangements. Moreover, Egypt is not a party to the Hague Convention.

### 5.2.2. Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
<b>R.34</b>	N/A	

## 5.3. Non-Profit Organizations (SR.VIII)

### 5.3.1. Description and Analysis

#### Legal Framework:

711. Law No 84 of 2002 (NGO Law) and its Executive Regulations govern the legislative framework for the establishment, registration and monitoring of non-governmental organizations is governed by the NGO Law. It provides for the mandatory registration of all organizations wishing to engage in charitable activities in Egypt. They are required to register with the Ministry of Social Solidarity, which is also responsible for exercising oversight of the NGO sector in Egypt.

712. *Overview of the Sector:* Egypt has a sizeable and diverse NGO sector. As of December 2007, the sector comprised of 27, 238 NGOs with an annual income of USD 1.8 billion. The NGOs in Egypt include organization, societies, unions and institutions. The NGOs are involved in activities dealing with orphan care, health services, family planning, environmental, governance, human rights, consumer protection, scientific and cultural services, women development, youth development, educational activity, local community development and economics.

713. NGOs in Egypt can take several forms: (a) an organization, that is organized by not less than 10 members in all cases with a board of director composed of 5-15 members (Article 1 & 32 of NGO Law); (b) a foundation, that is established by appropriating funds for a charitable purpose, by a founder with a board of trustees composed of at least 3-15 members appointed by the founder (Article 65, 66 & 68 of NGO Law); and (c) foreign organizations, operating in Egypt based upon the agreement concluded with the Ministry of Foreign Affairs to exercise the organization and foundation activities (Article 3-7, Executive Regulations of the NGO Law).

#### Review of Adequacy of Laws & Regulations of NPOs (c. VIII.1)

714. Egypt has reviewed its laws and regulations governing the operations of NGOs. The review is not necessarily for terrorist financing purposes. The reviews have resulted in creating a strict legal framework and operating environment in which the NGOs carry out their activities. For example, the NGO Law provides strict controls on fundraising activities of NGOs; involvement of the Ministry of Foreign Affairs and the State Security in the approval process of all foreign NGOs; prohibiting private entities from engaging in any charitable activities without registering with the Ministry of Social Solidarity; and providing a sanctioning regime for violators of the NGO Law.

#### Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2)

715. The Ministry is in constant interaction with the NGO sector particularly in regard to the enforcement of the NGO Law, which many NGOs complain that it is strictly applied and that the Ministry interferes in the operations of the NGOs. The Ministry has received numerous written complaints from the sector although the authorities indicated that a review of the NGO Law will not be conducted any time

soon. Indeed, there is a committee representing the NGO sector that is headed by a former senior government official which is looking into all the concerns of the sector most specifically, issues related to supervision and raising of funds. Indeed, in discussions with a NGO it was indicated to the assessors that they have a close interactive relationship with the Ministry, despite the rigorous nature of the NGO legal framework.

### **Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3)**

716. Even after an organization has registered, the Ministry has the authority to supervise the activities of NGOs. Part of the authority of the Ministry may entail attending meetings of NGOs and even calling a meeting of the general assembly of the NGO (Article 25(d) of the NGO Law). An NGO is further required to provide the Ministry with a copy of the minutes of the general assembly within 30 days of the meeting.

717. *Monitoring:* The monitoring of NGOs is done through the local government and municipalities in all the 29 Governorates. The tools used by the supervisors to ensure that NGOs are complying with the NGO Law include: periodical review and preparing technical, financial and administrative reports for such NGOs; reviewing the NGOs financial statements and balance sheet; and providing answers to all enquiries and resolving legal problems for the NGOs. Moreover, the authorities do check whether the funds that an NGO has received, has been used for the purpose that was described in the application to operate as an NGO. They are capable of conducting this intrusive monitoring because the authorities do have access to the NGOs bank accounts. The basis for accessing the accounts is that the funds belonging to NGOs are considered to be public funds and not private (article 51 of the NGO Law). Furthermore, all NGOs are mandated to appoint a financial auditor to audit their accounts. The auditors also check whether the funds have been used for the purpose for which they were intended. The financial auditor is licensed by the Ministry of Justice – called “legal auditors.”

718. In addition to having an external auditor audit the financial accounts of the NGO, donors who provide sizeable grants to NGOs do conduct their own audit review to ensure that the funds being donated to the NGO are being used for the objective for which they were intended.

719. The authorities monitor all NGOs regardless of size, financial or otherwise. To this end, there are 4085 supervisors in total which translates into a ratio of one supervisor to 20 NGOs. While this may sound like a big number, most of the NGOs that are supervised are small in size and volume of activity. Two of the NGO's that the assessors did indicate that the supervisors were detail and thorough in their scrutiny not only of the financial records of the NGO but their activities as well with a view to determining whether the funds that a NGO receives, whether local or foreign, has been actually used for the stated purpose. As one of the NGO official stated, “the supervisors have visited a project site to confirm whether the activity has been actually undertaken.”

720. *Fundraising:* NGOs may not accept foreign or domestic funding without explicit authorization from the Ministry (Article 17 of the NGO Law). All other contributions are governed by the executive Regulations. In addition, associations must provide detailed report of expenditures and revenues, including donations and their sources, to the Accounting Auditors Register. Acquiring or distributing funds in violation of article 17 is a ground for the authorities to order the dissolution of the NGO and criminal penalties of up to six months imprisonment and up to USD 400 in fines (Article 42 & 76 of the NGO Law). The governmental controls on the fundraising activities of NGOs are strictly enforced and monitored. Such strict controls while achieving their purpose of ensuring that NGO's are not used for terrorist financing purposes, have the potential of disrupting or discouraging legitimate charitable activities.

### **Information maintained by NPOs and availability to the public thereof (c. VIII.3.1)**

721. NGOs are required to keep at its headquarters all the relevant documents including those of the founders of the NGO and the financial records, registers and correspondence related to the organization (Article 19 of the NGO Law). Any interested party can have access to information maintained by an NGO (Article 9 of the NGO Law).

### **Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2)**

722. The Ministry has at its disposal an array of sanctions it can impose and has imposed on NGOs violating the law. The sanctions range from changing the board of directors; dissolution of the NGO; and to referral to the Public Prosecutor's office where criminality is involved (Article 42 & 76 of the NGO Law). Between 2005 and 2007, the Ministry dissolved 557 NGOs for various violations of the NGO Law.

### **Licensing or registration of NPOs and availability of this information (c. VIII.3.3)**

723. *Registration:* Article 5 of the NGO Law provides for the registration of NGOs. It requires all organizations to submit a written statute or constitution signed by all founders and address of appropriate premises in Egypt for its administrative office. The statute includes among others, the name of the organization; type and field of activity; name and other details of the founding members; resources of the organization and how they are to be utilized; financial auditing system; a statement identifying the representative authorized to conduct the organization's business; and systems and conditions of membership. (Article 3)

724. The Ministry will deny registration if it determines that the NGOs purposes constitute an activity prohibited under Article 11 of the NGO Law. The prohibited activities are forming military groups, threatening national unity, violating public order or morals and undertaking any political actions.

725. In the case of foreign applicants, a license is given for a limited period and specific purpose. Approval is also required from the Ministry of Foreign Affairs, with a security check conducted by the State Security office. In discussions with the authorities, it was indicated to the assessors that many requests are turned down annually.

726. In all applications submitted to the Ministry, whether domestic or foreign applicants, the State Security office carries out a background check on the applicants to ensure that there are bona fide applicants and not intending to use the NGO for criminal activities. In addition to the security, all NGO's without exception are obliged to open a bank account as one of the conditions for approval of their application (Article 22 of the NGO Law).

### **Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4)**

727. See discussion above on accessibility of NGO records to the public which includes law enforcement agencies.

### **Measures to ensure effective investigation and gathering of information (c. VIII.4)**

728. In view of the strict registration and supervisory regime existing in Egypt, law enforcement agencies are able to carry out effective investigations and gather relevant information where such cases arise.

#### **Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1)**

729. Effective coordination between the Ministry and law enforcement agencies is strong. The Ministry cooperates fully with State Security agencies with respect to approval of NGOs. It also cooperates with the ACA in disclosing corruption and manipulation cases in some organizations. Such cases are referred to the competent judicial authorities for further action. Furthermore, the Ministry sits on the National Committee.

#### **Access to information on administration and management of NPOs during investigations (c. VIII.4.2)**

730. There are no restrictions on access to information on administration and management of NGOs during investigations.

#### **Sharing of information, preventative actions and investigative expertise and capability, with respect NPOs suspected of being exploited for terrorist financing purposes (c. VIII.4.3)**

731. In view of the involvement of the State Security office in the approval process as noted above, there are adequate preventative actions in ensuring that NGOs are not exploited for terrorist purposes or as front organizations for terrorism fund-raising. Furthermore, under Article 42 of the NGO Law, the Ministry of Social Solidarity has the authority to dissolve an NGO that is suspected of being abused for TF purposes.

#### **Responding to international requests regarding NPOs - points of contacts and procedures (c. VIII.5)**

732. The only international contacts with foreign counterparts have been through exchange of visits. The authorities advise that they have not had a situation where foreign requests have been made regarding NGOs operating in Egypt.

#### **Analysis of effectiveness**

733. The Egyptian NGO framework is strict particularly with respect to registration and supervision of NGO activities operating in Egypt. Moreover, there are also strict controls on how NGOs raise their funds and spend their resources. The fact that the authorities can access the bank accounts of the NGO means that there are able to effectively monitor the financial flows coming into and out of the NGO account. This is especially critical when it comes to monitoring financing of terrorism and preventing NGOs from being abused for terrorist activities.

734. Discussions with the two NGOs met and an umbrella coalition representing several NGO's on issues to deal with transparency did indicate to the assessors that significant transactions of NGOs are closely monitored. Indeed, it was confirmed to the assessors by the NGOs that no funds can be raised and disbursed by the NGOs without the explicit approval of the authorities. Moreover because of such strict procedures, they have been a concern on the part of NGOs that this constrains their ability to efficiently fulfill their charitable objectives. Indeed, even after an NGO has registered, the Ministry of Social Solidarity has the authority to interfere in its operation. The Ministry can send representatives to an NGO's meeting and even call a meeting of its general assembly pursuant to Article 25 of the NGO Law. Moreover, an NGO is required to provide the Ministry with a copy of the minutes of the general assembly within thirty days of the meeting.

735. Notwithstanding, the strict nature of the fundraising processes for NGOs, concern has been raised by the NGO community and observers on whether or not such strict procedures do have the potential of

negatively impacting the freedom of NGO's to associate freely with other NGO's whether domestic or foreign.

736. There is close interaction between the NGO sector and the Ministry of Social Solidarity.

### 5.3.2. Recommendations and Comments

737. The authorities should consider reviewing the procedures for fundraising in order to provide some flexibility for NGOs to accept donations in a more efficient manner.

### 5.3.3. Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	C	

## 6. NATIONAL AND INTERNATIONAL CO-OPERATION

### 6.1. National Co-Operation and Coordination (R.31)

#### 6.1.1. Description and Analysis

##### Legal Framework

738. Decree No. 847 of 1998 and Decree No. 63 of 2005.

##### Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1)

739. Egypt's domestic cooperation and coordination has been fairly robust between the policy makers, the EMLCU, the Central Bank of Egypt, the Ministry of Interior, the State Security Investigative Service, the Administrative Control Authority, the Public Prosecutor, the Capital Market Authority and the Ministry of Social Solidarity. Operationally, in the cases presented by the authorities, relevant entities appear to cooperate effectively in addressing the threat of money laundering and terrorism financing. The driver for enhancing domestic cooperation is the EMLCU.

740. *Policy Level:* The mechanism for domestic cooperation among the competent authorities is achieved through two national committees: the National Committee for International Cooperation in the Field of Combating Terrorism (Terrorism Committee) established under Decree No. 847 of 1998; and the National Committee for Coordination in Combating Money Laundering and Terrorism Financing (National Committee) established under Decree No. 63 of 2005. As will be indicated below several key government agencies are members of both Committees, a testament to Egypt's commitment to ensure that there is coordination in tackling the money laundering and terrorist financing threats.

741. As observed in Section 2.4 on freezing of funds used for terrorist financing, the membership of the Terrorism Committee comprises the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Interior, the National Security Agency, and the EMLCU. Financing of terrorism issues were included in the coverage of the Terrorism Committee mandate, and the EMLCU became a member of the Terrorism Committee in 2004 by virtue of Decree No 676 of 2004.

742. The National Committee which is chaired by the Chairman of the Council of Trustees of the EMLCU, who is the Assistant Minister of Justice, has a broader mandate in that it oversees policy



affecting both the money laundering and terrorist financing issues. The National Committee is tasked with coordinating national efforts in the AML/CFT area and contributing to the effective enforcement of the laws, regulations, decrees and other relevant measures to combat money laundering and financing of terrorism. Its membership is comprised of: the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Social Solidarity, the Public Prosecution (represented by the SPO), the National Security Authority, the State Security Investigative Service, the Administrative Control Authority, the Central Bank of Egypt, the Capital Market Authority, the EMLCU, and the Egyptian Banking Institute. Taken together these agencies represent all sectors that are involved in the implementation of the AML/CFT measures adopted by the authorities. Moreover, under Article 3 of Decree No. 63 of 2995, “the Committee may invite to its meetings or seek assistance from whoever it deems necessary from experts and representatives of other financial institutions’ supervisory authorities stipulated in the AML/CFT Law.” This provision has been used to invite the Customs Authority to many of its meetings as were considered necessary.

743. In a clear high level commitment to fighting money laundering and terrorist financing, the officials nominated to sit on the National Committee are at a senior level, namely, either at the Assistant Minister level or the equivalent for officials in government agencies other than a Ministry. Decisions of the National Committee are reached by consensus thereby ensuring that the objectives of the committee are not impeded by any policy conflicts among the various agencies.

744. In 2006, the authorities prepared a document on Egypt’s Strategy on Combating Money Laundering and Terrorism Financing. The strategy outlines the duties of each agency in line with the requirements of the legislative framework in Egypt. The purpose of defining the specific roles of the relevant AML/CFT agencies is “to ensure that such agencies work in full coordination and cooperation, in order to ensure that they are successful in achieving their goals.” Moreover, one of the continuing follow up action required in the strategy document is a continuing need to “strengthen national cooperation through intensification of the meetings of the National Committee, and inviting experts of other concerned agencies not represented on the Committee to attend its meetings.” Furthermore, the strategy considers the possibility of creating an electronic link between the EMLCU and law enforcement agencies and other relevant public sector authorities.

745. The Strategy Document of 2006 has a section on “Endeavour to limit risks of ML and TF”. Measures relevant to managing AML/CFT risks cover several areas including the unofficial money transfer system, use of cash in financial transactions, risks of bank transactions through modern payment tools and risks of cross-border money trafficking. While new measures were implemented to address specific risk issues, Egypt has not decided to apply reduced CDD. Neither has Egypt considered that some types of customers, business relationships, transactions or product could be treated as low risks.

746. *Operational Level:* At the operational level, all the members of the Terrorism and National Committees have worked closely together in cases related to money laundering and terrorism financing at both the domestic and international levels. This cooperation and coordination has involved the Ministry of Interior, the National Security Authority, the State Security Investigative Service, the Administrative Control Authority, the Ministry of Foreign Affairs, the SPO and the Central Bank of Egypt. These agencies have in some way or other cooperated particularly to facilitate the operations of the EMLCU. In particular, the EMLCU relies heavily on the Ministry of Interior, the Administrative Control Authority and the National Security Authority to gather intelligence on its behalf that assists the EMLCU to analyze STR received from financial institutions. Indeed, each agency has established an anti-money laundering unit or department and designated contact persons as liaisons with the EMLCU. Such designations are in keeping with the requirements under articles 24 and 25 of the AML/CFT Regulations obliging supervisory authorities as well as law enforcement agencies to assign contact officers in matters related to combating money laundering and terrorism financing.

747. Another critical area where the cooperation is strong is in the relationship between the SPO on one hand and all the other members of the National Committee. The SPO is the key agency that is responsible for conducting investigations and where there is sufficient evidence or indicators of a crime refer any case to court for trial. As an illustration of the cooperative nature of these agencies, the SPO, the International Cooperation department at the Public Prosecution office, the Ministry of Interior, the EMLCU and the Administrative Control Authority all worked together in investigating and ultimately prosecuting the theft and transshipment of valuable Egyptian antiquities stolen from Luxor city. This case included money laundering of corruption proceeds by government officials. Support from foreign financial centers is also helping with the on-going tracing of the proceeds of corruption.

748. Finally, pursuant to article 27 of the AML/CFT Executive Regulations, all supervisory authorities are required to exchange information with the EMLCU in the examination and investigation related to STRs and other information that the EMLCU receives on transactions suspected of involving money laundering and terrorism financing.

749. In addition to the strong operational cooperation among the relevant agencies, all of them have from time to time participated in anti-money laundering related training programs at the Egyptian Banking Institute. Such coordinated participation only works to deepen and enhance the cooperation among the relevant agencies.

750. However, notwithstanding these strides that have been achieved by the authorities, the Customs Authority is not a member of the National Committee. Its absence is noteworthy in view of the fact that it is the one agency responsible for implementing and enforcing the currency declaration system and related cross border transportation of currency in Egypt. In discussions with the authorities no rationale was given for this absence although the National Committee as noted above has used its powers under Decree No. 63 to invite them whenever it required their presence at its meetings.

#### **Additional Element - Mechanisms for Consultation Between Competent Authorities and Regulated Institutions (c. 31.2)**

751. The private sector is not represented on the National Committee. There is no formal mechanism through which competent authorities and regulated institutions are able to interact and exchange information.

#### **Analysis of effectiveness**

752. Egypt's framework for facilitating domestic cooperation is comprehensive and has worked fairly well at both the policy and operational level. It was evident in discussions with all the relevant agencies that they were all aware of each one's role and responsibility in the AML/CFT architecture. This was not just evident among the technical officials but also at the management level of the agencies. There was a clear grasp of the important issues related to money laundering and terrorism financing and what it would take to successfully combat them.

753. The National Committee recommended to the government to amend the AML/CFT Law in order to ensure that a person can be prosecuted for both money laundering and a predicate offence. It continuously reviews the AML/CFT system in order to determine what actions to take in order to strengthen the effectiveness of the regime.

#### **6.1.2. Recommendations and Comments**

754. The authorities may wish to consider making permanent the membership of the Customs Authority into the National Committee in view of the important role they play in implementing an aspect of the AML/CFT framework for Egypt (declaration of cross-border cash transportation).

755. Consideration may also be given to bring in a private sector representative to sit on the National Committee.

756. The National Committee may wish to consider undertaking a comprehensive risk and vulnerability assessment of the ML and TF situation in Egypt.

### 6.1.3. Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	C	

## 6.2. The Conventions and UN Special Resolutions (R.35 & SR.I)

### 6.2.1. Description and Analysis

#### Legal Framework

757. The implementation of the provisions of the Vienna and Palermo Conventions are found in the AML/CFT Law, the AML/CFT Executive Regulations, the PC, the CCP, the Constitution and Circular No. 2 of 2004. A discussion on the manner in which the provisions dealing with international cooperation has been implemented follows under section 6.3 and 6.4 of this report. In so far as terrorism financing is concerned, as discussed in the section dealing with Criminalization of financing of terrorism and implementation of the UN Security Council Resolutions, the provisions of the SFT Convention have been fully implemented in the AML/CFT Law, the PC and the AML/CFT Executive Regulations.

758. It is also important to point out that under Egypt's ratification framework pursuant to article 151 of the Constitution, any treaties ratified by the government. Upon ratification in accordance with established procedures, the treaty becomes part of domestic law and applies like any other laws and no additional measures are required for their incorporation into national legislation.

#### Ratification of AML Related UN Conventions (c. 35.1)

759. Egypt ratified the Vienna Convention in 1991 and the Palermo Convention in 2004.

#### Ratification of SFT Related UN Conventions (c. I.1)

760. Egypt has ratified the SFT Convention. In addition to the SFT Convention, Egypt has ratified 8 out of the 10 counter terrorism conventions that are annexes to the SFT Convention, namely: on offences committed on board aircraft; offences related to unlawful seizure of aircraft; offences against the safety of civil aviation; offences against protected persons including diplomatic agents; offences against taking hostages; offences against violence at airports; offences against the safety of maritime navigation; offences against the safety of fixed platforms located on the continental shelf; and offences on the marking of plastic explosives for the purpose of detection.

761. It has not yet ratified the conventions against physical protection of nuclear material, and the suppression of terrorist bombings.

#### Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1)

762. Egypt has adopted legislative provisions to implement the provisions in Article 3 (on offences and sanctions related to narcotics and psychotropic substances); Article 4 (on establishing jurisdiction over

offences related to narcotics and psychotropic substances); Article 5 (on confiscation of instrumentalities); Articles 6 and 7 (on extradition and mutual legal assistance); Articles 8-11 (on transfer of proceedings, other forms of cooperation and training, international cooperation and controlled delivery); and Articles 15 and 19 (on commercial carriers and the use of the mails). The articles are implemented pursuant to the AML/CFT Law; the AML/CFT Executive Regulations; the CCP; the PC; the Customs Law; and through multilateral and bilateral treaties.

#### **Implementation of SFT Convention (Articles 2-18, c. 35.1 & c. I.1)**

763. Egypt has adopted legislative provisions to implement the provisions in Article 2 (creating terrorist related acts as offences); Article 4 (offences in Article 2 of Convention); Article 5 (natural persons can be liable); Article 6 (terrorist related offences are not justifiable for political or other reasons); Article 7 (Egypt has jurisdiction over terrorist acts in Egypt); Articles 9-10 (investigating terrorist activities in Egypt); Article 11 (terrorist financing offence is an extraditable offence); Article 12 (providing assistance to other States); Article 13-14 (sole ground of fiscal and political offences); Article 15-16 (extradition of accused or suspect); Article 17 (fair treatment) and Article 18 (preventive measures for financial institutions). The articles are implemented in the AML/CFT Law; the AML/CFT Executive Regulations; the CCP; the PC; and through multilateral and bilateral treaties.

764. However, the criminalization of financing of terrorism including the collection of funds as required under Article 2, and Article 8 (on identification and confiscation of terrorist related assets) have not been implemented under Egyptian criminal laws. In addition, legal persons cannot be criminally held liable for actions of its representatives.

#### **Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1)**

765. Egypt has adopted legislative provisions to implement the provision in Articles 5, 6, 7, 10, 11, 12-16, 18-20 (on criminalization of the laundering of proceeds of crime; on establishing the EMLCU and introducing measures to detect and monitor the movement of cash across borders; prosecution, adjudication and sanctions for money laundering; confiscation and seizure of instrumentalities of crime; providing international cooperation for purposes of confiscation; establishing jurisdiction over money laundering offences; extradition and mutual legal assistance; joint investigations and use of special investigation techniques). In addition, Egypt has adopted legislation to implement Articles 26, 27, 29, 30, 31, and 34 (on law enforcement). The articles are implemented in the AML/CFT Law; the AML/CFT Executive Regulations; the CCP; the PC; the Customs Law; Circular No. 2 of 2004; and through multilateral and bilateral treaties.

766. However, Egypt has not yet implemented measures on criminalization of participation in an organized criminal group; and liability of legal persons.

#### **Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2)**

767. As discussed in Section 2.4 (Freezing of funds used for terrorists), Egypt has not demonstrated that it has implemented the requirements of Resolutions 1267 and 1373 as well as making the measures required to be implemented publicly available.

#### **Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2)**

768. Egypt has concluded numerous bilateral and multilateral conventions that are intended to enhance the exchange of information, MLA, Extradition and expertise on matters dealing with money laundering and terrorism including its financing.

769. Egypt is a party to the Arab Convention for the Suppression of Terrorism of 1998; the African Union Convention on the Prevention and Combating of Terrorism of 1999; and Security Protocol between All Governments surrounding Iraq and Iraq Government regarding Terrorist Financing and Terrorist Crossing Borders and Organized Crime Groups (2006).

**Analysis of effectiveness**

770. Egypt has not fully implemented the requirements in the Palermo and SFT Conventions. Specifically, the criminalization of organized crime activities and the liability of legal persons have not been implemented. And with regard to the SFT Convention, Egypt has not criminalized the collection of funds as it relates o financing of terrorism. Moreover, it has not implemented the UN Security Council Resolutions 1267 and 1373. Additionally, the authorities should document clear processes and procedures for implementing the Security Council resolutions.

**6.2.2. Recommendations and Comments**

771. The authorities should:

- Fully implement all the provisions of the Palermo Convention including criminalizing organized crime activities
- Provide for the criminal prosecution of legal persons
- Criminalize the collection of funds
- Fully implement the 1267 and 1373 UN Resolutions

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

	Rating	Summary of factors underlying rating
<b>R.35</b>	LC	<ul style="list-style-type: none"> <li>• No full implementation of the SFT Convention including collection of funds</li> <li>• No full implementation of the Palermo Convention including criminalizing organized crime</li> <li>• No implementation of criminal prosecution of legal persons</li> </ul>
<b>SR.I</b>	PC	<ul style="list-style-type: none"> <li>• No full implementation of the SFT Convention including collection of funds</li> <li>• No procedures for implementation of the 1267 and 1373 requirements</li> </ul>

**6.3. Mutual Legal Assistance (R.36-38, SR.V)**

**6.3.1. Description and Analysis**

**Legal Framework**

772. The AML/CFT Law and the AML/CFT Executive Regulations; Article 151 of the Constitution; Bilateral and Multilateral Agreements.

773. The central authority for executing all mutual legal assistance requests is the International Cooperation and Verdict Implementation Bureau at the Public Prosecutor Office. They deal with all issues related to judicial cooperation with foreign judicial authorities concerning money laundering and terrorist financing crimes especially in relation to judicial assistance, extradition of suspects and convicted persons and the implementation of foreign judgments. Further, the Public Prosecutor is responsible for

given effect to all foreign requests pursuant to the rules and procedures included in bilateral and multilateral agreements to which Egypt is a party (Article 20 of the AML/CFT Law).

774. It is worth noting, that in cases where there are no bilateral or multilateral treaties, Egypt does provide legal and judicial assistance and extradition on the basis of either the principle of reciprocity or international comity or "courtesy" as long as it does not contradict its national sovereignty, public order, the basic principles of its legal system, or the internationally agreed upon principles governing them (Article 18 of the AML/CFT Law). The principle of "courtesy" means that Egypt can unilaterally provide assistance even where a foreign jurisdiction does not promise to reciprocate the assistance.

775. Bilateral Agreements: Egypt has entered into the following bilateral Agreements that cover MLA, extradition, organized crime and combating the financing of terrorism matters:

- Albania (2003)
- Armenia (2007)
- Bahrain (1998)
- Belarus (2006)
- Bosnia & Herzegovina (2006)
- Bulgaria (1996)
- Canada (2000)
- China (1994)
- Cyprus (1997)
- Greece (1987)
- Italy (2001)
- Kazakhstan (2007)
- Kuwait (1990)
- Lebanon (1998)
- Libya (1992)
- Malta (2004)
- Morocco (1999)
- Oman (2002)
- Pakistan (1994)
- Poland (1992)
- Romania (2003)
- Russia (1997)
- Slovak (2004)
- South Africa (2002)
- Spain (1994)
- Switzerland (2002)
- Syria (1998)
- Tajikistan (2007)
- UAE (2000)
- UK & N. Ireland (1993)
- Ukraine (2004)
- USA (2000)
- Uzbekistan (2007)
- Yemen (1997)

776. Multilateral Agreements: Egypt is a party to the following agreements which provide for mutual legal assistance – the Vienna, Palermo, and Merida Conventions.

#### **Widest Possible Range of Mutual Assistance (c. 36.1)**

777. Egypt can render assistance in obtaining evidence or information relevant to any criminal matter including the production, search and seizure of such evidence or information; locating or identifying suspects believed to be in Egypt; arranging attendance of a person to give evidence relevant to any criminal matter; obtaining an article or a thing by search or seizure in Egypt for the purposes of, or in connection with, any criminal matter including financial records; transferring a prisoner to give or provide evidence or assistance relevant to any criminal matter; serving documents; tracing property, which is suspected to be in Egypt, that was derived or obtained from the commission of a predicate offence; and identifying, freezing, seizing or confiscating: assets laundered or intended to be laundered, and proceeds of money laundering and assets used for terrorism financing, as well as instrumentalities of such offences and assets of corresponding value (Articles 18-20 of the AML/CFT Law).

778. Three cases illustrate the use of the MLA measures existing in Egypt. In one case of 2006, where a person was accused of committing a crime of laundering funds, resulting from misappropriation and

forgery crimes, in order to conceal and disguise the source of these funds. During his work in a foreign jurisdiction from 2002 to 2005, the accused person committed misappropriation by counterfeiting documents, and issued counterfeit checks and bank transfer orders, through which the funds were misappropriated. The accused person registered commercial enterprises as fronts to channel the proceeds of crimes. Moreover, he and his partners purchased many real estates and movables and deposited part of these funds in several banks with a view to concealing their source and disguising their nature. The Egyptian judicial authorities upon request of their counterparts in the foreign jurisdiction affected took provisional measures and a money laundering case was commenced against the accused persons and tried before the Egyptian courts.

779. In another case involving the transfer of funds by an accused person resulting from misappropriation of public funds to an account in Switzerland, the Egyptian Public Prosecutor's Office submitted a request for freezing and seizing the fund of the accused and transferring the balances in Switzerland to the Central Bank of Egypt. The Swiss counterpart consented to the request and the funds along with those resulting from liquidating some shares owned by the accused, were transferred to Egypt in coordination with EMLCU and the Swiss bank involved.

780. In yet another case, the Egyptian authorities worked with a foreign jurisdiction to recover funds stolen from an Egyptian businessman. In this case, a foreign FIU worked closely with the EMLCU to try and recover such funds.

781. In a terrorism related case, Egypt provided MLA with respect to the UK bombings of 2007 which were attributed in part to some Egyptian national studying in the UK. The UK authorities requested that the suspect be questioned by the Egyptian authorities in the presence of the UK authorities. This requested was granted. The person was never prosecuted following this investigation.

782. The cases above, and in many others unrelated to ML/FT, illustrate the extent to which the authorities have used the MLA regime to provide and receive assistance in financial crime cases.

#### **Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1)**

783. The timeliness of the provision of assistance is dependent on the type of request made and the submission of complete information that accompanies the request. No indication was given as to exactly what the turnaround period is for MLA requests. However, the authorities did state that in cases of questioning or interviewing a witness, the authorities can do so in a matter of days. Overall, the assistance is generally constructive and effective.

#### **No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2)**

784. MLA is not prohibited nor subject to unreasonable, disproportionate or unduly restrictive conditions. It is carried out in accordance with the rules set out in bilateral and multilateral agreements with other jurisdictions. The most critical restriction is dual criminality which applies in MLA as a matter of the Egyptian law. However, assistance can be provided even where a predicate crime is not provided for under Egyptian law. For example, in one case involving tax evasion which is not a predicate crime in Egypt, assistance was still provided to a country where such an act is an offence. While this is only one case, it nevertheless does point out that Egypt has experienced situations where dual criminality has not be a hindrance to providing MLA. Other grounds for restrictions include: offences of a political nature; if the situation is not in the security interest of Egypt; or violates the Egyptian constitution.

#### **Efficiency of Processes (c. 36.3)**

785. There are clear and effective procedures to execute requests for mutual assistance in a timely manner and without undue delay. The main interlocutor for giving effect to MLA requests is the

international cooperation department of the Public Prosecutor's office. Moreover, as part of the diplomatic protocol requirements, the requests are received and transmitted through the Ministry of Foreign Affairs.

786. As indicated in the discussion on the timelines of executing requests, such procedures are determined according to the relevant and particular bilateral or multilateral agreement signed with a foreign jurisdiction. A case in point is the agreement on Judicial Notification and Delegation among Arab League member states sets the procedures governing judicial assistance. The processes include how requests are to be sent taking into consideration all information on the person to be notified; and the request being executed in accordance with applicable legal procedures.

787. A sample of bilateral agreements reviewed by the assessors indicated that there are clear and effective procedures that are intended to ensure that parties to an agreement provide the widest possible assistance in an effective manner.

#### **Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4)**

788. Assistance cannot be refused on the sole ground that the offence involves fiscal matters as indicated in the example where assistance was provided on a tax evasion matter even were this is not an offence in Egypt.

#### **Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5)**

789. Secrecy or confidentiality is not an impediment to providing MLA (see Section 2.4 of this report—Financial Institution Secrecy or Confidentiality).

#### **Availability of Powers of Competent Authorities (applying R.28, c. 36.6)**

790. Competent authorities have the power when authorized under Articles 18-20 of the AML/CFT Law to search and seize documents obtained through the CDD process. As discussed earlier under section 2.6 of this report on compelling production and search of documents, these powers are also available for MLA purposes.

#### **Avoiding Conflicts of Jurisdiction (c. 36.7)**

791. The issue of conflicts of jurisdiction is regulated by the terms of the bilateral and multilateral agreement to which Egypt is a party. For instance, a review of the bilateral agreement between UAE and Egypt indicated in Article 47 of that agreement that there is a mechanism for resolving conflicts of jurisdiction. For example, according to this agreement, were there is a conflict of jurisdiction, this would be resolved by a country most affected by a crime; a country where the crime was committed; or the nationality of the accused person.

#### **Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8)**

792. All requests have to be channeled through the Public Prosecutor. As noted when discussing production of financial records in section 2.6 of this report, these powers are available to foreign requesting competent authorities.



### **International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1)**

793. The AML/CFT Law and the AML/CFT Executive Regulations do not distinguish between ML/FT cases. Accordingly, there are no restrictions in providing assistance on terrorist financing matters.

### **Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6)**

794. The same rules apply as discussed above.

### **Dual Criminality and Mutual Assistance and SR V (c. 37.1 & 37.2)**

795. As indicated above, under criterion 36.2, dual criminality can be a basis for refusing MLA. Technical differences between Egypt's legal or criminal system and that of countries that have requested assistance have not been an impediment to rendering MLA. Consequently, dual criminality has not been an impediment whether for coercive or non-coercive measures. Egypt has a flexible approach to issues of formalities when it comes to extending MLA exemplified as well in the unilateral "courtesy" principle in providing MLA. In the case of a Qatari national, who was later transferred to Qatar from an Egyptian prison, investigation of the suspect was done despite the absence of a treaty between Egypt and Qatar.

796. However, as observed in the discussion under Criminalization of ML and TF, there are significant issues in terms of the scope of designated offences that are covered under Egyptian criminal law. Moreover, TF is has not been criminalized in accordance with the SFT Convention. These have the potential of being an impediment to providing MLA to requesting countries.

### **Timeliness to Requests for Provisional Measures including confiscation, corresponding value, coordination of provisional measures action and SR V (c. 38.1-38.3)**

797. Requests for enforcement of foreign orders are given effect to pursuant to Article 20 of the AML/CFT Law. The enforcement of final criminal rulings issued by foreign judicial authorities concerning the confiscation of funds resulting from ML or FT is enforced pursuant to the rules and procedures in bilateral or multilateral agreements or on the basis of reciprocity. However, as observed in earlier discussions on TF, Egypt has not fully implemented the requirements of the SFT Convention and Resolutions 1267 and 1373.

798. As the domestic legal procedures apply even when providing MLA to a requesting country, Article 14 of the AML/CFT Law would apply. Consequently, foreign orders dealing with property of corresponding value will be given effect to within the context of Egypt's MLA framework.

799. The Egyptian authorities have in the past coordinated their seizure and confiscation actions with foreign jurisdiction. Indeed, Article 20 of the AML/CFT Law and Article 47 of the AML/CFT Executive Regulations specifically provide that agreements entered into by Egypt should include rules for distributing the proceeds in the cases in which the confiscation of such funds results from coordination and cooperation among the treaty parties.

### **Asset Forfeiture Fund and Sharing of confiscated assets and SR V (c. 38.4 & 38.5)**

800. The authorities indicated that there is a fund that is used for combating drug abuse and treatment of drug addiction and abuse. This is established under the Combating Drug Abuse Law No. 122 of 1989. In addition, all the confiscated assets are deposited in the State Treasury.

801. As indicated above, sharing of confiscated assets is provided for in Article 47 of the AML/CFT Executive Regulations.

**Additional Element (R 38) – Recognition of Foreign Orders for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (applying c. 3.7 in R.3, c. 38.6)**

802. As observed above, under the AML/CFT Law and AML/CFT Executive Regulations, Egypt is able to enforce foreign confiscation order whether obtained as a result of a criminal or civil process.

**Statistics (applying R.32)**

803. The authorities provided the following MLA statistics to the assessor team -

<b>Table 27: Mutual Legal Assistance in ML Crimes (including requests relating to freezing, seizing and confiscation)<sup>111</sup></b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Number of MLA requests</b>		<b>2</b>	<b>2</b>	<b>1</b>
<b>Number of MLA granted</b>		<b>1</b>	<b>2</b>	<b>1</b>
<b>Number of MLA refused</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Time required to finalize requests</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

<b>Table 28: Mutual Legal Assistance in TF Crimes<sup>112</sup></b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Number of MLA requests</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>2</b>

<sup>111</sup> These are requests received by Egypt from foreign jurisdictions. One request that was not responded by the authorities was due to incomplete follow-up by the requesting country.

<sup>112</sup> No indication was given by the authorities whether the MLA requests included freezing or seizure of TF related assets.

<b>Number of MLA granted</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>1</b>
<b>Number of MLA refused</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>1</b>
<b>Time required to finalize requests</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

### **Analysis of effectiveness**

804. Egypt's MLA framework is adequate and has been used in providing assistance to other jurisdictions as well as receiving assistance to requests made by Egypt. The fact that Egypt can provide assistance on the basis of international comity is an added strength to the MLA framework. But overall, the authorities have been proactive in providing MLA to foreign jurisdictions. This is seen in the number of agreements the authorities have entered into and the fact that they can also rely on multilateral treaties to which Egypt is a party.

805. On the hand, despite the assistance that Egypt can render to requesting countries, there are questions on the extent to which Egypt has actively sought MLA from other countries. The information provided as indicated in the tables above are only in relation to MLA requests received by the Egyptian authorities. Although authorities indicated that MLA requests are made when that procedure is required in investigations, but no data was made available on such requests.

806. Furthermore, while the bilateral agreements shared with the assessors do have detailed procedures on the execution of MLA, no compelling evidence was provided on the timeliness and turnaround of requests that were received from other countries. Indeed, no information on the time needed to respond to the requests in the case examples cited in the discussion above was given to the assessors. None of the agreements reviewed contained guidance as to how long the authorities are supposed to take in executing a MLA request. There is no clear indication on what the turnaround for MLA requests is other than the authorities suggesting that requests are responded to as soon as practicable.

807. With respect to dual criminality, there are concerns on the fact that Egypt's scope of predicate offences does not cover organized crime offences as well as trafficking in human beings. Moreover, there are major gaps in the criminalization of TF specifically with respect to collection of funds. These have the serious potential of being an impediment to providing effective MLA.

### **6.3.2. Recommendations and Comments**

808. The authorities should:

- Ensure that MLA to rendered in a timely manner
- Ensure that dual criminality is not an impediment to providing MLA
- Strengthen the mechanism for maintaining MLA related statistics
- Fully implement TF in accordance with the SFT Convention

### 6.3.3. Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
<b>R.36</b>	C	
<b>R.37</b>	LC	<ul style="list-style-type: none"><li>• Dual criminality may be an issue with respect to lack of criminalization of participation in all forms of organized crime and trafficking in human beings</li></ul>
<b>R.38</b>	LC	<ul style="list-style-type: none"><li>• No sufficient information to determine effectiveness of implementation</li></ul>
<b>SR.V</b>	PC	<ul style="list-style-type: none"><li>• TF has not been fully implemented in accordance with the SFT Convention</li></ul>

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

#### 6.4.1. Description and Analysis

##### Legal Framework

809. The AML/CFT Law and the Constitution.

##### Dual Criminality and Mutual Assistance (c. 37.1 & 37.2)

810. Dual criminality is required in all extradition cases. Unlike MLA, there is no exception to this principle when it comes to providing assistance in respect of extraditing accused persons to a requesting country. However, a fugitive cannot be surrendered to another jurisdiction in situations where the offence is of a political nature; punishment based upon race, religion, or nationality.

##### Money Laundering as Extraditable Offence (c. 39.1)

811. Money Laundering and terrorist financing are extraditable offences (Article 18 of the AML/CFT Law).

##### Extradition of Nationals and cooperation in prosecution of nationals (c. 39.2 & 39.3)

812. Article 51 of the Constitution is the provision that governs the prohibition of the extradition of Egyptian nationals. Article 51 reads as follows: “No citizen may be deported from the country or prevented from returning to it.” Moreover, Article 53 of the Constitution also specifically prohibits the “extradition of political refugees.” As the statistics provided to the assessors (see Tables below) show, where a request has been made for the extradition of Egyptian nationals, the authorities have refused their extradition and instead prosecuted such nationals.

813. As mentioned in the preceding paragraph, where the authorities have refused to extradite their nationals, they have in the recent past been able to prosecute Egyptian nationals involved in criminal activities. In two cases, involving terrorism and another involving misappropriation of funds, the authorities investigated and prosecuted two Egyptian nationals who were wanted in the United Kingdom and Kuwait respectively.

814. If a foreign country requests the Egyptian judicial authorities to conduct an investigation, a delegation request is submitted by the foreign judicial authorities via diplomatic channels to the Minister of Justice. After the investigations are carried out in Egypt, the delegation is returned to the country

requesting international cooperation, according to bilateral or multilateral agreements, or on the principle of reciprocity.

**Efficiency of Extradition Process (c. 39.4)**

815. The efficiency of the extradition process is dependent on the time within which a requesting country submits its extradition file to the authorities. If the information submitted is complete, it would speed up the process of extraditing a person to the requesting country. The information required to be submitted is provided for in bilateral treaties entered into with the requesting countries. A sample of the treaties provided to the assessors indicated that this was the case.

**Additional Element (R.39)—Existence of Simplified Procedures relating to Extradition (c. 39.5)**

816. There is no provision for adopting simplified procedures relating to extradition.

**Additional Element under SR V (applying c. 39.5 in R. 39, c V.8)**

817. The provisions of the AML/CFT Law and the AML/CFT Executive Regulations dealing with international cooperation also apply to terrorism financing.

**Statistics (applying R.32)**

<b>Table 29: Money Laundering Extradition Requests</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Extradition requests related to nationals			2	
Extradition requests related to foreigners			2	

<b>Table 30: Extradition Requests on Other Crimes (Sent by Egypt to Other Countries)</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Extradition requests sent by Egypt	367	435	521	738

<b>Table 31: Extradition Requests on Other Crimes (Made to Egypt by Other Countries)<sup>113</sup></b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>

<sup>113</sup> Extradition requests not responded to are due to not having the extradition files of the concerned persons from the requesting country. The number of requests responded to in 2007 is 37; this includes extradition of criminals or referrals of nationals to the Public Prosecutor due to constitutional prohibition of extraditing nationals. The time requested for the response to extradition is determined by the judicial cooperation agreements. In all cases, such time depends on the delivery of the extradition file by the requesting country.

Extradition requests received by Egypt on nationals & foreigners living in Egypt	25	42	37	43
Extradition requests for nationals granted	18	33	26	19
Extradition requests for foreigners granted	7	9	11	18
Extradition requests not responded to				6

### Analysis of effectiveness

818. The legal provisions addressing extradition of fugitives for ML and FT purposes are adequate. The authorities have used these provisions on several occasions. Where nationals have not been extradited, the authorities have been able to prosecute them in the national courts.

819. Despite a sizeable number of cases involving other crimes, the authorities have not taken the opportunity to identify ML cases flowing from the general investigation of such crimes.

#### 6.4.2. Recommendations and Comments

820. The authorities should:

- Enhance the ability of the investigative bodies to identify ML cases flowing from other crimes.

#### 6.4.3. Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
<b>R.39</b>	C	•
<b>R.37</b>	LC	• Dual criminality may be an issue with respect to lack of criminalization of participation in some forms of organized crime and trafficking in adult human beings
<b>SR.V</b>	PC	• TF has not been fully implemented in accordance with the SFT Convention

### 6.5. Other Forms of International Cooperation (R.40 & SR.V)

#### 6.5.1. Description and Analysis

##### Widest Range of International Cooperation (c. 40.1):

821. Egypt has engaged in informal cooperative dealings on an agency-to-agency basis that covers a wide range of international cooperation. Mechanisms exist that permit relevant agencies involved in AML and CFT issues to cooperate with counterparts in other jurisdictions. The cooperation includes exchange of information.

822. **Public Prosecution office:** In addition to its role in facilitating international cooperation, the Public Prosecutor's office has engaged in cooperation at an agency to agency level with other counterpart public prosecution offices outside Egypt.

823. **Ministry of Interior:** The MoI have strong relations with their counterparts through the Arab League framework, the African Union and internationally through bilateral agreements particularly with European and American law enforcement agencies. Additionally, as is the case with all law enforcement agencies specifically the police, the MoI has relations with Interpol. It is in this context that informal exchange of information is done on a regular basis.

824. **Administrative Control Authority:** The ACA is actively engaged in cooperative relations with foreign counterparts, which aims at sharing experiences and exchanging information on issues related to combating corruption, money laundering and transparency. It has relations with Gabon, Kenya, Tanzania, Uganda, Iraq, Kuwait, Libya, Morocco, Palestine, Sudan, UAE, Yemen, Armenia, France, Hungary, Italy, Slovakia, Sweden, United Kingdom, Australia, China, Hong Kong SAR, Macau, Malaysia, Mongolia, Thailand, Vietnam, and United States.

825. **Customs Authority:** They fulfill their international obligations within the auspices of the WCO. Moreover, the Customs Authority has entered into MoUs with the following countries: Algeria, Chad, Jordan, Libya, Morocco, Slovenia, Syria, Tunisia, Turkey,

826. **Central Bank of Egypt:** In the area of cooperation with foreign supervisory authorities, regulating the financial sector, a number of agreements have been signed with several countries such as Russia, Kazakhstan, Romania, and Oman in order to achieve the widest range of the cooperation and exchange of information with the view to enhancing the performance of supervisory functions.

827. These include principles of cooperation and the exchange of information in the field of granting provisional licenses, ownership of shares, fundamental changes in the structure of shareholders, and fit-and-proper tests; measures taken to address vulnerabilities and weaknesses in financial institution activities and restructuring programs; sanctions imposed; procedures and inspections requests over entities existing in hosting countries; requests of exchanging supervisory laws and regulations; ensuring the soundness of financial transactions, with a view to reducing incidents of fraud and financial crimes; and secrecy criteria of information exchanged.

828. There was no information provided on whether other financial regulators do exchange information with their counterparts.

829. **Egyptian Money Laundering Combating Unit:** The EMLCU cooperates with other foreign FIU counterparts through exchanging information on suspicious transactions.

#### **Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1):**

830. While there are no statistics to indicate the timeliness of the provision of assistance between the competent authorities and their foreign counterparts, the assistance provided in an informal manner has been timely, constructive and effective. As indicated above as in the case of the EMLCU which has entered into MOU's with several jurisdictions.

#### **Clear and Effective Gateways for Exchange of Information (c. 40.2):**

831. The EMLCU has the power to extend assistance to foreign jurisdictions with respect to exchanging information with foreign FIUs on terms and conditions as set out in an agreement between the parties. Pursuant to Article 46 of the AML/CFT Executive Regulations the EMLCU can enter into MOUs with counterpart FIUs as well as other foreign competent authorities. They can also exchange information on the basis of the reciprocity principle (Article 48 of the AML/CFT Executive Regulations). Where information is exchanged with a foreign counterpart, the requesting FIU are obligated to make an undertaking to use such information for the purpose it was requested for and not to disclose it to a third party unless prior approval is obtained from the EMLCU.

832. CBE complies with the recommendations issued by the Basel Committee on Banking Supervision with the aim of achieving effective banking supervision, starting from considering granting a license; encountering any problems when financial institutions are already operational; and making informal arrangements on exchanging information between the CBE and other host supervisory authorities which regulate foreign entities affiliated with Egyptian banks (such as FSA in the United Kingdom and the Federal Reserve Bank of New York).

833. The MoI is able to share and exchange information through the normal law enforcement and intelligence channels including that of Interpol. Exchange of information between law enforcement authorities and their counterparts is not subject to any legislative conditions. Information received in the context of investigations is governed by the standard internal procedures of the respective agencies. But there is a clear understanding on the necessity of safeguarding the integrity of the information that is exchanged with foreign counterparties.

**Spontaneous Exchange of Information (c. 40.3):**

834. All entities have adequate processes to ensure prompt responses to requests for information relating to money laundering and the underlying predicate offences.

**Making Inquiries and Conducting Investigations on Behalf of Foreign Counterparts and Exchange of Information (c. 40.4, c. 40.5, and c. 40.6):**

835. All competent authorities have no restrictions to conduct inquiries on behalf of foreign counterparts. In addition, exchange of information between competent authorities internationally or domestically is not restricted.

**FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1):**

836. EMLCU is authorized to make inquiries on behalf of foreign counterparts where MoUs or international agreements have been signed or according to the principle of reciprocity, and subject to the condition that the requesting party undertakes to ensure the sound use of the information, and especially not to use the information except for the purpose for which it was requested. These exchanges of information would include the FIU searching its own databases with respect to information related to suspicious transaction reports, and searching other databases to which it may have direct or indirect access. (Articles 44 and 46 of AML/CFT Executive Regulations)

**Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):**

837. Information is readily exchanged by the authorities with their counterparts regardless of whether it involves fiscal issues.

**Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):**

838. As discussed earlier, secrecy and confidentiality issues are not an impediment to providing assistance to domestic or foreign agencies.

**Safeguards in Use of Exchanged Information (c. 40.9):**

839. As indicated above, the AML/CFT Executive Regulations do clearly provide for the manner in which exchanged information can be used by a foreign competent authority.



**Additional Element—Exchange of Information with Non-Counterparts (c. 40.10 & c. 40.10.1):**

840. The practice in Egypt is to exchange information on a peer-to-peer basis, consistent with the bilateral agreement or MoU. However, EMLCU can coordinate requests for information that cut across agencies.

**Additional Element—Provision of Information to FIU by Other Competent Authorities pursuant to request from Foreign FIU (c. 40.11):**

841. Yes, there are no restrictions.

**International Cooperation under SR V:**

842. As discussed above, all the rules apply to terrorism financing.

**Statistics (applying R.32):**

843. No statistics are available in relation to informal international cooperation or exchange of information.

**Analysis of effectiveness**

844. Egypt has mechanisms in place to facilitate the exchange of information on a bilateral basis between counterparts, and through the EMLCU for the exchange of information across competent authorities for inquiries relating to both ML and FT purposes. In particular, with the MoI, through the various law enforcement forums, they have established strong relationships through which they have been able to share intelligence and other information with their counterparts. This information ranges from matters related to general predicate crimes, ML and information related to terrorism. Interpol is a mechanism that the MoI uses considerably in exchanging information with other counterpart law enforcement agencies.

**6.5.2. Recommendations and Comments**

845. The authorities should ensure that other financial regulators are also able to share information with their counterparts in foreign jurisdictions.

**6.5.3. Compliance with Recommendation 40 and Special Recommendation V**

	<b>Rating</b>	<b>Summary of factors relative to s.6.5 underlying overall rating</b>
<b>R.40</b>	LC	<ul style="list-style-type: none"><li>• No information with respect to other financial regulators</li></ul>
<b>SR.V</b>	PC	<ul style="list-style-type: none"><li>• TF has not been fully implemented in accordance with the SFT Convention</li></ul>

## 7. OTHER ISSUES

### 7.1. Resources and Statistics

#### Statistics

846. The EMLCU, on its own account, produces a good range of statistical information on the STRs and information it receives, analyses, and disseminates. More broadly, repeated discussions on statistical issues across all ministries and agencies revealed that the collection, analysis, and dissemination of statistics required greater priority attention. A number of agencies appear to have limited appreciation of the importance and value of these statistics in tracking the progress of AML/CFT implementation. The collection of statistics to monitor and support implementation of the AML/CFT measures appeared new to a number of agencies and seemed not to have been a standard requirement in their operations. The data that were provided by various interlocutors were limited and, because they were often presented in different ways by different agencies, it was very difficult for assessors to compare to the statistics emanating from various elements of the community and form a coherent global picture.

847. Throughout the on-site visit, much time was required to build understanding of statistics requested, during which time, significant errors on submissions were realized by officials. Lack of appreciation on how the relationships among the many lines of statistics contribute to analysis of effectiveness, led to errors in statistics in the initial submission. Discussions during the on-site visit with most authorities revealed that a system of collection, compilation and analysis of the various indicators on AML/CFT implementation, was not in place at the time of the on-site visit. The EMLCU, as the coordinating agency, needs to take a stronger and more prominent role to ensure that a comprehensive and coherent system of collecting, analyzing and sharing of statistical information is put into place.

848. Assessors noted and have included in this report the comprehensive set of statistics provided by the Ministry of Solidarity. It was clear that compilation of statistics was already in place in that Ministry, and that the data were used for monitoring of AML/CFT compliance by the Ministry, as well as in its analysis to identify gaps and effectiveness of implementation.

#### Resources

849. EMLCU as the apex institution responsible for the AML/CFT regime in Egypt is provided with adequate resources. As observed in the discussion dealing with the role of supervisory authorities, both the CBE, the CMA and the EISA have significant supervisory resources<sup>114</sup> (which are dealing with all prudential issues, including AML /CFT). The CBE appears to have significant AML /CFT specific resources and the CMA to be stepping up its efforts in that area. Although the EISA has fraud and AML /CFT experts, the latter appear to be almost exclusively dedicated to fraud issues.

850. As noted in the section discussing Law enforcement and prosecution authorities, all law enforcement agencies visited appeared to be well staffed, accommodated in good offices with access to a wide range of equipment and facilities. There are about 3,500 public prosecutors, and a support staff for administrative matters of about 18,000. At present 18 prosecutors are dedicated to combating ML and FT cases in the SPO, while 10 prosecutors are dedicated to the international cooperation department of the General Prosecutors office (the equivalent of Attorney General) responsible for MLA and extradition matters. The ACA appeared to be well staffed, accommodated in modern offices and have established specialist sections for dealing with targeted crimes. It has 500 judicial officers, with a support staff of

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<sup>114</sup> The assessors were informed that the CBE had increased its IT resources which totaled at the time of the onsite mission 500 desktops and 100 laptops.

1500. The Customs Authority is very well resourced with a staff of about 14,000 officers, of which, 4,000 are located at all designated entry points.

851. Moreover, the authorities have recognized that in order to effectively implement the AML/CFT measures, resources – both human and financial – need to be deployed across all relevant agencies involved in the implementation of the AML/CFT framework. However, much training is needed to enable the investigative agencies, namely, the SPO, MoI and the ACA to identify ML cases flowing from other crimes.

### **Recommendations**

852. EMLCU as the central agency responsible for AML/CFT statistics, to develop a systematic approach to designing and maintaining a comprehensive AML/CFT data base. The National Committee on AML/CFT should also make this statistical function of EMLCU as a key deliverable, and facilitate coordination with other agencies on order to (i) ensure the effective collection, analysis, and maintenance of statistics on AML/CFT from all relevant agencies so as to provide indicators on the effectiveness of the regime; (ii) deepen the existing understanding of all agencies, of the importance of timely and accurate statistics in each agency, not only to support analysis of effectiveness of AML/CFT implementation, but to also provide a sound basis for policy formulation and responses to risks; (iii) include statistical issues in AML/CFT training by the EBI; and (iv) consider dissemination of AML/CFT related statistics in official publications.

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.30</b>	LC	<ul style="list-style-type: none"> <li>• This rating is the aggregate of all the sections in this report.</li> <li>• Insufficient training in identifying ML cases flowing from other crimes</li> </ul>
<b>R.32</b>	PC	<ul style="list-style-type: none"> <li>• This rating is the aggregate of all the sections in this report.</li> <li>• There is no systematic and coherent mechanism of maintaining statistics by relevant agencies –               <ol style="list-style-type: none"> <li>a. Only basic FIU related statistics available;</li> <li>b. There are no statistics on the monetary value of freezing, seizure and confiscation of proceeds of crime;</li> <li>c. No data on Mutual Legal Assistance Requests denied in relation to ML &amp; TF;</li> <li>d. No data on extradition requests in relation to ML &amp; TF;</li> </ol> </li> </ul>

### **7.2. Other relevant AML/CFT Measures or Issues**

### **7.3. General Framework for AML/CFT System (see also section 1.1)**

**Table 32: Ratings of Compliance with FATF Recommendations**

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating<sup>115</sup></b>
<b>Legal systems</b>		
1. ML offense	LC	<ul style="list-style-type: none"> <li>• The material elements of concealing and acquisition require proof of purpose</li> <li>• Lack of overall effectiveness of the AML/CFT system due to low ML investigations and prosecutions arising out of profit generating crimes</li> <li>• Scope of predicate offences does not extend to participation in all forms of organized crimes and all forms of human trafficking</li> </ul>
2. ML offense—mental element and corporate liability	LC	<ul style="list-style-type: none"> <li>• Legal Persons cannot be criminally prosecuted and any penalty to be imposed has to be linked to a representative of the legal person</li> <li>• Low number of ML cases brought to trial</li> <li>• Sanctions are not effective and dissuasive</li> </ul>
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>• Confiscation framework has not been used much in ML cases to determine overall effectiveness of system</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> <li>• No specific provision related to the sharing of information between financial institutions (where required by Rec. 7, 9 and SR VII)</li> </ul>
5. Customer due diligence	PC	<ul style="list-style-type: none"> <li>• Incomplete requirement regarding beneficial owners (definition of beneficial owners not restricted to natural persons and nature of the due diligence to be implemented)</li> <li>• Key weaknesses regarding the customer due diligence requirements for the three institutions which carry out banking activities although they not supervised by the CBE (in particular concerning the scope of customer identification requirements, the lack of requirement to collect of information on the purpose and intent of the business relationship, or to undertake ongoing</li> </ul>

<sup>115</sup> These factors are only required to be set out when the rating is less than Compliant.

		<p>monitoring or a risk-based updating of customer information</p> <ul style="list-style-type: none"> <li>• Lack of adequate identification requirements when dealing with trusts and other legal arrangements</li> <li>• Lack of effectiveness (weaknesses in implementing ongoing monitoring requirements, including for higher risk customers, in updating customer information etc.)</li> </ul>
6. Politically exposed persons	PC	<ul style="list-style-type: none"> <li>• Lack of effectiveness (e.g. lack of awareness of existing requirements by some financial institutions which the mission met, and hence of implementation of these requirements)</li> <li>• Ambiguous requirements regarding the identification of the sources of the wealth and funds of PEPs' beneficial owners for foreign exchange companies and the three banks not supervised by the CBE</li> </ul>
7. Correspondent banking	PC	<ul style="list-style-type: none"> <li>• Lack of enforceable requirement for the three institutions not supervised by the CBE that carry out banking business and for institutions that carry out relationships similar to correspondent banking (e.g. in the securities sector) to (i) gather sufficient information about a respondent institution, (ii) assess its AML/CFT controls, (iii) obtain approval from senior management before establishing new relationships and (iv) document the respective AML/CFT responsibilities of each institution</li> </ul>
8. New technologies & non face-to-face business	LC	<ul style="list-style-type: none"> <li>• Incomplete requirements for foreign exchange companies, money transfer companies, leasing companies, factoring companies, mortgage finance companies and banks not supervised by the CBE</li> <li>• Lack of effectiveness (e.g. weaknesses in the implementation of requirements related to modern technologies)</li> </ul>
9. Third parties and introducers	PC	<ul style="list-style-type: none"> <li>• Lack of effectiveness (e.g. excessive reliance of some institutions on their introducer to perform CDD measures)</li> </ul>
10. Record-keeping	LC	<ul style="list-style-type: none"> <li>• Some institutions not specifically required to keep sufficient records for criminal prosecution</li> </ul>
11. Unusual transactions	PC	<ul style="list-style-type: none"> <li>• Content of recommendation 11 addressed in too general term:</li> <li>• (e.g. no mention of unusual patterns of</li> </ul>

		<p>transactions, of a lack of economic or lawful purpose etc.), especially for those institutions only covered by the AML /CFT law and its Executive regulation</p> <ul style="list-style-type: none"> <li>• Lack of effectiveness (e.g. very little attention paid to unusual patterns of transactions, across the financial industry)</li> </ul>
12. DNFBP–R.5, 6, 8–11	PC	<ul style="list-style-type: none"> <li>• Lawyers and accountants are not covered in the AML/CFT framework.</li> <li>• Effectiveness of regulations issued recently in respect of real estate brokers and dealers of precious metals and stones, cannot yet be assessed as implementation is just beginning</li> <li>• Casinos do not appear to be fully covered by the AML Law (only the foreign exchange dealing aspect appears to be covered)</li> </ul>
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>• Too narrow reporting obligation (i.e. only suspicion of money laundering or terrorism financing)</li> <li>• Lack of effectiveness (low number of reporting, especially for non banks)</li> </ul>
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> <li>• Too narrow protection from civil liability (i.e. requirement that there have been reasonable grounds for filing an STR and not that reporting was done in good faith)</li> </ul>
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> <li>• For financial institutions covered <i>only</i> by the AML /CFT law, insufficient enforceable requirements on AML /CFT internal control and lack of obligations related to internal audit and employee screening</li> <li>• Still insufficient staff training across the financial industry, despite considerable efforts undertaken in that area in the past few years</li> </ul>
16. DNFBP–R.13–15 & 21	PC	<ul style="list-style-type: none"> <li>• Casino based foreign exchange bureau are submitting STRs, but no information available as to numbers of STRS, and location of reporting casinos.</li> <li>• Real estate brokers and dealers in precious metals and stones have recently been brought under coverage of the AML/CFT Law but too recently to judge effectiveness.</li> </ul>
17. Sanctions	PC	<ul style="list-style-type: none"> <li>• Lack of criminal liability of legal persons and very low financial sanctions contemplated by the</li> </ul>

		<p>AML /CFT law</p> <ul style="list-style-type: none"> <li>• Lack of administrative sanctions for some institutions (e.g. Arab International Bank, Post office etc.)</li> <li>• Administrative sanctions not adequately dissuasive (e.g. no appropriate administrative financial sanctions)</li> </ul>
18. Shell banks	LC	<ul style="list-style-type: none"> <li>• Only banks supervised by the CBE are prohibited from entering into correspondent relationships with shell banks</li> <li>• No prohibition from continuing correspondent banking relationships with shell banks</li> </ul>
19. Other forms of reporting	C	
20. Other NFBP & secure transaction techniques	LC	<ul style="list-style-type: none"> <li>• Too limited effectiveness of the measures implemented to encourage the development and use of modern and secure techniques for conducting financial transactions</li> <li>• No specific analysis of the opportunity to include dealers in high value and luxury goods within the AML /CFT framework</li> </ul>
21. Special attention for higher risk countries	LC	<ul style="list-style-type: none"> <li>• No specific requirement regarding the examination of transactions with no apparent economic or visible lawful purpose from countries not sufficiently applying FATF Recommendations</li> </ul>
22. Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> <li>• Foreign subsidiaries not required to observe AML/CFT measures consistent with home country requirements</li> <li>• Egyptian financial institutions not required to inform their Egyptian supervisor when their foreign subsidiaries are unable to observe appropriate AML/CFT measures</li> </ul>
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> <li>• Licensing requirements: lack of requirements for the three banks not supervised by the CBE and incomplete requirements regarding the transparency of ownership of other financial institutions</li> <li>• Lack of enforceable AML /CFT regulations for AIB, NSB and the CBE (i.e. no dissuasive and proportionate sanctions)</li> <li>• Too limited AML/CFT supervision for life insurance, foreign exchange bureaus and money</li> </ul>

		transfer companies
24. DNFBP—regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• No information as to the policies, procedures, conditions applied by the licensing authority to casino licensees.</li> <li>• No information as to due diligence and measures to prevent criminals or associates from being casino operators.</li> <li>• Supervision only applied to foreign exchange function, and casinos as entities are not covered by the AML Law Regulations for real estate brokers and dealers of precious metals and stones not clear as to compliance monitoring and do not provide any sanctions for non-compliance. Coverage is too recent to assess.</li> <li>• Lawyers and accountants are not covered by the AML Law</li> </ul>
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> <li>• This rating is the aggregate of all the sections in this report</li> <li>• No guideline issued for the Central bank of Egypt</li> <li>• Lack of comprehensive regulatory powers for the EMLCU for the three banks not supervised by the CBE. Some DNFBPs (lawyers and accountants) sectors are not covered by the AML Law.</li> <li>• Implementation is just beginning in respect of entities added to the list during the onsite visit (precious metals and stones, and real estate brokers).</li> <li>• There are no guidelines specific to casinos, except for the foreign exchange operations that are covered under the general regulations covering all licensed foreign exchange bureaus.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	LC	<ul style="list-style-type: none"> <li>• Low number of reporting of suspicious transactions</li> <li>• Low number of case referrals from FIU to the State Prosecutor's</li> <li>• Published Annual Report does not include statistical information</li> </ul>
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> <li>• Low number of identifying ML indicators in</li> </ul>



		reported crimes raises questions on whether ML cases are properly investigated
28. Powers of competent authorities	LC	<ul style="list-style-type: none"> <li>Lack of adequate supervision for insurance companies and financial institutions only covered by the AML /CFT law (Arab International Bank, Nasser social bank and the Central Bank of Egypt)</li> </ul>
29. Supervisors	PC	<ul style="list-style-type: none"> <li>Lack of adequate supervision for insurance companies and financial institutions only covered by the AML /CFT law (Arab International Bank, Nasser social bank and the Central Bank of Egypt)</li> </ul>
30. Resources, integrity, and training	LC	<ul style="list-style-type: none"> <li>This rating is the aggregate of all the sections in this report.</li> <li>Insufficient training in identifying ML cases flowing from other crimes</li> </ul>
31. National co-operation	C	
32. Statistics	PC	<ul style="list-style-type: none"> <li>This rating is the aggregate of all the sections in this report.</li> <li>There is no systematic and coherent mechanism of maintaining statistics across all the agencies – <ul style="list-style-type: none"> <li>a) Only basic FIU related statistics available;</li> <li>b) No data on monetary value of freezing, seizure and confiscation of proceeds of crime;</li> <li>c) No data on Mutual Legal Assistance Requests denied in relation to ML &amp; TF;</li> <li>d) No data on extradition requests in relation to ML &amp; TF</li> </ul> </li> </ul>
33. Legal persons–beneficial owners	PC	<ul style="list-style-type: none"> <li>Beneficial ownership information is kept manually and potentially compromise accuracy of information(computerization target only in 2010)</li> <li>Weak enforcement mechanism where a company fails to maintain accurate information</li> <li>No appropriate mechanism to prevent abuse of bearer shares.</li> </ul>
34. Legal arrangements – beneficial owners	N/A	

<b>International Cooperation</b>		
35. Conventions	LC	<ul style="list-style-type: none"> <li>• No full implementation of the SFT Convention including collection of funds</li> <li>• No full implementation of the Palermo Convention including criminalizing organized crime</li> <li>• No implementation of liability of legal persons</li> </ul>
36. Mutual legal assistance (MLA)	C	<ul style="list-style-type: none"> <li>•</li> </ul>
37. Dual criminality	LC	<ul style="list-style-type: none"> <li>• Dual criminality may be an issue with respect to lack of criminalization of participation of all forms of organized crime and trafficking in human beings</li> </ul>
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> <li>• No sufficient information to determine effectiveness of implementation</li> </ul>
39. Extradition	C	
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> <li>• No information with respect to other financial regulators</li> </ul>
<b>Nine Special Recommendations</b>		
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> <li>• Lack of implementation of the 1267 and 1373 requirements</li> </ul>
SR.II Criminalize terrorist financing	PC	<ul style="list-style-type: none"> <li>• Definition of TF is not fully captured under the Penal Code</li> <li>• Financing of individual terrorist is not covered</li> <li>• Collection of funds is not covered</li> </ul>
SR.III Freeze and confiscate terrorist assets	PC	<p>There is no legal basis for freezing or seizing without delay terrorist assets for persons or legal entities on the UN list.</p> <p>Although there are steps taken by the authorities, there are no:</p> <ul style="list-style-type: none"> <li>• No procedures for designating individuals or legal entities as required under Resolution 1373</li> <li>• No procedures for reviewing lists of suspected terrorist or legal entities sent by foreign jurisdictions pursuant to Resolution 1373</li> <li>• No procedures for de-listing and unfreezing of funds for persons wrongly listed</li> <li>• No procedures providing a mechanism through which a person or entity can challenge a freezing</li> </ul>

		<p>action</p> <ul style="list-style-type: none"> <li>• No procedures by which persons subject to a freezing order is able to access funds or assets for basic expenses</li> <li>• No effective mechanism for receiving a feedback from across all relevant sectors that receive the UN List</li> <li>• DNFBPs are not covered in the circulation of the UN List</li> </ul>
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> <li>• Reporting obligation slightly too narrow (terrorism financing instead of suspicion that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism)</li> </ul>
SR.V International cooperation	PC	<ul style="list-style-type: none"> <li>• TF has not been fully implemented in accordance with the SFT Convention</li> </ul>
SR.VI AML/CFT requirements for money/value transfer services	LC	<ul style="list-style-type: none"> <li>• No sanction has been imposed on any money transfer companies and activities while shortcomings have been identified.</li> <li>• Weaknesses in supervisory framework to detect illegal money transfer services.</li> <li>• One of the two licensed money transfer companies does not establish on-going staff training.</li> </ul>
SR.VII Wire transfer rules	PC	<ul style="list-style-type: none"> <li>• Three institutions allowed to offer wire transfer without there being any specific AML /CFT requirement (i.e. banks not supervised by the CBE)</li> <li>• Insufficient monitoring by banks supervised by the CBE</li> </ul>
SR.VIII Nonprofit organizations	C	
SR.IX Cash Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> <li>• Lack of effective implementation of system</li> <li>• No evidence of thoroughness of reporting suspicious declaration forms</li> <li>• No proper safeguards for proper use of currency declaration information</li> </ul>

**Table 33: Recommended Action Plan to Improve the AML/CFT System**

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
<b>1. General</b>	
<b>2. Legal System and Related Institutional Measures</b>	
Criminalization of Money Laundering (R.1, 2, & 32)	<ul style="list-style-type: none"> <li>• Amend the ML offence to ensure that the material elements of (i) concealing, and (ii) of acquisition do not require the prosecution to establish a purpose for such conduct</li> <li>• Explicitly criminalize under Egypt’s criminal laws engaging in participation in some forms of organized crime activities; and adult human trafficking.</li> <li>• Expedite bringing to trial the outstanding cases that have been referred to the SPO by the EMLCU.</li> <li>• Require that legal persons be criminally prosecuted if engaging in or being used for ML/TF activities</li> <li>• Investigate ML indicators in the profit generating crimes that are reported with a view to initiating ML prosecutions</li> <li>• Consider reviewing the factors that have led to the delay of the trials in the remaining cases such as for example whether it is due to a skills gap or lack of resources at relevant agencies.</li> </ul>
Criminalization of Terrorist Financing (SR.II & R.32)	<ul style="list-style-type: none"> <li>• Financing of terrorism with respect to an individual terrorist is covered under the PC and the AML/CFT Law.</li> <li>• Collection of funds is covered as part of the definition of financing of terrorism under the PC, the Order of the Military Ruler, and the AML/CFT Law</li> <li>• Article 2 of the AML/CFT Executive Regulations on the issue of TF is consistent with the AML/CFT Law.</li> <li>• The TF framework fully complies with the relevant provisions of the SFT.</li> </ul>
Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)	<ul style="list-style-type: none"> <li>• Establish an appropriate mechanism to track assets that are frozen, seized and confiscated not just in terms of number of cases but also their monetary values</li> <li>• Utilize the confiscation framework fully in ML cases</li> </ul>
Freezing of funds used for terrorist financing (SR.III & R.32)	<p>The authorities should establish, document in writing, and publicly make available information on procedures:</p> <ul style="list-style-type: none"> <li>• On freezing or seizing without delay assets for persons or legal entities on the UN List and clearly indicating which body is responsible for executing this requirement</li> <li>• On designating individuals or legal entities as required under</li> </ul>

	<p>Resolution 1373</p> <ul style="list-style-type: none"> <li>• On reviewing lists of suspected terrorist or legal entities sent by foreign jurisdictions pursuant to Resolution 1373</li> <li>• On de-listing and unfreezing of funds for persons wrongly listed</li> <li>• On circulating the UN list to public and private sector players (DNFBPs) and not just financial institutions</li> <li>• On unfreezing of funds belonging to persons or entities that are not designated persons</li> <li>• Providing a mechanism through which a person or entity can challenge a freezing action</li> <li>• By which persons subject to a freezing order is able to access funds or assets for basic expenses</li> <li>• To monitor compliance with the AML/CFT Executive Regulation with respect to the Security Council Resolutions</li> <li>• Providing for an effective mechanism to receive feedback from across all relevant sectors that receive the UN List</li> </ul>
<p>The Financial Intelligence Unit and its functions (R.26, 30 &amp; 32)</p>	<p>The authorities should consider taking the following actions:</p> <ul style="list-style-type: none"> <li>• The EMLCU and the financial sector supervisory bodies should undertake a study of the suspicious transaction reporting numbers and devise initiatives to stimulate more comprehensive reporting.</li> <li>• Adding other DNFBPs such as vendors of other high value goods (cars, boats, etc) and establishing more effective supervision of casinos, so as to expand the range and quantity of transaction reporting flowing to the EMLCU.</li> <li>• Intensifying the implementation of the cross border currency declaration requirement.</li> <li>• While it is not required by the methodology, assessors are of the view that in light of the cash intensive nature of the Egyptian economy and financial system there could be an important element risk of money laundering through large cash transactions. Assessors suggest that it may be worthwhile for Egyptian authorities, in the context of any renewed assessment of money laundering risks, to reconsider the utility and value of implementing a Large Cash Transaction reporting requirement as part of the financial sector’s reporting to the EMLCU.</li> </ul>
<p>Law enforcement, prosecution and other competent authorities (R.27, 28, 30 &amp; 32)</p>	<ul style="list-style-type: none"> <li>• Availing the law enforcement agencies with training at various Police Academies within the Arab League.</li> <li>• Ensuring that law enforcement agencies maintain in a systematic manner statistics in relation to ML/FT investigations, prosecutions and seizure of proceeds of crime.</li> </ul>

	<ul style="list-style-type: none"> <li>• Streamlining the operations of the many units that are involved in ML investigations in order to strengthen their efficiency.</li> <li>• Enhancing the investigative capacity of the law enforcement agencies to enable them to identify ML indicators arising from predicate crimes.</li> </ul>
<b>3. Preventive Measures– Financial Institutions</b>	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5–8)	<ul style="list-style-type: none"> <li>• Require financial institutions by “law or regulation” to identify their customers and business owners (i) in cases where those financial institution have doubts about the veracity or adequacy of previously obtained customer identification data and (ii) occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;</li> <li>• Set the threshold above which occasional customers have to be identified for financial institutions, other than banks supervised by the CBE, the Post office and foreign exchange companies for which is has been done (or document the fact that some financial institutions do not deal with occasional customers and put a framework in place to make sure that this assessment remains up to date). Where appropriate, that threshold should be set at a level commensurate with the Egyptian environment (and below EUR /USD 15,000 as requested by FATF). The assessors recommend that the Egyptian authorities use this opportunity to revisit the adequacy of the threshold set for banks supervised by the CBE, the Post office and foreign exchange dealers, which appears high (EGP 50,000, approximately USD 9,000);</li> <li>• Clarify that financial institutions have to use reliable and independent sources of identification (as the current wording is close but not equivalent to that);</li> <li>• When dealing with legal arrangement (including foreign legal arrangements), require all financial institutions to (i) verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person; and (ii) verify the legal status of the legal arrangement;</li> <li>• Restrict the definition of a beneficial owner to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted (as opposed to the natural and legal person who ultimately owns or controls a customer, as is currently the case for any financial institution other than an insurance company, a foreign exchange dealer or a money transfer company);</li> </ul>

	<ul style="list-style-type: none"> <li>• Require all financial institutions to take reasonable measures to verify the identity of the beneficial owners of its customers so that financial institutions are satisfied that they know who those beneficial owners are;</li> <li>• Require the institutions covered only by the AML /CFT law (as well as foreign exchange companies and money transfer companies) to obtain information on the purpose and intent of their business relationships;</li> <li>• Require by “law or regulation” all financial institutions to conduct ongoing due diligence on their business relationships (as, where they exist, such requirements are currently set in “other enforceable means”);</li> <li>• Set a general requirement for the institutions covered only by the AML /CFT law to scrutinize transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer;</li> <li>• When an institution covered only by the AML /CFT law is unable to complete CDD measures, indicate that (i) it is are not permitted to open the account, commence business relations or perform the transaction and (ii) should consider making a suspicious transaction report;</li> <li>• For institutions covered only by the AML /CFT law, clarify the existing general requirement to update customer information by indicating that this should be done on the basis of materiality and risk (i.e. more often when there is a higher risk);</li> <li>• Clarify that all financial institutions have to take measures to establish the source of wealth and of funds of beneficial owners who are PEPs (as the AML /CFT Executive regulation is slightly ambiguous on the latter);</li> <li>• Require all financial institutions which maintain cross-border correspondent banking relationships (and not only banks supervised by the CBE) as well as institutions which maintain similar relationships (e.g. those established for securities transactions or funds transfers, whether for the cross-border financial institution as principal or for its customers) to: <ul style="list-style-type: none"> <li>○ Gather sufficient information about a respondent institution to understand fully the nature of the respondent’s business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;</li> <li>○ Assess the respondent institution’s AML/CFT controls, and ascertain that they are adequate and effective;</li> <li>○ Obtain approval from senior management before establishing new correspondent relationships;</li> <li>○ Document the respective AML/CFT responsibilities of each institution;</li> </ul> </li> <li>• Require the Post office, money transfer companies, and the</li> </ul>
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	<p>institutions covered only by the AML /CFT law to have policies and procedures in place to address all kinds of specific risks associated with non-face to face business relationships or transactions which have to be applied when establishing customer relationships and when conducting ongoing due diligence</p>
Third parties and introduced business (R.9)	<ul style="list-style-type: none"> <li>• The Egyptian authorities should consider (i) extending the relevant requirements set in the EMLCU KYC rules for banks supervised by the CBE to all other financial institutions or (ii) effectively take measures so that institutions which are not authorized to do so, do not in practice in rely on third parties for CDD purposes. Moreover, efforts are needed for these requirements to be well understood by banks supervised by the CBE and thus properly implemented (i.e. avoid an unintended lack of vigilance in those cases as institutions expect the introducer to perform all CDD measures).</li> </ul>
Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> <li>• A specific legal provision should be included to allow financial institutions to share information where this is required by R.7, R.9 or SR.VII.</li> </ul>
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> <li>• Specifically require all financial institutions that their transaction records be sufficient to permit the reconstruction of individual transactions, so as to provide, if necessary, evidence for prosecution of criminal activity;</li> <li>• Broaden existing requirement so that financial institutions have to keep records for longer than five years if requested by a competent authority in all specific cases if requested upon proper authority (the current drafting only addresses cases where an STR was initially filed);</li> <li>• Set detailed requirements for all financial institutions allowed to carry out wire transfers in line with SR VII (and not only for banks supervised by the CBE and some activities of the Post office);</li> <li>• Lower the threshold above which occasional customers who send a money order from a Post office have to be identified, so that it complies with the FATF recommendation (i.e. maximum of EUR /USD 1,000)</li> </ul>
Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> <li>• Require <i>all</i> financial institutions to pay special attention to <i>all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose</i>;</li> <li>• Require <i>all</i> financial institutions to examine as far as possible the background and purpose of such transactions and to set</li> </ul>



	<p>forth their findings in writing;</p> <ul style="list-style-type: none"> <li>• Require <i>all</i> financial institutions to keep such findings available for competent authorities and auditors for at least five years.</li> <li>• Require banks not supervised by the CBE to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations;</li> <li>• If those transactions have no apparent economic or visible lawful purpose, all financial institutions should be explicitly required to examine the background and purpose of such transactions, as far as possible, (and written findings should be available to assist competent authorities and auditors).</li> <li>• Significant outreach has been done by the Egyptian authorities and guidance has been included in AML /CFT regulations issued for some financial institutions. Despite these efforts, the number of reporting remains low, especially for non banks. Moreover, reporting requirements are not as extensive as what is recommended by FATF.</li> <li>• The assessors were informed that the Egyptian authorities had considered putting in place a large cash transaction reporting system and that this had been deemed inappropriate as cash transactions are extremely frequent and this could have created disincentives for financial institutions to undertake their own monitoring of large cash transactions. The use of cash is a key characteristic of the Egyptian environment, and financial institutions therefore have to handle significant and regular inflows and outflows of cash. No individual institution is by definition able get an overall view of large cash flows in the country. A more detailed study could usefully be undertaken to deepen the analysis of the opportunity of having a national large cash transaction system in Egypt, which may be as an effective venue to strengthen further the Egyptian AML /CFT regime.</li> </ul>
<p>Suspicious transaction reports and other reporting (R.13, 14, 19, 25, &amp; SR.IV)</p>	<p>The Egyptian authorities should also consider the following detailed amendments to the regulatory framework:</p> <ul style="list-style-type: none"> <li>• Financial institutions should be required to report to the EMLCU when it suspects that funds are the proceeds of a criminal activity (and not only when they have suspicions of money laundering or terrorism financing);</li> <li>• Financial institutions and their directors, officers and employees should be protected by law from civil liability for breach of any restriction on disclosure of information, if they</li> </ul>

	<p>report their suspicions in good faith to the EMLCU (and not only when this is based on reasonable grounds);</p> <ul style="list-style-type: none"> <li>• Issuing guidelines for all financial institutions (i.e. including the Central bank of Egypt);</li> <li>• Clarify that all suspicions that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism should be reported.</li> </ul>
<p>Cross Border Declaration or disclosure (SR IX)</p>	<p>The authorities should consider -</p> <ul style="list-style-type: none"> <li>• Taking actions to enhance the implementation and effectiveness of cross-border and physical transportation of currency.</li> <li>• Adopting a national strategic approach to the management of the cross border transportation of cash and negotiable instruments.</li> <li>• Coordinating approach to passenger profiling using intelligence led model in conjunction with other law enforcement agencies.</li> <li>• Customs and the EMLCU having complete record of all currency declarations.</li> </ul>
<p>Internal controls, compliance, audit and foreign branches (R.15 &amp; 22)</p>	<ul style="list-style-type: none"> <li>• Set enforceable requirements for AIB, NSB and the CBE : <ul style="list-style-type: none"> <li>○ To establish and maintain internal procedures, policies and controls to prevent ML and FT and to communicate these to their employees. These procedures, policies and controls should cover, inter alia, CDD, record retention, the detection of unusual and suspicious transactions and the reporting obligation;</li> <li>○ To maintain an adequately resourced and independent audit function to test compliance (including sample testing) with procedures, policies and controls;</li> <li>○ To put in place screening procedures to ensure high standards when hiring employees.</li> </ul> </li> <li>• Require financial institutions to ensure that their foreign subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit; especially <ul style="list-style-type: none"> <li>○ To pay particular attention that this principle is observed with respect to subsidiaries in countries which do not or insufficiently apply the FATF Recommendations;</li> <li>○ To apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit, where the minimum AML/CFT requirements of the home and host</li> </ul> </li> </ul>

	<p>countries differ,</p> <ul style="list-style-type: none"> <li>• Require Egyptian financial institutions to inform their Egyptian supervisor when their foreign subsidiaries are unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures.</li> </ul>
<p>Shell banks (R.18)</p>	<ul style="list-style-type: none"> <li>• The prohibition of correspondent banking with shell banks and the verification that correspondent financial institutions prohibit the use of the accounts by shell banks should be extended to all financial institutions which can have correspondent banking relationships (e.g. Arab International Bank, Central Bank of Egypt, Post office etc.).</li> </ul>
<p>The supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, &amp; 32)</p>	<p>The Egyptian authorities should consider the following measures:</p> <ul style="list-style-type: none"> <li>• Clarify the supervisory responsibilities of the EMLCU, which include giving it adequate powers to issue all relevant regulations and impose sanctions where appropriate;</li> <li>• Revisit regulatory arrangements for the Post office to make sure that AML /CFT supervisor (i) has adequate independence (i.e. it is currently supervised by its owner) and (ii) has adequate powers to issue regulations and impose sanction where appropriate;</li> <li>• Establish licensing requirements for Arab International Bank, Nasser Social Bank as well as the CBE, at a minimum for directors and senior managers ;</li> <li>• Formalize and strengthen further the existing licensing process for banks, insurance and securities companies (including the review of the fitness and propriety of non residents and the transparency of ownership of applicants and of their beneficial owners);</li> <li>• Issue guidelines for the Central bank of Egypt;</li> <li>• Review the number of financial sanctions created by the AML /CFT law which appear very low;</li> <li>• Broadens the examination of securities firms beyond brokers (as was contemplated by the CMA at the time of the on-site mission);</li> <li>• Strengthen the supervision of insurance companies;</li> <li>• Strengthen the process of collecting supervisory statistics so that the EMLCU be effectively in a position to ensure that proper supervision is implemented across the financial industry;</li> <li>• Clarify that all examiners (including those of the CBE) can have access to STRs when undertaking on-site examinations (as the current framework appears to create potential</li> </ul>

	<p>ambiguities in that regard).</p> <ul style="list-style-type: none"> <li>• With a view of strengthening further the dissuasiveness of the AML /CFT regime, the Egyptian authorities could also usefully contemplate (i) making sanctions more regularly public to make them more dissuasive (especially as the experience of the CMA appears successful in that matter) and (ii) create specific AML /CFT administrative financial sanctions which could be used by supervisors where AML /CFT shortcomings are identified.</li> </ul>
<p>Money value transfer services (SR.VI)</p>	<p>The authorities should:</p> <ul style="list-style-type: none"> <li>• Take steps to ensure legal and regulatory consistency between regulations imposed by CBE on MVT companies and the oversight by EMLCU as the overseer of AML/CFT matters;</li> <li>• (CBE) develop procedures to detect money transfer services being provided by unlicensed entities;</li> <li>• Raise the MVT companies' awareness of money laundering and terrorist financing typologies and risks;</li> <li>• Ensure that the training of MVT companies by EMLCU and EBI includes typologies and risks assessments;</li> <li>• (EMLCU) provide relevant information to money transfer operators through regular communication;</li> <li>• Provide regular feedback by EMLCU on STRs filed by money transfer companies will also raise knowledge on money laundering and terrorist financing issues among MVT companies.</li> </ul>
<p><b>4.Preventive Measures– Nonfinancial Businesses and Professions</b></p>	
<p>Customer due diligence and record-keeping (R.12)</p>	<ul style="list-style-type: none"> <li>• The authorities should continue their efforts to achieve full implementation as soon as possible by the sectors recently brought under coverage (dealers of precious metals and stones and real estate brokers).</li> <li>• Steps should be taken to clarify and strengthen the AML/CFT measures for casinos so as to bring them fully under AML/CFT Law, particularly in light of the fact that casino operations have been evaluated as high risk by authorities.</li> <li>• Lawyers and accountants should be brought under coverage of the AML/CFT Law.</li> <li>• Consideration should be given to bringing other DNFBPS, including other vendors of high value goods (such as luxury cars, boats, airplanes) under the umbrella of the AML/CFT framework.</li> </ul>

Suspicious transaction reporting (R.16)	
Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	
Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> <li>The Egyptian authorities should consider (i) amplifying their efforts to encourage the development and the use of modern and secure techniques for conducting financial transactions and (ii) specifically reviewing the opportunity to include dealers in high value and luxury goods within the AML /CFT framework.</li> </ul>
<b>5. Legal Persons and Arrangements &amp; Nonprofit Organizations</b>	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>Beneficial ownership information is kept manually and potentially compromise accuracy of information</li> <li>Weak enforcement mechanism where a company fails to maintain accurate information</li> <li>No appropriate mechanism to prevent abuse of bearer shares</li> </ul>
Legal Arrangements–Access to beneficial ownership and control information (R.34)	N/A
Nonprofit organizations (SR.VIII)	<ul style="list-style-type: none"> <li>The authorities should consider reviewing the procedures for fundraising in order to provide some flexibility for NGOs to accept donations in a more efficient manner</li> </ul>
<b>6. National and International Cooperation</b>	
National cooperation and coordination (R.31 & 32)	<ul style="list-style-type: none"> <li>The authorities may wish to consider making permanent the membership of the Customs Authority into the National Committee in view of the important role they play in implementing an aspect of the AML/CFT framework for Egypt (declaration of cross-border cash transportation).</li> <li>Consideration may also be given to bring in a private sector representative to sit on the National Committee.</li> <li>The National Committee may wish to consider undertaking a comprehensive risk and vulnerability assessment of the ML and TF situation in Egypt</li> </ul>
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> <li>Fully implement all the provisions of the Palermo Convention including criminalizing organized crime activities</li> <li>Provide for the criminal prosecution of legal persons</li> </ul>

	<ul style="list-style-type: none"> <li>• Criminalize the collection of funds</li> <li>• Fully implement the 1267 and 1373 UN Resolutions</li> </ul>
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	<ul style="list-style-type: none"> <li>• Ensure that dual criminality is not an impediment to providing MLA</li> <li>• Strengthen the mechanism for maintaining MLA related statistics</li> <li>• Fully implement TF in accordance with the SFT Convention</li> </ul>
Extradition (R. 39, 37, SR.V & R.32)	<ul style="list-style-type: none"> <li>• Enhance the ability of the investigative bodies to identify ML cases flowing from other crimes.</li> </ul>
Other Forms of Cooperation (R. 40, SR.V & R.32)	<ul style="list-style-type: none"> <li>• The authorities should ensure that other financial regulators are also able to share information with their counterparts in foreign jurisdictions.</li> </ul>
<b>7. Other Issues</b>	
Other relevant AML/CFT measures or issues	

**Annex 1. Authorities’ Response to the Assessment**

MER Description and relevant Paragraphs	Egypt Comment
<p><b>Recommendation 2</b></p> <p>Reasons for rating include the following:</p> <ul style="list-style-type: none"> <li>• Legal Persons cannot be criminally prosecuted and any penalty to be imposed has to be linked to a representative of the legal person.</li> </ul> <p>This observation has been repeated in some sections of the report</p>	<p><b>Comment:</b></p> <p>The Egyptian authorities believe that the observation raised by the report as to the criminal prosecution of legal persons and linking penalties imposed thereon to the representative of such legal persons is not consistent with international conventions and legislative guides. In this regard, the Egyptian authorities stress the following:</p> <ul style="list-style-type: none"> <li>• Article 5 of the International Convention for the Suppression of Financing of Terrorism stipulates that “Each State Party, in accordance with its domestic legal principles, shall take the necessary measures <i>to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2.</i> Such liability may be criminal, civil or administrative....”</li> <li>• Also, paragraph 326 of Legislative Guide for Implementation of the UN Convention against Corruption issued by UNODC in 2006 states that “legal persons should be liable for commission, participation (as accomplice or instigator) and attempts as regards fraud, active corruption and capital laundering, <i>committed on their behalf by any person who exercises managerial authority within them...</i>and that provision should be made to hold legal persons liable “<i>where defective supervision or management by such a person made it possible for a person under his authority to commit the offences on behalf of the legal person.</i>”</li> <li>• Annex VII of the Suppressing of the Financing of Terrorism (A Handbook for Legislative Drafting) on "Legislative Examples: Civil Law Countries" proposes under Section III-3 Penalties Applicable to Corporate Entities a draft provisions which <i>is similar to a large extent to the Egyptian provision of the AML/CFT Law on the liability of the legal.</i></li> <li>• The said Section III-3 stipulates that "When a terrorism financing offense <i>is committed by an agent or representative under their management or control, corporate entities</i>, other than the state, <i>are punished by a fine equal to</i> [a multiple— for example, five times] <i>the fine specified for natural persons, without prejudice to the conviction of the latter as perpetrators or accomplices of the</i></li> </ul>

	<p><i>offense.</i></p> <p><i>Corporate entities may additionally be:</i></p> <ul style="list-style-type: none"> <li><i>a) banned permanently or for a maximum period of five years from directly or indirectly carrying on certain business activities;</i></li> <li><i>b) ordered to close permanently or for a maximum period of five years their premises that were used for the commission of the offense;</i></li> <li><i>c) dissolved if they were created for the purpose of committing the offense;</i></li> <li><i>d) Required to publicize the judgment in the press or any other audiovisual media.</i></li> </ul> <ul style="list-style-type: none"> <li>• The Egyptian AML Law establishes the criminal liability of legal persons in line with the international convention and legislative guides cited above. Article 16 of the AML Law stipulates “Where the crime is committed by a legal person, <i>the natural person responsible for actual management of the violating legal person shall be penalized by the same penalties stipulated for the acts committed in violation of the provisions of this Law</i>, if knowledge thereof is established, and the crime is committed as a result of the violation of the job duties of such person.</li> </ul> <p><i>The legal person shall be jointly liable for the payment of any financial penalties and damages if the crime committed in violation of this law is perpetrated by one of its staff in its name and interest</i></p> <p><i>The court shall ordain publication of the verdict at the expense of the legal person in two daily widespread newspapers. The court may order suspension of the activity of the legal person for a period not exceeding one year.</i></p> <ul style="list-style-type: none"> <li>• Therefore, the Egyptian authorities express their reservation on the observation raised by the report on the criminal liability of the legal persons and its impact on the ratings of some recommendations in the report.</li> </ul>
<p><b>Recommendations 5, 6,7,8,11 and SR VII regarding Arab International Bank (AIB), Nasser Social</b></p>	<p>The Egyptian Authorities express their reservation on downgrading a number of compliance ratings with recommendations mainly on the grounds that AIB, NSB and CBE are not subject to the KYC Rules issued by EMLCU.</p>



<p><b>Bank (NSB) and the Central Bank of Egypt (CBE) as a financial institution</b></p>	<p>This remark has negatively impacted Recommendations 5, 6, 7,8,11 and SR VII.</p> <p><b>The Egyptian authorities reservation is based on the following:</b></p> <ul style="list-style-type: none"> <li>• The report mentions in many parts that the aforementioned Banks are subject to the AML Law and its Executive Regulation;</li> <li>• The report states in Para. 408 that KYC Rules are considered as “law or regulation”, (i) as they were authorized by a legislative body (i.e. the AML/CFT Law explicitly requires the EMLCU to issue such regulations) and (ii) as there are effective sanctions in cases of violations."</li> <li>• With respect to Para. 410 of the report which states "Such documents cannot be recognized as “law or regulation” or “other enforceable means” as the EMLCU does not have appropriate powers to impose effective, proportionate and dissuasive sanctions, if such regulations were to be breached, the Egyptian authorities do not concur with what is stated in this para. based on the following:             <ul style="list-style-type: none"> <li>-<b>First:</b> the definition of (Laws and Regulations) as envisaged in the Methodology and the Handbook for Countries and Assessors has not made it a prerequisite that sanctions for violations should be confined to administrative sanctions only. On the contrary it states that obligations should be <i>enforceable either by criminal, civil or administrative means</i>. This is the case for the KYC Rules where violating their established obligations is punishable by the criminal sanctions set forth in the AML Law.</li> <li>-<b>Second:</b> the sanctions stipulated in the Law are effective and proportionate, as they range from fines to imprisonment or both of them.</li> </ul> </li> <li>• Based on the aforementioned facts, the Egyptian Authorities express their reservation on the parts relating to the three banks, in Rs. 5,6,7,8, 11 and SRVII, and their potential influence on compliance ratings of these recommendations.</li> </ul>
<p><b>Recommendation 6</b></p> <p>Reasons for rating include:</p> <ul style="list-style-type: none"> <li>• Ambiguous requirements regarding the</li> </ul>	<ul style="list-style-type: none"> <li>• The Authorities express their reservation on rating compliance with this Recommendation at "PC", because the premise upon which the report founded this rating is inaccurate.</li> <li>• In Egypt, foreign exchange companies are allowed to carry out only cash transactions with occasional customers at the counter therefore it is not appropriate for them to be required with such obligations in the same way as for other financial institutions .</li> </ul>

<p>identification of the sources of the wealth and funds of PEPs' beneficial owners for foreign exchange companies</p>	
<p><b>Recommendation 9</b></p> <p>Reasons for rating include:</p> <ul style="list-style-type: none"> <li>Lack of effectiveness (e.g. excessive reliance of some institutions on their introducer to perform CDD measures)</li> </ul>	<ul style="list-style-type: none"> <li>The Egyptian Authorities express their reservation on rating compliance with this recommendation at "PC" for the following reasons: <ul style="list-style-type: none"> <li>-Measuring effectiveness should have been confined, for purposes of this recommendation, to banks only, given that they are the only type of financial institutions allowed, by virtue of the KYC Rules, to depend on third parties.</li> <li>-The examples cited by the report in the analysis of effectiveness with respect to depending on a third party by sectors other than the banking sector, are irrelevant; as what is meant by "introduction" in the context of recommendation 9 is reliance by an FI on CDD measures conducted by another FI. This is not the case in the examples quoted in the report, as "introduction" in such examples is <i>just</i> an act of recommending potential customers when they start dealing with FI. This means that FI providing the service conducts all CDD measures on its own.</li> </ul> </li> </ul>
<p><b>Recommendation 10</b></p> <p><b>Para. 509</b></p> <p>The AML /CFT law and its Executive Regulation, do not explicitly require financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority</p>	<ul style="list-style-type: none"> <li>The Egyptian Authorities express their reservation on the description and analysis Section of this recommendation. In this respect the Egyptian authorities stress the following: <ul style="list-style-type: none"> <li>-Article 9 of the AML Law states that "Financial institutions shall update such data periodically and <b><i>provide access to such records and documents to judicial authorities</i></b>, and the entities responsible for the enforcement of this Law, <b><i>when requested</i></b> during examination, investigation, and collection of indications; or enquiry or trial on any of the crimes subject to these provisions."</li> <li>-Also, Article 39 of the Executive Regulation provides for that "The money laundering reporting officer <b><i>shall provide the Unit</i></b> with the data <b><i>requested thereby</i></b> and facilitate its access to the records, and documents needed for carrying out its investigation and examination, or for recording such data in the Unit's database".</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>Such provisions guarantee availability of customer and transaction records and information to competent authorities on timely basis.</li> </ul>
<p><b>Recommendation 11</b></p> <p>Reasons for rating include:</p> <ul style="list-style-type: none"> <li>Content of R. 11 addressed in too general term</li> </ul>	<ul style="list-style-type: none"> <li>The Authorities express reservation on rating compliance with this recommendation at "PC", taking into consideration the following facts: <ul style="list-style-type: none"> <li>-The report states that content of recommendation 11 are addressed in too general term. Still, Egyptian authorities adopted a very detailed approach in addressing the requirements of this recommendation. The requirements of this recommendation are mentioned in details in the AML/CFT regulations issued for all FIs.</li> <li>-The first criterion of R. 11 has provided few examples of the patterns of unusual transactions, whereas the supervisory regulations issued for the covered institutions include several examples for transactions requiring additional due diligence and examination. They are also proportionate to each type of FI and cover all examples given in the 1<sup>st</sup> criterion of R. 11.</li> </ul> </li> </ul>
<p><b>R. 18</b></p> <p>Reasons for Rating include:</p> <ul style="list-style-type: none"> <li>No prohibition from continuing correspondent banking relationships with shell banks.</li> </ul>	<ul style="list-style-type: none"> <li>The Egyptian authorities express their reservation on this finding, given that the Arabic word used for prohibiting financial institutions from entering into relationships with shell banks is in itself a prohibition on the continuation of the relationship with such banks.</li> </ul>
<p><b>R. 21</b></p> <p><b>Para. 535</b></p> <ul style="list-style-type: none"> <li>"There is no other specific measure that Egypt can apply where a country continues not to apply or insufficiently applies the FATF Recommendation</li> </ul>	<ul style="list-style-type: none"> <li>The Egyptian authorities express their reservation on what has been stated in Para. 535 with respect to application of counter-measures where a country <i>continues not to apply or insufficiently applies the FATF Recommendations</i>. It should be noted that Section 8-3 of the KYC Rules issued by EMLCU to all financial institutions <i>oblige such institutions to take appropriate procedures to pay special attention to transactions conducted with persons residing in such countries</i>.</li> <li>Furthermore, <i>the same section gives examples of the types of procedures to be applied in such case, which include some of the counter-measures given as example in the Methodology under criterion 21.3</i>. These procedures have to be applied with a country</li> </ul>

<p>s."</p>	<p>once it is defined as not or insufficiently applying FATF Recommendations, including <i>limiting business relationships or financial transactions with the identified country or persons in that country; enhancing control of transactions related to such persons; and reporting to EMLCU where no clear visible or economic purposes exist for, or suspecting such transactions.</i></p>
<p><b>Recommendation 37</b></p> <p>Reasons for rating include:</p> <ul style="list-style-type: none"> <li>• Dual criminality may be an issue with respect to lack of criminalization of organized crime and trafficking in human beings</li> </ul>	<ul style="list-style-type: none"> <li>• The Egyptian authorities confirm that dual criminality <i>cannot</i> be an impediment to mutual legal assistance. <i>This has been confirmed by what has been stated in Para. 784 of the MER where there has been an extension of mutual legal assistance absent dual criminality.</i></li> <li>• <i>Moreover, the Egyptian Mutual Legal Assistance framework includes providing mutual legal assistance on the basis of bilateral and multilateral agreements as well as the principle of reciprocity and comity.</i></li> </ul>
<p><b>Special Recommendation IV</b></p> <p>Reasons for rating include:</p> <ul style="list-style-type: none"> <li>• Reporting obligation slightly too narrow (terrorism financing instead of suspicion that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism)</li> </ul>	<ul style="list-style-type: none"> <li>• The Egyptian Authorities stress that Article 2 of the AML Executive Regulation has included all aspects of terrorism financing that should be reported. The Article states that terrorism financing means that “<i>providing Funds or making them available, by any means, for a terrorist, terroristic act or terroristic association, entity, organization or group, directly or indirectly, or to use or intend to use such Funds to carry out terrorist acts with knowledge thereof.</i>”</li> </ul> <p><i>Therefore, reporting obligation for any transaction suspected of involving “terrorism financing” is in fact an obligation to report any transaction suspected of involving any the aforementioned aspects.</i></p>
<p><b>SR VII</b></p> <ul style="list-style-type: none"> <li>• Para. 512 regarding the un-</li> </ul>	<ul style="list-style-type: none"> <li>• <b>First:</b> The authorities express their reservation on what is stated in this paragraph. In this respect, it should be highlighted that the obligations set forth in the KYC Rules on verifying transfer</li> </ul>

<p>clarity of how a bank could verify information on the beneficiary</p> <ul style="list-style-type: none"><li>• Para. 524 which states that "As the Post office is planning on developing its offer of transfer services (including carrying out cross-border transfers), it will also be important to make sure that the regulatory framework provides sufficiently detailed requirements for all those situations"</li></ul>	<p>information is confined to the originator, taking into consideration that the Methodology does not obligate the transferring bank to verify the beneficiary data.</p> <ul style="list-style-type: none"><li>• <b>Second:</b> The authorities express their reservation on Para. 524 of the comments and recommendations section</li></ul> <p>In this respect, it is worth noting that the KYC Rules section on transfer requirements issued to the National Postal Authority include obligations on provision of transfer services nationally and internationally that are consistent with the Methodology.</p> <ul style="list-style-type: none"><li>• <b>Third:</b> The Authorities express reservation on rating compliance with this recommendation at "PC", because downgrade of the compliance rating <u>has been based</u> on a conclusion that banks' "relying extensively on manual controls also appeared to hamper the ability of institutions to properly monitor wire transfers" (see Para. 520 and 521).</li><li>• In this regard, it is should be stressed that all banks monitor wire transfers via electronic systems including the production of unusual transaction reports exceeding a certain amount. Also it is not logic to produce such unusual transaction reports as well as wire transfer reports without using technological means. Finally, it should be confirmed that all banks including those visited by the Assessment Team depend on electronic systems in monitoring transfers, a thing that was substantiated by the documents sent to the Assessment team.</li></ul>
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<b>General Comment on Preventive Measures Section for Financial Institutions</b>	<ul style="list-style-type: none"><li>• The Egyptian authorities note that the preventive measures section for financial institutions include in the description and analysis part of some recommendations indications that some criteria have not been covered by the AML Law and its Executive Regulations. Such an approach might unjustifiably indicate non-compliance with international standards, since the said criteria have been covered by other regulations (enforceable means), in light of absence of a Methodology requirement to be covered by law or regulation.</li><li>• The Egyptian authorities are <u>reserved</u> on the approach adopted by the report in this regard, as it gives an impression as to the existence of some shortcomings which is not true. Examples of the paragraphs to which this approach has been applied include, Para. 531, 563,586 and 577.</li></ul>

## **Annex 2. Details of All Bodies Met During the On-Site Visit**

- Minister of State for Administrative Development
- National Committee on AML/CFT Coordination
- Egyptian Money Laundering Combating Unit – Financial Intelligence Unit
- The Central Bank of Egypt
  - Deputy Governor
  - Banking Supervision Department
  - Payment Systems Department
  - Auditing and Internal Control Department
  - Research Department
- Ministry of Communications and Information Technology (Supervisory authority for the postal administration)
- Ministry of Foreign Affairs
- Ministry of Interior - the units on AML/CFT, Terrorism Unit, Intelligence, National Identity Unit, drug trafficking enforcement; Prosecution Unit
- Ministry of Social Solidarity
- Ministry of Trade and Industry (Supervisory authority for real estate agents and precious metals and stones)
- Prosecutors Office—The Chief Prosecutor, AML/CFT investigation and prosecution, international coordination
- Supreme State Public Prosecution Office
- Administrative Control Authority (Anti-corruption)
- Capital Market Authority
- Commercial Registration Authority
- Customs Authority
- Egyptian Insurance Supervision Authority
- Mortgage Finance Authority
- National Postal Authority (Egypt Post)
  
- Egyptian Banking Institute
- Federation of Egyptian Banks
- Arab Bank
- Arab International Bank
- Bank of Alexandria
- Commercial International Bank
- National Bank of Egypt
- National Société Générale Bank
- Cairo Exchange (stock exchange market)
- EFG Hermes (Securities broker)
- Pharos (Securities broker)
- Commercial International Life Insurance Company
- Social Fund for Development (Microfinance institution)
- El Mezlawy Group (Foreign exchange dealer)
- International Business Associates (Money transfer company)
- Sphinx Trading (Money transfer company)
- Casino Semiramis
- Sharif Alsergany (Precious metals and stones dealer)

- 2 independent lawyers
- KPMG Hazem Hassan (Accounting firm)
- Waheed Abdul Ghaffar Accounting Firm (Accounting firm)
- Angelical Coptic Association for Social Services (NGO)
- Arab Woman League Organization (NGO)
- Egyptian Coalition for Transparency and Anti-Corruption (NGO)



**Annex 3. List of All Laws, Regulations, and Other Material Received**

**Law No. 80 for 2002 Promulgating the Anti-Money Laundering Law And its Amendments<sup>116</sup>**

In the Name of the People,

The President of the Republic,

The People's Assembly has passed the following Law, and we hereby promulgate it;

Article (I)

Provisions of the accompanying Anti-Money Laundering Law shall come into force.

Article (II)

The Prime Minister shall issue the Executive Regulations of the accompanying Law, within three months as of the date of its publication.

Article (III)

This Law shall be published in the Official Gazette and shall come into force as of the day following the date of its publication.

This Law shall be stamped with the State's Seal and shall be enforced as one of its laws.

Issued at the Presidency of the Republic on 10 Rabi-ul-Awal 1423 H., corresponding to 22 May 2002 AD.

Hosni Mubarak

**The Anti-Money Laundering Law**

**Article (1)**

In applying the provisions of this Law, the following words and phrases shall have the meanings ascribed thereto unless otherwise stated:

**Funds:**

The national currency, foreign currencies, securities, commercial papers, any valuable items, whether real estate or tangible or intangible movable property, or any rights related thereto, and deeds and documents evidencing any of the said rights.

**Money Laundering:**

Any conduct involving the acquisition, holding, disposing of, managing, keeping, exchanging, depositing, guaranteeing, investing, moving or transferring funds, or tampering with their value, if such funds are the proceeds of any of the crimes stipulated in Article (2) of this Law, with the knowledge of that, where the purpose of such conduct is to conceal funds, alter the nature, source, location, ownership, any interest therein, change the reality, or prevent the discovery thereof or impede the identification of the perpetrator of the crime wherefrom such funds are generated.

**Financial Institutions:**

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<sup>116</sup>-Published in the Official Gazette, on 22 May 2002, Issue No. 20 (bis). The Law was amended by the two following laws:

- Law No. 78 for 2003 (Official Gazette, Issue No. 23 bis, on 8 June 2003.

- Law No. 181 for 2008 (Official Gazette, Issue No. 25 bis, on 22 June 2008.

- Banks operating in Egypt, their branches abroad, and branches of foreign banks operating in Egypt;
- Foreign exchange companies and other entities licensed to deal in foreign currencies;
- Entities engaged in money transmission activities;
- Entities engaged in securities;
- Entities engaged in receiving money;
- The Postal Saving Fund;
- Entities conducting mortgage activities and entities dealing in mortgage-related securitization;
- Entities undertaking financial leasing activities;
- Entities engaged in factoring activities;
- Entities undertaking any type of insurance activities, private insurance funds, and insurance brokerage activities;
- Other entities to be specified by a Prime Minister Decree, determining their obligations and the entities responsible for supervising thereof;<sup>117</sup>

This is applicable whether the activities prescribed in this Article are undertaken by legal or natural persons.

Proceeds:

Funds directly or indirectly resulted or yielded from committing any of the crimes stipulated in Article (2) of this Law.

The Unit:

The Money Laundering Combating Unit.

The Competent Minister:

The Prime Minister or any minister authorized thereby.

**Article (2)<sup>118</sup>**

It shall be prohibited to launder funds generated from crimes of planting, manufacturing, transporting, smuggling and exporting of narcotics or psychotropic substances and trafficking therein, and managing or preparing a place for abusing such drugs for a return; crimes of hijacking means of

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<sup>117</sup> Replaced by Law No. 181 for 2008. Item 11 was formerly added by Law No. 78 for 2003.

<sup>118</sup> Replaced by Law No. 181 for 2008. It was formerly added by Law No. 78 for 2003.

transportation and detaining individuals; crimes of terrorism and financing thereof as stipulated in the Penal Code, or in any other law; crimes of unlicensed importation, trading and manufacturing of weaponry, ammunition and explosives; crimes stipulated in Chapters (1), (2), (3), (4), (15) and (16) of Book II of the Penal Code; crimes of stealing and misappropriation of funds; crimes of swindling and breach of trust; crimes of deceit and fraud; crimes of concealing stolen items or those that are the proceeds of a felony or misdemeanor; crimes of receiving money in violation of Law No. 146 for 1988; crimes of infringement of intellectual property rights; crimes of male and female prostitution; crimes against antiquities; environment crimes related to dangerous materials and wastes; crimes of murder and injury; crimes of customs evasion; crimes of dealing in foreign currencies in violation of the rules prescribed by law; crimes of illicit gains; crimes stipulated in Article 64 of the Capital Market Law, promulgated by Law No. 95 for 1992; and the organized crimes referred to in international treaties, and their supplementing protocols, to which the Arab Republic of Egypt is a party, where such crimes are penalized under the Egyptian Law, whether the money laundering or the referred to crimes are committed within the Egyptian territories or abroad, provided that such crimes are penalized by both Egyptian and foreign laws.

**Article (3)**

An independent unit with a special nature shall be established at the Central Bank of Egypt to combat money laundering, wherein the concerned entities shall be represented. The Unit shall assume the responsibilities prescribed under this Law. It shall be provided with a sufficient number of experts and specialists in the fields related to the application of the provisions of this Law, and staffed with qualified and trained employees.

The President of the Republic shall issue a decree on the formation of this Unit, its management system, statutes, without being restricted by any rules or by-laws applicable to the government, public sector, and the public enterprise sector.

**Article (4)**

The Unit shall be responsible for receiving reports from financial institutions and other entities\* concerning transactions suspected of involving money laundering or terrorism financing\*.

The Unit shall establish a database for all available information, and shall establish the means ensuring that such information is accessible to judicial authorities and any other entities responsible for the enforcement of this Law; and shall exchange such information and coordinate with public control entities in the State and with competent authorities in foreign countries and international organizations, in accordance with the provisions of international treaties to which Egypt is a party, or according to the principle of reciprocity.

**Article (5)<sup>119</sup>**

The Unit shall undertake investigation and examination of reports and information received thereby concerning transactions suspected of involving money laundering or terrorism financing, and shall

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\* , Two new phrases "and other entities" and "or terrorism financing" were added to the Article by virtue of Law No. 181 for 2008. The latter phrase was also added to articles (5, 7, 8, and 11) of this Law.

<sup>119</sup> The last paragraph was replaced by virtue of Law No. 181 for 2008.

inform the public prosecution of the indications revealed by investigation as to the commitment of any of the crimes stipulated in this Law.

The Unit may request the public prosecution to take provisional measures in accordance with Articles 208-a (bis), 208-b (bis), and 208-c (bis) of the Code of Criminal Procedures.

Provisions of the last paragraph of Article (98) of Law No. 88 for 2003 Promulgating the Law on the Central Bank, the Banking Sector and Money, shall apply to money laundering, terrorism and terrorism financing crimes.

**Article (6)**

Personnel of the Unit to be designated by a Minister of Justice decree, upon the request of the Governor of the Central Bank of Egypt, shall have the capacity of law enforcement officers with respect to the crimes stipulated in this Law as related to their job duties.

**Article (7)<sup>120</sup>**

Entities assigned by different laws and systems to supervise financial institutions shall establish and provide adequate means for ensuring that such institutions comply with the systems and rules prescribed by law for combating money laundering or terrorism financing, including the reporting of transactions suspected of involving money laundering or terrorism financing. Such entities and financial institutions shall provide the Unit with the data, information, and statistics necessary for carrying out its duties, and with the transactions to be stipulated in the Executive Regulations, in accordance with the procedures set by the Unit.

The Unit shall follow up the entities and institutions indicated in this Article with respect to the compliance stipulated in the previous paragraph, in accordance with the Executive Regulations. And in all cases, competent authorities shall report to the Unit any available information regarding money laundering and terrorism financing crimes, actions taken related thereto and the results thereof.

**Article (8)<sup>121</sup>**

Financial institutions shall report to the Unit financial transactions suspected of involving money laundering or terrorism financing, referred to in Article (4) of this Law, as well as attempts to conduct such transactions; shall establish systems adequate for obtaining information on the identification and legal status of customers and the beneficial owners, whether natural or legal persons, through official or acceptable customary verification means; and shall register the information concerning such identification.

Financial institutions may not open anonymous accounts or accept anonymous deposits, funds or trusts or under false or fictitious names.

The Executive Regulations shall determine the rules to be followed in establishing the aforementioned systems; and the Unit shall set the forms to be used for such purposes.

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<sup>120</sup> The second and third paragraphs and the last phrase at the end of the first paragraph were added by virtue of Law No. 181 for 2008.

<sup>121</sup> The phrase "as well as attempts to conduct such transactions" was added to the first paragraph of this Article by virtue of Law No. 181 for 2008.

**Article (9)**

Financial institutions shall maintain records and documents for domestic or international financial transactions that contain sufficient data for identifying such transactions; keep such records and documents and records on customers and beneficiaries data referred to in Article (8) of this Law, for a period not less than five years from the date of completing the transaction with the financial institution, or from the date of closing the account, as the case may be. Financial institutions shall update such data periodically and provide access to such records and documents to judicial authorities, and the entities responsible for the enforcement of this Law, when requested during examination, investigation, and collection of indications; or enquiry or trial on any of the crimes subject to these provisions.

Financial institutions may maintain microfilm copies instead of originals for the period referred to, and such copies shall have the authenticity of the originals in matters related to proof, if prepared, maintained and retrieved in accordance with the rules to be issued by the Unit.

**Article (10)**

Criminal liability shall not apply to any person who, in good faith, fulfils the obligation of reporting suspicious transactions subject to the provisions of this Law, or provides information or data thereon in violation of the rules imposed to ensure their secrecy. Civil liability shall not apply if such suspicion is believed to be founded on reasonable grounds.

**Article (11)**

It shall be prohibited to disclose to a customer, beneficiary or any person other than the authorities and entities responsible for enforcing the provisions of this Law any of the reporting, investigation or examination procedures taken with regard to financial transactions suspected of involving money laundering or terrorism financing or any information related thereto.

**Article (12)<sup>122</sup>**

Without prejudice to Articles (116) and (126) of Law No. 88 for 2003 Promulgating the Law on the Central Bank, the Banking Sector and Money, any passenger, upon entering into or exiting from the country, shall declare to the customs authorities any amounts he/she carries of foreign currencies, securities and negotiable bearer commercial papers, where their value exceed USD 10,000 (ten thousand US dollars) or their equivalent in foreign currencies. In this regard, provisions of Article (126) of the referred to Law on the Central Bank, the Banking Sector and Money, shall apply. Declaration shall be made in accordance with the rules and procedures to be set by the Executive Regulations.

Personnel of Customs Authorities, with Law enforcement capacity, may, in case of failure to declare or provision of false information, question the violator about the source of such possessions of the referred to currencies, securities and commercial papers and the purposes of their use. Such authorities shall take measures for seizing the currencies, securities and commercial papers in the cases stipulated in the previous paragraph, and where there are indications of committing a money laundering or terrorism financing crime, provided that such authorities report the procedures taken thereby to the competent authorities to take the necessary action in their regard.

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<sup>122</sup> Replaced by virtue of Law No. 181 for 2008.

**Article (13)**

Without prejudice to any severer penalty stipulated under the Penal Code or any other law, crimes stated in the following Articles shall be punishable by the penalties stipulated therein.

**Article (14)**<sup>123</sup>

Any person who commits, or attempts to commit, the money laundering crime stipulated in Article (2) of this Law shall be imprisoned for a period not exceeding seven years, and fined a sum twice the amount of money subject of the crime.

The verdict shall in all cases ordain confiscation of the seized funds, or an additional fine equivalent to the value thereof, where such funds cannot be seized, or in case of disposal thereof to bona fide third parties. This crime shall be excluded from application of the provisions of paragraph two of Article (32) of the Penal Code.

**Article (15)**

Any person violating any of the provisions of Articles (8, 9 and 11) of this Law shall be penalized by jail and fined an amount not less than five thousand Egyptian pounds and not more than twenty thousand Egyptian pounds, or either penalties.

**Article (16)**<sup>124</sup>

Where the crime is committed by a legal person, the natural person responsible for actual management of the violating legal person shall be penalized by the same penalties stipulated for the acts committed in violation of the provisions of this Law, if knowledge thereof is established, and the crime is committed as a result of the violation of the job duties of such person.

The legal person shall be jointly liable for the payment of any financial penalties and damages if the crime committed in violation of this law is perpetrated by one of its staff in its name and interest. The court shall ordain publication of the verdict at the expense of the legal person in two daily widespread newspapers. The court may order suspension of the activity of the legal person for a period not exceeding one year.

**Article (17)**<sup>125</sup>

In case of multiple perpetrators in a money laundering crime, where one of the perpetrators reports to any of the authorities concerned with enquiry or investigation on the crime and the other perpetrators, before their first knowledge thereof, or after knowledge but such a report leads to the arrest of the other perpetrators or seizure of funds subject of the crime, the court, based upon its discretion as to fulfillment of the said conditions, shall rule that the reporting perpetrator be exempted from the penalties of imprisonment and fine stipulated in the first paragraph of Article (14) of this Law, but not from any of the ancillary penalties stipulated in the second paragraph of the same Article.

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<sup>123</sup> The last phrase was added to the end of the second paragraph by virtue of Law No. 181 for 2008.

<sup>124</sup> The third paragraph was added by virtue of Law No. 181 for 2008.

<sup>125</sup> Amended by Law No. 78 for 2003.

**Article (18)<sup>126</sup>**

The Egyptian judicial authorities shall cooperate with foreign judicial authorities in the field of money laundering and terrorism financing crimes, with respect to judicial assistance and representation, extradition of accused and convicted persons and handing over of items, in accordance with the rules stipulated in bilateral or multilateral treaties to which Egypt is a party, or on the basis of the principle of reciprocity.

**Article (19)**

The Authorities referred to in Article (18) of this Law may, in particular, request taking the legal procedures necessary to trace, freeze or seize the funds subject of the money laundering and terrorism financing crimes, without prejudice to the rights of bona fide third parties.

**Article (20)**

Competent Egyptian judicial entities may order enforcement of final criminal rulings issued by competent foreign judicial authorities, concerning the confiscation of the funds resulting from money laundering and terrorism financing crimes or proceeds thereof, in accordance with the rules and procedures stipulated in bilateral or multilateral treaties to which Egypt is a party. Bilateral or multilateral treaties may be concluded to regulate disposal of funds for which a final ruling of confiscation has been issued by Egyptian or foreign judicial entities in money laundering and terrorism financing crimes. Such treaties shall include rules for distributing the said funds among parties to the treaty, in accordance with the provisions stipulated therein.

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<sup>126</sup> The phrase "and terrorism financing " was added after the phrase "money laundering" stipulated in Articles (18, 19 and 20), by virtue of Law No 181 for 2008.