Middle East and North Africa
Financial Action Task Force

Mutual Evaluation Report

Anti-Money Laundering and Combating the Financing of Terrorism

9 April 2008

Yemen

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Yemen is a member of the Middle East and North Africa Financial Action Task Force for combating Money laundering and Terrorism financing (MENAFATF) This evaluation was conducted by the MENAFATF and discussed and adopted by the Plenary of the MENAFATF as a 1st mutual evaluation on 9 April 2008.

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Preamble- Information and Methodology used for the evaluation of the Republic of Yemen

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Republic of Yemen was based on the 2003 Forty Recommendations and the Nine Special Recommendations on Terrorist Financing 2001 issued by the FATF. It was prepared using the AML/CFT Methodology 2004[1], and was based on the laws, regulations and other materials supplied by the Republic of Yemen and the information obtained by the assessment team during its on-site visit to Yemen from 21 July to 1 August 2007 and subsequently. During the mission, the assessment team met with officials and representatives of all relevant government agencies in Yemen (Sana'a) and the private sector. A list of the bodies met is set out in Annex 1 to the mutual evaluation report.

2. The evaluation was conducted by a team consisted of members from MENAFATF Secretariat and MENAFATF experts in criminal law, law enforcement, as well as financial and banking aspects. The team included: *Judge Jadi Abdul Kareem*, Member of the Financial Intelligence Unit (People's Democratic Republic of Algeria) – *Mr. Emad Mawad*, Secretary of the Anti-Money Laundering and Combating Financing of Terrorism Authority (Arab Republic of Syria) – *Mr. Khalid Al-Kaabi*, Head of Onsite Inspection Department, Qatar Central Bank (State of Qatar) – *Lieutenant Youssef Al-Khalid*, Assistant Director of International Crime Prevention, General Department of Prevention of Narcotic Drugs (State of Kuwait) - *Dr. Rana Matar*, Administrative Officer, MENAFATF Secretariat, *Mr. Hussam Eldin Mustafa Imam*, Mutual Evaluation Officer, MENAFATF Secretariat. The team experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs). The capacity, implementation, and effectiveness of all these systems were examined as well.

3. This report provides a summary of the AML/CFT measures in place in the Republic of Yemen as from the date of the on site visit or immediately thereafter. It describes and analyses those measures, sets out Yemen's level 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).

4- The assessment team extends its heartfelt gratitude to the Yemeni authorities for their generous hospitality and their cooperation throughout the on-site visit of the assessment team. In particular, the team would like to express thanks and appreciation to *Mr. Ahmed Abdul Ruhman Al-Samawi*, Governor of the Central Bank of Yemen; and the head and members of the AML Committee, and all those who gave the team the opportunity to fulfill its mission.

[1] As amended in February 2007.

Executive Summary

1. Background:

1. The mutual evaluation report presents a summary of the Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) system in the Republic of Yemen (Yemen) at the time of the on-site visit (from July 21 till August 1, 2007) and immediately thereafter. The report includes the description and analysis of these systems and gives recommendations to support them and tackle the points of weaknesses. It also includes the evaluation of the compliance of Yemen with the FATF AML/CFT recommendations, based on the AML/CFT Methodology 2004. (See the annexed tables about the rating of compliance with FATF recommendations).

2. The AML system in Yemen has achieved substantial progress manifested in the promulgation of the AML Law No. 35 of 2003 which has covered different important aspects with regard to the combating of money laundering. In addition, the executive regulations of the said law and the bylaw regulating the AML procedures have been issued with a view to draw a reasonable executive framework for the authorities covered by the law. Moreover, an AML Committee was formed in April 2004 and this Committee is considered the main national authority involved with the AML field. The Committee comprises members representing nine different national entities. The Financial Intelligence Unit (FIU) was also established within the Central Bank of Yemen. However, Yemen has no law that covers the TF crimes. Realizing the economic and political risks associated with this crime, Yemen is in the process of preparing a draft unified law that comprises the CFT obligations along with the AML obligations, in order to stand in line with the international requirements. Yemen works in the draft law on developing the AML provisions stipulated in the present law to match the international requirements and avoid any additional failure in the practical application of the present system.

3. AML remains a new concept in Yemen. Efforts made to enhance the spread of this concept will need to be supported by a comprehensive awareness-raising campaign that targets the majority of the State sectors, including relevant officials and employees who are required to be informed of the new rules and systems. The assessment team discovered during its on-site visit that the concerned authorities covered by the AML law were not adequately aware of the obligations stipulated therein. They were not familiar either with the ML/FT risks, which resulted in the narrow application of the obligations set forth in the said law and bylaws, particularly in relation to the DNFBPs, which were unaware of the risks associated with the ML/FT crimes. The assessment team also noted the shortage in human and financial resources within the competent supervisory authorities in charge with the implementation of the AML system, in addition to the absence of any effective coordination between those authorities and the entities covered by the law.

2. Legal System and Relevant Institutional Measures:

4. Law No. 35 of 2003 criminalizes the ML activities. The definition of those activities as set forth in the said law is compatible, in relation to the physical elements of the crime, with the Vienna and Palermo Conventions. The AML law stipulates that the element of knowledge can be inferred from objective factual circumstances. There is no impediment to the application of the ML crime on persons who commit the predicate offence. The law does not stipulate any condition that a person involved in an ML crime should be necessarily convicted of a predicate offence. However, the law does not include any specific definition of funds, and does not expressly provide for the responsibility of legal persons. Yemen adopts the list approach in respect of the predicate offences of the ML crime. However, those offenses do not cover all the twenty designated categories of predicate offenses. The definition of predicate offense does not cover the criminal acts perpetrated in another country and which could have formed a predicate offense if made locally. Regarding assistance, contribution, abetting and attempt, the law meets the international requirements. As for sanctions, the Yemeni legislator has established a number of sanctions that are apparently deterrent but

disproportionate in comparison with the sanctions imposed vis-à-vis other financial crimes. The efficiency of the implementation of the said sanctions cannot be evaluated because of the absence of any sentences issued in this respect. However, it is worth mentioning that the new draft law has remedied many of the deficiencies mentioned above.

5. Yemen does not criminalize the TF act in any of its present laws. However, the new draft law criminalizes the TF offense although it fails to cover all the criminalization aspects of the TF act in comparison with the TF convention requirements; in addition, the TF crime is not considered a predicate crime of money laundering.

6. Yemen applies a basic system in terms of confiscation, as the Penal Procedures Law includes general provisions concerning seizure and confiscation procedures. There are also additional special provisions stipulated in some other laws, such as the Anti-Narcotic Drugs Law. On the other hand, the AML Law provides for the confiscation of money and proceeds resulting from ML crimes. Nonetheless, those provisions do not expressly include the instrumentalities used in the ML crime or those intended to be used. Concerning the freezing and seizure, the Public Prosecutor may request that temporary provisional procedures and measures be taken by the competent court, including seizure of funds and freezing of account(s) covered by the ML crime only. The efficiency of this system cannot be easily assessed as the assessment team has not received any statistics related to the confiscation of properties or funds resulting from predicate offenses.

7. Yemen does not have any legal base concerning the procedures and practices applied for the freezing of terrorists' funds or the assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001). Such practices are governed by an administrative mechanism through which Yemen’s mission at the United Nations receives the UN Lists and sends them to the Ministry of Foreign Affairs, which, in its turn, transfers them to the Council of Ministers. Following the approval of the Council of Ministers, the lists are sent to the Central Bank in order to be circulated to all the banking institutions and exchange firms, along with a copy to the AML Committee.

8. In 2003, the Financial Intelligence Unit (FIU) was established within the Central Bank of Yemen by virtue of a resolution issued by the Governor. The FIU comprises a chief and two members only. The Governor has recently issued a resolution to develop the FIU structure; however, no action has been taken yet. The FIU is responsible for receiving and analyzing the information and reports related to ML operations, and conducting necessary investigations as well as preparing reports on discovered ML operations and submitting them to the Governor in order to obtain his approval to submit them to the Public Prosecutor. The FIU is also empowered to submit request to the Public Prosecutor requesting him to take provisional measures in the event where any suspicions are raised about the commission of any ML crime after receiving the approval of the Governor. Moreover, the FIU is required to prepare and issue the reporting forms. Nevertheless, the FIU has not issued any instructions or notices regarding the reporting method to be followed. The AML Committee though has designed and issued a reporting form limited to banking operations only. It is worth mentioning that there is a clear overlap between the work of the FIU and the AML Committee, since the FIU is not authorized neither to exchange any information with counterpart authorities unless through the Committee nor request or access information available within the institutions that are not subject to the Central Bank supervision. The FIU does not enjoy full autonomy inasmuch as it is part of the Central Bank and exists within its supervision sector, not to mention the need to obtain the approval of the Governor to take some measures.

9. The Public Funds Prosecution is responsible for carrying out investigations in relation to ML crimes. The Public Prosecutor may order the competent court to take temporary provisional measures and procedures, including seizure of funds and freezing of account(s) related to the ML crime. The general prosecutor is entrusted with the power to investigate the case; he may conduct the investigation by himself or through any member of the Prosecution Office or any judiciary representative or representative of the Judicial Seizure Commission. The Public Prosecution holds the investigation and indictment powers and effects the execution of conclusive penal judgments.

10. There is no legal obligation on persons moving currency or bearer negotiable instruments to disclose or declare, except for a circular issued in 2007 by the Head of the Customs Authority. The circular includes only a request to enhance the role of the Customs Authority through customs declarations at ports, including disclosing incoming currencies (only), and to report the same to the Head of the Authority. According to Yemeni authorities, an authorization should be acquired from the Central Bank to take foreign currencies in cash out of the country.

3. Preventative Measures – FIs:

11. In general, the AML system in Yemen does not adopt any risk-based approach. It was found that a limited number of banks adopted a risk-based approach and classified their customers accordingly. Actually, the new draft law tackles risk matters and stipulates that FIs are obliged to classify their customers and products in line with the ML/FT risk level. They also have to apply due diligence measures when dealing with high-risk cases. The assessment team noticed disparity in the application of the AML obligations between some banking institutions that adopt a policy based on the international recommendations and between other FIs. The results also showed a significant difference in the attention paid to the application of those obligations between banking institutions and other FIs.

12. The Yemeni legal system comprises a number of basic procedures related to the identification of customers, their legal status, and the beneficial owners. On the practical side, the CDD measures in most FIs were confined to the identification of customers through official documents. As to the nature of customer's activities, it was restricted to the profession and type of activities without any attention paid to the volume of the activity and its description. It was also discovered that most of those institutions have not laid down any written systems concerning the CDD measures, excluding some banks, which have developed systems with more rigorous requirements than those determined in the Central Bank circular, due to their external association (Affiliate Company) or in an attempt to maintain strong external relations.

13. The executive regulations of the AML law oblige FIs to identify occasional customers if they perform transactions exceeding the value specified by the Central Bank and other supervisory authorities, for all FIs, according to their respective activities. The threshold value does not include multiple operations that seem related to each other. In addition, the said value was not fixed by any supervisory authority, including the Central Bank. In fact, the assessment team discovered that banking institutions identify occasional customers if they perform transactions exceeding 10,000 USD. However, this does not apply to the exchange firms, a significant number of which perform informal transfers. The assessment team found that those firms do not pay any attention to those matters except the largest one among them. There is no specific definition given to the beneficial owner or the real beneficiary, whether in the law or in any regulations. The new draft AML/CFT law includes a definition of the beneficial owner that complies with the definition set forth in the Methodology.

14. Law No. 35 of 2003 and its executive regulations and the bylaw regulating the AML procedures do not include any provisions obliging the FIs to obtain information related to the nature of the business relation. This issue was not outlined by any circular issued by the Central Bank or any other authority. However, the new draft law stipulates a number of controls with regard to the identification of the customer, including the expected purpose and nature of the business relation, as set forth in the executive regulations of the said law.

15. The AML executive regulations oblige the FIs to update the changes to the customer's data on a regular basis. On the practical level, most FIs do not comply with this obligation. It was noticed that many banks update their customers' data in relation to debit accounts in order to avoid credit risks. It is worth mentioning that the new draft law obliges FIs to update all data, information and documents related to customer due diligence in terms of identifying customers and beneficial

owners, natural or legal. It also expressly obliges the FIs to accurately and continuously track all operations performed by customers, including the sources of their funds when necessary, in order to make sure that they match the information provided about their identity and the nature of the activities they perform and their risk level.

16. The currently applied system does not set any provisions on dealing with Politically Exposed Persons (PEPs); while the new draft law does cover this matter.

17. Regarding correspondent banking, Yemen does not have at present any law or regulations that regulate this relation in terms of AML/CFT obligations. Operations performed using new technologies that could be abused or non-face-to-face operations are not covered by any type of regulation and are not required to be subject to specific policies or any action with regard to dealing with these types of operations. The only exception made is related to applications for opening accounts from outside Yemen whereby such applications require approval of the authenticity of the signature by the correspondent bank in the country where the applicant lives.

18. With regard to accounts or information confidentiality, Law No. 35 expressly stipulates that it is not permitted, during investigations or litigation conducted by judicial authorities, to invoke the accounts secrecy principle in ML crimes applied under any other law. When informed of any ML operation, the FIU may obtain necessary information and documents from official authorities and FIs after receiving the approval of the Governor. The AML Committee may be also authorized, after receiving the approval of the judiciary, to provide the judicial authorities in other countries with any information that they may request.

19. The law and its executive regulations oblige all FIs to maintain records related to customers and their financial operations or commercial transactions made locally or internationally, for a period of five years at least as of the date of completing the operations or closing the accounts. The FIU has access to all those documents whenever it requests so. However, the definition of 'FIs' as outlined in the law does not cover all FIs, such as the Central Bank which holds bank accounts for its staff.

20. Regarding the fund transfer activities, CDD measures applied to permanent customers are sufficient vis-à-vis transfer transactions. However, with regard to occasional customers, the FIs are not obliged to obtain or keep any information related to the originator of the transfer (as defined in the evaluation methodology) or verify the accuracy and sufficiency thereof. However, FIs are obliged to verify the originator's identity if he performs cash transfers exceeding 10,000 USD. The legal framework does not include any obligation to include any information about the originator of the transfer in the message or the payment form accompanying the wire transfer. The assessment team noticed that those obligations were not practically applied, particularly at the exchange offices, which performs transfer activities without authorization and without obtaining any document or information related to the originator of the transfer.

21. FIs are not obliged to give particular attention to all complicated or unusually large-scale transactions, or to all kinds of unusual transactions that do not have an apparent economic purpose or legitimate objective. FIs are equally not obliged to monitor those operations and verify their purpose. Moreover, FIs are not obliged to pay any particular attention to business relations and to transactions with persons belonging to the countries that do not, or insufficiently, apply FATF recommendations. The new draft law has tackled all such points.

22. Regarding the obligation to report ML/TF-suspected transactions, the law obliges the FIs to report transactions intended for ML only, provided that it has enough evidence to establish it, which is a requirement too difficult for FIs who should report on the basis of mere suspicion. The regulations stipulate that the FIU is responsible, *inter alia*, to receive reports on ML-suspected transactions. The reporting obligation is affected by the fact that the list of predicate crimes mentioned in the Yemeni law does not cover all the twenty designated categories of offences as in

the Methodology. In addition, the definition of predicate crimes is not extended to cover the criminal acts committed in another country and which may have constituted a predicate offense if committed locally. The legislations do not oblige FIs to report attempts of suspicious transactions. On the practical side, the FIU has not yet prepared any reporting forms or any reporting rules or procedures, including the feedback procedures. FIs have not also received from FIU any feedback regarding the reported cases.

23. There are no legal provisions that protect FIs and their directors, officers and employees (permanent and temporary) against criminal and civil responsibility in the event where any of them breaches the confidentiality obligation provided for in their contracts or in any legislative, regulatory or administrative provisions while reporting in good faith their suspicions to the FIU.

24. It can be implicitly understood that the FIU established within the Central Bank of Yemen is the only authority that is empowered with a supervisory role in the AML field. However, it can also be noted that the responsibilities of the FIU do not expressly include the possibility to carry out field investigations for this purpose. The AML law and its executive regulations and the bylaw regulating the AML procedures do not stipulate any penalties that may be imposed by the FIU or any other supervisory authority in the event that FIs breach their obligations as mentioned in the law. However, in the case of banks, the Central Bank may impose sanctions whereby the Banks Law considered any contravention thereof or any other law in force, part of the 1st category sanctions which empower the Central Bank to impose sanctions in the case of breach of AML law.

25. In practice, while performing its functions, the FIU seeks the assistance of inspectors from the Bank Supervision Department at the Central Bank within regular inspection operations carried out only at banks and exchange firms to verify their compliance with their obligations. It was noted through the visits paid to a number of banks and exchange firms that the inspectors from the Bank Supervision Department did not pay sufficient attention to AML/CFT aspects when conducting any inspection operation. Regarding the other FIs, the FIU has not yet exercised any supervision or oversight on their activities.

26. The sanctions imposed under the law on FIs and their employees is limited to imprisonment for a period not exceeding three years or a fine not exceeding five hundred thousand Yemeni Riyals. The sanctions apply also to any failure in reporting any ML operation to the FIU, tipping-off customers of reporting, any failure to submit any data or documents to the FIU or judicial authorities, or challenging the execution of any judgment issued by judicial authorities regarding any ML crime.

27. Regarding the money or value transfer services, they are only exercised with an authorization issued by the Central Bank. Exchange firms in Yemen are also registered with an authorization issued by the Central Bank, which monitors their activities. Exchange firms are authorized to purchase and sell foreign currencies and travelers cheques, accept transfers and banks cheques issued by local and foreign banks, and any other operations, under a special approval issued by the Central Bank specifying the conditions for carrying out such activities. On the practical side, however, widespread transfer activities carried out by exchange offices, authorized only to conduct exchange operations rather than transfers, in addition to other individuals who exercised transfer activities without any authorization was noted.

4. Preventative Measures – Designated Non-Financial Businesses and Professions (DNFBPs):

28. Besides the reference made to the real estate companies in the law, and the unclear reference made in the executive regulations to real estate companies and offices that exercise lease financing, the legal and supervisory AML framework in Yemen does not bind the designated non-financial businesses and professions (DNFBPs) to any AML/CFT obligations. Therefore, DNFBPs

are not subject to any controls or supervision in this regard. Such categories in Yemen are limited to real estate brokers, dealers of precious metals and precious stones, lawyers, notaries and accountants. As to other specific activities such as trust and companies services providers, they do not exist in Yemen independently, and casinos are prohibited altogether.

5. Legal Persons, Legal Arrangements and Non-Profit Organizations:

29. Commercial companies are established by virtue of the Commercial Companies Law, which specifies the procedures for the establishment of companies, in accordance with specific controls and conditions, including the signing of the company's incorporation deed and statute. Signing of such documents takes place before the General Director of Companies at the Ministry of Industry and Commerce or before his authorized-in-writing representative or the court. The Commercial Companies Law authorizes the issuance of bearer shares although they are not dealt with in practice. The Ministry of Industry and Commerce is the competent authority to register local commercial businesses in the commercial registry, in addition to registration of agencies, branches, and foreign companies and houses, and the renewal thereof every five years. The law has determined a number of penalties in case of any violation. Within the framework of CDD measures applied by the Ministry of Industry and Commerce, the Ministry requests the applicants to submit different documents and certified copies to be maintained by the Ministry. The Ministry shall also keep the original copy of the incorporation deed and statute after being signed by the shareholders and authenticated by competent authorities. Yemen does not host any trust funds or other forms of legal arrangements.

30. The Ministry of Social Affairs and Labor assumes legal and supervisory oversight over the status and activities of national societies and institutions and their unions. It was found that the Ministry of Social Affairs had remarkably failed to exercise its control and supervision responsibilities. This is due to the shortage in human, financial and technical resources and capacities within the Ministry. There is a large gap in communication between the Ministry and the national non-profit societies and institutions in terms of awareness raising with regard to terrorist exploitation and taking necessary measures to protect this sector.

6. National and International Cooperation:

31. The AML mechanism in Yemen depends on the AML Committee, which comprises members from different authorities with the absence of other representatives from some authorities specialized in the AML matters, such as the Customs Authority, the General Investment Authority, and the Ministry of Social Affairs. Moreover, there is no sufficient coordination between the different members of the Committee and the authorities they represent.

32. Yemen signed and ratified the 1998 Vienna Convention; it also signed the 2000 Palermo Convention, which was ratified on 24 July 2007, by virtue of Law No. 17 /2007. The Council of Ministers approved the joining of the 1999 UN Convention for the Suppression of the Financing of Terrorism in 2005; the issue is still pending in the People's Assembly.

33. Yemen has a legal framework that allows to a great extent the judicial cooperation in the field of mutual legal assistance (MLA) and extradition. Cooperation with foreign counterparties is performed through diplomatic channels, the Interpol, or the AML Committee. The rules and procedures defined by the international, regional or bilateral conventions of which Yemen is a party to include many forms of cooperation, including MLA, in order to carry out procedures relevant to investigations, search, and seizure. The Penal Procedures Law comprises special provisions related to judicial representation applied in the absence of any conventions with foreign countries.

34. In the AML field, the law stipulates the presence of a bilateral agreement to enable the AML Committee, upon an official request from a judicial authority, to provide information about a specific operation defined in the request. In the absence of any clear constraints on the execution of

the MLA requests, the assessment team was not able to determine the availability of such assistance on appropriate time and without delay, due to the absence of any statistics showing the number of requested and executed representations and the time of their execution. The Yemeni authorities have also confirmed that they had not received any MLA requests.

35. The legal system in Yemen stipulates objective conditions for extradition. The law does not set dual criminality as a condition in respect to the AML crime, as it allows the extradition of any non-Yemeni convicted with the AML crime, in accordance with the applied laws and the international conventions ratified by the Republic and the principle of reciprocity, after obtaining the approval of the Public Prosecutor.

Mutual Evaluation Report

1. GENERAL

1.1 General Information on the Republic of Yemen

36. Yemen is located in the Southwestern part of the Arabian Peninsula. It is bordered by the Kingdom of Saudi Arabia to the North, Oman to the East, the Gulf of Aden and the Arabian Sea to the South and the Red Sea to the West. Yemen covers an area of 527.970 km^2; with a coastal strip extended to a length of about 2400 km. Yemen has a population estimated at 21 million people with an average growth rate of 3% per year, considered among the highest in the world. Sana'a City is the historical and political capital of the Republic of Yemen, while Aden is the commercial and economic capital. Administratively, Yemen is divided into 21 Governorates including the capital city of Sana'a. Governorates are in turn sub-divided into 301 electoral districts. The currency of Yemen is the Yemeni Riyal, which equals 0.005 USD. Yemen is categorized as one of the low-income countries with a GDP per capita of 460 USD, which reflects the average daily individual income estimated to be below one USD for around 10.7% of the Yemeni population and nearly 2 USD for 45.2% of the Yemeni population.

37. On 22 May 1990, the Arab Republic of Yemen and the People's Democratic Republic of Yemen were formally united as the Republic of Yemen with a new political system based on political pluralism and economic freedom. Since unification, Yemen has held three parliamentary elections and two presidential elections in addition to two local councils' elections. There are nearly 22 political parties and more than one hundred official, national and party newspapers representing the different political and social trends of the Yemeni community.

38. The ruling system in Yemen is a republican system based on the Constitution, which was approved in 1990 after the achievement of the unification. The constitution of Yemen rests on the separation of the three authorities; executive, legislative, and judiciary. The President of the Republic is the head of the executive authority and is directly elected by the people for a seven-year term with a maximum of two terms. The President of the Republic appoints the Prime Minister who, in his turn, chooses the ministers who are appointed by a Presidential decree.

39. The Legislative Authority consists of an elected legislative council known as the Parliament with 301 members elected directly by the people in a free vote. In addition, the legislative authority comprises another Shura Council (The Consultative Council) with 111 members appointed by a Presidential Decree. The State seeks to create a bicameral system after making necessary amendments to the Constitution.

40. The judiciary authority is an autonomous authority in its operational, financial and administrative aspects while the Public Prosecution is another body of the judiciary authority. The courts are the competent authority to hear all disputes and offenses. Judges are independent and in performing their duties, they should be subject only to the law. The judiciary has a Higher Council, presided over by the Head of the Supreme Court. This Council is organized by the law which specifies its powers, the nomination and appointment procedures of its members. The Higher Council seeks to apply the guarantees granted to judges in relation with appointment, promotion, layoff and dismissal in accordance with the law.

41. The judicial organization: the courts of appeal are divided into 3 chambers: the commercial chamber, the penal and personal status chamber and the competent chamber (in charge of terrorism/kidnapping cases). Crimes are classified into serious offenses (3 years of imprisonment and above), and non-serious offenses (less than three years of imprisonment). According to the Yemeni authorities, the penal division of the Competent Court of First Instance (Capital

Governorate) and the penal division of the Competent Court of Appeal (Capital Governorate) hear all matters related to terrorist crimes.

42. The police is one of the most important law enforcement authority. The Constitution has determined its powers and duties in combating the crimes and implementing the laws, while safeguarding its neutrality in the fulfillment of its duties. The Police Authority Law has equally guaranteed the neutrality principle by holding accountable all individuals who would exploit their power to maximize their personal interests or cause damage to others. According to the Penal Procedures Law, the Public Prosecution is empowered to file penal action against any police officers who would violate their duties.

43. Yemen is one of the regional countries that have experienced democratic transformation; it adopts a free market economy approach. Yemen's economy is a developing economy; one of the least developed and is largely dependent on agriculture, fish resources, and limited oil production. Since early 1995, the Yemeni Government has been committed to implement economic, financial and administrative reforms in cooperation with international donors, such as the World Bank and the International Monetary Fund to combat poverty and unemployment challenges, improve life quality of Yemeni citizens, reduce the reliance on oil and diversify the Yemeni economy into other income sources. The goal is to raise the value of the transparency principle towards good governance and rationalization of expenditure.

44. Yemen has achieved remarkable levels of economic growth in recent years, averaging a rate of 5.5%. Nevertheless, the Third Five-Year-Plan is projected to attain a higher economic growth rate to exceed 7% per annum. This should raise the level of incomes and reduce poverty by half by 2015, the year when Yemen will be completely admitted as member of the GCC. In order to achieve this strategic goal, Yemen has started to implement an expanded reform program since early 2000s, known as the National Reform Agenda, covering the economic, financial, legal, political and administrative aspects.

45. Yemen’s economy is characterized by widespread cash-based financial transactions compared to the number of transactions conducted through the banking system, which do not exceed 3-5%. Financial and banking transactions are very limited and distinguished by their traditional and simple structure. Efforts are being exerted to develop the financial and banking system.

46. Corruption is one of the biggest challenges that face Yemen. A number of measures have been taken to address this challenge, among which was the promulgation of Law No. 39 /2006 on the combating of corruption. A National Supreme Anti-Corruption Authority (NSACA), comprising 11 members, was formed via Presidential Decree No. 12 /2007, issued on 3 July 2007. Law No. 30 of 2006 concerning the disclosure of financial holdings was also promulgated.

1.2 General Situation of Money-Laundering and Financing of Terrorism

47. Yemen does not represent a major financial center due to the relatively limited size of financial transactions, the limited reliance of the citizens on the banking system, the absence of banking awareness and of a financial market. However, the assessment team has concerns as to the increase of money laundering risks as a result of Yemen’s opening to foreign investments, the ease of funds entry into the country and the lack of awareness by the officials of such risks. Crimes related to administrative and governmental corruption in addition to crimes related to traffic of arms are the most likely to generate illegal proceeds that may be laundered. With regard to the financing of terrorism risks, the assessment team believes that those risks might existent because of the frequent terrorist attacks on Yemen; especially that financing of terrorism is not currently criminalized.

1.3 Overview of the Financial Sector and DNFBPs

1.3.1 Yemeni financial sector

48. The financial sector in Yemen consists of the banking sector, the money exchange activities and the insurance activities. Yemen does not have a stock exchange market; however, the Central Bank of Yemen (CBY) manages the treasury bills via the General Department of Public Debt and Lending. The department organizes t-bills auctions in which banks, pension funds, private and public institutions and the public participate.

49. The banking sector is supervised by the Central Bank of Yemen. There are 16 banks and 200 branches nationwide, including 4 Islamic banks, 2 specialized banks, one of which has recently began to expand its services as a universal bank, and 10 conventional (commercial) banks: 6 of which are local and 4 are branches of foreign banks.

50. Yemen has 463 money exchange facilities licensed by the Central Bank, among which 15 are corporate money exchange facilities (companies) and 448 small money exchange facilities (individual). They are all subject to the control of the Central Bank.

51. Insurance companies are supervised by the Ministry of the Industry and Commerce by virtue of Law No. (37) /1992 on the supervision and control of insurance companies and brokers. There are 13 companies that run insurance business according to the types stated under Article (4) of the law. Their activities are limited to life insurance, including group insurance.

52. In addition to banks, the General Authority for Post and Postal Savings supervised by the Ministry of Communications and Information Technology and controlled by the Central Organization for Control and Audit (COCA), offers a number of financial services, particularly those related to the opening of saving accounts and *hawala.* The activities of this Authority are regulated by the General Authority for Post and Postal Savings Law No. 64 of 1991.

1.3.2 The DNFBP Sector

53. The Law No. 26 of 1999 regulates the Auditing profession in Yemen. Accordingly, the accountants and auditors are subject to the supervision of the Ministry of Industry and Commerce and they practice their activities within moral and ethical guidelines and principles, such as neutrality, autonomy, objectivity and confidentiality. The Law No. 26 of 1999 stipulates the rules and procedures for issuance of the chartered accountant authorization, and the rules and procedures for authorizing accountants to practice their profession and the conditions for issuance of authorization of practice and for registration. Accountants are categorized into two distinct types under Article 4 of the said law: the practicing chartered accountants authorized to practice their profession and the non-practicing chartered accountants holding a chartered accountant license. Chartered accountants listed in the Chartered Accountant Record are equal to 819 accountants while the chartered accountants licensed to practice the profession are equal to 466 accountants. The Ministry of Industry and Commerce is responsible for supervising and controlling the auditors' offices in accordance with the law.

54. The Law No. 31 of 1999 regulates the legal profession. This is an autonomous and independent profession which activities are governed by the provisions of the said law. The Yemen Bar Association enjoys legal personality and financial and administrative independence. It is administered and managed by a Council elected by the General Assembly in the capacity of independent professional organization. The law regulates the conditions for registration of candidates on the roll, issuance of authorizations, practice of the profession, and the rights and duties to be satisfied in order to accept the registration on the general roll of the Bar Association, including the provision of a degree issued by a recognized university in the field of law, candidate to be of good

reputation and conduct, not convicted of a crime involving moral turpitude, or charged with a professional ethics violation, to observe the Islamic values and the principles of honor, honesty, loyalty, confidentiality, and professional ethics at both personal and professional behaviors' levels, whether in his relation with the judiciary or his colleagues and principals, to avoid any procedure or statement that prevents justice from being realized, to observe the laws, and the Bar regulations and bylaws, and not to represent any conflicting interests during the exercise of his profession. A lawyer may not disclose any information or fact with which he becomes acquainted in the course of his profession, unless it is useful to prevent any crime from being committed. The law stipulates that Disciplinary Councils should be formed to hold accountable those lawyers who may violate their duties under the law and impose adequate penalties on them, ranging from oral warning to removal of their names from the Bar Roll. The Ministry of Justice supervises this profession at all levels. The number of practicing lawyers in Yemen is 2386 lawyers.

55. Authentication clerks and trustees are supervised by the Ministry of Justice and their profession is regulated and organized by the Authentication Law No. 29 of 1992 and all its amendments as promulgated under Law No. 34 of 1997. This law distinguishes between the authenticators and the trustees: Authenticators are state employees, while Trustees are people who exercise their profession under a license, pursuant to a proposal submitted by the Trustees Acceptance Committee and they collect their fees directly from their customers. They are subject to the control and supervision of their respective regional authentication division. There are 252 authenticators in Yemen and 2906 trustees.

56. The real estate offices are subject to the supervision of the General Authority of Lands, Survey and Urban Planning affiliated to the Real Estate Registration Section. A candidate must obtain the authorization of such Authority to be able to exercise this profession. However, the assessment team discovered during its onsite visit that there are thousand of unauthorized offices nationwide, while the number of authorized offices is limited to 320 offices.

57. Jewelries and precious metals profession is supervised by the Yemen Authority for Specifications, Measurement and Quality Control, in accordance with Article 20 of Law No. 44 of 1999 authorizing the Authority to regulate and organize this profession, including the issuance of authorizations, performance of periodic control, and conduction of inspection visits to verify the observance of the legal gauges decided for jewelries. Authorized jewelries workshops in Yemen are 59 workshops, in addition to some 995 retail stores.

58. Yemen still does not have any specialized or independent entities that offer corporate services and funds management.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

59. Trading activities in Yemen are regulated and organized by a series of laws including the Commercial Companies Law No. 22 of 1997, the Commercial Registry Law No. 33 of 1991, the Commercial Law No. 32 of 1991, the Trade Names law No. 20 of 2003, and the Law No. 37 of 1992 on the Supervision and Control of Insurance Companies and Brokers.

60. Commercial companies are established by virtue of the Commercial Companies Law No. 22 of 1997, which specifies the procedures for establishment of the companies subject to a number of controls and conditions, including conclusion and signature of the Incorporation deed and the Statute of the company, which outline the name of the company, the names of partners, the particulars of each partner according to their respective IDs, in addition to the objectives and the capital of the company. The Incorporation deed and the Statute are signed before the controller (Director General of Companies at the Ministry of Industry and Commerce) or his representative by virtue of a written power of attorney or before the court.

61. The Commercial Companies Law stipulates that there are two types of companies: **First type** is the Persons Company including (the Partnership, the Limited Partnership, and the Joint Venture), **Second Type:** Funds Companies including (the Shareholding Companies, the Joint Stock Companies, and the Companies with Limited Liability). There are 102 shareholding companies, 2021 Companies with limited liabilities, and 435 partnerships in Yemen, according to the statistics submitted by the Yemeni authorities.

62. The Ministry of Industry and Commerce is responsible for registering all local commercial activities in the Commercial registry (companies – individuals) as well as all foreign agencies, branches, companies and houses within 60 days as of the date of starting exercising the commercial activity or opening the shop, branch, or agency as well as renewing the registration thereof every five years. The law defines a number of sanctions including imprisonment to be imposed on those who violate the provisions of the law.

63. The Law No. 23 of 1997 concerning the agencies and branches of foreign houses and companies organizes the registration of the foreign companies or foreign houses' branches in accordance with the conditions set forth in the law. The license application should be accompanied by a copy of the commercial registry of the foreign branch or house, a certified copy of the incorporation deed, a certified copy issued by the Commercial Registry Department where the foreign head office or house is registered outlining the amount of their respective capital, and a certified copy of the company budget for the latest financial year. The license application is submitted along with an official power of attorney specifying the name of the representative or the manager in charge of the branch management.

64. Yemen has paid particular attention to investment, reflected in the promulgation of special Investment Law No. 22 of 2002. This law is intended to support and regulate the Yemeni, Arab and foreign capital investments subject to the provisions of the law, within the framework of the general policy of the State and in line with the objectives and priorities set in the National Plan for Economic and Social Development and with the Islamic Sharia. The law offered to the investors many guarantees and privileges to exercise freely in investment projects, in accordance with the provisions of the law. The Arab and foreign capitals are equal to the Yemeni capital in terms of rights, obligations, rules and procedures. Projects registered in accordance with the provisions of the law, regardless of their legal form and the legal nature of their shares, are ranged under the private-sector projects. Arab and foreign investment projects and companies and Arab and foreign investors have the right to purchase or lease lands and buildings owned by the private sector or the State. Investors have also the right to manage their own projects according to their evaluation of the economic circumstances and the situation of their business. By virtue of Law No. 22 of 2002, the Authority receives the registration applications, fills in all missing information and data, coordinates with all the relevant authorities and completes all the procedures required for the issuance of license and registration in the special investment projects register in accordance with the provisions of the law.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT strategies and priorities

65. Yemen has adopted a special AML/CFT strategy manifested in the combating of terrorism, prevention of money laundering, prevention of financial crimes, and protection of the economic and social sectors against those crimes through the expansion of coordinative and cooperative efforts among the regulating, supervising and law-enforcement authorities, in addition to the conclusion of partnerships with distinct poles of the international community based on effective cooperation, the continual development of the strategy, training and comprehensive and sustainable spread of education and awareness.

66. The AML/CFT priorities are: drawing necessary policies to reflect the applied strategies; achieving the promulgation of criminalizing laws and imposing serious penalties; empowering competent authorities with sufficient regulatory, supervisory and law-enforcement powers; establishing national institutions with integrated and correlated objectives at the regulatory, coordinative, supervisory, control, informative and judicial levels; taking necessary measures at the regulatory, supervisory and provisional levels; encouraging the participation through effective international cooperation and ratification of all relevant international treaties; and continually examining, evaluating and developing all efforts exerted in this regard.

67. Since 1998, those efforts have led to successful developments manifested lately in the elaboration of a unified draft AML/CFT law embodying the previous laws, taking into consideration all aspects included in the typical law, in cooperation with the World Bank, the International Monetary Fund and the UN Office on Drugs and Crime. Besides those efforts, Yemen has initiated new projects aiming at improving and developing the relevant national institutions and taking extensive procedures and measures towards the relevant targeted activities.

b. Institutional Framework of AML/CFT

68. The institutional framework of AML/CFT comprises the following authorities: (1) AML Committee, (2) Information Collection Unit, (3) National Committee for Combating of Terrorism, (4) Coordination Unit between the different bodies and authorities involved in cases related to money laundering, financing of terrorism and combating of terrorist acts, (6) General Department for Combating Terrorism and Organized Crime, (7) General Department for Combating Drugs, (8) Coast Guard Service.

69. **AML Committee:** It was formed by virtue of the Council of Ministers Resolution No. 102 of 2004 and it reports directly to the Council of Ministers. It comprises members from the following 9 authorities: Ministry of Finance, Central Bank of Yemen, Ministry of Justice / Public Prosecution, Ministry of Interior, Ministry of Industry and Commerce, Central Organization for Control and Audit (COCA), Association of Banks, and General Union of Chambers of Industry and Commerce. The Committee has regulatory political objectives and is entrusted with the following functions:

- Elaborate AML regulations and procedures and submit them to the Prime Minister for ratification, subject to provisions of the AML law and its executive regulations.
- Lay down and adopt the internal bylaw of the Committee
- Coordinate and facilitate exchange of information among authorities represented in the Committee
- Organize seminars and workshops on money laundering.
- Represent the Republic in international AML forums
- Submit reports on the Committee activities to the Council of Ministers every three months or whenever requested.
- Receive international cooperation requests and exchange of information

70. **Financial Intelligence Unit (FIU) within the Central Bank of Yemen (CBY):** It was formed by virtue of the CBY Governor Resolution No. 48 of 2003, dated 13/4/2003. It is composed of specialized people from the Central Bank, the Head of the FIU and three other members: a technical member, a legal member and the compliance, investigation, exploration and assessment officer. As per the Governor Resolution No. 24 of 2007, the FIU structure and internal divisions have been modified as follows: the Head of FIU in charge of collecting information about money laundering and financing of terrorism; the Compliance, Investigation, Exploration and Assessment

Officer; the Reporting, Analysis, and Legal Tracking Officer; an employee in charge of the database, exchange of information, development and assistance of financial institution; in addition to the assistance of (47 employees in the Banking Supervision Department; field and office technical assistants; 10 employees at the General Department for Legal Affairs; and legal assistants).

71. The FIU is responsible for the following functions:

- Oblige financial corporations to comply with the AML/CFT procedures
- Assist financial institutions in developing internal control and auditing regulations to prevent money laundering operations.
- Receive and analyze information and reports on money laundering operations
- Conduct necessary investigation on the received information and reports in relation to the money laundering operations
- Prepare reports on detected ML operations and submit them to the Governor to obtain his approval to forward a written report to the Public Prosecutor supported by documents with a copy of the report to be sent to the AML Committee.
- Establish a database of available information at FIU
- Lay down necessary procedures and forms for the enforcement of the AML Law and submit them to the Committee for approval
- Submit requests to the Public Prosecutor to take provisional measures in accordance with the AML Law in case of any suspicions raised about any AML offense, after receiving the approval of the Governor
- Prepare periodic reports on the actual extent of law enforcement and reported cases and submit them to the Committee.
- Benefit from the experiences of other countries.

72. **National Committee for Combating Terrorism:** It was formed by virtue of the Council of Ministers Resolution No. 20 of 2002, dated 13/1/2002. It is composed of members representing the following authorities: Ministry of Foreign Affairs, Ministry of Legal Affairs, Ministry of Justice / Public Prosecution, Ministry of Interior, Ministry of Finance, Minister of Cabinet Affairs, Central Department for Political Security, Prime Minister Office, Central Bank of Yemen, AML Committee. The Committee is responsible for the following functions:

- Effective cooperation with regional and international organizations and concerned countries.
- Prepare assessment report on combating activities and submit them to the Prime Minister
- Facilitate the exchange of information among national and international poles.

73. **Coordination Unit at the Ministry of Foreign Affairs:** It was formed under the Council of Ministers Resolution No. 237 of 2005, dated 2/8/2005. It is responsible for the following functions:

- Coordinate with the different authorities and bodies involved in the AML/CFT cases and cases related to combating terrorist acts.
- Communicate with all external authorities in relation to AML/CFT matters

74. **General Department for Combating Terrorism and Organized Crime:** It was formed by virtue of Presidential Decree No. 159 of 2004. It is responsible for planning ways to combat terrorism and all types of organized crimes; prevent offenses of fraud and forgery of money, credit cards, passports, IDs and other official documents; and to receive information about terrorist crimes and organized crimes from the General Department for Criminal Investigation; evaluate and analyze such information and use it to combat crimes. It is also entrusted with the responsibility to coordinate with competent authorities in other countries in accordance with regulations and laws in force and conventions in which the Republic of Yemen is a party; track criminals and suspected terrorists in coordination with the competent authorities; submit periodic assessment reports on the General Department functions and responsibilities, and the measures taken by it, the outcomes and obstacles of those actions; and to perform any other activities and tasks entrusted to it by the Ministry.

c. Risk-based Approach

75. In general, Yemen does not adopt any risk-based approach in relation to the application of the FATF recommendations on the different sectors within the country. In addition, the AML system does not include any general concept or principle that classifies customers, operations, countries, or institutions on a risk level basis. Nevertheless, the executive regulations of the AML law stipulate some exceptions in connection with the occasional financial operations that exceed the limit value defined by the Central Bank and the other supervisory authorities. The said value has not been defined by any supervisory authority, including the Central Bank. The executive regulations included other provisions regarding the occasional customers' transfers that exceed the amount of 10,000 USD or equivalent in other currencies.

76. The team found during the onsite visit that a limited number of banks have voluntary adopted a risk-based approach with their customer and have classified them accordingly. As to reducing the CDD procedures, Yemen has not taken any related action; however, it has imposed the same obligations stipulated in the law and bylaws on all governed institutions without distinction.

d. Progress since the last mutual evaluation

77. Yemen had not been subject to an evaluation that tackles the details of its AML/CFT regime before the assessment team's onsite visit. There has been no assessment conducted by the World Bank or the International Monetary Fund in this regard.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

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

2.1.1 Description and analysis

78. ***Recommendation 1:*** The Republic of Yemen has criminalized ML by virtue of Law No. (35) of 2003 on combating ML[2]. It is in the process of preparing a new draft law on combating ML and the financing of terrorism.

79. Article 2 of Law 35/2003 defines the ML act as *'every act including acquiring, possessing, disposing of, depositing, exchanging, investing, or transferring funds with the intention to hide the real source of those funds that are the proceeds of the crimes listed in article (3) of this law.'* The Executive Regulations of the AML Law, issued by virtue of Presidential Decree No. 89 of 2006[3], defines ML as "*every act or behavior that includes the acquisition, possession, disposal, management, keeping, exchanging, depositing, investing, moving, transforming of funds, or falsifying their value, if they were derived from one of the crimes listed in Article 3 of the AML Law*". Accordingly, this definition meets, with regard to the material elements of the ML crime, the provisions of the 1988 UN Convention against the Illicit Trafficking of Drugs and Psychotropic Substances (the Vienna Convention) and the 2000 UN Convention against Transnational Organized Crime (the Palermo Convention).

80. As to illicit funds, the ML definition is: *'every act including acquiring, possessing, disposing of, depositing, exchanging, investing, or transferring funds with the intention to hide the real source* ***of those funds that are proceeds of the crimes*** *listed in article (3) of this law.'* Article 2 of the executive regulations of the AML Law, has added that ML is '*every act or behavior that includes acquiring funds (…) if they are the proceeds of crimes (…)* ***directly or indirectly*** *(…)'*. Subsequently, it is understood that the Yemeni legislator considered the crime of ML to include all the funds which represent directly or indirectly the proceeds of a crime without specifying a definition for the concept of 'funds' and whether it includes **any form of properties** regardless of their value. The draft law has set a definition for the 'funds' and 'proceeds' concepts in article (2). It defines 'funds' as '*any kind of assets; whether tangible or intangible, movable or immovable, and all types of local and foreign currencies, securities, commercial bills, deeds and bonds certifying the ownership of the funds and their related rights, and all other revenues or values arising or resulting from these asset's.* The proceeds are defined as *'the funds resulting or arising directly or indirectly from committing any crime included in this Law*.

81. There is no provision in Law 35/2003 that prohibits applying the ML crime on persons who have committed the predicate offense. The Yemeni judiciary authorities have stated that the ML crime and the predicate offense are not in fact one crime; they are two independent acts, each having a different sanction. Only when the execution of the punishment is in process, the severest punishment shall be imposed according to Article 110 of the Penal Code. This article stipulates that: '*in case of multiple sanctions existing before the execution against the convicted persons, and if the sanction multiplicity is due to crimes committed against one person, it shall suffice to apply the severest sanction which would include other punishments and which does not allow after its imposition for other punishments to be applied.'* Subsequently, since the ML crime is an independent crime that requires the existence of a different material element, other than that of the predicate offense, to conceal the real source of the funds, the Yemeni Law, from a legalistic viewpoint, would

[2] Law 35/2003.
[3] The Executive Regulations.

apply the ML crime on the persons who have committed the predicate act. For this controversial issue to be decisively cleared out, the opinion of Yemeni courts should be awaited in this regard.

82. It is not a condition in any of the Law provisions that the person involved in the ML crime should be convicted of the predicate offense.

83. Article (3) Section A of Law 35/2003 has defined the predicate offenses as follows:

1. The crimes that are stated in the Law of Counter Kidnapping and Heisting Crimes.
2. Stealing or misappropriation of public funds or appropriation thereof by fraudulent means, or bribery and breach of trust.
3. Forgery and counterfeiting of official stamps, currencies and public bonds.
4. Misappropriation of private funds, punishable in the Crimes and Penal Law.
5. Customs smuggling.
6. Illicit trafficking and importation of weapons.
7. Cultivation, manufacture, or trafficking of narcotic drugs and illicit manufacture and trafficking of alcoholic drinks and other acts forbidden by Sharia law.

It is noticed that the list of predicate offences stated in Law 35/2003 does not include all the 20 designated categories of offences as they are defined in the glossary of the FATF 40 recommendations, since the Yemeni Law has lacked the following offences:

a. Participation in an organized criminal group and racketeering.
b. Terrorism including TF.
c. Trafficking in human beings and migrant smuggling
d. Sexual exploitation, including sexual exploitation of children
e. Illicit trafficking in stolen and other goods
f. Counterfeiting and piracy of products
g. Environmental crimes
h. Murder and grievous bodily injury
i. Piracy
j. Insider trading and market manipulation.

The draft law has remedied some of these shortcomings but not all.

84. The definition of the predicate offense does not extend to include crimes committed in other countries, which constitute crimes in those countries and which would have constituted predicate offences if committed domestically. However, the draft law has covered this shortcoming; Article (3) therein states that crimes committed domestically or outside the borders of the Republic shall be considered predicate offences.

85. Article (3) of law 35/2003 states that a person is a ML offender if he commits, participates, assists, abets, or conceals any crime related to the funds resulting from the aforementioned seven predicate offenses. Consequently, this article covers all ancillary offences including participation, aiding, and abetting the commission. As to attempt, it should be referred to the general law, where article (18) of the Crimes and Penal Law defines attempt as: *'to start an act with the intention to commit a crime if the perpetrator's act was stopped or have not yielded its result because of a reason beyond his will or if the crime were not possible to commit due to any shortage of instruments, absence of crime subject, or absence of the aggressed upon.'* In addition, article (19)

states that *'attempt of crime shall be* punished *in all cases and the sanction shall not exceed half the maximum sanction imposed on the crime committed, unless the law stipulates otherwise.'* Article (22) of the same law has defined the abettor as every person who urges or attempts to urge another person to commit a crime, and it is a condition that the crime is committed in order for the abettor to be punished. However, abetting that does not yield consequences for some crimes may be punished. Concerning the accomplice, article (23) defines him as the person who provides the crime's perpetrator with ancillary assistance with the intent of committing a crime. Such assistance may precede or accompany the crime; it may be after the crime whenever it has been agreed upon before the commission of the crime. As to post-commission assistance that has not been agreed before the commission of the crime, such as concealment, it is punishable as a separate crime.

86. ***Additional Elements:*** The Yemeni legislation does not consider ML if the proceeds of crime have arisen from an act committed in another country that does not criminalize it, but would have constituted a predicate offense if committed domestically.

87. ***Recommendation 2.*** The Yemeni legislator sets as a condition, in article (3) of Law 35/2003, section B (2), knowledge that transferred or exchanged funds are illicit. However, it does not mention the element of knowledge of the origin of illicit funds as per other forms of ML, such as concealment or acquisition. In addition, the Law does not provide for the possible inference of the intent element of ML from objective factual circumstances, yet the executive regulations were more general than the Law. Article (2) of the ER stipulates in its definition of ML that it is 'every act or behavior including acquiring, possessing, disposing of, managing, keeping, exchanging, depositing, investing, transferring, converting funds or manipulating its value, if arising from (…) **while knowing that** (…) **through the factual circumstances surrounding the fact.**' Consequently, the Yemeni Law stipulates that the element of knowledge is a condition for the ML crime; in addition, it allows inferring the intention element from the objective factual circumstances.

88. Law 35/2003 does not expressly refer to the liability of legal persons, whereas Article (1) of the Crimes and Penal Law stipulates that legal persons include companies, entities, institutions, and associations that acquire this capacity according to the law. They are to be considered natural persons when involved in the crimes provided for in the said law (i.e. the Crimes and Penal Law). Thus, it cannot be considered that the criminal liability in ML crime is extendable to include legal persons. Yet, it should be indicated that the Yemen legislator has caused some confusion in paragraph (3) of article (21) of Law 35/2003: 'the court may decide de-licensing and freezing the activity, or impose any other complementary sanction according to the enacted laws." This type of sanctions is usually imposed on legal persons. Criminal liability for ML therefore cannot be considered to include legal persons, as the capacity of natural persons is limited only to the crimes stated in the Crimes and Penal Law.

89. Article (21) of Law (35/2003) stipulates that a person who has committed ML offense should be punished by imprisonment for a period not exceeding 5 years. In addition, all funds and proceeds of ML related or linked crimes should be confiscated into the state public treasury by virtue of a final judicial sentence. While they seem dissuasive, these sanctions are not proportionate in comparison to other financial crimes. In terms of effectiveness, they cannot be evaluated since no court judgment has been rendered so far in relation to ML crimes.

90. ***Statistics***. There are no statistics about ML offences since there are no court judgments rendered in ML crimes.

2.1.2 Recommendations and comments

91. Yemeni authorities should:

- Identify the concept of 'funds' so that it includes any type of properties.

- Amend article (3) to include all designated categories of predicate offences stated in Annex 1 of the methodology, including the following crimes:
    a. Participation in an organized criminal group and racketeering.
    b. Terrorism including TF.
    c. Trafficking in human beings and migrant smuggling
    d. Sexual exploitation, including sexual exploitation of children
    e. Illicit trafficking in stolen and other goods
    f. Counterfeiting and piracy of products
    g. Environmental crime.
    h. Murder and grievous bodily injury
    i. Piracy
    j. Insider trading and market manipulation.
- Extend the definition of predicate offences to acts that occur in other countries, which constitutes an offence in such countries.
- Stipulate expressly that criminal liability for ML should extend to legal persons
- Provide for appropriate sanctions.

2.1.3 Compliance with R. 1 & 2.

	Rating	Summary of factors underlying rating
R 1	**PC**	▪ Absence of a definition for 'funds' including any type of properties. ▪ Failure to cover all the designated categories of predicate offences stated in Annex 1 of the Methodology ▪ The definition of predicate offence does not cover the acts that occur in other countries, and which would have constituted an offence in such countries.
R. 2	**PC**	▪ Absence of any express provision covering the criminal liability of legal persons ▪ ML sanctions are not considered proportionate. ▪ Inability to measure the extent of effectiveness of the AML legal system due to the absence of statistics.

2.2 Criminalization of Terrorist Financing (SR. II)

2.2.1 Description and analysis

92. ***Special Recommendation II.*** Yemen has not criminalized the act of TF. However, the draft AML/CFT Law has criminalized TF in article (4), where it states that 'A TF perpetrator is any person who: (A) willfully collects or provides funds by any means, directly or indirectly, in the knowledge that they are to be used, in full or in part to carry out (some) terrorist acts. Yet this draft law comprises shortcomings in terms of criminalizing TF in comparison to Article 2 of the TF Convention, in addition to not considering TF as a predicate offense for ML.

2.2.2 Recommendations and Comments

93. Yemen should accelerate the procedures to criminalize the TF offense in accordance with Article 2 of the TF Convention

2.2.3 Compliance with SR II

	Rating	Summary of factors underlying rating
SR II	**NC**	▪ Failure to criminalize TF offense

2.3 Confiscation, Freezing and Seizing of Proceeds of Crimes (R. 3)

2.3.1 Description and Analysis

94. ***Recommendation 3.*** Articles 162 and 163 of the Criminal Procedures Law allow the seizure and confiscation of property. Article 162 stipulates that if the court does not order the confiscation of seized property or returning it to a certain person, or if the owner of the seized property is unidentified and no one claims it within one year from the date of a final judgment in the case, the property shall become of the state with no need to issue a judgment in this regard. Article (163) stipulates that (1) it is permissible to seize any property that may be of use for investigation as evidence, (2) while proceeding with criminal measures with regard to a crime that may be subject to a sanction in the form of funds confiscation, necessary measures shall be taken including seizing the funds, to ensure that the accused did not conceal the money.

95. Paragraph 3 of article (21) of law 35/2003 stipulates that without prejudice to the rights of *bona fide* third parties, all funds and proceeds of crimes related or linked to TF shall be confiscated into the Public Treasury by virtue of a final judicial ruling. Yet, this text does not expressly cover all instrumentalities used in or intended for use in ML. The draft law has equally missed out this part while it provides for the confiscation of all funds and proceeds of ML offences as well as TF offences.

96. In addition to the above, articles (36) and (42) of the Yemen Drug Law expressly provide for the principle of confiscation of narcotic drugs and psychotropic substances, transportation means which may have been used to commit the crime, used tools and funds, whether in cash or in kind, as an obligatory measure in all cases.

97. As to properties subject to confiscation, referring to article (21) of law 35/2003, especially paragraph 2, we find that the confiscation provision applies on 'all funds and proceeds of the crimes related or linked to ML'. It may be thus understood that the properties subject to confiscation according to the Yemeni Law are the properties arising directly or indirectly from crimes' proceeds, while not expressly mentioning that such properties include income, profits, and other interests. It is noticeable that the Yemeni AML Law does not address the properties possessed or owned by a criminal defendant or a third party. However, Article (103) of the Crimes and Penal Law stipulates that the court, when convicting a person, may order the confiscation of the seized objects resulting from the crime, used, or was to be used in the commission thereof. Confiscation must be ordered vis-à-vis the seized objects whose manufacturing, possession, acquisition, using, selling, or displaying for sale is a crime in its own right, even if not owned by the accused or if he or she has not been convicted. In both cases, the courts should observe the rights of bona fide persons.

98. Article (20) 0f law 35/2003 stipulates that the Public Prosecutor shall be authorized to request from the competent court to take provisional measures and procedures, including seizing the funds and freezing the account(s) subject of the ML offense, according to the Criminal Procedures Law. Therefore, the said article does not include freezing and/or seizing properties; it is rather restricted to the accounts subject of the ML offense.

99. Laws and measures do not allow the preliminary application of freezing or seizing to the properties subject to confiscation through an *ex-parte* procedure or without prior notice. There are no regulations in the Yemeni Law that give the law enforcement authorities, the FIU or other competent authorities' sufficient powers to identify and track the properties subject, or that may be subject, to confiscation or those suspected to be proceeds of criminal activity.

100. Article (103) of the Crimes and Penal Law stipulates that the court, when convicting a person, may order the confiscation of the seized objects resulting from the crime, used, or was to be used in the commission thereof. Confiscation must be ordered vis-à-vis the seized objects whose manufacturing, possession, acquisition, using, selling, or displaying for sale is a crime in its own right, even if not owned by the accused or if he or she has not been convicted. In both cases, the courts should observe the rights of *bona fide* persons. Also Section 2 of Article (21) of Law 35/2003 stipulates that without prejudice to the rights of *bona fide* third parties, a final judicial verdict shall be issued to confiscate all the funds and proceeds arising from offences linked or related to ML into the Public Treasury.

101. Article (186) of the Civil Law stipulates that "it shall not be valid to enter a contractual relation vis-à-vis a religiously-forbidden property, a religiously-forbidden act, or an act that does not contradict with the Islamic Sharia principles but violates the public order or the public ethics." Article (195) adds, "If it was to show that the contract's subject matter or the intentions of its parties were religiously forbidden or violating public order and ethics, the contract shall be considered invalid and shall be annulled if it such turns to be the intent of one of the parties. Any party claiming facts other than what is in the contract must prove his claim."

102. ***Additional elements.*** Nothing in the Yemen Law provides for confiscation of:

1. Properties of organizations proven to be primarily of criminal nature.

2. Properties subject to confiscation, without conviction (civil forfeiture)

3. Properties subject to confiscation that require an offender to demonstrate the legitimate origin of the property.

103. ***Statistics:*** The assessment team has not been provided with any statistics related to confiscation of properties or funds arising from predicate offenses or any statistics on ML offence.

2-3-2 Recommendations and Comments

104. Yemen authorities should:

- Provide for the confiscation of properties that constitute proceeds or instrumentalities used or intended for use in commission of TF offences;
- Provide for the confiscation of properties that constitute instrumentalities used or intended for use in commission of TF offences;
- Provide for the possibility to freeze and / or seize property in general and not just accounts.

2-3-3 Compliance to Recommendation 3

	Rating	Summary of factors underlying rating
R. 3	**PC**	▪ Failure to criminalize TF (implicating confiscation) ▪ Incapacity to confiscate properties that constitute proceeds

		or instrumentalities used or intended for use in commission of ML offences ▪ Limitation of confiscation or seizure to accounts only

2-4 Freezing the money used for TF (SR III)

2-4-1 Description and Analysis

105. ***Special Recommendation III:*** SR III requires the application of UN Security Council Resolution 1267 (1999) - S/RES/1267 (1999) on freezing funds or other assets owned or controlled by persons and entities designated by the United Nations Al-Qaida and Taliban Sanctions Committee by taking all the necessary measures to ensure the enforceability of the S/RES/1267(1997), i.e. to be legally binding within the Yemen borders. This may be achieved through laws, regulatory instruments, or executive measures. In this respect, there are no special laws in Yemen related to enforcing the S/RES/1267(1997). However, an administrative methodology exists, which begins with receiving the lists from the Yemeni representative in the UN, which are then sent to the Ministry of Foreign Affairs, then to the Council of Ministers. After the approval of the latter, they are sent to the Central Bank for circulation to the banks and exchange firms along with a copy to the AML Committee. It is noticeable that this is a relatively time consuming methodology, which negatively affects its efficiency.

106. There are no effective laws or procedures to freeze terrorist funds or other assets of persons designated in the context of S/RES/1373(2001), which hinders freezing. There are no effective laws and procedures to study and execute the measures taken under the freezing mechanisms in other countries.

107. There is nothing in the Yemeni law that extends freezing actions to:

A. Funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organizations.

B. Funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organizations.

108. The measures taken by the Central Bank are restricted to the issuance of circulars to banks and exchange firms without providing clear guidance to FIs and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.

109. There are no effective and publicly-known procedures in Yemen for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner. Also there are no effective and publicly-known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person. The Yemen authorities stated that the listed person may challenge the measure before the Ministry of Foreign Affairs which will present this objection to the permanent representative of Yemen in New York who in his turn will present it to the UNSC Counter Terrorism Committee. However, this does not mean that there are effective and publicly-known national procedures to consider the de-listing requests.

110. The new draft law covers in article (17) this shortcoming, as it stipulates that the monitoring and supervisory authorities shall be responsible for the circulation of the UNSC unified list to freeze the funds of designated persons and entities and to distribute it to the financial and non-FIs. Both shall be obliged to freeze those funds and notify the competent authorities immediately and provide them with the available information. The executive regulations shall outline the mechanism

of receipt and delivery of UNSC lists, the de-listing procedures, correcting the name and dealing with humanitarian cases.

111. There are no appropriate procedures for authorizing access to funds or other assets frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, extraordinary expenses, and service charges.

112. According to the general rules of the Yemeni Law, contesting measures may be taken against judicial rulings, but there are no appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a court.

113. Besides the general provisions, there is nothing in the Yemeni Law that extends freezing, seizing, and confiscation of funds or other assets to terrorists.

114. There are no measures available for the protection of the rights of bona fide third parties, consistent with the standards provided in Article 8 of the TF Convention.

115. There are no appropriate measures to effectively monitor the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such rules, legislations, and regulations.

116. ***Additional elements:*** Yemen does not implement the measures set out in the Best Practices Paper for SR.III. It does not also implement a procedure to authorize access to funds and other assets frozen pursuant to S/RES/1373(2001) that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses.

117. ***Statistics:*** An amount of 5000 Riyals in 2002 was frozen related to Mohamed Al Ahdal, the financial principal for Al Qaida organization in Yemen, who was accused of guilt and sentenced by a jurist verdict. It is to be noticed that the account freezing was done on the basis of judicial pursuit, not on the basis of the freezing mechanism pursuant to the UNSC resolutions. There are no other statistics available in this regard.

2-4-2 Recommendations and Comments:

118. The Yemeni authorities should:

- Place a legal system to govern the procedures for freezing the funds and properties of persons designated in the Security Council Resolutions.

2-4-3 Compliance with the Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**NC**	▪ Absence of any legal system governing the procedures for freezing funds and properties of persons designated in the UNSC resolutions. ▪ Absence of evidence on the effectiveness of procedures related to freezing pursuant to the UNCS resolutions

Authorities

2-5 The Financial Intelligence Unit and its Functions (Recommendation 26)

2-5-1 Description and Analysis

119. **Recommendation *26:*** Article (11) of law (35/2003) stipulates that 'Under a resolution by the Governor of the Central Bank, the Information Gathering Unit shall be established and shall be responsible for receiving and analyzing the information and reports related to any ML transactions, according to the provisions of the law herein. The resolution shall specify the practical and technical foundations of the Unit.' According to administrative resolution No. (48) of 2003 issued by the Governor of the Central Bank on 13/4/2003, the Yemeni FIU was formed within the Banking Supervision Department at the Central Bank.

120. Administrative Resolution No. (49) was issued by the Governor of the Central Bank to form the Financial Information Gathering Unit, comprising a director and two staffs only; the FIU would perform its functions within the Banking Supervision Department at the Central Bank. The FIU was officially formed in 2003 and comprised experts from the Central Bank– a director and two other members charged with the investigation and with the legal and technical aspects.

121. The FIU structure and its interior divisions have been recently developed by the Governor's resolution No. (24) of 2007, as follows: the Director of the Unit for Gathering Information on ML and TF; an officer in charge of compliance, verification, investigation, and evaluation; an officer in charge of reporting, analysis, and legal follow up; an officer in charge of database and exchange of information, development, and the assistance of financial institution. The Unit will operate with the direct support of (47 employees from the Banking Supervision Department, for technical onsite and offsite support; and 10 employees from the General Administration of Legal Affairs, for legal support and backing). However, it is important to note that this resolution has not been in effect yet.

122. By virtue of Article (2) of the aforementioned administrative resolution, the FIU's functions and responsibilities are to oblige the FIs listed in the AML law to comply with the following procedures:

A. Not to open accounts for persons without verifying their official personal documents and keeping a copy of such documents.

B. Not to deal with legal persons without verifying their official documents and keeping a copy of the documents including: name and address of the establishment, Owner(s)'s name, names of the authorized signatories, certificate of registration, according to applied laws).

C. Keeping all the documents related to the customers and their financial operations, commercial or monetary transactions that have taken place, whether internally or externally, for a period of no less than five years after the transaction is over. All these documents should be presented to the FIU upon request for investigation.

Furthermore, the mentioned resolution stipulates that the FIU should assist FIs to lay down regulations and controls for verification and internal control to prevent the commission of any ML operations. The FIU is also appointed to receive and analyze the information and reports about ML operations and to do the necessary investigation on the received information and reports about ML operations. It should also prepare reports on any ML operation detected and send them to the Governor for his approval to report to the public prosecution by virtue of written report supported by documents. A copy should be sent to the AML Committee. In addition, the Unit should follow up with the judicial authorities and other competent authorities to apply the AML Law provisions. The Resolution requires the FIU to form a database of the available information and to lay down procedures and forms necessary for the enforcements of the AML Law and submit them to the

Committee for approval. Moreover, the Resolution gives the FIU the authority, after the approval of the Governor, to file requests to the Public Prosecutor to take provisional measures according to the AML Law in case of any suspicions of a ML crime. The FIU is required under the Resolution, to prepare periodical reports about the level of enforceability of the Law and the reported cases and submitting them to the Committee.

123. Neither the FIU nor any other competent authority have issued any instructions or circulars related to reporting methods[4]; although the executive regulations of the AML Law have stipulated, in Article (13), that the FIU should prepare and develop reporting forms. Concerning the specifications of reporting forms and the procedures which must be followed, the FIU has not come up with any as set out in Article (13). However, the AML Committee has, under Prime Minister Decree No. (147) of 2005 concerning the list of procedures regulating AML, issued a reporting form (form No. 6) that is restricted to banking transactions only. The reporting form does not of course tackle TF operations. The AML Committee issued, in September 2004, one Notice addressed only to banks in Yemen on prudential conduct and training staffers. The Committee has not issued any notice or instructions to the exchange firms, insurance companies, post saving fund, and other concerned entities (for example the Customs Department) in any aspect.

124. Concerning the authority of the FIU to access and request information, Article 13 of the Law stipulates that the FIU is entitled to receive the necessary information and documents from the official authorities and FIs after the approval of the Governor. According to the FIU officers regarding the mechanism to obtain the information from the concerned authorities, the FIU may access directly the financial information related to suspected ML transactions only regarding banks and exchange firms, as the FIU is part of the Banking Supervision Department at the Central Bank. The FIU may not have any access to the information related to other entities except through the AML Committee, which has representatives from several authorities. It is noticeable that the mentioned Committee does not include all the relevant authorities including, but not limited to, the Customs Department, which leads to not receiving some of the information on a timely manner.

125. The FIU does not have the authority to take any decision on filing reports about suspected ML operations to the investigation authorities (Public Prosecutor), as such decision is subject to the approval of the Governor of the Central Bank, according to Article 2, Paragraph 5 of the Resolution forming the FIU.

126. The FIU does not enjoy full autonomy due to its affiliation to the Central Bank, being housed within the Banking Supervision Department and relying on Central Bank inspectors to ensure the compliance of the banks and exchange firms to their duties mentioned in the Law. The FIU formation Resolution (issued by the Governor) has provided the FIU effective authorities under the condition of the Governor's approval to file reports of suspected ML transactions to the General Prosecutor, which is considered interfering in the FIU's functions, according to the provisions of Article (2) paragraph 5 of the Resolution. In addition, the FIU does not have the right to file a request to the Public Prosecutor to take provisional measures in case of ML suspicion. The aforementioned Resolution has provided, in Article (2), paragraph (9), as a condition the Governor's approval of the request before it is filed to the Public Prosecutor to take provisional measures in case of suspecting a ML transaction. Moreover, the FIU has no financial or administrative autonomy, and it does not have a special budget covering the requirements of its missions, as it is subsidiary to the Central Bank with regard to financial aspects, which exemplifies the absence of financial autonomy of the FIU. Furthermore, the Resolution forming the FIU indicated the affiliation thereof to the Banking Supervision Department at the Central Bank (articles (1) and (4)). It should be noticed also that the Resolution, which identified the FIU functions, responsibilities, and affiliation, was issued by the Governor of the Central Bank, which equals full affiliation to the Governor and absence of

[4] The FIU issued a circular to all banks, exchange and remittance entities operating in Yemen concerning the AMLCFT compliance requirements on 4 December 2007, i.e. after the onsite visit and the grace period following it.

autonomy. It compromises the FIU's ability to avert any influence or interference in its functions and affairs.

127. It is worth mentioning that the FIU cannot participate in international groups in its own merit, as article (28) of the executive regulations states that the Council of Ministers must approve of the FIU joining regional and international groups upon the request of the Governor. Moreover, article (9) of the AML Law states that the AML Committee (not the FIU) is the authorized representative of Yemen in the international AML forums.

128. The FIU may not exchange information or coordinate with counterpart units in Arab or Foreign countries in relation to AML issues except through the AML Committee. This should take place in conformity with the provisions of the international, bilateral and multilateral agreements, of which Yemen is a party, or on the basis of the principle of reciprocity, according to the provisions of the law and its regulations. This was provided for in article (24) paragraph (m) of the Executive Regulations, which proves the absence of the FIU autonomy to join the international groups and exchange information freely.

129. Concerning the confidentiality and protection of information, it has been noticed that the FIU is in fact one room within the Banking Supervision Department at the Central Bank, which makes it very easy for others to enter to the FIU office. The Unit does not own an electronic database to ensure the confidentiality of the information received. Information is kept in a traditional form; in papers and files saved in unsafe locations within the FIUs office. Furthermore, the FIU employs inspectors from the Banking Supervision Department for technical support to verify the compliance of the banking institutions with the AML requirements enforced by the law; and it employs the general administration for legal affairs in the Central Bank for legal support. This also affects the confidentiality of the information. The fact that the FIU needs to refer to the AML Committee concerning the exchange of information leads to the lack of confidentiality of the information as well.

130. Since the establishment of the FIU in 2003, the FIU has not released any periodic reports including statistics, typologies, trends, or information regarding its activities.

131. Concerning the training of the FIU employees, and according to the statement of Yemeni officials, the FIU employees have been trained to acquire high skills and qualifications in the field of combating ML and TF through their participation in the training courses outlined in the following table:

Description	Date	Organizer	No. of trainees
Workshop on AML – Sana'a	September 2003	Central Bank + Institute of Banking Studies	3
Workshop on AML – Aden	December 2003	Central Bank + Institute of Banking Studies	2
AML specialized course for control and compliance officers in banks and exchange firms	October 2004	Central Bank + Institute of Banking Studies	2
Training course in AML – Sana'a	February 2005	Central Bank + Arab Investment Institution – Bahrain	3
Specialized training session in AML for central bank	September 2005	Central Bank + IMF + Technical Support Center in	2

inspectors – Sana'a		Beirut	
Training session in AML/CFT – Abu Dhabi	2003	Arab Monetary Fund (AMF)	2

132. The FIU has not obtained membership at the Egmont Group yet. However, FIU officers stated that both the USA and Egypt are sponsoring the FIU application for membership in the Egmont Group since 2004. Due to the fact that the FIU is not yet a member of the Egmont Group, the Egmont Group Statement of Purpose and its Principles for Information Exchange between Financial Intelligence Units for ML Cases has not been adopted.

133. ***Statistics:*** Pursuant to what the authorities have provided, there are seven reported cases only. There is a lack of coordination among the Public Prosecutor, security agencies, and the FIU.

2-5-2 Recommendations and Comments:

134. The Yemeni Authorities should:

- Authorize the FIU to receive the reports about TF operations.
- Expedite the issuance of reporting forms for FIs, banks, and other reporting entities in accordance with the Law.
- Expedite measures to acquire the Egmont Group membership.
- Ensure the autonomy of the FIU in terms of its power to file reports to the Public Prosecutor.
- Ensure the FIU autonomy and provide it with sufficient financial resources.
- Grant the FIU the authority to receive information from other competent entities without referring to the AML Committee or the Governor.
- Increase the human resources and training of the FIU.
- Establish a comprehensive database.
- Provide headquarters for the FIU that secures the confidentiality of its work and its autonomy.
- Issue annual reports soon.
- Provide detailed statistics.

2-5-3 Compliance with Recommendation 26

	Rating	Summary of factors underlying rating
R 26	**NC**	▪ Scope of functions of the FIU is restricted to ML issues, without TF issues ▪ Failure to issue reporting forms to FIs, banks and other reporting entities. ▪ The FIU not effective and not autonomous ▪ Absence of sufficient financial and human resources ▪ FIU is not granted the authority to receive information

		from other competent authorities without referring to AML Committee or CB Governor ▪ Failure to issue any annual report ▪ Absence of any complete and safe database

2.6 Law enforcement, prosecution and other competent authorities–the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R 27 & 28)

2.6.1. Description and Analysis

135. ***Recommendation 27.*** Article (19) of law (35/2003) stipulates that the Public Prosecutor should be responsible himself, or through another member of the Public Prosecution by virtue of a special delegation, for initiating investigation procedures and filing criminal cases to the courts in relation to ML offenses and other related offences specified according to the Law. The Financial Prosecution Division is responsible for ML investigations following receiving the STRs from FIU, which comes after the approval of the CB Governor according to the aforementioned article.

136. The Pubic Prosecution is formed of the Public Prosecutor assisted by a number of public attorneys, among them the General Attorney for Public Funds Prosecution, who supervises a number of special prosecution divisions. Among those are five appeal divisions, supervising the pursuing of administrative corruption cases, and ten first instance prosecution divisions. In addition, there is one General Attorney for judicial inspection, one Senior General Attorney and a General Attorney entrusted with terrorism cases, while other divisions deal with regular crimes.

137. The Public Prosecutor is authorized to undertake investigations in respect of the pleadings and all other jurisdictions stated in the Law. He may undertake the investigation function himself or through one of the prosecution members or parties authorized by the judiciary or the Judicial Seizing Commission (article 116 of the Criminal Procedures Law). The member of the Public Prosecution has the right to delegate a judicial seizing officer to undertake one or more investigation task, except interrogating the accused. The member of the public prosecution, if necessary, may take any procedure outside his jurisdiction. Such competent prosecution member must himself move to execute such procedure whenever the need arises for the interest of the investigations.

138. The Public Prosecution is entrusted with two functions: investigating and charging, and is responsible for effecting final penal judgments. It also supervises a division of the police which is of an evidence gathering and law enforcement nature, in addition to a division affiliated to the State Security and National Security agencies that is specialized in terrorism crimes. It also supervises the Central Organization for Control and Audit (COCA), which enjoys the judicial police capacity and is affiliated to the President of the Republic.

139. The Public Prosecution is the only authority to deal with charges on the basis of evidence gathering records. If these refer to a serious crime, the criminal case shall not be filed until investigations are conducted. If the Public Prosecution deems that the case should be filed based on the collected evidence even with no serious crime, it has the right to order the accused to appear before the court immediately. In the event that the Public Prosecution deems that there are no grounds to proceed with the case, it should issue a founded order suspending the case temporarily while continuing the investigations in case the perpetrator was unknown or in case the evidence was insufficient. An order to permanently drop the case should be issued in case it was proved that there was no crime or if the case is not serious. The dropping order due to non-seriousness may be issued only by the Public Prosecutor or his delegate. If the public prosecution discovers that the act is not punished by law or groundless, it shall render a founded order that a criminal lawsuit may not be filed at all. In the event that the perpetrator of the crime was unknown or there were no sufficient

evidence against the defendant, it renders a founded order that there are no grounds for filing a case temporarily. In the event where it was proved after the investigations that there is a crime and that the evidence against the accused probably incriminates him, then a criminal lawsuit is brought before the competent court.

140. Neither the Criminal Procedures Law nor the AML Law have included special provisions to taking legislative or other measures that allow competent authorities to investigate ML cases, to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. Yet, it is possible to deduce such measures from the general authorities given to the Public Prosecution – being the authority with the power to conduct investigations and proceed the public case – that are stated in the Criminal Procedures Law.

141. ***Additional elements:*** there are no legal provisions providing a legal basis for the use of investigative techniques when conducting investigations of ML or FT.

142. The Funds Prosecution Division is specialized in investigating the proceeds of crimes, including ML offences. The Public Prosecutor may request the competent court to take the necessary provisional measures and procedures, including the seizure of funds or freezing account(s) related to the ML offence, specifying in the request the term of seizure and freezing procedures, which should not exceed the period of two weeks (renewable once only). The Public Prosecutor should file the criminal lawsuit within the term of seizure or freezing. In the event where the case is not filed within the period of seizure, the seizure is considered to be void (articles (42) and (43) of the executive regulations of the AML Law).

143. Neither the AML Law nor its executive regulations include any provisions referring to possible cooperative investigations with appropriate competent authorities in other countries, yet practically this could happen.

144. The law enforcement authorities, the FIU, and the other competent authorities do not review the ML and FT methods, techniques and trends. The assessment team has noticed the lack of coordination among the FIU as a central body in the AML/CFT system and the rest of the relevant competent authorities.

145. ***Recommendation 28:*** According to Article (135) of the Criminal Procedures Law, the investigator may search the accused. He may also search others if there are strong indicators that they were hiding things that may help uncover the truth. According to Article (136) of the said law, the competent prosecution division is authorized, if enough evidence exist, to search any place to seize papers, weapons and any objects which may have been used to commit the crime the search is related to, or which resulted from it, or which was subject to it, or anything which may help disclose the truth. According to Article (163) of the same law, it is allowed to seize the objects that are considered important for the investigation and which may be used as proving evidence. Furthermore, Article (332) of the same law provides that the court may request before or during the trial any person, even by way of subpoena, and to order any person to submit what he/she keeps in his/her possession if it was for the benefit of the case. The court may order the arrest of any person related to the case or who may be of use in revealing the truth. If the person provides any documents or anything else during the trial, the court may keep it until the conclusion of the case. It may not be returned without an order.

146. As mentioned above, Article (42) of the executive regulations of the AML Law gives the Public Prosecutor the authority to ask the competent court to take provisional measures and procedures, including seizing funds or freezing account(s) related to ML. Article (103) of the Crimes and Penal Law allows the court, upon conviction, to order the confiscation of the seized proceeds of the crime or the objects that were used to commit it or which were intended to be used in it. In addition, an order must be rendered to confiscate seized objects whose manufacture, possession,

acquisition, use, sale or display for sale is a crime in itself, even if they were not owned by the accused or if he was not convicted. In both cases, the court should observe the rights of a bona fide third party.

147. Article (165) states that the Public Prosecution should inform the witnesses who have been decided to be heard. Process servers or public authority officers shall carry out this task. Article (328) of the Criminal Procedures Law also provides that the court may, upon examining the case to summon and hear the statements of any person, even by issuing a subpoena order if necessary. It may also order such person to appear in another session through the Court process servers or public authority officers.

148. The work of Police at the Ministry of Interior is organized by Law No. (15) of 2000. The Ministry consists of four sectors; the General Security Sector, the Training Sector, the Police Services Sector, the Financial and Administrative Affairs Sector). The security bodies are subordinated to the General Security Sector, except the State and National Security, which are directly subordinated to the President of the Republic. There are also other departments, such as: the Legal Affairs Department; the General Department for Foreign Relations and the Interpol; the Coast Guard Directorate; and the Anti-Terrorism and Organized Crime Department, which are directly subordinated to the Minister of Interior. The Security bodies at the Ministry of Interior gather evidence and carry out necessary investigations to uncover crimes, preserve and protect the order, general security and public ethics, control crime, work on combating and protecting against it and finding its perpetrators and arresting them according to the law and execute the orders issued by the judicial authority.

149. The Anti-Terrorism and Organized Crime Department: this Department was established according to Presidential Decree No. (159) of 2004 and efforts are being exerted to activate the role of this Department in view of the importance of the tasks entrusted thereto. This Department is subordinated directly to the Minister of Interior and undertakes the following tasks and powers: planning for combating terrorism and organized crimes of all types, planning for combating falsification and forgery crimes relating to currency, credit cards, passports, identity cards and other official documents. It receives the information related to terrorist and organized crimes from the General Department of Criminal Research, assesses the information, analyzes them and avails thereof in combating crimes. It also coordinates with the competent bodies in the friendly countries according to the applicable laws and conventions, tracks criminals and suspects in terrorist and organized crimes cases in coordination with the related authorities and submits periodic evaluation reports on the level of performance of the missions and powers of the General Department and the adopted measures, the results and the authorities related thereto.

150. The Anti-Terrorism and Organized Crime General Department practically undertakes the combat of ML crimes; however, the Decree establishing the General Department did not include any clause that expressly entrusts the AML task to this Department and lists this task among the powers of the Department[5].

151. The General Department for Combating Narcotic Drugs: this Department was established via Presidential Decree No. (252) of 2002. It is affiliated to the Under-secretary of the General Security Sector and is responsible for protecting against drugs and psychotropic substances and combating the dealing, manufacture and trade with narcotic drugs and psychotropic substances in accordance with the applicable laws and regulations. It also organizes the cooperation and coordination with other security bodies and government authorities to protect and fight against narcotic drugs and psychotropic substances, in addition to the cooperation and coordination with the drug combating bodies in the friendly countries and regional and international organizations. The

[5] Decree No. 335/2007 was issued by the Prime Minister and the Minister of Interior on the establishment of the AML Section within the organizational structure of the Anti-Terrorism & Organized Crime General Department. This Decree was issued on 21/11/2007 i.e. after the on-site visit or the grace period.

Department also prepares plans and programs for training and qualifying the workers in this field, prepares statistics about drug crimes and prepares awareness programs on the damages causes by narcotic drugs in cooperation and coordination with the competent bodies. This Department has branches in Governorates[6].

152. The Coast Guard Directorate: this directorate was established via Presidential Decree No. (1) of 2002; it is subordinated to the Ministry of Interior, is a legal person, and is subject to the supervision and direction of the Minister. It aims to protect the security and sovereignty of the Republic, protect the economic interests in the regional waters and the economic region and guard the coasts, islands, ports and marine utilities. It also helps competent authorities perform their tasks and powers stipulated in the applicable laws. The powers entrusted to this directorate comprise the combat of smuggling, illegal entrance and illegal immigration to and from the territories of the Republic by sea. They include the gathering of security information related to the illegal entrance and smuggling of products and drugs; combating narcotic-drug and psychotropic substances smuggling and seizing them; combating the smuggling of products, seizing and submitting them to legally competent authorities, and combating marine piracy in the regional waters of the Republic. It is also responsible for observing security and order in the ports and marine utilities and combat and seize crimes in the waters of the Republic, in accordance with the applicable laws and international conventions. It coordinates and cooperates with counterparts' bodies in the neighboring countries to face and combat the dangers and challenges with regional damages occurring in the national waters or the waters of these countries according to bilateral and international conventions in force. It also draws plans for training and qualification to raise the competence of the workers and contribute with the competent bodies to the training programs in the field of specialization thereof.

153. ***Statistics:*** there are no statistics.

2-6-2 Recommendations and Comments

154. The Yemeni Authorities should:

- Establish a database and information linkage among security bodies.
- Intensify training sessions for the workers in the security sector in the AML/CFT field.
- Have an administration or private section specialized in AML field.
- Compile and provide statistics.

2.6.3 Compliance with R 27 & 28.

	Rating	Summary of factors underlying the rating of compliance
R 27	**PC**	- Non-criminalization of the financing of terrorism - Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics.
R 28	**LC**	- Lack of statistics

[6] Decree No. 336/2007 was issued by the Prime Minister and the Minister of Interior on the establishment of the AML Section within the organizational structure of the General Department for the Combating of Narcotic Drugs. This Decree was issued on 21/11/2007 i.e. after the on-site visit or the grace period.

2.7 Cross-border declaration/disclosure (SR IX)

2.7.1 Description and Analysis

155. There is no legal obligation on persons who transfer currency or bearer negotiable instruments across borders except for Circular No. (161) of 2007 issued on 17/7/2007 by the head of the Customs Directorate, requesting the activation of the role of the customs directorate through customs declarations at ports, which comprise the declaration of currency transport upon arrival and reporting back to the head of the directorate. It has been noticed during the visit, that a customs declaration form was recently issued. It requires personal information about the money transporter, the date of arrival, the port of arrival and some other information. However, there are no dissuasive sanctions in the event where the transporter does not declare the currency or equivalent he holds. The Chapter on Sanctions in the Customs Law (No. 14 of 1990) and the AML Law (No. 35 of 2003) do not provide for any sanctions to be imposed on persons transporting currency across borders or provide false information to customs officers. The customs declaration form requires declaration only in case of entry to the country and do not refer to any related data upon departure. Besides, there is no mechanism to execute the declaration. No instructions on false declaration or how to deal with persons transporting currency upon ML or TF suspicions are existent. Moreover, there is no mechanism to refer suspected cases to the competent authorities (FIU). This applies where currencies are transported into the country; in case of transporting currency outside the country, the Yemeni authorities indicated that an authorization request form for the exit of cash foreign currencies must be filled to be approved by the Central Bank. The said form does not meet the requirements of the recommendation since it is limited to a request for authorization and is related to cash amounts, and does not reach the Customs Directorate.

156. It is worth mentioning that the new draft law covers this deficiency in Articles 23 and 24, as Article (23) provides that “every person, when entering or exiting Yemen and upon request, must declare to the competent customs authorities the cash currency or any other bearer negotiable instruments. This includes national and foreign currency, precious metals and precious stones if the quantity or the value thereof exceeds the threshold designated in the executive regulations of the law, knowing that the declaration should be true and according to the form prepared in this regard”. Article (24) adds, “The competent customs authorities shall have the right to seize the aforesaid currency and financial instruments according to the provisions of the applicable customs law in the event of violation of the provisions of Article (23) upon suspicions concerning ML or TF. They must notify the Unit immediately." However, according to Articles 23 and 24 and upon the perusal of the Chapter on Sanctions of the draft law, it is noted that it does not comprise any dissuasive sanctions to be imposed on the person who fails to declaration or submits a false declaration to customs officers.

157. There is no legal binding foundation that gives the power to request information from currency transporters on the source of the currency or bearer negotiable instruments and on the purposes of their use.

158. There is no legal text in the AML Law or the Customs Law that provides that the Customs Directorate has the capacity to stop or restrict the transport of currency, bearer negotiable instruments or their equivalent for a reasonable period upon suspicions in ML or FT or for other purposes.

159. There is no clear mechanism available for the Customs authorities to keep the minimum information related to the amount of currency or other bearer negotiable instruments to be used in case of suspicions. On the practical side, customs officers may only keep a copy of the declaration.

160. The FIU has no right to peruse the information available at the Customs Directorate save through the AML Committee. There is no legal obligation that binds customs directorate officers to report ML or FT transactions. Moreover, there is no mechanism used to inform the FIU of

the ML/FT suspected transactions due to the recent issuance of the circular and the customs declaration form, in addition to the unavailability of any instructions outlining the application of circular No. (161) of 2007 or the declaration form.

161. There is no sufficient coordination on the local level between the Customs Directorate and the other relevant authorities on ML operations due to the absence of direct representation of the Customs Directorate in the AML Committee, in addition to the absence of instructions or circulars sent to the Directorate about AML/CFT.

162. Neither the Customs Law nor the AML law provide for allowing the customs authorities to exchange information with other customs authorities and foreign agencies on the transportation of currency and other financial instruments across the borders or on the seized currency. Exchange of information has been limited, through bilateral and multilateral agreements, or according to the principle of reciprocity. It is to be noted that these agreements are not active.

163. There are no sanctions stipulated in the Customs Law or the AML law to be imposed on the persons who submit false declarations; and there are no other disciplinary measures to be taken.

164. Upon the perusal of the Customs Law and the AML law, it is noted that they do not provide for any sanctions or other disciplinary procedures to be imposed on cross-border currency transporters. Moreover, the two Laws do not provide customs officers with the authority to freeze, stop or confiscate the transported currency in case of suspicions relating to ML or FT operations; but this may be done through the judicial authorities such as the Public Prosecution.

165. Customs officers do not have the authority to stop or freeze cross-border currencies and the like, as no legal text provides for the capacity of the Customs Directorate to do so.

166. No legal text indicates that the customs authorities should notify the other countries' customs authorities upon the detection of unusual movement of gold, precious metals or precious stones; this may take place only limitedly based on bilateral or multilateral agreements.

167. The exchange of information is not active and there are no special systems to report cross-border transactions, as there are no enhanced protective safeguards to ensure the proper use of reported or recorded data or information.

168. ***Additional Elements:*** as the application of the declaration system is not effective, there is evidence that the country has applied the paper on the best practices related to SR IX. Besides, no mechanism is followed regarding reports and keeping them in a computerized database or otherwise.

169. ***Statistics:*** there are no statistics available.

2.7.2 Recommendations and Comments

170. The Yemeni Authorities should:

- Establish a binding system of declaration (at both entrance and exit, in addition to the specification of the amount).
- Activate cooperation with counterpart authorities in other countries in the field of exchange of information.
- Establish a database to keep the data relating to the names of the persons transporting currency amounts that exceeds the legally designated threshold for a period of 5 years, as banks and other institutions do.
- Train field officers (inspectors).

- Impose dissuasive sanctions by virtue of a legal instrument in cases of false declaration or non-declaration.
- Provide statistics.
- Activate cooperation and coordination between the Customs Directorate and the FIU and other concerned authorities.

2.7.3 Compliance with the SR IX

	Rating	Summary of factors underlying the rating of compliance
SR IX	**NC**	▪ Non-existence of a binding currency declaration system, according to the criteria of the Recommendation.

3. PREVENTIVE MEASURES – FIS

Overview

171. The legal and supervisory framework, which governs the FIs in the AML field in Yemen consists of the following:

172. **Law No. 35/2003,** which comprises the general framework of the FIs obligations.

173. **Presidential Decree No. 89/2006 promulgating the executive regulations of the AML Law,** which comprises, in Chapter III, the FIs obligations (Articles 4 to 19) as they are obliged to set special systems to verify the identity and the legal status of the customers and the beneficial owners including natural and legal persons, draw the rules necessary to keep records and transfers, report suspicious transactions, appoint one or more AML officers at the level of the general administration and the branches and put in place plans and programs to train and qualify the employees in the AML field.

174. **Prime Minister Decree No. 247/2005 issuing the list of AML regulatory procedures,** which comprises the information and documents that should be requested from the customers, the ML transactions indications and the FIs obligations to keep records and transfers, report suspicious transactions and appoint officers for AML and training.

175. **Circular No. 22008 issued by the Central Bank of Yemen on 09/04/2002 and addressed to all banks and exchange corporations operating in Yemen:** This circular enumerated the cases that require provisional measures to be taken; it enclosed a paper on the Customer Due Diligence for Banks issued by Basel Committee on this circular, stating that these instructions are useful to identify the customers and the banks can avail thereof, knowing that they do not have any legal or coercive power. It is worth noting that the Central Bank of Yemen issued Circular No. 33732 on 4/12/2007 (Eighteen weeks upon the termination of the on-site visit) binding banks and exchange and transfer firms operating in Yemen to abide by the requirements of the 40 Recommendations, the 9 Special Recommendations and the Basel paper on the Customer Due Diligence for Banks. This Circular designated the due diligence elements including customer acceptance policy, ID verification, ongoing monitoring of accounts and transactions, risk management and internal audit role in this respect, in addition to the implementation of the KYC policy "across borders". This Circular also determined the conditions of the documentation and registration systems and the proper keeping thereof and obliged the addressed parties to draw ongoing awareness and training policies, plans and programs and set systems for internal reporting and monitoring of suspicious and unusual transactions. The Circular also set some guidelines for the opening of customer accounts. The assessment team considers that this Circular positively expresses the Yemeni authorities' willingness to develop the AML/CFT system in the Republic of Yemen; however, this Circular cannot be taken into account to assess the rating of compliance as it was issued more than seven weeks upon the termination of the on-site visit to Yemen.

176. **Notice No. 1 issued by the AML Committee,** The AML Committee issued a Notice addressed to all banks in Yemen indicating that it joined the international efforts exerted to combat money laundering, requesting banks to take provisional measures in their operations and designating a number of obligations for the banks to observe. However, reverting to Law No. 35/2003 and Presidential Decree No. 89/2006 issuing the bylaw of the AML Law, we note that this Committee may not impose obligatory instructions and regulations as its task in this regard is limited, according to Article 9 of the Law and Article 20 of the bylaw, to the preparation of AML systems and procedures and the submission thereof to the Prime Minister for ratification in a way that does not contradict the texts and provisions of this Law and its executive regulations. Therefore, we can say that this Notice constitutes a mere guiding document with no coercive power.

177. With the exception of Circular No. 22008 (and circular No. 33732 issued on 04/12/2007 after the on-site visit), there are no lists of requirements relating to each financial sector separately.

178. A new AML/CFT draft law was prepared including wider obligations for the financial sector.

179. FIs are currently subject to AML obligations, knowing that these institutions were designated as follows:

180. In Law No. 35/2003, Article 2 defined the FIs as being any financial corporation like banks, exchange shop or company (financing, insurance, shares, securities, financing lease or real estate).

181. With regard to the Prime Minister Decree No. 247/2005 issuing the list of procedure regulating AML, Article 2 indicated that it applies on banks, exchange companies and shops, financing companies and insurance companies operating in the Republic of Yemen, as well as on the branches of companies and FIs abroad with head offices located within the Republic. It also applies on the directors and employees of the aforesaid financial corporations.

182. Presidential Decree No. 89/2006 issuing the executive regulations of the AML Law defined the FIs in Article 2 as the banks operating in Yemen including the financial banks, Islamic banks, specialized banks and their branches abroad, branches of foreign banks in Yemen, exchange companies, shops and offices, money transfer companies, financing or investment companies, insurance and reinsurance companies, financing lease companies and any other parties that pursue a financing lease activity, whether a legal or natural person, real estate companies or offices and the Postal Saving Fund.

183. It is noted that the FIs concept in the Law and the Presidential Decree comprised the real estate companies and the parties, which pursue the financing lease activity including real estate companies or offices. In parallel, it is noted that the Postal Saving Fund was not mentioned in the Law or the Prime Minister Decree but only in the Presidential Decree, which comprised the latest regulations of AML obligations issued in 2006.

184. There is no indication that this system comprises the Central Bank, knowing that the said Bank opens bank accounts to its employees whose number exceeds 800 persons at the headquarters only, in addition to a number exceeding 800 in the branches spread across the Yemeni Governorates. The Central Banks allows natural persons to participate in treasury bonds auctions, in addition to the participation of the banks, retirement funds and institutions including charitable organizations.

185. It is also noted that this definition designated specific FIs and did not rely on the financial activities, in accordance with the definition stated in the FIs Methodology. This was reviewed in the aforesaid new draft where the FIs are defined as being the institutions that pursue any of the following activities or operations for the benefit or the account of the customers, regardless of the legal form thereof, whether in the form of company or individual corporation:

- Accept deposits of all types
- Grant credits of all types
- Financing lease
- Money transfer

- Issue payment tools of all types including payment and credit cards, cheques, promissory notes and any other banking activities stipulated in the Commercial Law in force
- Financial guarantees and trusts including real estate financing and discounts
- Deal in cash and capital market tools by sale and purchase including deals in foreign currencies in instant and deferred exchange markets
- Deal in securities including treasury bonds
- Offer administrative and consultative services to investment portfolios and investment trustees services
- Manage and keep securities and valuables
- Life insurance and any other insurance products of investment element

The other financial activities designated by a Resolution issued by the Prime Minister upon the proposal of the Committee were also added to these activities. In accordance with this definition, the Central Bank of Yemen will be comprised within the FIs subjugated to the new draft law.

186. The assessment of the financial companies' compliance with their obligations, in accordance with the standards stated in the Methodology, was limited to the types of FIs operating in the Republic of Yemen upon the on-site visit. These institutions comprise: banks, insurance companies, Postal Saving Fund, exchange and transfer institutions, Public Debt Department (Central Bank of Yemen).

Customer Due Diligence and Record-Keeping

3.1 Risks of Money Laundering and Terrorist Financing

187. In general, the AML system does not comprise a risk-based concept, except for the provisions of the Laws and regulations relating to the occasional financial operations, which may exceed the limit value defined by the Central Bank and the other supervisory authorities, or which value may not be defined by any supervisory authority, including the Central Bank; in addition to other provisions regarding the transfers, which exceed the amount of USD 10.000 or the equivalent thereof in other currencies. It was noted, during the on-site visit that a limited number of banks have adopted a risk-based approach with their customers and have classified them accordingly. One of the banks stopped dealing with all exchange and transfer institutions due to the fact that they encompass high risks the bank is not able to monitor. And with regard to the reduction of the CDD procedures, Yemen has not taken any related action; however, it has imposed the same obligations stipulated in the law and bylaws on all subjugated institutions without distinction.

188. It was noted, during the discussions with the supervisory and monitoring authorities and the FIs, that the role played by these authorities in monitoring the FIs' compliance with their AML obligations is inefficient. The assessment team noticed disparity in the application of the AML/CFT obligations between some banking institutions that adopt a policy based on the international recommendations and between other FIs. The team noticed as well a disparity in the attention given to apply such obligations between banking institutions and other financial institutions.

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

3.2.1 Description and Analysis

Recommendation 5

Anonymous accounts, accounts in fictitious names and numbered accounts

189. Article 4 of the AML Law No. 35/2003 prohibits FIs from opening or keeping accounts in the names of persons without verifying their official documents and keeping a copy thereof. Article (6) of Resolution No. 89/2006 issuing the executive regulations of Law No. 35/2003 provides that every financial institution should not open accounts or accept anonymous deposits in fictitious or false names. Article (4) of the Council of Ministers Resolution No. 247/2005 issuing the list of AML regulatory procedures indicates that it is strictly prohibited to open accounts of any type whatsoever in unreal "fictitious" names or numbered accounts and that the name of the account holder should be written in full as written in the ID or the passport; it cannot be abridged save in case of legal persons, in accordance with the license establishing the same in the Commercial Register.

When Customer Due Diligence is required

190. The AML Law No. 35/2003 provides, in Article 4, for the customer identification procedures, requesting not to open or keep accounts before verifying the official documents of the customers and keeping a copy thereof. The details in this respect have been left for the list of regulatory procedures issued in 2005 and the executive regulations issued in 2006.

191. Article 4 of the executive regulations of said Law requests FIs to set special systems to verify the identity and the legal status of the customers and beneficial owners for both natural and legal persons; the identity and the legal status of the customer and beneficial owners should be verified when opening the account or starting to deal, in any form whatsoever, with any financial institution. When doubts arise in any phase of the dealing with the customer or the beneficial owner, identity verification measures should be taken, provided that the verification should comprise, in all events, the identification of the activities of the customer and the beneficial owner. Moreover, identification measures should be taken with the occasional financial operations, which may exceed the limit value defined by the Central Bank and the other supervisory authorities for each type of financial institution in a way that suits the nature of its activity and does not comprise the numerous transactions, which seem to be connected, knowing that this threshold has not been designated by any supervisory authority including the Central Bank.

192. Article 7 of the same regulations provides that the identity of the originator of the transfer should be verified in the event where he does not have an account at the financial institution and wishes to transfer cash amounts exceeding USD 10.000 or the equivalent thereof in other currencies. This threshold is much higher than the requirements of SR.VII on CDD measures regarding transfer operations (the equivalent of USD 1.000 or its equivalent). The same procedure applies on the beneficiaries of the transfer; full data should be obtained in all events. Article 6 of the list of AML regulatory procedures provides that, identity verification procedures should be taken if any doubts arise about the attempt of a customer to carry out ML operations, regardless of the fact that the amount intended to be transferred exceeds USD 10.000 or more. Article 9 of the bylaw provides that, in the event of doubts about the validity of information or ID documents previously submitted, FIs should verify the correctness thereof by all means including contacting the authorities in charge of registering these data or issuing these documents such as the Ministry of Industry and Commerce, the General Authority for Investment and Free Zones (GAFI), Civil Matters Directorate, the Survey and Real Estate Register Directorate and other authorities.

193. On the practical side, the CDD measures in most FIs were confined to the identification of the customer through official documents. As for the nature of customer's activities, this was restricted to the profession and type of activities without any attention paid to the size of the activity or turnover of the transactions on accounts. It was also discovered that most of those institutions have not laid down any written systems concerning the CDD measures, excluding some banks which have developed systems with more rigorous requirements than those determined in the Central Bank circular, due to their external source of reference (Affiliate Company) or in an attempt to maintain strong external relations.

Due Diligence Measures

194. Article 4 of the executive regulations of the said Law requests all FIs to take into consideration, upon the verification of the identity and the legal status of the customers and the beneficial owners for both natural and legal persons, the information that establishes the nature and legal entity of these persons, in addition to their names, address, legal representative, deed of representation, financial structure, activities, names and addresses of partners or shareholders whose individual share exceeds 10% of the company's capital according to the case so as to comprise, in case of natural persons, the account holder full name, current address and work place and in case of legal persons, a true copy of the official documents should be kept showing the company's name and address, a copy of the statute, initial contract and license resolution, a copy of the commercial register, the owner's name and address, in addition to the names and addresses of the partners whose share exceeds 10% of the company's capital and the names of the managers authorized to sign on behalf of the company.

195. In case of shareholding companies, the names and addresses of the Chairman of the Board of Director, the General Manager and the Financial Manager should be kept. In case of cooperatives or charitable, social, or professional organizations, accounts should solely be opened to the one that submits an original certificate signed by the Ministry of Social Affairs and Labor establishing its identity and allowing it to open bank accounts. A copy of the statute and the license resolutions should be kept and the controls regulating the process of opening account to private organizations should be observed, in accordance with the applicable laws and the instructions issued by the Central Bank in this respect.

196. The same Article (Article 4 of the bylaw) indicated that the identification should be based on legal documents including, in case of natural persons, the original passport for non-Yemeni nationals, and the ID or family card for the Yemeni nationals. In case of legal persons, the documents comprise a copy of the statute, the initial contract, the license resolution and the commercial register.

197. The assessment team actually noted that FIs verify the identity of occasional customers in the event where their transactions exceed USD 10.000; however, this does not apply on several exchange corporations, which make irregular transfers as the assessment team notices that most of these institutions do not take identification measures except the large ones.

198. It is noted that there is no obligation to make sure that the person who acts on behalf of the customer is actually authorized to do so and verify his identity; however, the identity of the agent is actually verified.

199. Article (4), Paragraphs (a) and (b) of the bylaw, obliges FIs to verify the identity of the beneficial owners and Article 8 of the same bylaw assured the necessity to identify the holder of the economic right. However, the concept of the beneficial owner or the holder of the economic right has been defined neither in the Law nor in any regulations.

200. The new AML/CFT draft law comprises a definition of the beneficial owner as Article 2 thereof provides that the beneficial owner is the natural person, the owner of the property or the

actual control on the customer or the natural person for whose account, interest or will the operation is being carried out.

201. On the practical side, it was noted that most FIs do not verify the identity of the beneficial owners since it is limited to the identification of the customer without verifying if he represents himself or works on behalf of another person and without verifying the identity of the person who controls the legal entity. This was noticed through the visits made to the Public Debt Department (Central Bank of Yemen), the Postal Saving Fund, the insurance companies, the exchange institutions and some banks. Certain banks stated that the beneficiary from the legal person is being identified, along with the structure thereof.

Purpose of the Business Relation

202. Law No. 35 of 2003, its executive regulations and the Prime Minister Decree No. 247/2005 issuing the list of AML regulatory procedures do not include any provisions obliging the FIs to obtain information on the purpose and nature of the business relationship. Besides, this subject was not outlined by any circular issued by the Central Bank or any other authority.

203. However, the new draft law provides, in Article 7, that the controls relating to the procedures applied to verify the customer identity, as set forth in the executive regulations of the said law, should comprise the expected purpose and nature of the relationship.

Ongoing Due Diligence

204. Item (4) of para. (a) of Article 4, as well as Article 5, of Decree No. 89/2006 issuing the executive regulations of Law No. 35/2003 obliges the FIs to update the changes to the customer's data on a regular basis.

205. The list of AML regulatory procedures states, in Articles 8, 11 and 12, some indicators to suspicious transactions, pointing out that it is imperative to ensure the consistency of the transactions carried out with the institution's knowledge of the customers and their activities such as: inconsistency between the deposits and the regular income activities of the customer concerned, building large balances that do not suit the average commercial turnover of the customer, the consecutive transfer to an account or several accounts opened abroad or requesting that the size of facilities in the letters of guarantees be in compliance with the guarantees of the property and the nature of the business or the level of the activities and the customer's solvability. However, the due diligence procedures do not explicitly request to inspect the transactions carried out with the institution's knowledge of the customers, along with their activities and the risks they are exposed to.

206. On the practical side, most FIs do not comply with the obligation of updating the subsequent changes to the submitted data. It was remarked that many banks update their customers' data in relation to debit accounts in order to avoid credit risks. A bank officer stated that they work on introducing an electronic program to update the data. It was noticed that most banks do not have the software that ensure the consistency of the transactions carried out with the institution's knowledge of the customers.

207. It is worth mentioning that the new AML/CFT draft law obliges, in Article 8, FIs to update all data, information and documents related to customer due diligence in terms of verifying the identity of clients and beneficial owners among natural or legal persons. Article 9 thereof also expressly obliges FIs to conduct an accurate ongoing tracking of all operations performed by customers, including the confiscation of their funds when necessary, in order to make sure that they comply with the information provided about their identity and the nature of their activities and their risk level.

Risks

208. The legal and supervisory framework in the AML field in Yemen does not deal with the enhanced CDD measures for some categories of customers, relationships or high-risk transactions. This framework requests that these measures be taken without distinction among customers.

209. In parallel, this framework does not generally allow the application of reduced CDD measures as it is requested to apply the CDD measures stipulated in the AML Law and its executive regulations and the guide of procedures and its complementary notices on all customers without exception. However, Paragraph 2-a of Article (4) of the AML executive regulations stipulates that the identity and the legal status of the customers and the beneficial owners should be verified in case of occasional operations, which may exceed the limit value defined by the Central Bank and the other supervisory authorities for each type of financial institution in a way that suits the nature of its activity, knowing that this threshold has not been designated by any supervisory authority including the Central Bank. Article 7 of the above-mentioned executive regulations requests the verification of the identity of the originator of the transfer who does not have an account at the financial institution and wishes to transfer cash amounts exceeding USD 10.000 or the equivalent thereof in other currencies. The same procedure stated in this Article applies on the beneficiaries from the transfer, knowing that full data should be obtained in all events. This exceeds the threshold stated in the interpretative note to SR. VII, which provides that the threshold should not exceed USD 1000 as it will be subsequently indicated.

210. The legal and supervisory framework in Yemen does not indicate the application of the reduced due diligence measures on those who belong to a specific country.

211. Article (6) of the Council of Ministers Decree No. 247/2005 issuing the list of AML regulatory procedures imposes, when suspecting a ML operation, the obligation to verify the customer's identity, regardless of the fact that the concerned amount is USD 10.000 or more or the equivalent thereof in a local or foreign currency upon the transfer as stated above.

212. The assessment team noted that certain banking institutions of external source or reference actually classify their customers according to the level of risks they represent without being locally bound in this respect. One of these institutions cancelled all the accounts of the exchange institutions kept thereby, as stated in the foregoing, as it considered that they represent high risks it is not able to control.

213. The new AML/CFT draft law tackled the risks issue as it provides, in Article 10, that FIs are obliged to classify their customers and products according to the ML/FT risk level. They also have to apply due diligence measures when dealing with cases of high-risk level. Article 22 also gave the Prime Minister, pursuant to the proposal of the AML/CFT Committee, the right to exempt, by a Decree issued thereby, from the established obligations, any category of financial or non-financial or institution or corporation whenever he estimates, according to the volume and nature of activities pursued by this category of institutions or for other relevant considerations, that the ML/FT risks are low.

Timing of verification

214. Paragraph 1-a of Article 4 and Article 8 of the executive regulations of the AML Law obliges FIs to verify the identity and the legal status of the customers and beneficial owners when opening the account or starting to deal, in any form whatsoever, with any financial institution. As for the occasional operations, Paragraph 2-a obliges FIs to take identification measures with the occasional financial operations, which may exceed the limit value defined by the Central Bank and the other supervisory authorities for each type of financial institution in a way that suits the nature of its activity, knowing that this threshold has not been designated by any supervisory authority. Yemen

does not authorize FIs to complete the verification of the identity of the customer and the beneficial owner, following the establishment of the business relationship.

215. The new law maintained this provision as Article 7 provides that due diligence measures should be taken when initiating a permanent relationship with the customer, carrying out a transaction for an occasional customer at an amount that exceeds the threshold designated by the bylaw or making local or international wire transfers, which exceed the threshold designated by the bylaw. However, the same Article indicates that the bylaw of this draft law will determine, upon the issuance thereof, the procedures and systems that should be observed vis-à-vis the cases where the investigation procedures and the governing controls thereof may be postponed.

Satisfactory completion of CDD measures

216. FIs are not allowed to initiate a business relationship before completing the identification process. Article 9 of the executive regulations of the AML Law obliges FIs, in the event of doubts about the validity of identity information or documents previously submitted, to verify the correctness thereof by all means possible. This may include contacting the authorities in charge of registering these data or issuing these documents such as the Ministry of Industry and Commerce, the General Authority for Investment and Free Zones (GAFI),, the Civil Affairs Directorate, the Survey and Real Estate Register Directorate and other authorities.

Existing Customers

217. Despite that Law No. 35/2003 and its executive regulations and the Prime Minister Decree No. 247/2005 issuing the list of AML regulatory procedures provide that FIs should not open or keep accounts in the names of persons before verifying the official documents thereof, these texts do not tackle the issue of the compliance with the standards of identification of the current customers. No circular has been issued by the Central Bank in this regard.

218. ***Recommendation 6. Politically Exposed Persons (PEP).*** Law No. 35/2003 does not comprise any indication to the Politically Exposed Persons (PEP) or the due diligence measures that should be applied thereon. Presidential Decree No. 89/2006 on the executive regulations of the AML Law and the Prime Minister Decree No. 247/2005 on the list of AML regulatory procedures did not tackle this issue. Therefore, the AML/CFT system in Yemen does not comprise any obligation for the FIs to put in place appropriate risk-management systems to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person, acquire the senior management approval to establish business relationships with such customers and take reasonable procedures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship. The indication made by Circular No. 22008 issued by the Central Bank of Yemen on 09/04/2002 to the paper on the Customer Due Diligence for Banks issued by Basel Committee, which mentions PEPs does not constitute an obligation for the FIs as it came as an enclosure for them to avail thereof without any obligation, in addition to the fact that it was addressed to the banks and exchange corporations only and not the other FIs.

219. The new AML/CFT draft law has covered this issue in Article 10, which requests FIs to pay special attention to the dealings with higher-risk cases including the transactions with politically exposed persons due to their positions. Politically Exposed Persons" (PEPs) have been defined as being the individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politician, senior judicial, military or government officials, important political party officials, including family members of these persons until the third degree.

220. The Republic of Yemen signed the UN Convention against Corruption for 2003 and ratified it on 03/08/2005 by virtue of Law No. 47/2005. Law No. 39/2006 on the combating of corruption was also promulgated on 26/12/2006 and the 11-member Supreme Anti-Corruption

Authority was formed by the Presidential Decree No. 12/2007, issued on 3 July 2007, in addition to the promulgation of Law No. 30/2006 concerning the disclosure of financial liabilities.

221. ***Recommendation 7.*** Law No. 35/2003, Presidential Decree No. 89/2006 issuing the executive regulations of the AML Law and the Prime Minister Decree No. 247/2005 issuing the list of AML regulatory procedures did not tackle the issue relating to the application of due diligence measures on the relationships with the correspondent banks across borders. We cannot say that there is an obligation for the FIs to gather sufficient information about the correspondent institutions to reach a complete understanding of their business nature and determine the type of reputation they enjoy, along with the quality of surveillance including whether they were subject to ML//FT investigations or other regulatory procedures.

222. Besides, there is no obligation to evaluate the controls used by the correspondent institutions to combat money laundering and terrorist financing to ensure their sufficiency and efficiency. With regard to the necessity to obtain the senior management approval before establishing new relationships with correspondent banks, in spite of the Yemeni authorities' indication that, in accordance with the internal regulations of the banks, the senior management approval should be obtained before establishing new relationships with correspondent banks, there is no legal obligation in this regard. The indication made by Circular No. 22008 issued by the Central Bank of Yemen on 09/04/2002 to the paper on the Customer Due Diligence for Banks issued by Basel Committee, which mentions the due diligence measures that should be applied on the relationships with correspondent banks across borders, it does not constitute an obligation for the FIs as it came as an enclosure for them to avail thereof without any obligation, in addition to the fact that it was addressed to the banks and exchange corporations only and not the other FIs. It is worth noting that Article 7 of the new draft law provides that FIs should verify that their correspondents have adopted efficient AML/CFT systems.

223. The Yemeni laws and regulations do not provide for any specific obligations for Yemeni correspondent banks to verify that the original correspondent banks, which keep correspondent payment accounts at the former ones, apply due diligence measures on the customers who have access to these accounts and that they are capable of providing relevant customer identification data upon request.

224. ***Recommendation 8.*** Law No. 35/2003, Presidential Decree No. 89/2006 on the executive regulations of the AML Law and Prime Minister Decree No. 247/2005 on the list of AML regulatory procedures did not provide for an obligation to set policies, take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.

225. With regard to non face-to-face operations, they were solely mentioned in the executive regulations of the AML Law in Article 6, which provides that, regarding the application to open an account by correspondence from outside the Republic of Yemen, the signature should be legalized by a correspondent bank located in the country of residence of the person submitting an application to open the account. There is no text, which requests FIs to set special policies and procedures to deal with the risks associated with non face-to-face transactions or business relationships like the operations carried out through the Internet, ATM machines, phone banking service and other types of indirect operations.

226. It is worth mentioning that the new AML draft Law obliges, in Article 7 thereof, FIs to pay special attention to the operations carried out or executed by electronic means.

3.2.2 Recommendations and Comments

227. ***R 5.*** The Republic of Yemen has to:

- Promote the supervision on the FIs' application of the CDD obligations.
- Underline the necessity for the CDD measures to comprise the activities of the customers and their size.
- Include the threshold of the accidental operations and the numerous transactions, which seem to be connected.
- Oblige FIs to verify that the person who acts on behalf of the customer is actually authorized to do so and identify him.
- Endorse the concept of beneficial owner as stated in Article 2 of the AML/CFT draft law.
- Emphasize the practical application with regard to the identification of the beneficial owners of the transactions with the FIs.
- Stipulate in the executive regulations of the new law that the FIs be obliged to obtain information relating to the purpose and nature of the business relationship, according to Article 7 of this draft.
- Explicitly request the FIs to inspect the transactions carried out with the institution's knowledge of the customers, along with their activities and the risks they are exposed to, in accordance with Article 9 of the new AML/CFT draft law.
- Underline the practical application of the obligation related to the update of the data, particularly that Article 8 of the new draft gave emphasis to this obligation.
- Endorse the provision of Article 10 of the new AML/CFT draft law concerning the obligation of FIs to classify their customers and products according to the ML/FT risk level and apply due diligence measures when dealing with cases of high-risk level.
- Decrease the threshold relating to the use of the reduced due diligence applied on transfers in line with the interpretative note to SR VII.
- Include in the AML system that will be based on the new draft law the measures that FIs should take when the incorrectness of the identity data or documents is established, particularly if they should abstain from opening an account, initiating a business relationship or carrying out the transaction or if they should issue a Suspected Transaction Report.
- Oblige FIs to observe the criteria relating to the identification of the current customers.
- Endorse the definition based on the financial activities stated in the new AML/CFT draft law in a way that makes the AML/CFT system comprise the Central Bank and all the institutions, which pursue financial activities.

228. ***Recommendation 6.*** The Yemeni Authorities should:

- Endorse the provision of Article 10 of the new AML/CFT law obliging the FIs to apply due diligence measures when dealing with the cases that represent high-risk level including the transactions with PEPs due to their positions.
- Oblige the FIs, through the executive regulations of the new draft law, to put in place appropriate risk-management systems to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person or not.

- Oblige the FIs, through the executive regulations of the new draft law, to acquire the senior management approval to establish business relationships with such customers and take reasonable procedures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship.

229. ***Recommendation 7.*** The Republic of Yemen should:

- Oblige the FIs to gather sufficient information about the correspondent institutions to reach a complete understanding of their business nature and determine the type of reputation they enjoy, along with the quality of surveillance including whether they were subject to ML//FT investigations or other regulatory procedures.
- Oblige the FIs to evaluate the controls used by the correspondent institutions to combat money laundering and terrorist financing to ensure their sufficiency and efficiency.
- Oblige the FIs to obtain the senior management approval before establishing new relationships with correspondent banks.
- Oblige Yemeni FIs to verify that the original correspondent banks, which keep correspondent payment accounts at the former ones, apply due diligence measures on the customers who have access to these accounts and that they are capable of providing relevant customer identification data upon request.

230. ***Recommendation.* 8**. The Republic of Yemen should:

- Oblige the FIs to take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.

3.2.3 Compliance with R 5 to 8

	Rating	Summary of factors underlying the rating of compliance
R 5	**NC**	▪ The due diligence process is limited in most FIs, particularly the non-banking ones, to the identification of the customers without paying attention to the details of their activities and their size. ▪ The threshold of the accidental operations does not comprise the numerous transactions, which seem to be connected. ▪ The above-mentioned threshold has not been determined. ▪ There is no obligation to verify that the person who acts on behalf of the customer is actually authorized to do so and identify him. ▪ The concept of beneficial owner or economic right holder has not been defined by the law or any other regulation. ▪ Most FIs do not verify the identity of the beneficial owners as they solely identify the customer without verifying if he works for his own benefit or behalf of another person and without identifying the person who actually controls the legal person. ▪ FIs are not obliged to obtain information relating to the purpose and nature of the business relationship. ▪ CDD measures do not explicitly request to inspect the transactions carried out with the institution's knowledge of the customers, along with their activities and the risks they are exposed to. ▪ Absence of practical application related to the update of the customers' data and documents.

		▪ FIs are not obliged to apply enhanced CDD measures on high-risk categories of customers, business relationships or transactions. ▪ The threshold relating to the use of the reduced due diligence applied on transfers exceeds the threshold stated in the interpretative note to SR VII, which provides that it should not exceed USD 1000. ▪ There is no obligation to observe the criteria relating to the identification of the current customers. ▪ The Central Bank is not comprised in the CDD measures relating to the accounts opened for the employees and the Public Debt Department with regard to the treasury bonds.
R 6	**NC**	▪ The Law does not refer to PEPs in any way. ▪ FIs are not obliged to put in place appropriate risk-management systems to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person. ▪ FIs are not obliged to acquire the senior management approval to establish business relationships with such customers, take reasonable procedures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship.
R 7	**NC**	▪ FIs are not obliged to gather sufficient information about the correspondent institutions to reach a complete understanding of their business nature and determine the type of reputation they enjoy, along with the quality of surveillance including whether they were subject to ML//FT investigations or other regulatory procedures. ▪ There is no obligation to evaluate the controls used by the correspondent institutions to combat money laundering and terrorist financing to ensure their sufficiency and efficiency. ▪ There is no obligation to obtain the senior management approval before establishing new relationships with correspondent banks. ▪ There is no obligation to verify that the correspondent banks, which keep correspondent payment accounts at the Yemeni FIs, apply due diligence measures on the customers who have access to these accounts and that they are capable of providing relevant customer identification data upon request.
R 8	**NC**	▪ There is no obligation to take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.

3.3 Third parties and introduced business (R 9)

3.3.1 Description and Analysis

231. ***Recommendation.* 9**. This recommendation does not apply to the financial business situation in the Republic of Yemen since the existing legislations did not mention the reliance of FIs on third parties to apply some CDD measures as Law No. 35/2003 charged the FIs of implementing CDD measures by themselves. Article 4 provides that these FIs should not open bank accounts without official documents. They were also requested to keep all the documents relating to the customers, along with their financial operations or commercial or cash transactions, carried out locally or internationally. Article 4 of the executive regulations of Law No. 35/2003

requested the FIs to verify the identity and the legal status of the customers and the beneficial owners including natural and legal persons.

232. Law No. 37/1992 on the supervision and monitoring of insurance companies and brokers authorizes insurance brokers to work; however, according to Article 21 of this Law, they are still pursuing their activities as agents and their agency contract empowers them to represent the insurance company before others, which prompts to consider this relationship as an agency or business relationship pursuant to a contractual arrangement with the financial institution.

3.3.2 Recommendations and Comments

233. The assessment team recommends that Yemeni supervisory authorities set regulatory basics and rules in the event where FIs need to rely on third parties to apply CDD measures in line with the expectations relating to the development of the banking and financial business in the Republic of Yemen.

3.3.3 Compliance with R 9

	Rating	Summary of factors underlying the rating of compliance
R 9	**NA**	Legislations do not allow FIs to rely on third parties to implement some CDD measures.

3.4 Financial Institution Secrecy or Confidentiality (R. 4)

3.4.1 Description and Analysis

234. ***Recommendation 4.*** There is no special law on banking secrecy in the Republic of Yemen; however, Article 373 of the Commercial Law No. 32/1991 provides that the secrecy of the accounts is guaranteed as no person outside the bank and no unofficial employee may peruse them. Besides, no information on any account shall be given save to the person (s) in whose name the account is opened unless a written authorization issued by the account holder allows otherwise. However, Law No. 35/2003 explicitly provides, in Article 7, that the principle of accounts secrecy may be pleaded in ML offences investigated or prosecuted before the judicial authorities by virtue of any other law. Pursuant to Article 13 of the same law, the FIU may obtain, upon being notified of any ML operation, the necessary information and documents from the official authorities and FIs with the approval of the Governor.

235. Article 16 of Law No. 35/2003 provides that the AML Committee may, with the approval of the judicial authorities pursuant to an official request from a legal authority in any other country, provide it with information on an operation specified in the request in relation with money laundering, provided that a bilateral agreement is available to regulate the same.

236. Pursuant to the foregoing, it is noted that the banking secrecy does not hinder the investigation or the prosecution and that the FIU has the right to obtain information and documents necessary to carry out its work. The AML Committee is also authorized, with the approval of the judicial authorities, to provide the legal authorities in other countries with the information they require. However, the condition relating to the provision of information with the approval of the judicial authorities by virtue of a court order may hinder the exchange of information on the international level, particularly that this exchange is limited to the Committee and not the Unit.

237. The assessment team noted that Article 52 of the new AML/CFT draft law explicitly provided that the financial or banking secrecy may not be opposed to the FIU and the authorities in

charge of investigation and prosecution when they carry out their duties relating to the aforesaid law as it is actually the case in light of the current law. The draft law also protected the person who reports suspicious transactions from criminal, civil, administrative or disciplinary liability resulting from such reporting in Article 16 thereof.

3.4.2 Recommendations and Comments

238. The Yemeni authorities should:

- Not to impose as a condition the approval of the judicial authorities to provide information to foreign parties and the submission of a legal request.

3.4.3 Compliance with R 4

	Rating	Summary of factors underlying the rating of compliance
R 4	**PC**	The approval of the judicial authorities constitutes a condition to provide information to foreign parties, in addition to the submission of a legal request by the foreign parties.

3.5 Record Keeping and Wire Transfers (R 10 & SR VII)

3.5.1 Description and Analysis

239. ***Recommendation 10.*** Article 4 of Law No. 35/2003 obliges FIs to keep all the documents relating to the customers, along with their financial operations or commercial cash transactions, carried out locally or internationally, for a period not less than five years as of the date of completing the operations and submit all these documents to the FIU for perusal upon request. Article 10 of the executive regulations of Law No. 35/2003 obliges FIs, in accordance with the nature of their activities, to keep records and documents to register all the financial and banking transactions carried out locally or internationally including sufficient information to retrace the steps of these transactions. They should keep these records and documents, in addition to the records of the customers and beneficial owners for a period not less than 5 years following the closure of the account with regard to the accounts opened at the banks and the other FIs for natural and legal persons. The documents and records of any transaction shall be kept for a period not less than five years upon the termination of the operation with regard to the transactions executed for the customers who do not have any accounts at the institution.

240. Article 4 of the bylaw provides that the FIs should include in these records all information and data necessary for the investigation authorities and the filing of cases. Article 19 of the same bylaw also provides that the financial institution should keep all the documents relating to the customers, along with their financial operations or commercial or cash transactions, carried out locally or internationally, for a period not less than five years as of the date of completing the operations and submit all these documents to the FIU at the Central Bank for perusal upon request, in accordance with Article 14 of the AML Law and the provisions of the bylaw thereof.

241. The new AML/CFT draft law maintained this obligation as Article 12 provides that financial and non-FIs should keep records, data and documents relating to the identity and activities of the customer and the beneficial owner for a period of five years at least following the termination of the relationship between the customer and the institution, in addition to the records, data, information and written reports on the financial transactions for a minimum of five years as of the date of

execution or initiation of the transaction, as well as any other records or data that should be kept, in accordance with the provisions of the aforesaid law. This Article indicated that such executive regulations will state the records and data that should be kept, along with the rules and procedures of keeping the same in a way that facilitates their retrieval upon request in an acceptable way to the courts in accordance with the legislations in force.

242. ***Special Recommendation VII.*** Article 7 of the executive regulations of Law No. 35/2003 obliged FIs to verify the identity of transfer originators who have no accounts at the FIs and wish to transfer cash amounts that exceed USD 10.000 or the equivalent thereof in other currencies. This Article obviously sets a threshold that exceeds the one stated in the interpretative note to SR VII, which provides that the threshold should not exceed USD/EUR 1000.

243. It is noted that the same threshold was repeated in Article 5 of Prime Minister Decree No. 247/2005 issuing the list of AML regulatory procedures when it indicated that banks and exchange companies and shops should carefully and regularly verify the identity of any customer who wishes to pay against the transfers where the value of the banking operation exceeds USD 10.000 or the equivalent thereof in the local currency or the other currencies. The regulations stated certain basic data such as the customer's details including the name, full address and the name and address of the beneficial owner, in addition to the identification of the customer (ID or passport) and the registration of these details on form No. (1); however, these data did not comprise a unique identifier. The same Article pointed out that form No. (2) should be filled out in case a transfer is received to pay in cash or in the form of traveler's cheques to certain persons that do not have any accounts at the bank or received through one of the exchange companies at an amount that exceeds USD 10.000 or the equivalent thereof.

244. Despite these obligations, the assessment team noticed that they were not practically applied, particularly in the exchange offices which exercise transfer activities without license and without obtaining any document or information related to the originator of the transfer, knowing that the number of exchange offices exceed 520.

245. The team also noted that the supervisory authorities do not take any measures that enable them to monitor the FIs compliance with the legally imposed obligations efficiently.

246. The AML/CFT legal framework does not include any obligation to insert any information about the originator of the transfer in the letter or the payment form attached to the wire transfer. Besides, it does not comprise any obligation for the financial brokerage institutions to enclose with the transfer the data relating to the originator thereof. The legal framework does not define the procedures and data obtained when compiled transfers are made or impose any obligation that prevents the compilation of non-routine transactions that may increase the ML/FT risk. Moreover, this framework does not provide for the measures that should be taken by the benefiting banking institutions in the case of wire transfers that do not provide complete information about the originator of the transaction.

247. The assessment team noticed that the new draft covered this issue in Article 11 thereof, which obliges the FIs that pursue wire transfer operations to mention in the transfer the data relating to the identity while leaving the details to the executive regulations. The draft also requested the FIs to which the wire transfer is made to reject it in case it does not include any identification data.

3.5.2 Recommendations and Comments

248. ***R. 10.*** The Republic of Yemen should endorse the definition of FIs stated in the new AML/CFT draft Law.

249. ***SR. VII.*** The Republic of Yemen should carry out the following:

250. Include in the executive regulations of the new draft law the details of the data to be received from the originator and enclosed by FIs, such as the account number and address, and to give a unique identifier for transfer originators with no accounts with the FIs, in compliance with the SR. VII.

- Amend the threshold mentioned above with regard to the transfers made by occasional customers if it is necessary to preserve the same so as to be consistent with the limit mentioned in the interpretative note of the SR. VII (USD/EUR 1000).
- Include an obligation in the executive regulations for the financial brokerage institutions to make sure that the data relating to the originator of the transfer are enclosed therewith.
- Include in the aforesaid executive regulations the measures and data obtained when FIs perform batch transfers.
- Include an obligation in the executive regulations preventing the compilation of non-routine operations that may increase ML/FT risk.
- Approve the provision of Article 11 of the new draft Law concerning the refusal to receive wire transfers, which do not comprise customer identification data.
- Impose certain controls on the exchange offices that carry out transfer activities without a license and without observing the legally imposed obligations.
- The supervisory authorities should take the measures that enable them to efficiently control the FIs compliance with the legally imposed obligations with regard to transfers.

3.5.3 Compliance with R 10 & SR VII

	Rating	Summary of factors underlying the rating of compliance
R 10	**LC**	▪ The definition of the FIs in the Law does not comprise all the FIs such as the Central Bank.
SR VII	**NC**	▪ No obligation to give a unique identifier for the transfers made by occasional customers. ▪ Determination of a threshold for the amounts transferred by the occasional customers exceeding the threshold stated in SR VII. ▪ No obligation to insert any information about the originator of the transfer in the letter or the payment form attached to the wire transfer. ▪ No obligation for the financial brokerage institutions to enclose with the transfer the data relating to the originator thereof. ▪ No definition of the procedures and data obtained when batch transfers are made. ▪ No obligation that prevents the compilation of non-routine transactions that may increase the ML/FT risk. ▪ No provision for the measures that should be taken by the benefiting banking institutions in the case of wire transfers that are not enclosed with complete information about the originator of the transaction. ▪ The legally imposed obligations are not practically applied, particularly in the exchange offices. ▪ The supervisory authorities do not take any measures that enable them to efficiently monitor the FIs compliance with the legally

		imposed obligations.

Unusual and Suspicious Transactions

3.6 Monitoring transactions and relationships (R 11 & 21)

3.6.1 Description and Analysis

251. ***Recommendation 11.*** Law No. 35/2003 does not request FIs to give a particular attention to all complicated and large-scale transactions, and to all kinds of unusual transactions which do not have an apparent economic purpose or a clear legitimate purpose. The same applies on the Presidential Decree No. 89/2006 on the executive regulations of the AML Law and the Prime Minister Decree No. 247/2005 on the list of AML regulatory measures.

252. FIs are not obliged to register the results of their examination of transactions and identify their purpose in writing. Therefore, institutions are unable to submit these results to competent authorities.

253. It is worth noting that Notice No. (1) issued on 22/09/2004 on the AML Committee addressed to the banks, provides in Paragraph 3 that particular attention should be given to all complicated and large-scale transactions, and all kinds of unusual transactions that do not have an apparent economic or legal purpose. However, as previously mentioned, this Notice has no mandatory power, in addition to the fact that it is addressed to the banks and not to all FIs.

254. The Yemeni Authorities have covered this deficit through Article 10 of the AML/CFT draft Law where the FIs are obliged to pay special attention to higher risk cases including unusual transactions that do not have a legitimate economic reason. This Article also obliges the FIs to examine the transactions to identify the purpose thereof in writing and submit these results to the competent authorities.

255. ***Recommendation 21.*** FIs are not obliged to pay any particular attention to business relations and to transactions with persons (including legal persons and other FIs) belonging to the countries that do not apply or insufficiently apply FATF recommendations. Besides, there is no obligation to study the background and purpose of these transactions and make the results of this study available in writing to the competent authorities.

256. However, the new draft law has tackled this issue in Article 10, which obliges FIs to pay ***special*** attention to higher risk cases including the transactions and persons belonging to the countries that do not apply sufficient AML/CFT procedures and FATF recommendations. This Article also obliges, as stated above, FIs to examine the transactions and their purpose, register the results of the examination in writing and make these results available to competent authorities.

3.6.2 Recommendations and Comments

257. ***R. 11.*** The Republic of Yemen should:

- Endorse Article 10 of the AML/CFT draft Law, which obliges FIs to pay special attention to higher risk cases including unusual transactions that do not have an apparent legitimate economic reason. It also obliges FIs to examine these transactions along with the objective thereof, register the results of examination and make them available to competent authorities.

258. ***R. 21.*** The Republic of Yemen should:

- Endorse Article 10 of the AML/CFT draft Law, which obliges FIs to pay special attention to higher risk cases including the transactions and persons belonging to the countries that do not apply sufficient AML/CFT procedures and FATF recommendations. This Article also obliges FIs to examine the transactions and their purpose, register the results of the examination in writing and make these results available to competent authorities.

3.6.3 Compliance with R 11 & 21

	Rating	Summary of factors underlying the rating of compliance
R 11	**NC**	▪ FIs are not obliged to give a particular attention to all complicated and large-scale transactions, and to all kinds of unusual transactions which do not have an apparent economic purpose or a clear legitimate purpose. ▪ FIs are not obliged to examine these transactions to identify the purpose thereof, register the results of the examination in writing and make these results available to competent authorities.
R. 21	**NC**	▪ FIs are not obliged to pay any particular attention to business relations and to transactions with persons (including legal persons and other FIs) belonging to the countries that do not apply or insufficiently apply FATF recommendations. ▪ There is no obligation to study the background and purpose of these transactions and make the results of this study available in writing to help the competent authorities.

3.7 Suspicious Transaction Reporting and other Reporting Conditions (R. 13, 14, 19, 25 & SR. IV)

3.7.1 Description and Analysis

259. ***Recommendation 13 & SR. IV.*** Law No. 35/2003 on AML obliges all FIs, according to Article (5), Paragraph (a), to report to the Information Collection Unit (FIU) at the Central Bank any ML-driven transaction if they had evidence proving it. This is a difficult requirement for FIs, which must be obliged to report on the basis of mere suspicion according to the Recommendations and the Methodology. The executive regulations of the Law also provides that the Information Collection Unit is responsible for receiving information and reports on any ML transactions to register them in the Unit database; it also receives notices incoming from institutions on any suspected ML transactions and registers them in the database of the Unit, in accordance with the procedures stated in the aforesaid bylaw.

260. It is noted that the Law provides the reporting of ML transactions and not the reporting in case there is suspicion or reasonable grounds to suspect that funds are the proceeds of a criminal activity, as stated in the Methodology. The executive regulations provide that the Unit is responsible for receiving notices on the transactions, which are suspected to include money laundering and therefore, the provision of the bylaw is closer to the Methodology than the provision of the Law. It is worth noting that Recommendation 13 provides that the reporting requirement should apply at least on the funds resulting from all offences that fall within the category of ML predicate offences, pursuant to Recommendation 1 of the 40 Recommendations. Article 3 of Law No. 35/2003 limited its definition of predicate offences to a number of offences that do not cover the twenty categories of offences specified in the 40 Recommendations of the FATF. Besides, the definition of the predicate

offences does not extend to include those occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically.

261. The legislations do not oblige FIs to report suspicious transactions when reasonable grounds are available to suspect that funds are related or linked to terrorism or terrorist acts or used for terrorist purposes or terrorist acts by terrorist organizations or financiers.

262. Moreover, the legislations do not oblige FIs to report attempts to carrying out suspicious transactions.

263. On the practical side, according to the information provided by the Yemeni Authorities to the assessment team, the Financial Collection Unit has only received 7 reports until now, one of them from a lawyer regarding a fraudulent e-mail received through the Internet, knowing that one report was referred to the Public Prosecution and two are still being investigated.

264. Based on the foregoing, the reporting cases are significantly rare due to the inability to detect suspicious operations at the FIs and the weak supervision of the supervisory authorities on the financial and banking institutions and the Information Collection Unit. The assessment team noticed, during his meeting with the Banking Supervision Department officers, that the Unit receives the reports from the Supervision Department as it constitutes part of this Department.

265. The new AML/CFT draft law tackled this issue through Article 13, which obliges financial and non-FIs to notify the Unit of any transaction when suspecting that it relates to an ML/FT crime, whether this transaction was carried out or not. This draft left the determination of the controls and procedures relating to this obligation to the executive regulations.

266. ***Recommendation 14.*** No legislative text protects the FIs, along with their directors, officers and employees (permanent and temporary) from both criminal and civil 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 Financial Collection Unit.

267. Law No. 35/2003 prohibits FIs and their employees, upon the application of the reporting provisions, to notify their customers or disclose any information about them or about their activities, pursuant to Article (5), paragraph (b). Paragraph 4 of Article 21 of the same Law provides that the person who breaches the provisions of Article 5 shall be imprisoned for a maximum of five years or shall pay a fine not exceeding (500,000) five hundred thousand Riyals.

268. On the other hand, Article 16 of the new draft AML/CFT Law exempts natural or legal persons who report, in good faith, any suspicious transaction or submit information or data related thereto in accordance with the provisions of this draft Law from any criminal, civil or administrative liability ensuing thereof.

269. Article 15 of this draft Law prevents any employee at the financial or non-FIs from disclosing, directly, indirectly or by any other means, to the customer, beneficial owner or anyone other than the competent authorities, any reporting, investigation or inspection procedure taken with regard to the transactions, which are suspected to be related to money laundering or terrorist financing.

270. ***Recommendation 19.*** There is no indication that the Yemeni Authorities examined the feasibility of applying a system that obliges FIs to report all cash transactions which amount exceeds the applicable designated threshold to a national central authority, which has an electronic database.

271. ***Recommendation 25.*** Article 13 of the executive regulations provides that the financial authorities should notify the Information Collection Unit at the Central Bank of any ML transaction if it is established by evidence, on the forms prepared by the Unit for this purpose. They should also put in place the rules and procedures that should be taken to carry out the reporting obligation, including the detailed criteria of suspicion commensurate with the type of activities pursued by the institution, along with the documentary evidence.

272. On the practical side, the Unit did not prepare the above-mentioned forms, rules and procedures including the feedback procedures. The banks, which filed STRs stated that they did not receive any feedback from the Unit regarding these cases.

3.7.2 Recommendations and Comments

273. The Yemeni Authorities should take the following steps:

- Endorse the obligation stipulated in Article 13 of the new AML/CFT draft Law binding the financial and non-financial institutions to notify the Information Collection Unit of suspicious transactions immediately upon (only) suspecting their connection to a ML/FT crime, whether these transactions are carried out or not.
- Promote the monitoring and supervisory role of the financial sector supervisory authorities and the Information Collection Unit in a way that supports the FIs obligation to report suspicious transactions.
- Increase the training efforts, particularly the training on the detection of suspicious operations.
- Endorse Article 16 of the new AML/CFT draft Law, which does not impose any criminal, civil, administrative or disciplinary liability on the natural or legal person who reports, in good faith, any suspicious transaction or submits information or data related thereto in accordance with the provisions of this draft Law.
- Endorse Article 15 of the new draft Law, which prevents any employee at the financial or non-FIs from disclosing, directly, indirectly or by any other means, to the customer, beneficial owner or anyone other than the competent authorities, any reporting, investigation or inspection procedure taken with regard to the transactions, which are suspected to be related to money laundering or terrorist financing.
- Consider the feasibility of applying a system, which obliges FIs to report all cash transactions which amount exceeds the applicable designated threshold to a national central authority, which has an electronic database.
- Set the guiding principles related to the reporting of suspicious transactions in all sectors including the reporting forms. The Information Collection Unit should also submit its feedback on the reported cases.

3.7.3 Compliance with R. 13, 14, 19, 25 (Criteria 25.2) & SR IV

	Rating	Summary of factors underlying the rating of compliance
R. 13	**NC**	▪ FIs are obliged to report transactions meant for ML when they have evidence to establish that, not on the basis of mere suspicion. ▪ The predicate offences suspected to be associated to the transactions do not cover the twenty categories of offences specified in the Recommendations.

		▪ No obligation to report suspicious transactions associated with terrorist financing. ▪ No practical application of the reporting of the operations, which are suspected to be associated with money laundering transactions. ▪ No obligation on FIs to report the attempts of carrying out suspicious transactions.
R 14	**PC**	▪ No legislative text protects the FIs, along with their directors, officers and employees from both criminal and civil 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 Financial Collection Unit.
R 19	**NC**	▪ The Yemeni Authorities did not consider the feasibility of applying a system that obliges FIs to report all cash transactions which amount exceeds the applicable designated threshold to a national central authority, which has an electronic database.
R 25	**NC**	▪ The Unit did not prepare the forms, rules and procedures mentioned in Article 13 of the bylaw of Law No. 35/2003 including the feedback procedures.
SR IV	**NC**	▪ The legislations do not oblige FIs to report suspicious transactions when reasonable grounds are available to suspect that funds are related or linked to terrorism or terrorist acts or used for terrorist purposes or terrorist acts by terrorist organizations or financiers.

Internal Controls and Other Measures

3.8 Internal Controls, Compliance, Audit and Foreign Branches (R 15 & R 22)

3.8.1 Description and Analysis

274. ***R. 15.*** Article 4 of the executive regulations of Law No. 35/2003 obliges all FIs to set the systems that ensure the application of the provisions of the Law, the aforesaid bylaw and the executive resolutions in conformity with the nature of the activities pursued by these institutions, provided that each of them shall set special systems to verify the identity and the legal status of the customers and the beneficial owners for both natural and legal persons. The verification of the identity of the customers and beneficial owners for both natural and legal persons and their legal status should take into consideration the information that establishes the nature and legal entity of these persons, in addition to their names, address, legal representative, deed of representation, financial structure, activities, names and addresses of partners or shareholders whose individual share exceeds (10%) of the company's capital according to the case. Article 6 of Law No. 35/2003 and Article 15 of the executive regulations of the said Law obliged the Information Collection Unit to help the FIs set systems and controls for the internal audit and supervision in order to prevent money laundering operations.

275. Article 11 of the executive regulations of Law No. 35/2003 obliges all FIs to appoint one AML officer or more at the level of the general management and the branches. The selection of such officer should take into consideration his educational qualifications and sufficient working experience. Article 12 of the same bylaw requested the specification of the powers of the AML officer. The imposed obligations did not mention the creation of an independent audit function

provided with sufficient resources to test the compliance with the AML/CFT internal procedures, policies and controls.

276. Article 17 of the executive regulations of Law No. 35/2003 obliged all FIs to put in place plans and programs for the training and qualification of their employees in the AML field in order to prepare them to properly carry out their functions, keep pace with international developments and consolidate the proper professional business rules in this field. These programs shall be set and implemented in coordination among the institutions, the Information Collection Unit at the Central Bank and the AML Committee.

277. Concerning the necessity to set inspection procedures to increase the standards of competence upon the appointment of employees, the assessment team did not note any obligation for the FIs to set such procedures.

278. On the practical side, the assessment team noticed that the establishment of the systems that guarantee the application of the Law and the executive regulations and resolutions was solely restricted to the banking institutions and not all the FIs with discrepancies in the level of these systems and the application thereof from one banking institution to the other. The same applies on the appointment of the AML officers. The assessment team also noticed the weakness of the training programs, which aim at qualifying the employees of these institutions in the AML field and even the total absence thereof, particularly in non-banking institutions where the training was limited to a small number of employees in the senior management and within specific programs.

279. ***Recommendation 22.*** Paragraph 1 of Article 12 of Law No. 35/2003 provides that the provisions of this Law apply on the branches of the FIs abroad with head offices located inside the Republic. However, the said Law did not oblige the FIs to pay special attention in this respect when foreign branches or subsidiaries are in countries that do not apply or insufficiently apply the FATF Recommendations. The Law did not oblige the branches of FIs operating in the host countries to apply the highest standard to the extent permissible by the laws and regulations of the host country in the event of a conflict between the AML/CFT requirements in the country of origin and the host country.

280. The AML/CFT system in the Republic of Yemen does not comprise any obligation for the FIs to notify supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the host country.

281. The new AML/CFT draft Law preserves the obligation stating that the provisions thereof shall apply on financial and non-FIs and designated professions stipulated therein, as well as the branches of the FIs abroad which head offices are located in the Republic of Yemen pursuant to Article 47.

282. ***Additional elements.*** Law No. 35/2003 does not expressly provide, in the above-mentioned Articles, that the FIs operating in the Republic of Yemen and which are subject to the basic principles of efficient banking supervision, shall apply the CDD measures in the verification of the customers' identity in a consistent manner, while taking into consideration the customer's transactions with the branches and subsidiaries where they own the majority share in the world.

3.8.2 Recommendations and Comments

283. ***Recommendation 15.*** Yemeni authorities should:

- Expressly provide that the AML officer has access to the customer ID data and other information resulting from the CDD measures, as well as the records of the transactions and other information.

- Oblige all FIs to create an independent audit function provided with sufficient resources to test the compliance with the AML internal procedures, policies and controls.
- Oblige all FIs to set inspection procedures in order to increase the standards of competence upon the appointment of employees.
- Practically apply the obligation to set the systems that ensure the application of the Law and executive regulations and resolutions at the FIs, particularly non-banking institutions.
- Appoint AML officers, particularly at non-banking institutions.
- Set and promote training programs to qualify the employees of these institutions in the AML field, particularly at non-banking institutions.

284. ***Recommendation 22.*** Yemeni authorities should:

- Endorse Article 47 of the new AML/CFT draft law relating to the application of the provisions thereof on FIs and their foreign branches whose head office is located inside Yemen.
- Include in the new draft law or its executive regulations, obligations to pay due special attention in case of pursuit of the activity in a country, which does not apply or insufficiently apply to the AML/CFT standards issued by the FATF.
- Include in the new draft law or its executive regulations an obligation for the foreign branches and subsidiaries to apply the highest possible standards in the event of a difference in the AML/CFT requirements in the hosting country.
- Include in the new draft law or its executive regulations an obligation for the FIs to notify the supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the prohibition of laws, regulations or other measures in force in the hosting country.

3.8.3 Compliance with R 15 & 22

	Rating	Summary of factors underlying the rating of compliance
R 15	**PC**	▪ The imposed obligations did not mention the creation of an independent audit function provided with sufficient resources to test the compliance with the AML/CFT internal procedures, policies and controls. ▪ The assessment team did not note any obligation for the FIs to set inspection procedures in order to increase the standards of competence upon the appointment of employees. ▪ The establishment of the systems that guarantee the application of the Law and the executive regulations and resolutions is solely limited to the banking institutions and not all the FIs with discrepancies in the level of these systems and the application thereof. ▪ The appointment of AML officers is limited to the banking institutions. ▪ Weakness of the training programs, which aim at qualifying the employees of these institutions in the AML field and even the total absence thereof, particularly in non-banking institutions.
R 22	**PC**	▪ No obligation for the FIs to pay special attention when pursuing the activity in countries that do not apply or insufficiently apply AML/CFT standards issued by the FATF. ▪ No obligation for the branches and subsidiaries to apply the

		highest possible standards in the event of a difference in AML/CFT requirements in the host country. ▪ No obligation for the FIs to notify supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the hosting country.

3.9 Shell banks (R 18)

3.9.1 Description and Analysis

285. ***Recommendation 18.*** Despite that the Yemeni Law does not explicitly prohibit the creation of shell banks, the legal framework of the banks prevents the creation thereof as Paragraph (1-a) of Article 5 of Law No. 38/1998 on Banks prevent the pursuit of banking activities in the Republic of Yemen without a license issued by the Central Bank who solely has the right to issue such licenses. Article 6 of this Law also prevents the use or the pursuit of the use of the world (bank) or any derivative thereof in any language whatsoever, any world that shows the type of the banking activity within the name and the capacity, any description in any invoice, papers, letters, advices, notices or any other document, which shows that the person pursues a banking activity without the authorization of the Central Bank. In addition, the Central Bank has the right, by virtue of Paragraph 5 of Article 8 of the same Law, to withdraw the license in the event where the holder fails to initiate the business within six months from granting him the license, stops pursuing the banking activity, liquidates his business or if the Central Bank considers that the holder of the license carries out his work in a way that harms the interest of the depositors, does not have sufficient assets to fulfill his obligations toward the public, violates any of the banking law provisions or if the license is granted on the basis of any documents or information, which turned out to be false.

286. FIs are not obliged to refrain from establishing a correspondence relationship or persevere in this relationship with the shell banks. FIs are not forced to make sure that the correspondents FIs in a foreign country do not allow the shell banks to use their accounts.

287. It is worth noting that the new AML/CFT draft law encompasses all the requirements of Recommendation 18. Article 5 explicitly prohibits the license to establish banks in Yemen if they do not have a material presence on the Yemeni territories and if they are not subject to efficient monitoring systems. Article 6 of the draft law prevents the Yemeni FIs from dealing with any other FIs that do not have a material presence in the State where they are registered and if they are not subject to efficient monitoring in the country of registration. This Article also prevents the Yemeni FIs from dealing with counterpart FIs, which offer their services to the shell FIs.

3.9.2 Recommendations and Comments

288. Yemeni authorities should endorse Articles 5 and 6 of the new AML/CFT draft law.

3.9.3 Compliance with R. 18

	Rating	Summary of factors underlying the rating of compliance
R 18	**PC**	▪ FIs are not prevented from establishing correspondence relationships or persevering in such relationship with shell banks. ▪ FIs are not obliged to make sure that the correspondent FIs in a foreign country do not allow shell banks to use

		their accounts.

Regulation, supervision, guidance, follow up and sanctions

3.10 The supervisory and monitoring system – Competent authorities and SROs: Roles, functions, duties and powers (including sanctions) (R. 23, 29, 17, 25)

3.10.1 Description and Analysis

289. **Recommendation 23 (23.1 & 23.2):** The Yemeni AML Law does not mention in details the issue relating to the supervision and monitoring in the AML/CFT field on the FIs subject thereto; however, Article 6 provides that the Unit should help FIs set audit and internal supervision systems and controls, which prevent the occurrence of ML transactions, in accordance with its provisions and those of the other relevant laws. Article 24 of the executive regulations of the said law provides that the Information Collection Unit is responsible for verifying the FIs compliance with the procedures implying the refusal to open or keep accounts in the names of the persons without verifying their official documents and keeping a copy thereof. Dealings with legal persons should not be made without verifying their official documents and keeping a true copy thereof, knowing that all the documents relating to the customers, along with their financial operations or commercial or cash transactions, carried out locally or internationally should be kept for a period of five years at least as of the date of completing the operations. This Article also provides that the Unit should help FIs set audit and internal supervision systems and controls, which prevent the occurrence of ML transactions and verify the FIs abidance thereby. This means that the Unit is the sole competent authority, which carries out the monitoring and supervision role in the AML/CFT field.

290. On the practical side, as mentioned above and while performing its functions, the Unit seeks the assistance of inspectors from the Bank Supervision Department at the Central Bank, with regard to common inspection operations carried out at banks and exchange firms only to verify their compliance with their obligations. As stated above, it was noted through the visits paid by the assessment team to a number of banks and exchange firms that the inspectors from the Bank Supervision Department do not pay sufficient attention to AML/CFT aspects when conducting any inspection mission. Regarding the other FIs, the Information Collection Unit still does not monitor or supervise their activities. This shows that the scope and depth of the monitoring and supervision on the FIs are not sufficient or efficient in the AML field.

291. ***Recommendation 30 (Criteria 1 & 3)*:** The Information Collection Unit is responsible for monitoring the FIs compliance with their AML obligations while, the duty of supervision and monitoring of FIs in general is entrusted to: the Banking Supervision Department (at the Central Bank of Yemen) on banks and exchange companies, the Ministry of Commerce and Industry on insurance companies and other firms and the General Authority for Post and Postal Savings, which monitors the postal savings fund, in addition to the Central Organization for Control and Audit (COCA) that plays a general monitoring role.

292. **Central Bank (Supervision Department on Banks and Exchange Companies and Public Debt Department).** The Supervision Department consists of three Departments, namely:

- General Department for Bank Supervision (Off Site supervision): 18 inspectors.
- General Department for Bank Inspection (On site supervision): 15 inspectors.
- General Department for Foreign Currency and Exchange Affairs: 8 inspectors.

293. The Supervision Department officers stated that the inspectors of the Department verify the banks and exchange companies compliance with the AML procedures stipulated in the law and that the inspection reports comprise a special section in this respect. The officers also stated that the onsite inspectors are divided into 5 groups, each one of them undertakes the inspection on a certain bank, knowing that the inspection period ranges from one to two months according to the size of each bank. The size of the banking sector (17 banks and 212 branches) and the large number of exchange companies (160 companies and 520 offices in all Governorates) require a larger number of inspectors to conduct more efficiently the inspection missions; the period indicated above (2-3 months) is not enough to carry out an effective inspection by three inspectors only. The assessors noticed, upon visiting a number of banks, that the Supervision Department inspectors do not pay sufficient attention to the AML aspects in the inspection missions. The assessment team also noted that the inspectors did not receive sufficient training sessions in the AML field and that the senior occupational degree officers received a small number of sessions in this regard.

294. The unavailability of sufficient human resources constitutes the main aspect of deficiency in the work of the Supervision Department as this number of inspectors does not allow, according to the team, a sufficient coverage of the banks and exchange companies' activities. Concerning the sufficiency of the financial resources for the supervision and monitoring authorities, the Yemeni authorities did not submit any information that allows the assessment team to decide in this regard.

295. Upon the selection of the employees at the Banking Supervision Department, elements of competence and good-conduct are respected pursuant to the requirements of the law. The employees in this Department have attended a number of training programs in the AML/CFT field; the assessment team has perused such training programs and believes that they are insufficient, particularly that they did not deal with the issue of supervision and monitoring of FIs in this field.

296. **Ministry of Industry and Trade (Supervision Authority on the Insurance Sector).** The Ministry consists of two basic sectors, namely the sector of commerce and the sector of industry; the Sector of Commerce which comprises seven departments, namely:

- Companies' General Department
- General Department for the Branches of Foreign Companies
- Foreign Trade General Department
- Internal Trade General Department
- Property Protection General Department (Patents)
- Commercial Register General Department
- Chartered Accountants General Department

297. The responsibility of supervising the insurance sector is entrusted to a Department subordinated to the Companies General Department, which includes three inspectors only, who supervise 13 insurance and reinsurance companies, including one Islamic company, knowing that the number of branches of these companies is 25 in all Governorates. This constitutes a deficiency in the Ministry’s ability to pursue efficient supervision in general on the insurance sector, particularly in the AML field, albeit AML risks are quite low due to the limited life insurance sector in Yemen. Through the on-site visit, the assessment team noticed that supervision is limited to checking and verifying a number of data. The Yemeni Authorities pointed out that they intend to change the Insurance Department into an independent one. The officers at the Ministry stated that the inspectors did not undergo any training sessions specialized in the AML field.

298. In pursuance of the foregoing, the unavailability of sufficient human cadres constitutes the main aspect of deficiency, as well, for the work of the Ministry of Commerce and Industry in the field of supervision on the insurance and reinsurance companies. The Yemeni Authorities did not

submit any information that enables the assessment team, to form a decision with regard to the sufficiency of the financial resources in this field.

299. **General Authority for Post and Postal Savings.** The work pursued by the General Authority for Post and Postal Savings is regulated by Law No. 64/1991. This Authority is supervised by the Ministry of Communications and its board of directors is chaired by the Minister of Communications. The Authority has a higher council called the Board of Directors of the General Authority for Post and Postal Savings where the Ministry of Planning, the Ministry of Finance and the Ministry of Areas Affairs are represented. The Authority basically works in two fields, namely: representing others in the performance of the financial obligations such as the payment of electricity and water bills, the payment of the salaries of the public servants and retirees and other obligations and the field of money transfer and saving internally. The officers at the Authority stated that the transfer activities are mostly carried out internally as a few external transfers were previously made but these transfers stopped due to the high transfer fees. The Authority has introduced a modern electronic transfer system (Electronic Riyals), which allows instant money transfer through the Internet.

300. Regarding the postal saving fund, the number of accounts opened therein is 292 thousand accounts at the total amount of Yemeni Riyals 10 billions. The number of monthly transfer amounts to 500 thousand transfers a month at the total value of Yemeni Riyals 1.2 billion made through the various branches of the fund (240 branches throughout the Republic). The number of inspectors of the Authority in the Secretariat of the Capital is 5 only while a general department is available in every Governorate comprising 2 to 3 inspectors.

301. The assessment team noticed that the Authority and its employees are not sufficiently aware of the money laundering risks despite that the postal saving fund falls within the FIs requested to report any suspected financial transaction to the AML Unit. A very limited number of employees (2) attended the ML introductory sessions organized by the AML Committee. Concerning the cooperation between the Authority and the Fund on one hand and the Information Collection Unit at the Central Bank and the AML Committee on the other hand, it was limited to the Authority's reception of the executive regulations issued by the Committee by virtue of a Council of Minister's Decree.

302. Concerning the ML risks associated to the Authority, the following was noticed in this regard:

- The identity of the transfer originator or receiver is not checked in case the amount is less than Yemeni Riyals 20 thousand (USD 100 approx).
- There is no guidebook on the internal procedures applied to disclose unusual or suspicious transactions although all transactions are registered electronically.
- There are no conditions to assign the saving books to the others although Law No. 64/1991 vested the Board of Directors of the General Authority for Post and Postal Savings with all the powers to draw these conditions.
- There are no restrictions on the cash withdrawal of funds from saving accounts save the availability of liquidity in every postal office.
- Despite that the AML Law prevents the invocation of the account secrecy principle, applied pursuant to any other Law, upon the investigation or prosecution before the judicial authorities, the Postal Saving Fund officers indicated that Article 31 of the Post and Postal Savings Law provides that financial transactions with the depositors are confidential and cannot be perused by anyone without a judicial writ or an authorization from the persons concerned; this would mean that no information should be given to the FIU without a judicial writ. This statement shows that the Yemeni officials are not aware of the content of the AML Law as shown above and they need to be acquainted therewith.

303. **Information Collection Unit.** The Unit was established within the Banking Supervision Department at the Central Bank of Yemen as stated above by virtue of the Administrative Resolution No. 48/2003 issued by the Governor. Administrative Resolution No. 49/2003 was issued by the Governor to form the FIU organizational structure, which comprised a President and two members only. The structure and internal divisions of the Unit were recently developed by virtue of the Governor's Resolution No. 24/2007 in the following manner: Head of the FIU for ML/FT transactions; Compliance, Verification, Investigation and Assessment Officer; Reporting, Analysis and Legal Follow-up Officer; Database, Information Exchange, Development and FIs Assistance Officer; however, no action has been taken yet. According to the Administrative Resolution No. 48, the FIU tasks and powers comprise the obligation of the FIs stipulated in the AML Law to comply with their obligations and help them set audit and internal monitoring systems and controls, which prevent the occurrence of ML transactions. The FIU is also responsible for receiving and analyzing the information and reports related to ML operations, and conducting necessary investigations in this regard, as well as preparing reports on discovered ML operations and submitting them to the Governor in order to obtain his approval to submit them to the Public Prosecutor and follow-up with the judicial authorities and other competent authorities to apply the provisions of the AML Law. The FIU shall also form a database including the information made available thereto and set the procedures and forms necessary to implement the AML Law and submit them to the AML Committee for approval. The FIU is also empowered to submit petitions to the Public Prosecutor requesting him to take provisional measures, in accordance with the AML Law, in the event where any suspicions are raised about the occurrence of any ML crime, and that after receiving the approval of the Governor. Moreover, the FIU prepares periodic reports on the level of implementation of the Law and the reported cases, submits them to the Committee and avails of the other countries' experiences.

304. Pursuant to Clause 1 of Article 1 of Resolution 48, the Unit is responsible for verifying the FIs compliance with the AML procedures stated in the Law; however, the officers of the Unit stated that it resorts to the Banking Supervision Department inspectors to carry out this task through the customary inspection reports they generally issue upon the inspection of the banks while the FIU members undertake the on-site visits to follow-up on any suspected cases in the banks and exchange companies. A number of the banks, which were visited, indicated that the bank supervision inspectors do not concentrate on AML issues during the inspection tasks they carry out. It is noticed that the supervision inspectors on banks and exchange companies do not rely on a special guidebook to inspect the AML procedures that the FIs should observe; the officials at the Department stated that the inspectors use a list of AML regulatory procedures issued by the Council of Ministers for this purpose.

305. **Central Organization for Control and Audit (COCA),.** The Central Organization for Control and Audit is deemed to be a higher supervisory authority on all sectors, funds and Government administrative units. The Department prepares the control reports and submits them to the concerned authorities, Presidency and Prime Ministry. The Department comprises 1100 controllers and auditors, some of them holding chartered accountant license upon their work at the Department for a period that exceeded four years (pursuant to internal instructions). The Central Department is divided, in its field of work, to two sectors, namely the economic sector and the financial sector, which comprises a number of secondary sectors such as banks, insurance, agriculture, services, transport and communications. The sector of banks and insurance companies comprises 22 inspectors who carry out the inspection activities on the Central Bank, the public sector banks and the mixed banks. The officials at the Department stated that only two inspectors have attended training in the AML field in the supervision sector on banks and insurance companies and they do not have, in order to carry out their tasks, any inspection guidebook, that sets out the AML procedures to be observed by the institutions which are subject to the supervision thereof.

Authorities' Powers and Sanctions- R. 29 & 17

306. ***Recommendation 29:*** Article 24 of the bylaw of the AML Law vested the FIU with the power to verify the FIs compliance with the procedures implying the refusal to open or keep accounts in the names of the persons without verifying the official documents and keeping a copy thereof. Dealings with legal persons should not be made without verifying their official documents and keeping a true copy thereof, knowing that all the documents relating to the customers, along with their financial operations or commercial or cash transactions, carried out locally or internationally should be kept for a period of five years at least as of the date of completing the operations. It is noticed that the role entrusted to the Unit through this Article is deemed deficient and does not give it sufficient supervision powers to verify the compliance of the institutions as it does not comprise the monitoring of their compliance with all the combating system aspects, in addition to the efficient application of the FATF recommendations.

307. This Article also provides that the Unit should help FIs set audit and internal supervision systems and controls, which prevent the occurrence of ML transactions and verify the FIs abidance thereby. However, the Unit did not actually provide such assistance and monitor the FIs abidance thereby.

308. Regarding the competence of the Unit to carry out inspection operations on the FIs to verify their compliance with their obligations despite the role granted to the Unit according to the foregoing, it is noticed that the powers of the Unit do not explicitly comprise the possibility to carry out field inspection operations for this purpose; however, the text, in general, states this possibility from the theoretical point of view. On the practical side, the officers stated that the Unit resorts to the inspectors of the Banking Supervision Department at the Central Bank to carry out the inspection on the compliance of the banks and exchange companies with the legal requirements. The Unit did not actually carry out any field inspection on the other institutions according to the assessment team.

309. Regarding the power of the Unit to impose the necessity to obtain and peruse the documents relating to the compliance with the AML requirements, Article 13 of the Law provides that the Unit may obtain, upon being notified of any ML operation, the necessary information and documents from the official authorities and FIs with the approval of the Governor. The Unit may, through this power, obtain information or documents relating to the monitoring of the compliance. Neither the law nor the bylaw provides any condition regarding the issuance of a Court order to obtain or peruse these documents.

310. Concerning the powers of obligation and imposition of sanctions on FIs, as well as their managers or senior management in the event of a failure to observe or inappropriately apply AML requirements, it is noticed that the AML Law, its executive regulations and the list of AML regulatory procedures did not provide for any sanctions that may be imposed by the Unit or the other supervisory authorities in the event where the FIs violate their obligations stated in the Law. However, with regard to the banks, the Central Bank can impose certain sanctions as Article 74 of the Banks Law considered that the violation of the said Law or any other applicable law is deemed a first category violation that gives the Central Bank the authority to impose sanctions in case of violation of the AML Law.

311. ***Recommendation 17:*** According to Law No. 35/2003, each person who does not report any ML operation to the FIU, notifies the customers with such reporting, fails to submit information and documents to the Unit or judicial authorities or challenges the execution of any order issued by the judicial authorities with regard to an AML offence shall be imprisoned for a period not exceeding three- years or shall be fined an amount not exceeding five hundred thousand Riyals.

312. It is noted that this sanction does not cover all cases of violation of the AML obligations such as Customer Due Diligence and record keeping. Besides, this sanction does not have a wide

scope that suits the gravity of the situation as it should empower the supervisory authorities to impose disciplinary and financial sanctions, withdraw, restrict or suspend the license since it is limited to penal sanctions imposed by the judicial authorities.

313. It is also noted that the law does not comprise any indication to the application of sanctions on the managers of FIs, business companies and their senior management.

314. Article 42 of the new AML/CFT draft law covered a large part of these deficiencies whereby it imposes sanctions in the event of a failure to comply with most AML/CFT obligations; however, this sanction does not have a wide scope that suits the gravity of the situation as it should empower to impose disciplinary and financial sanctions, withdraw, restrict or suspend the license. Besides, the authority that has the competence to impose the sanction has not been specified.

Market Entry

315. ***Recommendation 23 (Criteria 3, 5, 7)***. Law No. 38/1998 deals with the license to pursue the banking activity in the Republic of Yemen. Article 5 of the said Law prohibited the pursuit of the banking activity without a license issued by the Central Bank. Every person who wishes to pursue the banking activity should submit a written application to the Central Bank to acquire the license and enclose it with the following:

a- Approved copies of the articles or the incorporation deed and the internal bylaws or copies thereof.
b- Copy of the last balance sheet with regard to the branches of foreign banks.
c- Any information requested by the Central Bank with regard to the investigations carried out thereby.

316. The Central Bank does not grant the final license to any bank or authorize the bank to continue to pursue its activities unless:

- Every member of the Board of Directors has reached (25) years of age and above and the number of members connected by a family relationship does not exceed two.
- Any of the senior employees at the bank has at least 5 years of managerial experience acquired in banking, law, accounting, finance, financial companies or any relevant experience.
- The oldest three employees at the bank have a banking experience of eight years minimum. At least three of the directors should not be executives and should form the majority of the audit Committee.

317. The Central Bank shall, upon the examination of any license application, carry out the investigations it may deem appropriate to verify the legitimacy of the above-mentioned documents, the applicant's conduct, position, management quality, capital sufficiency and economic feasibility. In light of these investigations, the Central Bank decides, within sixty days from receiving the application, whether it will grant the license or not.

318. With respect to insurance companies, Article 7 of Law No. 37/1992 on the control and supervision of insurance companies and brokers provides that the Yemeni insurance or reinsurance company shall not be granted a license to pursue the insurance activity save upon the completion of the registration procedures, in accordance with the commercial companies' provisions. Article 6 of the same Law provides that the manager of an insurance or reinsurance company should not have been convicted in a crime related to the breach of honest and trust or bankruptcy, or prevented from managing his own funds or has any impediments relating to capacity.

319. Regarding the money exchange institutions, pursuant to Law No. 20/1995 on money exchange activities amended by the Presidential Decree issuing Law No. 15/1996, no one shall have the right to deal in any money exchange activity in Yemen without a license issued by the Central Bank, in accordance with the provisions of the aforesaid Law. No money exchange institution shall be registered in Yemen without a license issued by the Central Bank. Paragraph (a) of Article 4 of the same Law provides that every person who wishes to practice money exchange activities as a profession should submit a license application to the bank in accordance with the form prepared for this purpose by the bank.

320. It is noted that no condition was set concerning the availability of the validity and integrity elements in all main shareholders and members of board of directors for all banking and financial institutions despite the Yemeni Authorities' statement that the Central Bank carries out investigations to verify the conduct and integrity of senior employees at banks and exchange companies.

On-going Supervision and Monitoring

321. ***Recommendation 23 (Criteria 4,6,7)***: The FIs subject to the basic principles of efficient banking supervision are subject to the requirements of the AML Law No. 35/2003 as all banks and insurance companies are subject to this Law according to the definition stated therein. However, the assessment team could not notice the scope of application of the preventive supervision and monitoring procedures that may also be related to money laundering on the authorities subject to the Law with regard to AML/CFT.

322. Money and value changer service providers are limited, according to the Yemeni legislations, to the banks and money changer institutions licensed by the Central Bank of Yemen. These institutions are subject to the obligations stated in the AML Law and hence to the FIU supervision. However, it is worth reminding, as stated above, that this activity is unofficially pursued and that the supervision of the Unit in monitoring the FIs compliance with the AML requirements is weak.

323. The team was not able to judge the periodicity and the continuity of field monitoring to verify the banking and FIs' compliance with their statutes and the shrewd risk management, as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other, in addition to the failure of the supervisory authorities on the insurance sector to play this role.

324. (Criterion 32.2) The Yemeni Authorities did not submit any statistics on the officers' pursuit of field inspection relating or encompassing AML/CFT or any sanctions applied in this regard.

Offering opinion and guidance in relation to Suspicious Transaction Reports Only

325. ***Recommendation 25 (Criterion 1)***: With the exception of Notice No. 1 issued by the AML Committee and addressed to all banks in Yemen, indicating Yemen adherence to the international efforts exerted to combat money laundering and requesting banks to be cautious in their transactions, specifying a number of obligations that should be observed, there are no guiding principles with regard to the issues covered by the FATF relevant recommendations, particularly in respect of the description of the ML/FT methods and techniques or any other measures that FIs and DNFBPs may take to ensure the efficiency of the AML/CFT procedures, knowing that this Notice was issued in 2004 prior to the issuance of the executive regulations of Law No. 35/2003 as an attempt to compensate the absence of this bylaw.

3.10.2 Recommendations and Comments

326. Yemeni authorities shall:

- Provide financial and human resources to increase the efficiency of the supervision on FIs.
- Verify the availability of validity and integrity elements in all main shareholders and members of board of directors for all banking and FIs.
- Verify the periodicity and the continuity of field monitoring to verify the banking and FIs' compliance with their statutes and the shrewd risk management, as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other hand.
- Support the supervisory authorities on the insurance sector to carry out field monitoring operations.
- Give the supervision and monitoring authorities on FIs a role to verify the compliance of these institutions with the AML requirements stated therein in a way that promotes their ability to monitor the compliance on one hand and apply administrative sanctions in case of violation on the other hand.
- Issue guiding principles with regard to the issues covered by the FATF relevant recommendations, particularly in respect of the description of the ML/FT methods and techniques or any other measures that FIs and DNFBPs may take to ensure the efficiency of the AML/CFT procedures.
- Define the penal, civil or administrative sanctions in order to deal with legal persons who fail to comply with AML conditions.
- It is necessary for the AML Law to encompass the application of sanctions on the managers of legal persons forming FIs, business companies and their senior management.
- Expand the scope of sanctions properly according to the gravity of the situation.
- Specify the competent authority to impose the sanction in a clear manner.

3.10.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors underlying rating
R 17	**NC**	▪ The sanction imposed by virtue of Law No. 35/2003 does not cover all cases of violation of the AML obligations such as Customer Due Diligence and record keeping. ▪ No definition of the penal, civil or administrative sanctions in order to deal strictly and accurately with legal persons who fail to comply with AML conditions. ▪ The AML Law does not comprise the application of sanctions on the managers of legal persons forming FIs and business companies and their senior management. ▪ The Law does not expand the scope of the sanction in a way that suits the gravity of the situation.
R 23	**NC**	▪ Inefficient supervision on FIs. ▪ No condition was set concerning the availability of the validity and integrity elements in all main shareholders and members of board of directors for all banking and FIs. ▪ Absence of the periodicity and the continuity of field monitoring to verify the banking and FIs' compliance with their statutes and the shrewd risk management as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other hand. ▪ Failure of the supervisory authorities on the insurance sector to play this role.
R 25	**NC**	▪ No issuance of any guiding principles with regard to the issues covered by the FATF relevant recommendations, particularly in respect of the description of

		the ML/FT methods and techniques or any other measures that FIs and DNFBPs may take to ensure the efficiency of the AML/CFT procedures.
R 29	**NC**	▪ The powers of the Unit do not explicitly comprise the possibility to carry out field inspection operations for this purpose. ▪ The FIU does not help the FIs set audit and internal monitoring systems and controls, which prevent the occurrence of ML transactions and verify their compliance therewith, in accordance with Article 24 of the executive regulations of the Law. ▪ The banking supervision inspectors (to which the FIU resorts in this field) do not pay special attention to the AML issues and do not rely on a special guide for inspection on the relevant procedures. ▪ The Unit did not actually practice any field inspection on the other FIs. ▪ The AML Law, its executive regulations and the list of AML regulatory procedures do not provide any sanctions that the Unit or the other supervisory authorities may impose in the event where the FIs breach their obligations stated in the Law.

3.11 Money or Value Transfer Services (SR VI)

3.11.1 Description and Analysis (summary)

327. Article 3 of the Presidential Decree issuing Law No. 20/1995 on money exchange activities amended by the Presidential Decree issuing Law No. 15/1996 provides that no one shall have the right to deal in any money exchange activity in Yemen without a license issued by the Central Bank, in accordance with the provisions of the aforesaid Law. No money exchange institution shall be registered in Yemen without a license issued by the Central Bank. Paragraph (a) of Article 4 of the same Law provides that every person who wishes to practice money exchange activities as a profession should submit a license application to the bank in accordance with the form prepared for this purpose by the bank.

328. Article 14 of the said Law empowered the Central Bank to allow money changers to carry out the following activities:

a. Sale and purchase of foreign currency and traveler's cheques.
b. Acceptance of transfers and bank cheques issued by the banks operating in Yemen and abroad.
c. Any other operations shall be subject to the authorization of the Central Bank according to the conditions specified thereby.

329. Article 7 distinguished between the money-changers solely authorized to pursue the sale and purchase of foreign currency and traveler's cheques (shops) and the money-changers authorized to pursue all the activities stipulated in Article 14 (companies).

330. Concerning the supervision on money changer institutions, the aforesaid law granted this role to the Central Bank through the Banking Supervision Department – General Department of Foreign Currency and Exchange Affairs, which keeps records of the names and addresses of the natural and legal persons who provide money or value transfer services; the competent department monitors these authorities.

331. Money changer shops were also comprised in the AML obligations since they were considered within the FIs in the definition of these institutions as stated in Article 2 of Law No. 35/2003. The definition of the FIs in the Presidential Decree No. 89/2006 on the executive regulations of the AML Law No. 35/2003 gives more details about the transfer activities as it encompasses exchange companies, money changer shops and offices and money transfer companies.

Therefore, these institutions are subject to all the obligations applied on the FIs. The obligations imposed on these institutions comprise the provision of Article 7 of the above-mentioned executive regulations regarding the verification of the identity of the originator of the transfer who does not have an account at the financial institution and wishes to transfer cash amounts exceeding USD 10.000 or the equivalent thereof in other currencies. In addition to the application of the same procedure stated in this Article on the beneficiaries of the transfer, knowing that full data should be obtained in all events.

332. The Yemeni Authorities indicated that the institutions licensed to transfer money or values are bound to keep lists on their agents and make them available to the competent authorities. The assessment team perused the lists of institutions licensed to pursue transfer activities, along with the branches owned thereby.

333. On the practical side, the assessment team noted during the visit significant unofficial transfer activities. The team noticed that one of the mechanisms through which these activities are pursued is the money changer shops solely authorized to buy and sell foreign currency as their number exceeds 520 money changers spread throughout the Republic. One of the banks informed the assessment team that it discovered that a number of customers pursue transfer activities without any license. The assessment team also noticed the weakness of the control practiced by the supervision sector at the Central Bank on money changer activities, particularly with regard to AML obligations where the number of controllers in the Department of Foreign Currency and Exchange Affairs does not exceed 8. The weakness in the compliance of all types of money changer institutions with these obligations was also noted, particularly the money changer shops. In this regard, we recall, as stated above, that certain banks close the accounts of these institutions or classify them among the category of higher risk customers.

334. ***Additional elements***: Yemeni authorities did not apply the procedures stipulated in the memorandum of the best practices relating to the Special Recommendation VI.

3.11.2 Recommendations and Comments

335. Yemeni authorities should take the following steps:

- Consolidate the supervision on the authorities licensed to carry out transfer activities, particularly in the field of verification of their abidance by their AML obligations.
- Apply the sanctions stipulated in the Law No. 20/1995 concerning the persons who pursue transfer and exchange activities without a license or reconsider the existing licensing system in a way that allows these persons to license their activities and subjugate them to the supervision of the supervisory and control authorities including the AML/CFT obligations.

3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR VI	**NC**	▪ Increase of transfer activities pursued by the exchange offices without a license to transfer money, in addition to the other persons who pursue these activities without any license. ▪ Weak control applied on the institutions, which pursue transfer activities, particularly in the field of AML obligations.

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS (DNFBP)

4.1 Customer Due Diligence and Record-Keeping (R 12)

(Implementation of R. 5, 6, 8 to 11)

4.1.1 Description and Analysis

336. Law No. 35/2003 did not designate non-financial businesses and professions; however, the definition of FIs stated in Article 2 thereof provides that the financial institution is "every financial establishment such as banks, exchange shops or companies (financing, insurance, shares, securities, financing lease or real estate)". The definition of FIs stated in Article 2 of Republic Resolution No. 89/2006 on the executive regulations of the AML Law provided that the other bodies, which pursue the financing lease activity, whether it is a natural or legal person, real estate companies or offices, are comprised within the FIs. The Prime Minister Decree No. 247/2005 on the list of AML regulatory procedures did not mention this activity. Both above-mentioned definitions do not completely clarify whether the concept of real estate companies stated in the definition of Law No. 35/2003 and the concept of the bodies, which pursue financing lease including real estate companies or real estate offices comprise the concept of real estate brokers activity or not. Therefore, it is necessary to be cautious in considering this activity as comprised in the AML obligations despite that the Yemeni Authorities consider it as included in these obligations.

337. The list of AML regulatory procedures comprised in Article 15, Paragraph (2) certain rules, which oblige banks and exchange companies to verify the source of cash funds offered by the jewelries to be transferred abroad or deposited in the account in case of banks and ensure that, in case of purchases (i.e. the sales of the shops) of gold (*Tulabar*) at cash amounts at the value of USD/EUR 10.000 or the equivalent thereof in local currencies or other currencies, the purchaser should be requested to fill form No. 5 attached to the list of executive procedures and submit it to the bank or the concerned exchange company.

338. It is noted that this system is not practical since the bank cannot obtain the documents, which establish the source of each deposit or transfer, particularly that the jewelry shops are requested to verify the customer's ID only when the amount of the purchases exceeds USD/EUR 10.000. It is also noticed that the authority entrusted with the distribution of the aforesaid form and the verification of the jewelries shops compliance therewith is not specified in the list; the above-mentioned article obliges the banks to ensure that these shops actually request the customer to fill out the form; however, it does not oblige the latter to abide by this rule in a direct manner.

339. The assessment team noticed that this form is not actually used by the jewelry shops and that any person can buy large quantities of gold without having his identity checked. The only case where the identity of the customer is checked is in the event of buying golden jewelries from the customers for fear that they might be stolen.

340. With the exception of the foregoing with regard to real estate companies and offices, the legal and monitoring framework relating to AML/CFT in the Republic of Yemen did not impose on DNFBPs any other obligations in the AML/CFT field. Therefore, the other DNFBPs specified by the FATF Recommendations (including the dealers in precious metals – or jewelries) are not subject to any controls or supervision with regard to AML/CFT. The businesses and professions comprise real estate brokers, dealers in previous metals and precious stones, lawyers, writers of legal documents and accountants. Regarding the company service providers and fund management, the Yemeni Authorities stated that this does not apply on Yemen since such activities are not operating in the country.

341. Yemeni Laws do not authorize gambling practices in any form whatsoever, in accordance with Articles (286 and 287) of the Crimes and Penal law. All types of casinos are criminalized according to the global definition stated in Article (286) of the same Law.

342. It is worth noting that the AML/CFT draft law, which has not been endorsed yet, comprised a number of obligations on the non-FIs specified in this draft, namely the institutions, which pursue real estate brokerage activities, deal in precious metals or precious stones, authentication clerks and trustees, lawyers, accountants, companies creation services and auxiliary activities, in addition to the other activities specified by a Resolution issued by the Prime Minister pursuant to the proposal of the AML Committee.

343. It was noted that most authorities organizing the work of profession owners, through the meetings held therewith, lack sufficient knowledge about ML/FT risks and ignore the combating standards in this respect, which could have a negative impact on the application of the obligations stipulated in the AML/CFT draft law upon the endorsement thereof.

344. ***Implementation of Recommendation 5:*** DNFBPs are not bound by the obligations to verify the identity and legal status of the customers and beneficial owners.

345. Moreover, it was noted, during the on-site visit, that the pursuers of real estate activities do not apply these requirements, knowing that real estate offices are subject to the license and control of the General Authority of Lands, Survey and Urban Planning. The two teams noted that the number of licensed offices in the Republic of Yemen does not practically exceed 320 offices despite that the number of offices exceeds thousands (the number is not specified yet) and that many workers in this field do not have their own offices. The number of controllers subordinated to the Authority does not exceed eight, and they pursue their monitoring activities by following-up the complaints received to the Authority. In pursuance of the foregoing, all AML obligations are not applied in this activity.

346. The AML/CFT draft law obliged the non-FIs to apply CDD measures in order to verify the identify of the customers and beneficial owners including natural and legal persons, particularly when initiating a permanent relationship with the customer and carrying out for an occasional client a transaction which amount exceeds the applicable threshold designated in the bylaw, or in case of doubts regarding the accuracy or validity of information previously declared, and when doubts are raised on the attempt of a client to execute ML/FT transactions.

347. ***Implementation of Recommendation 6***: Law No. 35/2003 does not comprise any indication to the Politically Exposed Persons (PEP) or the vigilance measures that should be applied thereon. Presidential Decree No. 89/2006 on the executive regulations of the AML Law and the Prime Minister Decree No. 247/2005 on the list of AML regulatory procedures did not tackle this issue. Therefore, the AML/CFT system in Yemen does not comprise any obligation for DNFBPs to put in place appropriate risk-management systems in order to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person or not, acquire the senior management approval to establish business relationships with such customers and take reasonable procedures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship.

348. As previously stated with regard to FIs, the new AML/CFT draft law has covered this issue in Article 10, which requests non-FIs to pay special attention to the dealings with higher-risk cases including the transactions with politically exposed persons due to their positions.

349. ***Implementation of Recommendation 8***: Law No. 35/2003, Presidential Decree No. 89/2006 on the executive regulations of the AML Law and Prime Minister Decree No. 247/2005 on the list of AML regulatory procedures did not oblige DNFBPs to take special measures and pay

special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.

350. As previously stated with regard to FIs, the new AML/CFT draft law did not oblige the FIs to take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.

351. ***Implementation of Recommendation 9***: This recommendation does not apply to the current situation in Yemen, as legislative and bylaw texts did not include any permission to rely on a third party to complete due diligence procedures.

352. ***Implementation of Recommendation 10***: Non-financial businesses and professions do not have to keep special records on the transactions they carry out including sufficient information to retrace the steps of these transactions; and therefore, they do not have to keep these records and documents, in addition to the records of the customers and beneficial owners for a period not less than 5 years following the end of the transaction. Besides, there is no obligation for the records to comprise all the information and data necessary for the investigation and case filing authorities.

353. The new draft law obliged, in Article 12, all non-FIs to keep records and documents where they register all the transactions made including sufficient information that would help retrace the steps of these transactions.

354. ***Implementation of Recommendation 11***: DNFBPs are not obliged to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

355. The new draft law obliged the FIs, in Article 10 thereof, to pay special attention to higher risk cases including unusual transactions, which have no apparent lawful economic purpose.

4.1.2 Recommendations and Comments

356. The Yemeni Authorities should:

- Endorse the provision of the AML/CFT draft law obliging DNFBPs to apply CDD measures to verify the identity of the customers and beneficial owners including natural and legal persons.
- Endorse the provision of the AML/CFT draft law obliging DNFBPs to pay special attention to the dealings with higher-risk cases including the transactions with politically exposed persons due to their positions.
- Introduce an obligation to the new draft law for DNFBPs to pay special attention to the transactions made by using advanced technologies allowing the non-disclosure of the customer's real identity.
- The assessment team recommends the Yemeni supervisory authorities to set regulatory bases and rules in case DNFBPs need to rely on third parties to complete due diligence procedures.
- Endorse the provision of the new draft law obliging all DNFBPs to keep records and documents to register the transactions they carry out including sufficient information to retrace the steps of these transactions.
- Endorse the provision of the new draft law obliging DNFBPs to pay special attention to higher risk cases including unusual transactions, which have no apparent lawful economic purpose.

- Grant the monitoring and supervision authorities, which license and supervise DNFBPs a role to monitor these businesses and professions with regard to their AML/CFT obligations through the new AML/CFT law.
- Provide these authorities with material and human potentials enabling them to pursue this role.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors underlying rating
R 12	**NC**	▪ DNFBPs are not subject to any obligations regarding Recommendations 5, 6, 8, 10 and 11. Besides, Recommendation 9 is not applied.

4.2 Suspicious Transaction Reporting (STR) (R 16)

(Implementation of recommendations 13 to 15 & 21)

4.2.1 Description and Analysis

357. DNFBPs are not obliged to report suspicious ML/FT transactions.

358. The new AML/CFT draft law tackled this issue in Article 13, which obliges non-FIs to notify the FIU of the transactions that are suspected to be related to ML/FT crimes, whether these transactions are executed out or not.

359. ***Implementation of Recommendation 13***: DNFBPs are not obliged to notify the transactions that are suspected to conceal illegitimate money laundering or financing of terrorism.

360. The assessment team did not notice that non-FIs report these transactions, except the report received by the FIU from a lawyer about a fraudulent e-mail he received in his personal capacity and not in his capacity as a lawyer.

361. ***Implementation of Recommendation 14***: No legislative text protects the institutions, along with their directors, officers and employees (permanent and temporary) from both criminal and civil 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. However, the new draft law vested the non-FIs with this protection in Article 16 thereof.

362. Law No. 35/2003 prohibits the reporting authorities and their employees, upon the application of the reporting provisions, to notify their customers or disclose any information about them or about their activities, pursuant to Article (5), paragraph (b). Article 15 of the new draft law preserved this obligation as it comprised all DNFBPs.

363. ***Implementation of Recommendation 15:*** In the Republic of Yemen, there is no legal binding or monitoring instructions or a practical application that obliges non-FIs to set internal policies and controls to combat ML and inform their employees about them. Moreover, the assessment team did not notice any training or training plans, which seek to inform the workers in the aforesaid entities of AML/CFT requirements. Finally, no rules have been set to guarantee high standards of competence when hiring employees.

364. The new draft law obliged non-FIs, in Article 18 thereof, to set the systems, which ensure the proper application of the provisions of the AML/CFT Law. These systems should comprise the internal policies and procedures and the monitoring, compliance, appointment and

training systems, in accordance with the controls, standards and rules set by the competent supervisory authorities.

365. ***Implementation of Recommendation 17***: In light of Law No. 35/2003, designated non-FIs are not subject to AML obligations and therefore, these institutions cannot be deemed concerned with any sanctions relating to these obligations.

366. It is noted that Article 44 of the new AML/CFT Law has imposed sanctions on the failure to comply with most AML/CFT obligations; however, this sanction does not have a wide scope that suits the gravity of the situation as it should give the power to impose disciplinary and financial sanctions, withdraw, restrict or suspend the license. Besides, the authority, which has the competence to impose the sanction has not been specified.

367. ***Implementation of Recommendation 21***: There is no legal binding for DNFBPs to pay special attention to business relations and to transactions with persons belonging to the countries that do not apply or insufficiently apply FATF recommendations. Besides, there is no obligation to study the background and purpose of these transactions and make the results of the study available in writing to assist competent authorities.

368. The new draft law tackled this issued in Article 10, which obliges non-FIs to pay special attention to higher risk cases including the transactions and persons belonging to the countries that do not apply efficient AML/CFT procedures and the FATF recommendations.

4.2.2 Recommendations and Comments

369. Yemeni authorities should:

- Endorse the provision of the new AML/CFT draft law, which obliges DNFBPs to notify the FIU of the transactions that are suspected to be related to ML/FT crimes, whether these transactions are carried out or not.
- Endorse the provision of the new draft law, which protects DNFBPs from both criminal and civil 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.
- Endorse the provision of the new draft law, which prohibit all DNFBPs, from disclosing, directly, indirectly or by any other means, to the customer, beneficial owner or anyone other than the authorities, which are entrusted with the application of the provisions of the said law, any reporting, investigation or inspection procedure taken regarding the transactions, which are suspected to be related to money laundering or terrorist financing.
- Endorse the provision of the new draft law, which obliges all DNFBPs to set the systems, which ensure the proper application of the provisions of the AML/CFT Law. These systems should comprise the internal policies and procedures and the monitoring, compliance, appointment and training systems, in accordance with the controls, standards and rules set by the competent supervisory authorities.
- Endorse the provision of the new draft law, which imposes sanctions on the failure to comply with AML/CFT obligations, provided that this text is amended in a way that expands the scope of the sanctions to suit the gravity of the situation in order to impose disciplinary and financial sanctions, withdraw, restrict or suspend the license; provided that the authority, which has the competence to impose the sanction, is specified.
- Endorse the provision of the new draft law, which obliges all DNFBPs to pay special attention to higher risk cases including the transactions and persons belonging to

the countries that do not apply efficient AML/CFT procedures and the FATF recommendations.

4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors underlying rating
R 16	**NC**	▪ DNFBPs are not obliged to notify the transactions that are suspected to conceal illegitimate money laundering or financing of terrorism. ▪ No legislative text protects the institutions, along with their directors, officers and employees from both criminal and civil liability for breach of any restriction on disclosure of information. ▪ No legal binding or monitoring instructions or a practical application obliges non-FIs to set internal policies and controls to combat ML/FT. Besides, the employees of these institutions do not undergo any special training in this field. ▪ DNFBPs are not obliged to pay special attention to business relationships and transactions with persons from or in the countries that do not apply or insufficiently apply the FATF recommendations.

4.3 Regulation, Supervision and Monitoring (R 24 & 25)

4.3.1 Description and Analysis

370. **Recommendation 24:** As previously mentioned, Yemeni laws do not permit the establishment of casinos on the Yemeni territories. As for the rest of the non-financial businesses and professions, they are subject to the regulations of number of parties, in accordance with the nature of the activity including government agencies and unions. The authorities are supposed to pursue a supervisory, monitoring and administrative role, which is not solely limited to the issuance of licenses to these businesses. However, it was actually noted that the current role pursued by most of these authorities is limited to the issuance of licenses without any capacity to pursue any monitoring activity on these bodies, which may have a negative impact on the pursuit of the monitoring activity on the AML/CFT obligations upon the imposition thereof through the new AML/CFT draft law. DNFBPs licensed to operate in the Republic of Yemen can be specified as follows:

- Jewelries are licensed by the Ministry of Industry and Commerce – General Authority for Specifications and Standards.
- Accountants and auditors are licensed and supervised by the Ministry of Industry and Commerce; their activities are regulated by the Law No. 26/1999 on the auditing profession.
- Lawyers are licensed and supervised by the Ministry of Justice and the bar association; their activities are regulated by the Law No. 31/1999 on the legal profession.
- Authentication clerks and trustees are subject to the supervision of the Ministry of Justice; their activities are regulated by the Law No. 29/1992 regarding authentication.
- Real estate offices are subject to the supervision of the General Authority of Lands, Survey and Urban Planning.

371. The assessment team noticed the following:

- Article 8 of the Parliament Resolution No. 7-17 for 1996 approving the Presidential Decree issuing Law No. 29/1992 authenticating the fact that the authentication clerks and trustees are requested to preserve the secrecy of the profession; and therefore, they are not allowed to

perform the AML/CFT obligations upon the endorsement thereof, particularly with regard to the reporting of suspicious transactions. Moreover, they are not allowed, by virtue of Article 12, to submit the authenticated or written documents or a copy thereof to anyone other than the person concerned save by virtue of an order issued by the competent court or pursuant to another judicial writ, which may prevent the fast submission of information to the FIU.

- Despite that the pursuit of the real estate offices activities is subject to a license issued by the General Authority of Lands, Survey and Urban Planning, it was noted during the on-site visit that most of these offices operate without a license and that the number of licensed offices does not exceed 320 offices throughout the Republic. It was also noted that the number of monitors subordinated to the authority does not exceed 8 persons and that the monitoring is based on the complaints.
- Despite that the Law No. 26/1999 on the auditing profession was issued eight years ago, the Higher Council of the Accounting and Auditing Profession specialized in the development of the accounting and auditing profession by adopting accounting rules, auditing standards and professional behavior rules and ethics, is not established yet.
- Lawyers and chartered accounts should join the bar association and the Chartered Accountants Association in order to be able to pursue their work.

372. ***Recommendation 25*:** No competent authority has issued any guiding rules that help DNFBPs apply AML/CFT conditions.

4.3.2 Recommendations and Comments

373. The Yemeni Authorities should:

- Relevant government agencies, associations and unions should pursue a vaster supervisory and monitoring role by issuing supervisory rules and best-practice standards. They should also consider imposing administrative sanctions on the non-compliant party.

- These authorities should be provided with material and human potentials to pursue this role.

- The supervisory and monitoring authorities, which license and supervise DNFBPs, should expedite the setting of guidelines and best-practices for that category of businesses. They should also set guidelines and work procedures and patterns for suspicious transactions that would serve as an awareness source and guidance Methodology to promote the combating efforts.

4.3.3 Compliance with R 24 & 25 (Criterion 25-1, DNFBPs)

	Rating	Summary of factors underlying rating
R 24	**PC**	Inefficient supervisory and monitoring role played by the supervisory authorities on DNFBPs, which will have a negative impact upon the application of the AML/CFT obligations, when being endorsed, on the rest of these businesses and professions.
R 25	**NC**	No guiding principles have been issued to help DNFBPs apply AML/CFT conditions.

4.4 Other Non-Financial Businesses and Professions — Modern Secure Transaction Techniques (R 20)

4.4.1 Description and Analysis

374. The assessment team did not notice, during the on-site visit, that Yemen has taken into consideration the application of the Recommendations' obligations on other non-financial professions and businesses that may constitute risks in terms of ML and FT. The new draft law, however, which has not been endorsed yet, included in the definition of non-FIs other activities to be designated via a Decree issued by the Prime Minister upon the proposal of the Committee. This means that it is possible to add non-FIs that the Yemeni Authorities may consider it as connected to ML/FT risks.

375. The assessment team noted that the public reliance on cash is still significant. It also noticed that the Yemenis do not rely much on the banking system, and their use of the other payment tools such as cheques and bank cards of all types is still very limited and restricted, in most cases, to cash withdrawal purposes. Most employees get their wages in cash. However, the assessment team noted that the financial authorities seek to spread modern techniques to carry out the financial transactions such as the "Electronic Rial" service launched by the Post Authority for direct transfer through the Internet. Some entities started to pay the salaries of their employees through their bank accounts opened for this purpose.

4.4.2 Recommendations and Comments

376. A strategy shall be drafted to reduce the public's reliance on cash. We recommend the importance of encouraging the opening of bank accounts and urging the public and private sectors to pay the wages of workers and employees via direct deposit in bank accounts, taking into account the promotion of e-payment network and the use of plastic cards as an alternative to cash.

4.4.3 Compliance with R 20

	Rating	Summary of factors underlying rating
R 20	**LC**	- Measures taken to reduce the reliance on cash as a primary payment method are insufficient.

5. LEGAL PERSONS, LEGAL ARRANGEMENTS AND NONPROFIT ORGANIZATIONS

5.1 Legal Persons - Access to beneficial ownership and control information (R 33)

5.1.1 Description and Analysis

377. ***Recommendation 33:*** Commercial companies are governed by a series of laws, namely the Commercial Companies Law No. 22/1997, the Commercial Register Law No. 33/1991, the Commercial Law No. 32/1991, the Commercial Names Law No. 20/2003 and Law No. 37/1992 on the Supervision and Control of Insurance Companies and Brokers.

378. The Commercial Companies Law provides that there are two types of companies: **The first type** is the persons companies, which include (joint company, limited partnership and particular partnership). **The second type** is the associations of capitals, which comprise (shareholding company, Joint Stock Company and company with limited liability).

379. Commercial companies are established by virtue of the Commercial Companies Law No. 22/1997, which specifies the procedures necessary to establish the companies, in accordance with certain controls and conditions, which include the signature of the company's memorandum and statute, which comprise the name of the company and the partners, information about the personal documents of each partner, in addition to the objects that will be pursued by the company and the capital thereof. The memorandum and statute shall then be signed before the monitor (General Director l of Companies at the Ministry of Industry and Commerce) or the person he may authorize in writing or at the Court.

380. The Commercial Companies Law allows having bearer shares; however, this is not actually practiced. The law also defined the percentage of foreign contribution authorized upon the establishment of a Yemeni and foreign company. It also obliged the associations of capitals to hold records and account books and appoint a chartered accountant. The Ministry has the right to perform an inspection on the company, examine its accounts, books and records, as well as other documents and businesses. It also attends the ordinary and extraordinary assemblies and examines the financial statements.

381. The Ministry of Industry and Commerce is responsible for the registration of all local commercial activities in the commercial register (companies-individuals), as well as foreign agencies, branches, companies and houses, within sixty days from the date of pursuit of the commercial activity or the opening of the shop, branch or agency. The registration should be renewed every five years. The law also specified certain sanctions including imprisonment in case of breach of law.

382. The Law No. 23 of 1997 concerning the agencies and branches of foreign companies and houses organizes the registration of the branches of foreign companies or foreign houses in accordance with the conditions set forth in the law. A copy of the commercial register of the foreign branch or house, a certified copy of the incorporation deed, a certified copy issued by the Commercial Registry Department where the foreign head office or house is registered outlining the amount of their respective capital, and a certified copy of the company balance sheet for the financial year that precedes the date of submission of the license application, along with an official power of attorney mentioning the name of the representative or the manager in charge of the branch management shall be all enclosed with the license application.

383. Within the Ministry of Industry and Commerce scope of appliance of CDD measures, it requests the applicants to submit personal evidentiary documents, showing the original ones, in order

to take copies thereof to be approved and kept at the Ministry. It also keeps the original memorandum and statute at the Ministry upon the shareholders' signature and approval of the same.

384. Cooperatives are regulated by virtue of Law No. 39/1998 regarding cooperative societies and unions. The cooperative acquires the legal person capacity and pursues its activity and powers upon its registration by the Ministry of Social Affairs; it shall be subject to the supervision of the Ministry.

385. In accordance with the foregoing, we can note that the competent authorities add the procedures, which help acquire certain information and data relating to the shares of the partners, in addition to their personal evidentiary data, the capital, and the objective of the company; however, this is not sufficient anymore to eliminate the possibility of misusing legal persons in the ML/FT field.

386. The competent authorities have the right to obtain and peruse the information relating to the names and the shares of the partners in the legal persons, in addition to other information related to these companies; however, on the practical side, the reality is somehow different since the possibility to exchange information with the competent authorities requires official letters addressed to the Under-Secretary of Industry and Commerce, which may lead to the failure to obtain such information on time and minimize the importance thereof due to the delay in obtaining the same.

387. The Yemeni commercial laws allow the establishment of companies with bearer shares; however, no companies are actually capable of issuing bearer shares; and therefore, Yemen did not take any measures to prevent the misuse of such entities in the ML/FT field.

388. ***Additional elements*:** No measures are in place to facilitate financial companies' access to the information related to beneficial owners and control shares save through the official letters issued by the competent authorities at the Ministry of Industry and Commerce.

5.1.2 Recommendations and Comments

389. Yemeni Authorities should:

- Establish appropriate measures to prevent the misuse of bearer shares in ML operations.
- Establish a flexible and fast mechanism to obtain sufficient, accurate and updated information on the beneficial owners and the control shares in legal persons in a timely manner.

5.1.3 Compliance with R 33

	Rating	Summary of factors underlying rating
R 33	**PC**	▪ Unavailability of appropriate measures to prevent the misuse of bearer shares in ML operations. ▪ Impossibility to obtain sufficient, accurate and updated information on beneficial owners and control shares in the legal persons in a timely manner.

5.2 Legal Arrangements - Access to Beneficial Ownership and Control Information (R.34)

5.2.1 Description and Analysis

390. ***Recommendation 34:*** There is nothing in Yemen known as trust funds or other legal arrangements.

5.2.2 Recommendations and Comments

5.2.3 Compliance with R 34

	Rating	Summary of factors underlying rating
R 34	**NA**	

5.3 Non Profit Organisations (NPOs) (SR VIII)

5.3.1 Description and Analysis

391. ***Special Recommendation VIII***: Non profit associations and corporations are regulated by the Law No. 1/2001 issued on 19/02/2001. The Ministry of Social Affairs and Labor represented by the General Department of Associations and Unions (Legal Supervision Department) is entrusted with the legal and monitoring supervision on the positions and activities of the associations and private corporations, as well as their unions. The Ministry supports and protects them in order to ensure their success and the achievement of their goals as detailed in Article 6 of the aforesaid law. A significant deficiency was noted in the monitoring and supervisory field on associations and private corporations from the Ministry of Social Affairs. Such deficiency is due to the weak resources available at the Ministry in terms of human resources as the number of inspectors at the Ministry does not exceed 12 inspectors, in addition to 3 inspectors in every Governorate while the number of associations and private corporations exceeds 2000. Besides, technical and technological means are not available at the Ministry to enable it to carry out its tasks perfectly and more efficiently. Moreover, a clear deficiency is noted in the training of the employees at the Ministry in the monitoring and inspection field, which has a negative impact on the Ministry's monitoring and supervision of associations and private corporations.

392. No review is carried out on the suitability of the national laws and regulations relating to NPOs. The weak monitoring role led to the absence of communication between the monitoring bodies at the Ministry and the associations and private corporations. This has a negative impact on the monitoring bodies' ability to obtain, in a timely manner, necessary information on the activities and the size of the other characteristics of these associations and private corporations that may be misused in financing terrorism through their activities or characteristics. Besides, no periodic assessment operations are carried out by the monitoring authority at the Ministry with regard to these associations in order to prevent the misuse of the sector of non-profit associations and private corporations in financing terrorist activities.

393. It is noted that there is a large gap of communication between the concerned Ministry and the sector of non-profit associations and private corporations in terms of raising awareness about the risks of terrorist misuse and taking the necessary measures to prevent this important sector from being misused in financing terrorism.

394. No action is taken to promote supervision and follow-up on non-profit associations and private corporations. Article 43 of the Law on National Associations and Corporations provides that every national association and corporation should keep accurate and complete records and books on their financial activities, in accordance with the international standards. It should also adopt a certain policy to keep its records and financial and administrative books. Documents should be permanently kept including the original Incorporation deed and any subsequent amendments introduced thereto, the file relating to the request to establish the association or the corporation and any other requests of subsequent amendments or renewals. In addition, the minutes of the general assemblies, the administrative authority and any Committee emanating from them including the decisions issued by these meetings as well as the systems, procedures and regulations adopted by the general assembly, administrative authority or Committee emanating from them should be kept. There is also another type of keeping documents for a period not less than nine years for all financial reports, in addition to another keeping of documents for a period not less than five years for all other documents and records; the supervisory authorities at the relevant Ministry may peruse such information, records or books.

395. Law No. 1/2001 provides in Chapter VII, Articles 67 to 70, for the sanctions that include imprisonment and penalties.

396. The Law regulating the associations and private corporations provides that these NPOs should be licensed and registered in accordance with the State Laws as the Ministry of Social Affairs is liable for the issuance of the licenses necessary to register such entities in the records and supervise them. It is normal in case of license and registration to have information available at the competent authorities about these associations and corporations.

397. The above-mentioned law obliges, in Article 43 thereof, associations and private corporations to keep, for 5 years at least, records and information; however, the weak supervisory role of the Ministry of Social Affairs and the absence of prior coordination and communication to provide this information led to the insufficiency of the supervisory role in obtaining the information.

398. There are no measures taken to ensure efficient investigations and gather information on non-profit associations and corporations.

399. Moreover, there is no efficient internal cooperation and coordination to exchange information among all relevant bodies or organizations that keep pertinent information on non-profit associations, which may represent potential risks of financing terrorism.

400. The above-mentioned Law does not oblige the associations to provide the supervisory authorities with financial information about their programs; however, the possibility to obtain any requested information is practically available.

401. There is no mechanism that facilitates the exchange of information among all relevant authorities in order to take preventive or actual measures in the event where there exists suspicion or reasonable grounds to suspect that any non-profit organization is being misused for terrorist financing purposes or represents a façade for the collection of terrorist funds. There is also a lack in the awareness-raising, guiding and training aspect in the CFT field with regard to the supervisors and field inspectors of these associations and corporations as they have a limited experience, which leads to deficient and inefficient control and inspection operations carried out on these associations and private corporations.

402. There is no specific mechanism, or communication points or appropriate procedures to respond to the international demands for acquiring information on non-profit associations and private corporations suspected to having participated in the financing of terrorism. There is no Law which supports the same.

5.3.2 Recommendations and comments

403. Yemeni authorities should:

- Establish a flexible mechanism to exchange information between the Ministry and the relevant authorities on one hand and the concerned associations on the other hand.
- Promote the supervisory role at the Ministry of Social Affairs on associations and private corporations.
- Establish a specific mechanism, communication points or appropriate procedures to respond to the international demands for acquiring information on non-profit associations and private corporations.
- Support the potentials at the Ministry of Social Affairs in the field of monitoring and supervising associations and private corporations by providing sufficient numbers of trained human resources.
- Increase qualification and specialization sessions.

5.3.2Compliance with SR VIII

	Rating	Summary of factors underlying rating
SR VIII	**PC**	▪ No flexible mechanism to exchange information between the Ministry and the relevant authorities on one hand and the associations concerned on the other hand. ▪ No sufficient role at the Ministry of Social Affairs on associations and private corporations. ▪ No specific mechanism, communication points or appropriate procedures to respond to the international demands for acquiring information on non-profit associations and private corporations.

6. NATIONAL AND INTERNATIONAL COOPERATION

6.1 National Cooperation and Coordination (R 31)

6.1.1 Description and Analysis

404. ***Recommendation 31:*** The AML/CFT mechanism in Yemen is based on the AML Committee in accordance with the text of Article (8) of the AML Law No. 35/2003. This commission was formed by virtue of the Prime Minister Decree No. 102/2004; it comprises one representative from the following authorities: 1- Ministry of Finance 2- Central Bank of Yemen 3- Ministry of Justice 4- Ministry of Interior 5- Ministry of Foreign Affairs 6- Central Organization for Control and Audit (COCA) 7- Ministry of Industry and Commerce 8- Association of Banks 9- General Union of Chambers of Industry and Commerce.

405. The large number of these authorities aims at coordinating and facilitating the exchange of information among the authorities represented in the Committee for AML/CFT purposes. The Committee is entrusted with the following functions (a) Elaborate AML regulations and procedures and submit them to the Prime Minister for ratification, subject to provisions of the AML law and its executive regulations; (b) Lay down and adopt the internal bylaw of the Committee, in accordance with the provisions of this Law; (c) Coordinate and facilitate exchange of information among authorities represented in the Committee; (d) Organize seminars and workshops on money laundering; (e) Represent the Republic in international AML forums (Article 9 of the AML Law No. 35/2003) and other powers stipulated in various Articles of the Law and the executive regulations.

406. However, there is no efficient mechanism that allows all relevant authorities to cooperate and coordinate on the local level to set strategies and implement AML/CFT policies due to the absence of a complete representation of the relevant authorities in the AML Committee, such as in particular without limitation to, the Customs General Directorate, the General Investment Authority and the Ministry of Social Affairs.

407. Moreover, the authorities represented in the Committee do not coordinate with the authorities they represent. The assessment team noticed, during the on-site visit, that the relevant authorities are not sufficiently aware of ML/FT issues due to their lack of knowledge or communication with the relevant authorities in this regard.

408. ***Additional Elements:*** There are no available mechanisms for consultation between competent authorities and other sectors with regard to AML/CFT. This consultation is very limited through the representation of the General Union of Chambers of Industry and Commerce in the AML Committee.

6.1.2 Recommendations and Comments

409. Yemeni Authorities should:

- Find an efficient mechanism to coordinate and cooperate on the local level among the relevant authorities liable for the implementation of the AML/CFT policies and strategies.

6.1.3 Compliance with R 31

	Rating	Summary of factors underlying rating
R 31	**PC**	- There is no efficient mechanism to coordinate and cooperate on the local level among the relevant authorities liable for the implementation of the AML/CFT policies and strategies (No representation from all competent authorities in the AML Committee).

6.2 The Conventions and UN Special Resolutions (R 35 & SR I)

6.2.1 Description and Analysis

410. ***Recommendation 35 and SR I:*** On 25/03/1996, the Republic of Yemen signed and ratified the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (The 1998 Vienna Convention). It has also signed the 2000 UN Convention against Transnational Organized Crime (Palermo Convention) on 15/12/2000 and ratified it on 24 July 2007 by virtue of Law No. 17/2007. As for the 1999 UN International Convention for the Suppression of the Financing of Terrorism, the Council of Ministers agreed, by virtue of Resolution No. 167/2005, to adhere to this Convention and referred it to the Parliament in order to complete the constitutional procedures and to adhere to the Convention.

411. ***Additional elements***: Yemen adhered to the 1998 Arab Anti-Terrorism Convention and (11) international conventions on combating terrorism.

412. ***Implementation of SR I via UN Security Council Resolutions:*** Yemen does not have any special laws to implement the Security Council Resolutions, S/RES/1267 and S/RES/1373, as it solely has some general procedures. (See the analysis in SR III).

6.2.2 Recommendations and Comments

413. Yemeni Authorities should:

- Join the Convention for the Suppression of the Financing of Terrorism and implement it through national laws.
- Full implementation of Security Council Resolutions on the prevention and suppression of terrorist financing through law, regulations or other necessary measures.

6.2.3 Compliance with R 35 & SR I

	Rating	Summary of factors underlying rating
R 35	**LC**	▪ Yemen has not joined the Convention for the Suppression of the Financing of Terrorism.
SR I	**NC**	▪ Not being party to the Terrorist Financing Convention. ▪ Lack of implementation of the Recommendation with regard to Security Council Resolutions.

6.3 Mutual Legal Assistance (R 36 to 38 and SR V)

6.3.1 Description and Analysis

414. ***Recommendation 36:*** The Republic of Yemen signed several multilateral and bilateral agreements. The multilateral agreements include Riyadh Arab Agreement for Judicial Cooperation for 1983, which comprises cooperation in the various judicial fields and exchange of information. Bilateral agreements included provisions in the field of judicial cooperation, exchange of information, judicial assistance, exchange of legal judgments, cases of jurisdiction of courts and sentences, extradition of criminals and relevant procedures. Bilateral agreements signed by Yemen are as follows:

1- Judicial and Legal Assistance Agreement with Djibouti on 18/04/1998.
2- Judicial Agreement with Jordan on 26/10/1998.
3- Protocol of Cooperation in the field of Judicial Administration with Tunisia on 03/04/2005.
4- Judicial and Legal Assistance Agreement with Tunisia on 08/03/1998.
5- Judicial Assistance Agreement on Civil and Commercial Articles with Morocco on 08/02/2006.
6- Judicial Assistance Agreement in the Criminal Field with Morocco on 08/02/2006.
7- Judicial and Legal Assistance Agreement on Civil, Commercial, Penal and Personal Matters Articles, Extradition of Criminals and Liquidation of estate with Syria on 18/04/2005.
8- Judicial and Legal Assistance Agreement with Egypt on 12/12/1997.
9- Criminals Extradition Agreement with Morocco on 08/02/2006.
10- Anti-Crime Assistance Agreement with Italy on 26/11/2004.
11- Agreement on the Transportation of Convicted Persons and Prisoners from both countries' nationals with Egypt on 17/05/2006.
12- Convicted Persons Transportation Agreement with Morocco on 08/02/2006.
13- Judicial and Legal Assistance Agreement with Algeria on 03/02/2002.
14- Mutual Judicial and Legal Assistance Protocol with Sudan on 05/08/2004.
15- Security Cooperation Agreement with Eritrea on 10/03/2005.
16- Security Cooperation Agreement with Pakistan on 06/12/2005.
17- Security Cooperation Agreement with Turkey on 05/05/2004.
18- Security Cooperation Agreement with Algeria on 20/07/1999.
19- Security Cooperation Agreement with the Kingdom of Saudi Arabia on 27/07/1996.
20- Security Cooperation Agreement with Egypt on 31/03/1996.
21- Security Cooperation Agreement with Libya on 27/08/1998.
22- Memorandum of Understanding on Security Cooperation and Coordination with UAE on 08/06/2005.
23- Security Cooperation Agreement with Qatar on 07/08/2000.
24- Security Cooperation Agreement with the Sultanate of Oman on 18/04/2004.
25- Security Cooperation Agreement with Tunisia on 21/05/2001.
26- Security Cooperation Agreement with Bahrain on 12/09/2005.
27- Security Agreement between both Ministries of Interior in Yemen and Syria on 27/01/2003.
28- Security Cooperation Agreement with Djibouti on 24/02/1998.
29- Security Cooperation Agreement with Ethiopia on 23/10/1999.
30- Security Cooperation Agreement with Jordan on 18/06/1995.

415. The Penal Procedures Law regulated the international judicial representation in Articles 251 to 253. Article 251 provides that the provisions of this Chapter solely apply in the absence of any conventions with foreign countries or in case these agreements do not comprise a provision in this regard. Article 253 provides that the Public Prosecution or the Court may, upon the hearing of the case, delegate one of the foreign authorities to take a certain procedure (s) of initial or final investigation and address this representation to the Ministry of Foreign Affairs for notification via diplomatic channels. In summary matters, the representation may be directly addressed to the foreign judicial authority requested to carry out the procedure. In this event, a copy of the judicial

representation should be sent along with all the documents to the Ministry of Foreign Affairs for notification via diplomatic channels. Article 253 adds that the Public Prosecution or the Court accepts the judicial representation received via diplomatic channels from a foreign authority. It shall be implemented in accordance with the rules stipulated in the Yemeni Law. The result of the procedure cannot be transmitted to the foreign authorities prior to the reception of the official request via diplomatic channels if the delegation was addressed directly.

416. Regarding the request of documents or pieces of evidence including financial records from FIs or other natural or legal persons, the Law did not explicitly provide for this issue. The same applies with regard to the submission of the originals of relevant files and documents, approved copies thereof or any other information or evidence, in addition to the facilitation of the voluntary appearance of persons to submit information or statement to the requesting country. However, all such forms of assistance could be included under the judicial representation mentioned in the above paragraph.

417. Article 17 of Law No. 35/2003 provides that the Committee may request, pursuant to a legal judgment rendered in another country – by virtue of a bilateral agreement that regulates the same – the Yemeni judicial authorities, in accordance with the applicable laws, to track, freeze or confiscate the funds and properties and their proceeds connected and associated with ML offences, provided that the judicial authorities should settle the request. This was ascertained by Article 36 of the bylaw while this procedure did not comprise the TF crime.

418. It is noted that the Yemeni authorities allow the Committee to request, in accordance with the applicable laws, to track, freeze or confiscate the funds and properties and their proceeds connected and associated with ML offences, provided that a decision of settlement is issued and therefore, this falls within the framework of implementation of foreign judgments and is not deemed to be an efficient international mechanism in the field of cooperation.

419. There is no clear and efficient mechanism to implement the requests of mutual legal assistance in a timely manner.

420. There are no controls on the requests of mutual legal assistance on the basis of public finance issues in the Yemeni Law. Besides, no text rejects the request of mutual legal assistance in the secrecy and discretion case.

421. The competent authorities have full powers needed to acquire any information or document, including investigations, judicial procedures and inspection and obtain evidence, in accordance with the applicable laws. They also have full powers to use them to reply to mutual legal assistance requests, in accordance with the applicable laws and the agreements signed and ratified by Yemen.

422. Yemen has not considered the setting of mechanisms to determine the best venue for prosecution of defendants in the interests of justice in cases, which are subject to prosecution in more than one country, save the provision of Article 14 of the Arab Anti-Terrorism Agreement as Paragraphs a and b provided that in the event where the legal jurisdiction of a country is established in the trial of an indicted in a terrorist crime, this country may ask the country where the indicted is present to prosecute him for this crime with the approval of the said country, provided that the crime is sanctioned in the country of the trial by imprisonment for a period not less than one year or a stronger sanction. In this case, the requesting country shall provide the requested country with all investigations, documents and evidences relating to the crime, provided that the investigation or the trial shall be in accordance with the reality of the incident or the facts attributed by the requesting country to the indicted, in accordance with the provisions and procedures of the Law applicable in the country of the trial, pursuant to Articles (15, 16, 17, 18) of the agreement on the mechanisms of determination of the legal jurisdiction in the cases involving more than one country.

423. ***Additional Elements:*** The assessment team did not notice any clear texts, which enable the use of the powers of the competent authorities in case of a direct request by judicial authorities or foreign law enforcement authorities addressed to local counterparts.

424. ***Recommendation 37 and SR V:*** The Yemeni Law does not prohibit the exchange of judicial assistance to the highest possible level in the absence of dual criminality, particularly with regard to less interfering and non-binding procedures. The legal texts, particularly the Penal Procedures Law and Law No. 35/2003, do not prevent offering assistance in the event of a legal or practical impediment in the country receiving the request (offering assistance) and in case of technical discrepancies between the country seeking assistance and Yemen. It is worth noting that this does not apply in relation to TF, as TF has not yet been criminalized in Yemen.

425. ***Recommendation 38 and SR V:*** There is no mechanism to provide speedy and efficient response to MLA requests issued by foreign countries related to the identification, freezing, seizure, or confiscation of: (a) laundered properties resulting from, (b) proceeds of, (c) instrumentalities used for (d) or instrumentalities intended for use in committing any crimes, predicate ML/FT offences or any other predicate offences. The same applies on properties of similar value.

426. Except for the Arab Agreement for Judicial Cooperation there are no special arrangements to coordinate the procedures of seizure and confiscation with other countries.

427. Yemen did not examine yet the establishment of an asset forfeiture fund where all or a portion of confiscated properties will be deposited and will be used for law enforcement, health care, education, or other appropriate purposes. Moreover, Yemen did not consider yet the license to divide the confiscated properties when the confiscation comes, directly or indirectly, as a result of coordination of law enforcement authorities' procedures.

428. ***Additional elements:*** Not text allows acknowledging non-penal foreign confiscation verdicts.

429. ***Statistics:*** The assessment team did not find any statistics in this regard.

6.3.2 Recommendations and Comments

430. Yemeni authorities should:

- Establish a clear and an efficient mechanism to implement the requests for seeking mutual legal assistance in a timely manner.
- Establish a suitable mechanism for a speedy and efficient response to MLA requests made by foreign countries in relation to property freezing and confiscation.
- Consider establishing an asset forfeiture fund into where all or a portion of confiscated property will be deposited.
- Consider authorizing the sharing of confiscated assets with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions.

6.3.3 Compliance with R 36 to 38, SR V & R 32

	Rating	Summary of factors underlying rating
R 36	**PC**	▪ Impossibility to offer MLA in the TF field. ▪ Unavailability of a clear efficient mechanism to implement the requests seeking mutual legal assistance in a timely manner.
R 37	**PC**	▪ Non-application of the Recommendation in the TF field.

R 38	**NC**	▪ Unavailability of a suitable mechanism for speedy and efficient response to MLA requests by foreign countries in relation to property freezing and confiscation. ▪ Establishing an asset forfeiture fund where all or a portion of confiscated property will be deposited has not been considered. ▪ Authorizing the sharing of confiscated assets with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.
SR V	**NC**	▪ Non-criminalization of the financing of terrorism in the first place.

6.4 Extradition of Criminals (R 37, 39 & SR V)

6.4.1 Description and Analysis

431. ***Recommendation 37, Recommendation 39 and Special Recommendation V*:** Article 18 of Law No. 35/2003 provides that Non-Yemeni nationals convicted in a ML offence may be extradited in accordance with the applicable laws and international agreements ratified by the Republic and pursuant to the principle of reciprocity with the approval of the Attorney General. The Yemeni law does not provide for the dual criminality in the ML offence.

432. Article 45 of the Constitution of Yemen provides that no Yemeni national may be extradited to a foreign authority. Article 10 of the Penal Procedure Law provides that it is prohibited to extradite any Yemeni national to any foreign authority. Article 246 of the last Law provides that the Yemeni Courts shall have the jurisdiction to prosecute every Yemeni national who commits, outside the territories of the country, an act, which is deemed to be a crime by the Law if he comes back to the Republic and the act is sanctioned by virtue of the Law of the country where the crime has been perpetrated.

433. There is no file related to the extradition of criminals in the ML field.

434. ***Additional Elements:*** There is no simplified procedure regarding the extradition of criminals by allowing the direct transfer of extradition requests between the involved ministries. The Yemeni Authorities indicated that the Judicial and Legal Assistance Agreement on Civil, Commercial, Penal and Personal Matters Articles, Extradition of Criminals and Liquidation of Companies between Yemen and Syria provides, in Article (48), that the extradition request should be submitted through the Ministries of Justice in both countries.

435. ***Statistics:*** No statistics are available in this field.

6.4.2 Recommendations and Comments

6.4.3 Compliance with R.37, R.39, SR V & R.32

	Rating	Summary of factors underlying rating
R 39	**PC**	▪ Non-criminalization of FT.
R 37	**PC**	▪ The above-mentioned factors affect the rating of compliance.
SR V	**NC**	▪ The above-mentioned factors affect the rating of compliance.

6.5 Other Forms of International Cooperation (R 40, SR V & R 32)

6-5-1 Description and Analysis

436. ***Recommendation 40 and Special Recommendation V***: Cooperation with counterparties with regard to the competent Yemeni authorities is performed either via diplomatic channels or the Interpol concerning the relevant security bodies or the AML Committee with regard to the FIU.

437. Since there is no mechanism for the exchange of information, time, procedures and lengthy correspondences are required in a way that hinders the provision of assistance in a speedy and efficient manner save certain cases, which are not related to ML or TF that the Yemen tackled promptly (on the same day), according to the statement of the Yemeni authorities, namely upon the occurrence of the terrorist explosion targeting the Spanish tourists in Ma'areb Province and Limburg oil tanker explosion.

438. No clear mechanism or communication channels contribute to facilitate the immediate and constructive exchange of information directly among counterparts since information is not exchanged directly with counterpart authorities but via other channels such as the Ministry of Foreign Affairs, the Interpol or the AML Committee. Bilateral or multilateral agreements, memoranda of understanding or the principle of reciprocity are also required.

439. There are no powers with regard to the exchange of information, directly or upon request, in relation with ML offences and predicate offences, which lead to the same.

440. Article 16 of Law 35 requires a bilateral agreement in order for the AML Committee, based on a formal request from a judicial authority in another country, to provide relevant information in relation to a specific ML-related transaction. Article 33 of the executive regulations of Law 35 added that the competent judicial authorities in any country that is party to a bilateral AML cooperation agreement with Yemen may request from the Committee to provide them with information on a specific transaction related to any ML crime.

441. The exchange of information is subject to conditions, controls and lengthy procedures, which undoubtedly affect the swiftness and importance of the exchange of information.

442. No legislative text provides that a cooperation request should be rejected if it encompasses fiscal issues.

443. Article 7 of the AML Law provides that principle of accounts secrecy cannot be pleaded in ML offences investigated or prosecuted before the judicial authorities by virtue of any other law.

444. There are no constraints or guarantees that assure the non-use of information received by competent authorities.

445. ***Additional elements:*** There is no mechanism that enables prompt and constructive exchange of information with non-counterpart authorities. The FIU cannot directly obtain the information requested by foreign counterpart FIUs from other competent authorities or from other people but through the AML Committee.

446. ***Statistics***: There are no statistics related to international cooperation with counterpart or non-counterpart authorities.

6.5.2 Recommendations and Comments

447. The Yemeni authorities should:

- Facilitate the procedures related to the exchange of information locally and internationally.
- Entrust the competent authorities with the power to direct exchange information relating to AML/CFT with counterpart and non-counterpart authorities.
- It is necessary to have certain statistics on international cooperation in the field of exchange of information.

6.5.3 Compliance with R 40, SR V & R 32

	Rating	Summary of factors underlying rating
R 40	**PC**	▪ Absence of a mechanism that facilitates the procedures relating to the exchange of information locally and internationally. ▪ The competent authorities do not have the power to exchange information related to AML/CFT with counterpart and non-counterpart authorities. ▪ Unavailability of statistics on international cooperation with regard to exchange of information.
SR V	**NC**	▪ The above-mentioned factors affect the rating of compliance.

7. OTHER ISSUES

Remark: The text of the description, analysis and recommendations that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report i.e. all of section 2, parts of sections 3 and 4 and in section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several sections. Section 7.1 of the report primarily contains the boxes showing the rating and the main factors underlying the rating.

7.1 Resources and Statistics

	Rating	Summary of factors underlying rating
R 30	**PC**	▪ Insufficiency of the human, financial, and technical resources provided to the FIU, the law enforcement authorities and the other authorities involved in AML/CFT in order for them to perform their tasks efficiently. ▪ Absence of an appropriate structure for the FIU to guarantee its professional autonomy and ensure that it will not be affected by any inappropriate interference in its work. ▪ Unavailability of appropriate training for the employees of the competent authorities in the AML/CFT field; the training should not be restricted to the officers but it should extend to include large sectors of onsite workers.
R 32	**NC**	▪ No regular review of the efficiency of the AML/CFT systems. ▪ No statistics available regarding official assistance requests both locally and internationally submitted or received in relation with AML/CFT. ▪ No statistics available on the transfer of currency or transferable tools for the bearer across the borders. ▪ No accurate statistics on STRs received by the FIU. ▪ No statistics on the exchange of information with relevant local or international authorities.

TABLES

Table 1: Rating of compliance with FATF Recommendations
Table 2: Recommended Action Plan to improve the AML/CFT system
Table 3: Authorities Response to the Evaluation (If necessary)

Table 1: Rating of compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of Factors underlying ratings
Legal Systems		
1. ML offense	**PC**	▪ Absence of a definition for 'funds' including any type of properties. ▪ Failure to cover all the designated categories of predicate offences stated in Annex 1 of the Methodology ▪ The definition of predicate offence does not cover the acts that occur in other countries, and which would have constituted an offence in such countries.
2. ML offense — mental element and corporate liability	**PC**	▪ Absence of any express provision covering the criminal liability of legal persons ▪ ML sanctions are not considered proportionate. ▪ Inability to measure the extent of effectiveness of the AML legal system due to the absence of statistics.
3. Confiscation and provisional measures	**PC**	▪ Failure to criminalize TF (implicating confiscation) ▪ Incapacity to confiscate properties that constitute proceeds or instrumentalities used or intended for use in the commission of ML offences ▪ Limitation of confiscation or seizure to accounts only
Preventive Measures		
4. Secrecy laws consistent with the Recommendations	**PC**	▪ The approval of the judicial authorities constitutes a condition to provide information to foreign parties, in addition to the submission of a legal request.
5. Customer due diligence	**NC**	▪ The due diligence process is limited in most FIs, particularly the non-banking ones, to the identification of the customers without paying attention to the details and size of their activities. ▪ The threshold of the accidental operations does not comprise the numerous transactions, which seem to be connected. ▪ The above-mentioned threshold has not been determined. ▪ There is no obligation to verify that the person who acts on behalf of the customer is actually authorized to do so and identify him. ▪ The concept of beneficial owner or economic right holder has not been defined by the law or any other regulation. ▪ Most FIs do not verify the identify of the beneficial owners as they solely identify the customer without verifying if he works for his own benefit or for another person and without identifying the person who actually controls the legal person. ▪ FIs are not obliged to obtain information relating to the purpose and nature of the business relationship. ▪ CDD measures do not explicitly request to inspect the transactions carried out with the institution's knowledge of the customers, along with their activities and the risks they are exposed to. ▪ Absence of practical application related to the update of the customers' data and documents.

		▪ FIs are not obliged to apply enhanced CDD measures on high-risk categories of customers, business relationships or transactions. ▪ The threshold relating to the use of the reduced due diligence applied on transfers exceeds the threshold stated in the interpretative note to SR VII, which provides that it should not exceed USD 1000. ▪ There is no obligation to observe the criteria relating to the identification of the current customers. ▪ The Central Bank is not comprised in the CDD measures relating to the accounts opened for the employees and the Public Debt Department with regard to the treasury bonds.
6. Politically Exposed Persons	**NC**	▪ The Law does not refer to PEPs in any way. ▪ FIs are not obliged to put in place appropriate risk-management systems to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person. ▪ FIs are not obliged to acquire the senior management approval to establish business relationships with such customers, take reasonable measures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship.
7. Correspondent Banks	**NC**	▪ FIs are not obliged to gather sufficient information about the correspondent institutions to reach a complete understanding of their business nature and determine the type of reputation they enjoy, along with the quality of surveillance including whether they were subject to ML//FT investigations or other regulatory procedures. ▪ There is no obligation to evaluate the controls used by the correspondent institutions to combat money laundering and terrorist financing and ensure their sufficiency and efficiency. ▪ There is no obligation to obtain the senior management approval before establishing new relationships with correspondent banks. ▪ There is no obligation to verify that the correspondent banks, which keep correspondent payment accounts at the Yemeni FIs, apply due diligence measures on the customers who have access to these accounts and that they are capable of providing relevant customer identification data upon request.
8. New technologies and non face-to-face business	**NC**	▪ There is no obligation to take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.
9. Third parties and introducers	**NA**	
10. Record-keeping	**LC**	▪ The definition of the FIs in the Law does not comprise all the FIs such as the Central Bank.
11. Unusual transactions	**NC**	▪ FIs are not obliged to give a particular attention to all complicated and large-scale transactions, and to all kinds of unusual transactions which do not have an apparent economic purpose or a clear legitimate purpose. ▪ FIs are not obliged to examine these transactions to identify the purpose thereof, register the results of the examination in writing and make them available to competent authorities.
12. DNFBP–R.5, 6, 8–11	**NC**	▪ DNFBPs are not subject to any obligations regarding Recommendations 5, 6, 8, 10 and 11. Besides, Recommendation 9 is not applied.
13. Suspicious transaction reporting	**NC**	▪ FIs are obliged to report transactions meant for ML when they have evidence to establish that, and not on the basis of mere suspicion.

		▪ The predicate offences suspected to be associated to the transactions do not cover the twenty categories of offences specified in the Recommendations. ▪ No obligation to report suspicious transactions associated with terrorist financing. ▪ No practical application of the reporting of the operations, which are suspected to be associated with money laundering transactions. ▪ No obligation on FIs to report the attempts of carrying out suspicious transactions.
14. Protection and no tipping-off	**PC**	▪ No legislative text protects the FIs, along with their directors, officers and employees from both criminal and civil 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 Financial Collection Unit.
15. Internal controls, compliance and audit	**PC**	▪ The imposed obligations did not mention the creation of an independent audit function provided with sufficient resources to test the compliance with the AML/CFT internal procedures, policies and controls. ▪ The assessment team did not note any obligation for the FIs to set inspection procedures to increase the standards of competence upon the appointment of employees. ▪ The establishment of the systems that guarantee the application of the Law and the executive regulations and resolutions is solely limited to the banking institutions and not all the FIs with discrepancies in the level of these systems and the application thereof. ▪ The appointment of AML officers is limited to the banking institutions. ▪ Weakness of the training programs, which aim at qualifying the employees of these institutions in the AML field and even the total absence thereof, particularly in non-banking institutions.
16. DNFBP–R.13–15 & 21	**NC**	▪ DNFBPs are not obliged to notify the transactions that are suspected to conceal illegitimate money laundering or financing of terrorism. ▪ No legislative text protects the institutions, along with their directors, officers and employees from both criminal and civil liability for breach of any restriction on disclosure of information. ▪ No legal binding or monitoring instructions or a practical application obliges non-FIs to set internal policies and controls to combat ML/FT. Besides, the employees of these institutions do not undergo any special training in this field. ▪ DNFBPs are not obliged to pay special attention to business relationships and transactions with persons from or in the countries that do not apply or insufficiently apply the FATF recommendations.
17. Sanctions	**NC**	▪ The sanction imposed by virtue of Law No. 35/2003 does not cover all cases of violation of the AML obligations such as Customer Due Diligence and record keeping. ▪ No definition of the penal, civil or administrative sanctions in order to deal with legal persons who fail to comply with AML conditions. ▪ The AML Law does not comprise the application of sanctions on the managers of legal persons forming FIs and business companies and their senior management. ▪ The Law does not expand the scope of the sanction in a way that suits the gravity of the situation.
18. Shell banks	**PC**	▪ FIs are not prevented from establishing correspondence relationships or persevering in such relationship with shell banks.

		▪ FIs are not obliged to make sure that the correspondent FIs in a foreign country do not allow shell banks to use their accounts.
19. Other forms of reporting	**NC**	▪ The Yemeni Authorities did not consider the feasibility of applying a system that obliges FIs to report all cash transactions which amount exceeds the applicable designated threshold to a national central authority, which has an electronic database.
20. Other NFBP and secure transaction techniques	**LC**	▪ Measures taken to reduce the reliance on cash as a primary payment method are insufficient.
21. Special attention for higher risk countries	**NC**	▪ FIs are not obliged to pay any particular attention to business relations and to transactions with persons (including legal persons and other FIs) belonging to the countries that do not apply or insufficiently apply FATF recommendations. ▪ There is no obligation to study the background and purpose of these transactions and make the results of this study available in writing to assist competent authorities.
22. Foreign branches and subsidiaries	**PC**	▪ No obligation for the FIs to pay special attention when pursuing the activity in countries that do not apply or insufficiently apply AML/CFT standards issued by the FATF. ▪ No obligation for the foreign branches and subsidiaries to apply the highest possible standards in the event of a difference in AML/CFT prerequisites in the hosting country. ▪ No obligation for the FIs to notify supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the hosting country.
23. Regulation, supervision and follow up	**NC**	▪ Inefficient supervision on FIs. ▪ No condition was set concerning the availability of the validity and integrity elements for all main shareholders and members of board of directors for all banking and FIs. ▪ Absence of the periodicity and the continuity of field monitoring to verify the banking and FIs' compliance with their statutes and the shrewd risk management, as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other hand. ▪ Absence of the supervisory authorities on the insurance sector
24. DNFBP—regulation, supervision and follow up	**PC**	▪ Inefficient supervisory and monitoring role played by the supervisory authorities on DNFBPs, which will have a negative impact upon the application of the AML/CFT obligations, when being endorsed, on the rest of these businesses and professions.
25. Guidelines and Feedback	**NC**	▪ The Unit did not prepare the forms, rules and procedures mentioned in Article 13 of the bylaw of Law No. 35/2003 including the feedback procedures ▪ No issuance of any guiding principles with regard to the issues covered by the FATF relevant recommendations, particularly in respect of the description of the ML/FT methods and techniques or any other measures that FIs and DNFBPs may take to ensure the efficiency of the AML/CFT procedures. ▪ No guiding principles have been issued to help DNFBPs apply AML/CFT conditions.
Institutional and other Measures		
26. The FIU	**NC**	▪ Scope of functions of the FIU is restricted to ML issues, without TF issues ▪ Failure to issue reporting forms to FIs, banks and other reporting entities. ▪ The FIU is not effective and not autonomous ▪ Absence of sufficient financial and human resources

		▪ FIU is not granted the authority to receive information from other competent authorities without referring to AML Committee or CB Governor ▪ Failure to issue any annual report ▪ Absence of any complete and safe database
27. Law enforcement authorities	**PC**	▪ Non-criminalization of the financing of terrorism ▪ Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics.
28. Powers of competent authorities	**LC**	▪ Lack of statistics
29. Supervisors	**NC**	▪ The powers of the Unit do not explicitly comprise the possibility to carry out field inspection operations for this purpose. ▪ The FIU does not help the FIs set audit and internal monitoring systems and controls, which prevent the occurrence of ML transactions and verify their compliance therewith, in accordance with Article 24 of the executive regulations of the Law. ▪ The banking supervision inspectors (the FIU resort to in this field) do not pay special attention to the AML issues and do not rely on a special guide for inspection on the relevant procedures. ▪ The Unit did not actually practice any on site inspection on the other FIs. ▪ The AML Law, its executive regulations and the list of AML regulatory procedures do not provide any sanctions that the Unit or the other supervisory authorities may impose in the event where the FIs breach their obligations stated in the Law.
30. Resources, integrity, and training	**PC**	▪ Insufficiency of the human, financial, and technical resources provided to the FIU, the law enforcement authorities and the other authorities involved in AML/CFT in order for them to perform their tasks efficiently. ▪ Absence of an appropriate structure for the FIU to guarantee its professional autonomy and ensure that it will not be affected by any inappropriate interference in its work. ▪ Unavailability of appropriate training for the employees of the competent authorities in the AML/CFT field as the training should not be restricted to the officers but it should extend to include large sectors of on site workers.
31. National co-operation	**PC**	▪ There is no efficient mechanism to coordinate and cooperate on the local level among the relevant authorities liable for the implementation of the AML/CFT policies and strategies (No representation from all competent authorities in the AML Committee).
32. Statistics	**NC**	▪ No regular review of the efficiency of the AML/CFT systems. ▪ No statistics available regarding official assistance requests both locally and internationally submitted or received in relation with AML/CFT. ▪ No statistics available on the transfer of currency or transferable tools for the bearer across the borders. ▪ No accurate statistics on STRs received by the FIU. ▪ No statistics on the exchange of information with relevant local or international authorities.
33. Legal persons– beneficial owners	**PC**	▪ Unavailability of appropriate measures to prevent the misuse of bearer shares in ML operations. ▪ Impossibility to obtain, in a timely manner, sufficient, accurate and updated information on beneficial owners and control shares in legal persons.
34. Legal arrangements – beneficial owners	**NA**	
International Cooperation		

35. Conventions	**LC**	▪ Yemen has not joined the Convention for the Suppression of the Financing of Terrorism.
36. Mutual legal assistance (MLA)	**PC**	▪ Impossibility to offer MLA in the TF field. ▪ Unavailability of a clear efficient mechanism to implement the requests seeking mutual legal assistance in a timely manner.
37. Dual criminality	**PC**	▪ Non-application of the Recommendation in the TF field.
38. MLA on confiscation and freezing	**NC**	▪ Unavailability of a suitable mechanism for speedy and efficient response to MLA requests by foreign countries in relation to property freezing and confiscation. ▪ Establishing an asset forfeiture fund where all or a portion of confiscated property will be deposited has not been considered. ▪ Authorizing the sharing of confiscated assets with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.
39. Extradition	**PC**	▪ Non-criminalization of FT.
40. Other forms of co-operation	**PC**	▪ Absence of a mechanism that facilitates the procedures relating to the exchange of information locally and internationally. ▪ The competent authorities do not have the power to exchange information relating to AML/CFT with counterpart and non-counterpart authorities. ▪ Unavailability of statistics on international cooperation with regard to the exchange of information.
Nine Special Recommendations	**Rating**	**Summary of Factors underlying rating**
SR.I Implement UN instruments	**NC**	▪ Not being party to the Terrorist Financing Convention. ▪ Non-implementation of the Recommendation with regard to Security Council Resolutions.
SR.II Criminalize terrorist financing	**NC**	▪ Failure to criminalize TF offense
SR.III Freeze and confiscate terrorist assets	**NC**	▪ Absence of any legal system governing the procedures for freezing funds and properties of persons designated in the UNSC resolutions. ▪ Absence of evidence on the effectiveness of procedures related to freezing pursuant to the UNCS resolutions
SR.IV Suspicious transaction reporting	**NC**	▪ The legislations do not oblige FIs to report suspicious transactions when reasonable grounds are available to suspect that funds are related or linked to terrorism or terrorist acts or used for terrorist purposes or terrorist acts by terrorist organizations or financiers.
SR.V International cooperation	**NC**	▪ Non-criminalization of the financing of terrorism in the first place.
SR.VI AML/CFT requirements for money/value transfer services	**NC**	▪ Increase of transfer activities pursued by the exchange offices without a license to transfer money, in addition to the other persons who pursue these activities without any license. ▪ Weak control applied on the institutions, which pursue transfer activities, particularly in the field of AML obligations.
SR.VII Wire transfer rules	**NC**	▪ No obligation to give a unique identifier for the transfers made by occasional customers. ▪ Determination of a threshold for the amounts transferred by the occasional customers exceeding the threshold stated in SR VII. ▪ No obligation to insert any information about the originator of the transfer in the letter or the payment form attached to the wire transfer. ▪ No obligation for the financial brokerage institutions to enclose with the transfer the data relating to the originator thereof. ▪ No indication to the procedures and data obtained when compiled transfers are made. ▪ No obligation that prevents the compilation of non-routine

		transactions which is likely to increase the ML/FT risk. ▪ No provision for the measures that should be taken by the benefiting banking institutions in the case of wire transfers that are not enclosed with complete information about the originator of the transaction. ▪ The legally imposed obligations are not practically applied, particularly in the exchange offices. ▪ The supervisory authorities do not take any measures that enable them to monitor the FIs compliance with the legally imposed obligations efficiently.
SR.VIII Non-profit organizations	**PC**	▪ No flexible mechanism to exchange information between the Ministry and the relevant authorities on one hand and the associations concerned on the other hand. ▪ No sufficient role at the Ministry of Social Affairs on associations and private corporations. ▪ No specific mechanism, communication points or appropriate procedures to respond to the international demands for acquiring information on non-profit associations and private corporations.
SR.IX Cash Border Declaration and Disclosure	**NC**	▪ Non-existence of a binding currency declaration system, according to the criteria of the Recommendation.

Table 2: Recommended Action Plan to improve the AML/CFT System

AML/CFT System	Recommended Action (Listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1, 2)	▪ Identifying the concept of 'funds' so that it includes any type of properties. ▪ Amending article (3) to include all designated categories of predicate offences stated in Annex 1 of the methodology ▪ Extending the definition of predicate offences to acts that occur in other countries, which constitutes an offence in such countries. ▪ Stipulating expressly that criminal liability for ML should extend to legal persons ▪ Providing for appropriate sanctions
2.2 Criminalization of Terrorist Financing (SR.II)	▪ Criminalize the TF offense
2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)	▪ Provide for the confiscation of properties that constitute proceeds or instrumentalities used or intended for use in commission of TF offences; ▪ Provide for the confiscation of properties that constitute instrumentalities used or intended for use in commission of TF offences; ▪ Provide for the possibility to freeze and / or seize property in general and not just accounts.
2.4 Freezing of funds used for terrorist financing (SR.III)	▪ Place a legal system to govern the procedures for freezing the funds and properties of persons designated in the Security Council Resolutions
2.5 The Financial Intelligence Unit and its functions (R.26)	▪ Authorize the FIU to receive the reports about TF operations. ▪ Expedite the issue of reporting forms for FIs, banks, and other reporting entities in accordance with the Law. ▪ Expedite measures to acquire the Egmont Group membership. ▪ Ensure the autonomy of the FIU in terms of its power to file reports to the Public Prosecutor. ▪ Ensure the FIU autonomy and provide it with sufficient financial resources. ▪ Grant the FIU the authority to receive information from other competent entities without referring to the AML Committee or to the Governor. ▪ Increase the trained human resources in the FIU. ▪ Establish a comprehensive database. ▪ Provide headquarters for the FIU that secures the confidentiality of its work and its autonomy. ▪ Accelerate the issuance of annual reports. ▪ Provide accurate statistics.
2.6 Law enforcement, prosecution and other competent authorities (R.27, 28)	▪ Need to establish a database and information linkage among security bodies. ▪ Need to intensify training sessions for the employees of the security sector in the AML/CFT field. ▪ Need to have an administration or private section specialized in AML field. ▪ Provide statistics.
2.7 Cross Border Declaration or disclosure (SR IX)	▪ Establish a binding system of declaration (at both entrance and exit, in addition to the specification of the amount). ▪ Activate cooperation with counterpart authorities in other countries in the field of exchange of information. ▪ Establish a database to keep the data relating to the names of the persons having currency amounts that exceeds the legally designated threshold for a period of 5 years, as banks and other institutions do. ▪ Train on-site officers (inspectors).

	▪ Impose dissuasive sanctions by virtue of a legal instrument in cases of false declaration or non-declaration. ▪ Provide statistics. ▪ Activate cooperation and coordination between the Customs Directorate and the FIU and other concerned authorities.
3. Preventive Measures– Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)	▪ Promote the supervision on the FIs' application of the CDD obligations. ▪ Underline the necessity for the CDD measures to comprise the activities of the customers and their size. ▪ Include the threshold of the accidental operations and the numerous transactions, which seem to be interconnected. ▪ Oblige FIs to verify that the person who acts on behalf of the customer is actually authorized to do so and identify him. ▪ Endorse the concept of beneficial owner as stated in Article 2 of the AML/CFT draft law. ▪ Emphasize the practical application with regard to the identification of the beneficial owners of the transactions with the FIs. ▪ Stipulate in the executive regulations of the new law that the FIs be obliged to obtain information relating to the purpose and nature of the business relationship, according to Article 7 of this draft. ▪ Explicitly request the FIs to inspect the transactions carried out with the institution's knowledge of the customers, along with their activities and the risks they are exposed to, in accordance with Article 9 of the new AML/CFT draft law. ▪ Underline the practical application of the obligation related to the update of the data, particularly that Article 8 of the new draft gave emphasis to this obligation. ▪ Endorse the provision of Article 10 of the new AML/CFT draft law concerning the obligation of FIs to classify their customers and products according to the ML/FT risk level and apply due diligence measures when dealing with cases of high-risk level. ▪ Decrease the threshold relating to the use of the reduced due diligence applied on transfers in line with the interpretative note to SR VII. ▪ Include in the AML system that will be based on the new draft law the measures that FIs should take when the incorrectness of the identity data or documents is established, particularly if they should abstain from opening an account, initiating a business relationship or carrying out the transaction or if they should issue a Suspected Transaction Report. ▪ Oblige FIs to observe the criteria relating to the identification of the current customers. ▪ Endorse the definition based on the financial activities stated in the new AML/CFT draft law in a way that makes the AML/CFT system include the Central Bank and all the institutions, which pursue financial activities. ▪ Endorse the provision of Article 10 of the new AML/CFT law obliging the FIs to apply due diligence measures when dealing with the cases that represent high-risk level including the transactions with PEPs due to their positions. ▪ Oblige the FIs, through the executive regulations of the new draft law, to put in place appropriate risk-management systems to determine whether the future client, the customer or the beneficial owner is a Politically Exposed Person. ▪ Oblige the FIs, through the executive regulations of the new draft law, to acquire the senior management approval to establish business

	relationships with such customers and take reasonable procedures to determine the source of their wealth and funds and conduct enhanced ongoing monitoring of the business relationship ▪ Oblige the FIs to gather sufficient information about the correspondent institutions to reach a complete understanding of their business nature and determine the type of reputation they enjoy, along with the quality of surveillance including whether they were subject to ML//FT investigations or other regulatory procedures. ▪ Oblige the FIs to evaluate the controls used by the correspondent institutions to combat money laundering and terrorist financing and ensure their sufficiency and efficiency. ▪ Oblige the FIs to obtain the senior management approval before establishing new relationships with correspondent banks. ▪ Oblige Yemeni FIs to verify that the original correspondent banks, which keep correspondent payment accounts at the former ones, apply due diligence measures on the customers who have access to these accounts and that they are capable of providing relevant customer identification data upon request. ▪ Oblige the FIs to take special measures and pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity.
3.3 Third parties and introduced business (R.9)	
3.4 Financial institution secrecy or confidentiality (R.4)	▪ Not to impose as a condition, the approval of the judicial authorities to provide information to foreign parties and the submission of a legal request.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	▪ Endorse the definition of FIs stated in the new AML/CFT draft Law. ▪ Include in the executive regulations of the new draft law upon its issuance, the details of the data to be received from the originator and enclosed therewith, such as the account number and address, in compliance with the SR. VII. ▪ Amend the limit amount mentioned above with regard to the transfers made by occasional customers if it is necessary to preserve the same to be consistent with the limit mentioned in the interpretative note of the SR. VII (USD/EUR 1000). ▪ Include an obligation in the executive regulations for the financial brokerage institutions to make sure that the data relating to the originator of the transfer are enclosed therewith. ▪ Include in the aforesaid executive regulations the measures and data obtained when FIs perform batch transfers. ▪ Include an obligation in the executive regulations preventing the compilation of non-routine operations that may increase ML/FT risks. ▪ Approve the provision of Article 11 of the new draft Law concerning the refusal to receive wire transfers, which do not comprise customer identification data. ▪ Impose certain controls on the exchange offices that carry out transfer activities without a license and without observing the legally imposed obligations. ▪ The supervisory authorities should take the measures that enable them to control the FIs compliance with the legally imposed obligations efficiently with regard to transfers.
3.6 Monitoring of transactions and relationships (R.11 & 21)	▪ Endorse Article 10 of the AML/CFT draft Law, which obliges FIs to pay special attention to higher risk cases including unusual transactions that do not have any apparent legitimate economic reason. It also obliges FIs to examine these transactions along with the objective thereof, register the results of examination and make them available to competent authorities.

	▪ Endorse Article 10 of the AML/CFT draft Law, which obliges FIs to pay special attention to higher risk cases including the transactions and persons belonging to the countries that do not apply efficient AML/CFT procedures and FATF recommendations. This Article also obliges FIs to examine the transactions and their purpose, register the results of the examination in writing and make such results available to competent authorities.
3.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	▪ Endorse the obligation stipulated in Article 13 of the new AML/CFT draft Law binding the financial and non-financial institutions to notify the Information Collection Unit of suspicious transactions immediately upon (only) suspecting their connection to a ML/FT crime, whether these transactions were executed or not. ▪ Promote the monitoring and supervisory role of the financial sector supervisory authorities and the Information Collection Unit in a way that supports the FIs obligation to report suspicious transactions. ▪ Increase the training efforts, particularly the training on the detection of suspicious operations. ▪ Endorse Article 16 of the new AML/CFT draft Law, which does not impose any criminal, civil or administrative liability on the natural or legal person who reports, in good faith, any suspicious transaction or submits information or data related thereto in accordance with the provisions of this draft Law. ▪ Endorse Article 15 of the new draft Law, which prevents any employee at the financial or non-FIs from disclosing, directly, indirectly or by any other means, to the customer, beneficial owner or anyone other than the competent authorities, any reporting, investigation or inspection procedure taken with regard to the transactions, which are suspected to be related to money laundering or terrorist financing. ▪ Consider the feasibility of applying a system, which obliges FIs to report all cash transactions that exceed the applicable designated threshold to a national central authority that has an electronic database. ▪ Set the guiding principles relating to the reporting of suspicious transactions in all sectors including the reporting forms. The Information Collection Unit should also submit its feedback on the reported cases.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	▪ Expressly provide that the AML officer has access to the customer ID data and the other information resulting from the CDD measures, as well as the records of the transactions and the other information. ▪ Oblige all FIs to create an independent audit function provided with sufficient resources to test the compliance with the AML internal procedures, policies and controls. ▪ Oblige all FIs to set inspection procedures to increase the standards of competence upon the appointment of employees. ▪ Practically apply the obligation to set the systems that ensure the application of the Law and executive regulations and resolutions at the FIs, particularly non-banking institutions. ▪ Appoint AML officers, particularly at non-banking institutions. ▪ Set and promote training programs to qualify the employees of these institutions in the AML field, particularly at non-banking institutions. ▪ Endorse Article 47 of the new AML/CFT draft law relating to the application of the provisions thereof on FIs and their foreign branches whose head office is located inside Yemen. ▪ Include in the new draft law or its executive regulations, obligations to pay due special attention in case of pursuit of the activity in a country, which does not apply or insufficiently apply AML/CFT standards issued by the FATF. ▪ Include in the new draft law or its executive regulations an obligation for the foreign branches and subsidiaries to apply the highest possible standards in the event of a difference in the AML/CFT prerequisites in the hosting country.

	▪ Include in the new draft law or its executive regulations an obligation for the FIs to notify the supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the hosting country.
3.9 Shell banks (R.18)	▪ Endorse Articles 5 and 6 of the new AML/CFT draft law
3.10 The supervisory and oversight system–competent authorities and SROs Roles, functions, duties and powers (including imposing sanctions) (R.23, 30, 29, 17, 25)	▪ Provide financial and human resources to increase the efficiency of the supervision on FIs. ▪ Verify the availability of validity and integrity elements in all main shareholders and members of board of directors for all banking and FIs. ▪ Verify the periodicity and the continuity of field monitoring to verify the banking and FIs' compliance with their statutes and the shrewd risk management, as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other hand. ▪ Support the supervisory authorities on the insurance sector to carry out field monitoring operations. ▪ Give the supervision and monitoring authorities on FIs a role to verify the compliance of these institutions with the AML requirements stated therein in a way that promotes their ability to monitor the compliance on one hand and apply administrative sanctions in case of violation on the other hand. ▪ Issue guiding principles with regard to the issues covered by the FATF relevant recommendations, particularly in respect of the description of the ML/FT methods and techniques or any other measures that FIs and DNFBPs may take to ensure the efficiency of the AML/CFT procedures. ▪ Define the penal, civil or administrative sanctions in order to deal with legal persons who fail to comply with AML conditions. ▪ It is necessary for the AML Law to encompass the application of sanctions on the managers of legal persons forming FIs, business companies and their senior management. ▪ Expand the scope of sanctions properly according to the gravity of the situation. ▪ Specify the competent authority to impose the sanction in a clear manner.
3.11 **Money value transfer services (SR.VI)**	▪ Reinforce the monitoring of bodies licensed to pursue transfer activities, particularly in verifying their abidance by the obligations related to combating AML. ▪ Apply sanctions provided by Law No. 20 Year 1995 regarding the exchange offices without a license or re-consider the available licensing system in a way allowing the applicants thereof to pursue their activities that should be subject to the monitory and supervising authorities including the obligations related to combating AML/TF.
4. Preventive Measures–Non-financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	▪ Endorse the provision of the AML/CFT draft law obliging DNFBPs to apply CDD measures to verify the identity of the customers and beneficial owners including natural and legal persons. ▪ Endorse the provision of the AML/CFT draft law obliging DNFBPs to pay special attention to the dealings with higher-risk cases including the transactions with politically exposed persons due to their positions. ▪ Introduce an obligation to the new draft law for DNFBPs to pay special attention to the transactions carried out by using advanced technologies allowing the non-disclosure of the customer's real identity. ▪ The assessment team recommends the Yemeni supervisory authorities to set regulatory basis and rules in case DNFBPs need to rely on a third party to complete due diligence procedures.

	▪ Endorse the provision of the new draft law obliging all DNFBPs to keep records and documents to register the transactions they carry out including sufficient information to retrace the steps of these transactions. ▪ Endorse the provision of the new draft law obliging DNFBPs to pay special attention to higher risk cases including unusual transactions, which have no apparent lawful economic purpose. ▪ Grant the monitoring and supervision authorities, which license and supervise DNFBPs a role to monitor these businesses and professions with regard to their AML/CFT obligations through the new AML/CFT law. ▪ Provide these authorities with material and human potentials to enable them to pursue this role.
4.2 Suspicious transaction reporting (R.16)	▪ Endorse the provision of the new AML/CFT draft law, which obliges DNFBPs to notify the FIU of the transactions that are suspected to be related to ML/FT crimes, whether these transactions are carried out or not. ▪ Endorse the provision of the new draft law, which protects DNFBPs from both criminal and civil liabilities for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report in good faith their suspicions to the FIU. ▪ Endorse the provision of the new draft law, which prohibit all DNFBPs, from disclosing, directly, indirectly or by any other means, to the customer, beneficial owner or anyone other than the authorities, which are entrusted with the application of the provisions of the said law, any reporting, investigation or inspection procedure taken with regard to the transactions, which are suspected to be related to money laundering or terrorist financing. ▪ Endorse the provision of the new draft law, which obliges all DNFBPs to set the systems, which ensure the proper application of the provisions of the AML/CFT Law. These systems should comprise the internal policies and procedures and the monitoring, compliance, appointment and training systems, in accordance with the controls, standards and rules set by the competent supervisory authorities. ▪ Endorse the provision of the new draft law, which imposes sanctions on the failure to comply with AML/CFT obligations, provided that this text is amended in a way that expands the scope of the sanctions to suit the gravity of the situation in order to impose disciplinary and financial sanctions, withdraw, restrict or suspend the license. Besides, the authority, which has the competence to impose the sanction, should also be specified. ▪ Endorse the provision of the new draft law, which obliges all DNFBPs to pay special attention to higher risk cases including the transactions and persons belonging to the countries that do not apply efficient AML/CFT procedures and FATF recommendations.
4.3 Regulation, supervision, monitoring, and sanctions (R. 24, & 25)	▪ Relevant government agencies, associations and unions should pursue a vaster supervisory and monitoring role by issuing supervisory rules and best-practice standards. They should also consider imposing administrative sanctions on the non-compliant party. ▪ These authorities should be provided with material and human potentials to pursue this role. ▪ The supervisory and monitoring authorities, which license and supervise DNFBPs, should expedite the setting of guidelines and best-practices for that category of businesses. They should also set guidelines and work procedures and patterns for suspicious transactions that would serve as an awareness source and guidance Methodology to promote combating efforts.
4.4 Other designated non-financial businesses and	▪ A strategy shall be drafted to reduce the public's reliance on cash. We recommend the importance of encouraging the opening of bank accounts and urging the public and private sectors to pay the wages of workers

professions (R.20)	and employees via direct deposit in bank accounts, taking into account the promotion of e-payment network and the use of plastic cards as an alternative to cash.
5. Legal Persons and Arrangements and Nonprofit Organizations	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	▪ Establish appropriate measures to prevent the misuse of bearer shares in ML operations. ▪ Establish a flexible and fast mechanism to obtain, in a timely manner, sufficient, accurate and updated information on the beneficial owners and the control shares in legal persons.
5.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organizations (SR.VIII)	▪ Establish a flexible mechanism to exchange information between the Ministry and the relevant authorities on one hand and the associations concerned on the other hand. ▪ Promote the supervisory role at the Ministry of Social Affairs on associations and private corporations. ▪ Establish a specific mechanism, communication points or appropriate procedures to respond to the international demands for acquiring information on non-profit associations and private corporations. ▪ Support the potentials at the Ministry of Social Affairs in the field of monitoring and supervising associations and private corporations by providing sufficient numbers of trained human cadres. ▪ Intensify qualification and specialization sessions.
6. National and International Cooperation	
6.1 National cooperation and coordination (R.31)	▪ Find an efficient mechanism to coordinate and cooperate on the local level among the relevant authorities liable for the implementation of the AML/CFT policies and strategies.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	▪ Join the Convention for the Suppression of the Financing of Terrorism and implement it through national laws. ▪ Full implementation of Security Council Resolutions on the prevention and suppression of terrorist financing through law, regulations or other necessary measures.
6.3 Mutual Legal Assistance (R.36, 37, 38, SR.V)	▪ Establish a clear efficient mechanism to implement the requests seeking mutual legal assistance in a timely manner. ▪ Establish a suitable mechanism for a speedy and efficient response to MLA requests made by foreign countries ▪ Consider establishing an asset forfeiture fund where all or a portion of confiscated property will be deposited. ▪ Consider authorizing the sharing of confiscated assets with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions.
6.4 Extradition (R. 39, 37, SR.V)	▪ Criminalize TF
6.5 Other Forms of Cooperation (R. 40, SR.V)	▪ Facilitate the procedures relating to the exchange of information locally and internationally. ▪ Entrust the competent authorities with the power to exchange information relating to AML/CFT with counterpart and non-counterpart authorities. ▪ It is necessary to have certain statistics on international cooperation in the field of exchange of information.
7. Other Issues	
7-1 Resources and Statistics	▪ Provide adequate human, financial, and technical resources to the FIU,

(Recommendations 30, 32)	the law enforcement authorities and the other authorities involved in AML/CFT in order for them to perform their tasks efficiently. ▪ The FIU should have an appropriate structure that guarantees its professional autonomy and ensures that it will not be affected by any inappropriate interference in its work. ▪ Provide an appropriate training for the employees of the competent authorities in the AML/CFT field; The training should not be restricted to the officers but it should extend to include large sectors of on site employees ▪ Should provide statistics
7.2 **Other relevant AML/CFT measures or issues**	
7-3 General framework – Structural issues	

Table 3: Authorities Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country Comments

ANNEXES:

Annex1: Details of all bodies met during the onsite mission – Ministries, other government authorities or bodies, private sector representatives and others.

Annex 2: Copies of Key Laws, regulations and other measures

Annex 3: List of all laws, regulations and other material received

Annex1: Details of all bodies met during the onsite mission – Ministries, other government authorities or bodies, private sector representatives and others.

1- The Anti Money Laundering Committee
2- The Central Bank of Yemen
   - Chair of the Supervisory Committee – Governor of the Central Bank
   - The Financial Information Unit
   - Sub-Governor for the Banks Supervision Sector
   - Public Dept Department
3- Ministry of Finance
   - General Director for Foreign Relations
   - Head of the Taxes Directorate
   - Customs Directorate
4- General Authority for Investment
5- Ministry of Justice
6- Yemen Bar Association
7- Ministry of Social Affairs and Labor
8- General Prosecution (Public Funds Prosecution Division)
9- Ministry of Industry and Commerce
   - Commercial Register
10- General Authority of Lands, Survey and Urban Planning
11- General Authority for Post and Postal Savings
12- Central Organization for Control and Audit (COCA)
13- Yemeni Accountants Association
14- Ministry of Interior
15- Security Agencies
16- General Department for Combating Drugs
17- General Department for Combating Terrorism
18- General Department for Foreign Relations and Interpol
19- Yemeni Association of Banks
20- Ministry of Foreign Affairs
   - Coordination Unit for Combating Money Laundering, Terrorist Financing, and Terrorist Acts
21- In addition to visits to
   - Banks
   - Notaries and clerks
   - Charities
   - Foreign exchange companies
   - Insurance companies
   - Gold and Jewelry stores

Annex 2: Copies of Key Laws, regulations and other measures

Law No. (35)/2003
Regarding combating ML

In the name of the People

The President of the Republic:

Having perused the Constitution of the Republic of Yemen
And upon approval of the Parliament

(The following law was issued)

Chapter 1
Names and Definitions

Article (1): This law is the law for combating money laundering

Article (2): For the purposes of implementing the provisions of the law, the terms and expressions mentioned herein shall have the meaning expressed against each one unless otherwise stated:

Republic	The Republic of Yemen
Governor	Governor of Central Bank of Yemen
Committee	AML committee founded by virtue of this law
Unit	Information Gathering Unit at the Central Bank of Yemen
Money Laundering	Every act including acquiring, possessing, disposing of, depositing, exchanging, investing, or transferring funds with the intention to hide the real source of those funds that are the proceeds of the crimes listed in article (3) of this law
Financial Institutions	Any financial institution such as banks, exchange shops or companies (finance or insurance of shares or security or finance lease or real estate)
Employees	All workers and employees at the FI's
Competent authorities	Executive authorities and the related bodies and administrative units
Judicial Authorities	Courts and competent Public prosecutions according to the laws in force
ByLaws	Executive by laws of his law

Chapter 2
Money Laundering Crimes

Article (3): Money Laundering is a punishable crime by virtue of the provisions of this law; a person is a ML offender if he commits, participates, assists, abets, or conceals any crime related to:
Any of the crimes perpetrated on all funds resulting from the commission of any of the below crimes:

- Crimes stipulated in the Law on the Crimes of Kidnapping and Heisting
- Stealing or misappropriation of public funds or appropriation thereof by fraudulent means, or bribery and breach of trust
- Forgery and counterfeiting of official stamps, currencies and public bonds
- Misappropriation of private funds, punishable in the Crimes and Penal Law
- Customs smuggling.
- Illicit trafficking and importation of weapons
- Cultivation, manufacture, or trafficking of narcotic drugs and illicit manufacture and trafficking of alcoholic drinks and other acts forbidden by Sharia law

Any other act resulting from any of the crimes mentioned in Paragraph (a)

- Hiding the real source of funds for illegitimate funds or providing a false declaration thereon.
- Transferring or replacing money knowing that it is illegitimate for the purpose of hiding or concealing their real source or assist a person to escape from punishment or accountability.
- Acquiring or using or investing illegitimate funds for the purpose of buying moveable or immoveable funds.

Chapter 3
Obligations of FIs

Article (4): The FIs should abide by the following procedures:

- Not to open account(s) in the name of persons without verifying their official documents and keeping a copy thereof
- Not to deal with any legal persons without verifying their official documents and keeping a copy thereof where the following information is available:
    - Name of Institution
    - Address
    - Name of owner or owners
    - Names of authorized signatories
    - Certificate of registration by virtue of laws in force

Keeping all documents related to the transactions executors and their financial cash operations or trade deals, whether made locally or abroad for at least 5 years from the date of ceasing such dealing; all documents should be submitted when requested to do so to the Unit for its perusal according to Article (18) of this law.

Article (5):
a – The FIs should inform the unit of any Ml crime if it is established by evidence.
b- The FIs and their employees may not, upon execution of the provisions of paragraph (a), notify the customer or disclose any information whether personal or related to their activities

or fails to submit data and documents to the Unit or the judicial authorities or challenge the execution of any order issued by the judicial authorities related to a ML offense.

Article (6): The Unit should help the FI's in establishing a system and controls for internal audit and control that prevent the occurrence of a ML offense as per the provisions of this law and other related laws.

Article (7): It is not permitted, during investigations or litigation conducted by judicial authorities, to invoke the accounts secrecy principle in ML crimes applied under any other law

Chapter (4)
AML Committee
Financial Intelligence Unit

Article (8):
By virtue of the provisions of this law, a committee called (AML committee) shall be established by a decision of the Prime Minister according to a proposal of the Minister of Finance. It shall be formed by a representative from the following bodies:

1-	Ministry of Finance	President of the Committee
2-	Central Bank	Vice President
3-	Ministry of Justice	Member
4-	Ministry of Interior	Member
5-	Ministry of Foreign Affairs	Member
6-	Central Organization for Control and Accounting (COCA)	Member
7-	Ministry of Industry and Trade	Member
8-	Association of Banks	Member
9-	General Union for Chambers of Trade and Industry	Member

The President shall choose one member to take the minutes of meeting.
The Committee may resort to whomever it deems qualified to perform its tasks

Article (9): The committee shall have the following powers:
- Prepare regulations and procedures related to combating ML and submit the same to the Prime Minister for approval in a way that does not conflict with the provisions and executive regulations of this law.
- Establish and approve the internal by laws for the work of the committee according to the provisions of this law
- Coordinate and facilitate the exchange of information among the representing bodies
- Organize forums and workshops related to ML.
- Represent the Republic in the international forums related to combating ML.

Article (10): The Committee shall submit a report about its tasks to the Parliament every 3 months or whenever it is requested to do so.

Article (11): The Financial Intelligence Unit shall be formed by a decision from the Governor of the Central Bank to receive and analyze information and reports related to any ML operations according to the provisions of this law. The decision shall determine the technical aspects of this unit.

Article (12): The employees of the unit shall respect the secrecy of the information related to their work; they may not use such information for purposes other than the one provided for herein.

Article (13): The unit may, upon being informed about any ML operation, obtain the information and documents required from the official authorities and the FIs, with the approval of the Governor.

Article (14): The experts in the Audit and Inspection Unit on Banks, exchange offices and companies at the Central Bank of Yemen, shall inform the unit of any transactions that are established to be related to ML.

Article (15): The Unit shall, by virtue of a written report, inform the Public Prosecutor of any crime related to Ml. It shall as well enclose to the report all evidentiary documents under a copy to the Committee.

Chapter 5
International Cooperation and Exchange of Information and Extradition of Non Yemeni Criminals

Article (16): With prejudice to provisions of this law, and upon the approval of the Judicial authorities, the committee may provide another country, upon an official request from the related judicial authority, with information about a specific transaction related to ML provided a bilateral agreement between both parties regulating so is available.

Article (17): The Committee may upon a final judicial writ issued in another country – by virtue of a bilateral agreement regulating so, request the Yemeni judicial authorities as per the laws in force, to impose sanctions or freeze or seize funds and properties and their proceeds related to ML crimes provided that the judicial authorities shall take action.

Article (18): Non Yemeni convicted in any of the crimes mentioned in Article (3) may be delivered according to the laws in force and international agreements ratified by the Presidency and according to the principle of reciprocity, after having obtained the approval of the Public Prosecutor.

Chapter 6
Investigation and Court procedures

Article (19): The Public Prosecutor shall by himself or through any representative from the Public Prosecution by virtue of a special power of attorney, proceed with the investigation procedures and filing penal cases before the court in ML crimes and related crimes as specified in this law.

Article (20): The Public Prosecutor may request the competent authority to take temporary provisional measures, including seizure of funds, freezing of account(s), related to the ML crime as per the penal procedures Law.

Chapter 7
Sanctions

Article (21): Without prejudice to any other sanction by virtue of any other law:
Anyone who has perpetrated the ML crime as per Article (3) herein shall be imprisoned for a period not exceeding 5 years.
Without prejudice to the rights of bona fide third parties, all funds and proceeds of crimes related or linked to ML shall be confiscated into the Public Treasury by virtue of a final judicial ruling.
The Court may withdraw the license and cease the activity or any other supplementary sanction according to the laws in force.
Subject to provisions of article (11) herein, whoever violates provisions of article (5) of this law shall be imprisoned for a period not exceeding 3 years or shall pay a fine of Yemeni Rials 500,000.

Chapter 8
Final provisions

Article (22): The provisions of this law shall be applicable on the following authorities:
FI's branches abroad and which offices are located inside the Republic
Foreign FIs branches inside the Republic of Yemen and which offices are located abroad.

Article (23): The executive by laws of this law shall be issued by a presidential decree after approval of Prime Minister

Article (24): This law shall be applicable as of the date of its issuance; it shall be published in the official gazette.

Issued at the Presidency of Republic – Sana'a
On: 3 Safar, 1424 H
Corresponding to: April 05, 2003

(Signature)
Ali Abudllah
President of the Republic

Annex 3: List of all laws, regulations and other material received

1. The Yemeni Constitution
2. Law No. 35 of 2003 regarding Anti-Money Laundering
3. Presidential Decree No. 89 of 2006 on the Executive Regulations of the AML Law No. 35 of 2003
4. Prime Minister Decree No. 247 of 2005 on the List of Procedures Regulating Anti-Money Laundering
5. Administrative Order No. 48 of 2003 Establishing the Unit for the Gathering of Information on ML Operations
6. Prime Minister Decree No. 102 of 2004 Forming the AML Committee
7. Notice No. 1 for All Banks Operating in Yemen
8. Council of Ministers' Decree No. 34 of 2004 regarding approving the Joining of the Regional Group on ML and TF (MENAFATF) and approving the MOU
9. The Criminal Procedures Law
10. The Crimes and Penal Law
11. Presidential Decree Law No. 17 of 1994 on General Provision on Offenses
12. Law No. 1 of 1991 on the Judicial Authority
13. Presidential Decree No. 391 of 1999 Establishing a Specialized First Stance Criminal Court and a Specialized Criminal Appeal Division
14. Law No. 15 of 2000 on the Police Agency
15. Presidential Decree No. 252 of 2002 Establishing the General Department for Combating Narcotic Drugs
16. Presidential Decree No. 159 of 2004 Establishing the General Department for Combating Terrorism and Organized Crime at the Ministry of Interior
17. Law No. 14 of 2000 on the Central Bank of Yemen
18. Law No. 38 of 1998 on Banks
19. Presidential Decree Law No. 20 of 1995 on Foreign Exchange
20. Law No. 21 of 1996 on Islamic Banks
21. Presidential Decree Law No. 39 of 1992 on the Central Organization for Control and Auditing (COCA)
22. Law No. 64 of 1991 on Post and the Postal Saving
23. Presidential Decree Law No. 37 of 1992 on Oversight and Supervision on Insurance Companies and Agents and the Amended Law No. 9 of 1997
24. Law No. 40 of 2006 on Payment Systems and Electronic Financial and Banking Transactions
25. Law No. 11 of 2007 on Lease Financing
26. Law No. 31 of 1999 Regulating the Lawyer Profession
27. Presidential Decree Law No. 29 of 1992 on Authentication
28. Law on Real Estate Register
29. Law No. 26 of 1999 on Account Revision and Auditing
30. Presidential Decree No. 34 of 1987 on Regulating Real Estate Offices
31. Law No. 14 of 1990 on Customs
32. Presidential Decree No. 1 of 2002 Establishing the Coast Guard Directorate and Assigning its Responsibilities
33. Law No. 22 of 1997 on Commercial Companies, its amendments and Executive Regulations
34. The Commercial Law and its amendments
35. Law No. 22 of 2002 on Investment
36. Law No. 23 of 1997 Regulating the Agencies and Branches of Foreign Companies and Houses
37. Law No. 20 of 2003 on Trade Marks
38. Presidential Decree Law No. 33 of 1991 on the Commercial Register and its amendments
39. Law No. 39 of 1998 on Cooperative Societies and Associations
40. Law No. 1 of 2001 on Domestic Societies and Institutions
41. The Riyadh Arab Agreement for Judicial Cooperation

42. Presidential Decree Law No. 24 of 1998 on the Crimes of Kidnapping and Heisting
43. Law No. 40 of 1992 Regulating Arms, Ammunition, and their Trade
44. Law No. 39 of 2006 on Combating Corruption
45. Law No. 30 of 2006 on Financial Status Declaration
46. Law No. 3 of 2003 on Combating the Illicit Trafficking and Use of Drugs and Psychotropic Substances
47. Law No. 40 of 2002 on Pleadings and Civil Enforcement
48. Presidential Decree Law No. 21 of 1992 on Evidence
49. Presidential Decree Law No. 47 of 1991 on Entrance and Residence of Foreigners
50. Law No. 7 of 1990 on Passports
51. Law No. 14 of 2002 on the Civil Law
52. Council of Ministers Decree Approving the New AMLCFT Draft Law No. 436 of 2007, in addition to a revised version of the draft Decree
53. Deputy-Prime Minister/Minister of Interior Decree No. 335 of 2007 Establishing the AML Department within the Organizational Structure of the General Department for Combating Terrorism and Organized Crime
54. Deputy-Prime Minister/Minister of Interior Decree No. 336 of 2007 Establishing the AML Department within the Organizational Structure of the General Department for Combating Narcotic Drugs
55. Central Bank Circular No. 33732, dated 4/12/2007
56. The Document for the Verification of the UN Convention against Corruption by Virtue of Decree No. 47 of 2005
57. Presidential Decree No. 12 of 2007 Forming the Higher National Anti-Corruption Agency
58. Decree No. 17 of 2007 of the Director of the Central Organization for Control and Audit (COCA) Establishing and Forming a Special AML Information Gathering Committee at the COCA
59. The Document for the Verification of the UN Convention against Transnational Organized Crime by Virtue of Decree No. 17 of 2007