



Middle East and North Africa
Financial Action Task Force

Mutual Evaluation Report

Anti-Money Laundering and
Combating the Financing of Terrorism

28 November 2012

Sudan

Document Language: English

Original Language: Arabic

Sudan 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 28 November 2012.

©2012 MENAFATF. All rights reserved. No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate, reproduce or translate all or part of this publication should be obtained from the MENAFATF , P.O. Box 10881, Manama, Kingdom of Bahrain (fax: +973 17 530627; e-mail: info@menafatf.org).

Table of Contents

PREFACE - INFORMATION AND METHODOLOGY USED FOR THE EVALUATION OF SUDAN	3
EXECUTIVE SUMMARY	4
Mutual Evaluation Report	12
1-General	12
1-1 General Information on the Republic of Sudan	12
1-2 General Situation of Money Laundering and Financing of Terrorism.....	16
1-3 Overview of the Financial Sector and DNFBPs.....	16
1-4 Overview of commercial laws and mechanisms governing legal persons and arrangements.....	17
1-5 Overview of strategy to prevent money laundering and terrorist financing.....	19
2.Legal System and Related Institutional Measures	23
2-1 Criminalization of Money Laundering (R.1 & 2)	23
2-2 Criminalization of Terrorism Financing (SR.II)	30
2-3 Confiscation, freezing and seizure of crime proceeds (R.3)	33
2-4 Freezing of funds used for terrorist financing (SR.III)	37
2-5 The Financial Information Unit (FIU) and its functions (R.26).....	41
2-6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27 & 28)	50
2-7 Cross-Border Declaration or Disclosure (SR.IX)	63
3- PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS	69
3-1 ML/TF Risks	70
3-2 Customer Due Diligence (CDD) including enhanced or reduced measures (R. 5 to 8).....	71
3-3 Third Parties and Introduced Business (R. 9)	89
3-4 Financial Institution Secrecy or Confidentiality (R. 4)	91
3-5 Record Keeping and Wire Transfer Rules (R.10 & SR.VII).....	93
3-6 Monitoring transactions and business relationships (R. 11 & 21)	98
3-7 Suspicious Transaction Reports (STRs) and Other Reporting Requirements (R. 13, 14, 19 & 25 and SR.IV).....	101
3-8 Internal controls, compliance, audit and foreign branches (R. 15 & 22)	106
3-9 Shell banks (R.18).....	113
3-10 The supervisory and oversight system –competent authorities and SROs: Role, functions and powers of (including sanctions) (R. 23, 29, 17 & 25)	115
3-11 Money or Value Transfer Services (SR.VI).....	136
4-PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS	139
4-1 Customer Due Diligence and Record-Keeping (R. 12).....	139
4-2 Suspicious Transaction Reporting (R.16)	143
4-3 Regulation, supervision and monitoring (R. 24 and 25)	145
4-4 Other Non financial businesses and professions – Modern secure transaction techniques (R. 20).....	150
5- LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS	153
5-1 Legal Persons - Access to beneficial ownership and control information (R.33).....	153

5-2 Legal arrangements – Access to beneficial ownership and control information (R.34)	157
5-3 Non-profit organizations (SR. VIII).....	157
6- NATIONAL AND INTERNATIONAL COOPERATION	163
6-1 National cooperation and coordination (R. 31).....	163
6- 2 The Conventions and UN Special Resolutions (R.35 & SR. I).....	165
6-3 Mutual Legal Assistance (R. 36-38, SR. V).....	168
6-4 Extradition (R.37, 39 & SR.V).....	174
6-5 Other Forms of International Co-operation (R. 40, SR.V & R. 32).....	179
7-OTHER ISSUES	185
7-1 Resources and Statistics	185
TABLES	186
Table 1: Rating of Compliance with FATF Recommendations.....	186
Table 2: Recommended Action Plan to Improve the AML/CFT System	203
ANNEXES.....	218
Annex 1: Statistics provided by the Country	
Annex 2: Copies of key laws, regulations and other measures	
Annex 3: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others	
Annex 4: List of all laws, regulations and other material received	

PREFACE - INFORMATION AND METHODOLOGY USED FOR THE EVALUATION OF SUDAN

1. The evaluation of the anti-money laundering (AML) and combating terrorism financing (CFT) regime of the Republic of Sudan (Sudan) was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorism Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004¹. The evaluation was based on the laws, regulations and other materials supplied by Sudan and information obtained by the evaluation team during its on-site visit to Sudan from 18 to 29 December 2011 and immediately thereafter. During the on-site visit, the evaluation team met with officials and representatives of all the relevant government agencies in Sudan and the private sector. A list of the bodies met by the evaluation team is set out in the annexes to the mutual evaluation report.

2. The evaluation was conducted by an assessment team, which consisted of experts in criminal law, law enforcement and regulatory issues. The team included: Mr. Hussam Imam, Senior Mutual Evaluation Officer in MENAFATF Secretariat, Mr. Suliman Alzabin, ME Officer in MENAFATF Secretariat in addition to the following assessors: Mrs. Noora Bahar (Section Head, Qatar Financial Information Unit -QFIU) as legal expert, Mr. Saud Youssef Al Sanei (Chief Prosecutor at the Public Prosecution in the State of Kuwait) as legal expert, Captain Abdullah Al Alawi, Head of Legal Affairs and International Cooperation Division of the FIU in the Sultanate of Oman as a law enforcement expert, Mr. Raed Rawashdeh (Senior Internal and International Cooperation Officer, Internal and International Cooperation Directorate at Anti Money Laundering and Counter Terrorist Financing Unit (Jordanian FIU) as financial expert, Mr. Hesham Mohamed Samy (Assistant Director of Examination and Investigation department at EMLCU- Egypt) as financial expert and Mr. Hisham Al Hawdi (An official from the AML Central Service at Bank Al Maghrib) as financial expert. The evaluation team 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 Financing of Terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Sudan as of the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Sudan'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 evaluation team would like to thank H.E Mr. Badr El-Din Mahmoud Abbas, Deputy Governor of the Central Bank of Sudan and H.E Mr. Esssam Eddine Abdul Kader Al Zayn, Under Secretary of Ministry of Justice and President of the AML/CFT Administrative Committee, and Mr. Khaled Abdul Kader Al Amin, Head of FIU and his team as well as all the concerned Sudanese authorities and private sector agencies for assisting the team in performing its task.

¹ As updated in February 2009.

EXECUTIVE SUMMARY

Background Information

1. This report provides a summary of the AML/CFT measures in place in the Republic of Sudan as at the date of the on-site visit or immediately thereafter. The report describes and analyzes these measures, and specifies the levels of Sudan's compliance with the FATF 40 Recommendations and 9 Special Recommendations (see the attached table about ratings of compliance with FATF Recommendations)

2. Despite enjoying tremendous and diverse resources, Sudan is not considered one of the financial hubs in the region due to several reasons that largely prevented the development and expansion of the financial and non-financial sectors over the past years. Sudan suffers from an array of internal and external circumstances that increase risks of ML/TF activities. However, limited transactions using foreign currency, the focus on local clients in the financial sector, the weak growth of some sectors such as insurance and stock companies may reduce the importance of these risks especially in large-scope misuse of the financial sector in ML operations.

3. Sudan criminalized ML as of 2003 without being effective enough. With regard to the financing of terrorism, it was criminalized under the AML/CFT Law for 2010. The 2010 Law included a main AML/CFT framework whether in developing a basis for preventive measures for the financial and non-financial institutions for AML/CFT in the financial and non-financial sector or in establishing a regulatory and supervisory framework to ensure compliance with applying requirements of international standards in this field. In the same area, the law is supported by an array of instructions and regulations issued by supervisory entities as per the law requirements. By virtue of 2010 Law, a Financial Information Unit (FIU) was established to assume assigned tasks and duties. It was separated from the high administrative committee in charge of developing public AML/CFT policies.

4. On the other hand, the AML/CFT regime in Sudan seems to be in need for more coordination and regulation by achieving integration between the law and regulatory tools issued to ensure its implementation so that an appropriate basis is available enabling the financial and non-financial institutions to perform their role in this regard in an acceptable way and to enable competent authorities, especially law enforcement authorities, to perform their assigned tasks in tracing and preventing the misuse of these institutions in financial criminal activities. Competent authorities also need to provide an adequate environment allowing the provision of accurate and clear data, information and statistics in most of the sectors especially authorities concerned with international cooperation. Moreover, the financial and non-financial institutions need more awareness, human and financial resources and training to develop their efficiency and upgrade their readiness to deal with ML/FT risks in Sudan.

Legal System and Related Institutional Measures

5. Sudan criminalized the ML act by virtue of "AML/CFT Law for 2010". The law included the criminalization of some financial elements of the money laundering crime that are stipulated in Vienna and Palermo conventions. The law did not stipulate the prerequisite of passing a judgment or conviction of predicate offence when proving that the properties are the proceeds of a crime. While the Sudanese law defines proceeds in a wide manner, however such definition does not cover the documents that appear in electronic or digital form. The law adopted the wider approach in determining the predicate offences of ML crime; however, there are several specified crimes that have not been criminalized under the Sudanese law such as trafficking in humans and immigrant smuggling, illicit trafficking in goods, corruption and terrorist financing as required by the international conventions. The Sudanese law criminalized the ancillary offences of the ML crime such as criminal attempt, collaboration, participation and assisting. It stipulated a sanction equal to that of the predicate offence. The law authority also extends to include crimes yielding proceeds for all the

crimes whether they occurred inside or outside Sudan. Legal persons are subject to ML criminal liability. The law stipulates that financial and non-financial institutions are subject to administrative and civil liability, but does not stipulate that all legal persons are subject to administrative liability. The Sudanese law punishes the ML crime for a natural person by imprisonment for a period not exceeding ten years and a fine not exceeding double the amount of funds subject of the crime, whereas a legal person is punished by a fine not exceeding double the amount of the proceeds.

6. The Sudanese law also criminalized the financing of terrorism in the “AML/CFT Law for 2010” and partially covered the international requirements. It criminalized direct and indirect forms of collection and provision; however, the definition of a terrorist act does not fully conform to the international convention as well as the definition of terrorist organizations. Moreover, the Sudanese law has not defined the terrorist and there is no explicit provision associating the actual use or nonuse of funds with the terrorist act. Additionally, the law did not include a provision to apply the law regardless of location of the person suspected of committing the crime inside or outside the country or whether the terrorist act occurred in another country. On the other hand, the law stipulated that the legal person shall be subject to criminal liability. The Sudanese law punishes TF crimes by sanctions such as the sanctions that were previously mentioned in the money laundering crime; however no conviction was issued for these crimes.

7. Sudan has a system covering the confiscation of proceeds and instrumentalities used and intended to be used in committing a ML/TF crime. The law also allows the confiscation of properties of correspondent value while there is no system covering the confiscation of funds resulting from the predicate offences or offences involving money in general. Funds were defined in the Sudanese law to include income, profits or interests. The Sudanese law stipulated some provisional measures such as retention. Sudan applies civil seizure procedures in criminal procedures whereby these procedures do not allow taking ex-parte measures or without prior notice, while the law allows the affected party or bona fide third parties to appeal and file a complaint to the Minister of Justice about these procedures.

8. Sudan does not have laws for freezing terrorist funds or assets belonging to persons designated by the 2 Security Council Resolutions. However, the authorities informed that there is a coordinating body for the purpose of following up and implementing Security Council Resolution no. 1371, but this agency lacks the procedures necessary to execute the requirements of this Resolution. It is noteworthy that the FIU issued the freezing, seizure and confiscation regulation regarding the Security Council Resolutions by virtue of Article 37 of the law. The law did not indicate the powers of the Unit in this regard.

9. The FIU was established on 10/1/2010 as an independent unit under the supervision of the Central Bank of Sudan. It assumes the responsibility of receiving, analyzing and disseminating STRs to the competent prosecution. The Central Bank provides the Unit with financial and logistic support. The Unit receives STRs from financial and non-financial institutions. It is noteworthy that the law stipulated reporting ML/TF transactions only and does not cover terrorist acts, terrorist organizations or terrorist financiers. The Unit issued a regulation on the investigation procedures as well as a number of circulars related to the reporting manner. It is noted that these circulars were addressed to a number of entities that are not bound by the law provisions as no decisions were issued to add these activities to the list of non-financial institutions². The Unit has the right to access information from the financial and non-financial institutions via a written letter. There is no direct method to obtain this information. The Unit also has the right to request additional information from the reporting entities. It is worth mentioning that the Unit has not joined Egmont Group and no periodic reports have been issued about

² A decision of the Minister of Finance was issued after the onsite visit on subjecting these non-financial institutions to the provisions of law. See Section 2: Recommendation 26.

its activities. In general, the Unit lacks the operational and legal autonomy to perform its functions effectively.

10. The public and specialized prosecutions affiliated with the Ministry of Justice supervise all the investigation procedures in all crimes including ML/TF crimes. These prosecutions exercise their powers in arresting, searching and interrogating witnesses, seizure and other powers. These prosecutions do not have financial investigators but hire independent financial auditors. It is noteworthy that Sudan does not have a competent prosecution to investigate ML/TF crimes. Moreover, the number of cases that were investigated by the police and prosecutions remains very limited. In general, the effectiveness of the law enforcement agencies in investigating ML/TF crimes is still poor in comparison to the number of investigations conducted by entities in predicate offences.

11. The customs disclosure system of cross-border cash transportation was launched in December 2011. The law authorized the Central Bank to request from any person upon entering or departing the country to disclose cash or any bearer negotiable instruments to the customs authorities. The Unit issued the customs disclosure regulation although it is not competent to do that. It is noted that the customs disclosure system applies to travelers only without explicitly referring to carriers, mail or shipments in containers. Due to the recent application of the system, it is still ineffective.

Preventive Measures – Financial Institutions

12. The AML/CFT Law for 2010 covers a number of obligations of financial institutions in relation to preventive measures with regard to exerting due diligence to identify the identity of customers and beneficial owners, classifying clients according to degree of risk of occurrence of ML/TF transactions and accurate and ongoing follow up of transactions conducted by customers in addition to notifying the Unit about suspicious transactions. Moreover, the regulations issued by the supervisory authorities (the Central Bank, Insurance Authority and KSE) cover other aspects of these obligations.

13. However, the framework governing the preventive measures that must be taken by financial institutions did not completely fulfill some of the obligations. The regulations issued for the stock companies and insurance companies neglected the obligation to verify the customer identity using original documents or data from objective and reliable sources. They also did not include enhanced due diligence measures for customer categories, business relationship or high risk transactions. Moreover, there was no presence of actual application of many of the obligations related to the measures verifying whether any person claiming to be acting on behalf of the client is authorized to do so while identifying him and verifying the legal status of the legal person or legal arrangement. It was also noticed the presence of clear weakness at the financial institutions in dealing with some concepts such as the beneficial owner and risks classification due to low level of awareness on AML/CFT requirements.

14. Additionally, the regulations and circulars issued for the financial institutions did not consider the requirements set out in Recommendation 6 with regard to PEPs. It was also noticed that the financial institutions have no sufficient awareness of the type and nature of business relationship with regard to those persons. The financial institutions deal with this category as normal clients without the existence of clear business measures taking into account ongoing follow up of the transactions they carry out and classifying their risks. Banks, currency exchange companies and money transfer companies deal with correspondent institutions without verifying the reputation of these institutions and the efficiency and effectiveness of the controls used by the correspondent institutions. They only obtain the approval of the Central Bank of Sudan to deal with correspondent institutions.

15. The regulations and circulars did not oblige the FIs to have in place sufficient policies and take measures to prevent the misuse of technological developments in ML/TF operations and set

policies and procedures to deal with risks associated with non face to face business or transactions such as request of official notarization of documents or relying on third parties to identify customers.

16. With regard to keeping all records on local and international operations and customer identification records, FIs are required to keep all records and documents related to transactions conducted by customers for at least five years as of date of transaction completion. FIs subject to the Central Bank of Sudan are also obliged to develop an integrated information system to retain documents and records enabling it to respond to the request of the FIU and competent authorities for obtaining any data or information in real time. It is also noted that this obligation does not include all FIs as insurance companies were not asked directly to comply with it.

17. With regard to wire transfers, FIs are required to obtain full information on the originator so that the transfer includes all data related thereof. However, there is no obligation on banks, currency exchange companies and beneficiary financial services companies to take measures to terminate business relationships with the FIs that do not comply with SRVII criteria. It is also noted the absence of effective supervision on activity of wire transfers to ensure that FIs performing this activity comply with the relevant obligations as well as complete absence of awareness of currency exchange companies and financial services companies of the imposed obligations in this regard.

18. With regard to unusual transactions, banks, currency exchange companies, financial services companies and leasing companies are required to investigate as much as possible the background and purpose of unusual transactions and keep records in relation thereto. However, the requirements of this obligation were not imposed on insurance companies and companies operating in stock exchange. It is also noted that FIs lack sufficient awareness on unusual activities or transactions in addition to the absence of clear written policies and information systems to monitor and trace unusual transactions.

19. The AML/CFT regime in Sudan included the obligation for banks, currency exchange companies, financial services companies and leasing companies to pay special attention to business relationships and transactions performed with persons from or in countries that do not apply or insufficiently apply FATF Recommendations. However, this obligation was not imposed on the insurance companies and companies operating in stocks. Moreover, Sudan did not take any appropriate counter-measures regarding countries that continue to apply or insufficiently apply FATF Recommendations.

20. With regard to the reporting obligation, the AML/CFT Law for 2010 required FIs to notify the FIU of transactions suspected of being associated with proceeds or terrorism financing. However, there is clear inconsistency between what is imposed by the law from notifying the FIU about suspicious transactions and what is imposed by the KSE (Khartoum Stock Exchange) regulation to notify the AML/CFT Unit in KSE. Moreover, the reporting obligation does not include cases of suspecting the occurrence of a connection or link between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers.

21. On the other hand, banks, exchange companies, financial services companies, leasing companies and insurance companies were not explicitly required to establish an adequately resourced and independent audit function. Insurance companies were not required to include all AML/CFT requirements in their internal systems especially those related to due diligence, detection of unusual transactions and record keeping.

22. There are procedures obliging FIs, except insurance companies, to apply AML/CFT measures on foreign branches and affiliated companies; however, the requirement to pay special attention regarding branches and affiliated companies in countries that do not apply or insufficiently apply FATF Recommendations was not imposed.

23. It is worth mentioning that there is limited guidance addressed to the FIs especially insurance companies with regard to the reporting, investigation and inspection procedures taken with regard to transactions suspected of being connected to ML or TF.

24. Laws governing the activities of banks did not include explicit requirement to prohibit the establishment of shell banks; but provisions mentioned therein should largely reduce that. Assessors noted that inspection report forms concerning FIs did not include any findings regarding inspection on the extent of banks' compliance with regular assessment of their relationship with their correspondents.

25. The AML/CFT Law designated the supervisory entities on FIs and their competencies. The legislative framework governing the activities of these entities allow them to issue regulations, follow up on the compliance of FIs and their fulfillment of the obligations stipulated by law and use of their penal powers stipulated by law in cases where FIs violate their obligations. However, despite the above, it was found that these entities do not have sufficient and adequate structures to exercise their obligations in the AML/CFT field in comparison with the numbers of FIs supervising them as well as the existence of some factors affecting the autonomy of some of them. This is notably evident in the presence of some interference in the work of these entities and in particular between the Central Bank of Sudan and the rest of supervisory entities. Moreover, the training provided to employees in some of the supervisory entities was limited and the legal framework governing the recruitment of employees in these entities is poor. It was also unclear the effectiveness by which these supervisory entities use their powers in imposing sanctions against the FIs subject to their supervision in case they violate the laws governing their activities in general, particularly in the AML/CFT field. The evaluation team could not find evidence on imposing any sanctions in this regard by any of the supervisory authorities with the exception of the Central Bank of Sudan.

26. The entities performing money transfer activities in Sudan are found in all banks, currency exchange companies, financial services offices and Sudan Postal Services Co. Ltd (SudaPost). The Central Bank of Sudan grants licenses to all these entities and the commercial registration department affiliated with the Ministry of Justice assumes the tasks of licensing and registration. These entities are subject to the supervision of the Central Bank. Based on the overall analysis of the quality of supervision in this area, there appears to be a need for their support and working on increasing their effectiveness. The assessors noticed that there is wide presence of money or value transfer service providers from unregistered natural persons (equivalent currency exchange market – black market), which entails working to find a mechanism that assists in placing transactions performed by these persons under supervision, and increasing the inspection visits to entities providing money or value transfer services in order to have this activity under full control.

Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)

27. The AML/CFT Law for 2010 did not differentiate between financial and non-financial institutions including DNFBPs in any way in relation to the obligations they have to abide by, which means that due diligence deficiencies apply to DNFBPs.

28. AML/CFT circulars were issued to the jewelers and gold dealers union, the public union of Sudanese lawyers, real estate agents and Accountancy and Audit Profession Organizing Council (AAPOC) by the Sudanese FIU bearing in mind that it is not the competent entity to issue such circulars; which means that these circulars are not deemed enforceable means but rather tools to increase awareness.

29. It was found that DNFBPs are not aware of their AML/CFT requirements with regard to applying due diligence to identify and verify the identity of customers. Moreover, it was found that these DNFBPs have no knowledge of the beneficial owner, Politically Exposed Persons (PEPs) or requirements related to information technology and record keeping.

30. The Sudanese authorities subjected DNFBPs to the reporting obligation in the absence of effective application of the conditions of submitting such reports bearing in mind that the FIU was not notified of any STRs by this category. DNFBPs are not subject to any controls by any supervisory authority authorized to ensure that requirements of Recommendations 15 & 21 are met.

31. The AML/CFT Law did not designate the supervisory entities that must ensure that DNFBPs apply related requirements but it commissioned the Minister of Finance and National Economy to designate the supervisory entities in this field, who has not issued a decision in this regard until the time of the on-site visit. These DNFBPs follow self-regulatory organizations that exercise their powers based on their articles of incorporation. It was not found that any enforceable rules or directions were issued by these entities in the AML/CFT field. The FIU disseminated circulars to DNFBPs to impose obligations in this field, but it was not clear for assessors the legal basis based on which the Unit issued these directions to the DNFBPs. The evaluation team considered these circulars to be guidelines. The Sudanese authorities informed the evaluation team, following the on-site visit, that the Minister of Finance and National Economy issued a decision in April 2012 on adopting monitoring and supervisory entities including some of the abovementioned self-regulatory organizations as competent supervisory entities in relation to AML/CFT.

Legal Persons and Legal Arrangements & Non-Profit Organizations

32. The commercial registration department is one of the competent departments affiliated with the Ministry of Justice. It is concerned with registering and following up companies according to the Companies Law of 1925. The procedures related to company registration, information available in the articles of association and the documents required by competent authorities are deemed sufficient to obtain information on partners and shareholders in registered companies. However, as the competent authorities in Sudan reported, there are no procedures taken by the Sudanese competent authorities with regard to verifying that partners and shareholders in companies are the beneficial owners. Moreover, the database of the legal person registrar does not contain any information related to the beneficial owner from legal persons. Additionally, nothing revealed that the Sudanese competent authorities have taken any measures with regard to preventing the misuse of bearer shares in ML/TF operations.

33. Sudan passed the Organization of Humanitarian and Voluntary Work Act 2006 which listed 4 different types of non-profit organizations and granted the Humanitarian Aid Commission (HAC) the responsibility to regulate and monitor this sector under the supervision of the Ministry of Welfare and Social Security. However, the authorities have not reviewed the adequacy of laws and regulations for non-profit organizations for the purpose of preventing the misuse of this sector in terrorism financing. Moreover, no laws or requirements for combating the financing of terrorism were found inside the sectors operating in the field of non-profit organizations although there is a large number of national and foreign organizations operating in Sudan and the large size of the charity sector, but the HAC did not use all available information on this sector or obtain information at the appropriate time.

National and International Cooperation

34. The AML/CFT administrative committee is the high administrative authority in this field. It is in charge of developing public policies, facilitating the exchange of information with similar authorities and coordinating among entities represented in the committee. It appears there is no cooperation and coordination among representatives of the authorities at the operational and policy levels as there are regulations and instructions issued by entities that are legally incompetent. Cooperation among all entities must be developed and coordinated to achieve AML goals and requirements; they must work together to develop and review regulations and circulars. Moreover, the administrative committee must reinforce its role and execute its competencies and an AML/CFT national strategy must be established.

35. Sudan ratified the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Vienna), the United Nations Convention against Transnational Organized Crime (Palermo) and the International Convention for the Suppression of the Financing of Terrorism (New York). However, it did not fully execute the provisions of these conventions due to the presence of some deficiencies in the legislation and poor implementation.

36. The Extradition Act of 1957 and the criminal law govern international cooperation for the Republic of Sudan. Authorities adopt diplomatic channels, through the Ministry of Foreign Affairs, for cooperation according to bilateral, regional and international agreements that were signed or ratified by Sudan in the fields of judicial assistance, exchange of information and criminal extradition. The Ministry of Justice is concerned with, through the public prosecution or judiciary, looking into the execution of these requests. It has a specialized department to receive and extradite criminals. This department also processes the requests for exchange of judicial assistance. Despite the presence of these legislations and agreements, there is lack of a legal framework governing mutual legal assistance. The criminal extradition law stipulated provisions related to evidence and data required by foreign judiciaries; moreover, the law did not identify the mechanism governing the processing of legal assistance requests or an appropriate and prompt mechanism to ensure the execution of requests incoming from foreign countries. Moreover, Sudan does not have laws providing mutual legal assistance with regard to identifying, freezing, seizing or confiscating laundered properties or properties intended to be laundered as well as the instrumentalities used in committing crimes and confiscating properties of corresponding value.

37. With regard to criminals' extradition, money laundering is considered one of the crimes entailing the extradition of its perpetrators. Dual criminality is a prerequisite for responding to criminal extradition requests. Criminal extradition requests are governed by the procedures mentioned in the criminal extradition law as the suspect is brought over and interrogated by the competent judge according to the criminal law. The judge examines the evidence submitted in this crime before the Minister of Justice issues a decision to extradite or release the suspect. The effectiveness of the criminal extradition system cannot be judged due to lack of requests or statistics in this regard.

38. With regard to other aspects of international cooperation, the FIU can automatically or pursuant to request of equivalent units in other countries exchange information provided it complies with the rules of secrecy and the principle of reciprocity. With regard to supervisory entities and other competent authorities, there are no clear mechanisms for direct and technical cooperation except the membership of Sudan in a number of international organizations such as the Common Market for Eastern and Southern Africa (COMESA), World Trade Organization (WTO), the Technical Regional Committee for Governors of Northern African Banks, the Near East – North Africa Regional Agricultural Credit Association (NENARACA), International Monetary Fund (IMF), World Bank Group and African Development Bank (AFDB) in addition to signing memorandums of understanding between the supervisory entities in Sudan and a number of other countries. It does not seem that these mechanisms allow direct cooperation at the technical level. Sudan does not have appropriate mechanisms for automatic exchange of information among competent authorities or to conduct inquiries or investigations on behalf of equivalent foreign authorities. In light of the above, the evaluation team recommended to expand the scope of powers of other competent authorities related to AML/CFT (other than the FIU) such as law enforcement authorities and prosecution entities to enable them perform their role effectively in international cooperation.

Other Issues

In general, the competent authorities in Sudan need to be supported with appropriate financial and human resources. They also need to be adequately qualified through training and necessary technical assistance to be able to perform their tasks properly. Moreover, it should endeavor to provide an environment allowing the provision of sufficient and useful statistics, data and information in all sectors such as supervision on financial and non-financial institutions, law enforcement authorities and

entities concerned with international cooperation. This should enable authorities to follow up on the performance of AML/CFT mechanisms in Sudan and develop them as needed.

Mutual Evaluation Report

1- General

1-1 General Information on the Republic of Sudan

1. Sudan lies in the northern-eastern part of Africa. The Nile dominates its geography as the basin of the River Nile constitutes 67.4% of Sudan's area. Due to its geographic location, Sudan remained a commercial and cultural crossing between North and South Africa as well as between the Arabian Peninsula and Africa, especially west and east of Africa. According to 2008 estimates, Sudan has a population of 30.9 million people³. Sudan overlooks the Red Sea between Egypt and Eritrea with a total area of 1.882.000 km². Sudan shares land borders (of total length 6.780 km) with seven countries namely Egypt (1.273 km), Libya (383 km), Chad (1340 km), Central Africa (448 km), South Sudan (1973 km), Ethiopia (727 km) and Eritrea (636 km) while its coastline on the Red Sea is 875 km. On 24 July 2011, Sudan issued a new version of its currency (Sudanese Pound/SDG) after the separation of South Sudan and issuing an independent new currency. The exchange rate of the new Sudanese pound, during the on-site visit, was about USD 0374.

2. Sudan gained its independence from the bilateral Anglo-Egyptian rule on 1 January 1956. One year before independence, in 1955, Sudan witnessed the beginning of a war that lasted between the central government and different groups in South Sudan which has been subject to geographic and cultural isolation during the colonization period since early 1922. In addition to the natural factors, South Sudan had relative privacy where a large sector of the intellectual elite had feelings of non-belonging to their home country and military rebellion against the central government. This war continued non-stop except in the period during 1973-1983 which affected the political, economic and social stability in the country and drained its human and financial resources and weakened the country for over half a century, the duration of its independence. A series of talks were held between the government and the rebel movement since November 1989 in a number of African capitals. In 2002, a final round of negotiations started aiming at stopping the war and reaching fair and comprehensive peace between the central government and the South rebels. In 2005, it led to a comprehensive peace agreement putting an end to the war and giving the southern the right of self-determination by the end of a transitional stage stipulated by the agreement. By virtue of the agreement, on 9 January 2011, a free referendum was held where citizens of South Sudan voted for separation from the home country and establishment of the independent state of South Sudan, whereby the State of Sudan witnessed the stage of the second republic in its history starting as of 9 July 2011.

Type of Government

3. The government in Sudan is a democratic government elected since April 2010. The governance is presidential. The President of the Republic and governors of the states are elected by direct free voting. Elections for the Federal Parliament and parliaments of states take place through a system that is a mix between direct free voting and proportionate representation.

Administrative Division

4. Sudan is divided into 17 states (Wilayat) ruled by elected governors. Each state has a parliament elected through a mixed system (direct free/proportionate representation). Each state is further divided into a number of districts and each district is headed by an appointed person and has an elected parliament. (There is another suggested state called West Kurdufan State). Number of districts: 176 districts.

³ Total population in 2008 was 39.2 million people; 30.9 million are in the Northern States and 8.3 million in the Southern States which later became the Republic of South Sudan.

Constitution

5. The Constitution (2005) established the basic principles governing the structure and performance of the governance institutions and set out the duties, rights and freedoms of the citizens. The Constitution stipulated the charter of rights as a pledge between all citizens of Sudan and the Government of Sudan. It stressed the obligation to respect human rights included in the international agreements, pledges and charters ratified by the Government of Sudan as an integral part of the Constitution's charter.

6. It stipulated that the Islamic Sharia'a and consensus are the source of legislations. Regarding religious rights, the Constitution stipulated the right of worship for all the Sudanese and Arabic as the official language of the country. It also stipulated that citizenship is the basis of rights and duties, granting personal freedoms and equality before the law, prohibition of torture and the right of every individual in fair trial, free expression in the media, organization, movement and residency. It also stipulated the protection of the state to motherhood and childhood and protecting women against injustice and granting equality between men and women and reinforcing the role of women in family. In public life, the Constitution set out in detail the institutions of the State and their competences (Presidency of the Republic, legislative authority, judicial authority, governments of the states).

Executive Authority:

7. The national executive authority consists of the Presidency of the Republic and Council of Ministers. The President of the Republic is the Head of State and Government representing the will of the people and authority of State. He is elected for a five-year renewable term only once. The Council of Ministers is formed by the President of the Republic after consulting the Presidency of the Republic. It is in charge of planning in the state and initiating bills, national budget, international treaties and agreements and checking and reviewing the executive performance in the state.

Legislative Authority:

8. The national legislative authority consists of two councils: The National Council and States Council. The Sudanese Parliament (National Council) consists of 354 seats (60% of members are elected through geographic districts, 15% of members through lists of proportionate representation and 25% are seats for women through a list of proportionate representation (quota). The same division applies to the state legislative authorities. The States Council: It consists of 34 seats with two representatives from each state elected through the legislative council of the State (the State Parliament).

Constitutional Court

9. It was established by virtue of the Constitution. It has 9 judges and it is independent from the legislative and executive authorities and separated from the judicial authority. Its task is to protect the Constitution, human rights and public freedoms and settle the constitutionality of laws and constitutional disputes between the levels and bodies of governance. It has a criminal competence vis-à-vis the President of the Republic, his Vice-President, and the Head of the National Legislative Authority Council and judges of the Supreme Court.

Judicial Authority:

10. The judicial authority is independent from the executive and legislative authority. It also has financial and administrative independence. The Chief Judge in the Republic is the President of the Judicial Authority and President of the Supreme National Court.

- The Sudanese judicial body was founded in 1899.
- The judiciary presidency building was founded in Khartoum in 1908.
- Supreme National Court: It has 70 judges and issues its verdicts by the majority and its judgments are not reviewed.
- Courts of Appeal (Cassation): They have 130 judges and are distributed among the states.
- Public Courts: A one-judge court. They are 133 courts.
- Summary Courts: Courts of (first, second and third) instance. They are primary courts distributed throughout the State. They are 397 courts.
- Urban and Rural Courts: Popular courts made of citizens who are known by good reputation and prominent figures in the community in Sudan. They are 1062 courts.

Economic Sectors and Activities:

Agriculture

11. Agriculture represents the main sector of the Sudanese economy; therefore, most Sudanese exports consist of agricultural products such as cotton, Arab glue, oil seeds, meats, etc. There are also vegetables and fruits that are exported to the African and Arab countries. Agriculture contributes by about 34% of the GDP.

Animal Wealth

12. The animal wealth sector occupies the second place in the Sudanese economy with regard to importance. Sudan owns more than 130 million head of animal wealth and Khartoum owns over a million head in addition to the fish wealth in the fresh water and the Red Sea.

Industry

13. Industry in Sudan focuses on conversional industries which rely on agricultural products. The industry of cloth, sugar, oils and food industries are flourishing in Sudan in addition to other conversional industries. One of the most important modern conversional industries in Sudan is ethanol production from Kenana sugar plant. Accordingly, Sudan is the first Arab country to produce ethanol. Moreover, many light and heavy industries have flourished in Sudan such as car manufacturing and assembly of various kinds in Jiyad Plant in Al Jazirah State, aircraft manufacturing in Kerari, steel manufacturing and many other light industries; thus marking a 23.9% contribution of this sector in the GDP.

Oil

14. Sudan has not ceased to extract and use its oil reserve since half a century ago under the occupation and during the national ruling with its various stages in cooperation with some foreign oil companies. The heavy burden created by importing oil substances under the Sudanese expenditure budget which lasted for a long time was one of the main reasons that encouraged investment in the oil field to reach its climax over the last ten years. The Government placed the oil among the main

elements in its economic strategy and opened the field for investment with a number of international companies operating in the oil industry. Sudanese oil is deemed one of the best materials in the Middle East. Accordingly, Sudanese exports flourished due to oil.

Exports

15. The Sudanese exports largely rely on oil as Sudan recently made it to the list of countries exporting oil in 1999. It exports most of the production while it refines some of it locally with the purpose of self-sufficiency. In the past, Sudan relied completely on agricultural products in addition to minerals. Cotton gets special attention from the State due to high demand in global markets as well as the Arab glue as Sudan is the world's top country in producing Arab glue. It is exported to European countries and the USA.

Economic Policy:

16. The Sudanese economy was restructured through a comprehensive program for economic reform that consisted of the following objectives:

- Reducing the role of the State in economic work and production activity by following the privatization policy and giving a chance to the private sector;
- Liberating foreign trade and encouraging exports;
- Liberating prices and ceasing the support of commodities and services;
- Achieving a standard budget, reducing deficit, controlling the volume of cash, reducing the rates of inflation and achieving a reasonable amount of balance in the expenditure budget;
- Reforming the taxing system, reducing and keeping some direct and indirect taxes, implementing the system of Value Added Tax (VAT) and revising the categories of tax tariffs by exemption and reduction of tax fees;
- Increasing exports, diversifying their markets and expanding their base by introducing commodities foremost among which are oil, gold and some industrial products;
- Accommodating high levels of direct foreign investment in the oil, mining, manufacturing, agriculture and transportation industries;
- In the framework of the regional and international changes, the following was achieved:
 - Sudan regained its membership in the IMF and started implementing its relationship with other financing institutions;
 - Sudan entered into the Common Market for Eastern and Southern Africa (COMESA) and turned into a common market free of customs barriers. As of October 2000, it implemented the zero customs fees;
 - It entered into the GAFTA (Greater Arab Free Trade Area) which leads to expanding the foreign market circle;
 - At the international level, it is preparing to join World Trade Organization (WTO) by amending economic legislations and procedures especially the customs tax.

1-2 General Situation of Money Laundering and Financing of Terrorism

17. Sudan suffers from the presence of a number of ML predicate offences that yield proceeds that can be laundered inside the country. On one hand, the size of drugs trafficking in Sudan is a source of high concern for the competent authorities, especially with the increase of smuggling operations across extended land and sea borders of Sudan. On the other hand, the Financial Sector Assessment Program (FSAP) Report issued by the World Bank in April 2005 indicates the presence of large cases of financial fraud annually which indicates in turn the imminent presence of laundering the proceeds derived from this kind of economic crimes. Moreover, Sudan was ranked 172 (out of 178 countries) on the Transparency International's 2010 Corruption Perceptions Index, a disturbing indicator on the presence of a ripe environment for money laundering in the country. Despite ML criminalization since 2003, the number of cases referred to investigation at the Public Prosecution in this field did not exceed a mere of 3 cases as reported by the authorities; the competent court rendered in one of the 3 cases a judgment of non suit.

18. According to the concerned Sudanese authorities, Sudan suffers from the presence of terrorist movements working on destabilizing and shaking the security of the country either in the south or west of the country. Historically, The UN Security Council applied sanctions on Sudan in 1996 (pursuant to Resolutions 1054 & 1070) because of connections to terrorism. These sanctions were removed in 2001 (pursuant to Resolution 1372) after Sudan joined international agreements on combating terrorism.

19. In general, despite the presence of a number of measures taken by Sudan to reduce its risks, the widespread transaction in unofficial exchange market is one of the general risks that might be related to ML/TF operations. As a number of agencies state during the on-site visit, unofficial wire transfers are also widespread, especially incoming ones, which leads to increasing ML risks in general and TF risks in particular⁴.

1-3 Overview of the Financial Sector and DNFBPs

20. Following the separation of South Sudan on 9 July 2011, the Sudanese pound before the separation of South Sudan was replaced by post-separation pound with the same value and denominations during the period from 24/7 to 1/9/2011. The average monthly exchange rate by the end of July 2010 amounted to 1.3711 pound/USD and the average annual exchange rate for 2011 reached 2.6881 pound/USD.

21. Both financial and non-financial sectors rely on an Islamic approach with respect to the products and services they offer to the public in particular, and all the transactions they conduct in general. The financial sector in Sudan consists primarily of the banking sector (banks, exchange companies and transfers) in addition to what are known as leasing companies (operating in the field of renting out the premises to the tenant while the lease may end by owning the rented premises, which is similar to financial leasing companies in other countries). The financial sector also includes the insurance sector and stock exchange sector. To elaborate, there are 33 banks in Sudan (between commercial and specialized, national and foreign) that have nearly 600 branches throughout Sudan. There are also 19 exchange companies in Sudan. (They all perform money transfer transactions). There are 4 financial service companies (that perform money transfers only) and Sudan Postal Services C. Ltd (SudaPost) which opens accounts and performs transfers and other financial transactions.

⁴ The Sudanese authorities informed that this issue is tackled through several channels including bilateral agreements with several countries such as Saudi Arabia and UAE and internally through the economic security law and the Regulation on dealing in foreign exchange issued by the Central Bank of Sudan.

22. A number of leasing companies operate in Sudan; they are subject to the supervision of the Central Bank of Sudan. Officials at the Central Bank informed that these companies perform asset leasing operations only and assets are not ultimately owned by the tenant because such activity is suspected to be in violation of the Islamic Sharia⁵. On the other hand and despite the above, the regulation for leasing companies (the leasing FI regulation issued in 2004) stipulates that the activities that can be performed by these institutions include “leasing to ownership”. There are 2 leasing companies in Sudan, the National Leasing Company with a capital of SDG 21.810.000 and the Arab Leasing Company with a capital of SDG 69.740.850.

23. On the other hand, there are 14 companies in Sudan operating in the insurance and reinsurance sector with more than 50 branches in addition to 6 companies operating in insurance brokerage with over 1000 agents. There are 42 stock brokerage companies. Although KSE (Khartoum Stock Exchange) was established in 1995, the number of companies listed therein is very small (only 56 companies) and the size of market and transactions therein remains limited. This might be the result, among other reasons, of the manual trade in stocks (until end of 2011).

24. With respect to the non-financial sector, most activities requiring international standards for AML/CFT purposes are performed, such as real estate brokerage, law practice and auditing, dealing in precious metals and precious stones and providing some of the companies' services (through lawyers). There are 570 real estate brokerage offices throughout Sudan most of which (520) are in Khartoum. There are over 22,000 lawyers one third of which (8,000) are licensed to authenticate the various civil transactions including sale, purchase, agency, etc. There are around 196 accountants licensed to practice the profession of auditing according to the concerned authorities⁶. There are 50 dealers of precious metals and precious stones (jewelers) according to the Sudanese Jewelers Union. Regarding the provision of the companies' services, lawyers assist in establishing companies in the founding stages, but they are not authorized to practice any administrative works in the companies outside the framework of providing legal advice.

25. It is noted in general that there is no clear count of the number of companies practicing non-financial activities in Sudan as company registrar officials informed that the current records of companies do not categorize them by activity and that they include all the companies since the creation of the companies register (in 1925) but without identifying the operating companies versus dissolved or non-operating companies. It is noted that the companies' registrar does not verify that the companies practice their activities as declared in their by-laws as this is left to the relevant supervisory entities. The Sudanese authorities informed that the role of the commercial registrar is restricted to registering companies and tracking them to ensure that companies deposit the legal applications required by the Companies Act 1925 as it is very difficult to track the activities of the companies and this matter is left to the relevant supervisory entities. However, the Department conducts, through the follow-up division, on-site inspection in the form of periodic campaigns to ensure they respect law obligations and pinpoint any violations.

1-4 Overview of commercial laws and mechanisms governing legal persons and arrangements

26. 4 primary laws regulate the legal persons in Sudan. They are concerned with establishing, registering, licensing and tracing the activities of commercial legal persons. These 4 laws are:

⁵ The Sudanese authorities provided after the Face- to -Face meeting held in September 2012 a text on a Shariaa Fatwa issued by the Higher Shariaa Supervisory Board for banking and FIs dated 3 June 2009 stating that activities of “leasing to ownership” are allowed provided that the leasing does not conceal sale.

⁶ The WB Report for the Financial Sector Assessment Program in Sudan, 2005 indicates the presence of 13 accounting companies. The authorities did not refer to this number during the on-site visit of the evaluation team.

Companies Act 1925, Business Name Registration Law for 1931, Companies Registration Law for 1926 and Commercial Agents Registration and Regulation Law for 1971.

27. According to the Companies Act 1925, there are several types of companies and commercial entities in Sudan. They are:

- a. Private companies.
- b. Public companies.
- c. Charity companies.
- d. Branches of foreign companies.

28. The commercial registration department of the Ministry of Justice is concerned with registering and tracing the companies according to the Companies Act for 1925.

29. The procedures of companies' establishment include: (1) Application addressed to the commercial register containing the original and copy of the proposed names of the company. The application should be submitted by a lawyer or a person with a legal capacity authorizing him to do so, (2) The company's articles of incorporation, (3) In case the founder is foreigner, the company is prohibited from operating in the field of import and export, public trade and press publishing. After initial approval: (1) Prepare the company premises and put a sign with the accepted name in a clear place on the premises, (2) Provide three printed booklets of the company's articles of incorporation subject to the conditions set out in the initial approval, (3) Fill out an application about the capital to be printed and signed, (4) Fill out an application about the declaration to be printed, signed by the applicant and authenticated by another lawyer, (5) Print the judicial application, (6) The previous documents must be stamped by the taxation and Zakat departments with the necessary legal stamps. After review: (1) The final fees for the company registration shall be paid, (2) the company shall be registered in the registrar and assigned a final number, (3) The certificate of establishment shall be printed in Arabic and English; once signed, and the company shall have a legal person. The applicant shall submit the certificate of establishment in Arabic and English and two authenticated booklets of the company's certified articles of incorporation.

30. The registration procedures of foreign company branch require that the registration application is submitted by a lawyer or a person with a legal capacity authorizing him to do so. It must include the following: (a) Articles of incorporation of the parent company, (b) Certificate of registration or deed of establishment of the parent company, (c) List of the Board of Directors of the parent company, (d) Authorization of a notary from the company to a person residing in Sudan to receive judicial notices and another to a person usually residing in Sudan to represent the company in Sudan, (e) Decision of the Board of Directors of the parent company to open a branch in Sudan. All the previous documents must be stamped by the company's seal and authenticated by the Ministry of Foreign Affairs of the registering country and the Sudanese embassy in that country: If the original is not in the Arabic language, then it must be translated by a certified agency.

31. It is noted that the law allows the existence of bearer shares in Sudan without the possibility of identifying the person to whom the ownership is transferred (See section 5 of this report). Yet, the Sudanese authorities indicate that KSE Act requires public shareholding companies or any entity issuing securities or their agents to register the ownership of such negotiable securities that are sold or bought or to transfer or move ownership in the market without any condition despite the content of the related law or by-laws or articles of association or the applicable Companies' law or any other law or regulations.

32. Mechanism of tracking the companies' activities: Due to the lack of means, according to the Sudanese authorities, the commercial registrar conducts, from time to time, on-site visits to the premises of the companies to ensure that they carry out the deposits required by the law.

33. Statistics: The number of the companies operating in each category of the companies' categories present in Sudan according to the Sudanese authorities is as follows⁷:

- 1- Number of business names 77852
- 2- Number of partnerships 16271
- 3- Number of registered companies 40729

1-5 Overview of strategy to prevent money laundering and terrorist financing

1-5-a AML/CFT Strategies and Priorities

34. During the on-site visit, officials in the administrative committee, which is the supreme entity concerned with the AML/CFT affairs in Sudan, informed that the committee adopted, few days before the visit, a five-year work strategy (2012-2016). The evaluation team was able to view this draft strategy after the on-site visit.

1-5-b AML/CFT Institutional Framework

35. The AML/CFT institutional framework consists of a number of concerned entities, whether at the level of drafting public policies, law enforcement or the regulatory and executive levels.

The Administrative Committee:

36. Both AML Law for 2003 and AML/CFT Law for 2010 stipulated the establishment of an administrative committee. The committee, according to the formation set out in 2010 law, includes representatives from concerned entities (Ministry of Justice – Central Bank – Ministry of Finance and National Economy – Ministry of Foreign Trade – Ministry of Foreign Affairs – Ministry of Investment – Different Departments from the Ministry of Interior – Taxation Chamber – National Information Center – FIU) headed by Undersecretary of Minister of Justice. According to the law, the committee shall be entrusted with AML/CFT planning, issuing guiding principles in coordination with the competent entities, following-up on the international and regional developments in the combating field and participating in relevant international seminars, conferences and events. The committee shall also coordinate with its representative and develop relevant qualification and training programs. The evaluation team did not view any of the programs or mechanisms that might have been developed by the committee to achieve these goals.

The Financial Information Unit (FIU):

37. The Sudanese FIU was established by virtue of a decision from the Governor of the Central Bank based on what is stipulated in the AML/CFT Law for 2010 after it used to operate unofficially as the Secretariat of the Administrative Committee in light of the old law (2003). According to that law, the administrative committee was competent with drafting the public policy and AML/CFT plans, issuing guiding principles for administrative investigation, inspection and follow-up in coordination

⁷ Business names means the name or the manner of any activity whether partnership or others (Art. 2 of the law of registering business names for 1931); Partnership means participation of 2 persons or more in business and profits sharing (art 2 of the law on registering partnerships for 1933); A company means company established and registered under the provisions of this law and the liabilities of its members are identified and limited to the non paid shares- if any - (art 2 of the Companies Act for 1925).

with the competent entities, receiving STRs from inside and outside Sudan about transactions suspected of being connected to ML/FT, sending them to the unit for necessary action and following-up on the latest international and regional developments in this field. Law 2010 stipulates that the FIU is competent to analyze information related to funds suspected of being ML/TF proceeds and send the information to the Public Prosecution to build evidence, where possible, on the commission of one of the crimes set out in the criminal law, AML/CFT law or any other law. The law also authorizes the FIU to request and share information with equivalent foreign units and grants it the power to provisionally stop financial transactions and ask to seize the suspicious funds.

The Coordination Authority for Combating Terrorism:

38. The Coordination Authority for Combating Terrorism is a committee working within an unofficial framework to handle the Security Council resolutions. The evaluation team was informed that the authority was established by virtue of a letter from the Ministry of Foreign Affairs addressed to the security and intelligence body urging them to create a committee to respond to UNSCR requests and resolutions. The Authority is chaired by a former retired major-general in the security and intelligence body, with members representing a number of relevant entities.

Supervisory Entities on the FIs:

The Central Bank of Sudan, Khartoum Stock Exchange (KSE) and the Insurance Supervisory Authority (ISA):

39. 2010 Law explicitly stipulates that the Central Bank, KSE and the Insurance Supervisory Authority shall be responsible for monitoring and supervising the compliance of institutions under their supervision with the application of obligations set out in the law (banks, currency exchange and money transfer companies, leasing companies and post for the Central Bank, stock brokerage for the KSE and insurance and reinsurance companies and insurance agents for the Insurance Supervisory Authority). According to the law, these entities shall also be responsible for issuing executive regulations for the law each in their own jurisdiction.

Regulatory Entities of Non-Financial Institutions:

The lawyers union, the Accountancy and Audit Profession Organizing Council, jewelers union and the real estate agents division in the business owners union.

40. There are no provisions identifying the entities concerned with ensuring the compliance of non-financial institutions with the obligation imposed by the AML/CFT Law for 2010. But on the other hand, the 2010 law stipulates that the Minister of Finance and National Economy may appoint any entity as a monitoring or supervisory entity on any of the activities of the financial or non-financial institutions provided for in this law. Until date of the on-site visit, the Minister had not issued a resolution in this regard⁸.

41. On the other hand, lawyers, accountants, jewelers and real estate agents are regulated in professional unions or associations to regulate their general affairs with respect to requirements of obtaining and renewing work licenses and disciplinary actions in the event of commission of violations to the laws regulating their main activities. In this framework, this role is entrusted to the

⁸ Following the on-site visit, the Sudanese authorities informed that the Minister of Finance and National Economy issued the Ministerial Resolution no. 34 on 11 April 2012 based on Article 4/d and Article 3 of the AML/CFT Act 2010, which refers to approving regulatory and supervisory entities. These entities are the Voluntary and Humanitarian Work Commission, Registrar-General of Trade, Work Regulations Public Register, General Union of Sudanese Lawyers and the Accountancy and Audit Profession Organizing Council. These entities shall conduct the supervision and control duties stipulated in Article 5/1 of the AML/CFT Act.

lawyers union, the Accountancy and Audit Profession Organizing Council, jewelers union and the real estate agents division in the business owners union. It is noteworthy that the Accountancy and Audit Profession Organizing Council was dissolved since July 2011 due to technical reasons that prevented it from performing its tasks independently.

Law Enforcement Authorities:

Public Prosecution and Specialized Prosecutions:

42. More than one prosecution is granted the power to investigate in ML/TF crimes. In its meetings during the on-site visit with officials from the unlawful and suspicious enrichment prosecution and Banking Violations Prosecution, the team found that each of the state security prosecution and the criminal investigations prosecution has qualitative or place competence to set the action in motion in both crimes. The unlawful and suspicious enrichment prosecution is also competent to investigate ML crimes associated with administrative corruption as its work scope is limited to the framework of violations of a public position. The Banking Violations Prosecution is competent in cases where banks or their clients are party in financial crimes.

43. On the other hand, the team found that the state security prosecution is competent for criminal prosecution of ML/TF crimes as they represent, along with other crimes, such as fraud and counterfeiting, crimes that affect the security and stability of the country as reported by the state security prosecution officials.

44. The evaluation team also found, through reports from a number of competent entities that the Public Prosecution has a venue jurisdiction allowing it to follow-up on all crimes in the range of its geographic districts including those related to ML/TF crimes. Based on this information, the team visited one of the prosecutions of the State of Khartoum where its officials confirmed the accredited jurisdiction of the Public Prosecution in this field. They also pointed out the presence of other specialized prosecution, namely the “criminal investigations prosecution”, which is also competent to investigate ML/TF crimes as well as a number of other crimes. The evaluation team could not hold a meeting with representatives of such prosecution.

Ministry of Interior:

AML Directorate (at the General Directorate for Public Security and Criminal Investigations)

45. The AML Directorate at the Ministry of Interior was established in 2007 within the structure of the General Directorate for Intelligence and Criminal Investigations. The said directorate consists of 4 divisions or sub-departments. They are: Banking sector violations investigation department, tax evasion combating investigation department, suspicious fund sources investigation department and information and operations department. The General Directorate investigates reports on banking violations and reports on tax evasion and ML offenses.

Security Police (Terrorism Combating Unit)

46. The evaluation team was informed of the presence of a department inside the Ministry of Interior called the security police department consisting of a unit called the terrorism combating unit that contributes along with other entities in the state in combating terrorism and detecting its networks. The team asked to hold a meeting with the security police department in the Ministry of Interior, but the authorities informed that this is not possible.

Security and Intelligence Service (Economic Security Directorate)

47. The security and intelligence service follows the Republic presidency directly. The service includes a directorate competent in following-up the economic matters, namely the economic security

directorate. The service officials informed that the work of this directorate is diversified and reaches out and affects all aspects of the economic activity in the country; its offices are directly spread in the various public and private authorities and institutions or through its sources there. The economic security directorate is responsible for investigating the incoming information and referring the same to the competent prosecution when necessary, which in turn opens formal investigation in the case when it may call for more information from the Ministry of Interior bodies or the economic security again before setting the criminal actions in motion when necessary.

48. It is noted that despite the numerous entities mentioned above, the powers and competences of some of them intertwine or conflict with one another and the practice shows disorder and ambiguity in the role and autonomy of each as shown later in the report. An example on the interference, conflict or ambiguity of powers is the absence of clear internal roles of the divisions of the FIU; as well, the FIU is connected to one of the divisions or departments of the Central Bank on the one hand and the powers of the unit and administrative committee on the other hand. There is also conflict in the powers of the different prosecutions based on the place and qualitative jurisdiction; overlapping between the work of the different prosecutions and the Ministry of Interior department's; overlapping between the instructions of the Central Bank, KSE and ISA.

1-5-c *Approach concerning risk*

49. The evaluation team was not informed of any studies or surveys conducted by the Sudanese authorities in ML/TF risk assessment according to the different financial or non-financial sectors. From a practical side, no sectors were exempted from any relevant obligations intentionally or considerably and no relevant procedures or policies were intensified for any sectors either. It could not be verified whether Sudan adopted a clear policy towards all sectors concerned with such risks.

1-5-d *Progress since the last mutual evaluation*

50. Sudan was evaluated in 2005 by the International Monetary Fund (IMF) for AML/CFT purposes in the framework of the Financial Sector Assessment Program (FSAP). The said report indicated the presence of major deficiencies in all aspects of the combating system including ML criminalization and (non) criminalization of TF and the preventive measures of the financial and non-financial institutions and international cooperation fields. Sudan was not subject to MENAFATF follow-up process as it was not part of the group at that time, but Sudan is currently, since June 2009, subject to FATF "ICRG" process as it is subject to follow-up in some matters of strategic importance. Sudan is currently on the second list issued by the FATF that includes countries which showed high-level political commitment in implementing the agreed on action plan.

51. Since the said evaluation report was issued in April 2005 and as a result thereof, Sudan took some corrective measures as the new law for ML/TF criminalization was drafted which was passed under a temporary decree on 7 January 2010. By virtue of the law, the FIU was established, the administrative committee was re-formed and the competences of each of them were specified. The Central Bank also issued a circular (Circular 10/2010) related to AML/CFT obligations for financial and non-financial institutions. KSE and ISA issued AML/CFT regulations. The FIU also issued a number of guidelines for financial and non-financial institutions with respect to identifying the obligations imposed by AML/CFT Law for 2010.

2. *Legal System and Related Institutional Measures*

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

2-1-1 *Description & Analysis*

R.1:

1. **Legal Framework:** The Sudanese lawmaker criminalizes the ML act by virtue of the AML/CFT Law for 2010. This law was initially passed as a temporary decree on 7 January 2010 then became Law no. 1 for 2010 on 30 June 2010⁹. It is noteworthy that Sudan had previously criminalized money laundering by virtue of the AML Law for 2004¹⁰ which remained in effect until it was cancelled by virtue of the new law no. 1 for 2010. It is worth mentioning that the lawmaker adopted the wide approach in identifying the predicate offences of the money laundering crime in the new law whereas the old law contained a certain number of predicate offences where the lawmaker followed the list approach.

2. **Criminalization of Money Laundering (Criterion 1-1):** Article 33 of Law no. 1 for 2010 stipulated, “*any person committing an action involving the earning, possession, disposing of, using, moving, managing, keeping, replacing, depositing or investing proceeds by counterfeiting their value or movement or transferring them or leads to concealing or disguising their real source or nature or place or the way of disposing of them or the rights related thereto (...) shall be considered as perpetrator of ML offense*”. Therefore, this article included some of the ML forms provided for in the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (Vienna Convention)* and the *United Nations Convention against Transnational Organized Crime of 2000 (Palermo Convention)*¹¹ with regard to “acquiring, possessing, disposing of proceeds, moving, managing, keeping, replacing, depositing or investing proceeds” but the Sudanese lawmaker linked between these forms and **the use of one of the mentioned techniques**, which is counterfeiting the value of the proceeds or moving them or concealing the real nature or source of the funds in order to consider the act as money laundering. Therefore, the Sudanese lawmaker added the burden of proving that one of these forms was carried out by using certain techniques whereas Vienna and Palermo Conventions have set out ML forms without linking them to a certain technique. The two conventions linked between the actions of transferring or moving properties to a special purpose namely concealing or disguising the source or assisting in avoiding the legal sanctions due to his involvement in predicate offenses; the Sudanese provision did not stipulate that either. Moreover, ML criminalization did not include the forms of concealing or disguising the real nature or source of properties or their place or the way of disposing of them or their movement or ownership or the rights related thereto. Therefore, the provision does not adequately cover the material elements of the ML crime **provided for in the two conventions**.

3. **Laundered Properties (Criterion 1-2):** The definition of ML criminalization extended to include acts committed on proceeds. Article 3 of the law no. 1 for 2010 defined the proceeds as “*funds derived or acquired directly or indirectly from the commission of one of the crimes stipulated in the criminal law for 1991 or any other substitute law as well as any crime stipulated in any other law in effect in Sudan*”. It also defined funds as “*funds of all types whether tangible or intangible, movable or immovable and currencies of all types whether foreign or domestic; financial and commercial papers, bonds and documents that prove the ownership or possession of the funds or any right thereof*”. The lawmaker did not specify the value of the funds; therefore, the definition of proceeds is deemed wide, but it is noteworthy that this definition did not include electronic or digital documents.

⁹ This report shall refer to the AML/CFT law for 2010, law no. 1 for 2010 (1/2010)

¹⁰ This law was passed initially by virtue of a provisional decree for 2003.

¹¹ Article 3 (1) (b) & (c) of Vienna Convention and Article 6(1) of Palermo Convention.

The Sudanese authorities consider that the definition of documents mentioned in the law includes electronic documents; whereby the definition of electronic documents was mentioned in the law on electronic transactions; While the evaluation team considers that the definition of electronic document referred to addresses the means by which the document was established or sent or used and does not indicate the nature of such document and whether it includes electronic or digital funds.

4. **Proving that the properties constitute crime proceeds (Criterion 1-2-1):** The Sudanese lawmaker did not stipulate the condition of passing a judgment or conviction for the predicate offence when proving that the properties are crime proceeds, but it was found during the on-site visit that this concept is unclear for the majority of the authorities; they believe that a conviction for the predicate offence is required to prove that the proceeds are illicit. It was also unclear whether to separate the investigation or make a decision to initiate action between the predicate offence and ML crime for the law enforcement authorities. Although the law does not require the conviction of a predicate offence to prove that the funds are the proceeds of a crime; it cannot be confirmed until the Sudanese courts encounter the application of law. The team did not have any judicial rulings showing that there is no actual condition for the illegitimacy of properties in order to constitute crime proceeds as there is no ML conviction pursuant to law no. 1 for 2010.

5. **Scope of Predicate Offences (Criterion 1-3) (Criterion 1-4):** In the Sudanese lawmaker’s definition of the proceeds upon which the ML act is committed in Article 3 of law no. 1 for 2010, he mentioned that they are the funds resulting from: “(...) *the commission of one of the crimes stipulated in the criminal law for 1991 or any other substitute law as well as any crime stipulated in any other law in effect in Sudan*”. Accordingly, the Sudanese lawmaker adopted the absolute approach in identifying predicate offences. Below is a table that shows the scope of the 20 predicate offences listed as designated predicate offences in the assessment methodology:

Designated Categories of Predicate Offences	Reference in the Sudanese Law	Remarks
Participation in an organized criminal group and racketeering	Article (65) of the criminal law, Article (176) of the criminal law	
Terrorism, including terrorist financing	Articles (5) to (12) of the CFT Law and, Article (33/2) of the AML/CFT Law.	
Trafficking in human beings and migrant smuggling		Decriminalized in the Sudanese laws
Sexual exploitation, including sexual exploitation of children	Articles (154, 155 & 156) of the criminal law and, Articles (45 & 46) of the Child Act.	
Illicit trafficking in narcotic drugs and psychotropic substances	Article (15) of the Drugs and Psychotropic Substances Act.	
Illicit arms trafficking	Arms, Ammunition and Explosives Act, 1986.	

Designated Categories of Predicate Offences	Reference in the Sudanese Law	Remarks
Illicit trafficking in stolen goods and other goods	Article 181 of the criminal law for 1991	Illicit trafficking in goods is not covered according to the Sudanese laws
Corruption and bribery	Articles (88-92) of the criminal law	No criminalization of corruption acts in the Sudanese laws
Fraud	Article (178) of the criminal law	
Counterfeiting currency	Article (117) of the criminal law	
Counterfeiting and piracy of products	Article 31 of the Specifications and Standards Act, 2008	
Environmental crimes	Article (71) of the criminal law, Article (12) of the Terrorism law, Article (20) of the environment protection law and Articles (7-11) of the Environment Health Act.	
Murder and grievous bodily injury	Articles (130, 131, 139 & 142) of the criminal law	
Kidnapping, illegal restraint and hostage-taking	Articles (164 & 165) of the criminal law, article 188 of the criminal law	
Robbery or theft	Articles (167, 170, 171, 174 & 175) of the criminal law	
Smuggling	Articles (198 & 199) of the customs law.	
Extortion	Article (176) of the criminal law	
Forgery	Article (123) of the criminal law	
Piracy	Articles (7-10) of the Terrorism Combating Act.	
Insider trading and market manipulation	Article 37/2 of KSE Act for 1991	

6. The above reveals that although Sudan adopted the wide approach to designate the scope of predicate offences, yet, a number of designated categories of predicate offences set out in FATF list of

definitions are not deemed ML predicate offences as they are in the first place decriminalized acts in Sudan: (1) illicit trafficking in human beings and migrant smuggling, (2) illicit trafficking in goods, (3) corruption¹². Moreover, although (4) the terrorist financing crime is a criminalized act in the Sudanese law; however and according to SR.II (See part 2-2), the definition of a terrorist financing act is not in conformity with the international standards; therefore, TF offense cannot be considered based on the Methodology as ML predicate offence.

7. **Predicate Offences Committed outside Sudan's Territory (Criterion 1-5):** The lawmaker stipulated in Article 33 (1) of law no. 1 for 2010 on the extension of the crime from which the proceeds resulted, i.e. the predicate offence, for each crime whether it was committed inside or outside Sudan provided that it is punishable in both the Sudanese law and the law of the country in which the crime has occurred. Therefore, the definition of the predicate offences of money laundering extends to include the acts committed in another country.

8. **Self Money Laundering (Criterion 1-6):** Neither law no. 1 for 2010 nor the criminal law contain a provision preventing the application of ML crime on the perpetrators of the predicate offence. In addition, Article 40 (1) of the criminal law stipulates that, "*if one act constitutes more than one crime, the penalties overlap and one penalty shall be imposed namely the severest penalty*". Accordingly, if a person commits a predicate offence and launders the proceeds of this crime, this article of the criminal law shall apply. From an applied perspective, this has not been encountered yet in the Sudanese courts.

9. **Ancillary Offences (Criterion 1-7):** In Article 33 (3), the lawmaker mentioned that *any person attempting to commit, criminally agrees to commit, participates in committing, abetting or collaborating in committing a crime is deemed a perpetrator of a ML crime and shall be punished by the same penalty imposed on the original perpetrator*. Article 19 of the criminal law defined the attempt as the attempt to commit an act apparently with the purpose of committing a crime if the crime did not occur due to a reason beyond the control of the perpetrator. According to Article 24 of the criminal law, criminal agreement is an agreement between two or more persons to commit a crime. Articles 21 and 22 of the criminal law mentioned participation as execution of a criminal agreement or without agreement. Abetting was defined by the Sudanese lawmaker in Article 25 of the Criminal Act as one person tempting another person to commit a crime or ordering someone under his command to commit it. Regarding collaboration, Article 26 of the said law mentioned that any person collaborating in committing any act that constitutes a crime with the purpose of facilitating its commission shall be punished. Accordingly, the Sudanese lawmaker has designated ancillary and appropriate offences of the ML crime including attempting, assisting, inciting and facilitating. With regard to counseling, we can refer to the general rules provided for in the criminal law whereby Article 23 thereof stipulated, "whoever orders an unassigned person or a person in good faith to commit an act constituting a crime or forces a person to commit such act shall be responsible for it as if he committed it alone and shall be punished with the penalty stipulated for this crime.

10. **Additional Elements (Criterion 1-8):** The law required dual criminality in Article 33 (1) of law no. 1 for 2010; therefore, it is not considered as ML offense by virtue of this law where the proceeds of the crime are derived from conduct occurred in another country, which is not an offense in that country but would have constituted a predicate offense had it occurred in the Republic of Sudan.

R.2:

11. **Natural Persons' Liability with the presence of Knowledge Element (Criterion 2-1):** ML crime applies to natural persons whereby Article 33 (1) of law no. 1 for 2010 stipulated that **every**

¹² The Sudanese lawmaker criminalized the breach of trust and bribery; yet, this does not meet the international requirements for corruption crimes.

person is considered a perpetrator of a ML offense. Article 3 of the said law defined the mentioned person as any natural or legal person. But the said law did not tackle the issue of knowledge that the funds are derived from a crime. In this regard, it can be referred to the said general rules in the criminal law which require, by virtue of Article 8 (2) of the latter law, that there is no liability except for an illegitimate act committed intentionally or committed with negligence. Article (3) of the criminal law defined intention as follows: “A person is said that he caused the effect “intentionally” if he caused it using means with the aim to cause it or using means that he knew, at the time of using them, that they will cause such effect, or he had reason to believe that they might cause it”. The same article defined “had reason to believe” as if he had reasons to believe, or the circumstances in which he was present would cause similar others to believe”. The general rule in the Sudanese legislation requires knowledge in ML criminalization; therefore, the offence of ML should apply at least to natural persons who knowingly engage in ML activity.

12. **Inferring the Intentional Element from the Objective Factual Circumstances (Criterion 2-2):** Article 7 of the Evidence Act, 1994 applied to proving in criminal transactions and matters defined the circumstantial facts that the law considered as related to the action, including the circumstantial facts that show or constitute a motive or purpose for any incident, subject of a dispute and the facts that reveal a mental status, intention or feeling related to the incident, subject of the dispute, in addition to the circumstantial facts showing the identity of the persons, their physical condition, behavior and relationships and the influential facts related to the incident subject of the dispute. Article 13 of the same law added that, “the court may evaluate the data and take from it pursuant to its discretion to the extent that achieves justice, within the limits stipulated in this law”. Therefore, the law permits inferring the intentional element from objective factual circumstances in general as well as in ML offences.

13. **Legal persons subject to criminal liability for ML and the possibility of taking criminal, civil or administrative proceedings: (Criterion 2-3) (Criterion 2-4):** The criminal liability in the Sudanese law extends to include the legal person whereas Article 3 of law no. 1 for 2010 defined the legal person as including the natural and legal person; hence, according to this definition, legal persons are subject to the provisions of Article 33 (1) of the said law. With regard to the possibility of subjecting the legal person to more than one form of liability, whether civil or administrative, there is no explicit provision in this regard. It is noteworthy that the criminal procedures law mentioned in article 204 thereof the civil powers of the court, i.e. the penal court may rule by compensation when exercising its authority, within rules set by the article. Moreover, Article 46 of the criminal law permits the court, pursuant to request of the victim or his guardians, to rule by compensation for any damage arising from the crime according to the provisions of the civil transactions and civil procedures laws. This shows that civil procedures and criminal procedures may be available. However, there is no explicit provision with regard to the possibility of taking administrative measures; although the Sudanese authorities consider that article 5, clause (1) – (e) of law 1/2010 stipulate that AML/CFT supervisory authorities are entitled to use their penal powers provided for by the regulating laws in the event where the financial and non financial institutions breached their obligations by virtue of the law provisions; however, such provision is not applicable on the other legal persons which cannot be considered FI or non FIs according to the definition mentioned in the law for this category.

14. **Sanctions of ML offence (Criterion 2-5):** According to Article (34) of law no. 1 for 2010, the natural person shall be punished by **imprisonment for a period not exceeding ten years and a fine** not exceeding the double amount of funds, subject of the crime. The legal person shall be punishable by **a fine** not exceeding the double amount of proceeds and that natural person, who committed the crime on behalf of or for the interest of a legal person, shall be punished by imprisonment and a fine not exceeding the double amount of funds, subject of the crime. The court may also rule by dissolving the legal person, totally or partially suspending its activity or changing the management. In addition to these penalties, the natural and legal person shall be punished by **confiscating** the crime proceeds and the instrumentalities used in or intended to be used in the commitment of the crime. If the court fails to seize the proceeds, it may order the confiscation of funds

of corresponding value. Therefore, these sanctions seem dissuasive for the natural and legal person, particularly that the penalty of in kind confiscation of proceeds and tools or funds of corresponding value is added.

15. It is worth mentioning that the wording of the provision designating only the ceiling of the penalty is interpreted as allowing ruling by imprisonment for any period without the designated ceiling, which leads to the possibility of giving a judgment of imprisonment for the least period; in all cases, the judge respects by virtue of art 39 of the penal law, when determining and estimating the proportionate sanction, to consider all simplified or enhanced circumstances, particularly the degree of liability and the motives of the crime, its seriousness, the damages caused and the risks of the perpetrator personality, his position, prior criminal records and all other circumstances that have surrounded the crime.

16. The sanction also seems proportionate if compared with the sanctions of crimes generating proceeds. The Sudanese legislation punishes the crime of theft by imprisonment for a period not more than seven years and the possibility of punishing him by a fine or lashing not exceeding 100 lashes¹³ Moreover, any person committing fraud shall be punished by imprisonment for a period not exceeding three years or by fine or by both penalties¹⁴. The perpetrator of bribery shall be punished by imprisonment for a period not exceeding two years and the possibility of a fine. In all cases, any funds acquired as a result of the crime¹⁵ shall be confiscated. It is hard to evaluate the effectiveness of these sanctions due to the absence of convictions for ML offenses.

17. **Statistics:** Law no. 1 for 2010 became effective as of June 2010. The cases handed to the evaluation team have not yet reached the conviction stage although there are 5 cases that were referred by the FIU to the Prosecution¹⁶. However, the authorities did not clarify whether such cases are suspected of involving ML/TF activities and the findings of these cases or the Prosecution which was in charge of investigating them were not revealed.

18. **Effectiveness and Implementation:** In light of absence of the number of ML investigations and no conviction was made in any, it is hard to verify the effectiveness of the ML system in Sudan with regard to law no. 1 for 2010. Regarding the old law passed in 2004, the authorities indicated that only one case was submitted to trial and a judgment of non suit was rendered therein which raises the issue of absence of clear understanding of the extent of relation of ML crime with predicate offences for the enforcement authorities. This is shown by the absence of investigations in ML operations by the competent entities as this is clearly shown in the statistics available in the 2010 annual criminal report; it indicated the presence of a large number of financial crimes (as defined in Chapter 7 of the criminal law for 1991) in addition to a large number of forgery and counterfeiting crimes and drugs crimes as will be mentioned when discussing R.27 and R.28 in this report. It is worth mentioning that the only previously mentioned case, the defendants have been tried before the competent court according to the direction of the Prosecution for the penalty by virtue of the provisions of AML Law and provisions of the Illicit and Suspicious Enrichment Act.

19. Article 7 of the Illicit and Suspicious Enrichment Act 1989 defines illicit enrichment as any funds that unexpectedly occur to any person who cannot prove any legitimate means of acquiring the funds. Therefore, the act applies to funds generated by illicit means of whatever type as is the case in money laundering. But in the case of illicit enrichment, it is sufficient to file a complaint by any person stating that a certain person has suspicious wealth and that these funds have no clear sources to

¹³ Article 174 (2) of the Criminal Law.

¹⁴ Article 178 (2) of the Criminal Law.

¹⁵ Article 88 (2) of the Criminal Law

¹⁶ Based on the Unit statement.

acquire them. In that case, the possessor of the funds shall carry the burden of proving the legitimacy of their source; if he fails to show a legitimate means of acquiring them, the penalty stipulated in the Illicit Enrichment Act shall apply, which stipulates the seizure and confiscation of the funds, subject of enrichment, when the illicit enrichment is proved. It also stipulates the possibility of disengagement (a kind of settlement) as a person may disengage at any stage before opening the criminal action against him to return the funds, subject of illicit enrichment, and showing the means thereof.

20. In ML case, the person seeks to conceal the source of illicit funds, so the authorities carrying the burden of proof (contrary to the case of Illicit Enrichment) find it hard to prove its illegitimacy, but the action does not abate by any provisions similar to the abovementioned disengagement provisions. Therefore, there is the issue of legal characterization and method of application of the ML law. During the on-site visit, the competent authorities confirmed that the disengagement process abates the case against the defendant, and stressed that the two descriptions may be adjusted to the action of enrichment from an illicit source in case of inability to prove the source. The trial court shall have the discretion to decide. The act may be laundering of illicit funds that requires the punishment of the launderer and confiscation of funds and proceeds and shall be deemed illicit enrichment. The defendant may abate the action through the disengagement provisions and confiscation of funds, subject of the illicit enrichment only, without its direct or indirect proceeds. This issue weakens the effectiveness of the implementation of the ML law.

2-1-2 Recommendations and Comments

21. The Sudanese authorities are recommended to:

- Include the material elements of ML offense in all forms as stipulated by the Vienna and Palermo Conventions.
- Include the electronic and digital documents in the definition of properties.
- Criminalize (1) illicit trafficking in human beings and migrant smuggling, (2) illicit trafficking in goods, (3) corruption, (4) terrorist financing as required by SR.II.
- Verify the possibility of applying administrative proceedings when legal person is subject to criminal liability.
- Confirm the presence of dissuasive sanctions.
- Prove the implementation and effectiveness of the system through:
 - Judicial provisions stating that the illicit funds are not required to prove the crime proceeds;
 - Judicial provisions related to self-laundering;
 - Issuing provisions showing that natural and legal persons are subject to effective sanctions.
 - Non-presence of overlapping in the characterization of the act with the illicit enrichment.

2-1-3 Compliance with R.1 & 2

Rec.	Rating	Summary of factors underlying rating
R.1	PC	<ul style="list-style-type: none"> • Inadequate ML criminalization based on Vienna and Palermo conventions • Not verifying that the documents include electronic and digital ones • Predicate offences do not include all 20 offences. • Conviction in predicate offense is not clearly provided when proving that properties are crime proceeds • Absence of clear understanding for the competent authorities on the extent of relation of ML crimes with predicate offenses • Absence of effectiveness for the old law of 2004 and the new law of 2010 • Existence of a large number of crimes occurring on funds without considering the possibility of laundering the proceeds of such crimes • Interference in the characterization of the proper law between the illicit and suspicious enrichment crime and ML offense.
R.2	PC	<ul style="list-style-type: none"> • Non criminalisation of ML acts in line with the international conventions affects the criminal liability of legal persons. • There are no parallel administrative penalties that apply to all legal persons. • No minimum threshold for the sanctions may lead to imposing non dissuasive sanctions. • Not proving the implementation and effectiveness of law due to its recent implementation.

2-2 Criminalization of Terrorism Financing (SR.II)

2-2-1 Description & Analysis

SR.II:

22. **Legal Framework:** The Sudanese legal framework for combating terrorism is based on the terrorism combating law for 2001 and the AML/CFT Law for 2010.

23. **Criminalization of Terrorism Financing (Criterion 2-1):** The Sudanese lawmaker criminalized the terrorist financing by virtue of Article 33 (2) of law no. 1 for 2010 as “*any person collecting or providing funds directly or indirectly for the purpose of committing a terrorist act or to be used by a terrorist organization or individual shall be deemed a perpetrator of a terrorist financing crime. A terrorist act is every act criminalized in the terrorism combating law for 2001 or any substitute law or any act of terrorist nature criminalized by virtue of an international agreement that Sudan is party therein*”. The terrorist financing act included forms of collecting and providing funds directly or indirectly as stipulated in Article 2 of the International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention), but the Sudanese provision failed to link these forms to the voluntary capacity, even though the provision can be interpreted in general. Additionally, nothing indicates that the terrorist financing crime must occur by any means; although it would have been possible to refer that this provision is general with view to the means used to collect or provide funds. It was not possible to inquire and obtain explanation on the same during the on-site visit.

24. It is noteworthy that Article (2) of the terrorism combating law defined the terrorist crime as any act or attempt of an act carried out to execute a terrorist purpose and includes the terrorist acts and

offenses stipulated in the conventions signed by the Republic of Sudan and ratified according to the constitution provisions except what was excluded or reserved. Article 5 of the same law stipulated the penalty upon conviction with execution or life imprisonment for any person carrying out, abetting, attempting to carry out, or facilitating an act, statement, or publication to commit the act in execution of a terrorist purpose on the state, its social security, nationals, properties, utilities, or public or private utilities to commit a terrorist or political crime. Article (2) defined terrorism as any act of violence or threat regardless of motives or purposes that is committed in execution of an individual or group criminal project which aims at spreading panic among people, terrorizing them by harming them or exposing their lives, liberties or security to danger or causing damage to the environment, public or private funds, facilities, or public or private properties or property occupation or expropriation or exposing one of the national or national strategic resources to danger. Accordingly, it is clear that the definition of terrorist act does not fully agree with the Terrorist Financing Convention whereas the definition of terrorist act lacks the completion of other goals for committing a terrorist act, which are forcing the government or an international organization to carry out an act or refrain from carrying out any acts.

25. Article 6 of the law on terrorism combating defined terrorist criminal organizations as any person that manages, abets, attempts or participates in managing or facilitating via a statement, act or publication in running an organized and planned network to commit any of the terrorist crimes whether this network operates within or outside the scope of Sudan or at the level of one state of Sudan states, a city, a village or any specific place where a given group resides, whereby its act constitutes a threat to life or funds or public stability, shall be deemed a perpetrator of a terrorist crime and shall be punished upon conviction by execution or life imprisonment. Pursuant to the foregoing, it is clear that the definition of a terrorist organization does not completely agree with the Terrorism Financing Convention as it lacks the provision stating that the used means may be direct or indirect, illegal and intentional. On the other hand, the Sudanese lawmaker has not defined the term of terrorist although it is used in the criminalization of terrorist financing in law no. 1 for 2010, which was confirmed by the Sudanese authorities also during the on-site visit.

26. **Definition of Funds:** The lawmaker stipulated that the terrorist financing offences extend to the funds as defined in art. 3 of law no. 1/ 2010, which are assets of every kind, whether tangible or intangible, movable or immovable, and currencies of all kinds, foreign or domestic, and securities, commercial papers, bonds and documents evidencing title of funds or any right related thereto. But it is noteworthy that this definition did not include electronic or digital documents. It is worth mentioning that the lawmaker did not identify the source of funds, which could be interpreted as absolute meaning, or in other words, whether these funds are legitimate or illegitimate. Regarding the actual use of the funds, there is no legal indication that TF criminalization does not require the actual use of funds to execute or attempt to carry out terrorist act(s) or the relation of the funds with certain terrorist act(s). The lawmaker did not mention that; the same could not be further clarified during the on-site visit. Additionally, the lawmaker did not identify in the text abovementioned, the moral element represented in the knowledge that these funds will be used in full or in part.

27. With regard to the attempt to commit a TF offence, Clause 3 of Article 33 of law no. 1/ 2010 stipulated that “*any person attempting to (...) commit any of the offenses stipulated in this chapter shall be deemed a perpetrator of such offenses and shall be punished by the same penalty imposed on the primary perpetrator*”. Accordingly, the attempt to commit a TF offence shall also be deemed an offence in the Sudanese legislation. The same provision also covers the act of criminal agreement, participation, aiding and abetting; the person shall be punished by the same penalty imposed on the primary perpetrator.

28. **Terrorist financing as one of ML predicate offences (Criterion 2-2):** Terrorist financing was criminalized in law no. 1/2010 which is the same law where the predicate offences were designated; the Sudanese lawmaker adopted the wide approach in designating the predicate offences. However, it is worth mentioning that TF as a ML predicate offence is not in full conformity with the criterion whereas TF offence criminalized here does not fully meet SR.II requirements.

29. **Jurisdiction in the TF offence (Criterion 2-3):** The Sudanese lawmaker failed to clarify the application of TF offences regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur. The Sudanese authorities also failed to clarify that during the on-site visit. Therefore, the TF offence cannot be applied if the person accused of committing the offence is in the same country or in a different country from the one in which the terrorist or terrorist organization is located or where the terrorist act occurred or will occur.

30. **Inferring from the objective factual Circumstances (Application of Criterion 2-2):** The intentional element can be inferred from the objective factual circumstances in TF offence, since and previously mentioned, the Evidence Act, 1994 applied to prove in criminal transactions and matters included in Article 7 thereof a definition of the circumstantial facts considered by the law to be related to the action. Article 13 of the same law added that, “*the court may, within the limits stated in this Act, evaluate and rely on any of the evidence as it may deem fit to achieve justice.*”

31. **Liability of the Legal Person (Application of Criteria 2-3 & 2-4):** Article 3 of law no. 1/2010 defines a person as a natural or legal person. Article (34) of the said law added that the legal person shall be punished by a fine not exceeding double the amount of proceeds; and the court may rule by dissolving the legal person, suspending its activity fully or partially or changing the management. Additionally, the crime proceeds and instrumentalities used or planned to be used in its commitment or other assets of corresponding value shall be confiscated. Pursuant to the foregoing, it is clear that the primary principles of the Sudanese domestic laws extend criminal liability to include the natural and legal person alike. Regarding the possibility of subjecting the legal person to more than one form of liability, as previously mentioned, the legal person may be subjected to civil and penal liability. But there is no evidence that these agencies are subject to administrative liability.

32. **Penalties of TF offence (Criterion 2-5):** According to Article (34) of law no. 1/ 2010, the natural person shall be punished **by imprisonment for a period not exceeding 10 years and a fine** not exceeding the double amount of funds, subject of the offence. The legal person shall be punishable by **a fine** not exceeding the double amount of proceeds; the natural person, who committed the crime in the name or for the interest of a legal person, shall be punished by imprisonment and a fine not exceeding the double amount of funds, subject of the offence. The court may also rule to dissolve the legal person, totally or partially, suspend its activity or change the management. In addition to these penalties, the natural and legal person shall be punished by **confiscating** the crime proceeds or the instrumentalities used in or planned to be used in the execution of the crime. If the court fails to seize the proceeds, it may order the confiscation of other funds of corresponding value. Therefore, these penalties seem dissuasive for the natural and legal person especially that the penalty of in kind confiscation of proceeds and tools or funds of corresponding value is added. It is worth mentioning that the wording of the provision designating only the ceiling of the penalty is interpreted as allowing ruling by imprisonment for any period without the designated ceiling which affects the dissuasiveness of the penalty, even if this wording is common in the laws of the Sudanese legislation. The penalty also seems disproportionate if compared with the penalties of terrorist offences. Articles 5 and 6 of the terrorism combating law stipulated the penalties of execution or life imprisonment. It is hard to evaluate the effectiveness of these penalties due to the absence of convictions on TF offences.

33. **Statistics:** The law became effective in June 2010; cases have not yet reached the conviction stage.

34. **Effectiveness:** In the absence of accurate statistics about the number of TF offences, in addition to non-presence of convictions in TF cases during the last period, it is hard to verify the effectiveness of the CFT system in Sudan. Moreover, the Sudanese authorities did not provide statistics with regard to terrorism offences in which judgments in Sudan have been passed or have been judicially or criminally prosecuted and consider the financing of these offences to measure the effectiveness of the law implementation after it was issued.

2-2-2 Recommendations and Comments

35. The Sudanese authorities are recommended to:

- Amend the legal provision in the definition of the TF offence to be consistent with the Terrorism Financing Convention in addition to the definition of terrorist organization and terrorist act as well as the terrorist.
- Clarify the definition of funds to include electronic and digital documents.
- Provide for the knowledge of the use of funds, in full or in part, in financing terrorist acts.
- Establish provisions for the application of the TF offence regardless of the location of the perpetrator or the location in which the terrorist act occurred or will occur.
- Should not require that the funds are actually used to carry out or attempt a terrorist act(s) or be linked to a specific terrorist act.
- Confirm the possibility of subjecting a legal person to administrative liability.
- Provide for dissuasive and proportionate sanctions.

2-2-3 Compliance with SR.II

Rec.	Rating	Summary of factors underlying rating
SR.II	NC	<ul style="list-style-type: none"> • TF criminalization or definition of terrorist organization or terrorist act is not consistent with the Terrorism Financing Convention; and the terrorist was not defined. • The definition of funds does not include electronic and digital documents. • The legislator did not determine the moral element represented in knowing that these funds are to be used, in full or in part, in financing terrorist acts. • Absence of provisions related to the application of TF offence regardless of the location of the terrorist or the location where the terrorist act occurred. • Non-presence of texts providing that funds are not linked to their actual use in committing terrorist acts or a specific terrorist act. • Not verifying the possibility of subjecting a legal person to administrative and penal liability. • Absence of dissuasive, proportionate and effective sanctions • Absence of law effectiveness.

2-3 Confiscation, freezing and seizure of crime proceeds (R.3)

2-3-1 Description & Analysis

R. 3:

36. **Legal Framework:** Crime proceeds are frozen, confiscated and seized according to the following laws: AML/CFT Law for 2010, terrorism combating law for 2001, criminal procedures law for 1991 and civil procedures law for 1983. The AML/CFT law and terrorism combating law are considered special laws. The other laws are restricted with respect to ML/TF cases.

37. **Properties subject to confiscation (Criteria 3-1 & 3-1-1):** Article 34, Clause (2) of law no. 1/ 2010 stipulated *the confiscation of the crime proceeds and instrumentalities used or intended to be used in the commission of the offence*. If the proceeds failed to be seized, the court may order *the confiscation of other funds of corresponding value*. Therefore, the said provision covers the confiscation of proceeds, means used and instrumentalities used or intended to be used in the commission of any ML/TF offence and property of corresponding value.

38. Additionally, Article 21 of the narcotic drugs and psychotropic substances Act stipulated that the court must issue a confiscation order for all narcotic drugs, psychotropic substances and plants or plant seeds and devices, containers and means of transport used in the commission of offences related to trafficking in and providing drugs. Therefore, this article covers the requirement to confiscate tools used and intended to be used in the commission of such offences without the possibility of confiscating funds and proceeds derived there from. The criminal law does not include the requirement of confiscating proceeds and instrumentalities intended to be used for other predicate offenses; hence, it cannot be said that the Sudanese law allows the confiscation of proceeds and instrumentalities with regard to predicate offences unlike the crimes related to trafficking in and providing drugs.

39. **Identifying properties subject to confiscation (Criterion 3-1-1):** The definition of proceeds in Article 3 of law no. 1/ 2010 covered the funds *derived or acquired, directly or indirectly*, from the commission of a crime. Funds are defined as tangible or intangible, movable or immovable and currencies of all kinds, foreign and domestic, and securities, commercial papers, bonds and documents evidencing title to the funds or any right related thereto. The definition of funds was wide; it includes **income, profits, or other benefits**. With regard to the same extent of application of the confiscation criterion on these proceeds regardless of whether it is held or owned by a criminal defendant or by third party, the Sudanese legislation did not include that and the Sudanese authorities did not thoroughly clarify it during the on-site visit.

40. **Provisional measures (Criterion 3-2):** According to law no. 1/ 2010, Article 15 granted the unit, *in exceptional cases and during the inspection of suspicious cases*, the powers to **suspend¹⁷ the transaction for a period not exceeding five days** and referring the STR to the prosecution as soon as evidence on occurrence of crime is available. Article (16), Clause 1, stipulated that, when necessary and when evidence is established on the occurrence of crime, the unit may ask the Public Prosecutor to issue an order to **seize funds, subject of suspicion**; according to the extent of seriousness of the request, the Public Prosecutor may temporarily order the seizure of funds for a period not exceeding two weeks; Hence, the matter shall be presented to the competent court of appeal before end of period. Based on Clause 3 of the same article, the competent court of appeal, after hearing the statements of the concerned parties, may order the extension of the Public Prosecutor's seizure order for a total period not exceeding two months or order its cancellation and the court shall settle this matter urgently. Accordingly, it seems that the Sudanese legislation stipulated some provisional measures represented in the retention¹⁸, which is a power granted by the lawmaker to the public prosecutor to prevent any dealing in the property subject to confiscation or transferring them or disposing thereof.

41. The Sudanese authorities indicated the application of art 98 of the Code of criminal procedures for 1991 which provides for the execution of seizure in the manner stipulated in the Code

¹⁷ The law did not define the term "Waqf."

¹⁸ The terms used in the Sudanese legislation are different from the one used in the assessment Methodology, but the retention term is close to the term seizure which means prevention of any transfer or conversion of funds or other assets or disposal of them or their movement based on a measure taken by a competent authority or a court decision by virtue of a freezing mechanism. Unlike the freezing measure, seizure takes place through a mechanism allowing the competent authority or court to control the designated funds or assets; the other seized funds or assets shall remain property of the person(s) or entity (entities) holder of the share therein at the time of seizure. The competent authority or court is usually in charge of possessing or managing other funds or assets that were seized.

of Civil procedures for 1983 or any other manner deemed appropriate by the prosecutor or the judge. Articles 227 to 241 stipulated the seizure provisions; however, it is to mention that article 230 item 2 has identified some funds which can be non sizeable by virtue of such measures, such as expenditure, food and necessary tools for the debtor's occupation, accounts records, workers' wages, right of personal service and others. Yet, some factors inhibit the effectiveness of such measures, particularly, informing the person of the seizure. It is unclear when the funds management falls under the person or under another entity; although the Sudanese authorities consider that such fact is subject to the nature of the seized funds and the discretion of the competent authority (seizing the funds).

42. **Ex-parte application of provisional measures (Criterion 3-3):** The Sudanese legislation allows initial application to seize the properties subject to confiscation to be made ex-parte or without prior notice in the provisions of the ML/TF law¹⁹ with regard to these two crimes in particular; while the criminal procedures law for 1991²⁰ and the civil procedures law for 1983²¹ provide for the need to inform the person on whom seizure is imposed.

43. **Powers to trace properties (Criterion 3-4):** By virtue of the criminal procedures law for 1991(Article 99), the Sudanese lawmaker granted the public prosecutor the powers to trace properties: if any funds for which the crime is believed to have occurred, were presented during investigation or trial, the public prosecutor or judge may take the necessary action to categorize, exterminate, limit, retain or sell these funds and keep their value whatever suitable.

44. **Bona Fide Third Parties (Criterion 3-5):** According to Article (16), Clause 4, of law no. 1/2010, the concerned parties, including supposedly bona fide third parties, may appeal and file a complaint to the Minister of Justice and the court of appeal within 3 days as of addressing the order of funds retention. Article 32 allows refunding the amount actually paid by the bona fide third party from the properties upon which legal confiscation or seizure procedures were applied.

45. **Authority to void actions and contracts (Criterion 3-6):** The Sudanese legislation allows taking steps to prevent or void some actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. The same was stipulated in Article 32 of law no. 1/ 2010 and Article 111 of the criminal law for 1991, which punishes by imprisonment for a period not exceeding 1 year or by fine or by both penalties any person, for the purpose of deceit, transports funds or right related to these funds or conceal, abandon or dispose of such funds for the purpose of preventing seizure of these funds or the right related thereto or preventing taking them in execution of a judgment or order issued or knows it might be issued by a court or competent public authority or accepts any funds or right related thereto or receives or claims it knowing that he has no right therein for the purpose of preventing the said seizure or execution.

Additional Elements

46. The Sudanese authorities informed that organizations of criminal nature in Sudan are subject to the effective laws and their funds are subject to confiscation according to the committed crime; no confiscation shall be made except according to law.

47. They also informed that there is no system of civil forfeiture or confiscation of properties subject to confiscation but without the need for conviction for any.

¹⁹ As required by Art.16 of AML/CFT law.

²⁰ Articles 96-104.

²¹ Articles 227-247.

48. It was also reported that the Sudanese legislations provide for the confiscation of properties subject to confiscation, which require an offender to demonstrate the lawful origin of the property according to the criminal procedures law for 1991 when suspecting the seized funds and the extent of right of the possessor thereof. In this event, the possessor is required to prove his ownerships right; otherwise, the funds will be disputed.

49. **Statistics:** There are no statistics yet on the number of cases and values of frozen, seized and confiscated properties related to ML/TF as no ML judgment were passed until date. With regard to confiscation for predicate offences, the authorities informed the evaluation team of statistics on a number of judgments issued in drugs crimes, which included confiscation of funds and their transportation means without their proceeds. The evaluation team was not provided with any similar judgments related to other predicate offenses in this regard. As previously mentioned, there is no system in place for the confiscation of funds with regard to predicate offences.

50. **Effectiveness:** The public prosecutor is granted adequate powers to freeze and seize the funds proceeding from ML/TF crime and gives the competent court powers to confiscate crime proceeds; but the evaluation team could not find whether the public prosecutor had used these powers in the AML context. The authorities did not provide any comprehensive statistics on the use of these provisional measures and confiscation with regard to the assets resulting from predicate offences. Where no such statistics exist, it is hard to determine the extent of effectiveness of the general framework of confiscation in Sudan. In general, the seizure measures as per the Code of Civil Procedures and their application on predicate offenses lead to some obstacles that may affect the effectiveness and the promptness of such measures; and since no judgments or convictions in ML/TF cases were issued and no statistics related to confiscation or seizure were provided, it is difficult to measure the effectiveness of the regime in Sudan, particularly in the absence of a system of confiscation of funds with regard to predicate offences.

2-3-2 Recommendations and Comments

51. The following must be carried out to comply with R.3:

- The sanction of confiscation of proceeds must apply to predicate offences.
- To identify provisions related to the equal application of the confiscation criterion on proceeds regardless of whether they were held or owned by a criminal defendant or by a third party.
- To establish clear legislative and regulatory measures for the freezing mechanism.
- To prove the effectiveness of measures related to criminal seizure measures for the predicate offenses.

2-3-3 Compliance with R 3

Rec.	Rating	Summary of factors underlying rating
R.3	PC	<ul style="list-style-type: none"> • Absence of a system for the confiscation of property with regard to predicate offences. • Deficiencies related to civil seizure measures on predicate offenses. • Absence of provisions related to the equal application of the confiscation criterion on proceeds regardless of whether they were held or owned by a criminal defendant or by a third party. • Absence of statistics and interference in criminal and civil seizure measures impair the measurement of effectiveness and promptness of application of the confiscation system.

2-4 Freezing of funds used for terrorist financing (SR.III)

2-4-1 Description & Analysis

SR.III:

52. Before analyzing the Sudanese legal framework related to the freezing of funds used for terrorist financing, it is worth to mention that the implementation of UNSCR no. 1267 (1999) and subsequent resolutions and UNSCR no.1373 (2001) call upon member countries to take preventive measures that cannot rely singly on the criminalization of terrorism (SR.II) in the domestic laws; which means that countries need to draft laws and develop special measures or administrative mechanisms to deal with their own obligations according to the Security Council resolutions with the possibility to use the effective penal laws provided they are used only as complementary tools.

53. Sudan established a coordinating body to implement UNSCR no. 1373 on terrorism combating. The Deputy Minister of Foreign Affairs, Director General of the Sudanese intelligence service, established a coordinating body chaired by the Sudanese intelligence service with the following members: Ministry of Foreign Affairs, Ministry of Interior, Ministry of Justice and the Central Bank of Sudan with the aim to follow-up and implement the requirements of UNSCR 1373 and other relevant resolutions. With regard to the list on freezing, seizing and confiscating terrorist funds issued by the FIU based on UNSCR 1267/1373 by virtue of Article 37 of law no.1 /2010, which allows it to issue the necessary lists to execute the provisions of law within its jurisdiction, the legality of this list is invalid due to the lack of the legal provision that grants the unit the powers and competence to regulate such matters (freezing, seizing and confiscating terrorists' funds). The law did not mention UN resolutions at all and it is not among the FIU's powers or jurisdiction to issue a list to deal with the UN resolutions or establish a freezing system that was not stipulated by the law by virtue of which the unit was established. Therefore, this mechanism may not be taken into consideration when evaluating this recommendation.

54. The international standards define freezing as the prohibition of any transportation or conversion of funds or other assets or disposing thereof or their movement based on a measure taken by a competent authority or decision from a judicial authority by virtue of a freezing mechanism as long as this measure is valid. The frozen funds or other assets shall remain the property of the person(s) or entity/entities, the holder of interest in the designated funds or other assets at the time of freezing. Their management may remain entrusted to the financial institution or other arrangements appointed by that person(s) or entity before a measure is taken by virtue of the freezing mechanism. As previously mentioned, there is no clear definition of freezing in the provisions of the Sudanese legislation. See R. 3

55. **Laws and procedures to freeze in accordance with S/RES/1267(1999) (Criterion III-1)²²:** There is no special law in Sudan related to freezing funds or other terrorist assets of persons designated in UNSCRs. It seems that Sudan has no written procedures with regard to seizing funds or other assets of persons designated by the UN Al-Qaida and Taliban Sanctions Committee in accordance with S/RES/ 1267, although according to the authorities, Sudan executes what it receives from the Security Council Sanctions Committee. However, these measures are not clear and not written. The team could not verify their effectiveness or the duration and timelines taken to implement them or the extent of their implementation without delay or prior notice to the designated and involved persons. The evaluation team was also informed during the on-site visit that no specific measures or procedures were previously used as no cases of matching names in relation to the designated persons have occurred yet.

²² Updated with Resolutions (1998) and (1989).

56. On the other hand, the evaluation team discovered that the FIU sometimes works in an additional context to its actual competences stipulated by the law; the coordinating body established to implement S/RES/1373, sends, without a legal deed, everything it receives from the Sanctions Committee to the FIU to take the limited powers granted thereto by the lawmaker in the law, which do not cover the requirements of implementing such resolutions. It was also revealed that the Ministry of Foreign Affairs may also send what it receives from the committee to the terrorism combating department at the national intelligence and security service for purposes unknown to the evaluation team, but they are definitely unrelated to their implementation or the execution of the seizing and freezing measures on funds. Accordingly, it is clear that there are no actual and effective measures for freezing funds and other terrorist assets of individuals designated in the S/RES/1267 and freezing does not occur without delay or without prior notice.

57. **Laws and procedures to freeze in accordance with S/RES/ 1373 (Criterion III-2):** Sudan established a coordinating body to implement S/RES/1373 by virtue of the letter addressed from the Deputy Minister of Foreign Affairs to the security service with regard to the establishment of a coordinating body to implement UNSCR. The evaluation team was not provided with a copy of the establishment decision of such agency, but was supplied with a copy of the said letter. The Sudanese authorities stressed during the on-site visit that the role of the agency is a coordinating one with no executive aspect. Due to the absence of the decision regarding the establishment of the agency, it is hard to evaluate the role or jurisdiction of the agency or the entities represented therein. There are also no measures to implement UNSCR related thereto, based on the authorities' statement, although the viewed letter clearly assigns such agency with the task of following-up and implementing S/RES/1373 and other successor resolutions. Since the unit is not competent to issue the list on freezing, seizing and confiscating terrorists' funds, there are no effective measures to freeze funds and other terrorist assets of individuals designated in the context of S/RES/1373; and freezing is not executed without delay or without prior notice.

58. **Laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions (Criterion III-3):** The FIU informed the evaluation team that it receives the procedures taken by virtue of the freezing mechanisms in other jurisdictions through embassies and international agencies without specifying or clarifying how it receives them and what these procedures are. The FIU reported that to execute this requirement, it relies on the list of freezing, seizure and confiscation of the terrorists' funds for 2010 it adopts, and the legal validity of which was previously examined. Accordingly, the evaluation team concluded that there are no effective measures to examine and give effect to the actions initiated under the freezing mechanisms in other jurisdictions; and there is no prompt determination, according to applicable national legal principles in Sudan, whether reasonable grounds or reasonable basis exist to initiate a freezing action and the subsequent freezing of funds or other assets without delay.

59. **Scope of properties / Funds to be frozen (Criterion III-4):** The list on freezing, seizure and confiscation issued by the unit defined funds as funds of all types whether tangible or intangible, movable or immovable and currencies of all types whether foreign or domestic, and financial and commercial papers and bonds and documents that prove the ownership or possession of the funds or any right thereof. However, the list cannot be adopted as it is not legally binding or valid. Additionally, the Sudanese legislation did not define the term freezing in its provisions; hence, this criterion does not meet the requirement.

60. **Communication systems (Criterion III-5):** The evaluation team was informed that the unit distributes circulars to the supervisory and monitoring entities and competent entities that supervise or manage the funds with regard to the persons whose funds are required to be frozen in accordance with the Security Council Resolutions pursuant to the freezing, seizure and confiscation list of the terrorists' funds. Since the unit is not competent to issue such list, hence, it is not legally binding or valid; therefore, it cannot be taken into consideration. Consequently, Sudan has no effective legislative systems to inform the financial sector about the procedures taken by virtue of the freezing mechanisms.

61. **Local guidance (Criterion III-6):** The Sudanese authorities did not provide any clear guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets about their obligations in taking action under freezing mechanisms.

62. **Procedures of de-listing entities (Criterion III-7):** Article 10 of the regulation issued by the unit included some procedures in the de-listing requests; but it will not be adopted because it is not legally valid as previously mentioned. Accordingly, Sudan lacks effective and publicly-known procedures to consider de-listing requests and for unfreezing funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations.

63. **Procedures for unfreezing funds (Criterion III-8):** Article 10 of the regulation issued by the unit stipulated some procedures in the requests for unfreezing, in a timely manner, funds or other assets of persons or entities inadvertently affected by a freezing mechanism, but it will not be considered because it is not legally valid. Accordingly, Sudan has no effective and publicly-known procedures for unfreezing, in a timely manner, 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.

64. **Procedures authorizing access to frozen funds (Criterion III-9):** The regulation included some provisions related to the procedures authorizing access to the frozen funds but were not considered for legal invalidity. Accordingly, Sudan has no appropriate procedures authorizing access to funds or other assets frozen by virtue of S/RES/1267 (1988) and (1989), and which have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses. These procedures should be in accordance with SC/RES/1452 (1753).

65. **Review by the court (Criterion III-10):** Sudan has no appropriate procedures through which any person or entity whose funds or other assets were frozen²³ can challenge that measure with a view to having it reviewed by a court.

66. **Freezing, seizure and confiscation in other contexts and protecting bona fide third parties (Criteria III-11/ III-12):** There are no procedures that apply to the freezing, seizing and confiscation of terrorist related funds or other assets; hence, it is hard to measure the application of such criteria.

67. **Compliance monitoring (Criterion III-13):** The regulation on freezing, seizure and confiscation issued by the unit (legal powers reserved) stipulates that any person or entity that does not respond or cooperate with the freezing, seizure and confiscation procedures by virtue of the provisions of this regulation, shall be held liable according to Articles 96, 97, 98, 100 and 102 of the Sudanese criminal law for 1991. Despite the presence of these procedures, the non-competence of the unit legally to issue this regulation may affect its implementation; hence, it can be concluded that some limited procedures are available and which impose civil, administrative or criminal sanctions but they are ineffective.

Additional Elements (Criteria III-14 & III-15):

68. The Sudanese authorities informed that they do not implement the measures provided for in the Best Practices Paper for SR.III and they do not apply the procedures authorizing access to funds or other assets frozen by virtue of S/RES/1373 deemed necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses; these procedures are not consistent with SC/RES/1373 and the spirit of SC/RES/1452.

²³ Due to the absence of a freezing mechanism.

69. **Statistics:** The Sudanese authorities did not provide the team with any statistics related thereto. They also reported during the on-site visit that no names were matching with the UNSCR 1267 list.

2-4-2 Recommendations and Comments

70. The Sudanese authorities are recommended to:

- Develop a legal system governing the freezing procedures of funds and properties of persons whose names are designated by virtue of S/RES/1267.
- Establish effective laws and procedures to freeze funds or other terrorist assets of individuals designated in the context of Resolution 1373.
- Establish effective laws and procedures to examine and give effect to actions initiated under the freezing mechanisms in other jurisdictions.
- Enforce the freezing without delay or prior notice to the persons.
- Establish mechanisms for de-listing and releasing the funds of the persons whose names were inadvertently mentioned in the list.
- Establish procedures to distribute the Security Council lists to all entities.
- Provide a mechanism for the person or entity to challenge the freezing order.
- Establish procedures authorizing persons subject to the freezing order to access their funds necessary for basic expenses.

2-4-3 Compliance with SR. III

Rec.	Rating	Summary of factors underlying rating
SR.III	NC	<ul style="list-style-type: none"> • Non-presence of a legal system governing the freezing procedures of funds and properties of persons whose names are designated by virtue of S/RES/1267. • Non-presence of effective laws and procedures to freeze funds or other terrorist assets of persons designated by virtue of Resolution 1373. • Non-presence of effective laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms in other jurisdictions. • Absence of evidence on the effectiveness of procedures related to freezing according to the Security Council Resolutions.

2-5 *The Financial Information Unit (FIU) and its functions (R.26)*

2-5-1 Description & Analysis

R.26

Legal Framework

71. The former AML Law for 2004 stipulated the establishment of a high administrative committee to be in charge of: Issuing guiding principles for investigation, inspection and tracing in coordination with the competent entities, receiving reports from inside and outside Sudan about operations suspected of being money laundering, administrative inspection, examining the ML suspicious reports it receives, freezing or confiscating suspicious accounts and funds and notifying the Public Prosecution of the transactions that constitute a ML offence based on evidence.

72. By passing law no. 1 for 2010, the current FIU became the unit responsible for receiving, analyzing and disseminating Suspicious Transaction Reports (STRs) to the competent prosecution. Article (10) of the law stipulated that the Governor of the Central Bank shall establish an independent unit called the Financial Intelligence Unit. The Governor of the Central Bank issued decision no. 2/2010 on 10/1/2010 to establish the FIU as an independent unit, appoint a director and assign him to coordinate and consult with the administrative committee to complete the recruitment for the remaining positions according to the approved structure of the unit; its headquarters is the national capital. The Central Bank of Sudan shall, in coordination with the administrative committee, designate and furnish its headquarters; and the unit shall be under the supervision of the Central Bank of Sudan, which shall be in charge of providing the unit with financial and logistic support that would assist in executing its competences. The unit shall be in charge of analyzing information related to funds suspected of being crime proceeds or deriving from terrorist financing and sending information to the competent prosecution to process it whenever evidence is established on the commission of one of the crimes stipulated in the criminal law for 1991 or any substitute law as well as any crime provided for in this law or any other law.

73. The administrative committee approved the organizational structure of the FIU on 24/3/2010; it divided the unit, from an administrative aspect, into four divisions: Information and analysis division, international cooperation and technical assistance division, investigation division as well as financial and administrative affairs division. These divisions will be discussed in more details later.

74. **Receiving and analyzing STRs (Criterion 26-1):** Article (6/1) Clause (d) of law no. 1/2010 required financial and non-financial institutions to notify the unit of the transactions suspected of being related to proceeds or terrorist financing whether these transactions occurred or not. This requirement does not apply to lawyers when evaluating the legal position of clients or representing them before the judiciary or providing legal opinion in a matter related to legal proceedings. Article (10) of the law also stipulated that the unit shall be in charge of analyzing information related to funds suspected of being the proceeds of a crime or terrorist financing; and that the FIU should take the analysis and investigation procedures on the information set out in the report. According to Article (13) Clause (1-2) of the law, the FIU may request any additional information from financial and non-financial institutions and from law enforcement agencies and monitoring and supervisory entities or any other administrative entity. Articles (10-19) of the existing AML/CFT law also identified the tasks, duties and powers of the FIU in a limited and unclear way whereby it is in charge of analyzing the reports and information related to funds suspected of being crime proceeds or derived from terrorist financing.

75. The law did not mention the expression of informing the unit immediately or without delay which allows sending the report later than the date of detecting the suspicious transaction. Moreover, the STR was limited to terrorist financing and did not cover terrorist acts, terrorist organizations or terrorist financiers according to the requirements of R.13. Article (10) also mentioned the analysis of

information related to funds suspected of being the proceeds of crime or terrorist financing only, whereas R.13 states that the funds are connected or associated to terrorism, terrorist acts, terrorist organizations or terrorist financiers.

76. The FIU issued a regulation on investigation procedures dated 8 July 2010 and amended the same on 29 December 2011. The FIU informed that it has relied, in issuing this regulation, on Article (37) of the same law. The said regulation includes a clarification on how the FIU operates and carries out the tasks assigned thereto by law.

77. The regulation referred to indicates (in article 10) that the FIU may, based on the request of the administrative committee, the judicial authorities, LEAs, supervisors or any other entities as determined by the competent minister, establish special investigation committees to examine STRs received or by any other information incoming to the FIU, directly or indirectly, or based on studies, researches or external sources on ML/TF risks in which the Unit takes part or submitted thereto. FIU officials stated during the onsite visit that some cases have witnessed the formation of common investigation committee with the administrative committee to examine some suspicious cases; which is seen by the evaluation team as a factor affecting FIU operational independence.

78. As soon as the FIU receives one of the STRs, it sends a confirmation receipt to the concerned reporting entity pursuant to Article (17) of the law; however, the reporting entities are not informed of the analysis and investigation findings or the final decision made by the unit.

79. The following table shows the number of STRs received by the administrative committee according to the previous law on STRs from 2005 to 2009 which are 12 STRs and all the reports from the law enforcement agencies only, all of which were kept by the administrative committee. The FIU also received 51 STRs according to the current law from 2010 to 2011.

- The STRs received by the administrative committee and the FIU in the period between 2005 and 2011.

Description	2005-2009 (before FIU establishment)	2010-2011 (after FIU establishment)
No. of reported cases	12	51
Increase / Decrease	-	39
Percentage of Increase / Decrease		

80. When receiving any STR, the investigation division at the FIU registers the information mentioned in the report and verifies that all required data is fulfilled; then the permanent investigation committee or the special investigation committees, as the case may be, and based on items 10 and 11 of the regulation, shall investigate all STRs and gather information and evidence from different array of sources such as the criminal investigation department and other government information. When needed, the FIU may request additional information from the reporting entities. Until the time of the visit, the FIU was still receiving STRs via regular mail.

81. **Guidance on the manner of reporting (Criterion 26-2):** Based on the provision of Article (37) of law no. 1/ 2010, the FIU issued 7 circulars²⁴ addressed to some entities subject to the reporting

²⁴ Circular no. 1/2010 addressed to the Union of Car showrooms owners dated 15/7/2010, circular no. 2/2010 addressed to the Jewellers and Gold Traders Union dated 12/8/2010, circular no. 3/2010 addressed to the Auction Houses Union dated 19/8/2010, circular no. 4/2010 addressed to the General Union of Sudanese Lawyers dated 24/8/2010, circular no. 5/2010

obligation which are: (1) car dealership owners union, (2) jewelers and gold traders union, (3) auction houses union, (4) lawyers public union, (5) real estate office owners union, (6) Commission for Voluntary and Humanitarian Works (7) Accountancy and Audit Profession (Org). Council. These circulars included the need for the owners of these non-financial professions to inform the FIU of suspicious cases according to the reporting form attached with the circulars and enclose all data and copies of documents related to such transaction. The circulars also prohibited disclosure, directly or indirectly or by any means, to anyone other than the competent authorities and entities of any of the reporting, investigation or inspection procedures that are taken with regard to the transaction suspected of being connected to ML/TF offences.

82. It is noted that the FIU issued circulars for some entities uncovered by the provisions of law no. 1/ 2010, such as the circular for the car dealership owners union and auction houses union and no decision was issued from the competent Minister (Minister of Finance and National Economy) on adding these activities to the list of activities of the non-financial institutions, as provided by the law. Moreover, there is contradiction between the requirements of this circular and law requirements, i.e. TF criminalization, as the law did not mention in the criminalization “with the intention to be used (funds) in full or in part”, as set out in the circular. In ML definition, the circulars mentioned “any conduct involving the earning of funds” whereas the law mentions: the earning of proceeds. Moreover, these circulars imposed on the addressed entities obligations that are wider than the reporting obligation to the FIU about suspicious transactions (outside the scope of FIU competence).

83. The banking system regulation and development department at the Central Bank of Sudan issued circular no. 10/2010 on 30/12/2010 to all banks and financial institutions regarding combating ML/TF crimes (See Section 3). This circular requires financial and non-financial institutions to report transactions related to ML/TF crime or its proceeds according to the attached reporting form. The institutions shall also appoint a person responsible for reporting as well as providing data and documents requested by the FIU and not disclosing them to anyone other than the competent authorities as well as maintaining records and documents for five years. Regarding the abovementioned circular, it is noted that there is contradiction between TF definition therein and the definition set out in law no. 1/ 2010. Additionally, the FIU is required, according to the law, to issue circulars to financial and non-financial institutions addressed by the circular of the Central Bank of Sudan, with regard to the reporting manner (among their competences) which creates duality in issuing instructions and guidance between the Central Bank of Sudan (CBOS) and the FIU.

84. On 7/11/2010, Khartoum Stock Exchange (KSE) Board of Directors issued AML/CFT regulation to the companies operating in the stock field in 2010. The regulation included guidance regarding the manner of reporting, the procedures to be followed when reporting, the conditions of appointing the person in charge of reporting, the duration of keeping records and documents and other instructions and guidance. It was noted that there is contradiction between the requirements of this regulation and those of the law, i.e. TF definition mentioned in this regulation is different from the definition mentioned in Article (33) Clause (2) of the law as the regulation stipulated the phrase “gathering or collecting”, whereas the law stipulated “gathering or providing” and other remarks in this regulation. Regarding the abovementioned regulation, the same mentioned remark is observed concerning the duality of issuing relevant instructions and guidance by each the FIU and the competent supervisory authority (KSE).

85. **Access to information (Criterion 26-3):** Article (13) Clause (1) of law no. 1/ 2010 gave the FIU the right to request any information from financial and non-financial institutions. The FIU may not have access to any information except through a written letter submitted to these entities and does not have the powers to access information directly. However, the unit may obtain the information

addressed to the Union of Real Estate Office Owners dated 29/8/2010, circular no. 6/2010 addressed to the Voluntary and Humanitarian Work Commissioner dated 30/8/2010 and circular no. 7/2010 addressed to Accountancy and Audit Profession (Org).Council dated 31/8/2010.

requested from the FIs, law enforcement agencies (LEAs) and administrative entities in the state. The FIU did not indicate the time taken to respond to a request for information and the evaluation team did not detect a mechanism of sending these requests and how many times such powers were used and who are the entities that provided the Unit with the information.

86. **Requests to obtain additional information from reporting parties (Criterion 26-4):** Article (13) Clause 2 of law no. 1/ 2010 stipulated that, the Unit may, during examining the suspicious cases, request any additional information from the reporting parties to properly undertake its functions.

87. **Disseminating STRs (Criterion 26-5):** By virtue of Article (10) of law no. 1/ 2010, FIU may be in charge of sending information on transactions related to funds suspected of being the proceeds of crime or terrorist financing to the competent prosecution to process it whenever evidence could be established on the commission of one of the crimes stipulated in the criminal law for 1991 or any substitute law as well as any crime stipulated in this law or any other law. FIU officials stated that 5 suspicious cases were submitted to the prosecution since the new law was passed on 7 January 2010 until the date of the visit on 18 December 2011, i.e. over the course of about two years.

88. **Operational Independence and Autonomy (Criterion 26-6):** By virtue of Article (10) of law no. 1/2010, the decision of the Governor of the Central Bank no. 2/2010 was issued on 10/1/2010 to establish the unit, but the decision issued did not specify the structure of the unit except for appointing the director. It did not specify the appropriate number of experts and competent persons in the AML/CFT field; he referred the same to the approved structure of the unit. Moreover, the decision did not include anything on FIU management and operational procedure, as required by law.

89. The law did not indicate the availability of an independent financial budget for the FIU as is the case in specifying the financial budget of the administrative committee. Article 10 of the law indicated the need to provide the required funding. The decision of CBOS Governor provided that the Central Bank shall provide the financial and logistic support without mentioning the provision of an independent financial budget for the unit. However, FIU officials mentioned the existence of a financial budget amounting to USD 700.000 as FIU budget for year 2011. The team did not view the previous adopted financial budget for 2010. The unit officials submitted copies of the minutes of the administrative committee meeting including the adoption of the 2012 budget. While the unit officials submitted copies of the minutes of the administrative committee meetings during 2010, which included reference on adopting the unit's budget without mentioning a specific year, in addition to adopting FIU organizational structure. However, the team noted a difference between the unit's structure submitted in the questionnaire and the structure submitted during the first and second visit to the FIU, which means that three different structures exist. They are different as follows: In the questionnaire, it was mentioned that there are four departments in the unit's structure along with the number of employees in each department. During the first visit to the unit, a difference in the number of employees was noted, and then the team was provided with another structure where the investigation committee was added as well as the FIU's advisor, being one of the undersecretaries of the Banking Violations Prosecution. Both were not mentioned in the previous structure. It was also noted the presence of a difference in the number of employees once again in each department. The team could not determine which structure was officially adopted.

90. The mutual evaluation team viewed some of the decisions related to recruiting non permanent employees. It was noted that there are two employees who joined the unit pursuant to a decision issued by the HR department at the Central Bank of Sudan and pursuant to directions from the Deputy Governor of the Central Bank of Sudan to work in the Banking System Regulation and Development Department at CBOS. The evaluation team considers it difficult to implement this decision as well as breaching the principle of the required adequate FIU independence. The team believes that hiring employees and initiating their work through an independent department, which is the Banking System Regulation and Development Department at CBOS violates the secrecy principle in dealing with suspicious transactions. There are also two other decisions to attach two officers of the rank lieutenant

colonel from the criminal investigation department on 17/6/2010 and the second from the customs police department on 2/5/2010 and the decision of attaching another officer from the national security and intelligence service, the economic security department on 19/1/2010. The team could not find how the appropriations of FIU employees and members are disbursed.

91. **Protection of information (Criterion 26-7):** Part of the CBOS building surrounded by an external fence was allotted to be FIU premises. The evaluation team noticed that there are no sufficient measures to protect the building: there are no surveillance cameras at FIU doors, no security to the offices with electronic locks and FIU entrances and exit doors are not adequately secured. The unit officials also informed that the suspicious transactions and information are maintained manually in regular safes inside one of the unit's offices that are not adequately secured.

92. Article (12) Clauses (1) and (2) of law no. 1/ 2010 required FIU employees to respect the secrecy of information they come to know about during the performance of their job. This requirement shall continue even after they leave their job at the unit. This information may not be disclosed except for the purposes set out in this law. Moreover, Clause 2 of the same article stipulated that this requirement shall also apply to whomever such information shall come to his knowledge, directly or indirectly, due his profession or job. Moreover, the investigation procedures issued by FIU on 8/7/2010 the 3rd Chapter on the subject of secrecy and record-keeping. The FIU also issued the charter of business ethics at the unit on 27/9/2011 which provides for the professional secrecy, protection of information and avoiding conflict of interests as well as the executive and disciplinary measures. Until the time of the visit, no violations of these rules occurred based on the authorities' statement. The team could not view the possibility of implementing this charter and the penalties when violated due to appointing FIUs members from several entities that have their own laws and regulations.

93. **Periodic Reports (Criterion 26-8):** Article (18) of law no. 1/ 2010 required the FIU to publish periodic reports about its activities including statistical data and analytical studies in the AML/CFT field. Since the law was passed on 7 January 2010 until the time of the visit, the FIU had not published any periodic or annual reports bearing in mind that the unit launched a website (www.fiu.gov.sd). The team was also informed that the unit was in the process of incorporating an information system in collaboration with a specialized software company. This project is financed by contributions from banks, which affects its independence.

94. **Egmont Group (26-9):** Sudan FIU did not join Egmont Group but it has contacted on 7/1/2010 the Egyptian FIU (EMLCU) as a sponsor country to join Egmont Group. This request was submitted on the same day of passing the current AML/CFT law. FIU officials stated also that they asked Egypt to contact the State of Qatar to be a second sponsor for Sudan FIU.

95. **Principles of Egmont Group for Information Exchange between FIUs (Criterion 26-10):** Article (19) of law no. 1/ 2010 stipulated that the FIU may, spontaneously or pursuant to request from counterparts in other countries, exchange information with them provided it complies with the secrecy rules and the principle of reciprocity. It may not use such information except for AML/CFT related purposes. Practically, the FIU exchanged information with several equivalent units as follows: Jordan, Oman, the USA, (through US embassy in Khartoum), Syria, the UAE and the UN Security Council. It also requested information from Egypt and the UAE during 2010 and 2011.

96. **Resources and internal structure (R.30):** Based on Article (10) of law no. 1/2010, the Governor of the Central Bank of Sudan issued the administrative decision no. 2/2010 on 10/1/2010 to establish the FIU and appoint its current head. He was assigned with completing the recruitment for the remaining jobs in collaboration with the administrative committee. The Unit officials also indicated the adoption of the organizational structure by the administrative committee on 24/3/2010. The structure designated 4 departments as follows:

1) Information and Analysis Department: Collects and analyzes data, manages databases and links them to the data and information network of the concerned entities and departments, develops systems, updates databases and designs and manages the unit's website.

2) International Cooperation and Technical Assistance Department: Prepares the required information in the framework of international cooperation, prepares studies on the issues related to AML/CFT and the annual training plan.

3) Investigation Department: Receives and reviews suspicious cases, follows-up on the formation of investigation committees, submits the reports of the investigation committees to the FIU head and follows up on the findings of the investigation.

4) Administrative and Financial Affairs Department: Manages the individual affairs, maintains staff records, submits financial reports and maintains the financial documents and correspondences among other tasks.

97. The minutes of the meeting where the organizational structure of the unit was adopted were presented; however, during the visit, the FIU officials presented another structure where the investigation committee and legal advisor of the FIU were added thereto, as previously shown. The FIU comprises employees delegated from the following entities: Central Bank of Sudan, the national security and intelligence service, the central criminal investigations and the customs police. The unit officials also stated that FIU number of employees is 15 employees (though the questionnaire mentioned 14) including the FIU head and his deputy, as well as 6 part-time employees who operate from other entities in addition to their temporary work at the FIU. They represent the abovementioned entities. The FIU may also seek the assistance of some CBOS employees on technical assistance or to respond to international information requests or to prepare AML/CFT related sessions.

98. **Professional standards (R.30):** There are professional standards required by the charter of business ethics for FIU personnel issued by the FIU head in 2011 as well as the code of behavior for the police forces, but it is unclear what are the applicable procedures, specifically in the presence of civil employees from the Central Bank, the advisor of the Head of Banking Violations Prosecution, military from national intelligence service, criminal investigation department and the customs police department represented in the FIU. These conditions might not be sufficient to meet FIU needs. They also clearly lack the clearance procedure for current and new FIU employees. It is noteworthy that no violation to this charter has occurred until the time of the visit.

99. **Training:** The Central Bank of Sudan held in collaboration with the FIU training sessions attended by some FIU employees. Additionally, in 2009 and 2010, the FIU also organized two internal trainings for its employees and training for employees of the customs police and border security department. There was a total of 16 sessions which tackled AML/CFT related issues. It is worth mentioning that a number of these sessions were held for the compliance officers at banks and FIs, but the unit officials did not provide details on the number of participants. Additionally, there are no statistics on the training sessions held during 2011.

Table showing the training sessions attended by the FIU affiliates during the period from 2009 to 2010:

Date	Session Subject	Session Venue	Participants
29/1/2009	AML/CFT seminar	Bank of Sudan/ Mr. Al Feel Hall	
21-24/3/2009	Training session for the institutions sector + branches	Bank of Sudan/ The Old Library Hall	
10/8/2009	The administrative committee workshop (WB expert)	Bank of Sudan/ Mr. Ma'moon Beheiri Hall	
11/8/2009	AML workshop for supervisors from the sector (The expert)	Bank of Sudan/ Mr. Al Feel Hall	
12-13/8/2009	Training session for compliance officers at banks and FIs (The expert)	Sudan Academy for Banking & Financial Sciences	
29/9/2009	AML seminar for the Insurance Supervisory Authority and insurance companies	Bank of Sudan/ Mr. Al Feel Hall	
9/10/2009	Seminar for compliance officers at banks and FIs in collaboration with the Academy	Sudan Academy for Banking & Financial Sciences	
22/10/2009	Training session for the Financial Investment Bank	Headquarters of the Financial Investment Bank	
29/11/2009	Workshop for the commercial registrar and companies sector	Headquarters of the commercial registrar	
29/12/2009	AML/CFT workshop for Sudan Company for Financial Services + KSE + brokerage companies	Bank of Sudan/ Mr. Al Feel Hall	
9-11/2/2010	Training session for the Savings & Social Development Bank	Headquarters of the Savings Bank	
14-16/2/2010	Training session for the Savings & Social Development Bank	Headquarters of the Savings Bank	
23-25/2/2010	Training session for the Sudanese French Bank	Headquarters of the Sudanese French Bank	
21/5/2010	Employees of the Banking System Regulation and Development Department / Al Abyad branch	Headquarters of the branch	
29/3/2010	Employees of Port Sudan branch	Headquarters of the branch	

Date	Session Subject	Session Venue	Participants
28/6/2010	Employees of the Banking System Regulation and Development Department	The Federation Center (Burj Al Fatih)	

100. Based on the general presentation, the FIU employees have not yet received adequate training with regard to AML/CFT throughout the past years. Although the number of trainings seems to be growing since early 2010, it is not sufficient to provide the employees with the necessary skills to conduct financial analysis and investigation. In addition to the internal training, the FIU should ensure that the employees receive training to ensure high efficiency in financial analysis methods.

Statistics

101. According to the statistics given to the evaluation team, the administrative committee received between 2005 and 2009, pursuant to the previous law, 12 STRs and all reports from LEAs only, all of which are kept. From 2010-2011, the FIU received 51 STRs, 28 of which are from banks, 10 from LEAs, 10 from currency exchange and wire transfer companies, 2 from monitoring entities and 1 from other entities. The FIU referred 5 to the prosecution in 2010, kept 9 while 37 are still under investigation.

Reporting Entities for 2010-2011

Year	Banks	Exchange Companies	Law Enforcement Entities	Supervisors	Other	Total
2010	17	4	4	0	1	26
2011	11	6	6	2	0	25
Total	28	10	10	2	1	51

Findings of Suspicious Cases for 2010-2011

Year	Under Review	Kept	Referred to Prosecution	Total
2010	15	6	5	26
2011	22	3	0	25
Total	37	9	5	51

102. As shown, out of 51 STRs received by the FIU, 5 reports only were sent to the competent prosecution in 2010 which have not yielded until now any convictions in ML/TF crime or any other predicate offence. These STRs are still under investigation at the competent prosecutions. All referred reports were made in 2010 and there were no referral of any STR to the prosecution in 2011. 37 STRs were still under investigation with the FIU at the time of the visit.

103. **FIU Effectiveness:** Although the unit has legal powers to receive, analyze and request information; action previously taken by the administrative committee since 2004, the FIU did not show sufficient practical independency and autonomy in performing its functions until now while the reports have increased little since 2010 until time of the visit. The evaluation team noted that the number of STRs is very low as the monthly rate of STRs was 1-2 only; most of which are from FIs and LEAs. There are no reports from non-financial institutions. With the new AML/CFT law, the FIU should enhance its ability in analysis and investigation.

104. The evaluation team noted the absence of sufficient awareness on the analysis and investigation techniques, lack of sufficient training for FIU employees on AML/CFT and financial analysis and investigation which reduced FIU abilities and functions. Additionally, referring 5 STRs only to the competent prosecutions in 2010 out of 51 STRs sent to the unit in 2010 and 2011, whereas 37 STRs are still under investigation, indicates that the FIU did not enhance its functions as required until now according to its legal powers.

105. When viewing one of the STRs referred to the Banking Violations Prosecution, the evaluation team noted that no measure of the financial analysis; investigation and information gathering measures was taken by the unit. There are also correspondences in the transactions showing that the report was referred to more than one entity, including the Central Bank of Sudan and the reporting application sent from the reporting bank was attached to the file along with the compliance officer's data. It was also noticed that the transaction took a long time (more than a year) between receipt date on part of FIU and date of its referral to the prosecution. The Chief of prosecution informed that he called one of FIUs officers and took his statements on the transaction. The Chief of prosecution, who is an advisor at the FIU, also stated that he does not have financial investigators but can seek the assistance of an analysis expert from the Central Bank of Sudan.

106. The number of STRs received by the FIU is too low. This is attributed to the deficiency in regulations and guidelines issued by the FIU and the contradiction between some of these regulations and guidelines with law No 1/ 2010. The team could not determine whether the institutions subject to the reporting obligation have sufficient and thorough knowledge of the concept of suspicious transaction and its elements. The majority of financial and non-financial institutions did not show clear knowledge of the concept of suspicion, how to detect it and the related reporting procedures. This confirms the absence of awareness and lack of knowledge on how to identify suspicious transactions. Therefore, the FIU must raise more awareness and provide more guidance in relation to the concept of suspicious transaction through meeting with them and providing information to the reporting institutions on ML/TF trends and typologies in Sudan. Moreover, the number of full-time employees is not sufficient to perform the unit's tasks and part-time employees from other entities are relied upon. Additionally, the FIUs financial resources cannot be evaluated due to the absence of official documents proving their existence.

2-5-2 Recommendations and Comments:

107. To comply with R.26, the Sudanese authorities are recommended to:

- Enhance FIU independency so that it performs its work according to the powers granted thereto and to enhance its abilities and experience in the field of receiving and gathering information as well as analyzing and investigating STRs.
- Issue guidance to the entities subject to the reporting obligation on the manner of reporting.

- Adequately and effectively securing the FIU building and the information received.
- Focus on financial analysis, provide human and technical resources and provide full-time employees for the unit.
- Enhance the training of FIU employees in the AML/CFT and financial analysis field.
- The FIU should issue periodic reports to the reporting and public entities including the typologies and trends in Sudan in addition to information about its activities.
- Provide more directions and guidance by the unit on ML/TF trends and typologies in Sudan to the reporting entities to ensure detection and reporting of suspicious transactions.

2-5-3 Compliance with R. 26

Rec.	Rating	Summary of factors relevant to s2-5 underlying overall rating
R.26	PC	<ul style="list-style-type: none"> • The FIU did not show sufficient practical autonomy until now and did not perform its tasks effectively. • There is no adequate financial analysis of the STRs received by the unit. • Insufficient number of employees at the FIU specially that some of them are part-time employees. • The reporting regulations and guidance submitted by the FIU to the reporting entities are insufficient and contradict with some of the law provisions. It should provide more ideas on how to detect suspicious transactions. • Non-existence of periodic reports issued to the reporting and public entities on ML/TF trends and typologies in Sudan and information on FIU's activities. • Insufficient training given to FIU employees on ML/TF. • Insufficient maintenance and protection of the information received by the unit.

2-6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27 & 28)

2-6-1 Description and Analysis

R.27

108. **(Designated Law enforcement authorities) Criterion 27-1:** The law enforcement authorities in Sudan are numerous and authorized to conduct investigations in predicate offences and in ML/TF crimes. These entities are: (1) The criminal police represented by the criminal investigation department, (2) drug combating department, (3) public and specialized prosecution investigations, (4) national security and intelligence service (5) public and specialized prosecutions. These entities conduct investigations under the supervision of the prosecution in charge of conducting investigation and collecting evidence; the criminal procedures law for 1991 defines investigation as: including all procedures taken to reveal the facts related to the criminal lawsuit before the court including the initial investigation that occurs before the criminal case is filed to ensure the validity of criminal suspicion.

109. The criminal police is formed according to Article (22) of the criminal procedures law as set out in the police force law for 2008. Pursuant to Article (13) of the Sudanese police law for 2008, the duties of the police forces are as follows: Maintaining the security of the country and citizens and safety of lives and properties; preventing crime and detecting those occurring; establishing the law sovereignty; maintaining unattended, lost, seized, confiscated and disposed of funds according to the

law; educating the public about the information and means that assist in combating crime; executing the police duties to engage the public in assisting and supporting the police forces; maintaining morals, good manners and public order; initiating and taking procedures and measures to protect public properties as well as utilities and private establishments; executing judgments and any legal provisions or decisions issued by a competent authority and any other duties as may be assigned by the law.

110. Article (24) of the criminal procedures law for 1991 designated the general competences of the criminal police as follows:

- (a) Receiving reports in the crimes stipulated in Table 2 annexed to this law²⁵.
- (b) Conducting criminal investigations under the supervision and directions of the criminal prosecution or the judiciary as the case may be.
- (c) Executing judicial judgments and orders or any other legal provisions or decisions issued by the court or prosecution or any other competent authority.
- (d) Carrying out works of prisons, care homes and sanitariums and maintaining their security and the security of their guests.
- (e) Submitting criminal lawsuits to criminal courts according to directions from the public prosecution.
- (f) Releasing in the crimes stipulated in Table 3 annexed to this law.

111. Article (39) also stipulated that investigation shall proceed as follows:

- (1) Through the police under the supervision and directions of the public prosecutor according to the provisions of this law.
- (2) The public prosecutor may initiate the investigation or resume it by himself if necessary. In this case, he shall assume the functions of the investigator and exercise his authorities.

Ministry of Interior

Criminal Investigation Department

112. The criminal investigation department at the Ministry of Interior is competent to conduct investigations and investigate in all crimes under the supervision of the public and specialized prosecution including ML offence through the AML directorate established in 2007, which consists of 4 departments: (1) The banking violations investigation department, (2) Tax evasion combating investigation department, (3) Suspicious fund sources investigation department and (4) Information and operations department. The banking sector, tax evasion and added value violations and ML

²⁵ The second table annexed to the law designated these crimes as the punishable crimes by virtue of provisions of the Criminal Law for 1991 where arrest may take place without warrant from the prosecution or court as mentioned in the table.

crimes are investigated under the supervision of the specialized prosecutions which are: 1) Banking Violations Prosecution, 2) Tax violations prosecution and 3) Criminal investigation prosecution. This department also drafts periodic criminal reports.

Anti-Drugs Directorate

113. The anti-drug Directorate is in charge of countering the planting, production, manufacturing, merchandising and abuse of narcotic drugs and psychotropic substances and all forms of illicit trafficking thereof. It is also in charge of countering and detecting export and import crimes, and the crossing of narcotic drugs and psychotropic substances in coordination with the competent agencies locally, regionally and internationally. Its administrative structure includes three departments, namely the public affairs department, the operations and countering department and the technical affairs department. The number of branches affiliated with this directorate is 15 directorates throughout the regions of Sudan.

National Security and Intelligence Service

114. According to Article (4) of the national security law for 2010, the national security service is in charge of notifying the competent services in the state of the occurrence or imminent occurrence of an internal or external threat to the country or part thereof, whether it is a war, invasion, siege, natural or environmental disaster or a threat to its economic safety, democratic system or social structure and to promote and spread a sense of security and tranquility among citizens. Article (24) of the national security law for 2010 also stipulated the competences of the service.

115. This service follows **the Economic Security Directorate** in charge of maintaining the economic system, following up on the foreign investments, businesses and commercial entities, monitoring public utilities and projects, evaluating taxation, customs and financial activities. The General Director of this directorate is a member in the AML/CFT administrative committee. The service includes the following divisions: Legal division and economic crimes countering division.

116. **The Legal Division** is in charge of following up on security cases and operations executed in the campaign for countering economic crimes, following up on cases at courts and representing the economic security before them, participating in the committees of setting legislations and amending laws including AML/CFT law and referring a number of suspicious cases to the FIU.

117. **The Economic Crimes Countering Division** is in charge of countering organized economic crimes including ML crimes based on the statement of authorities due to the risks posed by this phenomenon. The head of this division is an FIU member who assists in investigating and collecting information related to suspicious ML cases that are received by the unit according to the powers granted by the national security law and AML/CFT law or any other laws. He also coordinates with relevant entities such as the state security prosecution, other competent prosecution, central investigations, customs, FIs, Central Bank of Sudan and others in the framework of gathering information, investigating and exchanging information on the violation of economic crimes and ML offences in particular and investigating with the suspects in all cases related to violation of economic crimes.

118. **The Terrorism Countering Department** is in charge of the terrorist financing file. To this end, a special intelligence division was established in 2004 to follow up and track the source of financing terrorist groups inside and outside the country with the purpose of eliminating these sources. The division is primarily concerned with tracing the movable or smuggled funds occurring outside the banking scope, monitoring cash transfers of organizations and groups charged with terrorism or extremists and tracking the movement of donations, aids and grants given to the groups to ensure they are spent in the areas for which they were donated and prevent their use in any terrorist act.

Criminal Police:

119. According to the two articles (44 & 45) of the criminal procedures law for 1991, the cases where a criminal lawsuit may be filed before the police have been identified. Articles (46, 47 & 53) provided for the investigator's functions and procedures of writing and sending the investigation report to the public prosecutor. Moreover, Articles (33 & 34) identified the procedures of filing a criminal lawsuit based on knowledge of the criminal police or public prosecutor or based on any report or complaint raised to any of them and those entitled to file a report or complaint. Article (35) stipulated the cases where a criminal lawsuit may not be filed by the police except with permission of the public prosecutor. Articles (36, 37 & 38) stipulated the cases where waiving may take place and the reasons of termination and prescription of the criminal lawsuit.

120. According to Article (61) of the criminal procedures law, the criminal police may spontaneously or pursuant to order from the prosecution or court, instruct any person to appear and introduce himself or show any deed or other whenever necessary for the purposes of investigation, trial or execution of any order issued by the prosecution or the court.

121. Based on the statistics of the Criminal Investigation Department, total number of crimes in Sudan in 2010 was (723,599) reports against (675,058) reports in 2009 with a 7.2% total increase. The following statistics were provided:

Table of the statistics of the criminal investigation department for 2010

State	Description									
	Crimes against lives and bodies	Financial crimes	against the state and regulatory	Crimes of morals and assault on liberties	Crimes against public peace	Other laws	Crimes related to the public employee	Crimes of fraud and counterfeiting	Crimes related to religions	Total
Khartoum	53888	102910	11	17005	126773	24957	7634	917	914	335009
Northern	2360	4789	1	703	3192	3845	297	9	77	15273
River Nile	4047	6886	1	1085	6158	2547	775	13	66	21578
North Kurdufan	9939	13942	1	4062	8081	3765	983	66	97	40936
South Kurdufan	6952	8426	98	2275	3321	628	240	31	62	22033
North Darfur	3488	7184	2	828	2823	805	356	37	41	15564
South Darfur	11636	18121	26	2773	2662	1164	584	47	155	37168
West Darfur	2271	2995	0	653	1084	251	192	6	15	7467
Al Jazirah	13741	19706	2	3362	21822	8587	1449	43	211	68923
Blue Nile	5514	6651	0	969	3134	379	484	15	31	17177
White Nile	8210	10075	6	1990	9559	1956	845	34	41	32716
Sennar	5723	9992	0	1992	9308	2966	249	12	96	30338
Red Sea	4660	6336	0	1382	12345	3696	543	20	73	29055
Kassala	4392	6515	0	876	6117	2603	501	21	8	20933

State	Description									
	Crimes against lives and bodies	Financial crimes	Crimes against the state and regulatory	Crimes of morals and assault on liberties	Crimes against public peace	Other laws	Crimes related to the public employee	Crimes of fraud and counterfeiting	Crimes related to religions	Total
Al Qadarif	5652	9144	17	1066	6482	3588	204	48	24	26225
Utilities & Establishments	707	1027	0	141	628	399	292	6	4	3204
Total	143080	234699	165	41162	223489	62136	15628	1325	1915	723599

Comparing total reports on offenses during 2010 with 2009

Years	Crimes against lives and bodies	Financial crimes	Crimes against the state and regulatory forces	Crimes of morals and assault on liberties	Crimes against public peace	Other laws	Crimes related to the public employee	Crimes of fraud and counterfeiting	Crimes related to religions	Total
2010	143080	234699	165	41162	223489	62136	15628	1325	1915	723599
2009	134576	225414	187	39204	195361	61302	16415	1240	1359	675058
Comparison	8504 +	9285 +	22-	+ 1958	28128 +	834 +	787-	85 +	556 +	51745 +
Percentage	6,3%	4,1%	11,8%	5%	14,4%	1,4%	4,8%	6,8%	40,9%	7,7%

Statement on the reports of drug crimes, the suspects and seized items by the anti-drugs directorate for the period from 2005-2010

Year	Reports	Suspects	Cannabis (hashish)			Khat			Narcotic pills	Other drugs
			Gram	Kg	Ton	Gram	Kg	Ton		
2005	1944	2457	902	626	1	3	775	285	2259	-
2006	2255	2978	290	321	6	210	-	132	2597	Marijuana
2007	1976	2585	571	306	14	-	200	442	96	-
2008	2163	2838	656	617	58	-	140	436	480	-
2009	2619	3365	941	191	13	-	316		729	(24) Lebanese hash rolls + glue + marijuana
2010	3614	4889	137	462	6	-	284 166 bags		92,401	23 opium rolls + marijuana

122. Additionally, the statistics did not indicate the presence of ML cases except one case not mentioned in the statistics. It was investigated but no findings were reached. The financial crimes are

deemed the most widespread crimes in Sudan according to the statistics provided by the criminal investigation department.

Public Prosecution and Specialized Prosecutions

123. The public prosecution and specialized prosecutions follow the Ministry of Justice; the prosecutions are established by virtue of the establishment orders issued by the Minister of Justice²⁶, who identifies their territorial jurisdiction and may establish a specialized prosecution for any type of crimes. The Minister of Justice also issued a regulation organizing the work of criminal prosecutions for 1998; it is competent in regulating and setting structures and grades of their members; and identifies the powers of the prosecutor as well as the appeal and cassation judgments.

Public Prosecution

124. The public prosecution was established by virtue of a decision issued by the Minister of Justice pursuant to Article 18 of the criminal procedures law for 1991. It is in charge of investigating crimes designated in the criminal law, crimes of the drugs law, arms and explosives as well as bribery and corruption. It supervises the criminal work and progress of investigation in its jurisdiction. It seeks the assistance of the criminal police and exercises its powers in arresting, searching, questioning witnesses and seizing and other powers according to the criminal procedures law. This prosecution does not have financial investigators. When asking the officials in the public prosecution, they informed that they have not investigated any ML/TF offences although their general competences include any type of offenses throughout the regions of Sudan.

Competent Prosecutions

State Security Prosecution:

125. The state security prosecution was established by decision of the Minister of Justice on 7/7/1998 according to Article (18) of the criminal procedures law. It is in charge of crimes against the state which are designated in the criminal law for 1991 under Chapters 5, 6 and 7 of the criminal law and any crime mentioned in any other law affecting the security, safety and stability of the country. The state security prosecution also authorized some prosecutions in the regions of Sudan to assume their tasks. This prosecution exercises its powers in arresting, searching, questioning witnesses and seizing and other powers according to the criminal procedures law.

126. Based on the statement of the members of the state security prosecution, they investigate ML/TF crimes being crimes affecting the state security; however, the evaluation team could not determine the presence of clear legal basis allowing the state security prosecution to investigate or supervise the investigation process in ML/TF operations. According to the criminal procedures law, a decision from the Minister of Justice must be issued designating a competent prosecution for any type of crimes. The team did not view a decision listing ML/TF crimes among the competences of the state security prosecution.

Banking Violations Prosecution:

127. The Banking Violations Prosecution was established pursuant to decision from the Minister of Justice on 17/11/1993. It is in charge of opening a criminal lawsuit, investigation and supervising investigation in reports related to criminal lawsuit on the banking sector. This prosecution exercises its powers in arresting, searching and questioning witnesses, seizing and other powers according to the criminal procedures law. The Sudanese authorities stated that this prosecution is among the

²⁶ Art (18) of the Criminal Procedures, 1991.

prosecutions that conduct investigation processes in ML/TF crimes; however, after perusing the abovementioned decision by the Minister of Justice, it was clear that it did not include ML/TF crimes under the competences of this prosecution.

Criminal Prosecution for countering illicit and suspicious enrichment: □□□

128. The illicit enrichment countering criminal prosecution was established pursuant to decision from the public prosecutor²⁷ on 19/2/1992 according to Article (18) of the criminal procedures law for 1991. This prosecution is in charge of exercising the powers stipulated in the criminal procedures law for 1991 and Illicit and Suspicious Enrichment Act 1989. The said decision was amended by order of the public prosecutor on 19/8/1995 as follows: the word "deputy of the public prosecutor office" was removed from its structure and replaced with "the public prosecutor". Officials in the prosecution informed about their competence in investigating ML crimes; but after perusing the abovementioned decision of the Public Prosecutor, it was clear for the evaluation team that ML offences were not listed among the scope of competences of this prosecution. The team did not view any subsequent decisions that include the amendment or incorporation of ML offences under its competences.

Criminal Investigation Prosecution:

129. The criminal investigation prosecution was established pursuant to decision of the Minister of Justice on 11/3/2002 according to Article (18) of the criminal procedures law for 1991. By virtue of the decision, it is in charge of assuming the powers stipulated in the criminal procedures law for 1991 and any other relevant law in the following crimes: crimes of a regional or international nature, crimes of national nature affecting the criminal security, political security, economic security or social security, crimes occurring in more than one state and any other crimes where the Minister of Justice, the State Minister or Public Prosecutor issue their directions to investigate or supervise such crimes. The territorial jurisdiction of this prosecution shall be in all parts of Sudan, its headquarters is in the state of Khartoum; branches may be established in the states. Accordingly, this prosecution might investigate ML/TF crimes considering that they are among the crimes that threaten economic security.

Anti-Terrorism Prosecution:

130. Article (15) of the anti-terrorism law stipulated the formation of a special prosecution to counter terrorism by order of the Minister of Justice to investigate and be in charge of accusation before terrorism courts. The evaluation team could not determine whether this prosecution exists or not and could not view the decision of its establishment and extent of its competence to investigate TF crimes.

131. By reviewing the decisions of establishing the public prosecution and competent prosecutions, it was revealed that none of such decisions provided for a clear or direct competence to investigate ML/TF crimes, which could lead such prosecutions to ignore the prosecution of these crimes in all cases heard. This may justify the few number of investigated ML/TF cases in these prosecutions. On the other hand, the numerous prosecutions in charge of investigating ML/TF crimes in reality might lead to the possibility of adjusting ML/TF crimes into other crimes according to the entity handling the investigation or not prosecuting it in such capacity. According to the evaluation team's point of view, it seems that the criminal investigation prosecution might be, in subject, the most relevant prosecution to investigate ML/TF crimes as they are among the crimes that threaten the economic security in the state which falls under the competence of this prosecution pursuant to the decision of its establishment as previously mentioned. It is also unclear for the evaluation team which of the prosecutions, whether the public or the specialized, is intended to be the competent prosecution as set out in Article 10 of law no. 1/ 2010. There is no clear mechanism with regard to sending

²⁷ Although the Code of Criminal Procedures grants the authority to establish prosecutions to the Minister of Justice only.

information related to funds suspected of being crime proceeds or related to terrorist financing to any of the competent prosecutions.

132. The law enforcement agencies (criminal police/security and intelligence service/the prosecution) do not have competent financial investigators to investigate ML/TF crimes or other financial crimes. In some cases, as officials from the Banking Violations Prosecution and the illicit and unlawful enrichment prosecution stated, the assistance of independent financial auditors as well as the public audit office is sought. No ML investigations were conducted since the previous law for 2004 was issued except for one case that was investigated and referred to court. After passing AML/CFT law for 2010, five cases were referred to the prosecution, all of which are still under investigation. The Sudanese authorities did not indicate to the evaluation team the prosecutions where these cases have been referred to.

Effectiveness of law enforcement agencies

133. Despite the existence of various powers for the law enforcement authorities in the criminal procedures law and other laws to investigate in all crimes including ML/TF, the number of investigated cases in ML/TF crimes after passing the law in 2010 is still very limited, which indicates that these two crimes do not receive much attention from the law enforcement authorities in comparison with the size of criminal investigations in predicate offences according to the statistics submitted by the criminal investigation department and anti-drug directorate as well as the reviewed cases at the national intelligence and security service. Moreover, the number of suspicious cases referred by the unit to the competent prosecutions is very low not exceeding five cases since 2010; no adequate measures were taken to investigate them or refer any to the court until time of the onsite visit.

Powers to postpone arrest and/or seizure of the money (Criterion 27-2)

134. The criminal procedures law did not clearly stipulate granting legal powers to the competent authorities to postpone or waive the arrest of suspected persons or the seizure of the money for the purpose of identifying the persons involved in such activities or for evidence gathering. Articles (67 & 68) stipulated the procedures where persons may be arrested or suspicious funds may be seized.

135. The prosecution officials informed that the prosecution may have a discretionary authority in taking the procedures of postponing or waiving the arrest of the suspected persons or the seizure of the funds for the purpose of identifying the persons involved in such activities or for gathering evidence. The prosecution officials indicated that whenever it is necessary to issue a warrant to arrest any person; they may, based on their discretionary powers, postpone or cancel the warrant of arrest of the suspect if this would benefit the investigation.

136. There is no indication in the AML/CFT law to authorizing the prosecution to take the necessary precautionary measures including seizing and freezing of funds, subject of ML/TF crimes and their proceeds and any evidence that may lead to identifying these funds and proceeds. However, according to Article (16) Clause (1) of the AML/CFT law, powers are granted to the unit, when evidence is established on the occurrence of a crime, to ask the public prosecutor to issue an order of seizing the suspicious funds.

Additional Elements (Criteria 27-3, 27-4, 27-5 & 27-6)

137. There is no provision in the criminal procedures law that gives LEAs an adequate legal basis to use special investigative techniques in ML/TF crimes such as the controlled delivery of crime proceeds or funds intended to be used in terrorist financing. Moreover, there is no indication to the possibility of conducting joint investigations with foreign authorities in ML/TF crimes using the followed techniques such as controlled delivery of suspicious funds or properties. In general, the Sudanese laws did not provide for the use of investigative techniques or prevent their use. It seems

that LEAs do not use investigative techniques such as the controlled delivery or secret operations. There are no specialized groups to conduct investigations in ML/TF crimes or predicate offences. However, the authorities informed that committees from the criminal investigations and public prosecution were constituted to investigate in some criminal cases. The team was not provided with decisions of constitutions of these committees and did not view any procedures on the review of AML/CFT methods, techniques and general trends on a regular basis.

Powers of providing data, searching and seizing (Criterion 28-1)

138. According to Article (61) of the criminal procedures law, the summons is conducted as follows: The criminal police may spontaneously or pursuant to order from the prosecution or court, instruct any person to appear and introduce himself or show any deed or other, whenever necessary, for the purposes of investigation, trial or execution of any order issued by the prosecution or the court.

139. Pursuant to Article (86) of the criminal procedures law, (the authority of issuing a search warrant is as follows):

1. The prosecutor or judge may, at any time, spontaneously or based on a request from the competent entity, in any criminal lawsuit, issue a search warrant of any premises or person whenever he deems it helpful for the investigation, trial or execution purposes as may be the case.
2. The judge may at any time, based on a request from the competent entity, issue a search warrant for any premises or person whenever he deems it helpful for the purposes of crime detection.

140. According to Article (96) of the criminal procedures law, the prosecutor or judge, as may be the case, may seize any deed, funds or anything found during the search or brought before him or belonging to any person connected to the investigation, trial or execution, whenever he deems it necessary.

141. According to Article (97) of the criminal procedures law, the chief prosecutor or judge of the public criminal court may, at any time and after serving the summons stipulated in Article (78), order the seizure of any funds belonging to the person for which the summons was served. If the summoned person fails to appear in the time designated in the summons, the seized funds shall be under the disposal of the entity that issued the seizure order according to the provisions of Article (99).

142. Pursuant to the provisions of Article (98), the seizure shall be executed according to the method followed in the civil procedures law for 1983 on seizure of funds or in any other method deemed appropriate by the prosecutor or judge.

143. Pursuant to Article (99) of the criminal procedures law, the criteria to dispose of funds shall be as follows:

- 1- If any funds believed to be the subject of crime were provided over the course of investigation or trial, the prosecutor or judge shall take the necessary measures to classify these funds.
- 2- Harmful substances shall be exterminated immediately after taking samples thereof and identifying their quantities, weights, specifications and damages by the competent technical entities.
- 3- Funds liable to natural damage or expiration shall be sold immediately as well as animals that cannot be kept or cared for or were vulnerable to loss.

- 4- If the prosecutor or judge deems it suitable, pursuant to request from the competent judicial authority, to sell any seized funds, he may order the sale thereof hand keep its value.
- 5- Cash amounts shall be kept in the state treasury according to the financial regulations.
- 6- If the fugitive whose funds are seized does not appear by virtue of Article 97, his seized funds may be sold three months following the seizure date.
- 7- If the person whose funds are seized appears by virtue of Article 97 within a year following the seizure date, and his funds are still under seizure and he justified his absence or ignorance of the summons issued in his regard, the funds or value of what was sold thereof must be handed to him after deducting the expenses.
- 8- The seized property or its value shall be held as trust with the competent authority that ordered its seizure and shall be responsible for appropriately maintaining the same. It may not dispose of such property before the termination of the criminal lawsuit; in such event, the decision terminating the criminal lawsuit must state the method of disposal of the seized property.

144. There is no clear indication in the criminal procedures law granting LEAs the powers to obtain records, identification data and account files of FIs customers. However, the Sudanese authorities consider that the Minister of Justice (MoJ) and the Prosecutor may, where the latter represents the MoJ powers based on article 5 of the Code of Criminal Procedures, request directly the FIs to provide records, identification data and accounts files of FIs customers; hence, such provision does not conflict with the exception existing in the Law on the Regulation of Banking Activity for 2004, article 55 of the Banking Secrecy provisions.

145. Pursuant to Article (16) Clause (1) of the AML/CFT law, when necessary and when evidence is established on the occurrence of crime, the FIU may ask the public prosecutor to issue an order to seize the suspicious funds.

146. Additionally, there is no indication in the terrorism combating law allowing the obtaining of any data or information related to accounts, deposits, trusts or financial transactions at the FIs.

Powers to take witnesses 'statements (Criterion 28-2)

147. Pursuant to Article (42) of the criminal procedures law, witnesses' statements may be taken in predicate offences and ML/TF crimes. The investigation report shall include the following: preliminary investigations, statements of the person who filed the report or complaint, witnesses' statements, statements of the suspect, any reports connected to the criminal lawsuit, subject of the investigation, decision to bring a charge, any measures taken in the investigation, any decision by the prosecution to dismiss the criminal lawsuit, investigation summary and decision of referral for trial.

148. Article (54) of the criminal procedures law also stipulated the following: The investigator or investigation supervisor may request the appearance of any person he deems connected to the criminal lawsuit, take the statements and question the person who filed the report or the complaint, the suspect and the witnesses and any other person having a connection with the criminal lawsuit.

Effectiveness of law enforcement authorities

149. According to the criminal procedures law, LEAs are granted sufficient powers to arrest and search persons and premises, seize evidence, interrogate suspects and question witnesses. With regard to postponing the arrest of a suspect or the seizure of funds, there is no explicit and clear provision in this regard; but practically speaking, LEAs have a discretionary authority in this regard. Moreover, there are no clear provisions in law with regard to requesting information and data from FIs and it was

not clear what the practical procedures of requesting such information from the FIs are. However, and based on the statement of officials from the prosecution and the national intelligence and security service, information and data may be requested from the FIs directly or through the Central Bank of Sudan. The team could not verify the effectiveness of obtaining such information.

Resources (Recommendation: 30/1)

The Prosecution

150. **State security prosecution and state security investigations:** (4) advisors assisted by (5) officers and (23) individuals from the criminal investigations. The state security prosecution also authorized some prosecutions in the regions of Sudan to assume its tasks. This prosecution exercises its powers according to the criminal procedures law.

151. **Banking violations prosecution and banking violations investigations:** This prosecution consists of 6 legal advisors (Director, Deputy Director, senior deputy and 3 prosecutors) in addition to 7 officers and 72 individuals of other ranks from the banking violations investigations. This prosecution exercises its powers according to the criminal procedures law.

152. **Illicit and Suspicious Enrichment department:** 9 legal advisors and 9 other employees work in the illicit and suspicious enrichment countering department.

153. **The public prosecution:** It consists of a senior prosecutor and 4 advisors. This prosecution exercises its powers according to the criminal procedures law. These prosecutions do not have financial investigators to investigate ML/TF crimes or other financial crimes. Moreover, there are no public statistics on the number of public and specialized prosecutions and their members throughout Sudan.

154. **Police:** On the other hand, a number of employees work in the Criminal Investigation Department²⁸ (MoI), out of which 13 are officers and 88 are from other ranks working in the AML Directorate. There are also a total of 120 officers and 1800 from other ranks working in the anti-drugs department distributed among the various regions in Sudan.

155. **National Security and Intelligence Service:** This service includes the economic security directorate which in turn includes the anti-economic crimes division, anti-terrorism department and anti-terrorist financing section and the legal division. These entities have the financial and human resources; yet lack some technical resources at some entities which enable them perform their functions fully and effectively.

156. The evaluation team requested the organizational structure of the Ministry of Interior and the criminal investigation department as well as the number of personnel but it was not provided until time of drafting the report.

Professional standards (Recommendation: 30/2)

The Prosecution:

157. The Regulations of Work of Public Prosecution, 1998 was issued by the Minister of Justice; as previously mentioned, it indicates the structure of criminal prosecutions, names of its members, judgments related to appeal and cassation issued by Presidents of criminal prosecutions and prosecutors; however, the evaluation team perused the law regulating the Ministry of Justice whereby

²⁸ The Sudanese authorities did not provide the evaluation team with the total number of the General Directorate for Public Security and Criminal Investigations at the Ministry of Interior.

it regulates the professional standards related to prosecution members. The Sudanese authorities stated that prosecution members are legal counselors attributed to the Ministry of Justice and are subject to such regulation. Article 14 stipulated the conditions to be appointed in legal functions: To be fully Sudanese; age brackets were defined for each category of legal functions, holding a degree in law from a recognized university in Sudan, no judgment from a competent court or Council of accountability in any matter related to honor or trust should have been passed against the candidate even if he was exempted; to be of good reputation and behavior and other conditions related to legal positions and functions.

158. According to Art (33) of the law regulating the Ministry of Justice, every legal counselor breaching his duties or the ethics of his profession or conducts an act of dishonor, whether in practice or by rejection, or is not adequate to his official standing or does not appear to service or is convicted of a penal crime against honor or trust or breaches the code of conduct for legal counselors, the council of accountability may impose any of the following sanctions on the counselors: warning or blame, unpaid suspension from work for a period not exceeding 3 months, deprivation from raise or promotion for two years at most or discharge.

Police:

159. According to Article (25/2) of the Sudanese police law, each person who wishes to join the police force must: be of Sudanese nationality by birth, have good manners and good reputation; never been convicted in a crime against honor or trust or punished by imprisonment for such crime; be medically and physically fit to work in the police force and must pass all exams established to test his competence to work in the police force as well as meet the academic qualification conditions. Moreover, according to Article (70) of the Sudanese police law, each policeman shall take upon appointment the oath set out in the law.

160. Pursuant to Articles 64 & 65 of the police law, regulations shall specify the violations and sanctions against every policeman who commits an act or abstention that constitutes a crime by virtue of provisions of the criminal law or any other law and at the same time constitutes a breach of his job duties or a violation by virtue of this law that calls for severer sanction (the team did not view the regulations of violations and sanctions for the policeman).

161. Based on the criminal law, every person who discloses official information, documents and military information shall be punished as follows: anyone who obtains by any means secret matters from information or documents related to the state affairs without permission and anyone who discloses or attempts to disclose such information or documents to any person without permission or legitimate excuse shall be punished by imprisonment for a period not exceeding two years or by fine or by both penalties. The penalty shall be imprisonment for a period not exceeding five years if the offender is a public employee and anyone who has information related to military affairs of the state and discloses it at any time to any person knowing that such disclosure shall harm at that time the interest of the country shall be punished by imprisonment for a period not exceeding five years and may be also punished by fine according to Articles 55 & 56 of the criminal law.

162. **National Security and Intelligence Service:** It is the service that protects Sudan against any risks and derives its powers from the national security law for 2010. The service includes the economic security department and anti-terrorism department. The team did not view the organizational structure of both departments as well as the professional standards related to confidentiality, privacy and integrity.

163. **Training (Recommendation 30/3):** The evaluation team did not view any comprehensive training plan for LEAs; but they were informed about some relatively limited sessions held in 2011 by some law enforcement entities including those that were held through the criminal investigation department and the AML directorate. They included 15 sessions, 5 among which were related to AML/CFT at the local and international level with 16 officers as participants. Moreover, the anti-drug

department held 30 sessions between 2009 and 2011 in which about 550 officers and individuals participated related to countering drugs in addition to 1 session on money laundering and criminal investigation where 1 officer participated. Some sessions unrelated to countering drugs or AML/CFT was also held. Most of these sessions were internal.

164. In one of the documents presented to the evaluation team, there was an indication to the training sessions held for the employees of the national intelligence and security service during 2010 and 2011 as follows: In-house training: 20 sessions in AML/CFT attended by 248 researchers but ML sessions were not mentioned in their subjects; External training: 9 sessions in AML/CFT attended by 114 officers. The subjects of these sessions were not specified; no official statistics on holding these sessions by date, number of participants in each, subjects and venue were provided for the previous years. Moreover, there was no indication to a future training plan.

165. The team did not view a comprehensive training plan including the prosecution members and no statistics on the training sessions were provided. Moreover, there is no specialized training in the field of financial investigation and ML/TF crimes.

2-6-2 Recommendations and Comments

166. To comply with Recommendations 27 & 28, the Sudanese authorities should:

- Address the ambiguity in the prosecution in charge of cases on ML/TF crimes.
- Legally grant the prosecution powers to postpone or waive the arrest of suspected persons or the seizure of funds for the purpose of identifying suspects in criminal activities or collecting evidence as the prosecution member may exercise this right through his discretionary powers only in taking this measure.
- Give clear legal powers to the law enforcement authorities to request information from financial and non-financial institutions directly or indirectly.
- Focus on additional training in investigating and countering ML/TF crimes by the prosecution, criminal police and economic security to raise awareness and increase knowledge in this regard.

2-6-3 Compliance with R. 27 & 28

Rec.	Rating	Summary of factors relevant to s2-6 underlying overall rating
R.27	PC	<ul style="list-style-type: none"> • There is no proportionality between the investigations in ML/TF crimes by the prosecution or criminal police with the investigations on predicate offenses except for one investigation that did not yield any results. • There is no authority designated to investigate ML/TF cases. • There is no authority to postpone or waive the arrest of persons or the seizure of funds. • No sufficient AML/CFT training provided.
R.28	PC	<ul style="list-style-type: none"> • It was impossible to prove effectiveness of obtaining information available with FIs by LEAs. • There is no sufficient AML/CFT training and the related cases.

2-7 Cross-Border Declaration or Disclosure (SR.IX)

2-7-1 Description and Analysis

SR.IX

Declaration System (Criterion IX -1)

167. The previous AML law for 2004 did not mention the declaration or disclosure system; however, pursuant to Article (36) Clause (1) of law no. 1/ 2010, the Central Bank may ask any person upon entering or departing the country to disclose to the customs authorities cash and any bearer negotiable instruments carried on, whether in domestic or foreign currency or precious metals and precious stones according to the regulations and circulars. The Central Bank did not issue any regulations or circulars related to disclosure about cross-border movement of cash.

168. The FIU issued the executive regulations for the customs disclosure system for 2011 on 23/2/2011. The regulations stipulated the disclosure of currencies and bearer negotiable instruments whose value exceeds Euro 10,000 (Ten Thousand Euros) or its equivalent in other currencies according to the customs declaration form. The FIU relied in issuing these regulations on Article (37) of the law which stipulates the powers of the competent Minister, FIU and supervisors, each in their own jurisdiction, to issue the necessary regulations to implement law provisions. Article (36) Clause (1) related to disclosure reveals that FIU is not competent to issue such regulations; it should have been issued by the Central Bank of Sudan or the Customs Police Department. However, the authorities stated that the Governor of the Central Bank, by virtue of the powers granted to him pursuant to art 36 (1) of law no. 1/2010, has delegated the FIU head powers to issue declaration forms of cash currencies, other financial negotiable tools and precious metals at all airports, ports for the incoming and outgoing passengers in coordination with the Customs. The evaluation team has perused such authorization.

169. Law no. 1/ 2010 did not define the bearer negotiable instruments but the executive regulations of the customs disclosure system issued by the FIU defined bearer negotiable instruments as monetary instruments in the form of a bearer document such as traveler's checks and negotiable instruments and the like. Moreover, this definition was not mentioned in any other law and the definition mentioned in the regulations cannot be adopted as it was issued by a non-competent entity. Additionally, it does not meet the requirements of FATF definition on bearer negotiable instruments.

170. It seems that law no. 1/ 2010 applies to travelers only as it did not explicitly refer to carriers, mail, or shipments in containers. The customs officials also stated that there are no procedures to monitor the transfer of cash by cargo companies; and that the law included disclosure of precious metals and stones. The Sudanese authorities stated that the Regulations organizing dealing in foreign currency issued by the Central Bank of Sudan cover such elements; in addition, cash is considered to be included under the definition of goods in the Customs law for 1986; the evaluation team did not find any special conditions related to funds transportation in such regulations or the law.

171. The evaluation team noticed, in one of the documents presented by the customs which contains the launching of the customs disclosure system of cross-border movement of cash on 12/12/2011, an indication to the organization of a media conference to launch the system on 15/12/2011 and an invitation the various media members which indicates that the system was implemented few days before the visit of the evaluation team. The evaluation team also noted the presence of a sign in Khartoum Airport on disclosing cash amount exceeding Euro 10,000 (Ten Thousand Euros); however, the team did not find disclosure forms clearly available at the arrival or departure area.

172. Due to the recent application of the disclosure system, the customs police department has not gained sufficient experience to detect operations of cross-border cash movement and financial instruments as the system was implemented two days before the on-site visit. Additionally, the customs officials did not peruse the Best Practices Paper on SR.IX issued by the FATF; and no training sessions were held on the disclosure system except for one session where a number of officers and individuals from the customs, security, investigation and civil aviation employees participated. No statistics were available on the number of disclosures received by the customs except 9 disclosures that were mentioned in a table during the meeting of the team with the FIU. The team did not view any technical methods to detect operations of cross-border movement of cash and financial instruments.

173. **Powers of competent authorities (Criteria IX-2 & IX -3):** Article (36) Clause (2) of law no. 1/ 2010 stipulated that upon failing to disclose or upon false declaration or establishing evidence on the occurrence of a ML/TF crime upon questioning the violator on the source of his possessions and the purposes of their use by the customs authorities, they may, in such cases, seize the funds subject of disclosure for a period not exceeding one week until verifying the evidence on the commission of a ML/TF crime. Clause (3) of the same article also stipulated that the customs authorities should refer the matter to the competent prosecution whenever evidence is available on the commission of a crime. It was noted the presence of contradiction between this provision and Clause (10) of the executive regulations of the disclosure system issued by the FIU whereas it sets out referring the customs disclosure and report to the FIU instead of the prosecution.

174. **Retaining, collecting and exchanging information (Criteria IX -4 & IX -5):** Law no. 1/2010 did not designate the entity that retains the disclosure forms on cash and bearer negotiable instruments. Moreover, it did not mention the retention duration of these forms nor the FIU right to view these disclosures in case of suspicion or directly. The customs law did not indicate the competence of the customs authorities to retain the disclosure forms or other documents.

175. Perusing the disclosure form reveals that it lacks information about the purpose of moving cash or bearer negotiable instruments; yet, it included the following data: Name of traveler, date of birth, nationality, passport details, address in Sudan, flight details and details about the cash, bearer negotiable instruments and precious metals.

176. The customs did not retain any statistics concerning the disclosures they received since the application of the system until end of the on-site visit of the evaluation team. The customs officials indicated that disclosure forms are referred to the unit which is the one in charge of retaining these disclosures although the law did not clearly mention such obligations.

177. **Domestic co-ordination (Criterion IX-6):** At the domestic level, the customs police department is represented in the AML/CFT administrative committee through its director. The team could not determine the presence of adequate coordination with regard to AML/CFT and the competent authorities did not practice this coordination in an effective way. The customs did not indicate the presence of coordination among security, immigration and other related authorities while noting that there is insufficient coordination with the FIU.

178. **International cooperation (Criterion IX-7):** The customs officials stated that the customs police department signed cooperation agreements with the World Customs Organization and other regional organizations to exchange customs information. Such agreements signed by Sudan with include: Ethiopia (2001), Turkey (2007), Jordan (2008), India (2000), Chad (1986) and Egypt (2002). The authority does not have any cooperation experience related to the implementation of SR.IX and its Interpretative Note.

179. **Sanctions (Criteria IX-8 & IX -9):** Sanctions imposed on the perpetrator of ML/TF offence set out in Article (34) of law no. 1/ 2010 shall also apply to the violation of Article (36) Clause (1) and (2) of the same law pertaining to disclosure as follows: Clause (1): (a) the natural person shall be punished by imprisonment for a period not exceeding 10 years and fine not exceeding the double amount of funds, subject of the crime, (b) the legal person shall be punished by fine not exceeding double the amount of proceeds and the natural person who committed the crime in the name or interest of the legal person shall be punished by the imprisonment and fine stipulated in Clause (a). Clause (2) of the same article stipulated the following: In addition to the sanctions provided for in Clause (1), the crime proceeds and the tools used or planned to be used in committing the crime shall be confiscated. If the proceeds fail to be seized, the court may order the confiscation of other funds of corresponding value and may rule by dissolving the legal person and suspending its activity fully or partially or changing the management.

180. Law no. 1/2010 did not indicate any clear sanction when breaching the declaration system or when providing false declaration to the Customs; however, as stated by the authorities, sanctions mentioned in art (34) of AML/CFT law are imposed when breaching declaration system. It worth to mention that the article referred to requires conviction to impose the sanctions provided for.

181. No sanctions were applied due to violation of the disclosure obligation since the law was passed; therefore, it is hard to prove the effectiveness of the sanctions related to the violation of the disclosure system on cash especially that the provision on the sanction is wide and the judge may intensify or reduce the sanction to a great extent. The provision stipulated imprisonment for the natural person for a period not exceeding 10 years and did not indicate the minimum duration of imprisonment penalty which could be one day or more. We cannot evaluate the sanctions as effective, proportionate and dissuasive. Moreover, the law did not differentiate with regard to sanction between a person who provides false declarations or disclosures and a person who physically carries across the borders funds connected to ML/TF.

182. **Application of confiscation on persons who carry out physical cross border transportation of cash (Criterion IX-10):** The customs police department has the right to seize funds, subject of disclosure, according to Article (36) Clause (2) of law no. 1/r 2010 in case of non-disclosure or provision of false declaration or establishment of evidence on committing a ML/TF crime. Article (34) Clause (2) of the same law also stipulated the confiscation of crime proceeds and the tools used or planned to be used in the commitment of such crime. If they fail to be seized, the court may order the confiscation of other funds of corresponding value.

183. **Freezing terrorist assets on persons who carry out physical cross border transportation of cash (Criterion IX-11):** There is no indication in law no. 1/ 2010 to the procedures of dealing with UN resolutions pertaining to the freezing of terrorist funds and assets; the FIU has issued on 8 July 2010 an executive regulation on the seizure, freezing and confiscation as well as the international legal

assistance procedures for ML/TF crime which is not adopted by the FIU Head and was referred to under Section 3 of this report.

184. **Precious metals and precious stones (Criterion IX-12):** Sudan chose to include all precious metals in the disclosure system. This exceeds the requirements mentioned in SR.IX. However, it is not confirmed how the customs police department notifies and cooperates with its equivalent foreign entities with regard to suspicious movement of these metals.

185. **Protection of information (Criterion IX-13):** The evaluation team did not view the places where the disclosure forms are retained; and there are no clear procedures ensuring the provision of strict safeguards to ensure proper use of the information or data.

186. **Customs resources (R.30):** The total number of employees in the customs police department is 1990 officers and 5980 individuals covering 11 checkpoints in the Republic of Sudan. On the other hand, the evaluation team did not receive any information related to financing customs as well as their technical and other resources to determine the possibility of the customs to fully and effectively perform their functions.

187. **Professional standards of Customs (R.30):** All employees working in the customs are officers and members of Sudan police (See the section pertaining to the professional standards set out in R.30-2) for an overview on the professional standards required by Sudan police law. In general, these requirements are adequate to meet the needs of the customs. Moreover, officials indicated that the Sudanese customs police department signed the Nairobi Declaration on Integrity Standards (in Customs) applied on COMESA countries.

188. **Customs training (R.30):** The evaluation team was not provided with general statistics for the last three years on all sessions held by the customs police department; however, 3 courses were indicated, (1) ML/TF investigations, (2) customs disclosure in cooperation with the FIU and (3) AML/CFT program at Sudan Academy for Finance and Banking Sciences in 2011. The number of participants in the first session was 27 officers, 21 officers in the second session, 2 from the Civil Aviation Authority, 3 from the National Security and Intelligence Service and 1 from the Central Bank of Sudan, and 2 officers in the third session according to the letter submitted by the customs police department where it was also indicated that statistics on the general sessions for customs held between 2010 and 2011 were available, yet they were not enclosed with the letter.

189. **Statistics:** Due to the recent application of the disclosure system, there was no public statistic available on the number of disclosure cases but the authorities provided the evaluation team with 6 disclosure forms concerning cash amounts of travelers that were issued during the on-site visit of the evaluation team from 17-22 December 2011. The FIU stated that the total number of forms received from the customs police department during the period from July 2010 until 22 December 2011 was 9; all such disclosures were classified by the FIU as cases of suspicion; no clear measures were taken in their regard.

190. **Effectiveness:** The legal requirements imposed on the cross-border movement of cash and other financial instruments are inadequate in general as the law did not include a definition of the bearer negotiable instruments. Moreover, the Central Bank did not issue regulations or circulars specifying the threshold of disclosure: Article (36) Clause (1) of law no. 1/ 2010 indicates that the Central Bank may ask any person, upon entering or leaving the country, to disclose to the customs authorities the cash and any bearer negotiable instrument they may be carrying; however, the FIU adopted the issuance of the executive regulations related to the customs disclosure system for 2011 without having the legal powers to issue such regulations. Despite that, the lengthy period between passing the law on 7 January 2010 and launching the disclosure system on 12 December 2011, which is almost two years, and the actual application of the system few days before the on-site visit on 18 December 2011 made it impossible to evaluate the effectiveness of the disclosure system. As a result, overall compliance with SR.IX that was evaluated is still incomplete.

191. Although the disclosure system was already in application before the on-site visit, yet the customs made efforts to implement the new tasks by placing guidelines at the airport entrances and held a workshop in cooperation with the FIU on the implementation of the disclosure system; However, the customs police department did not acquire sufficient experience and lacked the technical resources to detect operations of cross border movement of currency and other financial instruments especially the transfer of cash in containers. The customs police department was unaware of the Best Practices Paper to SR.IX issued by the FATF.

2-7-2 Recommendations and Comments

192. To comply with SR.IX, the Sudanese authorities are recommended to:

- Establish an integrated disclosure system by the authorized entity based on law provisions.
- The customs police department should take more measures to ensure the application of SR.IX provisions and its Interpretative Note fully and effectively.
- The customs police department should set clear procedures to ensure the secure retention of disclosure forms (Criteria IX-4 & IX-5) with designating the entity concerned in addition to developing an electronic database (Criterion IX-6) that includes information on all disclosures to be viewed by the competent authorities.
- Grant the unit full powers to peruse the information mentioned in the disclosure forms on cash transportation.
- Enhance the cooperation between Customs and other authorities.
- Clarify the confiscation concept by the court for the natural person in cases of false disclosure or non-disclosure whereas Article (34) of the law refers to the confiscation of crime proceeds only.
- The customs police department should develop the mechanisms followed in detecting false disclosures or non-disclosure.
- The customs police department should develop disclosure regulations and guidelines on the movement of cash and bearer negotiable instruments, place them in a suitable location at all checkpoints and provide disclosure forms to travelers.
- The customs police department should provide its employees, on a periodic basis, with more training on AML/CFT, SR.IX and its Interpretative Note as well as on Article (36) Clause (1) and (2) of the AML/CFT law.
- Set procedures to apply R.3 and SR.III on persons who carry out physical cross border movement.
- Set clear procedures to cover the disclosure requirements for the cross border transfer of cash and bearer negotiable instruments and shipments in containers.
- Make sure to impose effective, dissuasive and proportionate sanctions in cases of false or non disclosure.
- Establish a clear definition on the concept of bearer negotiable financial instruments in law.

2-7-3 Compliance with SR.IX

Rec.	Rating	Summary of factors relevant to s2-7 underlying overall rating
SR.IX	NC	<ul style="list-style-type: none"> • The issuance of the executive regulation of the disclosure system by an incompetent authority being the FIU in conflict with AML/CFT law provisions. • Not setting procedures to explicitly cover the disclosure requirements for the transportation of cash and other financial instruments via mail and shipments in containers. • AML/CFT law is unclear about whether confiscation is a procedure that may be ordered by court in cases of non-disclosure or false disclosure. • Absence of secure and adequate protection to retain disclosures; no designation of the related competent entity. • The effectiveness of the sanctions provided for in AML/CFT law has not been tested yet. • Deficiencies set out with regard to SR.III and R.3 affect compliance with this recommendation. Absence of adequate training to officers and members of the customs police department on the implementation of SR.IX requirements and its Interpretative Note. • At the time of the on-site visit, no sufficient mechanisms were developed yet to detect false disclosures or non-disclosure. • Due to recently implemented disclosure system, it was impossible to verify the effectiveness thereof. • Absence of measures to explicitly cover disclosure requirements for cash and other financial instruments transportation via mail and shipments in containers.

3- PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS

Customer Due Diligence & Record Keeping

193. The main FIs include banks, exchange companies, financial services companies (money transfers), leasing companies (financial leasing), insurance companies and financial brokerage companies. The Central Bank of Sudan, Insurance Supervisory Authority (ISA) and KSE are considered supervisory and regulatory entities over the financial sector and their legislations include specific procedures for registration and granting licenses in order to perform financial activities.

194. The law on the Regulation of Banking Activity 2004 defined banking activity as “opening accounts of all types, accepting deposits and transfer procedures, opening letters of credit of all types and relevant procedures, issuing letters of guarantee, paying and collecting bonds, orders and disbursement permits and other valuable securities, dealing in foreign currency, investment, providing funding to customers and other banking activities as specified by the bank and which do not contradict with a legal provision”.

195. The same law defined the financial institution as “any company for capital investment or for investment purposes or any authority or institution performing any of the banking activities”, whereas exchange companies are limited to selling and buying foreign currency, selling and buying travelers checks, and buying bank checks drawn at the account of correspondents abroad and which are opened at local banks. They also perform brokerage activities in the foreign currency market and buy foreign account balances at banks operating in Sudan.

196. With regard to financial services companies (money transfers), they are companies or offices operating exclusively in funds transfers; therefore, they are subject to the supervision of the Central Bank. Leasing (financial leasing) companies also operate in the field of asset leasing whether leading to ownership or not. They are also subject to the supervision of the Central Bank.

197. Insurance companies are licensed to work in general insurances in addition to Takaful (Islamic) insurance on human life and the risks it is exposed to or occurs thereto such as death, disability, ageing and disease. Insurance activities also include reinsurance operations.

198. Regarding financial brokerage companies, they operate in selling and buying stocks and are subject to the supervision of KSE.

199. SudaPost provides the service of postal remittances to send money by mail inside Sudan. They include regular and electronic remittances. It also opens accounts/savings books for Sudanese; therefore, SudaPost is required to implement the requirements set out in AML/CFT law where the definition of FIs includes institutions that perform such activities. SudaPost is subject to the supervision and regulation of the Central Bank of Sudan (which grants it license to perform financial activities) with regard to performing these activities. On the other hand, the team could not determine any evidence indicating that SudaPost is subject to actual supervision by the Central Bank to verify compliance with AML/CFT law requirements.

Legal and regulatory framework:

200. FIs and some non-financial institutions are subject to the obligations imposed by virtue of AML/CFT law for 2010. The law defines FIs as “commercial banks, exchange and brokerage

companies including any other persons or entities that commercially and regularly perform any of the following activities or transactions for the benefit or account of customers: (accepting deposits – opening credit of all types – financial leasing – funds transfers – issuing payment tools of all types including payment and credit cards - personal and bank checks - financial guarantees and pledges - dealing with tools of the cash market and capital market by selling and buying including dealing in foreign currencies, spots and futures– investment portfolios and investment trustees services – portfolio management – Takaful or life insurance and any other insurance products having an investment element).

201. AML/CFT law for 2010 provides for a number of obligations for financial and non-financial institutions with regard to conducting due diligence to identify customers and beneficial owners, classifying clients according to risk degree on ML/TF occurrence, accurately and continuously following up on the transactions performed by customers as well as notifying the FIU about transactions suspected of being connected to ML/TF proceeds, developing internal policies and records keeping.

202. At the regulatory level, regulations were issued from supervisory entities such as ISA and KSE with regard to AML/CFT based on Article (37) of the law which stipulates that “the competent Minister, the FIU, and the supervisory and regulatory entities each in their own jurisdiction shall issue the necessary regulations to implement law provisions. Without prejudice to the above, the regulations may include supervisory controls on non-financial institutions. The relevant regulations include AML/CFT regulation for the insurance sector for 2010 and AML/CFT regulation for 2010 for companies operating in the stocks field”.

203. The Central Bank of Sudan also issued circular no. (10/2010) on 30/12/2010 addressed to all banks and FIs (i.e. exchange companies, financial services companies and leasing companies). It is noted that the said circular addresses a number of obligations to FIs that are not subject to the authority of the Central Bank such as insurance companies and securities companies and to non-financial institutions regulated by the Sudanese law such as lawyers and other entities that are not regulated at all in Sudan such as casinos. Commenting on this observation, the authorities stated that the circular has a guiding nature in relation to these entities although the provisions referring to these entities are the same that refer to the FIs subject to CBOS authority.

204. On the other hand, the wordings in the circular and administrative regulations reveal the need to abide by the requirements therein as an obligation; FIs subject to the supervisory entities generally consider circulars as binding tools; however, some FIs informed the team directly that they do not pay heed to circulars or instructions they receive from entities other than their direct supervisors based on the law regulating their activities.

205. AML/CFT law for 2010 did not directly include any administrative or disciplinary sanctions imposed on the FIs by the supervisory and regulatory entities in case of violating AML/CFT requirements. On the other hand, the law gave (by virtue of Article 5-1-e) powers to the supervisory and regulatory entities to use their penal authorities stipulated by the regulatory laws in imposing sanctions when financial and non-financial institutions breach their obligations by virtue of law provisions (See paragraph 472 of this report and beyond).

206. In light of the above, the said Central Bank circular as well as ISA and KSE regulations act like a secondary legislation in order to grant direct legal authorization to the competent supervisory entities to issue the necessary tools for implementation.

3-1 ML/TF Risks

207. The AML/CFT regime has high risks due to the novelty of legislations addressing this aspect in addition to the new circulars and regulations issued by the supervisory and regulatory entities regulating the AML/CFT procedures for the financial entities and the deficiencies in such legislations.

208. Moreover, the absence of an effective supervision framework with regard to compliance with AML/CFT requirements in some financial activities such as post services and non-inclusion of all predicate offences in criminalization could make these gaps more attractive to money launderers and terrorist financiers in addition to the weak supervision and inspection on AML/CFT compliance of FIs.

209. It was generally noted the presence of a low level of awareness of ML/TF risks as well as of some procedures and concepts such as the true beneficial owner and Politically Exposed Persons (PEPs) with a varying level of awareness among the FIs. Additionally, the weak AML/CFT training at the financial and non-financial institutions could be an indicator on the probability of misusing these institutions in criminal activities.

210. On the other hand, the existence of a black market for currency exchange and funds transfers without the existence of regulatory or supervisory entities controlling the existence of such markets provides the opportunity to conduct financial transactions especially unofficial transfers that can be misused in transactions counted as terrorist financing in particular.

211. The factors that are likely to reduce the size of risks include: limited dealing in foreign currency and focusing on dealing with local customers, presence of strong links among the security entities especially economic security and FIs. Moreover, weak growth of some sectors such as the insurance and stock companies sector, non use of modern information technology in conducting financial transactions may reduce the risks of using the financial sector in suspicious activities.

212. Sudan did not conduct any process to evaluate ML/TF risks in the financial and non-financial sectors; no sectors were exempted from AML/CFT procedures based on a study or research to identify the risk level related to their activities; however, the Central Bank of Sudan directed banks towards classifying customers based on the risk degree.

3-2 Customer Due Diligence (CDD) including enhanced or reduced measures (R. 5 to 8)

213. First, and although SudaPost and leasing companies are among the companies subject to the supervision of the Central Bank; the evaluation team could not determine the extent to which such entities are abiding by the obligations mentioned in circular no. 10/2010; the team could not determine as well the extent of compliance of such entities with the requirements of R.5 to 8 particularly that SudaPost has been recently subject to CBOS supervision; as well, the evaluation team could not pay a visit to any leasing company.

3-2-1 Description & Analysis

214. Law no. 1/ 2010 stipulates in Article (6) thereof, “Entities subject to the provisions of this law shall:

(1) Financial and non-financial institutions shall:

(a) Conduct due diligence in identifying and verifying customers and beneficial owners and identifying the nature of their activities according to regulations; in particular in the following cases: (First) establishing an ongoing relationship with the customer...

215. Clause 3 of circular no. 10/2010 issued by the Central Bank of Sudan addressed: CDD requirements: 2. Dealing or entering in banking relationships with anonymous persons or with fictitious or shell names is not allowed. Banks and FIs must conduct customer due diligence when establishing ongoing relationship with them.

216. Regarding the stock sector and the anonymous accounts therein, Article 45 of the KSE Act for 1994 on offering stocks for public subscription (primary market) in Clause 14 (a), (b) & (c) thereof

states that no more than one person may participate in one subscription application in one stock and subscription in fictitious names is prohibited. Subscription shall be deemed void in the 2 above cases.

217. Regarding the insurance sector, Chapter Two of AML/CFT regulation for 2010 stipulates:

3/ For AML/CFT purposes, insurance and reinsurance companies must comply with the following controls:

1/ they may not deal with anonymous persons or persons using fictitious names.

218. In light of the above, anonymous accounts or accounts with fictitious names are not legally permitted in Sudan. With regard to regulating numbered accounts, it is noted that no special provision in a law or other primary or secondary legislation mentions the numbered accounts, whether to allow or prohibit, which could mean that they may exist; but officials of the visited FIs stated that their institutions do not permit opening any anonymous accounts or accounts in fictitious names or numbered accounts.

When Customer Due Diligence (CDD) is required (Criterion 5-2)

219. Law no. 1/2010 stipulates in Article (6) thereof that entities subject to the provisions of this law shall:

(1) Financial and non-financial institutions shall:

(a) Conduct due diligence in identifying and verifying customers and beneficial owners from persons and identifying the nature of their activities according to regulations, in particular when:

(First) establishing an ongoing relationship with the customer.

(Second) carrying out an occasional transaction above the threshold designated by the regulations.

(Third) carrying out local or international wire transfers.

(Fourth) there is a suspicion about the veracity or adequacy of previously obtained customer identification data.

(Fifth) When there is ML/TF suspicion.

220. Regarding banks, exchange companies and transfer companies, circular no. 10/2010 issued by the Central Bank of Sudan included general rules explaining the part related to CDD in item 3 which stipulates:

Customer due diligence means identifying customers and true beneficial owners whether they are natural or legal persons and verifying their identities, continuously following up on transactions in addition to identifying the nature and purpose of future relationship between the banks, FIs and customer. In particular when:

(a) Establishing an ongoing relationship with the customer.

(b) Carrying out an occasional transaction above the threshold designated by the regulations

(c) Carrying out local or international wire transfers.

(d) When there is a suspicion about the veracity or adequacy of previously obtained customer identification data.

(e) When there is ML/TF suspicion.

221. Article 2 of KSE regulation (identification rules) stipulated that the company is required to comply with the rules of identifying customers and their legal status issued by the unit when each company develops its own internal rules to identify the customer and its legal status, but no regulation issued by AML/CFT Unit at KSE was found in this regard.

222. Regarding insurance companies sector, Chapter Two (Obligations of Insurance Companies) of the regulation issued by the Insurance Supervisory Authority in Clause 3 Item 2 thereof stipulated that insurance companies are required to identify the customer and beneficial owner whether it is a natural or legal person in addition to identifying the purpose and nature of transaction when: (a) establishing a relationship with the customer (b) there is doubt about committing a ML/TF offence and (c) there is doubt about the accuracy of the obtained data or the data is found to be inaccurate.

223. Except as stated in the Central Bank circular no. 10/2010 in Article (3-a-4-a) thereof designating the threshold for which CDD measures should be undertaken when occasional transactions exceed that amount (SDG 30.000), it is noted that AML/CFT or any other primary or secondary legislation did not include the value of the occasional transaction that requires the application of CDD measures provided it also includes the transactions carried out in a single operation or several operations that appear to be linked (which was also absent in the circular).

224. It was also noted through information provided by the FIs' officials that their institutions apply CDD measures when establishing any business relationship to deal with any occasional transaction; however, one bank indicated that the transactions carried out with occasional customers are very few. The evaluation team noticed that a number of FIs do not have an internal policy governing the application of CDD measures.

Required CDD measures

Customer identification and verification (Criterion 5-3)

Banking Sector:

225. Clauses (b) and (c) of Article (3: CDD Requirements) of the Central Bank of Sudan circular no. 10/2010 stipulated:

(b) Identification and verification procedures of the natural person:

1. Verify the identity of the natural person based on valid identity papers (ID card, passport, driving license, military card, judicial card, police card) taking into account that the identification data should include full name of the customer (fourth great grandfather), nationality, date of birth, permanent address of residence, phone numbers if any, business address, type of activity, purpose of the transaction, names and nationalities of authorized persons to deal in the account and any other information that banks and financial and non-financial institutions deem necessary to obtain.

...

4. Financial and non-financial institutions must take the necessary measures to verify the validity of data and information obtained from the customer including contacting the competent entities issuing the identity papers of such data if they have any doubts about their validity.

Regarding other ongoing relationships established between natural persons and financial and non-financial institutions, their existence should be verified through the identity papers specified in the Central Bank of Sudan circulars in the same regard and the information they include based on the following:

1- Joint accounts:

- Submit the necessary identity papers for each partner.
- Set out the responsibilities of accounts management whether individual or joint.

2- Accounts of guardians and executors of wills:

- Show the necessary identity papers for each guardian and executor.
- Produce evidence of the guardian designation provided it is issued by the competent court.
- Provide the will or guardianship and respect the conditions set out in either.

3- Accounts of administrators of estates:

- Provide the Notification of Legacy.
- Provide the necessary identity papers for each administrator of estate.
- Provide the decision of the Sharia'a Court or the Administrator-General of Estates designating the administrator of the concerned estate.

4- Accounts of employees:

- Provide a salary certificate from the employer.
- Submit the necessary identity papers of any employee.

(c) Identification and verification procedures of the legal person:

1. The identification data should include the name of the legal person, legal structure, address of headquarters, business line, capital, date and number of registration, names, nationalities and phone numbers of the authorized persons to manage the account, purpose of the transaction and any other information which the financial and non-financial institutions deem necessary to obtain.

2. The documents proving the existence of an authorization from the legal person to the natural persons delegated to manage the account should be obtained in addition to the need to identify the authorized person according to the customer identification procedures provided for in this circular.

3. Obtain the names and addresses of partners; and for public joint-stock companies, obtain a statement with the names and addresses of shareholders who own more than 10% shares in the company's capital.

4. For other ongoing relationships established by legal persons, the existence of the legal person and its legal entity must be verified through the necessary documents and the information they include as follows:

5- Partnership accounts:

- Show registration certificate of the business name issued by the business registrar or the partnership registration certificate if it was registered in the name of one partner or more.
- Provide the partnership agreement authenticated and certified by the Court Department including the names and addresses of partners.
- Designate the persons authorized to sign jointly or individually and the limits of powers of the individual signature.

6- Accounts of companies:

- Company registration certificate at the commercial registrar and business establishment certificate for public joint-stock companies.
- Articles of Association.
- Address and headquarters of the company.
- Decision of the Board of Directors to open an account at the concerned financial and non-financial institutions.
- Decision of the Board of Directors to appoint authorized persons to manage the company's accounts and limits of their powers.

7- Accounts of government units and accounts of public institutions and agencies:

- Approval of the competent entity to which the unit or director general of the institution or agency is affiliated as the case may be to open an account with the concerned bank.
- Approval of the Federal or State Ministry of Finance as the case may be.
- Authorization designating the persons authorized to sign the account and limits of their powers signed by the FIU head or the director general as the case may be.
- Copy of the law by which the government agency or institution was established.

8- Accounts of non-profit associations and organizations (voluntary associations and organizations):

- Provide a registration certificate from the competent entity.
- Provide a copy of its by-laws.
- Decision of forming the executive committee and appointing the three officers certified by the agencies registrar.

- A letter designating the bank where the current account is opened signed by the President or Secretary and designating the authorized signatories and limits of their powers in using this account.

Stock sector:

226. With regard to transactions executed in the stock market by natural persons, there are measures to identify customers and the way they dispose of the stocks they own. In case of selling, for instance, the following must be fulfilled:

- 1- Order of sale (defined in the KSE general regulation for 1994 Page 2) and the person²⁹ is verified based on the following documents: Passport – ID card – driving license
- 2- The ownership of the person ordering sale is verified by inquiring about the balance from the central depository³⁰.
- 3- The person ordering the sale shall fill out an authorization to the Brokerage Company to sell all or part of the stocks he owns where he shall specify the price in addition to the trading session where he wants to execute his offer³¹.
- 4- In case of sale on behalf of the stock owner, there must be a sale power of attorney to another person notarized by a lawyer specifying the number of stocks to be sold and; if the client is from outside Sudan, the power of attorney must be authenticated from the Sudanese Ministry of Foreign Affairs to ensure its veracity³².

227. In case of purchase, the central depository shall meet all information pertaining to customer verification based on prepared forms (forms of the depository center)³³.

228. With regard to legal persons, there must be an authorization to the person authorized to complete the transaction whether it is sale or purchase; and the legal person must be verified by checking the certificate of establishment of this company and its owners and owners of control and ownership shares therein.

The Insurance Sector:

229. With regard to the insurance companies, Chapter 2 of ISA regulations (Obligations of Insurance Companies) Article (3) Item (2) thereof stipulated that (insurance companies must identify and verify customer and true beneficial owner whether natural or legal persons) and Article (8) Item b indicated that in case an insurance agent/intermediary/producer undertakes CDD measures, the entity must verify his compliance with such measures based on these rules. The ultimate responsibility for conducting CDD measures falls on the entity itself. Therefore, there was no indication to the presence of an obligation for customer identification and verification using reliable and independent documents, data or information.

²⁹ Article 18-1 of KSE Act, 1994 provide for: “in case of receiving a written authorization, the agent should consider the following: verify the identity of the dealer, his capacity to enter into agreement and verify that his name, family name, place of residence are clear.”

³⁰ KSE Circular on central depository.

³¹ Article 17 of KSE Act, 1994

³² Article 37-2 of KSE Act, 1994.

³³ KSE Circular on central depository.

230. Pursuant to the foregoing, with exception to what was mentioned in the Central Bank circular no. 10/2010 in Items (3 - a - 1 & 2), nothing in the law or any other primary or secondary legislation requires FIs to verify customer identity by using original documents, data or information from a reliable and independent source. Moreover, there was no indication in reality that the FIs verify customer identity whether from the entities issuing the identification documents or through the companies' registrar with regard to the legal person. Practically, the evaluation team could not find a real application from all FIs subject to the Central Bank of this obligation, in particular from such small institutions like exchange companies and financial services companies.

Representatives of legal persons and legal status (Criterion 5-4)

231. With regard to banks, exchange companies and transfer companies, Section (c) of Article Two of the Central Bank circular no. 10/2010 (Due Diligence Requirements) stipulated the following:

(c) Identification and verification measures for the legal person:

....

1- The documents proving the existence of an authorization from the legal person to the natural persons authorized to manage the account should be obtained in addition to the need to identify the authorized person to carry out the transaction based on customer identification procedures stipulated in this circular.

...

5- Partnership accounts:

...

- Designate the persons authorized to sign jointly or individually and the limits of powers of the individual signature.

6- Accounts of companies:

...

- Decision of the Board of Directors to appoint authorized persons to manage the company's accounts and limits of their powers.

7- Accounts of government units and accounts of public institutions and agencies:

...

- Authorization designating the persons authorized to sign the account and limits of their powers signed by FIU head or the director general as the case may be.

...

8- Accounts of non-profit associations and organizations (voluntary associations and organizations):

....

- Decision on establishing the executive committee and appointing the three officers certified by the agencies registrar.
- A letter designating the bank where the current account is opened signed by the President or Secretary and designating the authorized signatories and limits of their powers in using this account.

232. With regard to **institutions not subject to the authority of the Central Bank**, there was no information available to the evaluation team on the existence of an obligation on FIs to verify that any person claiming to be acting on behalf of the legal person is so authorized and to identify and verify such person.

233. With regard to the existence of an obligation to verify the legal status of the customer; if he is a legal person by obtaining the establishment documents for instance and obtaining information on the name of the customer, legal form, address, managers and provisions regulating the authority of binding the legal person; it has been previously mentioned that it was required when identifying the customer from legal persons in case of institutions subject to the authority of the Central Bank only. Therefore, the team could not find information on the relevant obligations for other FIs.

234. In light of the above, the regulations issued by FIs supervisors, with exception to the circular issued by the Central Bank no. 10/2010, did not require FIs to verify whether any person claiming to be acting on behalf of the client is authorized to do so and identify and verify the identity of that person; FIs not subject to the authority of the Central Bank were not required to verify the legal status of the legal person or legal arrangement. Practically, the evaluation team could not find a real application from all FIs subject to the Central Bank of this obligation especially from such small institutions like exchange companies and financial services companies.

Identifying the beneficial owners, Criteria 5-5, 5-5-1 & 5-5-2

235. Section (a) of Article (6) of law no. 1/ 2010 stipulated the obligations of financial and non-financial institutions: ((Financial and non-financial institutions shall: (a) Conduct due diligence in identifying and verifying customers and beneficial owners and identifying the nature of their activities according to regulations ...)).

236. With regard to the bank sector, exchange companies and money transfer companies, the Central Bank of Sudan circular no. 10/2010 stipulated in Article (Three) (Customer Due Diligence) general rules of customer identification and conducting CDD towards them as well as identification and verification procedures for the natural and legal person and beneficial owner:

(d) Beneficial Owner:

1- FIs must ask each client to sign a written declaration where the identity of beneficial owner in the ongoing relationship or occasional transaction is specified and to disclose at least due diligence information pertaining to that beneficial owner to identify him.

2- FIs must identify the beneficial owner and take reasonable measures to verify this identity including relying on data or information obtained from official documents and data such that the bank is satisfied that it knows the identity of the beneficial owner.

3- It should be required to take reasonable measures when identifying the beneficial owner in case of a legal person in order to understand the ownership and control structure over the legal person.

237. With regard to the stock sector, the Sudanese authorities stated that referring to the by-laws of the company to identify founders, their nationalities and identities, ownership structure and their

shares should be taken into account for all transactions performed in KSE with regard to legal persons with focus on private companies. The evaluation team could not determine the legal basis of such statement.

238. With regard to the insurance companies, Chapter Two of ISA regulations (Obligations of Insurance Companies) Article (3) Item (2) thereof stipulated that insurance companies must identify and verify the customer and beneficial owner whether they are natural or legal persons; Article 8 item b indicated that in case an insurance agent/intermediary/producer undertakes customer identification measures, the entity must verify his compliance with the identification measures according to these rules. The ultimate responsibility for conducting identification measures falls on the entity itself.

239. Therefore, stock companies and insurance companies are not required in detail to abide by the identification requirements of the beneficial owner and to take the necessary reasonable measures to verify his identity. They are also not required to identify the ownership and control structure or identify the legal persons who own or control the customer from legal persons.

240. In light of the above, almost all FIs are directly required to identify and verify the identity of the beneficial owner (and not take reasonable measures to verify the same), which is an absolute obligation that is hard to achieve especially when there is low level of compliance of the FIs and low level of awareness of many sectors therein of the concept of beneficial owner and its importance particularly with the absence of guidance or details on how to carry out this critical task in the abovementioned regulations. The team noticed that identifying and verifying the beneficial owner in most FIs, if not all, does not receive sufficient amount of attention.

Information on the purpose and nature of the business relationship (Criterion 5-6)

241. Article (6) Item (1) of law no. 1/2010 stipulated the obligations of financial and non-financial institutions to conduct due diligence in identifying and verifying the identity of customers and beneficial owners from persons and identifying the nature of their activity according to regulations.

242. With regard to banks, exchange companies and transfer companies, CBOS circular 10/2010 addressed to banks and FIs, Part Three Item (a) General Rules, Clause (1) stipulated, "CDD means identifying and verifying the customer and beneficial owner whether he is a natural or legal person and continuously monitoring transactions in addition to identifying the nature and purpose of future relationship between the financial and non-financial institutions and the customer".

243. Regarding the insurance sector, Chapter Two of AML/CFT regulation for 2010 stipulates:

2/ the entity must identify and verify the identity of the customer and beneficial owner whether he is natural or legal person in addition to identifying the purpose and nature of the transaction in the following cases: a- Establishing a business relationship with the customer ...

244. In reality, it was not reflected that the FIs take any measures to know the purpose and nature of the business relationship; it was also found that the regulation issued to the stock companies did not include any requirement to obtain information on the purpose and nature of the business relationship.

Ongoing due diligence towards business relationship (Criteria 5-7, 5-7-1 & 5-7-2)

245. Article (6) Item (1) of Section (c) of law no. 1/ 2010 stipulated the obligation of financial and non-financial institutions to conduct accurate and continuous monitoring of transactions carried out by customers to ensure they are consistent with the institution's knowledge of the customer , their business and risks profile.

246. With regard to banks, exchange companies and transfer companies, CBOS circular no. 10/2010, Item 3, article (14) requires banks and FIs to conduct ongoing monitoring on their

relationship with the customer in order to identify the pattern of his transactions and detect any transactions not commensurate with such pattern or the nature of the client's activity. The same circular stipulated in Article (Four) Section (1) Item (1) that banks and FIs must put in place a risk management system for PEPs or beneficial owners who belong to this category. Item (3) also stipulated that banks and FIs must take sufficient measures to verify the sources of customers and beneficial owners' wealth.

247. With regard to the insurance sector, Article (3) Clause (g) in Chapter Two of ISA regulations required insurance companies to: conduct an accurate and ongoing monitoring of the transactions carried out by customers over the course of the business relationship through the company and its branches directly or through intermediaries, agents and producers with the information available on their identity, to identify the level of measures taken towards them according to the risk degree and to continuously update data, information and documents related thereto.

248. In the stock sector, no procedures pertaining to monitoring on an ongoing basis transactions carried out by customers whether selling or buying stocks were included in the circular. On the practical level, it was not clear whether FIs have any systems or procedures allowing ongoing monitoring of transactions carried out by customers or conducting periodic examination of the transactions performed by customers.

Data updating

249. Article (6) Item (1) of Clause (c) of law no. 1/2010 stipulated the obligation of financial and non-financial institutions to conduct accurate and ongoing monitoring of transactions carried out by customers to ensure they are consistent with the information available on their identity, nature of their activities and risk profile, and to update data, information and documents continuously particularly for higher risk categories of customers.

250. With regard to banking sector, exchange companies and money transfer companies, Article (Three) CDD Requirements (a) General Rules, Paragraph (14) of CBOS circular no. 10/2010 stipulated, "Financial and non-financial institutions must update customer identification data every five years or when there are reasons that call for that such as the bank or FI has doubts about the veracity or adequacy of the data and information previously obtained or if the banks and FIs deemed the ML/TF risk degree as high with regard to a certain customer or category of customers".

251. With regard to the insurance sector, Article (3) Clause (g) in Chapter 2 of ISA regulation stipulated: Insurance companies are required to conduct accurate and ongoing monitoring of the transactions carried out by customers over the course of the business relationship via the company and its branches directly or through intermediaries, agents and producers with the information available on their identity, to identify the level of measures taken towards them according to the risk degree and to continuously update the related data, information and documents.

252. It is noted that the regulation issued by KSE had no indication concerning the mechanism and method of updating data. It was also noted during the on-site visit that FIs data is not kept up-to-date; it is reviewed when the customer contacts the FI to undertake any of the financial transactions.

Risks – enhanced due diligence for higher-risk categories of customer (Criterion 5-8)

253. AML/CFT law was silent as to dealing with the risks posed by FIs customers with regard to either their categorization or CDD measures applied based on the risk degree. This task was handled by the Central Bank of Sudan circular 10/2010 whereas Part Four thereof referred to the cases that need special attention among which are higher-risk customers: Clause (b) of the circular under the title "Higher-Risk Customers" stipulated that financial and non-financial institutions must categorize their customers and products based on ML/TF risks degree subject to the following: Nature of the customer and type of his activity – nature of the banking service – geographic location – the method through

which the service is provided including methods relying on modern technology. FIs must perform due diligence vis-à-vis high-risk customers which include owners of huge wealth who enjoy a privileged relationship with the bank.

254. With regard to the regulation issued to the stock and insurance companies, they were not required to take enhanced due diligence measures vis-à-vis high-risk categories of customers, business relationships or transactions; as well, no procedures or guidance were issued with regard to the risk classification which indicated a weakness at the level of FIs in relation to high-risk customers and how to classify them.

Risks – application of simplified/reduced due diligence measures when needed (Criteria 5-9 to 5-12)

255. Neither Law no. 1/ 2010 nor the circulars addressed to FIs included any provisions allowing the application of reduced due diligence measures even if there are circumstances where ML/TF risks are low. Practically, the FIs apply CDD measures on all their customers without simplifying them.

256. Moreover, it was not revealed that the competent authorities in Sudan including the Central Bank of Sudan or the Sudanese FIU had issued any guiding principles through which CDD level could be identified based on the risk degree. However, the FIU is currently considering, through comprehensive studies, to apply simplified due diligence measures based on the outputs of the study, but the clear effective general rule in AML law and the regulations issued by supervisors is subjecting all customers to CDD measures without simplifying them. Additionally, the team did not view the details of the study.

Timing of verification– general rule (Criterion 5-13)

257. With regard to banks, exchange companies and transfer companies, Article Three (CDD Requirements) Paragraph a (General Rules) Item 5 of CBOS circular no. 10/2010 stipulated: financial and non-financial institutions are required to undertake CDD measures vis-à-vis customers before or during the establishment of the banking relationship or when performing transactions for the account of occasional clients on whom (4) above applies.

258. With regard to the insurance sector, Chapter (2) Clause (3) of the AML/CFT regulation for 2010 stipulated that for AML/CFT purposes, insurance and reinsurance companies must comply with the following controls ... (2) The entity must identify and verify the customer and beneficial owner whether he is natural or legal person in addition to identifying the purpose and nature of the transaction when:

- a- Commence business with the customer,
- b- There is doubt about committing a ML/TF crime, c- the entity has doubt about the accuracy of previously obtained data when identifying the customer or deems this data insufficient and needs to complete it.

259. On the practical level, FIs have clear weakness in understanding the concept of beneficial owner or even occasional customers as all customers dealing with FIs are considered customers whether they have ongoing relationship with the FIs or were performing a one-time financial transaction. Therefore, it was not determined during the on-site visit that the institutions have clear knowledge on how to deal with occasional customers and the notion of occasional customer. Moreover, the regulation issued for stock companies did not require them to verify the identity of the customer and beneficial owner before or during the establishment of business relationship or performing transactions for occasional customers.

Timing of verification of identity – dealing with exceptional circumstances (Criteria 5-14 & 5-14-1)

260. With regard to banks, exchange companies and money transfer companies, article 3 (a) (clause 7) of CBOS circular no. 10/2010 stipulated that verification procedures may be postponed until after the establishment of the banking relationship according to the following:

a- Postponing the verification procedures is essential for the normal conduct of business such as no ML/TF risks shall arise as a result thereof.

b- Financial and non-financial institutions shall perform the verification procedures as soon as reasonably practicable.

c- Financial and non-financial institutions have taken the necessary measures of sound management of ML/TF risks with regard to the case where postponement took place including setting limits to the number, type and amount of transactions that can be carried out before completion of the verification process.

261. In reality, it was noted that the FIs undertake customer identification procedures only without taking any measures with regard to verifying identify of such customers or the beneficial owner and ensuring the veracity thereof. It was not revealed during the on-site visit that FIs have the powers to access any of the databases allowing them to verify the customers' identity; therefore, they do not have any knowledge of the verification-related process. Moreover, the stock companies were not required in the first place to verify the identity of the customer or beneficial owner before or during the establishment of the business relationship or executing transactions for occasional customers.

Failure to complete due diligence measures before establishing a business relationship (Criterion 5-15)

262. Item 3 Clauses 5 & 6 of CBOS circular no. 10/2010 addressed to banks and FIs stipulated that financial and non-financial institutions are required to undertake CDD measures vis-à-vis customers before or during the establishment of the banking relationship or when performing transactions for the account of occasional customers on which (4) above applies. In case the financial and non-financial institutions fail to complete the due diligence measures vis-à-vis customers, they must not open the account or enter into any banking relationship with the customer or carry out any transaction for his account.

263. With regard to the insurance sector, Item (6) of Chapter 2 of AML/CFT regulations in the insurance sector for 2010 stipulated that, "failing to complete CDD, they must not accept dealing with the customer and should consider filing an STR in his regard to the FIU according to the reasons of not fulfilling these measures which are suspected of involving ML/TF.

264. There is no legal or regulatory provision that regulates this issue with regard to stock companies. On the other hand, failing to complete CDD, FIs - except insurance companies- are not required to consider submitting an STR to the FIU.

Failure to complete due diligence measures after establishing a business relationship (Criterion 5-16)

265. With regard to banks, exchange companies and transfer companies, Art.3 Clause (8) of the Central Bank of Sudan circular no. 10/2010 stipulated: Where any financial or non-financial institution entered into a banking relationship with the customer before completing the verification procedures as set out in Item (7) above, and where the bank or FI failed to complete such measures later, they should terminate this relationship and inform the FIU accordingly based on the procedures stipulated in Item (6) of this circular.

266. With regard to the insurance sector, Article (6) of Chapter Two of ISA regulations stipulated that failing to complete CDD measures, they must not accept dealing with the customer and should consider filing an STR to the FIU according to the reasons of not respecting such measures and which are suspected to be involving ML/TF.

267. Stock companies and insurance companies are required, when entering into a business relationship before completing CDD measures, to terminate the business relationship and consider making a suspicious transaction report.

Existing Customers

268. Neither the law nor any other regulations establishing enforceable CDD rules addressed the issue of existing customers (at the time of issuing CDD obligations). In reality, it was noted that FIs are keen on updating customers data; however, not all data was updated, as previously mentioned, particularly that relevant circulars were issued in 2010 and many FIs do not take the basis of materiality and risk into account when updating data.

Politically Exposed Persons (PEPs) (Recommendation 6)

Essential Criteria

269. AML/CFT law did not address the issue of PEPs neither by defining them nor by mentioning the procedures required to be taken by FIs when dealing with such PEPs or with the risks they pose. Circulars and regulations issued by the various regulatory entities handled this aspect. Circular no. 10/2010 on AML/CFT issued by the Central Bank of Sudan defined PEPs as “the individuals who hold or have held a senior public position in a foreign country such as the Head of state or government, or a senior politician, judicial or military official or a high-level government position or prominent figures in a political party including family members up to the third degree of lineage”.

270. Item 4, Clause (a) of the circular also tackled the measures that must be taken by the financial and non-financial institutions when dealing with these individuals; it requires financial and non-financial institutions to put in place a risk management system for PEPs or beneficial owners who belong to this category. It also required obtaining the approval of senior management to establish a relationship with these individuals. Such approval must be obtained whenever one of the customers or beneficial owners is identified as PEP.

271. Moreover, the circular required the FIs to take sufficient measures to ensure the confiscation of wealth of customers and beneficial owners from PEPs. It obliged such institutions to accurately monitor on an ongoing basis their transactions with such customers.

272. With regard to the insurance sector, Article (14) of Chapter 2 of AML/CFT regulations 2010 in the insurance sector stipulated, “Insurance companies must conduct sufficient verification measures with regard to high risk category of customers including non-resident customers and PEPs or related thereto and customers residing in countries that do not apply FATF standards and indirect transactions.

273. With regard to the stock sector, no binding instructions or obligations were issued in relation to the customers of such category.

274. In general, circular no. 10/2010 issued by the Central Bank of Sudan is not deemed as binding for insurance or stock companies but its provisions apply to banks and exchange companies as they are subject to the supervision and regulation of the Central Bank of Sudan. It is also noted that circular no. 10/2010 requires financial and non-financial institutions to put in place a risk management system without the presence of any guidance or directions about the particularities and method of setting this system and the objective of using it to identify whether the future customer, the customer or beneficial owner is PEP. It is also noted that the obligations imposed on the insurance companies

neither require them to put in place appropriate risk management systems nor require them to obtain the approval of senior management when starting the relationship and requirements of identifying wealth and source of funds.

275. FIs officials stated that their institutions have not previously dealt with this category of customers; in such case, FIs shall follow the same measures pertaining to regular customers. However, it was noticed that a number of internal policies of these institutions included measures pertaining to PEPs but they are not practically applied.

Additional Elements

276. Circular no. 10/2010 issued by the Central Bank of Sudan did not address local persons; rather only defined PEPs as “the individuals who hold or have held a senior public position in a foreign country ...”... With regard to the insurance sector, this category was not included; in the stock sector, the circular did not address PEPs neither foreigners (as previously mentioned) nor locals.

277. Sudan has signed the UN Convention against Corruption but has not been ratified yet. The authorities informed that the convention is at the Assembly of Representatives for ratification.

Cross-border correspondent banking and similar relationships (R.7)

Requirements of obtaining information about the respondent institution

278. With regard to banks, exchange companies and money transfer companies, the Central Bank circular 10/2010 (4/d) required banks and FIs to perform due diligence when establishing banking relationship with correspondent financial and non-financial institutions subject to some details as will be explained.

279. With regard to obtaining approval to establish correspondent relationships, Item (2), Clause (d), Article (4) of circular no. 10/2010 referred to obtaining the approval of the Board of Directors at the bank or FI to establish a business relationship with financial and non-financial institutions.

280. It is noted that circular no. 10/2010 did not require banks, exchange companies and transfer companies to verify whether the correspondent institutions have been subject to ML/TF investigation or regulatory action. In practice, FIs officials (banks, exchange companies and money transfer companies) stated that an identification survey is sent to the correspondent institution before establishing a relationship therewith and the approval of the Central Bank of Sudan is obtained to deal with the correspondent institution: institutions verify the reputation of the respondent institution in the field of AML/CFT. It is unclear whether such institutions do verify if such respondent institution has been subject to ML/TF investigation or a regulatory action in this regard.

281. With regard to assessing AML/CFT controls in the respondent institution, Item (4), clause (d), Article (4) of circular no. 10/2010 issued by the Central Bank of Sudan stipulated “to verify there are adequate AML/CFT systems at the correspondent financial and non-financial institution”. However, the fact revealed that banks, exchange companies and transfer companies do not evaluate efficiency and effectiveness of the controls used by the respondent institution in AML/CFT; they only obtain the approval of the Central Bank.

282. Regarding documenting AML/CFT responsibilities in each institution, circular 10/2010 did not address this issue with regard to correspondent banking relationships. The evaluation team could not as well obtain any contracts or agreements established with respondent institutions on documenting the responsibility of each institution with its AML/CFT obligations.

283. From a practical aspect, no inputs were provided on the existence of payable-through accounts as FIs do not open such accounts.

284. It was evident that the rest of the FIs such as stock companies do not deal in the first place with respondent institutions; therefore, there was no reference in any of the regulations issued by the supervisory entities to any requirements with regard to respondent institutions.

New technology and non face to face business relationships (R.8)

285. Circular no. 10/2010 issued by the Central Bank of Sudan in Article (4) Due Diligence Item (b) High-Risk Customers indicated that financial and non-financial institutions must classify all their customers and products according to ML/TF risk degree subject to the following: nature of the customer and type of his activity – nature of the banking service – geographic location of the customer or banking transactions – the method through which the service is provided including the use of technological developments.

286. The Central Bank also issued a circular on 4 January 2009 with regard to the rules regulating the credit registration system which reduces ML threats that may arise from modern technology. It does not grant any funding or direct or indirect facility to any customer who did not complete the demographic data (Customer data form) and does not have a credit code. In case of companies and legal persons, a copy of the commercial register and a copy of the tax return certificate shall be sent. This data shall be directly sent via the electronic feedback system to the Central Bank of Sudan and this feedback is supported by a copy of the identity document.

287. However, the Central Bank of Sudan circular did not require the existence of policies or procedures to prevent the misuse of information technology in ML/TF and did not require the presence of any policies to deal with risks resulting from non face to face business relationships or transactions.

288. (After the on-site visit), KSE shifted from manual to electronic trading; as a result, AML/CFT requirements were taken into consideration among the requirements of the new system without the presence of any requirements for stock companies related to the use of information technology and non face to face operations with customers.

289. In the insurance sector, Article (10) of Chapter 2 of the regulation on the insurance sector stipulated “Insurance companies must pay special attention to insurance applications including applications incoming via facsimile, over the Internet or by other technological means, verify data therein and should verify that the insurance interest is available with regard to large-scale transactions and unusual patterns of transactions that do not have an apparent economic or legal purpose”.

290. It is noted that all circulars issued for the FIs did not require them to comply with the obligations of R.8 with regard to having sufficient policies and taking such measures to prevent the misuse of technological developments in ML/TF operations; As well, the circular did not require FIs to have sufficient policies and procedures to deal with risks associated with non face to face business or transactions such as the request of official authentication of documents or reliance on third party introduction to identify customers.

291. In practice, FIs officials stated that they do not establish non face to face business relationships, but they require the appearance of the client directly to carry out any financial transactions except for financial brokerage companies which indicated that they perform sale and purchase transactions through the phone based on a 24-hour authorization from the customer. Moreover, there are no specific measures for the FIs when indirectly dealing with the customer to identify risks associated thereto in an attempt to avoid them. There is no law to prevent FIs from conducting financial transactions for their customers by using modern information technology; hence, the circulars issued for the FIs did not include the obligations mentioned under R.8.

3-2-2 Recommendations and Comments

292. To address deficiencies, the Sudanese authorities should:

R.5:

- Ensure the effective application of the requirements of AML/CFT law on leasing companies and the financial services provided by SudaPost.
- The law or any other primary or secondary legislation should address the following:
 - Regulating numbered accounts (either by allowing or preventing their existence) so that FIs are required to maintain them in such a way that full compliance with FATF Recommendations is achieved.
 - With regard to FIs not subject to the Central Bank, undertaking due diligence in occasional transactions exceeding 15000 USD / Euro; this should include (for all FIs including those subject to the Central Bank) the cases where transactions are performed in a single or several operations that appear to be linked.
 - Requiring FIs (other than those subject to the authority of the Central Bank) to identify and verify the identity of the customer by using original documents, data or information from a reliable and independent source.
 - Requiring FIs (other than those subject to the authority of the Central Bank) to verify whether any person claiming to be acting on behalf of the customer is authorized to do so while identifying and verifying the identity of that person.
 - Requiring stock and insurance companies in detail to comply with the requirements of identifying the beneficial owner and taking the necessary reasonable measures to verify his identity.
 - Requiring FIs to identify the natural persons who have actual ownership or control over the customer including persons who exercise effective and full control over the legal person or legal arrangement.
- Circulars issued to FIs should address the following:
 - Requiring them (excluding FIs subject to the authority of the Central Bank) with regard to customers from legal persons or legal arrangements to verify their legal status and obtain information on the name of the customer, his legal form, address, managers and the provisions regulating the authority binding the legal person or legal arrangement.
 - Requiring stock and insurance companies to take reasonable measures to understand the ownership and control structure over the legal person.
 - Requiring stock companies to obtain information on the purpose and intended nature of the business relationship.
 - Requiring the bank sector, exchange companies and transfer companies to obtain information on the nature of the business relationship.

- Requiring stock companies and insurance companies to take enhanced due diligence measures for categories of high-risk customers, business relationships or transactions.
- Requiring stock companies to verify the identity of the customer and beneficial owner before or during the establishment of the business relationship or when carrying out transactions for occasional customers.
- Requiring stock companies when failing to complete the due diligence measures to terminate the business relationship and consider submitting an STR.
- Requiring the bank sector, exchange companies and transfer companies to consider making suspicious transaction report when failing to meet CDD measures.
- Requiring stock companies and insurance companies upon entering into a business relationship before fulfilling CDD measures to terminate the business relationship and consider making an STR.
- Requiring FIs to apply CDD measures with regard to existing clients on basis of materiality and risk and addressing the timing issue of taking due diligence measures towards existing business relationships.

R.6:

- Requiring stock companies and insurance companies to abide by the full obligations that are consistent with the essential criteria of R.6.
- Requiring FIs subject to the authority of the Central Bank to include whether the future client is PEP under their risk management system.
- Requiring FIs to comply with the requirements of R.6; they should not deal with PEPs as regular customers.

R.7:

- Regarding banks, exchange companies and transfer companies, require FIs to identify whether the respondent institution was subject to ML/TF investigation or regulatory action.
- Regarding banks, exchange companies and transfer companies, require FIs to evaluate AML/CFT controls used by the respondent institution to ensure they are adequate and effective. They only obtain the approval of the Central Bank to deal with respondent institutions.
- Document AML/CFT responsibilities in each institution with regard to correspondent banking relationships.
- Verify that FIs practically comply with the requirements of R.7.

R.8:

- Require FIs to comply with the obligations mentioned in R.8 with regard to having in place adequate policies and taking measures to prevent the misuse of technological developments in ML/TF operations, establishing policies and procedures to deal with risks associated with non face to face business or transactions such as request for official notarization of documents or reliance on third parties to identify customers.

3-2-3 Compliance with R. 5 to 8

Rec.	Rating	Summary of factors underlying rating
R.5	PC	<ul style="list-style-type: none"> • The application of AML/CFT law requirements on leasing companies and the financial services provided by SudaPost is not clear. • The law or any other primary or secondary legislation did not address the following: <ul style="list-style-type: none"> • Regulating numbered accounts (either by allowing or preventing their existence) so FIs are required to maintain them in such a way that full compliance with FATF Recommendations is achieved. • FIs (other than the institutions subject to the Central Bank) may conduct occasional transactions exceeding 15000 USD/Euro; this should also include (for all FIs) the cases where transactions are performed as one or several operations that appear to be linked. • Requiring FIs (other than those subject to the authority of the Central Bank) to identify and verify the identity of the customer by using original documents, data or information from a reliable and independent source. • Requiring FIs to verify whether any person claiming to be acting on behalf of the customer is authorized to do so while identifying and verifying that person. • Stock and insurance companies are not required in detail to comply with the requirements of identifying the beneficial owner and taking the necessary reasonable measures to verify the identity of such person. • Requiring FIs to identify the natural persons who have actual ownership or control over the customer including persons who exercise effective and full control over the legal person or legal arrangement. • Circulars issued to FIs did not address the following: <ul style="list-style-type: none"> • Requiring them with regard to customers from legal persons or legal arrangements to obtain information on the provisions regulating the binding authority of the legal person or legal arrangement. • Requiring FIs other than those subject to the authority of the Central Bank to verify the legal status of the legal person or legal arrangement. • Requiring stock and insurance companies to take reasonable measures to know the ownership and control structure of the legal person. • Requiring stock companies to obtain information on the purpose and intended nature of the business relationship. • Requiring the bank sector, exchange companies and transfer companies to obtain information on the nature of the business relationship. • Requiring stock companies and insurance companies to take enhanced due diligence measures for categories of high-risk customers, business relationships or transactions. • Requiring stock companies to verify the customer and beneficial owner identity before and during the establishment of the business relationship or executing transactions for occasional customers. • Requiring stock companies in case of inability to fulfill the due diligence measures to terminate the business relationship and consider making a suspicious transaction report. • Requiring the bank sector, exchange companies and transfer companies to

		<p>consider submitting an STR when failing to meet CDD measures.</p> <ul style="list-style-type: none"> • Requiring stock companies and insurance companies upon entering into a business relationship before fulfilling the customer identification procedures to terminate the business relationship and consider filing an STR. • Requiring FIs to apply CDD measures with regard to existing customers on basis of materiality and risk and address the timing issue of taking due diligence measures towards existing business relationships. • Effectiveness <ul style="list-style-type: none"> • No appropriate internal policies at the FIs, except for banks, pertaining to CDD measures towards customers. • Low level of awareness and experience in dealing with the obligation of customer identification and verification. • Low level of awareness and experience in dealing with the obligation of beneficial owner identification and verification. • Low level of awareness and experience in determining the ownership and control structure with regard to customers from legal persons.
R.6	NC	<ul style="list-style-type: none"> • Absence of a requirement for stock companies and insurance companies to abide by full obligations in line with the Essential Criteria of R.6. • Absence of a requirement for FIs subject to the authority of the Central Bank to include whether the future client is PEP under their risk management system. • FIs do not comply with the requirements of R.6; rather they deal with PEPs as regular customers.
R.7	PC	<ul style="list-style-type: none"> • The circular issued for the FIs subject to the authority of the Central Bank did not address the verification whether the respondent institution was subject to ML/TF investigation or regulatory action. • The bank sector, exchange companies and transfer companies did not evaluate the respondent institution's AML/CFT controls to ensure they are sufficient and effective but they only obtain the approval of the Central Bank to deal with the correspondent institutions. • Not requiring FIs to document AML/CFT responsibilities in each institution with regard to correspondent banking relationships.
R.8	NC	<ul style="list-style-type: none"> • The circulars issued for the FIs did not address the obligations set out in R.8 with regard to having in place adequate policies and taking such measures to prevent the misuse of technological developments in ML/TF operations, establishing policies and procedures to deal with risks associated with non face to face business or transactions.

3-3 Third Parties and Introduced Business (R. 9)

3-3-1 Description and Analysis

293. AML/CFT law does not address the issue of FIs having recourse to third parties; however banks, exchange companies and transfer companies cannot rely on third parties in conducting due diligence measures according to the explicit provision of Article 10 of Central Bank circular no. 10/2010.

294. Moreover, the regulation issued for the stock companies did not include any requirements with regard to relying on third parties to undertake CDD measures for transactions carried out with customers inside or outside Sudan. On another part, the visits made to the stock companies revealed

that they might deal with customers from outside Sudan which indicates that there might be third parties that the stock companies might refer to in order to establish business relationships with such customers. As well, some stock companies in Sudan affiliated to banks or other FIs, in this case it is likely that such companies deal with the customers of the institutions to which they are affiliated and adopt identification measures taken by the latter in the absence of any regulation for this issue and the absence of sufficient awareness for such companies on AML/CFT requirements in general. Therefore, the extent to which third parties are subject to supervision and regulation as well as to CDD requirements mentioned in R.5 and 10 or the extent to which they apply them cannot be confirmed.

295. With regard to the insurance companies, Article (8) of AML/CFT regulation at the insurance sector for 2010 stipulated:

- a. Local insurance transactions may not be accepted from insurance agents not registered in the register prepared for such purpose at ISA.
- b. In case (insurance agent/intermediary/producer) undertakes customer identification measures, the entity must verify his compliance with the customer identification procedures according to these rules. The ultimate responsibility for undertaking identification measures falls on the entity itself.
- c. Not accepting the payment of any amounts related to an insurance transaction from an account belonging to an insurance agent/intermediary/producer.

296. Additionally, it was not noted that the regulation issued for the insurance companies sector obliged these companies to obtain immediately from the third party the necessary information related to all CDD requirements.

297. It is also observed that the regulation did not require insurance companies to verify that third parties are subject to supervision and regulation for AML/CFT purposes (only registration with ISA on accepting local insurance transactions without mentioning insurance transactions that may be conducted for the interest of customers outside Sudan) and for CDD requirements set out under R. 5 and 10. Moreover, it was not revealed if insurance companies are obliged to take into account the presence of third parties in countries that do not apply FATF Recommendations: it was understood that the Sudanese competent authorities do not issue any lists or guidance with regard to dealing with third parties in countries that do not apply FATF Recommendations to be used as guide by insurance companies. The competent authorities are not required in the first place to take into account the information that could be available on the countries where third parties exist with regard to applying FATF Recommendations.

3-3-2 Recommendations and Comments

298. In order to address deficiencies related to R.9, the authorities should do the following:

- The circular issued for the stock companies should address the potential existence of third parties to which stock companies may have resorted in order to build business relationship with some customers.
- The circular issued for the insurance companies should require that insurance agents/intermediaries/producers verify the completion of relevant CDD measures.
- The circular issued for the insurance companies should require insurance agents/intermediaries/producers to provide customer identification documents and other relevant documents related to CDD requirements when requested.

- Require the competent authorities to take into account the information available on whether countries where third parties may be present sufficiently apply FATF Recommendations.

3-3-3 Compliance with R. 9

Rec.	Rating	Summary of factors underlying rating
R.9	PC	<ul style="list-style-type: none"> • The circular issued for the stock companies did not address the potential existence of third parties to which the financial services companies may have resorted in order to build business relationship with some customers. • The circular issued for the insurance companies did not include the need for the insurance agents/intermediaries/producers to verify the completion of relevant CDD measures. • The circular issued for the insurance companies did not include the need for insurance agents/intermediaries/producers to provide customer identification documents and other relevant documents related to CDD requirements when requested. The competent authorities did not take into account the information available on whether countries where third parties may be present sufficiently apply FATF Recommendations.

3-4 Financial Institution Secrecy or Confidentiality (R. 4)

3-4-1 Description and Analysis

299. The FIU may request information from entities subject to the provisions of AML/CFT law; Items (1) and (2) of Article (13) of the AML/CFT law for 2010 stipulated:

“(1) Without prejudice to the provisions of Article 6 (1/d) pertaining to the reporting obligations of lawyers, the FIU must request, from any financial or non-financial institution, information that may be useful to perform its job or based on the request of a foreign FIU. The financial and non-financial institutions must provide the FIU with such information and documents within the period and the in the manner specified by the FIU.

(2) In exceptional cases when examining suspicious cases, the unit must request additional information from the following entities whenever it deems it useful to perform its job or pursuant to FIU request. The entities are:

- a- LEAs
- b- Supervisory and monitoring entities
- c- Any other administrative entity

300. On the other hand, Article 55 of the Law on the regulation of banking activity, 2004 excluded the information or statistics requested by the Minister of Justice or competent court from the banking secrecy provisions. However, indicating the exception made to the Minister of justice may raise concerns related to the inability of LEAs, particularly prosecutors, to obtain banking information they may need to efficiently fulfill their AML/CFT tasks. On the other part, granting the Minister of Finance and National economy – pursuant to article 6-3 of AML/CFT law – the powers to exclude any FI or non FI from the obligations provided for by a substantiated decision– including keeping records and making them available to competent authorities – is likely to impede the process of obtaining and sharing substantial banking information.

301. Insurance Supervision Act, 2001 gave the right to any person of interest to view the submitted papers and documents pursuant to the approval of the authority's director general.

302. With regard to KSE Act, there was no indication on the presence of any secrecy of information with exception to what was mentioned in Article 44 of the law stating that names of customers, provisions of their trading in stocks or any information on their transactions may not be disclosed.

303. The regulatory and supervisory authorities stated that the unit may request information directly to perform their role by requesting information from the entities under their supervision; but the unit has the powers to address these entities directly. Moreover, there is no provision in the law that does not prevent provisions pertaining to secrecy including banking secrecy from applying the provisions of AML/CFT law 2010.

304. Article (13) of the law also gives the unit, the right to request additional information in exceptional cases based on the unit's discretion and not in general; requesting additional information whether from LEAs, supervisory and monitoring entities or any other administrative entity pursuant to the unit's request.

305. The onsite visit did not reveal if the FIs refrain from responding to the requests of FIU or LEAs to provide them with the information available. Supervisors also informed that they are willing to fulfill the requests of the unit and competent entities in conformity with the provisions of their laws: it was found that a special office exists in the Central Bank of Sudan to handle and answer the requests received by the unit. As well, linking the issue of lifting banking secrecy to a resolution by the Minister of Justice as stated in the law on the regulation of banking activity (art 55) in addition to the powers of the Minister of Finance and National Economy to exclude any FI or non FI from the obligations imposed thereon in law may indicate the inability of LEAs to obtain information to efficiently fulfill their AML/CFT. As well, representatives of some non-financial sectors, in particular lawyers and accountants stated that they respect the profession's secrecy and that they will not respond to requests for information issued by the unit except in cases related to suspicious cases reported by them. As for suspicious cases reported by other sectors where the unit requests additional information from the lawyers and accountants sector, these sectors shall refrain from responding to FIU request by virtue of the profession's secrecy rules.

3-4-2 Recommendations and Comments

- To verify that there are no obstacles against the ability of LEAs to obtain banking information in order to efficiently carry out their AML/CFT tasks.

3-4-3 Compliance with R. 4

Rec.	Rating	Summary of factors underlying rating
R.4	LC	Concerns related to the inability of LEAs, particularly prosecutors, to access banking information if the Minister of Justice intervenes on the level of lifting banking secrecy or the Minister of Finance and National economy on the level of excluding FIs and non FIs from the obligations provided for in law including record keeping.

3-5 Record Keeping and Wire Transfer Rules (R.10 & SR.VII)

3-5-1 Description & Analysis

Legal Framework

Record Keeping (R.10)

Record Keeping and reconstruction of transaction records (Criterion 10-1 &* 10-1-1)

306. AML/CFT law for 2010 requires FIs to keep records and data related to local or international transactions for five years at least as of date of completion of the transaction and to keep records and data related to a suspicion or case for a longer time until it is settled; hence, retention period may be extended only in the abovementioned cases; and the supervisory entities or other competent authorities do not have the right to ask FIs to maintain information for a longer period.

307. Article 7 (Second) of Central Bank of Sudan circular no. 10/2010 requires FIs to keep records and evidence supporting the ongoing relationships and banking transactions to include the original identification papers or their copies for five years at least as of date of completion of the transaction or termination of the relationship.

308. Additionally, AML regulation issued in 2010 by KSE Board of Directors requires companies operating in the stock field to keep records and documents related to transactions carried out with customers for five years as of date of closing the account; such documents should include sufficient data to identify the details of each transaction separately and in particular, orders of stock purchase and sale.

309. The AML regulation issued by the Insurance Supervisory Authority also requires insurance companies to keep records and documents related to each transaction separately for five years at least; these details should include the name and address of the customer.

Maintaining records of the identification data (Criterion 10-2*)

310. The AML/CFT law requires FIs to maintain records and data related to the customer and beneficial owner's identity for five years at least as of date of completion of the transaction or termination of the relationship, whichever is longer.

311. Article 7 (First) of Central Bank of Sudan circular no. 10/2010 requires FIs to maintain CDD records and documents for five years at least as of date of completion of the transaction or termination of the relationship.

312. The AML/CFT regulation issued by KSE Board of Directors also stipulated that companies operating in the stock field must keep records and documents of customers and beneficial owners; to include contracts of opening accounts and copies of identification documents whether they are natural or legal persons as well as copies of correspondences made with them for five years at least as of date of closing the account.

313. The AML regulation issued by the Insurance Supervisory Authority requires insurance companies to maintain records and documents on the identification of customer and beneficial owner, copies of the forms for insurance agents and copies of business correspondences made with them for five years at least as of date of expiration of the policy or reinsurance contract.

314. There is no indication in the previous relevant provisions to the possibility of maintaining documents for a period longer than five years in case the competent authorities requested so from FIs.

Responsiveness to competent authorities (Criterion 10-3*)

315. The AML/CFT law for 2010 did not directly or explicitly require FIs subject to its provisions to provide all records and information of customers and transactions on a timely basis to the competent authorities but stipulated that regulations will specify the rules and procedures of retention in such a way to facilitate availability upon appropriate authority.

316. CBOS circular 10/2010 obliged FIs to develop an integrated information system to keep records and documents to be able to respond to the request of the unit and competent authorities and obtain any data or information in an integrated and fast way; in particular information proving that the institution had an ongoing relationship with a person over the last five years while providing information on the nature of such relationship.

317. The AML/CFT regulation issued by KSE Board of Directors stipulated that the retention method shall make the retrieval process an easy and fast one in order to make any requested data or information available without delay.

318. On the other hand, insurance companies were not obliged by the AML regulation issued by the Insurance Supervisory Authority to provide the competent authorities in a timely manner with records and information related to transactions and customers.

Effectiveness

319. The evaluation team noticed that the visited banks, exchange companies and financial services companies subject to the supervision of the Central Bank are aware of the requirements on record-keeping with regard to the scope of the requirement and time duration; these institutions stated that they maintain records and documents for five years or even for longer periods. Regarding the visited insurance companies as well as companies operating in the stock market, they are aware of the requirements of record keeping and they have databases enabling them to comply with these requirements.

320. On the other hand, the team knew from some FIs that some of their branches sometimes do not comply with collecting all required documents about customers or transactions; these cases are detected through the follow up and monitoring conducted by the compliance officers at the head offices of these institutions; while the supervisory entities did not mention that they detected such cases during inspection and supervision processes they conducted, which sheds doubt on the efficiency of following up compliance with these obligations; hence, the overall efficiency of their application.

321. The evaluation team could not determine the extent to which leasing companies - subject to CBOS supervision - apply the record keeping requirement.

Wire Transfers (SR.VII)

322. Banks, exchange companies, financial services companies and SudaPost are the only FIs authorized to make local and international wire transfers. The legal rules governing wire transfers are stipulated in the AML/CFT law for 2010 and Central Bank of Sudan circular no. 10/2010.

Full information on the originator (Criterion VII -1)

323. By virtue of the Law on the Regulation of Banking Activity 2004, banks are allowed to perform (inward and outward) wire transfer activities. Licensed exchange companies and financial services companies are also allowed to perform this activity by virtue of the law on the regulation of exchange business 2002 and after approval of the Central Bank of Sudan.

324. The AML/CFT circular no. 10/2010 issued by the Central Bank provided for the obligation of obtaining data on the transfer originator as the circular required FIs to obtain full information on the originator to include name of originator, account number, address, purpose of the transfer, name and address of the beneficiary and his account number if any. FIs are also required to establish a system by virtue of which a unique reference number is given to the originator.

325. The circular also requires FIs, before sending the transfer, to verify all information related to the originator through official documents and data. With regard to maintaining data related to the originator for banks, there are no special rules to meet the requirements of this recommendation; the circular of the General Department of Banking Supervision No. 5/2004 provides for maintaining information on the sender and receiver (name, profession, address, phone number, type, number, date and validity of ID) for the purpose of combating counterfeiting.

326. The law on the regulation of exchange business 2002 obliges exchange companies and financial services companies to verify the name and identity of the originator when effecting wire transfers and to maintain supporting documents as well as providing a systematic record of all types of transfers to include the name, address and identity of the originator, name of beneficiary person, transfer number, date and amount in foreign currency or its equivalent in Sudanese Pound.

Including information on the originator in cross-border / local wire transfers (Criterion VII-2 & VII-3)

327. The AML/CFT law for 2010 requires FIs effecting wire transfers to attach the identification data form. The AML/CFT circular no. 10/2010 issued by the Central Bank also requires FIs to include full information of the originator in the transfer which includes name of the originator, account number, address and purpose of transfer.

328. In case of transfers that are sent in one batch file, the abovementioned circular obliged ordering FIs to enclose the account number of the originator or his reference number provided that FIs keep full information on the originator and to have the ability to provide the beneficiary institution and competent authorities with the full required information within three business days as of date of receipt of the request for information and to respond immediately to any order issued by the competent law enforcement authorities requiring to view this information.

Duties of intermediary and beneficiary institutions and technical limitations (Criteria VII-4 & VII-4-1)

329. Based on the AML/CFT circular no. 10/2010 issued by the Central Bank, the intermediary FIs in the payment chain are required to ensure that all information enclosed with the transfer shall remain accompanying such transfer; beneficiary FIs are required to verify all information about the originator through adopting effective systems to detect any missing information related to the originator. The FIs are also required, when failing to keep all information enclosed with the transfer due to technical reasons, to maintain all enclosed information for a period of five years.

Measures related to risks of transfers not accompanied by complete originator information (Criterion VII-5)

330. Risks of handling transfers lacking sufficient information on the originator have been addressed in the AML/CFT law for 2010 and the Central Bank of Sudan circular 10/2010; the law obliged FIs performing wire transfers to seek information related to the originator from the ordering entity; failing to do so, they must take the necessary measures to ensure that the transfer is not related to ML/TF or refuse to receive it whenever they determine a high risk degree.

331. Moreover, the circular added that FIs must adopt effective measures based on the risk degree in handling transfers where information about the originator is incomplete. Such measures include

requesting the missing information from the ordering FIs; in case such information is not provided, risk based procedures should be taken including rejecting the transfer and notifying the FIU of the same. However, there was no indication in the law or the circular to the obligation of taking measures such as terminating the business relationship with FIs that fail to meet SR.VII standards.

332. It is also clear that the circular did not give any guidance to FIs with regard to application of a risk based mechanism but stipulated a fixed rule (as an example) to request missing information (in all cases) or else the transfer shall be rejected and the FIU notified of the same. Practically, the evaluation team could not determine that the FIs adopt a risk based system in handling this type of transfers.

Compliance monitoring and sanctions (Criteria VII-6 and VII-7)

333. Banks, exchange companies and financial services companies are subject to the supervision and monitoring of the Central Bank by meeting the requirements of AML/CFT law and the remaining regulations issued in application thereof. The Central Bank exercises its supervisory authority by conducting onsite and offsite inspection. The evaluation team could not determine based on the statement of the authorities that the follow up on the application of the requirements related to bank transfers is part of the inspections especially with regard to exchange companies and financial services companies subject to inspection with respect to abiding by the legal requirements on dealing with foreign currency.

334. The requirements related to transfers were stipulated in the AML/CFT law and the Central Bank circular. This law also stipulated explicitly the powers of the Central Bank as a supervisory authority authorized to use its penal powers as set out in the regulatory law whenever FIs violate their obligations by virtue of the law provisions. These institutions include banks and exchange companies. As stated by the Central Bank, there have been a very limited number of sanctions imposed on banks and exchange companies over the past years. Officials in the Central Bank informed that in 2011, for instance, an administrative sanction was imposed, namely withdrawing the license of a company for violating the controls on transfers as well as addressing a message to draw the attention and imposing a financial fine in 2010 and 2009 for non abidance by the foreign currency controls and for non specifying the purpose of the transfer (See section 3-10 of this report for an analysis on the effectiveness of monitoring and sanctions of FIs including institutions that perform the activity of funds transfers).

Additional Elements (Criteria VII-8 & VII-9):

335. According to the Sudanese legislation, no difference was specified between cross-border and local wire transfers with regard to requirements or based on a certain amount; accordingly, ordering institutions were obliged to include all information on the originator without setting a requirement to include full and accurate information on the originator in incoming cross-border transfers.

Effectiveness

336. With regard to wire transfers, the evaluation team found, based on the statement of the visited exchange companies and financial services companies, that the latter are not aware of all SR.VII requirements. This is also clear in the internal regulations that were viewed in some of these institutions. Moreover, the documents raised by these companies to the Central Bank with regard to wire transfers remain of statistical nature and cannot be deemed documents for the purposes of tracking the fulfillment of AML/CFT requirements related to wire transfers by these institutions.

3-5-2 Recommendations and Comments

Record Keeping (R.10)

337. The authorities are recommended to:

- Oblige insurance companies explicitly through the AML regulation issued by the Insurance Supervisory Authority to provide the competent authorities in a timely manner with records and information related to transactions and customers.
- Oblige FIs to extend the duration of keeping records pursuant to the request of a competent authority in certain cases and upon proper authority.

Wire Transfers (SR.VII)

338. The authorities are recommended to:

- Oblige beneficiary banks, exchange companies and financial services companies to take measures such as terminating business relationships with FIs that fail to meet SR.VII standards.
- Activate supervision on the activity of wire transfers and verify the compliance of FIs that perform this activity with relevant obligations.
- Work on increasing awareness of exchange companies and financial services companies about the obligations imposed in the law and the circular.

3-5-3 Compliance with R. 10 and SR. VII

Rec.	Rating	Summary of factors underlying rating
R.10	LC	<ul style="list-style-type: none"> • Insurance companies are not explicitly required to provide the competent authorities in a timely manner with records and information related to transactions and customers. • FIs are obliged to extend the duration of keeping records and data related to a suspicion or case until it is settled. This requirement does not extend pursuant to the request of a competent authority in certain cases and upon proper authority.
SR.VII	PC	<ul style="list-style-type: none"> • Banks are not explicitly required by virtue of special rules to keep data related to the sender. • Not requiring beneficiary banks, exchange companies and financial services companies in some cases to consider taking measures such as terminating business relationships with FIs that fail to meet SR.VII standards. • There is no adequate supervision on the activity of wire transfers to verify the compliance of FIs that perform such activity with relevant obligations. • Low level of awareness on part of the exchange companies and financial services companies concerning the obligations related to wire transfers.

3-6 *Monitoring transactions and business relationships (R. 11 & 21)*

3-6-1 Description & Analysis

339. The regulations requiring FIs to pay special attention to all unusually large-scale transactions or patterns of unusual transactions which have no apparent economic or legal purpose include: (1) Central Bank of Sudan circular no. 10/2010 and (2) AML regulation issued by KSE Board of Directors for 2010. Therefore, there are no obligations on the insurance companies in this regard.

Paying special attention to complex and unusual transactions (R.11) Criterion 11-1

340. The Central Bank of Sudan circular no. 10/2010 requires FIs, namely banks, exchange companies, financial services companies and leasing companies as FIs subject to the supervision of the Central Bank, to conduct due diligence with regard to unusual transactions. According to this circular, unusual transactions include cash transactions that exceed (SDG 30,000 or USD 10,000 or their equivalent in foreign currencies), unusually large-scale or complex transactions and any other transaction having an unusual pattern and no apparent economic justification.

341. Regarding companies operating in the stock field, the AML regulation issued by KSE Board of Directors for 2010 requires such companies to establish internal systems, policies and procedures to detect unusual transactions whether in value or size without being obliged to pay special attention to these transactions.

342. The AML/CFT regulation for 2010 issued by the Insurance Supervisory Authority requires insurance companies to accurately follow up on transactions carried out by customers; however, there is no specific obligation for these institutions to follow up on unusually complex or large-scale transactions or unusual patterns of transactions.

Examining complex and unusual transactions (R.11) Criterion 11-2

343. The Central Bank of Sudan circular no. 10/2010 requires FIs, namely banks, exchange companies, financial services companies and leasing companies as FIs subject to the supervision of the Central Bank, to examine as much as possible the background and purpose of unusual transactions and to maintain records related thereto regardless of the decision taken in their regard.

344. With regard to companies operating in the stock and insurance sector, they were not required to examine complex or unusual transactions and set forth the findings in writing.

Keeping the findings of the examination (R.11) Criterion 11-3

345. Banks, exchange companies, financial services companies and leasing FIs are required to keep records of investigating unusual transactions according to what is stipulated in CBOS Circular no. 10/2010.

346. With regard to companies operating in stocks and insurance, they were not required to examine complex or unusual transactions and set forth the findings in writing; therefore, they were not required to keep findings of the examination.

347. Moreover, the requirement of making the findings available to competent authorities and auditors for at least five years was not imposed on any FI.

Effectiveness

348. Meetings with the FIs of all types have revealed that they lack sufficient awareness on unusual activities or transactions. Additionally, none own information systems to monitor and track

unusual transactions. The evaluation team did not peruse any written or clear policies regarding paying special attention to unusual, large-scale or complex transactions or patterns of such transactions in the different FIs that were visited.

Special care for countries that do not sufficiently apply FATF Recommendations

R.21

349. The regulations requiring FIs to pay special care to business relationships and transactions with persons from or in countries that do not apply FATF Recommendations include the Central Bank circular no. 10/2010 and the AML/CFT regulation issued by the Insurance Supervisory Authority.

Criteria 21-1, 21-1-1 & 21-2

350. The Central Bank circular no. 10/2010 requires FIs subject to its supervision, namely banks, exchange companies, financial services companies and leasing FIs, to pay special attention to transactions conducted with persons present in countries believed by the Central Bank of Sudan to be lacking adequate AML/CFT systems. Until date of the on-site visit, the Central Bank did not specify any list with names of these countries and the evaluation team could not find, based on the Central Bank statement, the existence of specific criteria to identify these countries and whether the essential criterion lies in the non-application or insufficient application of FATF Recommendations. Officials in the Central Bank also explained that developing such lists is “absolutely a political decision”.

351. The AML/CFT regulation 2010 for the insurance sector indicated that insurance companies must conduct sufficient processes of verification with regard to high risk customers including those residing in countries that do not (absolutely) apply FATF standards. However, the wording of the requirement is general and does not indicate in particular the requirement of paying special attention to business relationships with persons from or in countries that do not apply or insufficiently apply FATF Recommendations. Moreover, no clear criterion was specified to designate certain countries as not applying FATF standards.

352. With regard to stock companies, they were not required to comply with any requirement in relation to paying special attention to business relationships with persons from or in countries that do not apply or insufficiently apply FATF Recommendations.

353. As previously mentioned, no list of countries that do not apply or insufficiently apply FATF Recommendations has been designated by the supervisory authorities, in particular the Central Bank. The evaluation team could not also find any effective measures to direct FIs about these countries; in particular, the evaluation team could not find any guidelines directed to FIs by the supervisory authorities with regard to concerns about weaknesses in the AML/CFT regimes of other countries.

Criterion 21-2

354. CBOS circular no. 10/2010 stipulated that if FIs subject to the supervision of the Central Bank, namely banks, exchange companies, financial services companies and leasing FIs found that transactions performed with persons present in countries believed by the Central Bank of Sudan to be lacking adequate AML/CFT regimes, have no visible economic justifications, they must take the necessary measures to examine the background and purpose of such transactions and write down the findings thereof in their records. However, in the absence of a list on the countries believed by the Central Bank to be lacking adequate AML/CFT systems for the reference of FIs under its supervision, application of such obligation is impossible.

355. On the other hand, the regulations issued for companies operating in stocks and insurance did not include the obligation to pay special attention to business relationships with persons from or in countries that do not apply or insufficiently apply FATF Recommendations. Accordingly, no

requirements with regard to examining these transactions or recording the findings thereof in writing were imposed.

Possibility of applying counter-measures – Criterion 21-3

356. The Sudanese legislation did not stipulate the possibility of issuing or taking any counter-measures and the evaluation team could not determine if Sudan issued countermeasures with regard to any country which continues not to apply FATF Recommendations; and no warnings were found in this area.

Effectiveness

357. The evaluation team observed that the different FIs visited were not aware of the risks pertaining to countries that do not apply FATF Recommendations; hence, the effectiveness in this area could not be determined.

3-6-2 Recommendations and Comments

R.11

358. The Sudanese authorities are recommended to:

- Expand the requirements of R.11 to include insurance companies, stock companies, leasing companies and financial services companies.

R.21

359. The Sudanese authorities are recommended to:

- Clarify the requirements of R.21 and expand them to include insurance companies, stocks companies, financial services companies and leasing companies.
- Impose the requirement of making the results of examining unusual transactions available to competent authorities and auditors for at least five years on all FIs.
- Establish effective measures and procedures to ensure FIs are aware of issues related to weakness in the AML/CFT regimes of other countries.
- Apply appropriate counter-measures on countries that continue not to apply or insufficiently applying FATF Recommendations.

3-6-3 Compliance with R.11 & 21

Rec.	Rating	Summary of factors underlying rating
R.11	NC	<ul style="list-style-type: none"> • There are no requirements for insurance companies, financial brokerage companies, leasing companies and financial services companies with regard to unusual transactions.

Rec.	Rating	Summary of factors underlying rating
R.21	NC	<ul style="list-style-type: none"> • There are no requirements for insurance companies, stock companies, financial services companies and leasing companies with regard to business relationships and transactions with persons from or in countries that do not apply or insufficiently apply FATF Recommendations. • There are no effective measures and procedures to ensure that FIs are aware of issues related to weakness in the AML/CFT regimes of other countries. • There are no requirements for insurance companies and stock companies with regard to examining or recording the findings thereof in writing on transactions pertaining to non-compliant countries or having no apparent economic purpose. • Sudan did not take appropriate counter-measures with regard to countries that continue to apply or insufficiently apply FATF Recommendations.

3-7 Suspicious Transaction Reports (STRs) and Other Reporting Requirements (R. 13, 14, 19 & 25 and SR.IV)

3-7-1 Description & Analysis

Legal Framework

360. The legal obligations related to STRs were stipulated in the AML law for 2010 and the Central Bank of Sudan circular no. 10/2010 as well as in AML/CFT regulations issued by KSE and the Insurance Supervisory Authority. Some additional rules are available in the guidelines addressed by the FIU to the FIs and DNFBPs.

R.13 and SR.IV (Suspicious Transaction Reporting)

STRs on ML/TF to the FIU Criterion 13-1

361. The AML/CFT law for 2010 required FIs to notify the FIU of transactions suspected of being connected to proceeds or terrorist financing. Proceeds were defined in Article 3 of this law as funds derived, generated or acquired directly or indirectly from committing one of the crimes stipulated in the criminal law or any other law in effect in Sudan; knowing that all 20 predicate offenses were not criminalized in the Sudanese penal law (See section 2 of this report).

362. The Central Bank of Sudan circular no. 10/2010 required FIs subject to the supervision of the Central Bank represented in banks, exchange companies, financial services companies and leasing companies to appoint a reporting officer to be in charge of reporting suspicious cases to the FIU according to the reporting form attached to the circular. The AML regulation issued by the Insurance Supervisory Authority did not provide any instructions to insurance companies with regard to the STR form or on the manner of reporting suspicious cases to the FIU.

363. On the other hand, the AML/CFT regulation issued by KSE required financial brokerage companies to appoint a compliance officer to be in charge of reporting all transactions suspected of involving ML/TF among other tasks; the STR is made according to a form prepared by the FIU for that purpose. However, the term “unit” that is notified according to the regulation means, through the definition mentioned in the preface of the regulation, the AML/CFT unit in KSE and not the FIU mentioned in the AML/CFT law which was confirmed by representatives of KSE and financial brokerage companies during meetings held with them.

STR on terrorism and terrorism financing 13-2 and IV-1

364. Law no. 1/ 2010 required FIs to notify the FIU of transactions suspected of being connected to terrorist financing that was criminalized by virtue of the same law. By analyzing this obligation, it shows that it partially covers the requirements of the criterion that requires including the reporting obligation of suspicious cases about a connection or association between funds and terrorism or terrorist acts or they will be used by terrorist organizations or terrorist financiers.

Threshold reporting limit Criterion 13-3 and Criterion IV-2

365. Law no. 1/ 2010 required FIs to notify the FIU of transactions suspected of being connected to proceeds or terrorist financing whether these transactions occurred or not. The reporting obligation of these transactions was also stipulated regardless of the size of transactions.

Reporting suspicious transactions regardless of involving tax matters Criterion 13-4 & IV-2

366. The requirement of making STRs stipulated in the AML/CFT law applies to all suspicious transactions. Therefore, the obligations provided for in the law shall apply regardless of whether they are thought to involve tax matters.

Additional element – Reporting all criminal acts

367. The ML crime in Sudan is connected to all acts criminalized in the Sudanese criminal system such as ML predicate offences. Therefore, reporting the suspicion that funds are the proceeds of any of the locally punishable crimes meet this criterion (regardless of course of the sufficiency of criminalizing the 20 predicate offences in the Sudanese criminal system – See Section 2 in this report).

Effectiveness:

Statistics on suspicious cases for 2010-2011

Reporting Entities for 2010-2011

Year	Banks	Exchange Companies	Law Enforcement Entities	Supervisory Entities	Other	Total
2010	17	4	4	0	1	26
2011	11	6	6	2	0	25
Total	28	10	10	2	1	51

Findings of suspicious cases for 2010-2011

Year	Under Review (Heard)	Dropped	Referred to Prosecution	Total
2010	15	6	5	26
2011	22	3	0	25
Total	37	9	5	51

368. The previous statistic reflects a conflict between the information and statistics obtained by the team from the unit and what the team viewed in one of the prosecutions (Banking Violations Prosecution) with regard to receiving a report from the unit in the first quarter of 2011 which is not reflected in the above statistic.

369. The evaluation team found that the representatives of some banks are aware of the obligation of informing the FIU about suspicious transactions but their ability to raise these reports remains limited due to the unavailability of any information systems to help them detect suspicious or unusual transactions. The evaluation team also found that there is no sufficient level of professionalism and experience with regard to investigating cases that should be submitted to the FIU.

370. At the level of legal and regulatory rules, the evaluation team noticed a contradiction with regard to the entity entrusted with receiving STRs. On the one hand, AML/CFT law explicitly requires all FIs to notify the FIU stipulated in the law and; on the other hand, the AML regulation issued by KSE requires financial brokerage companies to notify KSE unit.

371. At the application level, the financial brokerage companies that were met stated that although they have not submitted any STRs until now, yet in case of occurrence of suspicious cases worth reporting in the future, they will be raised to KSE unit based on the STR form developed by the latter which is inconsistent with the requirements of R.13.

372. The evaluation team also found a difference between the various legal provisions issued by FIs supervisory authorities with regard to CDD obligations of unusual transactions and investigating them which should lead to loss of connection between the obligation to monitor unusual transactions and the reporting obligation.

373. With regard to the insurance sector, and whereas the insurance companies were not provided with any information on reporting suspicious transactions to the FIU as previously mentioned, their level of awareness of this obligation remains weak as revealed to the evaluation team through the meetings held with representatives of such companies.

374. On the other hand, exchange companies were not aware of the reporting conditions or the manner of reporting suspicious cases to the FIU in the absence of guidance in this regard. The evaluation team noticed a conflict between the statements of the representatives of these companies about the entity authorized to receive such reports.

375. The evaluation team also noted the presence of a clear disparity among the FIs from each category separately with regard to understanding what could be deemed as “suspicion” as well as the role entrusted to them before reporting the suspicion, but they almost agreed on being anything that violates the nature of the customer business and previous activity with the FI.

R. 14 (Protection from criminal and civil liability, tipping off and confidentiality of the reporting employees) Criteria 14-1, 14-2 & 14-3

Protection for reporting suspicious transactions Criterion 14-1

376. Law no. 1/2010 stipulates that any person who reports in good faith or provides information or data related thereto according to the provisions of this law shall be protected by law from criminal, civil, administrative and disciplinary liability. Whereas the term “person” was defined in this law as any natural or legal person, this protection applies to all persons who report to the FIU whether they are FIs, directors, officers or employees. This protection should be available regardless of whether illegal activity actually occurred.

Prohibition from disclosing “Tipping off” Criterion 14-2

377. Law no. 1/ 2010 stipulated the prohibition of disclosure directly or indirectly or by any other means to any person other than the competent authorities in charge of implementing this law, of any reporting, investigation or inspection procedure taken with regard to the transaction suspected of being connected to ML/TF proceeds.

378. These requirements were also stipulated in circular no. 10/2010 issued by the Central Bank of Sudan and the AML/CFT regulation issued by KSE Board of Directors as they prohibited disclosure to the customer or beneficial owner or any person other than the competent authorities and entities in charge of implementing the provisions of AML/CFT law, of any of the reporting measures taken with regard to the transactions suspected of involving ML/TF or the data related therewith.

379. The AML/CFT regulation issued by the Insurance Supervisory Authority prohibits insurance companies and their employees from disclosing directly or indirectly or by any other means to any person other than the FIU of any of the reporting, investigation and inspection procedure taken with regard to transactions suspected of being connected to ML/TF.

Additional element – Confidentiality of the employees subject to the reporting obligation Criterion 14-3

380. The AML/CFT law requires FIU employees to keep confidential any information that comes to their knowledge while performing their job. This obligation shall continue even after they leave the job at the FIU. This information may not be disclosed except for the purposes indicated in this law. However, it is clear that these requirements do not include the confidentiality of names and personal details of staff of FIs that make STRs. Practically, the team was informed that FIU sends copies of the STRs it receives to the prosecution in charge of investigation, in case the unit confirms the suspicion; then this copy becomes among the lawsuit papers set in motion by the prosecution with the court whenever it verified the existence of crime elements, which could lead to disclosing the identities of the providers of such reports.

Recommendation 25 (Notes to the FIs with regard to STRs) Criterion 25-2

381. By virtue of the AML/CFT law, the FIU is required to provide feedback to the institution according to the controls set out by the regulations. However, the evaluation team could not view the regulations governing the manner of providing feedback to the reporting institutions.

382. On the other hand, the AML/CFT law required the FIU to publish periodic reports on its activities including statistical data and analytical studies in the AML/CFT field. Until date of the on-site visit, no periodic reports stipulated in the law were published and the team could not find the issuance of any guidance to the persons subject to the law by the FIU or the remaining supervisory authorities stipulated in the law that could provide information on the techniques, methods and trends or examples on processing actual ML cases.

383. The FIU issued a guide on 4 November 2010 to the FIs and DNFBPs with regard to reporting transactions they suspected or had reasonable reasons to suspect that they involve crime proceeds or are connected or associated with terrorist financing or intended to be used in committing terrorist acts by terrorist organizations or terrorist financiers. This guide did not provide the minimum guiding principles through describing ML/TF techniques and methods; it is limited to brief information on the process of reporting suspicious transactions.

384. With regard to feedback for each case and based on the statement of the reporting banks and exchange companies, they only received FIU statement confirming the receipt of the STR but did not know any information about the findings.

R.19 (Considering the feasibility of reporting cash transactions above a fixed threshold)

385. The team was not informed if the Sudanese authorities had considered the feasibility of implementing a system where FIs report all cash transactions in currency above a fixed threshold; hence, the requirements of this Recommendation were not met.

3-7-2 Recommendations and Comments

386. The Sudanese authorities are recommended to:

R.13 and SR.IV

- Impose the requirement of making STRs by the financial brokerage companies to the FIU and not any other entity.
- Expand the reporting obligation to include cases of suspecting the occurrence of a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers.
- Raise level of awareness of the reporting FIs with regard to all aspects pertaining to reporting suspicion including the concept of suspicion, the entity that should be notified of suspicion, the information included in the STR and the ability of the FIs to supply the STRs with useful information.

R.14

- Establish a legal framework to keep confidential names and personal details of employees of the FIs that submit STRs.

R.19

- Consider the feasibility of implementing a system where FIs report all transactions in currency above a fixed threshold to a national central authority that has an electronic database.

R.25

- Issue and circulate clear guidance to all FIs especially insurance companies including the reporting, investigation and inspection procedures taken with regard to transactions suspected of being related to ML/TF.
- Provide general and specific feedback on these STRs.
- Provide feedback on the reports received by the unit to the reporting FIs.

3-7-3 Compliance with R. 13, 14, 19 and 25 (Criterion 25-2), and SR.IV

Rec.	Rating	Summary of factors underlying rating
R.13	NC	<ul style="list-style-type: none"> • Contradiction between what is imposed by the law from reporting suspicious transactions to the FIU and what is imposed by the KSE regulation to notify the AML/CFT unit at KSE and not the FIU. • Decriminalization of all 20 ML predicate offenses in the Sudanese Penal law affects the reporting obligation and hence, the rating of this recommendation. • The reporting obligation does not include cases of suspecting a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers. • No sufficient level of awareness for the reporting FIs with regard to all aspects pertaining to reporting suspicion. • Absence of effective application of the reporting conditions.
R.14	LC	<ul style="list-style-type: none"> • There is nothing that prohibits the FIU from disclosing the names and personal details of employees of FIs that submit STRs.
R.19	NC	<ul style="list-style-type: none"> • No consideration to the feasibility of implementing a system where FIs report all transactions in currency above a fixed threshold to a national central authority that has an electronic database.
R.25	NC	<ul style="list-style-type: none"> • Limited guidance addressed to the FIs with regard to the reporting, investigation and inspection procedures taken concerning transactions suspected of being connected to ML/TF. • Non-existence of general and specific feedback on the STRs.
SR.IV	NC	<ul style="list-style-type: none"> • Conflict between what has been imposed by law on reporting STRs to FIU and what has been imposed by KSE regulations on informing AML/CFT unit at KSE and not the FIU. • Inadequacy of TF criminalisation in the Sudanese penal law affects the reporting obligation and hence the rating of this recommendation. • The reporting obligation does not include cases of suspecting a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers. • Absence of a sufficient level of awareness for the reporting FIs with regard to all aspects pertaining to reporting suspicion. • Absence of effective application of the reporting conditions.

Internal controls and other measures

3-8 *Internal controls, compliance, audit and foreign branches (R. 15 & 22)*

3-8-1 Description & Analysis

Legal Framework

387. The rules requiring FIs to establish internal controls and arrangements to manage compliance, conduct auditing, provide training and select employees have been stipulated in the

AML/CFT law for 2010, Central Bank of Sudan circular no. 10/2010 and the two regulations issued in 2010 by KSE and the Insurance Supervisory Authority.

R.15 (Internal Controls) (Criterion 15-1)

388. The AML law requires FIs to establish internal controls including internal policies, procedures, as well as supervision, compliance, hiring and training systems according to controls, standards and rules established by the competent entities based on the activity of each and ML/TF risk profile.

389. Central Bank of Sudan circular no. 10/2010 applying to banks, exchange companies, financial services companies and leasing companies as FIs subject to the Central Bank supervision required FIs to establish an appropriate internal system including internal policies, procedures and controls that must be available to combat ML/TF operations provided this system includes a clear AML/CFT policy approved by the Board of Directors that should be updated. It should also include detailed written procedures which accurately identify duties and responsibilities that are consistent with the circulars issued by the Central Bank of Sudan and the policies adopted in this regard.

390. This system must also include an adequate mechanism to verify compliance with established AML/CFT circulars, policies and procedures subject to coordination in identifying powers and responsibilities between the internal auditor and the reporting officer.

391. As well, the AML/CFT regulation issued by KSE required financial brokerage companies to establish appropriate internal systems for the proper implementation of the legislation and supervisory controls including policies and procedures that must be available to combat ML/TF. The regulation also required the periodic review of these systems to ensure compliance with their application, detect areas of weakness or deficiencies and take the necessary measures to avoid them.

392. These systems should contain a clear AML/CFT policy to be approved by the Board of Directors subject to regular update. These institutions should have detailed written AML/CFT procedures in place.

393. These requirements also call for enhancing the capacity of internal controls, policies and procedures followed in detecting unusual operations with regard to value or size of transactions performed with suspicious customers and to refer them to AML/CFT officer for examination.

394. Regarding the insurance sector, the AML/CFT regulation issued by the Insurance Supervisory Authority required insurance companies to establish internal work systems through which customers are well identified and their basic data is verified while giving special attention to training programs.

395. Insurance companies are not required, through the abovementioned regulation, to include all AML/CFT requirements in their internal systems specially those related to CDD, detection of unusual transactions and record-keeping. Therefore, the evaluation team noticed that there is a variation among the regulations applying to each category of the FIs with regard to the level of requirement calling for the establishment of AML/CFT internal systems.

396. There is no explicit indication in the Central Bank of Sudan circular no. 10/2010 or the two regulations issued by KSE and ISA on the need to inform employees of internal AML/CFT policies and procedures.

397. Although the provisions of the AML/CFT law and the remaining abovementioned regulations issued for its application include requirements for due diligence, record-keeping and monitoring unusual transactions; these provisions did not include the obligation for internal policies and procedures to cover such issues.

Developing appropriate compliance management arrangements (Criterion 15-1-1)

398. The Central Bank of Sudan circular no. 10/2010 required FIs subject to the supervision of the Central Bank and represented in banks and exchange companies to designate the reporting officer and his substitute in case of his absence while notifying the AML/CFT Unit at the Central Bank of Sudan in case either is changed. Both of them must have the right qualifications.

399. The circular also required additional obligations represented in the need to identify the competences of the reporting officer to include at least: Receiving and examining information and reports on unusual and suspicious transactions and taking the right decision with regard to notifying the unit or keeping them provided the retention decision is justified. The reporting officer shall also be in charge of reporting suspicious transactions, maintaining all documents and reports he receives and preparing periodic reports submitted to the Board of Directors on the institution's efforts in AML/CFT and his suggestions to develop them. In the same context, the reporting officer should be independent to perform his tasks.

400. Circular 12/2008 on compliance officer issued by the Banking System Regulation and Development Department at the Central Bank required banks to have the compliance officer responsible at the board of directors and reports directly to the board. However, nothing in CBS circular indicates that the compliance officer should be at the management level in the remaining FIs under its supervision.

401. The AML/CFT regulation issued by KSE required financial brokerage companies to appoint an AML/CFT officer and his substitute and to notify KSE and the unit of his name and the name of his substitute during his absence and to notify KSE and the unit accordingly in case any of them has been changed. The regulation required a number of conditions with regard to the AML/CFT officer related to high professional level, proper academic qualifications and adequate experience.

402. The regulation also stipulates that the AML/CFT officer shall enjoy independence in performing his tasks and sufficient tools shall be provided for that purpose; no works contradicting with his tasks in his capacity as a combating officer shall be delegated to him. He shall be entitled to submit reports to senior management in the company or the Board of Directors and any affiliated committee to help increase the efficiency and effectiveness of AML/CFT regimes and the compliance of employees therein. All procedures of receiving the reports on unusual transactions and the indicated STRs as well as the related inspection and reporting to the AML unit shall be made secretly.

403. The regulation also stipulates that the manager in charge shall perform an array of tasks foremost among which are: Examining unusual and suspicious transactions; reporting any transactions involving ML/TF suspicious to the Unit; taking decisions with regard to keeping STRs where it turns out there is no suspicion in their regard and the decision must contain the reasons upon which the retention decision was made; suggesting what he deems necessary to develop and update the company's AML/CFT policy as well as the regulations and procedures adopted in this area with the aim to increase their efficiency and effectiveness and to go in line with local and international developments.

404. The manager in charge shall also carry out offsite and on-site inspection on the compliance of the headquarters and branches of the company with the implementation of law provisions, supervisory controls and internal systems followed in the company with regard to AML/CFT. He shall also prepare a periodic report (at least once a year) on the AML/CFT activity at the company, submit it to the Board of Directors for feedback and observations, take the measures its decides in this regard and send this report to KSE and the unit enclosing therewith the observations and decisions of the company's Board of Directors.

405. ISA regulation required insurance companies to allocate a division responsible for the AML/CFT process and stipulated the need to designate a compliance officer at the management level; he should be responsible for ensuring the implementation of laws and executive regulations.

Access of the compliance department to data (Criterion 15-1-2)

406. The Central Bank of Sudan circular no. 10/2010 required FIs subject to the supervision of the Central Bank and represented in banks, exchange companies, financial services companies and leasing FIs to identify the powers of the reporting officer; Such powers should include at least the powers to enable him to perform his competences, have access to records and data needed to carry out inspection works and the review of AML/CFT systems and procedures established by the institution.

407. The AML regulation issued by KSE stipulates that the safeguards and powers to be provided by the financial brokerage companies to the compliance officer include the right to obtain all information and view all records or documents he deems necessary to perform his tasks in examining the reports on unusual and suspicious transactions that he receives and to communicate with the necessary employees in the company to perform these tasks.

408. Insurance companies were not required to provide the compliance officer with access right to information related to customer identification data, CDD information, transaction records and other related information.

Independent Audit function (Criterion 15-2)

409. By virtue of circular no. 10/2010 issued by the Central Bank of Sudan, FIs subject to the supervision of the Bank are required to establish an adequate mechanism to verify compliance with circulars, policies and procedures in place to combat ML/TF operations subject to coordination in identifying powers and responsibilities between the internal auditor and compliance officer.

410. The circular also required the establishment of systems and procedures enabling the internal audit perform its role in inspecting controls and internal supervision systems to ensure they are effective in AML/CFT, and suggest the needed to complete any deficiency therein or any update and development required to increase their efficiency and effectiveness.

411. However, the abovementioned requirements did not directly oblige FIs subject to the supervision of the Central Bank to establish an adequately resourced and independent audit function, except banks by virtue of circular 3/2006 on activating the internal supervision (in banks) and which can be considered to a certain extent as meeting the criteria requirements; knowing that circular 10/2010 did not indicate the inclusion of internal supervision in the general rules to include verification of compliance with AML/CFT policies.

412. Regarding the stock sector, the AML/CFT regulation issued by KSE required financial brokerage companies to establish an appropriate mechanism to verify compliance with AML/CFT internal systems. Therefore, there is no indication on the level of requirements of the said regulation obliging financial brokerage companies to establish an adequately resourced and independent audit function to test compliance with these policies, procedures and controls.

413. Regarding insurance companies, they were not required to implement the requirements of Criterion 15-2 related to the establishment of an adequately resourced and independent audit function to test compliance with these policies, procedures and controls.

Training programs (Criterion 15-3)

414. AML/CFT law requires FIs to establish internal systems including policies, procedures, monitoring, compliance, hiring and training systems according to controls, standards and rules set by the competent entities to be consistent with the activity of each and ML/TF risk degree.

415. By virtue of CBOS circular no. 10/2010, banks, exchange companies, financial services companies and leasing FIs are required to establish ongoing AML/CFT training plans and programs for employees; such programs should include ML/TF techniques, detection and reporting; how to deal with suspicious customers; maintaining records of all training programs that were conducted over the course of at least five years to include names of trainees, their qualifications and the training provider whether internal or external.

416. The AML/CFT regulation issued by KSE required financial brokerage companies to establish ongoing training programs for their employees – at least on annual basis - with the aim to increase efficiency in accurate compliance with established AML/CFT rules and systems and ensure that they are kept updated on the new developments related to AML/CFT techniques and general trends as well as the local, regional and international developments in this regard. The establishment and implementation of these programs shall be coordinated between financial brokerage companies, KSE and the unit.

417. It also required financial brokerage companies to include in such training all the company branches and employees, to resort to specialized institutes established for that purpose in implementing training programs while taking advantage of local and international expertise in this regard. This shall take place within the framework of the general policy of training established by the unit.

418. The AML/CFT regulation issued by the Insurance Supervisory Authority required insurance companies to pay special attention to ongoing training programs for employees and keep them informed of the latest AML/CFT local and international developments.

Screening procedures (Criterion 15-4)

419. Circular 12/2008 on directions regarding activating the internal supervision system issued by the banking supervision department at the Central Bank requires banks to establish sound basis for selecting employees. The department stated as well that it approves on appointing bank directors. But there is no obligation for the remaining FIs companies including exchange companies, financial services companies, leasing FIs, insurance companies and financial brokerage companies to put in place certain screening procedures to ensure high standards when hiring new employees.

Additional element – Independence of the compliance officer (Criterion 15-5)

420. As previously mentioned and with exception to banks, there is no indication in the Central Bank circular no. 10/2010 that the AML/CFT compliance officer in the remaining FIs under Central bank supervision should be of certain managerial level which affects his independence and ability in communicating with the Board of Directors.

421. Regarding insurance companies and financial brokerage companies, they were obliged by virtue of the two regulations issued by the Insurance Supervisory Authority and KSE to appoint a compliance officer at a management level and to act independently.

Effectiveness:

422. Assessors noticed during meetings with bank representatives that the AML/CFT internal procedures for such institutions do not sufficiently and comprehensively cover the legal AML/CFT requirements and those imposed through the regulations issued by supervisors.

423. The evaluation team found that most financial brokerage companies, insurance companies and exchange companies do not have internal AML/CFT procedures and measures; they sometimes refer directly to the supervisory regulations they were provided with not long before the on-site visit without establishing internal measures as stated by the representatives of such institutions. Therefore, the evaluation team could not determine the real implementation of the requirements in effect pursuant to the law and the regulations issued by virtue thereof.

424. On the awareness of compliance officers of AML/CFT requirements to be observed by FIs where they operate, the evaluation team found that beside the fact that these officers were recently hired, they were unaware of the rules and procedures covering the above requirements until date of the on-site visit. The evaluation team also found that compliance officers appointed in some FIs are not full-time employees for that task. The team also noticed a disparity in their reporting level for each category of the FIs independently.

425. Regarding requirements related to training programs, FIs representatives reported that two introductory meetings were held with the FIU but the visited FIs did not have any employee training programs in place although a limited number of employees participated in some of the general training. Hence, employee training programs are rather weak and low in banks, exchange companies, financial service companies, insurance companies and financial brokerage companies.

R.22

Implementation of AML/CFT measures on foreign branches, subsidiaries and informing supervisory authorities (Criteria 22-1, 22-1-1, 22-1-2 and 22-2)

426. The Central Bank of Sudan circular applying to banks and exchange companies requires branches and subsidiaries of these institutions in other countries to observe AML/CFT required conditions to be consistent with the conditions of the host country. In case the AML/CFT conditions and requirements are different between the home country and host country, the higher standards shall apply.

427. The circular added that if the branch or subsidiary of any FI in Sudan is unable to observe this circular because it is prohibited by law and practices applicable in the host country, they should inform the Central Bank of Sudan and take the necessary action to manage ML/TF risks.

428. The KSE Board of Directors decision by virtue of which the AML/CFT regulation is issued stipulates that this regulation shall apply to all companies listed and their branches inside Sudan or abroad. In case the obligations mentioned in this regulations are different from those imposed in the host country, the higher standards shall apply to the extent that local (i.e. host country) legislations or supervisory instructions permit. The company is required to inform KSE and the Unit in case of inability to apply proper AML/CFT measures due to these legislations or instructions.

429. The evaluation team noticed that it is not explicitly stipulated to ensure the conformity of the requirements of branches too with FATF Recommendations in addition to those imposed by the host country; the obligation on paying special attention with regard to branches and subsidiaries in countries that do not apply or insufficiently apply FATF Recommendations was not imposed. The evaluation team also noted the absence of an obligation for the insurance companies to apply the requirements of this recommendation.

Additional element – Consistent CDD measures at the group level (Criterion 22-3)

430. The FIs subject to the Core Principles were not required to apply consistent CDD measures at the group level and the evaluation team could not find any application of this rule on the practical level.

Effectiveness

431. The evaluation team found that there are no branches of Sudanese institutions abroad as stated by the supervisory authorities; hence, the evaluation team could not evaluate the effectiveness of applying the requirements of this recommendation.

3-8-2 Recommendations and Comments

R.15

432. The Sudanese authorities are recommended to:

- Require insurance companies to include main AML/CFT requirements in their internal systems especially those related to CDD, detection of unusual transactions and record-keeping.
- Oblige insurance companies to provide the right of access to the compliance officer with regard to customer identification data, CDD information, transaction records and other related information.
- Explicitly require exchange companies, financial services companies, leasing FIs and insurance companies to establish an adequately resourced and independent audit function.
- Oblige all FIs except banks to put in place screening procedures to ensure high standards when hiring new employees.

R.22

433. The Sudanese authorities are recommended to:

- Explicitly stipulate the obligation to ensure that the requirements of branches too are consistent with FATF Recommendations in addition to those imposed by the mother country.
- Impose the obligation requiring paying special attention with regard to branches and subsidiaries in countries that do not apply or insufficiently apply FATF Recommendations.
- Require insurance companies to implement the requirements of this recommendation.
- Oblige the FIs subject to the Core Principles to apply consistent CDD measures at the group level.

3-8-3 Compliance with R. 15 & 22

Rec.	Rating	Summary of factors underlying rating
R.15	PC	<ul style="list-style-type: none"> • Not requiring insurance companies to include main AML/CFT requirements in their internal systems especially those related to CDD, detection of unusual transactions and record-keeping. • Insurance companies and financial brokerage companies are not required to inform employees of the internal AML/CFT policies and procedures. • Exchange companies, financial services companies and leasing FIs are not required to have their compliance officer of a certain managerial level. • Insurance companies are not required to provide the right of access to the compliance officer with regard to customer identification data, CDD information, transaction records and other related information. • Not requiring exchange companies, financial services companies, leasing FIs and insurance companies to establish an adequately resourced and independent audit function. • There are no requirements for exchange companies, financial services companies, leasing FIs, insurance companies and financial brokerage companies to put in place and apply certain screening procedures to ensure high standards when hiring new employees. • Weak effective implementation of the requirements by all FIs with regard to: <ul style="list-style-type: none"> ○ Implementing AML/CFT internal policies, procedures and controls; ○ Establishing ongoing training programs for employees to ensure they are kept informed about the latest developments related to the current AML/CFT techniques, methods and trends and work on the clear interpretation of all aspects of AML/CFT laws and obligations especially the requirements of CDD and reporting suspicious transactions.
R.22	NC	<ul style="list-style-type: none"> • No obligation on insurance companies to implement the requirements of this recommendation. • There is no obligation on FIs to ensure that the requirements of branches too are consistent with FATF Recommendations in addition to those imposed by the mother country. • No obligation requiring paying special attention with regard to branches and subsidiaries in countries that do not apply or insufficiently apply FATF Recommendations.

3-9 Shell banks (R.18)

3-9-1 Description & Analysis

434. Neither the Central Bank of Sudan law for 2002 nor the law on the regulation of banking business for 2004 explicitly included a prohibition of establishing shell banks, but they both stressed the need to obtain a license from the Central Bank to exercise a banking activity. The regulation of the conditions licensing the practice of banking activity for 2004 includes the licensing conditions, controls and procedures to practice banking activity among which is the need for the applicant to be legally registered in any type of registration according to the requirements of the Companies Act (public joint-stock company, private company established by virtue of a private law, private company

established by virtue of the Companies Act , a subsidiary of a foreign bank that has independent legal and financial entity and registered in Sudan). The regulation also requires banks registered in Sudan to deposit their capital at the Bank (Central Bank of Sudan) to be used according to the capital usages. In case the bank is a branch or subsidiary of a foreign bank, the certificate of bank registration in the home country or the license to practice banking activity must be presented as well as a statement from the competent entity declaring that the bank is classified as a first-degree bank provided this statement is supported and approved by the competent supervisory entity.

435. Circular no. 10/2010 addressed to all banks and FIs operating in Sudan, their branches and subsidiaries wherever their headquarters are located, included some provisions which explicitly prohibit dealing with shell banks. The circular stated: “It is prohibited to deal with shell banks and it is also prohibited to open a correspondent account for any bank or institution that provides correspondent services to shell banks”. Additionally, the guide for inspection procedures on banks with regard to AML/CFT issued by the Central Bank of Sudan included a special chapter on correspondent banks and verifying that the bank under inspection does not deal with shell banks; as well, he has not opened any correspondent account to any bank or institution providing correspondent services to shell banks.

436. The assessors noticed that some FIs falling under the supervision of the Central Bank of Sudan are compliant with filling out survey forms to identify correspondents when signing agreements of entering into correspondent relationships. These questionnaires included knowing whether a permanent and licensed headquarters exists to practice business, but the assessors could not determine the existence of a certain policy applied by FIs to update such data and assess it periodically and in particular to ensure that the principal correspondent institutions they deal with in foreign countries do not allow shell banks to use their accounts. On the other hand, the assessors noticed that the inspection report forms over FIs subject to the supervision of the Central Bank of Sudan -which were perused upon conducting the on-site visit - do not include any findings with regard to inspection of the extent of banks’ compliance with evaluating their relationships with their correspondents.

3-9-2 Recommendations and Comments

437. The Sudanese authorities should:

- Establish specific provisions obliging FIs to prohibit the continuance in any relationship with shell banks through setting a certain policy to be applied by FIs to update data of correspondent institutions and evaluate it periodically in order to ensure that no relationships with shell banks are continued.
- Verify that FIs do not enter into, or continue, correspondent banking relationships with shell banks among the inspection processes conducted on FIs.

3-9-3 Compliance with R.18

Rec.	Rating	Summary of factors underlying rating
R.18	LC	<ul style="list-style-type: none"> • Absence of specific provisions obliging FIs to prohibit continuance in any relationships with shell banks by setting a certain policy to be applied by FIs to update data of correspondent banks and evaluate it periodically. • The inspection conducted by the Central Bank of Sudan does not include the procedures taken by FIs with regard to entering into correspondent relationships and evaluating such relations.

Regulation, supervision, guidance, monitoring and sanctions

3-10 The supervisory and oversight system –competent authorities and SROs: Role, functions and powers of (including sanctions) (R. 23, 29, 17 & 25)

3-10-1 Description and Analysis

Overview of Supervisory Authorities

R.23 (23-1, 23-2)

Extent of submission of financial institutions to sufficient amount of regulation and supervision with regard to AML/CFT and extent of presence of an authority ensuring the compliance of financial institutions with the combating requirements

438. The AML/CFT law for 2010 designated the supervisory authorities on FIs and their competences. They are: Central Bank, KSE, the Insurance Supervisory Authority in addition to any other entity based on a decision issued by the Minister designating its competence as supervision and oversight entity on any of the activities of financial and non-financial institutions stipulated in this law.

439. The law included that the supervisory and oversight entities shall have several duties in the AML/CFT field which are: issuing regulations executing the provisions of this law each within its jurisdiction for the financial and non-financial institutions subject to their supervision and oversight, circulating and developing verification procedures as well as techniques and standards of monitoring the compliance of financial and non-financial institutions with AML/CFT requirements and verifying the compliance of financial and non-financial institutions subject to their supervision and oversight with the obligations stipulated by virtue of this law. They may use all their supervisory or regulatory authorities in this regard. They shall perform other duties required from the supervisory and regulatory entities in the AML/CFT field by virtue of the provisions of this law or by virtue of international and regional agreements where Sudan is party therein and shall use their penal authorities stipulated according to the regulating laws when financial and non-financial institutions fail to comply with their obligations pursuant to the provisions of this law. Below is a review of the most important laws governing the activity of these entities:

Central Bank of Sudan (CBOS)

440. CBOS law for 2002 included provisions setting out its competences as a supervisory entity on the banking sector. The law stipulated that the Governor or his representative shall have the authority to issue directions and instructions for any bank or person performing a banking job or part thereof; the Governor or his representative may request any bank to prepare its records for inspection and to present the documents and evidence proving that it has executed the directions issued to it by virtue of provisions of that law. The Law on the Regulation of Banking Activity for 2004 also stipulated that the Central Bank of Sudan shall conduct inspections on the accounts and records of any bank, financial institution, company, partnership or institution owned by any bank at no less than 50%. It also stipulated that the Governor may, after examining the inspection report, direct the bank, financial institution or any other entity concerned with the report to take the corrective measures he deems appropriate. The following entities are subject to the supervision of the Central Bank: (1) Banks of all types, (2) exchange companies, (3) financial services companies (transfers including SudaPost), (4) leasing (financial leasing) companies and any entity exercising a type of banking activity fully or partially.

Khartoum Stock Exchange (KSE)

441. The KSE Act (1994) included some provisions that set out the competence of KSE in supervising stock trading. The law provided that the KSE is entitled to review and inspect the records,

books and all transactions of agents, to inspect the works and activities of the shareholder department in public joint-stock companies and stock portfolios. The laws also provided that the said entities should facilitate the task of the inspection team and provide all information and data it requires. In addition, the KSE shall inspect and review licensed banks that perform agency works in coordination with the Central Bank of Sudan. The inspection and review shall be limited to books, records and all transactions that are related to agency works and stock portfolios.

Insurance Supervisory Authority (ISA)

442. The Insurance Supervision Act 2001 included the competence of the Insurance Supervisory Authority to supervise insurance and reinsurance companies (including insurance brokers and agents). The law included a number of articles stating that among ISA purposes is to supervise and regulate all insurance works; and among ISA powers: to supervise companies; and among the competences of ISA Director General is to supervise and direct companies.

R. 30 (30-1 to 30-3)

Competent authorities should be adequately structured, funded and staffed

Structure of supervisors

Central Bank of Sudan

443. The Central Bank of Sudan Act 2002 amended in 2006 stipulates that the Board of Directors of the bank shall be established consisting of 9 members: the Governor, 2 deputies who are appointed by the President of the Republic and 6 Sudanese having high qualifications and experience appointed also by the President of the Republic. The Central Bank of Sudan is subject to the supervision of the National Assembly (the Parliament) as the said law provided that the Governor shall give a statement, before the National Assembly, at the end of each year including the general policies, plans and future programs of the Bank. This shows that the Bank enjoys independence and autonomy with regard to making decisions governing the management of its activities and general affairs.

444. The Bank exercises its activity through 10 branches distributed throughout the capital and states (bank officials stated that there are 5 new branches under construction). The organizational structure of the bank consists of 5 sectors and 13 general departments and a number of directorates. The sector of financial institutions and systems is divided into general departments namely: Banking System Regulation and Development Department, (which is divided in its turn into the Banking Affairs Directorate and the Financial Institutions and Capital Markets Directorate). This general department is in charge of the preparation, review, update and development of all regulations, controls and circulars issued by the Central Bank in light of the need for imposing work with new standards or mechanisms on the institutions subject to the supervision of the Central Bank. The other general department is the Banking Supervision Department which is divided into the Prudential Supervision Directorate (offsite supervision), Inspection Directorate (on-site supervision), Payment Systems Directorate and Microfinance Unit.

	General Department	Directorate
Financial Institutions and Systems Sector	Banking System Regulation and Development Department	Banking Affairs Directorate
		Financial Institutions and Capital Markets Directorate
	Banking Supervision Department	Prudential Supervision Directorate
		Inspection Directorate
		Payment Systems Directorate
		Microfinance Unit.

445. The number of employees in the (on-site) Inspection Department is 65 inspectors in the State of Khartoum (10 of which are specialized in AML/CFT field according to officials of the Banking Supervision Department) in addition to 20 inspectors performing their functions on the level of branches (through banking supervisory units in some branches in the states). The on-site supervision department has been performing its works in the inspection field on FIs since 2010 according to the mechanism of forming specialized teams (by designated topics) in inspecting data accuracy, direct and indirect financing operations, institutional control, controls of payment and technical banking systems, budget and accounting and audit standards, current accounts and deposit accounts, foreign currency controls, exchange controls, adequacy of capital, restructuring, monetary reserve requirements and liquidity and other banking controls including AML/CFT.

446. The offsite supervision directorate has 33 employees and performs its functions through the review of periodic reports (feedback) that requires institutions subject to the Central Bank supervision to submit them.

447. The Central Bank of Sudan officials indicated that 14 new employees were appointed in the Banking Supervision Department in 2011 (total number of employees in the department is 112), 7 of which are in the offsite supervision directorate and 7 in the inspection directorate. They are currently following an in-house training at the Central Bank and shall follow later training sessions at commercial banks for 6 months under the supervision of 3 senior inspectors. The evaluation team could not determine the frequency of full on-site inspection operations including all activities of FIs over a certain period of time; the officials indicated that the inspection process based on specialized teams is conducted almost regularly.

Khartoum Stock Exchange (KSE)

448. KSE Act for 1994 provides that a Board of Directors for KSE shall be established to be responsible for it, perform duties on its behalf and exercise the authorities that enable it to achieve its purposes. Pursuant to a decision from the Council of Ministers and based on a recommendation from the Minister (Minister of Finance and National Economy), the Board of Directors shall consist of part-time Chairman holding high qualifications and having experience in economy and financial matters, Governor of the Central Bank of Sudan as a Vice-Chairman, a number of members representing the Ministry of Finance and National Economy, Commercial Registrar, licensed banks, insurance companies, union of commercial chambers, manufacturers union and public agency companies, in addition to experienced members from the private sector operating in various economic sectors. The Board shall exercise its duties set out in the said law among which: the Board may issue, based on the Minister approval, the regulations, rules and orders required to implement the provisions of law.

449. KSE organizational structure consists of the Director General, economic advisor, the companies and issues department, studies and media department, administrative affairs department, financial affairs department, legal affairs department, agent and dealing room affairs department, inspection and monitoring department, and audit department (with a total number of 50 employees and administrators). The organizational structure of the inspection and monitoring department consists of department head and 3 employees. KSE officials stated that a specialized unit has recently been created in KSE to work in AML/CFT field with a total number of 4 employees.

450. The authorities indicated that a bill is currently being drafted for KSE to amend some of the current articles with the aim to grant KSE more independence and autonomy.

Insurance Supervisory Authority (ISA)

451. The Insurance Supervision Act 2001 provides that an independent public authority called “Insurance Supervisory Authority” shall be established. It shall have a legal personality and shall be subject to the supervision of the Minister (Minister of Finance and National Economy). Among its purposes is to provide counseling to the Minister with regard to developing public policy related to the execution of law provisions and matters related to insurance and insurance companies.

452. The Authority shall be competent to supervise, oversee and regulate all insurance activities through the supervision and oversight of companies operating in this field (insurance, reinsurance, brokerage and agency). The Authority has a number of divisions in charge of licensing and renewing the license for companies and agents, supervision and audit as well as research and training. ISA has a total number of 42 employees, 19 out of which perform technical tasks. The Authority’s officials explained that the technical employees are used in all divisions as needed. The Authority’s resources are limited to State allocations and the funds obtained against the works and services it performs.

453. The authorities pointed out that a bill is currently being drafted to the Insurance Supervisory Authority; it should grant IS more independence and autonomy.

454. During the on-site visit, the evaluation team found that there is some overlapping between the duties of the supervisory authorities and in particular between CBOS and the remaining supervisory entities with regard to AML/CFT. For instance, Central Bank of Sudan issued a circular to the companies operating in the stocks field and insurance companies in the AML/CFT field, while KSE and ISA also sent circulars to these companies in the same regard. Moreover, to implement a circular issued by the central Bank of Sudan on 13 December 2009 on AML/CFT, SudaPost issued controls and procedures for investors wishing to subscribe in the company’s stocks including their own customer identification measures although SudaPost is subject to KSE supervision.

455. Also, the team noticed the presence of a directorate (assisting) at the Central Bank called **the FIs and Capital Markets Directorate** in the structure of the Banking System Regulation and Development Department. Upon asking the directorate’s officials about the scope of its authority in relation to capital markets, the evaluation team was informed that this term means companies dealing in money transfers and the Central Bank has no role with regard to capital markets in Sudan. It might indicate an overlapping between the work of the Central Bank and that of the KSE as this is further evidenced in the fact that the (actual) Acting Chairman of KSE is the Governor of the Central Bank. The assessors determined the existence of initial steps that are taken with regard to coordination between the Central Bank of Sudan and other supervisory entities but the issue requires more efforts to be exerted to achieve the desired goals.

Compliance of employees in the competent authorities with high professional standards especially with regard to confidentiality and privacy

Central Bank of Sudan (CBOS)

456. Central Bank of Sudan Act 2002 amended for 2006, stipulates that the Governor shall suggest the conditions of employee service at the bank to be sent to the President of the Republic for approval after recommendation from the Minister of Finance and National Economy, Minister of Labor and the Supreme Council of Wages and after issuance of Regulations for Employees' Accountability. The Governor shall also appoint employees, hold them accountable and end their service according to the provisions of the regulations subject to professional standards. Each member of the Board of Directors of CBOS and its personnel shall comply with confidentiality with regard to the bank's affairs and customers except as may be required to perform his duties by virtue of the provisions of the said law.

457. The regulations for Employee's Accountability of CBOS issued by the board of directors in 2008 included general conditions for appointment; to be of Sudanese nationality, holder of minimum academic qualifications required for this job, should submit a letter of good conduct issued by competent authorities. The regulations referred to included as well an item providing for the need to establish a job description that includes the minimum academic qualifications, experience and skills required for the position before starting the recruitment process.

458. As to holding senior management positions, the regulations included an item on promotion to senior positions through selection; To appoint an employee in a senior position, the following conditions should be available: he should possess the qualifications, skills and expertise required for such position, has been in his current position at least for the period determined by the Bank, to meet all the requirements of the promotion such as tests, evaluation or training; to be able to work in more than one administration/department. Selection is made by a decision from the Governor and his 2 deputies, and the decision should be final. The regulations included as well an item stipulating that employees should not disclose any information that comes to their knowledge during the tenure of their position whether confidential by nature or instructed to be kept confidential, such being among the employees' duties.

459. The regulations for Employee's Accountability for 2010 at CBOS included as well that all employees should be subject to its provisions in many cases, to name, disclose any bank secret or customer's accounts and transactions and any other information they are entrusted to maintain or in case they are convicted in a crime of honor or trust.

Khartoum Stock Exchange (KSE)

460. Article (18) of KSE Act for 1994 stipulates that among the competences of the KSE Board of Directors is to suggest the conditions of employee service at KSE to the competent Minister (Minister of Finance and National Economy) to be sent to the Cabinet for approval after recommendation from the Minister of Labor and the Supreme Council of Wages. The evaluation team was not informed whether these conditions were established or approved until date of the visit.

Insurance Supervisory Authority

461. The Insurance Supervision Act 2001 stipulates that among the competences of the Board of Directors of the authority is to suggest conditions of the employee service to the Minister (Minister of Finance and National Economy) for approval and send them to the Cabinet for authorization. The evaluation team was not informed whether these conditions were established or approved until date of the visit.

462. Pursuant to the foregoing, it is clear that the legal frameworks governing employment at the supervisory entities are weak, except Central Bank of Sudan: the laws governing work of these entities did not include any conditions with regard to appointment of employees therein such as enjoying high professional standards and criteria of confidentiality and privacy. The evaluation team could not determine the methods adopted by the regulatory entities to judge the integrity of their employees. Moreover, it was not clear whether any rules governing the ethical behavior of employees were issued in these regulatory entities with regard to maintaining privacy and confidentiality except what was mentioned above.

Extent of existence of adequate AML/CFT training for the employees in the competent authorities.

Supervisory Entities

Central Bank of Sudan:

463. The following table shows the workshops and training programs that were held under the patronage of the administrative committee, the FIU and the Central Bank between 2009-2010:

Date	Subject & Duration of the Course	No. of Participants	Venue
29/1/2009	AML/CFT seminar (1 day)	23	Central Bank
21-24/3/2009	Training course for the institutions sector + branches (4 days)	38	Central Bank
10/8/2009	The administrative committee workshop (WB expert) (1 day)	17	Central Bank
11/8/2009	AML workshop for supervisors from the sector (Expert) (1 day)	22	Central Bank
21/5/2010	Employees of the banking supervision and banking system development / Al Abyad branch (1 day)	28	Premises of the Central Bank
29/3/2010	Employees of Port Sudan branch (1 day)	18	Premises of the Central Bank
28/6/2010	Employees of the banking supervision and banking system development (1 day)	26	Federal Center

464. The Sudanese authorities informed that a technical committee for capacity building in the AML/CFT field was formed under the supervision of Assistant Governor of the Central Bank of the Management and Services Sector and including head of the planning and human resources development (Chair), director of the training center at Sudan Academy for Banking Sciences (member) and head of the FIU (decision maker and member). The committee held 5 meetings in the framework of executing the entrusted tasks and reached the below plan for capacity building. The Sudanese authorities indicated that the timeline needed to implement the training plan is 18 months (without stating when it will be launched):

	Program	Targeted Entities	Duration of session	No. of Sessions	No. of Trainees
1	Basic training program	Banks	2 days (12 hours)	10	250
2	Entities responsible for drafting and approving legislations	Legislative and Judicial bodies	2 days (12 hours)	3	75

	Program	Targeted Entities	Duration of session	No. of Sessions	No. of Trainees
3	Specialized training for the prosecution and judiciary	Judicial body and lawyers union	2 days (12 hours)	4	100
4	Specialized training for law enforcement agencies	Security and police	2 days (12 hours)	5	125
5	Specialized training for the FIU	FIU	4 days (25 hours)	3	75
6	Specialized training for regulatory and supervisory entities	KSE and Central Bank of Sudan	3 days (20 hours)	4	100
7	Specialized training for non-banking institutions and non-financial businesses and professions	Currency exchange companies/ financial brokerage companies/ workers union/ business owners union	3 days (20 hours)	4	100
8	Specialized training for customs authorities	Customs Authorities	2 days (12 hours)	4	100
9	Specialized training for supervisors of NPOs	FIU and the Voluntary Aid Commission	2 days (12 hours)	2	50
10	Train the Trainer	Distinguished trainees from all above entities	5 days (30 hours)	1	25

465. The committee reached general recommendations stating that the Central Bank shall oblige institutions in the financial sector to incur all training costs of their affiliates and that the training programs in this project are mandatory programs for all targeted entities in order to achieve the outputs of the program represented in training 1000 trainees in different specializations, raising public awareness, developing a reference training guide in capacity building and preparing certified trained individuals in the AML/CFT field. The evaluation team could not determine until end of the on-site visit whether such plan was adopted or was under implementation.

Khartoum Stock Exchange (KSE):

466. With regard to training KSE affiliates, the Sudanese authorities stated that they:

- Participated in a training workshop for the countries that will undergo mutual evaluation organized by the IMF in cooperation with MENAFATF in February 2010.
- Participated in AML/CFT course in April 2010 at the Federalism Research and Capacity Building Centre in Sudan.
- Participated in AML/CFT course in July 2010 at the Federalism Research and Capacity Building Centre in Sudan with the participation of the Institute of African Research and Studies at Cairo University.
- Delegated some KSE employees to Beirut Stock Exchange to attend a training course in financial and information technology as well as legal and regulatory; as well, delegated some employees to Qatar Exchange, Oman Stock Market and Dubai Financial Market to exchange experience and benefit from the applied experiences in these stock markets.

- Some KSE employees obtained internal and external training in the field of advanced financial accounting, preparing financial reports, financial analysis, risk management and assessment, developing creative capacities in work environment and electronic trading.
- The Head of the companies and issuance department in KSE obtained internal and external training on the professional diploma in financial management, management of investment portfolios and forms and operations of Islamic financing, through the Arab Academy for Banking and Financial Sciences.

Insurance Supervisory Authority:

467. With regard to training ISA affiliates, the Sudanese authorities informed that the following was made:

- Participation in AML seminar of the Insurance Supervisory Authority and Insurance Companies at the Central Bank of Sudan in 2009.
- Organization of a lecture on AML/CFT in coordination with the Arab Sudanese Bank in 2009.
- Participation of 3 employees in a two-day workshop on AML/CFT at the Federalism Research and Capacity Building Centre in Sudan in 2010.
- Participation of 2 employees in the basic AML/CFT training program at the Sudan Academy for Banking & Financial Services in 2011, which included several issues among which: introduction to ML/TF operations and the relationship between them, the main combating requirements and key features of FATF recommendations.

Powers of the authorities and imposing sanctions – R. 29 & 17

R. 29

Powers to monitor FIs in order to verify they are compliant with the requirements of combating and powers to compel production or obtain access to records and documents

468. The AML/CFT law for 2010 listed the parties concerned with the monitoring and supervision of FIs which are: CBOS, KSE and ISA. It also listed the duties of the supervisory authorities which include among others: use of supervisory authorities by the supervisors to ensure that the financial and non-financial institutions, subject to their monitoring or supervision, meet their obligations under this law. Below are the powers granted to the Central Bank of Sudan, KSE and the Insurance Supervisory Authority to conduct inspections and to compel production of records and documents under the laws governing their activities.

Central Bank of Sudan (CBOS)

469. The bank shall monitor and supervise all banks, foreign exchange companies, offices of financial services and leasing companies. The laws that govern the work of the bank include its powers concerning the different institutions it oversees, and which include the authority of issuing guidance and instructions, and the authority to conduct inspections; the laws included articles that state that CBOS conducts inspections on the accounts and records of any bank or financial institution; that exchange offices undergo inspection and audit; the offices of financial services undergo inspection and audit and the financial leasing institutions commit to maintain all data and make it available for inspection by the Central Bank of Sudan in the time and manner it chooses.

Khartoum Stock Exchange (KSE)

470. KSE shall monitor the companies operating in the field of securities. The laws that govern the function of the market has included regulatory powers, especially the powers to conduct inspection and to compel production of records and documents; KSE Act for 1994 states that the market is entitled to conduct inspections and review the records of the agents, their books and all their transactions, as well as the activities of the shareholders department in public stock companies, securities portfolios and licensed banks that undertake agency businesses.

Insurance Supervisory Authority (ISA)

471. ISA shall monitor companies, agents and intermediaries working in the field of insurance and reinsurance; The law that rules the work of the authority has included its regulatory powers; Insurance Supervision Act 2001 states that among the objectives of the authority is the supervision, monitoring and regulation of all insurance businesses, performing all actions and procedures that achieve its purposes according to the law, and checking the businesses of the insurer if it has enough reasons to believe that rights of the policy holders are at risk, or that the insurer has become unable to fulfil his obligations, or has violated any rules of the law or the regulations issued there under, or at the request of a number of shareholders who own no less than 10% of the capital or at the request of any number of policy holders of those who paid no less than 25% of underwritten premiums. The previous shows that the authority's inspection and examination of the insurer's businesses falls under certain conditions, which violates its powers to undertake inspections for supervision and monitoring purposes on a regular basis and in effective manner.

472. Regarding the supervisor's power that entitles it to compel production of or to obtain access for supervisory purposes should not be predicated on the need to require a court order, the Sudanese authorities have stated that the supervisory and monitoring authorities shall perform their duties and practise their right to access the documents they deem appropriate according to the AML/CFT Act for 2010 without referring to the court to obtain an order.

473. Concerning the availability of sufficient powers for the supervisory authorities to impose the implementation of standards and sanctions on FIs, their directors or senior management in the event of non-compliance or failure to implement AML/CFT requirements, the authorities have referred to article (5), item (e) which states that the supervisory authorities shall utilize their designated penal powers according to the laws that regulate them when financial and non-financial institutions breach their obligations under this law. An analysis on how consistent the sanctions that can be imposed on FIs are with the requirements of international standards in this respect is to follow when discussing R.17 (Sanctions).

474. Regarding judging the effectiveness of supervision on FIs, the frequency and time period of the onsite inspection visits and their findings related to the compliance of FIs were not revealed. The inspection reports viewed by the evaluation team on the various supervisory authorities revealed that there are no indications that FIs have analyzed the activities of customers to trace unusual or suspicious activities; as well, nothing reveals that they included sample testing.

R.17

Ensuring that effective sanctions are available:

475. AML/CFT Act 2010 did not include any administrative sanctions on part of the supervisory and monitoring authorities imposed on financial institutions in case they violate AML/CFT requirements. On the other hand, the law has granted the supervisory and monitoring bodies the authorities to utilize their penal powers according to the laws regulating them in the imposition of sanctions in cases where FI and non FIs violate their obligations under the provisions of this law

(article 5-1-e). The following is an explanation of the powers designated to these authorities according to the laws governing them:

Central Bank of Sudan

476. The final provisions of circular No.10/2010 issued by the Central Bank of Sudan and directed to all banks and FIs have stated concerning AML/CFT that whoever violates this circular shall be subject to the list of financial and administrative sanctions issued by the Central Bank of Sudan.

477. The laws governing the activity of the Central Bank of Sudan and the financial institutions subject to its supervision included a number of articles on violations and bank's powers in imposing sanctions; the Act regulating banking business 2004 and the list of penal and administrative sanctions 2004 have addressed the sanctions imposed when violating the law regulating the banking business as well as regulations, circulars, resolutions, guidance and instructions issued by virtue thereof. The sanctions range from disciplinary notice and the direction on proper procedures, reprimand, warning, suspension provided that it does not exceed the legally specified duration, and recommendation at the governor's for dismissal from service or termination by prevention of any direct or indirect work in the banking system and financial institution, or prohibiting the bank or financial institution from practising the banking activity to which the violation is related for a certain period.

478. The Regulation organizing dealing in foreign currency 1999 applicable to foreign exchange companies and the offices of financial services, addressed the imposition of fines, in the event of violating the rules of the act or the orders or the circulars issued. The fines range from financial penalty of no more than 30% of the violation or a sum of five hundred thousand Sudanese Dinars whichever is greater, suspension of license and seizure of balances for no more than 6 months, warning on the cancellation of license and the cancellation of license. The Regulation governing the business of Financial Leasing Institutions "Lil Ijara" 2004 has also addressed the sanctions imposed on these institutions which include cancellation of the license granted to them if they undertake activities which are not allowed or harm the public interest or if they sustain losses and fail to rectify their financial status.

479. The previous shows that the sanctions included in the legal frameworks governing the work of the Central Bank of Sudan and the financial institutions under its supervision are relatively diverse and scope-wide: they included legal persons and natural persons in charge of management sometimes, and they vary in power for the two categories based on the size of the violation.

Khartoum Stock Exchange (KSE)

480. The AML/CFT act for the companies that operate in the field of securities issued by KSE did not address any sanctions related to non-compliance with the requirements of the Act.

481. The law governing KSE and FIs subject to its supervision included a number of articles about the violations and KSE's powers in imposing sanctions; KSE Act for 1994 included imposing a sanction of imprisonment for a period not exceeding 6 months or a penalty of no less than 1000 SDG or both sanctions on any person who knowingly provides any data or declaration or information he knows they are false in order to affect the investor's decision; this shall include members of the board of directors, general manager, his deputy, employees and legal auditors. As well as imposing the sanction of imprisonment not exceeding 1 year or a minimum penalty of 5000 SDG or both sanctions on every person dealing with the market and the same has been established based on unpublished or undeclared information and he knew in his position or he circulated rumours about the situation of any company and affecting the shares' prices; this shall include president and members of the board of directors of any company, his general manager, his deputy or employees.

482. As well, the law provided that KSE's board of directors shall establish, from its members, a specialized accountability committee to decide on the members, agents and representatives' violations of this law and the regulations and rules issued there under; the committee may impose any of the following sanctions: Caution, warning, financial penalties as specified by the regulations, suspending the agent from 1 day to one month and recommending the board for final barring from the market membership. The director general may issue warnings in the event of committing minor violations without referring the issue to the accountability committee. These sanctions are theoretically proportionate, but the effectiveness of their implementation is yet to be proved.

Insurance Supervisory Authority

483. The AML/CFT act on insurance sector for 2010 stated, under Chapter 6 /penalties, that without prejudice to any sanction provided for in AML/CFT law for 2010 or any other law, the authority (the Insurance Supervisory Authority) may punish anyone who violates the rules of this act by partial or total cancellation of the license.

484. The Insurance Supervision Act 2001 listed the violations related to users of insurance companies and members of their board of directors (company manager and each board member or their representatives) and other violations related to insurance agents and experts (insurance agent or his representative and any other person in the insurance business, the preview expert and the settlement expert); and which are represented in issuing any policy before obtaining or renewing the license or carrying out any insurance business unlike the type by which the insurance certificate was issued and the sanctions provided for committing such violations and which include imprisonment for 1 year at most or a fine or both. The above sanctions are criminal sanctions and require a judicial verdict. As for the total or partial cancellation of the license due to violation of AML/CFT act, they cannot be considered as an adequate or proportionate range of sanctions, and they are not practical as well.

Extending sanctions to include directors of legal persons

485. The criminal sanctions in the AML/CFT act for 2010 extended to directors of legal persons convicted with ML or TF crimes; yet the law did not include administrative sanctions. As to imposing sanctions on directors of legal persons, existing legal provisions indicate the extension of sanctions to directors of legal persons in principle in some cases (for some limited violations in the case of institutions subject to ISA supervision) and largely for FIs subject to the Central Bank and KSE supervision.

Sanctions proportionate to violations

486. The previous explanation reveals the existence of a broad legal framework proportionate with the volume of violations for the sanctions that can be imposed by the Central Bank and which includes legal persons; it extends to natural persons responsible for their management and varies for each; same case applies partially to KSE. However, the previous does not largely apply to the legal framework that governs ISA activity.

Effectiveness

487. The Central Bank of Sudan presented statistics on some types of violations from 2009 to 2011 amongst which the imposition of financial penalties (ranging from 2000 to 9000 SDG (approximately 740-3300 USD)), and the imposition of one administrative penalty which was a disciplinary notice and direction of proper procedures have been found regarding violations of AML requirements such as, failure to submit the compliance officer's report to the Board of Directors, failure to send AML/CFT feedback on time and failure to comply with CDD requirements. The Central Bank of Sudan presented a statement illustrating that, the bank imposed during 2007 a sanction on a foreign exchange company for violating Foreign Exchange Dealing Regulation for 2002, amendment of 2005: the sanction was a

20,000 SDG (approximately USD 7400) fine and a warning of the license withdrawal. As well, in 2011, an administrative sanction was imposed on the withdrawal of the license of one company for violating conversion controls. There were no statistics issued by CBOS pertaining to financial service companies, leasing companies or Sudan post.

488. On the other hand, KSE officials stated that between 1995 and 2011, there was one violation by one company; accordingly, the company was barred and its license was withdrawn. KSE did not present any data concerning the imposition of penalties due to the violation of AML/CFT requirements particularly.

489. ISA officials presented a statement of the violations that occurred in insurance sector during the 4 years preceding the year of assessment and the sanctions imposed thereon; it has revealed that no sanctions were imposed pertaining to AML/CFT violations. Generally, ISA suspended one company from issuing policies of all types; also another company was suspended from work in the field of car insurance and some inspection and preview experts had their permits withdrawn for violations pertaining to insurance business.

490. The above reveals a weak effectiveness in the supervisory authorities' use of their powers to impose sanctions on FIs subject to their supervision in case they violate the laws governing their business in general, particularly in the field of AML/CFT. The evaluation team did not find any case of imposing sanctions in this regard by any supervisory authorities except the Central Bank of Sudan.

R. 23. Criteria (3, 5, 7) Market Entry

Financial institutions subject to the Central Bank:

491. The FIs whom the Central Bank grants licenses are banks, foreign exchange companies, offices of financial services and leasing companies. The following is an overview of the laws and procedures governing the process of granting the license:

492. The Regulation governing Licensing for Conducting Banking Business (2004) issued by the Central Bank of Sudan states that the request to obtain a license for an established bank shall be submitted under the Companies Act (1925), or under a special law to the Central Bank of Sudan signed by the founders of that bank and enclosing some documents proving the identity of the applicant founders and the persons expected to occupy senior administrative positions; information signed by them including their C.Vs and an assessment of their financial capabilities; a criminal record document issued in last 3 months. Regarding the obtainment of a license to establish a branch or a subsidiary of a foreign bank, a request from the management of the concerned foreign bank should be submitted, enclosed with a version authenticated by the official authorities of the home country including the by-laws of the foreign bank, certificate of registration in the country of origin or the license to conduct banking business as well as a certificate from the concerned authority that the bank is rated as a first degree bank; The above should be supported by the concerned supervisory authority, in addition to submitting the administrative structure and the basics of supervision and internal audit to be adopted.

493. Circular no. 9/2005 on developing and activating the institutional control at banks and FIs for banks and FIs includes the conditions for selecting the general director and his deputy: should have academic qualifications as a minimum, should have a banking experience of at least 20 years for the general director position and 15 years for his deputy, not have been convicted with a crime of honor or trust; the Central Bank of Sudan should approve his selection.

494. The administrative controls of the Regulation governing Licensing for Conducting Banking Business (2004) state that the bank management (Board of directors and the Executive management) shall be assigned to those who meet the conditions of eligibility, integrity and honesty and who have the experience and qualifications in the financial, economic and banking areas; the Bank (Central

Bank of Sudan) may reject any of the founders or members of the board of directors or those who occupy the positions of senior executive management; the bank shall notify the Central Bank of any major changes in the structure of its ownership and obtain the related approval.

495. Circular No. (9/2008) of the Banking System Regulation and Development Department issued on shifting banking employees states that the banks should inquire, when hiring employees, from the Central Bank of Sudan about the employees who had formerly worked in banking. The Sudanese authorities have stated that those who had never worked in the banking system before should be requested upon their assignment to submit some important papers such as the criminal record and the authentication of academic certificates at the concerned authorities and other procedures to ensure hiring highly competent employees.

496. Circular no. 9/2005 on developing and activating the institutional control at banks and FIs for banks and FIs includes the conditions for selecting the general director and his deputy: obtain the academic qualifications as a minimum, should have a banking experience of at least 20 years for the candidate nominated to general director and 15 years for his deputy, not have been convicted with a crime of honor or trust; the Central Bank of Sudan should approve his selection.

497. The Foreign Exchange Dealing Regulation 2002 states that the party requesting the license should be a public liability company registered in Sudan, or a branch of a company registered in Sudan; in this case, the management of the branch of the company should be licensed to practise foreign exchange business in the country of origin and that the practice of banking business shall not be allowed except after obtaining a license from the Bank (Central Bank of Sudan). The Governor or whomever he delegates for this purpose shall grant licenses to undertake foreign exchange activity according to the conditions in the Regulation; and that foreign exchange companies should prepare the regulatory structures, internal control systems and the security procedures therein, and inform the bank of that and of any subsequent modifications made thereto; As well, the prior approval of the bank should be obtained when assigning the general manager or his deputy after filling out a personal questionnaire and submitting the candidate's resume; provided that those nominated for the management of foreign exchange business have the experience and appropriate academic and technical qualifications.

498. Order (15) of the Foreign Exchange Dealing Regulation 2004 states that financial services offices are allowed to practice foreign cash business in the field of incoming or outgoing transfers provided that the offices of financial services are registered in the commercial registrar as a private name or company or a public liability company. There are other conditions to allow the practice of foreign cash business in the field of conversion and which are included in article 4 of order 15 for 2004 such as: the need to provide a financial credit in the bank to maintain the rights of converters; the license and insurance should be renewed on a yearly basis, the office should enter into agreements with its correspondents that include the responsibilities and obligations of each party to the other, in addition to another condition that states that periodic reports about the activity of the office of financial services should be submitted to the Bank (Central Bank of Sudan) based on the forms specified by the Bank. However, the previous does not meet the requirement of verifying that criminals are prevented from being the beneficial owners or the holders of controlling shares or administrative positions in financial service offices; Neither does this part meet the provision of Company Registration Ordinance 1933 in article 5 concerning the conditions of registration and which states that the names of the partners authorized to undertake company and management affairs should be sent to the registrant.

499. The Regulation governing the Business of Financial Leasing Institutions (“Lil-Ijara”)(2004) states that an establishment contract and an act of the financial leasing institution should be issued, according to the rules and conditions in the Act; the management of the leasing FIs should be taken over by reliable persons who are competent and have experience and academic qualifications in the economic and banking fields; the ID and a summarized resume of the founders or the representative of the foreign FI and the persons expected to occupy higher administrative positions should be

submitted; the leasing FIs or branches should comply with AML law or any local or international controls issued in this regard; the branches of foreign leasing FIs should submit a document, not older than 3 months, proving the non-conviction of any of its representatives, directors and auditors with any offense involving moral turpitude.

Institutions subject to KSE:

500. The financial institutions to which KSE grants licenses are the companies working in of securities; the following is an explanation of laws and procedures governing the process of granting licenses:

501. KSE Act for 1994 stated that agency business should not be listed in the market among the purposes or the businesses of any Sudanese company or investment bank except after the consent of KSE's board of directors; Commercial banks also should not include undertaking agency business among their purposes or businesses. The conditions required in the manager of an agency have been included in the conditions and the registration procedures of agency companies licensed by the board of directors of KSE, meeting No. 6 (2005). Those conditions are: the manager should be of Sudanese nationality, holder of a university degree or its equivalent from an acknowledged university, he should have at least 4 years experience in the financial and banking business, he should also pass the qualifying test set by KSE; The conditions required in a certified agent also included that he should be of Sudanese nationality, holder of a university degree from an acknowledged university, and that he should successfully pass a written test set by KSE.

Institutions subject to the Insurance Supervisory Authority:

502. The financial institutions to which the Insurance Supervisory Authority grants licenses are the companies working in insurance and reinsurance; the following is an overview of the laws and procedures governing the process of granting licenses:

503. The Insurance Supervision Act 2001 states that no one is allowed to make contracts for direct insurance transactions with any company if the latter is not subject to the provisions of this law; no company is allowed to practice or continue to practise insurance business in the country, unless it obtains a permit to practise this business from the Board; the registration of any company is not allowed unless the registrant obtains the initial approval of the Board; the insurer should commit to inform ISA of any modification or change to the information included in the application or the documents annexed thereto which the Board had approved and by virtue of which the license was granted.

504. The Regulation on Organising Insurance Supervision 2002, amendment of 2009, included the conditions of licensing companies and the essential information the companies operating in the insurance business should disclose and which are: name and nationality of the company, date of establishment, legal structure, location of the headquarters, number of branches in all the countries in which the company practices its activities, nature of activities licensed and which the company practises, main insurance services provided, names of its affiliates the financial statements of which are yet to be consolidated with the financial statements of the company, nationality of each, percentage of the company's ownership in the capital of each, nature of their activities, the reasons of non-consolidation of their financial statements, names of the holding company or sister companies/institutions; each company should obtain ISA approval before appointing the company's general manager, technical manager and accounting manager.

505. The previous shows that the legal framework governing the FIs business licensed by the Central Bank - except the offices of financial services - provides a lot of criteria on the experience, integrity and honesty. The same framework also covers the procedures that enable the bank to prevent criminals from benefiting from financial institutions and controlling them; however, the previous does not apply to a great extent to the legal framework governing KSE and ISA activities.

Licensing and registering money transferors and currency exchange service providers

506. As for the licenses of the bodies that provide money or value transfer or money and currency exchange services other than banks, they are confined to the following:

Financial service offices/companies

507. Financial service offices provide money transfer services, according to the rules of order No. 15/2004 of the Regulation on Foreign Exchange Dealing, which included allowing them to practise the business of foreign cash in the field of incoming or outgoing transfers in the framework of some controls such as: financial service offices should be registered at the commercial registrar as a business, partnership name or a private company or a liability company. The Central Bank of Sudan shall provide licenses to these offices according to what was included in the order referred to.

Foreign Exchange Companies

508. Foreign exchange companies undertake transfer activities, after obtaining a license from the Central Bank of Sudan, according to the Foreign Exchange Dealing Regulation 2002. The Central Bank of Sudan grants license to foreign exchange companies according to the law of the Central Bank of Sudan. The Act includes the obligations of foreign exchange companies in case they practise the activity of money transfer.

SudaPost

509. It is a subsidiary company of the Social Security Investment Authority (SSIA). The company provides remittance services from inside the Sudan; they include regular and electronic remittances. The company has obtained a license from the Central Bank of Sudan to practise this activity according to the Law on the Regulation of Banking Activity 2004. The company has recently obtained an initial license to practise the activity of foreign remittances; however, until the date of the onsite visit, this service had not been provided yet.

510. The assessors noticed a wide presence of MVT service providers from natural unregistered persons (parallel exchange market - black market), as some natural persons practise the activity of exchanging foreign currency with its equivalent of the local currency to make use of price differences from the official exchange market.

Licensing or registering financial institutions which are not subject to the Core Principles

511. These institutions include in the Republic of Sudan:

Leasing companies

512. They are any financial institution working in the field of leasing as one of the purposes of financial investment. Leasing is defined as granting of ownership, by the financial institution as a lessor of an intentional benefit such as real estate or movables or anything else for certain period that could eventually end in ownership against a known return to the lessee. 2 leasing companies are currently licensed to operate in Sudan.

Sudanese company for financial services

513. Established by the Central Bank of Sudan (99%) and the Ministry of Finance and National Economy (1%) and registered in the general registrar of companies under the Companies Act for 1925 on 16/5/1998. The company has issued generations of Islamic securities; it markets these instruments directly and uses other ports such as general agency companies operating in KSE and the branches of the Central Bank of Sudan scattered throughout the states of Sudan.

R. 23. Criteria (4, 6, 7) ongoing supervision and oversight

FIs subject to the Core Principles apply regulatory and supervisory measures for prudential purposes

514. The **Central Bank of Sudan** supervises banking institutions which are subject to its authority; In this framework, the bank relies on:

- **Offsite Supervision:** Aims at ensuring the compliance of banking institutions with the offsite instructions and controls; it represents the cornerstone in the ongoing monitoring of these institutions through statistical data received by the supervisory authority on a periodic basis.
- **Onsite Supervision:** Aims at ensuring the compliance of banking institutions with the onsite instructions and controls through on-site visits; it takes place periodically.

515. Officials at the Central Bank of Sudan stated that banks are inspected according to Camel system, through which the sufficiency of the bank's capital, the quality of its assets, liquidity, profitability and management standards are verified. They also stated that starting 2010, specialised onsite inspection teams have visited banking institutions to inspect certain subjects such as the controls on foreign cash, funding, budget, current accounts, deposits, institutional controls, data accuracy, capital sufficiency and AML/CFT controls. It is worth mentioning that forms of inspection reports viewed by the evaluation team are not specialised as such.

516. **KSE** supervises and monitors through many axis which are appropriate with the developments taking place in the market, such as electronic trading which provides high safety and integrity to guarantee the protection of data against hacking and also ensures transparency in all market activities; the market practises its activity in the field of supervision according to KSE Act that laid the foundation for the conditions of settlement and clearing and the rules of dealing in securities.

517. **The Insurance Supervisory Authority** conducts inspection on all companies that work in the field of insurance, by inspecting their documents and the accounting policies they apply - through periodic feedback, offsite inspection or on-site inspection to check the documents and accounting policies, to prove paid subscriptions, claims under settlement, due commissions and others. The Insurance Supervision Regulation 2002 amended in 2009, required companies to disclose the company's main information. ISA Officials stated that a new bill is currently underway to govern its work based on the standard law set out by the World Bank in this respect.

518. Moreover, the legislative framework of some supervisory authorities has included the implementation of some regulatory and supervisory procedures such as licensing and structuring. Some regulations issued by supervisors addressed the need for risk management, measurement, tracking and control, and the submission of full reports on the activity of all branches and sister institutions.

519. Despite the foregoing, the previous supervisory tools have not been directly tied to AML/CFT subjects; but on the other hand, some integration was provided through stating in the tools that are exclusively related to AML/CFT on similar mechanisms and techniques. For example, circular No. 10/2010 issued by the Banking System Regulation and Development Department at the Central Bank of Sudan requires FIs to classify their clients and products according to MT/TF risk degree, and the standards of ongoing monitoring; 2010 Act for AML/CFT for the companies operating in the field of securities has included that the company (companies operating in securities) should establish appropriate internal systems for proper application of the legislation and supervisory controls, including AML/CFT policies and procedures, and review these systems periodically in order to establish the extent of compliance with their implementation, discover their weaknesses or deficiencies, and take the appropriate measures to avoid them.

Money transfer services and currency change service providers are subject to the systems of tracking compliance with AML/CFT national requirements

520. The Central Bank of Sudan grants licenses for the financial service offices which undertake money transfer activities and companies operating in the field of foreign exchange and SudaPost; each is subject to its supervision in the field of compliance with AML/CFT requirements: they are among the FIs addressed by circular no.10/2010 issued by the Banking System Regulation and Development Department at the Central Bank of Sudan, which included the obligations of FIs in this respect.

521. The Central Bank of Sudan conducted an inspection on the status of foreign exchange companies concerning compliance with AML/CFT controls and principles according to many standards; regarding the imposition of sanctions, the Central Bank of Sudan presented a statement explaining that in 2007, the Bank imposed a sanction on a foreign exchange company for breaching the Foreign Exchange Dealing Regulation 2002, amendment of 2005, the sanction amounted to SDG 20,0000 fine and a warning of license withdrawal. In 2011, an administrative sanction was imposed, being the withdrawal of a company license for violating conversion controls.

522. The assessors were informed during the onsite visit to some financial service offices and the post company that they provide AML/CFT offsite feedback to the Central Bank of Sudan. But the assessors were not informed of the degree of subordination of each, financial service offices and SudaPost to AML/CFT inspection in order to assess compliance with their obligations in this respect.

523. It has been previously noted that the assessors noticed a wide presence of MVT service providers from natural unregistered persons (parallel exchange market - black market), as some natural persons practise the activity of exchanging foreign currency with its equivalent of the local currency, to make use of price differences from the official exchange market; these individuals practise their activity on a non official basis; there is no possibility to discuss their compliance with AML/CFT requirements.

Subordination of FIs which are not subject to the Core Principles to supervision or monitoring for AML/CFT purposes

524. The financial institutions which are not subject to the Core Principles in Sudan are leasing companies and the Sudanese company for financial services. Assessors found that no studies have been conducted concerning the risks of using these institutions in ML/TF operations, hence being subject to supervision in this respect.

525. The Regulation governing the business of Financial Leasing Institutions (Lil-Ijara) stated that leasing FIs should commit to AML laws and any international or local controls issued in this respect. The Sudanese company for financial services – based on a statement by the Sudanese authorities - pursuant to a former circular of the Central Bank of Sudan issued on 13 December 2009 on AML/CFT, issued controls and procedures for investors who want to subscribe to the securities of the company, which included CDD measures.

R. 32

526. The Sudanese authorities stated that the Central Bank of Sudan has conducted an inspection on the position of banks and foreign exchange companies regarding compliance with AML/CFT controls and principles. The results of the inspection conducted on banks on 30 June 2011 showed that approximately 100% of the companies fulfilled the obligation of drafting the work guide, about 100% of them fulfilled the obligation of setting standards for customers classification, about 100% fulfilled the obligation of classifying customers according to the risk degree, about 100% fulfilled the obligation of updating customer data, about 96% fulfilled the obligation of setting standards to detect unusual and suspicious transactions, about 63% fulfilled the obligation of having automated systems for the detection of unusual transactions, all companies fulfilled the obligation to make the documents

available to the compliance officer, 97% fulfilled the obligation of taking measures that guarantee the independence and autonomy of the compliance officer, 84% fulfilled the obligation of submitting the compliance officer's report to the Board of Directors and 35% trained more than 50% of their employees. The report yielded some observations especially concerning training. Accordingly, banks will be directed to give priority to training.

527. The team noticed, during its visit to some FIs (banks and foreign exchange companies), that the risk-based classification of customers is irregular and does not have a clear or consistent basis; as well, some institutions did not have a guide or a written policy on AML/CFT, but they relied on the circulars they received from the Central Bank and the FIU. Moreover, some FIs mentioned that they are still updating the data of their customers because they could not do that in the previous period. The team did not find clear or written mechanisms or standards for unusual transactions or those suspected of being connected to ML/TF. The team also discovered the mediocrity and the low number of training programs received by FI employees; hence the need for more periodic and thorough training.

528. The Central Bank of Sudan presented statistics on some examples of banking violations during the period from 2009 to 2011 which showed the imposition of financial penalties (ranging from SDG 2000 to SDG 9000), and the imposition of one administrative punishment which was a disciplinary notice and direction of proper procedures concerning the violations of AML requirements, such as failure to submit the compliance officer's report to the Board of Directors, failure to send feedback related to AML/CFT on time and failure to comply with CDD requirements³⁴.

529. The Sudanese authorities presented a summary of the inspection conducted on financial brokerage companies in 2011, which took place to track the changes that occurred in securities brokerage companies, and to verify that they deposit the annual budgets as well as the degree of readiness for the transition to electronic trading. The inspection findings showed that 8 companies deposited the original budget sealed by the Tax Administration, 12 companies deposited a copy of the budget sealed by the Tax Administration, 7 companies deposited unsealed budgets and 9 companies did not deposit the budget. The inspection recommended referring the issue of companies which did not present the budget to KSE legal advisor in order to decide on the imposition of sanction. The inspection also showed that 9 companies are prepared for the switch to electronic trading while 8 companies are not.

530. As for compliance with AML/CFT controls, concerning the preparation of the Know Your Client (KYC) form, documents and records keeping, preparing an internal AML/CFT policy, designating the compliance officer, training and other requirements, the inspection resulted in confirming that all companies have received a copy of AML/CFT law and the act issued by KSE in this respect and they have all prepared the KYC form; all are committed to records and documents

³⁴ The results of a previous inspection conducted on exchange companies according to the position on 30 September 2010 showed that approximately 68% of the companies fulfilled the obligation of drafting the work guide, about 67% of them fulfilled the obligation of setting standards for customer classification, about 61% fulfilled the obligation of classifying customers according to the risk degree, about 61% fulfilled the obligation of updating customers' data, about 56% fulfilled the obligation of setting standards to detect unusual and suspicious transactions, about 39% fulfilled the obligation of the existence of automated systems for the detection of unusual transactions, all companies fulfilled the obligation to make the documents available to the compliance officer, about 67% fulfilled the obligation of taking measures that guarantee the independence of the compliance officer, 67% fulfilled the obligation of presenting the compliance officer's report to the Board of Directors, 39% fulfilled the obligation of making observations on the compliance officer's report by the Board of Directors and 22% trained more than 50% of their employees. The report concluded that there are deficiencies that companies will be directed about. The Central Bank of Sudan indicated that in 2007, a sanction was imposed on one of the exchange companies for violating the Regulation of exchange activity for 2002 amended in 2005. The sanction was the imposition of a fine amounting to SDG 20.000 and a notice of license withdrawal. Moreover, in 2011, an administrative punishment was imposed by withdrawing the license of a company for violating the conversion controls.

keeping, preparing the internal AML/CFT policy, all companies designated a compliance officer and participated in training programs organized by KSE in co-ordination with the Central Bank. There was no reference in the report to the existence of any AML/CFT violations. The report recommended that KSE executive management should study the status of compliance with AML/CFT requirements as a prerequisite for granting licenses.

531. As well, the Sudanese authorities presented the biannual performance report of insurance companies prepared by ISA during the period from June 15 to 31 December 2008, which included statistics on obtaining and renewing the licenses of agents, producers, preview and settlement experts, statistics on the monitoring and supervision fees, complaints made and training courses provided. The report did not show that any measures were taken to ensure FIs compliance with AML/CFT requirements set out in the relevant law or regulation.

R. 25

(Guidelines for FIs other than the guidelines related to STRs)

532. As previously mentioned, a number of circulars were issued by supervisory authorities (Central Bank, KSE and ISA), which include AML/CFT obligations for FIs subject to their supervision. Such circulars have mentioned some criteria of transactions suspicion only and did not adequately address the criteria required by the recommendation in terms of the need to include guideline at least to describe ML/TF methods and techniques and any additional measures that FIs can take to verify that AML/CFT measures are effective.

3-10-3 Compliance with R. 23, 29, 17 & 25

3-10-2 Recommendations and Comments

R.17

533. The Sudanese authorities should:

- Establish an appropriate framework of the sanctions that can be imposed on insurance companies; such sanctions should be proportionate with the nature and type of each violation.
- Expand the scope of sanctions to include imposing sanctions on directors of FIs subject to ISA supervision in case they commit any violations, to ensure the effectiveness of these sanctions.
- Activate the sanction system on FIs that violate AML/CFT obligations.

R. 23 Criteria (1, 2) and R. 30 Criteria (1, 2, 3)

534. The Sudanese authorities should:

- Establish a clear detailed methodology to designate the responsibilities of each supervisory entity with regard to ensuring adequate compliance of the FIs under its supervision with AML requirements, particularly the effective implementation of FATF Recommendations, to prevent the interference of competences.
- Increase the inspection visits of supervisory authorities to financial institutions to verify that they are effectively applying the recommendations.

- Support the organisational structure of supervisors which are concerned with fulfilling AML/CFT requirements, to enable them achieve the tasks assigned to them according to the number and size of the financial institutions under their supervision.
- Support the financial and managerial independence of regulatory and supervisory authorities over the FIs to enable them effectively perform their supervisory role.
- Establish legal and regulatory framework based on which employees of AML/CFT authorities are selected and ensure they are of high integrity and maintain high professional standards.
- To have all supervisory authorities increase AML/CFT training of their employees, expand the size of the included subjects considering local experiences in addition to grasping the international standards in this respect.

R.23 Criteria (3, 5, 7) - Market Entry

535. The Sudanese authorities should:

- Support the mechanisms applied by some supervisory authorities to identify the founders of financial institutions by obtaining their criminal records in order to ensure the prevention of criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function.
- Support the legal framework according to which supervisory authorities work to enable them assess directors and members of senior management based on “Fit and Proper” criteria including those related to expertise and integrity.
- The competent authorities should take the measures that ensure minimising the natural persons' practice of the currency exchange activity in order to have currency exchange processes subject to the Central Bank's supervision.

R.23 Criteria (4, 6, 7) – Ongoing supervision and monitoring

536. The Sudanese authorities should:

- Activate supervisory systems that provide MVT service to monitor their compliance with AML/CFT requirements.
- Conduct a study on the risk degree related to financial institutions other than those subject to the Core Principles, and subjecting them to monitoring and supervision for AML/CFT purposes, with the degree specified by the risk study.
- Find a mechanism that provides on a periodic basis statistical data, which show the status of financial institutions in each sector concerning AML/CFT inspection and the findings thereof, especially the bodies that operate in money transfer.

R 25

537. The Sudanese authorities should:

- Supervisory authorities (Central Bank, KSE, ISA) should issue guidelines to FIs with a view to develop their compliance with AML/CFT measures, including a description of the ML/TF techniques and methods.

R.29

538. The Sudanese authorities should:

- Try to eliminate any restrictions that impair the activation of the powers to conduct inspections and to compel production of documents and records for the Insurance Supervisory Authority.
- Address the deficiencies referred to under R.17 by providing an appropriate scope of sanctions on insurance companies including the directors and senior management of financial institutions in those sanctions and activating the sanctions system.

3-10-3 Compliance with R.17, 23, 25, 29

A presentation of ratings and factors underlying the assessment of compliance with R 17, 23, 25 & 29

Rec.	Rating	Summary of factors relevant to s 3-10 underlying overall rating
R.17	PC	<ul style="list-style-type: none">• Sanctions do not adequately extend to include directors of FIs subject to ISA supervision.• Sanctions in the laws and regulations governing ISA work are not proportionate with the nature of the violations on compliance with AML/CFT requirements.• System of sanctions that can be imposed on financial institutions in case of violating AML/CFT obligations is ineffective.
R.23	PC	<ul style="list-style-type: none">• Absence of a clear implementation methodology that governs the work of each specialised regulatory authority and shows its responsibilities concerning the adequate compliance of FIs under its supervision with AML/CFT requirements, especially the effective implementation of FATF Recommendations.• Inadequacy of the structuring of supervision and monitoring authorities in charge of fulfilling AML/CFT requirements compared to the number of institutions they oversee.• Vagueness of the bases on which employees in competent supervisory authorities (except Central Bank) are selected, or the bases through which their compliance with high professional standards, particularly confidentiality and privacy, and their integrity and possession of proper skills are verified.• Limitedness of AML/CFT training provided to the employees of supervisors.• Inadequacy of the mechanisms applied by some supervisory authorities in identifying the founders of some FIs (offices of financial services, insurance companies and the companies operating in the field of securities) requesting the license, regarding the obtainment of their criminal records, to ensure the prevention of criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function.• Deficiency of the legal framework according to which some supervisors operate, except Central Bank of Sudan, concerning the evaluation of directors and senior management on the basis of “Fit and Proper” criteria including those related to expertise and integrity.

		<ul style="list-style-type: none"> • Ineffectiveness of the system of supervising unofficial transfers, with the existence of a parallel exchange market (black market) for the official exchange market; where some natural individuals practise the activity of exchanging foreign currency with its equivalent of the local currency in order to make use of price differences from the official stock market. • Ineffectiveness of the supervisors over MVTS providers to monitor their compliance with AML/CFT requirements; the assessors noticed the irregularity of inspections of all financial service offices and the Sudanese Post Company and unavailability of information about supervising leasing companies. • Absence of a study on the risk degree related to FIs other than those subject to the Core Principles, and lack of monitoring or supervision on them for AML/CFT purposes. • Inadequacy of statistical data that explain the status of FIs in each sector concerning AML/CFT inspection and its findings.
R.25	NC	<ul style="list-style-type: none"> • Inadequate guidelines issued by supervisory authorities (Central Bank, KSE, ISA) to FIs and subject to their supervision and failure to include an adequate description of ML/FT techniques and methods and any other additional measures that such FIs can take to verify that AML/CFT measures are effective.
R.29	PC	<ul style="list-style-type: none"> • The existence of restrictions that impair the activation of the powers to conduct inspections and to compel production of documents and records for ISA. • Deficiencies referred to under R.17 affect the rating of compliance with this recommendation. • The weakness of the effectiveness of supervision on FIs.

3-11 Money or Value Transfer Services (SR.VI)

3-11-1 Description and Analysis (brief)

539. The entities that practise money transfer activities in Sudan are Banks, foreign exchange companies, financial service offices and the Sudanese company for postal services. Central Bank of Sudan grants licenses to such authorities, and the Commercial Registrations Department affiliated to the Ministry of Justice performs the tasks of licensing and registering all legal bodies whether they provide money transfer services or other services; this department also provides guidance to state agencies in any matter related to commercial registrations; as well, it oversees the commercial registrations legally assigned to the Minister of Justice. The Department consists of 4 sections which are companies, business names, partnerships and commercial agencies.

540. Based on the foregoing, the assessors noted that MVT service providers from natural unregistered persons are widely spread (parallel exchange market - black market); some natural persons practise the activity of exchanging foreign currency with its equivalent of the local currency in order to benefit from price differences from the official exchange market. The team was also informed that unofficial change operations are occurring on a wide scope. Sudanese authorities have made reference to the Central Bank efforts in motivating the customers to deal through official channels by adopting export incentives schemes whereas sellers of foreign currency to banks and exchange offices are given a fixed percentage of the sold amount in addition to the calculated amount as per the exchange rate declared as well as buying export returns particularly gold exports at the highest prices available in the official market. They mentioned as well that LEAs have conducted large scale campaigns through which many violations were caught and submitted to court by virtue of art (9) of

the law regulating dealing in foreign exchange for 1981. The evaluation team was not provided with any statistics on the numbers of such violations.

541. Banks, foreign exchange companies, offices of financial services and SudaPost are required to observe the requirements of AML/CFT law and circular No.10/2010 issued by the Banking System Regulation and Development Department at the Central Bank of Sudan, which included the obligations of FIs in this field. The circular has included in the chapter on financial remittances that the provisions of this chapter apply on bank remittances sent or received by financial and non-financial institutions that are subject to banking controls. The circular has included the obligations of financial and non-financial institutions ordering the transfer, being: obtaining full information on the originator to include name of the originator, account number, address, purpose of the transfer, name of the beneficiary person, his address and his account number if any; and in case the originator of the transfer has no account at the financial institution, the institution establishes a system through which the originator is given a unique reference number. Before sending the transfer, FI and non FIs should verify all information related to the sender of the remittance through official documents and information.

542. The circular also included the obligations of FI and non FIs receiving the remittance. These obligations included that the financial and non-financial institution should establish effective systems to detect any shortage in the information related to the person requesting the transfer; the financial and non-financial institutions should adopt effective measures through relying on the assessment of ML risk degree in dealing with transfers where the information about the originator is incomplete. Examples of such measures include requesting the information not provided by the remitters financial and non-financial institutions; in case this information is not completed, the bank should take the measures based on the risk degree including rejecting the transfer and informing the FIU.

543. Banks, foreign exchange companies and financial service companies are subject to Central Bank's supervision as detailed in section 3-10 of this report. The total analysis of the quality of this supervision shows the need to support it and increase its effectiveness in the light of the diversity of these institutions and lack of the resources and experiences of the Central Bank in AML/CFT supervision as well as the violations detected by the evaluation team in such institutions which were not detected when they were inspected and supervised; In turn, this appeared in the lack of the imposition of sanctions on violating institutions. The assessors were not provided with any data stating that the inspection was conducted on all financial service offices, and the Sudanese company for postal services in the field of AML/CFT, in addition to the absence of any mechanisms for monitoring the activities of unregistered natural persons who practise the activity of money or value transfer.

544. As for requiring all licensed or registered MVT service providers to maintain a current list of their agents and making it available to the designated competent authority, the assessors did not find any obligations on the entities that perform transfer activities in this respect. Concerning the subordination of these bodies to sanctions in case of violating AML requirements, the Sudanese authorities noted that all bodies licensed by the Central Bank are subject to the Bank's law and list of sanctions.

3-11-2 Recommendations and Comments

545. The Sudanese authorities should do the following:

- The Central Bank of Sudan should put in place a mechanism that helps place the processes made by natural persons who are not registered in money or value transfer activities under supervision in order to have such activity under control.
- Increase inspections on MVT service providers to monitor their compliance with AML/CFT requirements, and increase the scope of inspections to include all the

requirements of transfers; the inspection should include sample testing of these transactions.

- Require the licensed or registered MVT service providers to maintain a current list of their agents and make it available to the competent authorities.

3-11-3 Compliance with SR. VI

Rec.	Rating	Summary of factors underlying rating
SR.VI	PC	<ul style="list-style-type: none"> • A wide presence of unregistered natural persons who provide money or value transfer services and the lack of mechanisms for registering them or monitoring their activities. • Inadequacy of the inspection being conducted on institutions that practise MVT services. • Lack of obligation on entities that perform transfer activities to maintain a current list of agents and make it available to the designated competent authority. • The mentioned deficiencies pertaining to Recommendations 5, 6, 7, 8, 10, 11, 13, 15, 17, 21 & 23 affect the rating of compliance with this Special Recommendation.

4- PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4-1 Customer Due Diligence and Record-Keeping (R. 12)

(Applying R. 5, 6 & 8 to 11)

4-1-1 Description and Analysis

Applying Recommendation 5

546. Article (3) of AML/CFT law No. 6 for 2010 defined “non-financial institutions” as the individuals or institutions that practise any of these activities commercially: (a) Casinos- (b) Real estate brokerage - (c) Dealing with precious metals or precious stones (d) activity of law practice or accounting as a freelance profession - (e) The services of establishing companies and the related activities - (f) Any other activities to which the Minister issues a resolution to implement the rules of this law.

547. It is noted that casinos are not allowed in Sudan according to the explicit provisions of the Sudanese criminal law of 1991, which clearly indicates an undue interference between this general rule and the provisions included in AML/CFT law governing the activities of these bodies for AML/CFT purposes.

548. AML/CFT law does not differentiate between financial institutions and non-financial institutions in any way concerning the obligations (regardless of the nature of non-financial business and professions). Thus, the deficiencies referred to concerning R.5 in Section 3 of this report are the same in non-financial institutions.

549. It is indicated that until the onsite visit date, the supervisory and monitoring authorities over dealers of gold and real estate agents in addition to lawyers, accountants and auditors were not designated according to the provisions of article (4) of AML/CFT law; which means that there is no supervisory authority to issue and monitor the extent of compliance of such entities with the circulars related to AML/CFT requirements.

550. Circular (2) addressed to the union of goldsmiths and gold dealers, circular (4) addressed to the public union of Sudanese lawyers, circular (5) addressed to the union of owners of real estate offices and circular (7) addressed to Accountancy and Audit Profession (Org) Council (AAPOC) have all been issued by the FIU although it is not competent to issue these instructions; Its competences are confined to receiving, analysing and disseminating STRs; thus these circulars cannot be considered enforceable means, rather for raising the awareness of DNFBPs as they were not issued by the competent supervisory and monitoring entities.

551. On the other hand, the circulars issued for DNFBPs are almost identical and regardless of the nature of activity of each, they have included a number of measures concerning AML/CFT requirements related to R.5 from 5-1 to 5-18; but these circulars remain as non enforceable means, rather tools for raising awareness.

552. Accordingly, DNFBPs suffer from the same deficiencies as those of the FIs concerning the requirements included in the law; in addition, the circulars referred to do not meet any required additional mandatory criteria.

553. In practice, nothing indicates that any of the DNFBPs are aware of the instructions and measures required to prevent ML/FT operations. Moreover, no meetings were held with these DNFBPs to introduce them to the law or circulars and obligations imposed thereon by the law, which gives the impression that there is an obvious weakness in these DNFBPs concerning the mechanism of identifying and verifying customers and the beneficial owner.

Applying R.6, 8, 9, 10 & 11

R. 6 – Politically Exposed Persons (PEPs)

554. The circulars issued by the Unit for non-financial businesses and professions included the following:

1. Non-Financial Businesses and Professions should put in place a risk management system for PEPs or the beneficial owners who belong to this category.
2. The approval of senior management should be obtained to establish a relationship with these individuals; as well, such approval should also be obtained when a customer or a beneficial owner is identified as PEP.
3. Non-Financial Businesses and Professions should take enough measures to verify the sources of wealth of customers and beneficial owners who are exposed to risks due to their constitutional (political) position.
4. Non-Financial Businesses and Professions should conduct ongoing monitoring on their relationship with those customers.

555. Although in practice, Financial Businesses and Professions were not found to be aware of the measures of dealing with PEPs; all customers are treated the same using the same measures with no regard to the existence of political persons.

Applying R.8 (Risks of technological developments and Non Face to Face Business relationships)

556. The circulars issued by the FIU indicated the following:

High-risk customers:

Non-Financial Businesses and Professions should classify all their customers according to ML/TF risk degree, considering:...

- The means through which the service is provided including the means that depend on the use of recent technologies.

557. During the onsite visit, it has not been proved that any of the DNFBPs has any dealings using recent technologies; yet that does not prevent the misuse of these technologies in ML/TF operations and it has been shown that the DNFBPs are not aware of the risk of such operations.

Applying R.10 (Record keeping)

558. The AML/CFT law has required DNFBPs to keep records: paragraph (f), item (1), article (6) of AML/CFT law No.(6) for 2010 stated the following:

Financial and non-financial institutions should:

(f) Keep the following records and data:

(First) Records and data related to the identity of the customer and the beneficial owner for at least five years from the date of completing the transaction or terminating the relationship, whichever is longer.

(Second) Records and data related to local or international transactions for at least five years from the date of completing the transaction.

(Third) Any records or data that should be kept according to the provisions of this law and the regulations issued by virtue therein.

(Fourth) Records and data related to a suspicion or a case until it is resolved even if it exceeds the legally specified period of keeping

559. Items (2 and 3) of the same article also indicated:

(2) The regulations determine the types of records and data to be kept and the rules of maintaining to be made available upon proper request at courts.

(3) The Minister may exclude any financial or non-financial institution from the obligations specified in this chapter for a reason he declares.

560. But in practice, it has been shown that DNFBPs only keep the identity of the customer and have no records concerning the transactions made; as well, financial businesses and professions are unaware of the durations of keeping records.

R. 11 (Unusual and suspicious transactions)

561. The circulars issued by the FIU for the DNFBPs stated the measures related to unusual and suspicious transactions as follows:

1 – Non Financial Businesses and Professions should give special attention to transactions that occur with individuals in relevant bodies that have no appropriate AML/CFT systems.

2 - If Non Financial Businesses and Professions find that the transactions referred to in item (1) above are not based on clear economic reasons, the measures necessary to determine the background and purposes of such transactions should be taken and the findings thereof should be set forth in writing.

562. In total, the analysis of R. 12 showed the following:

563. Absence of obligations regarding CDD measures (5-3 to 5-7) and the subject of risks (criteria 5-8 to 5-12); timing of verification (5-13 and 5-14) and the completion of CDD measures (5-15 and 5-16) and existing customers (5-17 and 5-18).

564. As for the criteria in R. (6, 8 and 9) related to (PEPs, payment techniques and intermediaries), the legal and legislative framework did not include any obligations that cover the content of the recommendations referred to above in the DNFBPs sector.

565. As for unusual transactions, the legal and regulatory framework did not include obligations that cover the content of R.11 in the sector of DNFBPs.

566. A weakness in the DNFBPs concerning the obligations set forth in AML/CFT law has also been revealed; nothing has indicated during the on-site visit that these businesses have been inspected to verify that they follow CDD measures.

567. An obvious weakness in the DNFBPs concerning the awareness of ML/TF risks and the role of FIU in AML/CFT was also revealed.

568. The absence of a supervisory authority concerned with issuing instructions clearly indicated the weakness of supervision and inspection on these businesses regarding compliance with AML/CFT measures.

4-1-2 Recommendations and Comments

569. The following is recommended:

- The need to establish an appropriate regulatory framework to require all DNFBPs about all the obligations in R.5 in addition to Recommendations (6, 8, 9, 10 and 11) so it is issued by the supervisory authorities concerned with supervision and monitoring of the DNFBPs.
- The need for specific supervisory authorities for non-financial businesses and professions from which regulations concerning relevant recommendations are issued.
- Establish provisions and mechanisms to ensure that supervisory and monitoring institutions verify the compliance of non-financial businesses and professions with the obligations required there from.
- The need for the NFBPs to comply with the obligations set out in the recommendations.

4-1-3 Compliance with R.12

Rec.	Rating	Summary of factors underlying rating
R.12	NC	<ul style="list-style-type: none"> • Establish an appropriate regulatory framework to require DNFBPs with all the obligations set out in R.5 in addition to Recommendations (6, 8, 9, 10 and 11). • Establish provisions and mechanisms to ensure that supervisory and monitoring institutions verify the compliance of non-financial businesses and professions with the obligations required there from. • Lack of specific supervisory authorities for non-financial businesses and professions from which regulations concerning relevant recommendations are issued. • Low level of compliance of NFBPs with the obligations set out in the recommendations.

4-2 Suspicious Transaction Reporting (R.16)

(Applying R. 13, 14, 15 and 21 to DNFBPs)

4-2-1 Description and Analysis

Legal Framework

570. The legal framework of the obligations of DNFBPs in Sudan is included in AML/CFT law, which is the same for FIs.

Obligation to submit STRs to FIU (applying R.13 and SR. IV on DNFBPs)

571. Article 6-1 item (d) of AML/CFT law for 2010 requires non-financial institutions to inform the FIU of the transactions suspected to be related to proceeds or terrorism financing whether these transactions occurred or not. These institutions refer to, according to the definition in the law and what was previously mentioned: Individuals or institutions that commercially practise any of the gambling activities, real estate brokerage, dealing in precious metals or precious stones, the activity of law or accounting as a freelance profession and the services of establishing companies and other activities.

572. The requirements of article 6-1, item (d) of AML/CFT law for 2010 stated that the reporting obligation of lawyers is invalid if they obtain the information about their customers while assessing their legal status, representing them before the law or offering legal opinion in an issue related to legal proceedings including giving advice about initiating or avoiding these proceedings, if this information has been obtained before starting or after terminating the judicial proceedings.

573. Until the onsite visit, no STR has been reported to the FIU by non-financial institutions. Lawyers and accountants informed the evaluation team during their meetings that they are not required to report the suspicion to FIU or reply to information requests issued there from, and that any information will be reported only to the public prosecutor. As well, no internal controls are established by this category of non-financial institutions. As for the remaining non-financial institutions, the evaluation team has noted they are unaware of and are confused about AML requirements and the role of supervisory authorities and the FIU in the absence of any guidance.

Protection of reporting suspicious transactions and protection against the disclosure of information (Applying R. 14 on DNFBPs).

574. Article 9 of AML/CFT law for 2010 states that the criminal, civil, administrative and disciplinary liability shall be excluded for any person who, in good faith, reports his suspicion or provides information or data about it according to the rules of this law. These requirements are also applicable to non-financial businesses and professions.

575. This legal protection included in the law under article 9 previously mentioned has been referred to through the guiding book on reporting transactions suspected to be related to ML/TF addressed by FIU to the non-financial businesses and professions on 4 November 2010.

576. Article 8 of AML/CFT law provided for the prohibition of direct or indirect disclosure or by any other way, other than to the competent authorities to implement this law, of any reporting, investigation or inspection measure taken concerning the transaction suspected to be related to ML/TF proceeds. These requirements are applicable to all persons who are subject to the law including non-financial businesses and professions.

Establishing and maintaining internal monitoring (applying R.15 on DNFBPs) and special attention especially to countries that do not apply or insufficiently apply FATF Recommendations (applying R.21)

577. Article 6-1 item (e) of AML law requires that non-financial businesses and professions put in place internal systems to include internal policies and procedures and the systems of monitoring, compliance and training pursuant to the controls and standards set by concerned authorities and commensurate with the activity and ML/TF risk degree of each.

578. Similar to the remaining supervisors listed in article 4 of the law and whereas their role is explicitly specified in article 5 of the law which entitles them to establish controls, criteria and rules necessary for the enforcement of the law by the persons who are subject to each individually, the evaluation team noticed that until date of the onsite visit, the supervisors entitled to establish the controls, criteria and rules of each category of non-financial businesses and professions had not been specified yet; knowing that the Minister of Economy and Finance is the competent body to designate such authorities under article 4-d of the law.

579. The FIU issued a number of circulars directed particularly to the union of Sudanese lawyers, the union of goldsmiths and gold dealers, the owners of real estate agencies and the Accountancy and Audit Profession (Org) Council. The provisions of these items included a set of requirements concerning establishing internal systems that include internal policies, procedures and systems of monitoring, compliance, appointment and training. These provisions were identical in all these circulars regardless of the type of each category of non-financial businesses and professions and their legal status as an institution or a natural person. Central Bank of Sudan circular also included a set of the previously mentioned requirements and singled out the concerned financial and non-financial institutions alike.

580. Whereas the powers to establish controls, criteria and rules necessary for law enforcement by subordinate persons are those of the supervisors; whereas FIU powers are also specified in the law that does not permit to issue regulations except in its field of jurisdiction (article 37) which is different than establishing controls, criteria and rules necessary for the implementation of law by one of the categories subject to the law; and whereas the Central Bank of Sudan is not deemed as a supervisory authority except over the FIs affiliated therewith, the evaluation team has considered these circulars as non enforceable for the addressed categories; thus, they do not meet the requirements of R.15 and 21 concerning non-financial businesses and professions.

Recommendations and Comments

581. The Sudanese authorities are recommended to:

- Establish controls for DNFBPs in Sudan that meet all the requirements of R. 15 and 21.
- Impose binding requirements in what the law has not generally imposed on DNFBPs and consider the disparities among these authorities.
- Ensure effective application of the AML/CFT rules by non-financial businesses and professions.

4-2-3 Compliance with R. 16

Rec.	Rating	Summary of factors relevant to s 4.2 underlying overall rating
R.16	NC	<p><i>Applying R.13</i></p> <ul style="list-style-type: none"> • Lack of a sufficient degree of awareness in non-financial institutions on reporting the suspicion. • Absence of effective application of the conditions related to reporting suspicious transactions. <p><i>Applying R. 15</i></p> <ul style="list-style-type: none"> • Lack of controls requiring concerned non-financial institutions to establish internal AML/CFT policies and procedures. • Absence of a requirement for concerned non-financial institutions to develop appropriate compliance management arrangements and establish an independent audit function. • Absence of a requirement for concerned non-financial institutions to have an ongoing training program to inform employees of the most important developments. <p><i>Applying R. 21</i></p> <ul style="list-style-type: none"> • There are no requirements on concerned non-financial institutions concerning business relations and transactions with individuals from or in countries that do not apply or insufficiently apply FATF Recommendations. • There are no effective arrangements and measures in place to ensure that non-financial institutions are advised of concerns about weakness of AML/CFT systems in other countries. • There are no requirements for concerned non-financial institutions concerning checking or setting forth in writing the findings about the transactions related to non-compliant countries with no clear economic purpose. • Sudan did not take appropriate counter-measures regarding the countries that continue to apply or insufficiently apply FATF Recommendations.

4-3 Regulation, supervision and monitoring (R. 24 and 25)

4-3-1 Description and Analysis

Casinos are subject to comprehensive regulatory and supervisory regime

582. Casinos are totally prohibited in Sudan by virtue of article 80 of the 1991 criminal law, which states that whoever gambles, manages any casino or activity or manages a house or place for this purpose or incites the like shall be punished by imprisonment for a period not exceeding one year or by a fine or whipping with no more than twenty five lashes; It is also allowed to close the house or place and confiscate it if it is owned by criminal or used with the owner's knowledge; gambling includes drawing lottery cards and all gambling games.

583. The AML/CFT Act for 2010 included an item on casinos under the definition of non-financial institutions; Circular No.10/2010, issued by the Central Bank of Sudan and all circulars issued by supervisory authorities included as well an item on casinos under the definition of these institutions.

The Sudanese authorities stated, in attempting to explain such issue, that listing casinos under the definition of non-financial institutions in AML/CFT law, occurred taking into consideration the cultural privacy of the regions of South Sudan before the separation; however, this does not justify, in the team's point of view, the vagueness of the reasons for organising an act criminalized in the penal law to be applied in all the regions of the Sudan before the separation, and more deservedly thereafter. Commenting on the above, the Sudanese authorities referred to LEA's competence in verifying that no casinos activities exist within its responsibilities to trace individual and entities violating the legislations.

Existence of a designated competent authority for monitoring the compliance of DNFBPs with AML/CFT law

584. The AML/CFT law for 2010 did not designate the supervisory authorities required to verify that non-financial professions and businesses perform the relevant requirements, but these businesses and professions are subject to the monitoring of SROs, which are: union of lawyers, Accountancy and Audit Profession (Org) Council, union of goldsmiths and gold traders and the union of real estate offices and agencies. Such authorities practise their powers in regulating the business of their members and contributing to the phases of granting them licenses in order to practise their businesses based on the laws of their establishment, as follows:

The union of lawyers (Advocacy Law for 1983)

585. The law stated, concerning licensing and enrolment in the list of lawyers, that whoever works as a lawyer should obtain a license issued by the central committee of the union. The assessors concluded that lawyers in Sudan practise the service of authentication and certification according to the rules of regulating authentications for 2000; it mentions that the authenticator is defined as, the lawyer or legal consultant whom the chief judge grants the power of delegation for oaths and ratification of documents. The regulations included the conditions of an authenticator: he must be fully eligible and not less than 32 years old, well-reputed with a good conduct, not previously convicted with an offense involving moral turpitude and he must have spent in the profession of advocacy or law or the membership of law education board in a Sudanese university no less than 7 effective years, and no disciplinary decision has been issued to remove his name from the list of lawyers.

586. The law included the specialities of the authenticator and the rules that should be heeded which are hearing of oaths, receiving all oath-sworn statements, authenticating all documents, certifying the signature of concerned individuals in customary writings, proving those writings and proving the date in customary writings. Authenticators in Sudan shall be registered in a list where their names, dates of receiving the authentication license, signatures and addresses of certified offices are recorded. The law has included the authentication procedures whereby the authenticator should, when endorsing any document, abide by the spirit of discipline, caution and care which are necessary when taking any judicial proceeding, and he should verify the identity of contractors, their eligibility and the availability of contract elements.

587. The regulation of the public union of Sudanese lawyers states, under Chapter 3, that the matters of the union should be taken over by a centralised committee that consists of the union leader and 20 members; the earnings of the union are comprised of the sum of annual subscriptions, half the sum of license fees, the sum of the sales of lawyers' stamps posted by the lawyer, the earnings of social security fund, the government's contributions, donations, grants, wills and Awkaf accepted by the central committee, the returns of the union's publications and any other legitimate resources approved by the centralised committee.

588. The union monitors its members, subjects them to disciplinary boards or established accountability committees in case of law violations. The law has stated the applied penalties which included reprimand, warning, suspending the license for three years at most, cancellation of the license and barring the individual from the list of lawyers and a fine. It also included the list of sanctions on

authenticators and the penalties imposed in case of violations and which are: disciplinary warning to the authenticator, warning him for one time, suspending authentication powers until elimination of the suspension reason, withdrawal of the delegation of authentication powers for five years at most, permanent withdrawal of the authentication powers.

The Accountancy and Audit Profession (Org.) Council (AAPOC) (Accountancy and Audit Profession (Org.) Act, 2004)

589. The Act requires establishing a board called “Accountancy and Audit Profession (Org.) Council” that has a legal personality. The Council is formed pursuant to a decision of the Council of Ministers upon the recommendation of the competent minister after consulting the concerned authorities. The Council consists of a part-time President well experienced in accounting and audit, a vice President and some members representing entities such as the Ministry of Finance and Economy, Central Bank of Sudan, KSE and others. The Council's financial resources consist of credits allocated by the state, registration and renewal fees, members subscriptions, grants and donations accepted by the Council, fees against services provided by the Council and other resources as approved by the Council.

590. The Act requires that the Council has the authority to grant registration certificates and licenses to practice the profession of accounting and audit. The Council may, after the consent of Council of Ministers, issue regulations, orders and rules necessary for implementation of the Act provisions. The Council may write off anyone from its registry and may withdraw licenses from any accountant or auditor in several cases. If the licensed person violated the license regulations and provisions, the Council may impose one of the sanctions like notice and warning, freezing the license for three years at most and withdrawal of the license.

591. According to the Council officials, the Council was dissolved in 2010 due to some administrative problems. Only two committees operate: registration and licensing committee and education and training committee. Officials said that the Council of Ministers issued a resolution to draft a new law governing the Council activity, and which involves reorganization and restructuring to include establishment of a committee on business ethics and conduct.

Federation of Goldsmiths and Jewellers (Precious metals and precious stones Act, 2008)

592. The Act states that no one may practice jewellery profession unless he has obtained he certificate of registration. The Act requires the Department of Hallmarking and Controlling of Precious Metals to keep a record including names of all persons engaged in analysing precious metals, jewellery and employees, their addresses, qualifications and any other information deemed important by the registrar. Those persons should notify the Department with any changes in the registered information. The Act stated that the Department has the right to conduct periodic inspections on goldsmiths' shops, factories, workshops, stores and places intended for this purpose in order to ensure proper implementation of Act provisions and take legal action if there are any violations. The Act states the violations and the penalties imposed and which include withdrawal of license, paying a fine and imprisonment.

Federation of the owners of companies and real estate agencies

593. The federation should practice its activities according to the law on the regulation of employers, amendment of 1994, which requires that the Finance of employers regulations consist of: membership of chambers and subsidiary chambers (divisions) fees, the regular subscription identified in the internal by-laws of the Chamber or subsidiary chambers or division, share of the federation of chambers identified in the statute of substitute chamber funds, State federation share in the organizations funds' made for that purpose, share of the General Federation from the fund of Chambers Federation made for it in addition to its share Federation of States, the revenue of the stamps duty issued by the General Federation and any legal resources approved by the Registrar

General. According to the Act of Ethics of real estate agencies issued by the Division of Real estate Agencies' Owners, accountability committees formed for the purposes of this act should limit all violations to the act provisions and impose on the member one of the following penalties: notice and reprimand, preliminary warning, final warning, monetary fine, suspension of work for a limited period and membership withdrawal.

594. Although SROs have some powers to supervise DNFBPs that initiate monitoring authority on DNFBPs, which enable them to perform their functions and impose penalties in case of violating their regulations. However, such entities did not issue binding AML/CFT rules or directives for those members, which are considered a natural effect for non designation of such entities or others as AML/CFT supervisory authorities on such businesses and professions.

595. On the other hand, the FIU disseminated circulars to DNFBPs to impose AML/CFT obligations. Circulars include the measures required to ensure their compliance with international standards. According to the final provisions of such circulars, the supervisory authority of businesses and professions (represented in SROs) should verify the implementation of the circular and circulate it to all members. Whoever violates its provisions is subject to penalties provided for in AML/CFT law. Assessors did not find the legal basis for the FIU to issue such directives to DNFBPs.

596. The evaluation team considered such circulars as guidance because they were issued by the FIU; no resolution was issued to grant the latter any supervisory or monitoring powers over such institutions for AML/CFT purposes or the powers to issue mandatory rules; both are beyond its competent scope as defined under Chapter 4 of AML/CFT law. The evaluation team did not find the basis for the FIU to direct SROs and requires them – according to the circulars– to perform an AML/CFT supervisory role without any explicit or even implied legal text. After reviewing the circulars, it is obvious that they do not consider – almost fully³⁵ – the privacy of those categories and how they differ from financial institutions as well among each other; hence, it is hard to follow the directives therein.

597. After the on-site visit, the Sudanese authorities reported that the Minister of Finance and National Economy issued on April 11, 2012 Ministerial Decree No. 34 based on articles 4/d and art 3 of AML/CFT law 2010 indicating the adoption of some supervisory and monitoring authorities: the Commission of Voluntary and Humanitarian Work, the Registrar-General of Trade, the Registrar-General of Work regulations, General Union of Sudanese Lawyers and Accountancy and Audit Profession (Org.) Council. Such authorities will perform supervisory and monitoring duties according to article 5/1 AML/CFT law³⁶.

598. The Sudanese authorities did not submit a proof that they conducted a study on ML/FT risks on other categories of DNFBPs; which explain that they are not subject to effective AML/CFT regimes.

R. 25

(Guidelines for DNFBPs other than those related to STRs)

599. As noted above, the FIU issued – in no capacity - circulars for DNFBPs including guidelines related to meeting ML requirements. For example, circular No. 4 directed to the General Union of Sudanese Lawyers, contains some guidelines connected to the legal profession and which raise doubts about the possibility that the transaction might be connected to ML/TF. For example, when lawyers

³⁵ The exception is to refer to examples of unusual transactions in each area.

³⁶ The relevant Ministerial Resolution was issued 7 weeks following the on-site visit. According to MENAFATF mutual evaluation procedures, any measures taken by the country being evaluated after this period have no effect on the rating.

are assigned in financial or commercial transactions, and are asked not to mention the customer's name in any of these transactions, when the customer asks the lawyer to establish a corporate, especially international business, offshore companies, or when it seems that the purpose of establishing the company is to hide the illicit source of funds.

600. Circular no. (5) addressed to the Union of Real estate Agencies Owners included some guidelines related to brokerage profession which indicate suspicions about the transaction to be connected with ML/TF. For example, if the sale or purchase of a property for a value that is not proportionate to its real value compared to the market prices and prices of identical real estates in the same area, repeatedly buying real estate which their prices are not commensurate with the standard ability of the buyer according to the information about him or what is expected from him (due to the nature of his profession), when there are doubts that these transactions were carried out for other person's benefit, trying to register the real estate for a value less than its actual value or less than the paid value and paying the remaining amount (secretly), if the client sold the property directly after purchasing it for a lower price than the purchase, purchasing properties in the name of another person with whom there is no obvious relation with the customer, changing the name of the purchaser shortly before the completion of the transaction without sufficient or clear justification or arranging to fund acquisitions in part of in full by an unusual source or an offshore bank.

601. After reviewing such circulars, it becomes obvious that there is a need to provide more guidelines including description of ML/TF techniques and methods.

602. After the on-site visit, the Sudanese authorities reported that the Minister of Finance and National Economy issued on 11 April 2012, Ministerial Decree No. 34 based on articles 4/d and art 3 of AML/CFT law for 2010 indicating the adoption of some supervisory and monitoring authorities: the Commission of Voluntary and Humanitarian Work, the Registrar-General of Trade, the Registrar-General of Work regulation, General Union of Sudanese Lawyers and Accountancy and Audit Profession (Org.) Council. Such authorities will perform supervisory and monitoring duties according to article 5/1 of AML/CFT law. According to this Ministerial Decree, such authorities should issue regulations for the entities they supervise. Such circulars should detail all recommendations related to NFBPs.

4-3-2 Recommendations and Comments

R.24

603. The Sudanese authorities should:

- Designate the competent AML/CFT supervisory and monitoring authorities on DNFBPs, or find a legal cover for the FIU powers concerning its supervision over DNFBPs in the AML/CFT field.
- Overcome the administrative obstacles facing some SROs and develop effective mechanisms to enable them monitor the compliance of DNFBPs with AML/CFT requirements.

R.25

604. The Sudanese authorities should:

- Increase coordination between FIU and SROs – after designating their competences—to be able to issue circulars and guidelines proportionate with the nature of each profession in DNFBPs.

4-3-3 Compliance with R. 24 & 25 (Criteria 25-1, DNFBPs)

Rec.	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	PC	<ul style="list-style-type: none"> No authorities to supervise and monitor DNFBPs in the AML/CFT field were designated. The FIU has no legal basis to issue circulars for DNFBPs. Absence of a mechanism to be applied by SROs when supervising DNFBPs and their compliance with AML/CFT requirements. Some of these authorities have administrative obstacles which impede them from performing their functions. In addition to lack of verification that such authorities impose penalties on the entities they supervise in order to establish whether its supervision is effective or not.
R.25	NC	<ul style="list-style-type: none"> Guiding circulars are issued – in no capacity- by the FIU. The guidelines are not proportionate with the nature of each profession in DNFBPs.

4-4 Other Non financial businesses and professions – Modern secure transaction techniques (R. 20)

4-4-1 Description and analysis

R.20

Other businesses and professions at risk:

605. The Republic of Sudan considered that some non-financial institutions and professions (other than DNFBPs) are at risk of being misused for money laundering and terrorist financing, like owners of car showrooms being dealers in high-value commodities as well as auction houses. As a result, the FIU has issued – with no legal clear basis – 2 circulars directed to them including some obligations such as identifying customers, exerting CDD measures against such customers, establishing systems for internal control and other AML/CFT requirements. The evaluation team did not find that such bodies were selected according to a technical study to include it in AML/CFT regime. This is noticeable as well for all circulars referred to above that were issued by the FIU and addressed to other DNFBPs regarding the extent to which such circulars are mandatory and their legal force.

606. After the on-site visit, the Sudanese authorities reported that the FIU issued circulars for auction owners and car dealers because they are at risk of being misused in AML/CFT transactions since car showrooms largely exist everywhere and significant transactions are performed (sale, purchase and exchange). Therefore, such businesses ought to be identified and guided about ML/TF risks. Same applies to auction owners. The authorities reported that the FIU and other competent authorities will conduct a study for all other activities to evaluate the risks they face in order to disseminate circulars and guidelines. It is clear from the above that the FIU depended only on the wide presence of car dealers, auction activities and transactions with huge amounts. But it did not extend to include the quality of customers in both sectors and the risks they are exposed to, evaluating risks in payment methods, the documents and procedures required for the transaction as well as evaluating measures that will be taken to reduce ML/TF risks.

Encouraging the development and use of modern secure transaction techniques:

607. The Central Bank of Sudan has established in his policies for 2009 many indicators that seek to use modern secure transaction techniques. On top of these polices is proceeding with the use of Real

Time Gross Settlement System (RTGS), developing and improving current payment methods through adopting e-payment for government services, improving ATMs and POS services, raising awareness about banking technology in cards and plastic money, disseminating electronic clearing to include the remaining states, coding payment instruments other than checks to be handled electronically, issuing a code for payment systems only and developing standards and specifications for banking systems according to international standards. All these banking policies were developed in the comprehensive banking policy for 2011 by constantly developing and applying modern technology systems which assist in protecting and securing banks, introducing a new inspection system for increasing banks performance in terms of working systems and their security, and developing new standards and specifications for banking systems to comply with international standards.

608. Regarding POS devices, they are distributed in Khartoum the capital and in all other states. POS are distributed in different business activities like pharmacies, hospitals, shopping centres and gas stations, where the total number of points of sale used in Sudan is 1515 points according to authorities' statement. Moreover, ATMs are used to withdraw amounts not exceeding 2000 SDG per day in addition to other services such as phone, electricity, water and other services bill payment. The Sudanese authorities indicated as well that the rate of currency in circulation outside the banking sector does not exceed 28% in the wide scope of offering currency compared to the 1990's where dealing with cash (with public) has exceeded 50%. The evaluation team was not provided with any sources confirming such statement.

609. On the other hand, the team found through meetings held with financial and non financial institutions that reliance on cash is still widespread to a great extent because a lot of ordinary people do not have bank accounts and technical services are not widely available to help noticeably change the culture of reliance on cash, which has been noticed and confirmed by CBOS – as the authorities stated – through the objectives of the Three Year Program (2012-2014). Such objectives included simplifying the procedures of opening current, savings and investment accounts with banks with a view to attract new customers, encourage geographical distribution of banks in order to reach 1 branch for each 20,000 persons by end of 2014, expanding and increasing the use of ATM and POS cards, developing payment systems and providing banking services via mobile and internet, encouraging the establishment of banking and non banking institutions specialized in mobilizing the resources, increasing savings rates and developing savings products as well as encouraging banks to grant the depositors rewarding profits.

4-4-2 Recommendations and Comments

610. The Sudanese authorities should:

- Conduct a study for risks surrounding non-financial business and institutions other than DNFBPs in order to find the legal basis to subject some of them to AML/CFT requirements in light of the study's results, and discuss the appropriate extent of imposed obligations based on their activities in order to ensure their effectiveness in combating.
- Intensify efforts to reduce reliance on cash through creating new mechanisms in this regard by referring to international expertise and in line with local conditions.

4.4.3 Compliance with R. 20

Rec.	Rating	Summary of factors underlying rating
R.20	PC	<ul style="list-style-type: none"> • No risk study was conducted to subject accordingly the owners of car showrooms and the Union of auction houses to AML/CFT requirements. No clear legal basis for the FIU to direct circulars and impose obligations over these authorities. In addition, such obligations are not proportionate with the nature of these activities. • Inadequate measures taken to reduce reliance on cash being the main tool in the market.

5- LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS

5-1 Legal Persons - Access to beneficial ownership and control information (R.33)

5-1-1 Description & Analysis

611. The Department of Commercial Registrations is one of the competent departments under the Ministry of Justice. It is concerned with registering and monitoring companies according to Companies Act 1925 (which governs all issues related to beneficial owners, control shares and establishing legal persons), registering businesses names according to the Law on Business Names for 1931, as well as law on registering partnerships for 1926 and the Law on registering commercial agencies as per the law of registering and monitoring commercial agents for 1971.

612. The Department of Commercial Registrations consists of some sections and divisions:

- Section of companies, consists of four divisions: a) Study and registration; b) Monitoring; c) Onsite visits; d) Foreign companies branches.
- Section of business and companies names;
- Section of trade agencies;
- Section of computer.

613. **Section of companies:** Companies Act of 1925 sets out how companies are registered and monitored. In addition, there is a comprehensive manual available for anyone on registration and monitoring of companies. This section shall handle the registration of companies –as stated by the Sudanese authorities - according to the legal controls which include the contract and regulations regarding registration documents. This section takes care as well of monitoring and reviewing legal deposits, required by law, after registering to complete the company's file in order to meet legal requirements and to reflect the actual situation of the company until date of report submission.

614. **Section of business names:** It accepts applications for registration in accordance with the legal controls. It monitors business name, if there are changes in names or partnership (accepting a new partner or terminating a partnership) or suspends the use of a business name.

615. **Section of trade agencies:** It registers trade agency, whether the agent was a firm or business name, according to legal controls. The trade agency license is renewed every year; renewal applications should be submitted latest by end of February by filling the related form and enclosing therewith the required documents.

616. **Section of computer.** Information Technology section was established in the commercial register at the beginning of May 2003. The primary FIU task was to clear companies' files for computing purposes. Following this stage, the second stage of data input was launched. Input included companies, business name and trade agencies. A large database containing all information about companies, business names and trade agencies was established.

617. **Branch offices in states:** A number of branch offices were opened in different Sudanese states amounting to (12) in order to be closer to the citizen and to support economy as well. The

commercial registrar pays periodic visits to these offices to check work progress and coordinate among centres and states. New branches are to be opened and all branch offices are to be connected with the main office in Khartoum by computer network with a view to speed the procedures of search and input for all registered data.

618. **Statistics:** Statistics include the number of companies, business names and trade agencies registered until 17/2/2010 along with all details about the type of the company and its legal position.

619. **Inspection campaigns:** The Department of Commercial Registrations conducts periodic inspection campaigns to all commercial systems subjected thereto in order to verify that they meet all law requirements. These campaigns help in visiting the commercial entities and verifying that they have completed their data and reconciled their legal position. The latest campaign was conducted in 2009 and lasted for 4 months. The campaign was conducted under the commercial registrar's decision dated 25/5/2009 to form a higher committee to develop a full prospect on the second campaign which will review and adjust the positions of companies, business names and commercial agencies detailing their functions and powers. The committee shall prepare everything for the campaign including all aspects by establishing an integrated plan and prospect about the same.

Measures to prevent the unlawful use of legal persons by requiring transparency (Criterion 33-1)

620. Companies Act of 1925 requires company founders, whether legal or natural persons, to clearly state, upon company establishment, their names, nationalities, addresses, the shares of each; same applies to all those who join the company later either by assignment or allocating shares. The company should keep at its headquarters a record of shareholders containing all the above details and any changes, increasing or decreasing in share ownership. The company should submit an annual report for its annual meeting stating the amount of capital, number of shares issued since the establishment of the company and the amount requested for each share. The report should contain a list of names and addresses of members of the Board of Directors and names and addresses of its directors, if any, and any information related to the transfer of shares in accordance with the provisions of Article (28).

621. According to Companies' Act, the company should send its annual list of Board members to the registrar in accordance with the provisions of Article (80) which states that every company should keep in its registered office, a record on the Board members, their addresses and professions; the company should send a copy of this record to the registrar and notify him of any change concerning Board members or directors. This article provides that if the company did not implement the related provisions, it shall pay a fine as may be determined by the court for every day of violation; the same applies to any employee in the company who knowingly authorizes or allows this violation to occur.

622. The Companies' Act requires every company to determine its headquarters in Sudan (business office) as stated in article (65) of Companies' Act which provides for the following:

(1) Every company should have a registered office in Sudan to which all correspondence and notifications are sent.

(2) A written notification should be deposited at the registered office of the company on every change occurring; the registrar should record the same.

(3) If the company performs its activities without implementing the requirements of this article, it shall pay a fine as may be determined by the court for each working day.

623. In addition to the foregoing, the commercial registrar should examine the legal person and verify that its goals are legal. If the company breached its goals, a recommendation should be submitted to the Council of Ministers to issue an order of liquidation in accordance with the provisions

of Article 19 (4) which states that (If the Minister of Justice considered that it is against the public interest for the company to continue its activities in Sudan, he may, after the Council of Ministers approval, issue a written direction to the registrar to cancel the company's registration).

624. The Sudanese authorities have reported the general controls for each: (1) foreign founder whether legal or natural person whereby forms to be filled by the foreign founder were designed; they include accurate details on his identity, copies of his identity documents and photos. Concerning (2) the preparation of headquarters and the sign of the company, decree No. 8 of 2005 dated 21/5/2005 was issued³⁷ which requires the founders to prepare an office as the company's headquarter. A noticeable sign of the company's approved name should be hanged and inspected by the commercial registrar employee. Finally, on appointing the director, the concessions, changing the company's name, preventing circumvention of law and to save other's rights, the commercial registrar issued a decision in 2008 where he established controls on appointing and changing the General Director³⁸.

625. On the practical level, the Sudanese authorities reported that the Department of commercial registrations has visited 17463 commercial entities (companies, business names and Commercial Agencies) during the campaign period referred to above (2009). The Department of Commercial Registrations has taken measures to correct the situation of entities that breached law by mandating them to come to the Department to adjust their positions or refer them to the commercial prosecution and then to court in case they did not respond. The Department also took the following steps:

- Companies which did not exist in their headquarters were notified in a publication as a first batch on 20/8/2009 to meet the Department of Commercial registration in one month as from the notification's date.
- Companies which did not pay deposits for more than 10 years were declared to be omitted after 3 months from the notification's date.

626. The Sudanese authorities indicated that the companies which have corrected their legal position within the period of publication in newspapers and after the press conference held by the Minister of Justice in this regard (before the beginning of the campaign) were 827 companies which have applied to reconcile their situation. As for the companies which reconciled their situations following the launching of the campaign and within 4 days, there were 190 requests according to the Sudanese authorities.

627. It is noted that the procedures related to registration of companies and the information available in the articles of incorporation as well as the documents required by the competent authorities are considered sufficient to obtain information on partners and shareholders in registered companies. However, the Sudanese Authorities did not take any action to verify that the companies and shareholders are the beneficial owners; which was reported explicitly by the competent authorities of Sudan.

Access to information on beneficial owners from legal persons – Criterion (33-2)

628. Article (239) of the Companies Act 1925 allows any natural or legal person to access documents kept at the registrar. The article states that any person may access documents maintained at the registrar if he paid the fees prescribed by the Council of Ministers. Any person may ask the registrar to give him certificate of incorporation, a copy, an official extract of any other document or a part thereof approved by the registrar if he paid the applicable fees for the certificate or the extract. Based on article 13 of the law on AML/CFT for 2010, the FIU has the right to request and access

³⁷ The evaluation team did not view the mentioned decree.

³⁸ The evaluation team did not view the mentioned decision.

information. The Code of Criminal Procedures 1991 gives the he Public Prosecution and the police, the authority to request information and documents related to the investigation in all crimes including ML/TF offenses.

629. Cooperation among relevant authorities exists in the law on allocating the functions of ministries and units. There is a provision that requires the coordination among related authorities as long as it is in the public interest. Despite the foregoing, no action was taken by the Sudanese authorities to verify that the partners and shareholders in companies are the beneficial owners. The registrar database of legal persons does not contain any information about the beneficial owner from the legal persons. Registration procedures as well have no document to tell, for example, that there is an affidavit stating that the owner of the legal person is the beneficial owner.

Preventing the misuse of bearer shares (Criterion 33-3)

630. Article (39) of the Companies Act 1925 gave the companies the authority to issue bearer shares. According to Art. 40 of the same Act, the share may be transferred by handing over the deed. Articles 41 and 42 indicated how to register the bearer shares without any identification and verification measures and how to make such information available on registrar's database. On the other part, KSE Act requires public shareholding companies or any entity issuing securities or their agents to register the ownership of such negotiable securities that are sold or bought or to transfer or move ownership in the market without any condition despite the content of the related law or by-laws or articles of association or the applicable Companies' law or any other law or regulations.

631. The evaluation team did not find any action taken by the Sudanese authorities that would prevent the misuse of bearer shares in ML/TF schemes. The Sudanese authorities reported that no company has issued bearer shares.

Additional Element - Financial institutions access to information on beneficial owners from legal persons under Criteria 33.4

632. Art. (239), clause (4) of the Companies Act 1925 states that any person may access documents maintained with the registrar if he paid the fees determined by the Council of Ministers. Any person may ask the registrar to give him certificate of incorporation, a copy, an official extract of any other document or a part thereof approved by the registrar if he paid the fees determined by the Council of Ministers.

633. Competent authorities reported that nothing would prevent providing financial institutions with the documents available with the Registrar of Companies; but such information remains incomplete due to lack of information on the beneficial owner.

5-1-2 Recommendations and Comments

634. Authorities should:

- Establish a mechanism to ensure that information on beneficial owners of legal persons is available and verify such information;
- Take necessary measures to access information on beneficial owners of legal persons;
- Obtain and have access in a timely fashion to adequate and current information on beneficial owners and control of legal persons.
- Take the necessary measures to ensure that bearer shares will not be misused in ML/FT schemes.

5-1-3 Compliance with R. 33

Rec.	Rating	Summary of factors underlying rating
R.33	NC	<ul style="list-style-type: none"> • There is no mechanism to ensure that information on beneficial owners is available and verify such info • No measures to access information on beneficial owners of legal persons; • Inability of the competent authorities to obtain or have access in a timely fashion to adequate and current information on beneficial owners and control of legal persons; • Absence of adequate measures to ensure that bearer shares will not be misused in ML transactions.

5-2 *Legal arrangements – Access to beneficial ownership and control information (R.34)*

5-2-1 Description & Analysis

635. Trust funds are not available in Sudan; neither are they stipulated in the law nor exist in reality.

5.2.2 Recommendations and Comments

5.2.3 Compliance with R. 34

Rec.	Rating	Summary of factors underlying rating
R.34	NA	

5-3 *Non-profit organizations (SR. VIII)*

5-3-1 Description and Analysis

Legal Framework:

636. The Organisation of Humanitarian and Voluntary Work Act, 2006 governs non-profit organizations. It provides 4 different types of NPOs: national voluntary organization, civil society organization, charitable organization and foreign voluntary organization.

637. The Act has distinguished among these different types of organizations and defined each independently. It defined national voluntary organization as: “Non-governmental voluntary Sudanese organization which is registered according to the Act provisions”³⁹. It defined Civil Society Organization as: “Civil society organization which exercises humanitarian voluntary work for non profit purposes and is registered in accordance with the Act provisions”. It defined charitable organization as: “The organization that is created by citizens, groups or individuals who have the financial ability to create and sustain charitable activities”. It defined foreign voluntary organization as: “Non-governmental or semi-governmental organizations which are international or regional

³⁹ (a) Does not include any company registered under Companies Act, 1925, (b) a political party.

registered in accordance with the Act provisions or are licensed to operate in Sudan according to the Country Agreement”.

638. HAC (Humanitarian Aid Commission) is responsible for non-profit organizations in Sudan. It works to implement policies and plans of humanitarian work under the supervision of the Ministry of Welfare and Social Security since 2011. It also coordinates with the relevant government agencies such as: Ministry of Interior, Ministry of Labour, Ministry of Finance and National Economy, General Administration of Customs in Sudan and the National Security Agency.

639. The Commission of voluntary and humanitarian aid is headed by the Commissioner-General who is in charge of monitoring, evaluating and following-up programs of voluntary work. He is responsible for conducting initial investigations with NPOs and taking necessary legal action with the competent judicial authorities. He is under the supervision of Minister of Welfare and Social Security according to regulations, rules and orders issued by the latter. The General Registrar of the commission is appointed by the minister. He is responsible for registering the 4 types of NPOs, granting certificates of registration, reviewing their records, evaluating their performance, training their employees as well as monitoring and counting them.

640. Currently, there are (4138) national voluntary organizations, (3000) civil society organizations, (50) charitable organizations and (138) foreign voluntary organizations registered according to registration certificates granted by the Registrar General of Commission of Voluntary and Humanitarian Aid. They are under the supervision of the Commission in accordance with the provisions of the Organization of Humanitarian and Voluntary Work Act 2006 and the General Guide of NGOs procedures issued by the Ministry of Humanitarian Affairs and the Commission of the Voluntary and Humanitarian Aid amended in June 2009.

641. After perusing the provisions of law 2010, we would find that there are no special provisions related to the obligations of NPOs. Article (3) did not provide a definition for NPOs and they were not included in non-financial activities or organizations. The Minister of Finance did not issue a decree to apply provisions of this law on NPOs; therefore, NPOs in Sudan are not subject to provisions of this law or to any of its obligations.

642. The FIU Head has issued circular No. 6 on 5/8/2010 directed to the General Commissioner of Voluntary and Humanitarian Work on AML/CFT regulations. Since NPOs are not subject to the provisions of law 2010, this publication has no legal basis and is not binding.

Reviewing the adequacy of laws and regulations of NPOs (Criterion VIII-1)

643. In light of the international developments, the authorities have reviewed HAC law for 1996 and cancelled it then issued the Organization of Humanitarian and Voluntary Work Act 2006 where they have integrated Commission for Humanitarian and Voluntary Works (CVHW) and the Commission for Relief and Reconstruction. Under the amended law, the Commissioner General and the Registrar General's functions are under the supervision of the Ministry of Welfare and Social Security which previously were under the supervision of Ministry of Humanitarian Affairs, Ministry of International Cooperation and Ministry of Social Planning. The authorities have reviewed the extent of adequacy of the procedures guide related to NPOs published in September 2007. The review included adding new chapters on approving procedures, evaluation and monitoring as well as procedures of cancelling and closing organizations, emergency procedures in other areas; and they incorporated the technical agreement concerning all NPOs loyalty programs, renewed fees schedule and the timeline of procedures, using a joint tripartite committee made of representatives of ministries, various government agencies in addition to representatives from the United Nations and voluntary organizations under the supervision of the Commissioner of Humanitarian Aid.

644. All reviews made by the authorities did not address the adequacy of laws concerning NPOs to prevent misusing this sector in terrorist financing. Although the Commission for Voluntary and

Humanitarian Works (CVHW)- being the registration authority – has information about the general development of the charitable sector and its size, yet the authorities do not use all information sources available for local reviews or to have the authority to obtain in timely fashion information about the activities of non-profit sectors, their size and other relevant characteristics in order to identify the characteristics and types of NPOs which can be misused in financing terrorism through its activities or characteristics. Therefore, such authorities do not perform periodic evaluation by reviewing new information about potential weaknesses in the sector which can be misused in terrorist activities.

Outreach the NPOs with a view to protecting the sector from terrorist financing abuse (Criterion VIII-2)

645. According to the evaluation team, the authorities have not taken measures to outreach NPOs with a view to protecting the sector from terrorism financing abuse, whether by raising awareness in this sector about risks in terrorist abuse and the measures available to protect it or by enhancing transparency, accountability, integrity and public confidence in the management of all NPOs.

Supervising and monitoring NPOs including most of the sector's international resources and activities (Criterion VIII-3)

646. The Organisation of Humanitarian and Voluntary Work Act 2006 requires NPOs to submit an application for registration, a list of names and addresses of its founding members enclosing therewith the constitution, general structure, plans, programs, projects, funding, reports, performance evaluation as well as cooperate with the competent authorities to the Registrar General of Commission of Voluntary and Humanitarian Work. Pursuant to the provisions of Article (10/1) of the Act, the Registrar General grants certificate of registration for each national or foreign organization which meets the registration requirements. While he keeps the basic documents, records and reports of the voluntary and charitable organizations and civil society organizations. NPOs should maintain accurate books and accounts containing their resources and expenditure in accordance with sound accounting policies.

647. Organizations should obtain prior written consent from the Commissioner General of the Commission when modifying objectives or purposes of the organization which was registered there under or when expanding those objectives or purposes or merging with any other organization. While Officials of the Voluntary and Humanitarian Work Commission reported that NPOs should inform the Commission of the date on which their general assemblies' meetings will be held; however, article (22/2-d) of the law allows the registrar general to oversee elections of national organizations registered in accordance with this law, to verify that it was performed according to the organization by-laws and the provisions of law. In order to subject all activities and accounts of the organization to the Commission's supervision, it should submit semi-annual report of its activities, an annual report on the progress of its activities and a copy of the annual budget approved by the certified auditor as provided in Article (27/1) of the Organization of Humanitarian and Voluntary Work Act, 2006.

648. In accordance with Art. (22/2-c) of the Act referred to, the Registrar General of the Commission should review the records of any voluntary or charitable organization or civil society organization working in the field of humanitarian aid to ensure that their activities are compatible with the provisions of such act and any other act or law. The Commission shall investigate the criminal records of founders with the assistance of the National Security Agency and review the objective and procedural applications.

649. Despite the fact that the Organisation of Humanitarian and Voluntary Work Act, 2006 does not allow any civil society organization registered in accordance to its provisions to receive funds or grants from abroad or from a foreign person inside or any other body except with the consent of the Minister of Humanitarian Affairs, the evaluation team found that Commission for Voluntary and Humanitarian Works (CVHW) conducts a non enhanced supervision on its transactions. The authorities reported that any national voluntary, charity, foreign voluntary organization is allowed to

receive foreign funds or grants from abroad, from foreign person inside or from any other entity if they are exempt from the tax system. The provisions of the Organisation of Humanitarian and Voluntary Work Act, 2006 do not explicitly prohibit any NPO to transfer funds abroad.

650. In accordance with the provisions of Article (22/2- b) of Organisation of Humanitarian and Voluntary Work Act, 2006 , the Registrar General of Commission has the authority to keep the basic documents, records and reports about the voluntary and charitable organizations and civil society organizations. Upon perusing the provisions of such Act, we found that such documents might include lists of names and addresses of the founding members, a copy of the constitution and organizational structure, annual and bi-annual reports about the progress of its work and the annual budget approved by the certified auditor; however, this information is publicly not available whereas article (26) of the same law limited the right of access to documents to some organizations after paying the prescribed fee.

651. The provisions of Organisation of Humanitarian and Voluntary Work Act, 2006 do not explicitly provide that the Commission should conduct periodic inspections on administrative, technical, regulatory and accounting aspects of NPOs. The commission is not required to examine all documents and correspondence related to projects established by these organizations except those related to the documents concerning the process of registration or renewal of the license. However, officials of voluntary work organizations said that the Commission pays visits to inspect the progress of work at the sites.

652. According to Art. (21/1-t) of the Act, the commissioner general should do primary investigations with any organization to make sure there were no irregularities and take the necessary legal measures, if necessary, with competent judicial authorities. While according to Art. (24/2), the registrar general of Commission has the authority to impose sanctions on NPOs after the commissioner general's approval: (a) Notice, (b) Warning, (c) freezing the organization's activity for a period not exceeding 6 months. In accordance with paragraph (2) of the same article, he has the power to prevent a person or involved persons from practicing any voluntary humanitarian activity in Sudan for a period not exceeding 1 year. However, the organization may appeal the decision of the registrar within 14 days after rendering the judgment.

Table on the number of sanctions imposed by the Commission on local and foreign organizations between 2009 and 2011:

Year	2009			2010			2011		
	Deportation	Cancellation of registration	Warning	Deportation	Cancellation of registration	Warning	Deportation	Cancellation of registration	Warning
Local organizations	-	1	-	-	1	-	-	2	-
Foreign organizations	13	-	-	-	26	13	-	-	-

653. According to article (24/5) of the Act, the court may issue, upon conviction, an order for the confiscation of funds, subject of the violation, or an order of deportation, if the convicted is non Sudanese in addition to another sanction. It seems that there were other civil and administrative sanctions imposed by the Commission for Voluntary and Humanitarian Works (CVHW) on some local and foreign organizations. The evaluation team did not find if the authorities have imposed sanctions on persons who act on behalf of NPOs; they did not impose any parallel criminal measures.

654. The Commission shall not publish NPOs procedures after registration. According to the article (24/1) of Organisation of Humanitarian and Voluntary Work Act, 2006, a person or a group of persons who practice an activity for a voluntary organization without registration shall be punished upon conviction according to the law provisions, by paying a fine and may forfeit the proceeds of the organization.

655. No organization may practice its activity unless having obtained the legal personality; which shall begin at the date of registration mentioned in the issued certificate of registration.

656. According to NPOs procedures - referred to above, the registration conducted by the Commission for Voluntary and Humanitarian Works should contain the name of the organization, its nationality, head office address, incorporation date, date and number of registration in the country of headquarters, the nature of the organization's activity, its clear objectives, its main activity, the reasons behind choosing to work in Sudan and the organization's sources of funding.

657. By virtue of Art (28/1) of the Organisation of Humanitarian and Voluntary Work Act 2006, each NPO should maintain accurate accounts and books which include its resources and expenditures according to accounting bases. The article did not specify a time period during which these organizations should maintain records. However, officials of voluntary organizations stated that they retain documents for at least 5 years according to the by-laws of such organizations.

Gathering and implementing information effectively (Criteria VIII-4, VIII-5)

658. There is no local cooperation neither coordination nor information sharing within the scope of the administrative committee provided for in the AML/CFT Act 2010. While there is coordination with the National Security Agency with respect to sending information related to national security. The Ministry of Humanitarian Affairs or the Commission for Voluntary and Humanitarian Aid did not receive any lists issued by the Foreign Ministry concerning the implementation of UNSCRs No. (1267, 1373) to check them against the record. Until date, no STRs on NPOs were submitted to the FIU which affect the effectiveness of ensuring investigations and gathering information.

659. The Commission officials said that the Ministry of Foreign Affairs is the competent authority to receive international requests for information on NPOs suspected of being involved in terrorist financing or other forms of supporting terrorism. The ministry of Foreign Affairs did not provide any statistics on international requests for information about NPOs. The Commission for Voluntary and Humanitarian Works (CVHW) reported that it did not receive as well any requests for information from any other body with regard to responding to international requests. Accordingly, the authorities did not identify points of contact or appropriate procedures to respond to international requests and obtain information about any NPO suspected of funding terrorism or any other forms of supporting terrorism.

Effectiveness

660. The framework of NPOs work in Sudan is well organized and regulated with respect to registration and supervision. There are strict rules on how these organizations are managed and how they spend their resources. However, there is a lack of effectiveness on the supervisory level. This is identified in the lack of periodic inspections, lack of enhanced supervision on the processes of fundraising and receiving money from abroad or locally, as well lack of reviewing laws of NPOs to prevent the misuse of this sector in TF operations. This is clear since this sector is not included under the non-financial activities and institutions neither in 2010 Act nor in any other special acts or regulations. Employees of these sectors are not aware of risks of misuse of NGOs for illegitimate purposes. It is worth to mention that most employees of the Commission do not know about the publication or the content of FIU's circular.

5-3-2 Recommendations and Comments

661. The authorities are recommended to do the following:

- Review NPOs’ law with respect to CFT requirements or to prevent the misuse of this sector in TF.
- Enhance transparency to promote donors' trust in NPOs and protect this sector.
- Develop an effective program to communicate with non-profit sector including the best practices to address TF risks, organize regular events with the sector to discuss scope and methods of misusing NPOs, new trends in terrorist financing and new protection measures and to issue advisory papers and other useful resources.
- Review NPOs legislations to require them to maintain - at least for 5 years - records which contain local and international transactions, full details required to verify that funds were spent in the manner that fits purposes and objectives of the organization and to make such records available to the competent authorities.
- Organize onsite inspections on NPOs projects to verify that funds are spent according to their purposes and objectives: Evaluating the risks of projects would enable the Commission for Voluntary and Humanitarian Works effectively identify the volume of onsite transactions for inspection and appoint responsible officers.
- Outreach organizations with a focus to increase awareness of TF risks and direct available measures to protect all types of NPOs against such crimes.
- Increase sanctions for non-compliance with requirements of registration to confirm they are effective and dissuasive.

5-3-3 Compliance with SR. VIII

Rec.	Rating	Summary of factors underlying rating
SR.VIII	PC	<ul style="list-style-type: none"> • No laws or requirements concerning CFT in this sector; • The supervision system of non-profit organizations is not effective; • Absence of the requirement to maintain records for 5 years; • Lack of awareness for NPOs; • Sanctions for non-compliance with the requirements of registration are not effective or dissuasive.

6- NATIONAL AND INTERNATIONAL COOPERATION

6-1 National cooperation and coordination (R. 31)

6-1-1 Description & Analysis

Mechanisms of local cooperation and coordination for AML/CFT (Criterion 31-1)

662. Under previous AML Law of 2004, the AML administrative committee was formed (the former committee) as a body to cooperate with the authorities competent in AML. Act No.1/ 2010 provided that an administrative committee should be formed for AML/CFT to replace the previous committee and should include members from several competent authorities.

The current AML/CFT administrative committee (AML/CFT Act of 2010)

663. Article (20) paragraph (1) states that a committee named AML/CFT administrative committee which has a legal personality should be formed as follows: Undersecretary of Ministry of Justice as President, Deputy of Central Bank Governor as president alternate, Undersecretary of Ministry of Finance and National Economy as a member, Undersecretary of Ministry of Trade and Foreign Affairs as member, Undersecretary of Minister of Foreign Affairs as member, Undersecretary of Ministry of Investment as member, Director of the Directorate of Criminal Investigations as member, Secretary General of Interpol as member, Director of General Administration of Customs Police as member, Secretary General of Tax Bureau as member, director general of Banking Supervision as member, General Director of the Department of economic and investment security (Department of Commercial Security) as member, Director General of National Information Centre as member, FIU head as member and Rapporteur and director of tourism police as member. Paragraphs (2 & 3) of the same article stated that the committee headquarter should be in Khartoum and it should be under the supervision of Minister of Finance and National Economy.

664. According to Art. (21) clause (1), the committee is the supreme AML/CFT administrative authority; it is competent to develop AML/CFT public policy, plans and programs, AML/CFT planning, following up as well as following up the related AML/CFT international and regional developments, participating in seminars, conferences and relevant international forums, facilitating exchange of information with similar authorities and coordinating across the agencies represented in the Committee. The committee shall develop AML/CFT training programs for the employees.

665. Article (24) of Act No. 1/2010 stated that the financial resources of the committee are: Financial allocations of the State, grants and donations accepted by the Committee and any other financial resources approved by the Minister. The committee's resources are used in performing its work and functions in accordance with provisions of the law. The Committee should have an independent budget prepared in accordance with sound accounting principles approved by the state from time to time. The Committee should submit the budget to the Council of Ministers via the Minister of Finance and National Economy well before the end of each financial year.

666. In accordance with Article (22) of the 2010 Act, the President of the Committee and its members should take oath before the Minister before taking office. The oath required to be taken by the President and the members means that members of Administrative committee may access the persons' financial accounts and transactions; this is not stated under the competences of the committee

set out in Article (21) clause (1) referred to above. The Act did not indicate the date of the committee's periodic meetings. It is as well unclear when the committee holds its meetings.

The Coordinating Authority for Combating Terrorism:

667. It was established in 2002 by virtue of a letter issued by the Ministry of Foreign Affairs where it was stated that this committee shall be composed of the previous director general of the Intelligence Agency as President and members from different entities. This Committee was discussed under SR. III.

Effectiveness of local cooperation and coordination

668. During the on-site visit of the evaluation team, it was clear that there was no adequate cooperation and coordination between the representatives of authorities on the operational and policies level. There is interference in issuing regulations and instructions among the Law Enforcement Agencies (LEAs), Supervisors, FIU, Central Bank and other competent authorities. For example, the FIU issues some regulations which are not among its competences, such as the regulation on the customs disclosure system of cross border transportation of cash and financial instruments, the executive regulations for seizure, freezing and confiscation procedures, the international legal assistance especially in relation to implementing confiscation and seizure measures relevant to UNSCR No. (1267 & 1373).

669. Other circulars were issued by the Unit imposing obligations upon other authorities which are not set out in AML/CFT act including circular no. (1/2010) issued on 15/7/2010 addressed to Union of showrooms and circular no. (3/2010) issued on 19/8/2010 addressed to Auction Houses Union. It was also noticed that the activity of casinos was listed in some circulars although this activity is criminalised and punishable according to the criminal law. Other circulars were issued by supervisors addressing other authorities which are not under its supervision like the Central Bank circular. Some circulars include a list of NPOs activities, although they are not subject to the provisions of AML/CFT Act.

670. A memorandum of understanding for cooperation and exchange of information exists between the FIU and the Department for Combating Illicit and Suspicious Enrichment; it was signed on 1st of May 2011.

671. In general, all circulars issued by CBOS and KSE in addition to the regulations issued by the FIU are inadequate and lack objectivity in their wording. As well, there is a conflict between what was stated in those circulars and regulations with the requirements of AML/CFT act.

672. Considering the Banking Violations Prosecution and the FIU, we can find that the chief prosecutor of the Banking Violations Prosecution is at the same time FIU advisor: he is briefed on the suspicious transaction in the FIU before referring the STR again to Banking Violations Prosecution, which represents a duplication of work on the operational level.

673. Cooperation among the General Directorate for Public Security and Criminal Investigations, the General Administration of Customs Police and the FIU is not enough with respect to exchanging information and implementing requirements of AML/CFT act.

Additional Elements- Mechanisms in place for consultation between competent authorities, the financial sector and other sectors (Criterion 31-2)

674. When the evaluation team visited Sudan, they found that representatives of the bodies which are subject to the provisions of AML/CFT act were not sufficiently aware of this Act. Their understanding and awareness of the new law is poor; the regulations and circulars issued by the FIU and the Central Bank of Sudan are unclear and insufficient; they do not help in increasing the

awareness of these bodies. The team found also that DNFBPs have no idea about this law except that it was issued in 2010 and the concept of suspicion is not clear for them. No procedures were taken by competent authorities concerning awareness of protection and combating money laundering and terrorism financing. The team was not informed of any clear future plans for increasing the awareness of such bodies. As well, no procedures were taken to evaluate AML/CFT risks comprehensively.

Review the effectiveness of AML/CFT systems (R. 32)

675. The evaluation team could not find out the extent of participation of all competent bodies in drafting AML/CFT Act and providing suggestions about this law as well as reviewing its effectiveness since it was issued on 7 January 2010 and until the on-site visit of the team.

Recommendations and Comments

676. The measures necessary for achieving compliance with R. 31 are the following:

- Develop and coordinate cooperation on the operational and policies levels across all the competent authorities to achieve AML/CFT objectives and requirements.
- Authorities should work together to develop and review regulations and circulars with a view to implement requirements of AML/CFT Act and provide a higher level of common awareness for the sectors to enhance capacity building and promote cooperation among them.
- The administrative committee should improve its role, execute its functions and develop a national AML/CFT strategy.

Compliance with R. 31

Rec.	Rating	Summary of factors underlying rating
R.31	PC	<ul style="list-style-type: none"> • Deficiency in coordinating cooperation on the operational level between all the competent authorities. • Co-ordination on the policy level is adequately ineffective.

6-2 The Conventions and UN Special Resolutions (R.35 & SR. I)

6-2-1 Description & Analysis

677. Sudan has signed Vienna and Palermo Conventions and implemented their provisions to a certain extent; As well, Sudan has signed the United Nations Convention for the suppression of terrorism. However, it is to be noted that there is a significant lack of provisions related to the implementation of the conventions. For a comprehensive overview on the implementation of the provisions of the related conventions, see sections (2-1, 2-2, 2-3, 2-4, 2-5, 2-6, 2-7, 3-2, 3-5, 3-6, 3-7, 3-10, 6-5)

678. Sudan has not enacted any measures or special laws dealing with the requirements of UNSCRs No. 1373 or 1267. See section 4.2 for more details on Sudan implementation of UNSC resolutions and the subsequent resolutions.

Ratification of the United Nations conventions on AML (Criterion 35-1)

679. The Republic of Sudan has agreed to the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances on 30/1/1989 and ratified it on 19/11/1993. The Republic of Sudan agreed to the International Convention on Suppression of FT 29/2/2000 and ratified it on 05/05/2003. The Republic of Sudan agreed as well on the United Nations Convention against Transnational Organized Crime on 15/12/2000 and ratified it on 10/12/2004.

Implementation of Vienna Convention (Articles 3 to 11 and Articles 15, 17 and 19)

680. Sudan has issued Act 2010 which partially meets basic requirements to combat money laundering provided for in Vienna Convention. The Act criminalized a great part of ancillary offences and related ML offences (see section 2-1 on R. 1 & 2 in this report for an overview of ML criminalization).

681. Sudan prohibited trafficking in narcotic drugs and psychotropic substances in accordance with Art. 15 of the Narcotic Drugs and Psychotropic Substances Act of 1994. However, the law on narcotic drugs and psychotropic substances did not criminalise acts that are carried out with the intention to assist any person involved in committing acts mentioned in art (3-1/a-1) of Vienna convention or acts to participate therein and escape legal consequences of his acts.

682. Sudanese authorities do not have a legal provision that allows the use of controlled delivery adequately (See section 3-6)

683. Sudan has not taken any adequate measures to ensure the non use of transportation means occupied by commercial carriers (see section 2-7 of SR. V).

684. As well, no measures were taken to prevent the misuse of mail in illicit trafficking in drugs and psychotropic substances (see section 3-10-3) of R. 29).

685. AML/CFT Act of 2010, Narcotic Drugs and Psychotropic Substances Act and Code of Criminal Procedure of 1991 provide for taking provisional measures and for the confiscation of crime proceeds including proceeds of drug offenses and related crimes and any instrumentalities used in drug-related cases (see section 2.3 on R.3 for an overview on the provisions of confiscation).

686. Refer to section 6-3 to 6-4 on R. 36 to 39 in this report for MLA requests and the provisions related to extradition of criminals as well as to know if they are consistent with the Convention.

Implementing Palermo Convention (Articles 5 to 7, 10 to 16, 18 to 20, 24 to 27, 29 to 31 and Article 34)

687. Sudan has issued laws regarding implementation of the provisions stipulated in Articles 5, 6, 7, 10, 11, 12, 16 and 18-20 of Palermo Convention (on criminalization of laundering crime's proceeds and establishment of the FIU. Sudan has developed measures to detect and monitor movement of cross border funds, prosecution, adjudication and ML sanctions, confiscation and seizure of crime tools, international cooperation, extradition and mutual legal assistance.)

688. There is a deficiency related to AML measures on establishing a comprehensive internal supervisory system for banks and non banking FIs (see section 3-2-1 of R. 5 and section 3-5 of R.10).

689. With regard to legal persons liability, there is no explicit provision allowing the imposition of administrative sanctions on all legal persons; see section 2-1 of R.2

690. To request MLA and to know the provisions on extradition and verify if they are consistent with the convention, (see section 6-3 to 6-4 of this report). Please note that the deficiency at the level

of ML offense since the law no 1/2010 does not cover all predicate offenses is likely to affect the provision of international cooperation in all matters that require dual criminality (see section 2-1 of R.1)

691. Sudanese authorities do not have a legal provision that allows the use of controlled delivery adequately; See section 3-6 of R. 27.

692. There are no texts in Sudan legislation that provide for the protection of witnesses, their relatives and all close persons against any potential revenge or terrorism; art 156 of the Code of Criminal Procedures for 1991 ensures that the witness shall be protected during the proceedings of penal court.

693. A deficiency was noted as well on the level of training and technical assistance for the employees of LEAs, Public prosecution and Customs (see section 2-6 of R. 27 and 28 and section 2-7 of SR. VII).

694. Whereas article 34 of Palermo Convention stipulates that “every country should take the required measures including legislative and administrative measures” to reach full implementation of the convention provisions.

Ratification of the United Nations conventions on combating terrorism (Criteria I-1)

695. Sudan signed and ratified the United Nations Convention for the Suppression of the Financing of Terrorism on 8/9/2000.

Implementation of CFT convention (Articles 2 to 18)

696. There are deficiencies in the implementation of CFT convention as the definition on TF criminalization, terrorist organization and terrorist act mentioned in law no1/2010 are not in line with the convention. (See section 2-2 of SR.II).

697. FIs and other professions are not required to use the measures available to verify permanent or occasional customers as well as the identities of customers who open accounts in their favour, pay special attention to unusual or suspicious transactions and report the transactions suspected to be proceeds of a criminal activity (see section 3 of R.5).

698. There is as well deficiency on the level of systems and measures that prohibit the opening of accounts whose holders or beneficiaries are anonymous or cannot be verified and failure to identify the beneficial owner (see section 3 of R.5)

699. There is no requirement to promptly report to the competent authorities all complex, large and unusual transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose (see section 3-7-3).

700. Insurance companies are not required to keep necessary records related to transactions (see section 3-5).

701. To request MLA and to know the provisions on extradition and verify if they are consistent with the convention, (see section 6-3 to 6-5 of this report). Please note that the deficiency at the level of ML criminalisation is likely to affect the provision of international cooperation in matters that require dual criminality.

Implementation of UNSCRs for the prevention and suppression of terrorism financing (Criterion I-2):

702. The Republic of Sudan informed UNSC with the on-going progress in fighting terrorism. The Republic of Sudan has submitted its report to the Security Council Committee (according to UN Security Council Resolution 1373) on 27/12/2001, 25/07/2002, 11/8/2003, 15/11/2004 and 18/12/2006⁴⁰. The Ministry of Foreign Affairs requested, among other things, forming a coordinating body against terrorism to ensure coordination on implementation of Security Council resolution No. 1373. See Section 2.4 of this report for an overview of Sudan status in the implementation of Security Council resolutions.

Additional Element (Criterion 35-2)

703. The evaluation team did not find a proof that the Republic of the Sudan has ratified other international agreements, other than the International Convention for the Prevention and Suppression of Terrorism Financing, relevant to preventing terrorist financing or their implementation.

6-2-2 Recommendations and Comments

704. The Sudanese authorities are recommended to:

- Address weaknesses necessary to fully implement Vienna and Palermo Conventions.
- Take necessary measures to comply with and fully implement Security Council Resolutions 1267 and 1373 (and the subsequent resolutions) under SR.III.

6-2-3 Compliance with R.35 and SR.I

Rec.	Rating	Summary of factors underlying rating
R.35	PC	<ul style="list-style-type: none"> • Insufficient implementation of Vienna and Palermo Conventions; • Insufficient implementation of the provisions of the CFT Convention.
SR.I	NC	<ul style="list-style-type: none"> • Insufficient application of CFT Convention. • Lack of mechanisms or measures to implement UNSCR No. 1267 & 1373.

6-3 Mutual Legal Assistance (R. 36-38, SR. V)

6-3-1 Description & Analysis

705. International Cooperation Regulation submitted by Sudan governs Extradition Act of 1957 and the Criminal Code of 1991. In general, Mutual Legal Assistance (MLA) is subject to international agreements where Sudan is party thereof and regional and bilateral agreements concluded by the Republic with various countries in the area of judicial assistance, exchange of information and extradition of criminals. The Ministry of Justice is competent in providing MLA requests.

706. The following is a list of the main agreements of judicial and legal assistance ratified by Sudan:

⁴⁰ <http://www.un.org/en/sc/ctc/resources/1373.html>

– Memorandum of Understanding for judicial cooperation with the Syrian Arab Republic on 29 November 1999.

– An agreement with the Government of the Kingdom of Saudi Arabia to cooperate in combating illicit trafficking and smuggling of drugs and psychotropic substances on March 24.

707. Moreover, Sudan being a member in the International Police, it participates in the exchange of information concerning criminals and international figures traced by other states or against whom such states have issued sentences and provide assistance in arresting them if they enter Sudan.

General Description (Criterion 36-1):

708. There is no legal framework governing MLA in the Criminal Procedure Code or any other separate law except what was mentioned in Extradition Act of 1957. Although the code referred to mainly addresses extradition, article (17) states some provisions related to evidences and the data required by foreign judiciary bodies. MLA requests (to and from Sudan) should be addressed through channels affiliated to the Ministry of Foreign Affairs, but they are handled through the Ministry of Justice which operates as a key authority to all MLA requests on criminal matters (including AML/CFT), where there is a department specialized in recovering and extraditing criminals (to recover criminals from abroad and extradition from the inside) in Criminal Affairs Department at the Ministry of Justice. This department is competent to study those requests in addition to mutual judicial assistance in general. It submits its study to the Public Prosecutor's Office affiliated to the Minister of Justice or the judiciary; the Public Prosecutor, in its turn, review the study then takes the appropriate decision. Legal assistance is provided between Sudan and other countries in fighting crimes and information exchange including ML/TF under regional agreements. For example, Riyadh Convention on Judicial Cooperation, 1984 signed by 21 Arab countries includes exchange of information, judicial assistance, exchange of police record and extradition of accused and convicted persons.

709. The law did not regulate a mechanism for requesting legal assistance from the Ministry of Foreign Affairs and Ministry of Justice which by the end reaches the criminal court judge or prosecutor. Law did not regulate as well the opposite direction of this request. The evaluation team found that laws in the Republic of Sudan do not provide mutual legal assistance regarding identification, freezing or seizure or confiscation of laundered properties or that were intended to be laundered and instrumentalities used in committing such crimes and the confiscation of assets of corresponding value as set out in Palermo Convention.

Timely assistance in a constructive and effective manner (Criterion 36-1-1)

710. There is no legal provision that requires the Sudanese authorities to ensure “timely and appropriate execution” of requests from foreign countries; however, the mechanism mentioned in the previous criteria would take more time to respond to requests.

Conditions of Legal Assistance (Criterion 36-2)

711. The requirements of Article (17) of the Extradition Act 1957 are restrictive – as general rules - since they do not authorize the judge to obtain testimony of any witness unless it became clear to him that it is under consideration by the court of competent jurisdiction in a foreign country; the same applies for any criminal proceedings. This restriction narrows the scope of mutual legal assistance; in the absence of a subsequent text or special text in legislations ratified by Sudan or according to bilateral or multilateral agreements that stipulate differently; and there are no other conditions in the requirements of Article 17 of the extradition Act such as the need for a conviction.

Efficiency of the process

712. The Ministry of Justice is the body responsible to handle MLA requests. The Ministry of Justice works through the affiliate Public Prosecution or judiciary to conduct necessary investigations; it issues international arrest warrants, informs Interpol office to implement such warrants, addresses foreign judicial authorities through the Ministry of Foreign Affairs. However, these processes remain unwritten.

713. The evaluation team did not obtain from the authorities any statistics on the number of requests for legal assistance - as their types were listed in Palermo Convention- which were received, and the time to respond; therefore, the effectiveness of the criteria cannot be inferred; which raises questions about the efficiency of the process since the statistics provided by the authorities are related to extradition requests and not to MLA. The Sudanese authorities stated that they did not receive any legal assistance request.

Fiscal matters

714. The evaluation team did not find any legislations providing that an MLA request should not be refused on the ground that the offense involves fiscal matters. The authorities informed the evaluation team that they never refused to cooperate on the ground that the offense involves fiscal matters.

Confidentiality requirements

715. Banking Business Regulation Act (2004) provide for excluding information and statistics requested by Minister of Justice or by a competent court from the banking secrecy. This can be applied to providing mutual legal assistance. The evaluation team did not find any legal texts on providing legal assistance regardless of the existing secrecy and confidentiality laws; but the authorities informed the evaluation team that they never refused to cooperate on basis of banking secrecy or any other type of secrecy or confidentiality requirements.

716. The authorities reported that the public prosecutor's office affiliated to the Ministry of Justice has broad powers to request or obtain information from FIs, companies and professionals of the non-financial sector when investigating and prosecuting them, regardless of the existing banking secrecy or confidentiality or other secrecy requirements.

Granting the competent authorities the necessary powers (Criterion 36-6)

717. Criminals extradition Act 1957 allows the competent authorities to obtain the testimony of any witness, as well as interrogating any person in the field of legal assistance in accordance with the provisions of the Penal Code of 1991; but there are no legal provisions or bilateral or multilateral agreements that regulate in particular mutual legal assistance regarding the identification, freezing, seizure or confiscation of property laundered or that were intended to be laundered, as well as the instrumentalities used in committing such crimes and the confiscation of assets of corresponding value.

Conflicts of jurisdiction (Criterion 36-7)

718. Although the Code of Criminal Procedure identifies spatial jurisdiction for the Sudanese courts (Article 29), in addition to the resolutions issued by the Minister of Justice identifying spatial jurisdiction for prosecutors based on Article 18 of the Act; yet the evaluation team could not establish that the authorities had considered setting up a mechanism to determine the most appropriate venue for lawsuit against the accused in the interest of justice, with respect to the issues subject to prosecution in more than one country.

International cooperation under SR.V (Application of R. 36 on Terrorism Financing)

719. The AML/CFT Act does not distinguish between the cases of money laundering and terrorism financing; thus, there are no differences in the criteria discussed above between ML/TF cases.

720. Authorities did not provide any information on the cases where AML/CFT mutual legal assistance was provided; in the absence of statistics as stated by Sudan authorities that no requests exist in this regard, the evaluation team could not conclude whether Sudan is able to provide mutual legal assistance in timely and effective manner or not and cannot assess the extent to which they can do so.

R.37

Dual criminality in mutual legal assistance (Criterion 37-1, 37-2)

721. (Criterion 37-1), there is no provision in the Extradition Act - except for the related parts to article 17 of the law or Criminal Code - which requires dual criminality to provide legal assistance. Authorities have informed the evaluation team that Criminal Affairs Department at the Ministry of Justice provides MLA particularly for less intrusive and non-compulsory measures in the absence of dual criminality. However, in the absence of any legal provisions providing for the same, and while the authorities are unable to provide the evaluation team with any statistics on assistance for these measures, it is difficult to assess the effectiveness of this criterion.

722. (Criterion 37-2), the condition stated in Art. (4/1) of the Extradition Act of 1957 on application of its provisions is restrictive if it allows the Council of Ministers to decide, by an order published in the Official Gazette, to implement the law provisions on the country that agrees with Sudan on extradition of criminals based on the conditions or exceptions or restrictions provided for in this Order. In light of the legal restrictions set out in the MLA received by Sudan as detailed above and in the absence of statistics, the effectiveness of this criterion cannot be measured.

International cooperation under SR. V (Application of R.37 on Terrorism financing)

723. The above points are applied equally in combating terrorism and terrorism financing. However, the deficiencies in the criminalization of terrorism financing and terrorism may affect Sudan ability to provide mutual legal assistance when dual criminality is required for extradition.

724. Sudanese authorities have not provided the evaluation team with any statistics in this regard; therefore effectiveness cannot be measured.

R.38

General Framework (Criterion 38-1)

725. Sudan has no laws or measures in place to provide effective and timely responses to MLA requests related to provisional measures and procedures concerning the confiscation of ML proceeds. As previously mentioned, Sudan does not have a legal framework for mutual legal assistance except what was mentioned in Article 17 of the Extradition Act on the evidence and information required by foreign judiciary bodies. According to the above mentioned procedures at the Department of criminals extradition affiliated to Criminal Affairs Department at the Ministry of Justice, the request of another State for provisional measures should be treated on basis of bilateral agreements signed by Sudan with those countries. The prosecutor may order tracing, seizure or confiscation of ML proceeds or instrumentalities related to ML or TF offences or any other predicate offences.

726. Sudanese laws did not provide for any special texts on the implementation of the penal provisions issued by foreign courts including the foreign confiscation orders and provisional measures. As noted above, article (17) of the Extradition Act of 1957 permitted the judge to obtain testimony of any witness if it establishes that it is under consideration before the court of competent jurisdiction in a foreign country. The same applies to any person interrogated before a prosecutor. These restrictions do not ensure rapid and effective response to MLA requests from foreign countries and which are related to identification, seizure or confiscation of properties, proceeds or instrumentalities, which negatively affect the effectiveness of this criterion.

Property of corresponding value (Criterion 38-2)

727. Although article (34/1-2) of AML/CFT Act 2010 states that other funds having a value corresponding to crime proceeds and instrumentalities used in its commitment or intended to be used should be confiscated, in case seizure failed to occur; however, there is no legislative provision that explicitly allows the confiscation of properties of corresponding value if the request is made by a foreign country.

Co-ordinating seizure and confiscation actions with other countries (Criterion 38-3)

728. The Republic of Sudan has ratified Riyadh Arab Agreement for Judicial Co-operation on 26/11/1984; article (47) of this agreement regulates the procedures of delivering crime proceeds in general, or used therein or related thereto.

Asset forfeiture (Criterion 38-4)

729. Article (35/1) of AML/CFT law for 2010 states that confiscated properties should be deposited in an asset forfeiture and will be used in combating ML crimes and other economic crimes, fighting and curing incurable diseases, and any other appropriate purposes deemed necessary by the administrative committee established according to the rules of this law; Until date, no decision has been made to establish this fund; as well, the Sudanese authorities did not provide the evaluation team with a proof on the existence of a special account for confiscated funds provided for in clause (2) of Article 35⁴¹.

Sharing of confiscated assets (Criterion 38-5)

730. The Republic of Sudan did not consider authorising the sharing of confiscated assets with other countries, when the confiscation is directly or indirectly a result of co-ordinated law enforcement actions.

Criterion 38-6 – Additional element

731. Chapter 12 of Civil Procedures Code 1983 regulates procedures of foreign civil rules: articles (288 and 289) thereof state that ordering the execution of the foreign rule or order is allowed after meeting a set of conditions such as: A- the verdict or order issued by a competent judicial body according to the rules of the designated international judiciary competence in the law of the country where it was issued and that it has become final according to this law, (b) The adversaries in the case for which the verdict has been issued were asked to attend and be properly represented, (c)- the verdict or order does not interfere with a verdict or order previously issued by Sudan courts, (d) the verdict or

⁴¹The head of the administrative committee issued decision no. (4/2012) dated 11/4/2012 on establishing a fund for confiscated assets by virtue of the provisions of law no.1/2010 where the confiscated assets shall be deposited by virtue of article 34/2 of the law, the usage of funds to be determined and to maintain a proper account at CBOS for confiscated assets which are deposited at the fund under the management of the executive committee affiliated to the administrative committee.

order is not against the public order or ethics in Sudan, (e) the verdict or order was not issued based on deceit, (f) the verdict or order does not include a request that breaches any of the applicable laws in Sudan (g) the country where the verdict to be enforced was issued accepts the enforcement of the verdicts of Sudanese courts on its land. Article (290) of the same law states that if a person obtains a foreign verdict versus a person residing in Sudan or have funds therein, that person is allowed to institute a lawsuit to enforce that verdict if the mentioned verdict is applicable in the country where it was issued. Chapter 5 of Riyadh Arab Agreement for Judicial Co-operation ratified by the Republic of Sudan regulates the issue of recognizing the verdicts issued in non- criminal cases, whereas article (25) stipulates the force of *res judicata* and article (31) states the enforcement of verdicts.

International co-operation according to SR.V (applying R.38 for terrorism financing)

732. The conditions of legal assistance apply for ML/TF offenses alike in the Sudan, as previously shown; therefore the deficiencies mentioned in R. 38 apply on SR.V concerning the lack of appropriate rules and procedures for prompt and effective implementation of the MLA requests related to TF offenses and properties of corresponding value, or the existence of arrangements with other countries about the procedures of seizure and confiscation except what was mentioned in Riyadh Agreement on Judicial Co-operation as well as other deficiencies.

733. The deficiencies related to TF offense explained according to SR.II affect Sudan ability to provide promptly and effectively MLA for TF offenses. Although the Sudanese authorities did not provide the team with statistics on the number of requests submitted by other countries in this respect, the effectiveness of the framework of MLA for terrorism and terrorism financing cannot be accurately measured.

6-3-2 Recommendations and Comments:

734. The Sudanese authorities should:

- Establish adequate laws and measures for a prompt and effective response to MLA requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets intended to be used in terrorism financing as well as the instrumentalities used to commit such crime.
- Consider authorising the sharing of confiscated assets between Sudan and other countries in case the confiscation is directly or indirectly a result of co-ordinated law enforcement actions.
- Consider establishing an asset forfeiture fund into which confiscated properties will be deposited, as required by law.

6-3-3 Compliance with R. 36-38 and SR.V

Rec.	Rating	Summary of factors relevant to s6.3 underlying overall rating
R.36	PC	<ul style="list-style-type: none"> • The process of international co-operation is generally impaired, as there is no legal framework that governs MLA; as well, law imposes as a general rule the non execution of co-operation requests issued by another country unless according to specific conditions. • There is lack of evidence for providing legal assistance pertaining to identifying, freezing, seizure or confiscation of assets intended to be used in TF and the instrumentalities used to commit such crimes. • The lack of comprehensive statistics on the number of legal

Rec.	Rating	Summary of factors relevant to s6.3 underlying overall rating
		<p>assistance requests in ML investigations, instituting law suits and other proceedings.</p> <ul style="list-style-type: none"> The deficiencies related to R.1 affect the rating of compliance with this recommendation.
R.37	PC	<ul style="list-style-type: none"> The process of criminals' extradition is impaired in general: requests of extradition issued from another country are not implemented by a bilateral or international agreement unless permitted by the Council of Ministers. Deficiencies related to ML predicate offenses are likely to affect the provision of international cooperation in matters that require dual criminality. Lack of adequate laws and measures for a prompt and effective response to MLA requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets intended to be used in TF and the instrumentalities used to commit such crime. Absence of measures for sharing confiscated properties between Sudan and other countries in case the confiscation is directly or indirectly a result of co-ordinated law enforcement actions. Lack of comprehensive statistics on the number of MLA requests on the arrangements that require criminals' extradition in the scope of AML/CFT and other forms of legal assistance.
R.38	PC	<ul style="list-style-type: none"> Lack of appropriate legislations for rapid and effective response to MLA requests submitted by other countries related to the identification, freezing, seizure or confiscation of properties. Lack of a legal basis for the co-ordination of confiscation procedures. No consideration to the establishment of asset forfeiture. Impossibility of assessing the system effectiveness due to lack of cases.
SR.V	PC	<ul style="list-style-type: none"> Factors related to R. 36, 37, 38, 39, 40 and SR.II have a negative effect on this recommendation.

6-4 Extradition (R.37, 39 & SR.V)

6-4-1 Description & Analysis

735. Article (3) of the Criminals Extradition Act 1957 defines the extraditable offense as the act which, if committed in Sudan, is considered a crime punishable by imprisonment for at least one year, under the law applied in Sudan at the time of crime commitment, provided they do not include the acts which are considered offences under military rules. By virtue of article (34/1) of AML/CFT law for 2010, the natural person shall be punished, if convicted with a ML offense, by imprisonment for 10 years at most and a fine; thus, ML offense is an extraditable offense.

736. Some agreements signed by Sudan regulate the matters of criminals' extradition: Riyadh Arab Agreement for Judicial Co-operation, an agreement to transport those sentenced to freedom-depriving sanctions with the Kingdom of Saudi Arabia on 17 March 2010. Moreover, as the Sudan is a member of the Interpol, it is involved in exchanging information about criminals and international figures pursued or against whom verdicts by other countries were issued and provide assistance in arresting them if they enter Sudan. Thus, the Criminals Extradition Act 1957 and some bilateral and multilateral agreements regulate under their provisions, the procedures of criminals extradition, criminals who commit ML/TF offences. It is noticed that the condition stipulated by article (1/4) of Criminals Extradition Act on implementing law provisions by the powers of the Council of Ministers is to apply law provisions on the state that agrees with the Republic of Sudan on criminals' extradition according to the conditions and exceptions provided for by the order.

Criterion 39-1

737. According to article (3) of the Criminals Extradition Act 1957, ML is an extraditable offense. There were no ML cases; Sudan did not submit a request thereof to any other country. As stated by the Sudanese authorities, it submitted 97 requests for criminals' extradition in other crimes in 2011. In general, the extradition of those criminals who are wanted for ML/TF cases is similar to the procedures of criminals' extradition in other types of crimes: it is regulated by the Criminals Extradition Act 1957 and the bilateral and regional treaties related to the extradition of criminals in which Sudan is a party.

738. The requests for criminals extradition should be sent to the Republic of Sudan via diplomatic channels from the requesting country; they are delivered via channels affiliated to the Ministry of Foreign Affairs, to criminal affairs administration at the Ministry of Justice; where the public prosecutor issues the initial approval to refer such requests to the judge of criminal court, according the provisions of article (17) of the Criminals Extradition Act 1957.

Criterion 39-2

739. Article (6) of the Criminals Extradition Act 1957 states that "when the rules of this law are applied to any foreign country, every criminal who had fled the country is subject to apprehension and extradition according to this law, whether the crime for which the extradition was requested had been committed before or after the date of implementing this law, and whether any court in the Republic of the Sudan has any common specialty in this crime or not". Upon the receipt of the extradition request approved by the Minister of Justice, the judge issues an order to arrest the escaped criminal, and conducts the investigation upon delivering the criminal to him and starts the investigation in the case in the same way and with the same jurisdictions and powers granted to him as if the case is of his jurisdiction or if it was presented to him for trial or for conducting the criminal investigation according to the Criminal Procedures Law 1991.

740. Also, the law requires the judge to allow the presentation of evidence on the extradition request, including the evidence which prove that the crime of which the escaped criminal was accused or for which a lawsuit was brought against him, has a political nature or is not an extraditable offense. Ultimately, if the judge sees that the evidence presented in the case in which the criminal is accused of extraditable offense constitutes an initial charge according to Sudan laws if the crime of which he was accused had been committed inside Sudan, he should order his imprisonment until the Minister of Justice issues and order about him or else he should order his release. And in case the presented evidence which proves, according to the rules of Sudan that he was already sentenced for this crime, he should order his imprisonment until the Minister of Justice issues an order about him. If he considers the evidence inadequate for proving the issuing of this order, he should order his release, and the judge immediately sends his report on the findings of the investigation to the Minister of Justice.

741. One of the most important powers of Minister of Justice in this area is that when he concludes, upon receiving this report, that the escaped criminal should be extradited, he is entitled to issue an

order to hand him over to a person he names in the order, and then the escaped criminal should be extradited according to this order. Whoever the mentioned order is directed to may receive the escaped criminal and put him in prison and extradite him to the person whose name was mentioned in the order; and if the criminal escapes the custody to which he was entrusted under this order, he may be arrested again in the same way when the person accused or sentenced for any crime under the Sudanese laws escapes.

742. It is also worth mentioning that the above law did not prohibit the extradition of Sudanese; article (3) stated that that the person should be extradited; the authorities explain that the word “person” includes the Sudanese and the foreigner, in case there is no prohibition on the extradition of nationals under the restrictions of extradition provided for in article (5) of the same law.

Criterion 39-3

743. Sudan signed a number of agreements in judicial co-operation such as Riyadh Agreement for Judicial Co-operation 1984 with 21 Arab countries to co-ordinate judicial work especially the extradition of criminals and MLA; there are mutual bilateral agreements with Egypt, Ethiopia, Iran and Turkey.

Criterion 39-4

744. Criminals Extradition Act does not provide for the adoption of measures or procedures that allow handling the requests or procedures of criminals extradition related to money laundering without undue delay; However, the Sudanese authorities provided the evaluation team with a statistical table on the number of requests received from representatives of other countries, as follows:

A table on the number of requests received or sent by the Sudanese authorities and the number of decided requests during 2011:

Type of order	Number of files	Decided
Retrieval	97	58
Extradition	71	39

Table on the status of the requests still pending in 2011 by the Sudanese authorities

Number of requests	Status	Comments
19	Provisional arrest order was issued; Recovery file not received yet	The provisional arrest order is arresting the wanted person based on the agreements precedes the step of sending the extradition request and recovery file; it remains open until the recovery file is received.
12	Before the Judicial judge, referred by the Minister of Justice	
1	Transmission request with Incomplete information	

A table on the number of requests received or sent by the Sudanese authorities and the number of decided requests during 2012:

Type of order	Number of files	Decided
Extradition	55	4

Table on the status of the requests still pending in 2012 by the Sudanese authorities

Number of requests	Status	Comments
44	Provisional arrest order was issued; Recovery file not received yet	
4	Under study being recently received	
2	Before the Judicial judge, referred by the Minister of Justice	
1	Transmission request with incomplete information	

745. Upon reviewing the tables above, we notice that there are numbers of recovery and extradition requests, some of them are still pending with the Sudanese authorities, while others are still under study. As to the cases in which a provisional arrest order and cases of transmission request, the authorities stated that the pending files are due to not receiving the recovery files from the state requesting the extradition or to incomplete documentation. The evaluation team noted about the requests which are still – for a long period of time – under completion that this is due mainly since the Sudanese authorities did not take any measures to handle the request and procedures of criminals extradition related to ML without any delay.

Criterion 39-5 – Additional Element

746. Article (42) of Riyadh Arab Agreement for Judicial Co-operation, ratified by the Republic of Sudan, states that a request for criminals extradition should be submitted by the competent authority in the country requesting the extradition to the country required to extradite. The authorities stated that they extradited a terrorist in 1998 to one country despite the absence of an agreement regulating the same; there were no simplified procedures for extradition of consenting persons who waive formal extradition proceedings in place.

R.37

Criterion 37-1

747. Dual Criminality is the condition to respond to a request of extradition as stated in the explanation of the extraditable offense under article (3) of Criminals Extradition Act 1957. The authorities have reported that, in the framework of international co-operation, Sudan extradites criminals in the absence of dual criminality and even, bilateral and regional agreements; they gave the example of the only case in which Sudan extradited a terrorist in 1998.

Criterion 37-2

748. The provisions of article (9) of Criminals Extradition Act 1957 state that the judge should investigate with the escaped criminal, look into the evidence, discuss them and accept the testimonies,

documents and evidence endorsed by the state requesting the extradition to verify the crime facts with no consideration to the technical differences of the laws.

Additional element under SR.V (applying Criterion 4-5 regarding the application of Criteria 39-1 to 39-4)

749. The provisions of Criminals Extradition Act 1957 apply to ML/TF cases alike; however, when the condition of dual criminality is a prerequisite to respond to the requests of extradition, and there is some deficiency in TF criminalization according to what was discussed in SR.II, which might limit cooperation in this area.

Additional element under SR.V (applying criterion 5–8 regarding the application of Criterion 39-5)

750. In the framework of Sudan international co-operation in the extradition of criminals, the Sudanese authorities stated that they extradited a terrorist in 1998 to France without any agreement, which reflects Sudan co-operation in combating international terrorism.

Effectiveness:

751. The legal provisions that address the extradition of criminals for ML/TF cases are adequate; however, the evaluation team has not found any statistics on ML/TF; therefore, the evaluation team could not determine the effectiveness of the system. Additionally, the Sudanese authorities presented comprehensive statistics on all the requests of extradition they received. Although the mentioned table indicates the existence of a large number of pending requests, for unknown reasons, it raises the matter of inefficiency of such procedures and lack of full implementation, which consequently affect the effectiveness of procedures.

6-4-2 Recommendations and Comments

752. The Sudanese authorities should:

- Adopt procedures and arrangements that allow handling the requests and procedures of extradition regarding money laundering and terrorism financing without any delay.

6-4-3 Compliance with R. 37 and 39 and SR. V

Rec.	Rating	Summary of factors relevant to s6-4 underlying overall rating
R.39	PC	<ul style="list-style-type: none"> • Inadequate criminalization of ML act may affect the compliance with the extradition of criminals. • Existence of extradition requests which are still pending on part of Sudan.
R.37	PC	<ul style="list-style-type: none"> • Impossibility of assessing the effectiveness due to lack of cases.
SR.V	PC	<ul style="list-style-type: none"> • Inadequate criminalization of TF act affects the compliance with the extradition of criminals. • Lack of comprehensive statistics on extradition for TF cases affects the assessment of the effectiveness of such procedures.

6-5 Other Forms of International Co-operation (R. 40, SR.V & R. 32)

6-5-1 Description & Analysis

R.40

Widest range of international co-operation

753. Regarding the fact that the country should ensure that their competent authorities are able to provide the widest range of international cooperation to their foreign counterparts, the Sudanese authorities have referred to the efforts of the competent authorities such as the FIU and supervisory entities as follows:

Financial Information Unit (FIU):

754. The Sudanese authorities have referred to the provisions of article (19) of AML/CFT law which state: the unit may, at its option or based on the request of its counterparts in other countries, to exchange information with them provided it abides by the rules of confidentiality and principle of reciprocity; this information may not be used except for AML/CFT purposes.

Central Bank of Sudan (CBOS):

755. Sudan authorities stated that CBOS prepares and participates in the events and programs of entities represented in FIs and regional and international economic coalitions in which Sudan is party or member or observer thereof. Authorities stated that these coalitions include among others, COMESA (Common Market for Eastern and Western Africa), WTO (World Trade Organisation), Regional Technical Committee for North Africa Banks Governors, Regional Union for the Near East and North Africa for agricultural credit, IMF (International Monetary Fund), the World Bank Group (WB) and African Development Bank.

Khartoum Stock Exchange (KSE)

756. Sudan authorities made reference to KSE efforts in international cooperation and which included KSE joining the Arab Monetary Fund (AMF) data in 2003; The AMF data covers the activities of 16 financial markets and publishes information on such markets; additionally in 2003, Sudatel stocks were listed in Abu Dhabi Securities Exchange (ADX) in the framework of cooperation between both markets. In 2004, a mutual cooperation agreement was signed with Cairo and Alexandria stock exchange. In 2007, KSE joined the African Securities Exchange Association (ASEA). In 2010, KSE was adopted as observer in the Arab Federation of Stock Exchanges and became member of the Islamic Financial Services Board (IFSB).

Insurance Supervisory Authority (ISA):

757. Sudan authorities pointed out ISA efforts in international cooperation which were reflected in signing a Memorandum of Understanding between ISA and its counterpart in Egypt; moreover, ISA is a member in the Arab Forum of Insurance Regulatory Commissions (AFIRC) and a member in the General Arab Insurance Federation (GAIF).

758. As to providing assistance in a rapid and constructive manner, the Sudanese authorities stated that Sudan applies the principle of reciprocity by spontaneously providing assistance, based on article 25 of the regulation for freezing, seizing and confiscating terrorists funds for 2010 and which states that the unit may, upon receiving MLA request, inspect the request, specify the legal proceedings required in relation to ML/TF crime, and address such request to the competent authorities to request data promptly and on time. The regulation also states that the request for information or data from competent authorities should not conflict with the laws of confidentiality of

such authorities regarding ML/TF information. It is worth to make reference to the legal basis for issuing this regulation and which was discussed previously.

Clear and effective channels to exchange information

759. Regarding the existence of clear and effective gateways, mechanisms or channels which facilitate prompt and constructive exchanges of information directly between counterparts, the Sudanese authorities stated that the Interpol is exerting great efforts in this respect and the administrative committee exchanges information with international authorities and the public prosecutor's administration at the Ministry of Justice as well; but there were no statistics proving the same. The authorities made reference to the procedures taken in this respect, which are:

- Cooperation, coordination and exchange of information between Anti-Narcotics department at the Ministry of Interior and some countries that have contributed in investigating some seizures, most important of which are: cooperation, coordination and exchange of information with Saudi Arabia via narcotics liaison officer at the embassy of KSA in Khartoum, exchange of information with French authorities via the security attaché at the Embassy of France in Sudan, exchange of information with USA via US anti -narcotics office in Cairo.
- Signing a MOU between the Sudanese FIU and AMLSCU (FIU in UAE) and FIU in Algeria; the content thereof is focused on raising the degree of co-operation and legal assistance along with the exchange of experience and knowledge to serve AML/CFT regimes.
- Conducting negotiations to reach an agreement on exchanging information and experience between Sudan FIU and EMLCU (Egypt FIU).
- The FIU, in November 2010, begun the process of joining Egmont group, with the sponsorship of the Arab Republic of Egypt; an agreement with the second sponsor is currently underway.
- The FIU joined the forum of FIUs for the MENA region in April 2010, with a view to facilitate the exchange of technical expertise and information with counterparts in MENAFATF.
- The FIU made the following efforts in the field of international co-operation during 2010 / 2011.

A. Requests of other countries from Sudan

No.	Country/ Destination	Subject	Date of request	Date of response
1	Hashemite Kingdom of Jordan (AMLU Jordan)	Information required about suspected people	26 January 2011	7 April 2011
2	The Sultanate of Oman (Royal Oman Police)	Information required about suspected people	25 October 2010	22 November 2010
3	USA (USA embassy in Khartoum)	Request to freeze funds and prohibition of transactions according to UNSCR.	10 October 2010	30 November 2010
4	Syrian Arab Republic (CMLC)	Information required about suspected persons.	5 August 2010	11 November 2010
5	The United Arab Emirates (AMLSCU)	Information required about suspected persons	27 April 2011	23 June 2011

6	Sudanese Ministry of Foreign Affairs (Embassy of Sudan in Bahrain Kingdom)	Request for information about suspected person.	12 April 2010	Does not need response
7	International Security Council (Resolutions 1970 & 1973)	Freezing the funds of Libya and Ghadafi and prohibition of travel	17 May 2011	25 May 2011
8	USA embassy in Khartoum	Request of Information	30 October 2011	3 November 2011

B. Sudan's requests from other countries

No.	Country/ Destination	Subject	Date of request	Date of response
1	Arab Republic of Egypt (EMLCU)	Information required about suspected person	21 March 2010	12 February 2011
2	The United Arab Emirates (AMLSCU)	Information required about suspected persons	16 June 2010	Not responded

760. The previous reveals that the average period the unit takes to respond to the incoming requests of information is around one month and half.

Spontaneous Exchange of information

761. Sudanese authorities reported that the authorities allowed to exchange information spontaneously are the Interpol, the administrative committee and the attorney general. Yet the authorities did not explain the legal basis on which such authorities spontaneously exchange information; the assessors were not provided with any statistics clarifying the efforts of such authorities in the spontaneous exchange of information.

Conducting Inquiries on behalf of foreign counterparts

762. With regard to entitling the FIUs to conduct the following types of inquiries on behalf of foreign counterparts, article (13) of AML/CFT act stipulates that the unit should request from any financial or non-financial institution, any information which is helpful in performing its function or according to a request from a foreign FIU. Financial and non financial institutions must provide the unit with such information and documents within the period and in the manner determined by the unit. Also, the unit should, in some exceptional cases when examining suspicious cases, request the authorities for additional information deemed useful to perform its tasks or based on a request from a foreign unit. These authorities are: Law Enforcement Agencies, supervisory and monitoring authorities, and any other administrative authorities.

763. Article (19) of the same Act stipulated that the Unit may, spontaneously or pursuant to a request from equivalent units in other countries, exchange information with them provided it respects the secrecy rules and the principle of reciprocity. Such information may not be used except for AML/CFT purposes.

Conducting Investigations on behalf of foreign counterparts

764. With regard to authorizing LEAs in these counterparts to conduct investigations on behalf of foreign counterparts, the Sudanese authorities reported that the attorney general administration at the Ministry of Justice is performing the letters rogatory. The authorities stated that the legal basis for such act is based on article 17 of Criminals Extradition Act for 1957. As to LEAs, they perform the transaction through bilateral agreements with counterpart LEAs in addition to regional agreements.

Article 17 referred to reveals that it addresses courts procedures in obtaining a witness testimony based on a request issued by a foreign competent court only. The authorities did not mention any bilateral or regional agreements that cover the issue of conducting investigations on behalf of foreign counterpart entities.

Unduly restrictive measures to exchange information

765. As to not subjecting the exchange of information to unduly restrictive conditions, the Sudanese authorities reported that there are no conditions on the exchange of information. Authorities also reported that they do not reject requests for involving financial matters. Article (19) of AML/CFT Act did not refer to any exceptions to reject the request for information and assistance. They do not as well reject the request based on the standards of confidentiality unless it is related to access relevant information in circumstances where legal professional privileges or legal professional secrecy apply, such as exempting lawyers from the obligation to notify if the information concerning customers came to their knowledge while evaluating legal status of customers or representing them before the court.

Providing assistance regardless of any aspects related to financial tax matters

766. Sudanese authorities reported that they can provide assistance regardless if the requests involved tax fiscal matters. The assessors were not provided with any statistics clarifying that Sudan is providing assistance in subjects including aspects related to tax matters.

Providing assistance regardless of secrecy or confidentiality rules and the safeguards to use the information exchanged

767. In relation to respecting the confidentiality of information obtained in the context of international cooperation, the authorities have referred to Art. (19) of the law which states that the FIU must comply with the secrecy and confidentiality rules and the principle of reciprocity when dealing with counterparts, and may not use the information except for AML/CFT purposes. Art. (12) of the same law states that FIU employees should not disclose any information they knew about during performing their tasks. This obligation shall continue even after they leave their jobs in the unit; they may not disclose such information except for the purposes set forth in this law. This obligation also applies to every person who, directly or indirectly, this information comes to his knowledge due to his job or work. The Sudanese authorities stated that cooperation requests are rejected based on secrecy criteria if they are related to obtaining information pertaining to circumstances where legal professional privileges or legal professional secrecy are applied such as excluding lawyers from the reporting obligation, if information on their customers was obtained when assessing the legal status of the customer or representing him before the justice.

Exchange of information with non-counterparts and the unit obtains information from competent authorities based on the request of a foreign counterpart unit

768. Sudanese authorities declared that the exchange of information with non-counterpart authorities and the FIU obtaining the information from competent authorities according to a foreign counterpart request is possible and available. Nevertheless, no statistics or data showing such cases were submitted. Moreover, no examples of mechanism used in this regard were presented.

769. The evaluation team has received a statement reflecting the efforts of some authorities in the field of international cooperation, which were translated in signing bilateral agreements on customs and security cooperation at the level of Central Bank and Insurance Supervisory Authority, as follows:

770. **Ministry of Interior:** The security cooperation agreement between Sudan and Kingdom of Saudi Arabia, Memorandum of Understanding for the cooperation in security areas between Sudan and Qatar, Memorandum of security cooperation between Egypt and Sudan, cooperation agreement between Ministry of Interior in Sudan and Syria, an agreement between Sudan and the United Arab

Emirates, security agreement between Ministry of Interior of Sudan and Jordan, security agreement between Sudan and Libya, Memorandum of Understanding between Sudan and Iran and Memorandum of Understanding between Sudan and Central Africa.

771. **Customs:** An agreement between Sudan and Ethiopia in the field of goods transportation, a cooperation agreement and mutual assistance between Sudan government and Turkey government in the field of customs, a mutual administrative cooperative agreement in customs affairs between Sudan and Jordan, agreement on trade and economic cooperation between Sudan government and India government, a mutual agreement for customs and administrative cooperation between Sudan and Chad, a mutual administrative cooperative agreement for the prevention and combating customs violation between Egypt and Sudan.

772. **Central Bank of Sudan:** Cooperation agreement in banking between Central bank of Sudan and Central bank of Jordan, a framework agreement for banking cooperation between Central bank of Sudan and Central Bank of Syria, a framework agreement for the development of banking relationships between the Sudanese government and Tunisian government, Memorandum of Understanding between Central Bank of Sudan and Central bank of Qatar, Memorandum of Understanding between Central bank of Sudan and Central bank of Bahrain.

773. **Insurance Supervisory Authority:** Memorandum of Understanding (MoU) between ISA and its counterpart in Iran, MoU on insurance and reinsurance between the Sudanese government and Egyptian government, MoU between the Arab Forum of Insurance Regulatory Commissions (AFIRC) and the General Arab Insurance Federation (GAIF), in addition to cooperation with the Association of African Insurance Supervisory Authorities (AAISA).

SR. V

774. On the application of the essential criteria of R.40 to SR. V, Sudanese authorities indicated that the laws and regulations issued in Sudan on these criteria are the same criteria that govern obligations stated in SR.V. Concerning the measures taken by Sudan to verify that they do not provide secure havens for individuals accused of financing terrorism or terrorist acts or terrorist organizations, Sudanese authorities submitted a document explaining Sudan strategy for combating terrorism and cross border Transnational Organized Crime.

775. The strategy is based on several axis which are: activating the law whereby legislations and local laws on combating terrorism were issued (Anti-Terrorism Act of 2001), issuing a special AML/CFT law (AML/CFT law for 2010); developing public awareness , border security, exchange of information by intensifying and exchanging information related to individuals or organizations involved or accused of terrorism as well as the international cooperation, whereby Sudan ratified all the international agreements related to combating terrorism; extradition and legal cooperation; and finally mechanisms whereby Sudan established a coordinating body against terrorism in order to implement United Nations resolutions 1373 &1267 and other resolutions related to counter-terrorism.

776. With regard to the exchange of information between non-counterpart parties and the ability of the FIU to obtain, from other competent authorities, the information requested by foreign FIUs in combating terrorism financing (SR.V), the Sudanese authorities have referred to article 13 of the AML/CFT law; whereby the FIU should ask any financial or non- financial institution any information that is useful to perform its duties or based on a request from foreign FIUs, the financial and non financial institution may provide the FIU with such information and documents within the time period and in the manner determined by the FIU. When requesting the information based on a request made by a foreign counterpart, the purpose of the request or on whose behalf the request is made should not be disclosed.

6-5-2 Recommendations and Comments

R. 40 and SR.V

777. The Sudanese authorities should:

- Expand the powers of other competent authorities in AML/CFT (other than the FIU) like LEAs and the prosecutions in international cooperation; which would allow spontaneous exchange of information with the counterparts, conduct inquiries and investigations and obtain information on behalf of the foreign counterparts, if requested.
- Find mechanisms of MLA and exchange of information, which are relevant to investigations, inquiries or obtaining information, administrative procedures or those related to Law Enhancement procedures criminally and civilly and related to terrorism financing, terrorist activities or terrorist organizations, and preparing statistics that include all aspects of legal assistance.

6-5-3 Compliance with R.40 and SR. V

Rec.	Rating	Summary of factors relevant to s6-5 underlying overall rating
R.40	NC	<ul style="list-style-type: none">• The scope of powers and efforts of other AML/CFT competent authorities (other than the FIU) like LEAs and the prosecutions in international cooperation and the extent to which they enjoy the authority to spontaneously exchange information with counterpart and to conduct inquiries and investigations on behalf of the foreign counterparts (and the remaining requirements of R.40) are not clear.
SR.V	PC	<ul style="list-style-type: none">• There are no statistics or data on MLA mechanisms with regard to the exchange of information, or investigations, inquiries, administrative procedures or those related to Law enforcement procedures criminally and civilly related to the financing of terrorism, terrorist activities or terrorist organizations.• Negative factors mentioned in the context of R.40 affect the rating of compliance with this Special Recommendation.

7- OTHER ISSUES

7-1 Resources and Statistics

Rec	Rating	Summary of factors relevant to Recommendations 30 & 32 underlying overall rating
R.3 0	PC	<ul style="list-style-type: none"> • There are no appropriate financial, human and technical resources available in most of the AML/CFT competent authorities. • There is no appropriate, adequate and specialized training available for staff in the different supervisory authorities and LEAs. • The unbalance of operational independency and autonomy for a number of competent authorities such as FIU and competent prosecutions.
R.3 2	PC	<ul style="list-style-type: none"> • There are no statistics available related to the following: <ul style="list-style-type: none"> - Findings of the suspicious cases referred from the FIU to the Prosecution. - Number of crimes of terrorism and terrorism financing. - Number and value of cases on frozen, confiscated, or seized properties related to ML/TF. - Confiscation related to predicate offenses. - Implementation of the Security Council Resolutions. - AML/CFT training courses given to FIU and the prosecutions. - Number of disclosures received by the Customs authority on cross border currency transportation. - AML/CFT training courses for the customs employees. - Status of FIs on the inspection regarding compliance with AML/CFT requirements. - Requests of information incoming to the Sudanese Authorities about NPOs. - Lists received from the United Nations and referred to the different concerned entities. - MLA requests; - Requests of exchanging information with the non-counterparts. • Contradictory and vague statistical data, as an example, with respect to the cases referred from the FIU to the Prosecutions in AML/CFT. • No reliance on statistics information in reviewing the elements of AML/CFT regime in Sudan.

TABLES

Table 1: Rating of Compliance with FATF Recommendations

Table 2: Recommended Action Plan to improve AML/CFT regime

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

Table 1: Rating of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

Rec.	Rating	Summary of factors underlying rating
Legal Systems		
1.ML offence	PC	<ul style="list-style-type: none"> • Inadequate ML criminalization based on Vienna and Palermo conventions • Not verifying that the documents include electronic and digital ones • Predicate offences do not include all 20 offences. • Conviction in predicate offense is not clearly provided when proving that properties are crime proceeds • Absence of clear understanding for the competent authorities on the extent of relation of ML crimes with predicate offenses • Absence of effectiveness for the old law of 2004 and the new law of 2010 • Existence of a large number of crimes occurring on funds without considering the possibility of laundering the proceeds of such crimes • Interference in the characterization of the proper law between the illicit and suspicious enrichment crime and ML offense.
2.ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> • Non criminalisation of ML acts in line with the international conventions affects the criminal liability of legal persons. • There are no parallel administrative penalties that apply to all legal persons. • No minimum threshold for the sanctions may lead to imposing non dissuasive sanctions.

		<ul style="list-style-type: none"> • Not proving the implementation and effectiveness of law due to its recent implementation.
R.3 Confiscation & Provisional Measures	PC	<ul style="list-style-type: none"> • Absence of a system for the confiscation of property with regard to predicate offences. • Deficiencies related to civil seizure measures on predicate offenses. • Absence of provisions related to the equal application of the confiscation criterion on proceeds regardless of whether they were held or owned by a criminal defendant or by a third party. • Absence of statistics and interference in criminal and civil seizure measures impair the measurement of effectiveness and promptness of application of the confiscation system.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> • Concerns related to the inability of LEAs, particularly prosecutors, to access banking information if the Minister of Justice intervenes on the level of lifting banking secrecy or the Minister of Finance and National economy on the level of excluding FIs and non FIs from the obligations provided for in law including record keeping.
5. Customer Due Diligence	PC	<ul style="list-style-type: none"> • The application of AML/CFT law requirements on leasing companies and the financial services provided by SudaPost is not clear. • The law or any other primary or secondary legislation did not address the following: <ul style="list-style-type: none"> • Regulating numbered accounts (either by allowing or preventing their existence) so FIs are required to maintain them in such a way that full compliance with FATF Recommendations is achieved. • FIs (other than the institutions subject to the Central Bank) may conduct occasional transactions exceeding 15000 USD/Euro; this should also include (for all FIs) the cases where transactions are performed as one or several operations that appear to be linked. • Requiring FIs (other than those subject to the authority of the Central Bank) to identify and verify the identity of the customer by using original documents, data or information from a reliable and independent source. • Requiring FIs to verify whether any person claiming to be acting on behalf of the customer is authorized to do so while identifying and verifying that person.

		<ul style="list-style-type: none"> • Stock and insurance companies are not required in detail to comply with the requirements of identifying the beneficial owner and taking the necessary reasonable measures to verify the identity of such person. • Requiring FIs to identify the natural persons who have actual ownership or control over the customer including persons who exercise effective and full control over the legal person or legal arrangement. • Circulars issued to FIs did not address the following: <ul style="list-style-type: none"> • Requiring them with regard to customers from legal persons or legal arrangements to obtain information on the provisions regulating the binding authority of the legal person or legal arrangement. • Requiring FIs other than those subject to the authority of the Central Bank to verify the legal status of the legal person or legal arrangement. • Requiring stock and insurance companies to take reasonable measures to know the ownership and control structure of the legal person. • Requiring stock companies to obtain information on the purpose and intended nature of the business relationship. • Requiring the bank sector, exchange companies and transfer companies to obtain information on the nature of the business relationship. • Requiring stock companies and insurance companies to take enhanced due diligence measures for categories of high-risk customers, business relationships or transactions. • Requiring stock companies to verify the customer and beneficial owner identity before and during the establishment of the business relationship or executing transactions for occasional customers. • Requiring stock companies in case of inability to fulfill the due diligence measures to terminate the business relationship and consider making a suspicious transaction report. • Requiring the bank sector, exchange companies and transfer companies to consider submitting an STR when failing to meet CDD measures. • Requiring stock companies and insurance companies upon entering into a business relationship before fulfilling the customer identification procedures to terminate the business relationship and consider filing an STR. • Requiring FIs to apply CDD measures with regard to existing customers on basis of materiality and risk and address the timing issue of taking due diligence measures towards existing business relationships.
--	--	--

		<ul style="list-style-type: none"> • Effectiveness <ul style="list-style-type: none"> • No appropriate internal policies at the FIs, except for banks, pertaining to CDD measures towards customers. • Low level of awareness and experience in dealing with the obligation of customer identification and verification. • Low level of awareness and experience in dealing with the obligation of beneficial owner identification and verification. • Low level of awareness and experience in determining the ownership and control structure with regard to customers from legal persons.
6. Politically Exposed Persons	NC	<ul style="list-style-type: none"> • Absence of a requirement for stock companies and insurance companies to abide by full obligations in line with the Essential Criteria of R.6. • Absence of a requirement for FIs subject to the authority of the Central Bank to include whether the future client is PEP under their risk management system. • FIs do not comply with the requirements of R.6; rather they deal with PEPs as regular customers.
7. Correspondent banking	PC	<ul style="list-style-type: none"> • The circular issued for the FIs subject to the authority of the Central Bank did not address the verification whether the respondent institution was subject to ML/TF investigation or regulatory action. • The bank sector, exchange companies and transfer companies did not evaluate the respondent institution's AML/CFT controls to ensure they are sufficient and effective but they only obtain the approval of the Central Bank to deal with the correspondent institutions. • Not requiring FIs to document AML/CFT responsibilities in each institution with regard to correspondent banking relationships.
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> • The circulars issued for the FIs did not address the obligations set out in R.8 with regard to having in place adequate policies and taking such measures to prevent the misuse of technological developments in ML/TF operations, establishing policies and procedures to deal with risks associated with non face to face business or transactions.
9. Third parties and introducers	PC	<ul style="list-style-type: none"> • The circular issued for the stock companies did not address the potential existence of third parties to which the financial services companies may have resorted in order to build business relationship with some customers. • The circular issued for the insurance companies did not include the need for the insurance agents/intermediaries/producers to verify the

		<p>completion of relevant CDD measures.</p> <ul style="list-style-type: none"> The circular issued for the insurance companies did not include the need for insurance agents/intermediaries/producers to provide customer identification documents and other relevant documents related to CDD requirements when requested. The competent authorities did not take into account the information available on whether countries where third parties may be present sufficiently apply FATF Recommendations.
10. Record keeping	LC	<ul style="list-style-type: none"> Insurance companies are not explicitly required to provide the competent authorities in a timely manner with records and information related to transactions and customers. FIs are obliged to extend the duration of keeping records and data related to a suspicion or case until it is settled. This requirement does not extend pursuant to the request of a competent authority in certain cases and upon proper authority.
11.Unusual transactions	NC	<ul style="list-style-type: none"> There are no requirements for insurance companies, financial brokerage companies, leasing companies and financial services companies with regard to unusual transactions.
12.DNFBPs – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> Establish an appropriate regulatory framework to require DNFBPs with all the obligations set out in R.5 in addition to Recommendations (6, 8, 9, 10 and 11). Establish provisions and mechanisms to ensure that supervisory and monitoring institutions verify the compliance of non-financial businesses and professions with the obligations required there from. Lack of specific supervisory authorities for non-financial businesses and professions from which regulations concerning relevant recommendations are issued. Low level of compliance of NFBPs with the obligations set out in the recommendations.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> Contradiction between what is imposed by the law from reporting suspicious transactions to the FIU and what is imposed by the KSE regulation to notify the AML/CFT unit at KSE and not the FIU. Decriminalization of all 20 ML predicate offenses in the Sudanese Penal law affects the reporting obligation and hence, the rating of this recommendation. The reporting obligation does not include cases of suspecting a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers. No sufficient level of awareness for the reporting FIs

		<p>with regard to all aspects pertaining to reporting suspicion.</p> <ul style="list-style-type: none"> • Absence of effective application of the reporting conditions.
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> • There is nothing that prohibits the FIU from disclosing the names and personal details of employees of FIs that submit STRs.
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • Not requiring insurance companies to include main AML/CFT requirements in their internal systems especially those related to CDD, detection of unusual transactions and record-keeping. • Insurance companies and financial brokerage companies are not required to inform employees of the internal AML/CFT policies and procedures. • Exchange companies, financial services companies and leasing FIs are not required to have their compliance officer of a certain managerial level. • Insurance companies are not required to provide the right of access to the compliance officer with regard to customer identification data, CDD information, transaction records and other related information. • Not requiring exchange companies, financial services companies, leasing FIs and insurance companies to establish an adequately resourced and independent audit function. • There are no requirements for exchange companies, financial services companies, leasing FIs, insurance companies and financial brokerage companies to put in place and apply certain screening procedures to ensure high standards when hiring new employees. • Weak effective implementation of the requirements by all FIs with regard to: <ul style="list-style-type: none"> ○ Implementing AML/CFT internal policies, procedures and controls; ○ Establishing ongoing training programs for employees to ensure they are kept informed about the latest developments related to the current AML/CFT techniques, methods and trends and work on the clear interpretation of all aspects of AML/CFT laws and obligations especially the requirements of CDD and reporting suspicious transactions.
16. DNFBP – R.13-15 & 21	NC	<p><i>Applying R.13</i></p> <ul style="list-style-type: none"> • Lack of a sufficient degree of awareness in non-financial institutions on reporting the suspicion. • Absence of effective application of the conditions related to reporting suspicious transactions.

		<p><i>Applying R. 15</i></p> <ul style="list-style-type: none"> • Lack of controls requiring concerned non-financial institutions to establish internal AML/CFT policies and procedures. • Absence of a requirement for concerned non-financial institutions to develop appropriate compliance management arrangements and establish an independent audit function. • Absence of a requirement for concerned non-financial institutions to have an ongoing training program to inform employees of the most important developments. <p><i>Applying R. 21</i></p> <ul style="list-style-type: none"> • There are no requirements on concerned non-financial institutions concerning business relations and transactions with individuals from or in countries that do not apply or insufficiently apply FATF Recommendations. • There are no effective arrangements and measures in place to ensure that non-financial institutions are advised of concerns about weakness of AML/CFT systems in other countries. • There are no requirements for concerned non-financial institutions concerning checking or setting forth in writing the findings about the transactions related to non-compliant countries with no clear economic purpose. • Sudan did not take appropriate counter-measures regarding the countries that continue to apply or insufficiently apply FATF Recommendations
17.Sanctions	PC	<ul style="list-style-type: none"> • Sanctions do not adequately extend to include directors of FIs subject to ISA supervision. • Sanctions in the laws and regulations governing ISA work are not proportionate with the nature of the violations on compliance with AML/CFT requirements. • System of sanctions that can be imposed on financial institutions in case of violating AML/CFT obligations is ineffective.
18.Shell banks	LC	<ul style="list-style-type: none"> • Absence of specific provisions obliging FIs to prohibit continuance in any relationships with shell banks by setting a certain policy to be applied by FIs to update data of correspondent banks and evaluate it periodically. • The inspection conducted by the Central Bank of Sudan does not include the procedures taken by FIs with regard to entering into correspondent relationships and evaluating such relations.
19 .Other forms of	NC	<ul style="list-style-type: none"> • No consideration to the feasibility of implementing a system where FIs report all transactions in

reporting		currency above a fixed threshold to a national central authority that has an electronic database.
20.Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> No risk study was conducted to subject accordingly the owners of car showrooms and the Union of auction houses to AML/CFT requirements. No clear legal basis for the FIU to direct circulars and impose obligations over these authorities. In addition, such obligations are not proportionate with the nature of these activities. Inadequate measures taken to reduce reliance on cash being the main tool in the market.
21.Special attention for higher risk countries	NC	<ul style="list-style-type: none"> There are no requirements for insurance companies, stock companies, financial services companies and leasing companies with regard to business relationships and transactions with persons from or in countries that do not apply or insufficiently apply FATF Recommendations. There are no effective measures and procedures to ensure that FIs are aware of issues related to weakness in the AML/CFT regimes of other countries. There are no requirements for insurance companies and stock companies with regard to examining or recording the findings thereof in writing on transactions pertaining to non-compliant countries or having no apparent economic purpose. Sudan did not take appropriate counter-measures with regard to countries that continue to apply or insufficiently apply FATF Recommendations.
22.Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> No obligation on insurance companies to implement the requirements of this recommendation. There is no obligation on FIs to ensure that the requirements of branches too are consistent with FATF Recommendations in addition to those imposed by the mother country. No obligation requiring paying special attention with regard to branches and subsidiaries in countries that do not apply or insufficiently apply FATF Recommendations.
23.Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> Absence of a clear implementation methodology that governs the work of each specialised regulatory authority and shows its responsibilities concerning the adequate compliance of FIs under its supervision with AML/CFT requirements, especially the effective implementation of FATF Recommendations. Inadequacy of the structuring of supervision and monitoring authorities in charge of fulfilling AML/CFT requirements compared to the number of institutions they oversee.

		<ul style="list-style-type: none"> • Vagueness of the bases on which employees in competent supervisory authorities (except Central Bank) are selected, or the bases through which their compliance with high professional standards, particularly confidentiality and privacy, and their integrity and possession of proper skills are verified. • Limitedness of AML/CFT training provided to the employees of supervisors. • Inadequacy of the mechanisms applied by some supervisory authorities in identifying the founders of some FIs (offices of financial services, insurance companies and the companies operating in the field of securities) requesting the license, regarding the obtainment of their criminal records, to ensure the prevention of criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function. • Deficiency of the legal framework according to which some supervisors operate, except Central Bank of Sudan, concerning the evaluation of directors and senior management on the basis of “Fit and Proper” criteria including those related to expertise and integrity. • Ineffectiveness of the system of supervising unofficial transfers, with the existence of a parallel exchange market (black market) for the official exchange market; where some natural individuals practise the activity of exchanging foreign currency with its equivalent of the local currency in order to make use of price differences from the official stock market. • Ineffectiveness of the supervisors over MVTS providers to monitor their compliance with AML/CFT requirements; the assessors noticed the irregularity of inspections of all financial service offices and the Sudanese Post Company and unavailability of information about supervising leasing companies. • Absence of a study on the risk degree related to FIs other than those subject to the Core Principles, and lack of monitoring or supervision on them for AML/CFT purposes. • Inadequacy of statistical data that explain the status of FIs in each sector concerning AML/CFT inspection and its findings.
<p>24.DNFBP - regulation, supervision and monitoring</p>	<p>PC</p>	<ul style="list-style-type: none"> • No authorities to supervise and monitor DNFbps in the AML/CFT field were designated. The FIU has no legal basis to issue circulars for DNFbps. • Absence of a mechanism to be applied by SROs when supervising DNFbps and their compliance with AML/CFT requirements. Some of these authorities have administrative obstacles which impede them from performing their functions. In

		<p>addition to lack of verification that such authorities impose penalties on the entities they supervise in order to establish whether its supervision is effective or not.</p>
25.Guidelines & Feedback	NC	<ul style="list-style-type: none"> • Limited guidance addressed to the FIs with regard to the reporting, investigation and inspection procedures taken with regard to transactions suspected of being connected to ML/TF. • Non-existence of general and specific feedback on the STRs. • Inadequate guidelines issued by supervisory authorities (Central Bank, KSE, ISA) to FIs and subject to their supervision and failure to include an adequate description of ML/TF techniques and methods and any additional measures that such FIs can take to verify that AML/CFT measures are effective. • Guiding circulars are issued – in no capacity- by the FIU. The guidelines are not proportionate with the nature of each profession in DNFBPs.
Institutional and other measures		
26.The FIU	PC	<ul style="list-style-type: none"> • The FIU did not show sufficient practical autonomy until now and did not perform its tasks effectively. • There is no adequate financial analysis of the STRs received by the unit. • Insufficient number of employees at the FIU specially that some of them are part-time employees. • The reporting regulations and guidance submitted by the FIU to the reporting entities are insufficient and contradict with some of the law provisions. It should provide more ideas on how to detect suspicious transactions. • Non-existence of periodic reports issued to the reporting and public entities on ML/TF trends and typologies in Sudan and information on FIU's activities. • Insufficient training given to FIU employees on ML/TF. • Insufficient maintenance and protection of the information received by the unit.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • There is no proportionality between the investigations in ML/TF crimes by the prosecution or criminal police with the investigations on predicate offenses except for one investigation that did not yield any results. • There is no authority designated to investigate ML/TF cases.

		<ul style="list-style-type: none"> • There is no authority to postpone or waive the arrest of persons or the seizure of funds. • No sufficient AML/CFT training provided.
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • It was impossible to prove effectiveness of obtaining information available with FIs by LEAs. • There is no sufficient AML/CFT training and the related cases.
29. Supervisors	PC	<ul style="list-style-type: none"> • The existence of restrictions that impair the activation of the powers to conduct inspections and to compel production of documents and records for ISA. • Deficiencies referred to under R.17 affect the rating of compliance with this recommendation. • The weakness of the effectiveness of supervision on FIs.
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> • There are no appropriate financial, human and technical resources available in most of the AML/CFT competent authorities. • There is no appropriate, adequate and specialized training available for staff in the different supervisory authorities and LEAs. • The unbalance of operational independency and autonomy for a number of competent authorities such as FIU and competent prosecutions.
31. National co-operation	PC	<ul style="list-style-type: none"> • Deficiency in coordinating cooperation on the operational level between all the competent authorities. • Co-ordination on the policy level is adequately ineffective.
32. Statistics	PC	<ul style="list-style-type: none"> • There are no statistics available related to the following: <ul style="list-style-type: none"> - Findings of the suspicious cases referred from the FIU to the Prosecution. - Number of crimes of terrorism and terrorism financing. - Number and value of cases on frozen, confiscated, or seized properties related to ML/TF. - Confiscation related to predicate offenses. - Implementation of the Security Council Resolutions. - AML/CFT training courses given to FIU and the prosecutions. - Number of disclosures received by the Customs

		<p>authority on cross border currency transportation.</p> <ul style="list-style-type: none"> - AML/CFT training courses for the customs employees. - Status of FIs on the inspection regarding compliance with AML/CFT requirements. - Requests of information incoming to the Sudanese Authorities about NPOs. - Lists received from the United Nations and referred to the different concerned entities. - MLA requests; - Requests of exchanging information with the non-counterparts. <ul style="list-style-type: none"> • Contradictory and vague statistical data, as an example, with respect to the cases referred from the FIU to the Prosecutions in AML/CFT. • No reliance on statistics information in reviewing the elements of AML/CFT regime in Sudan
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> • There is no mechanism to ensure that information on beneficial owners is available and verify such info • No measures to access information on beneficial owners of legal persons; • Inability of the competent authorities to obtain or have access in a timely fashion to adequate and current information on beneficial owners and control of legal persons; • Absence of adequate measures to ensure that bearer shares will not be misused in ML transactions.
34. Legal arrangements – beneficial owners	NA	
International Co-operation		
35. Conventions	PC	<ul style="list-style-type: none"> • Insufficient implementation of Vienna and Palermo Conventions; • Insufficient implementation of the provisions of the CFT Convention.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • The process of international co-operation is generally impaired, as there is no legal framework that governs MLA; as well, law imposes as a general rule the non execution of co-operation requests issued by another country unless according to specific conditions.

		<ul style="list-style-type: none"> • There is lack of evidence for providing legal assistance pertaining to identifying, freezing, seizure or confiscation of assets intended to be used in TF and the instrumentalities used to commit such crimes. • The lack of comprehensive statistics on the number of legal assistance requests in ML investigations, instituting law suits and other proceedings. • The deficiencies related to R.1 affect the rating of compliance with this recommendation.
37. Dual criminality	PC	<ul style="list-style-type: none"> • The process of criminals' extradition is impaired in general: requests of extradition issued from another country are not implemented by a bilateral or international agreement unless permitted by the Council of Ministers. • Deficiencies related to ML predicate offenses are likely to affect the provision of international cooperation in matters that require dual criminality. • Lack of adequate laws and measures for a prompt and effective response to MLA requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets intended to be used in TF and the instrumentalities used to commit such crime. • Absence of measures for sharing confiscated properties between Sudan and other countries in case the confiscation is directly or indirectly a result of co-ordinated law enforcement actions. • Lack of comprehensive statistics on the number of MLA requests on the arrangements that require criminals' extradition in the scope of AML/CFT and other forms of legal assistance. • Impossibility of assessing the effectiveness due to lack of cases.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • Lack of appropriate legislations for rapid and effective response to MLA requests submitted by other countries related to the identification, freezing, seizure or confiscation of properties. • Lack of a legal basis for the co-ordination of confiscation procedures. • No consideration to the establishment of asset forfeiture. • Impossibility of assessing the system effectiveness due to lack of cases.

39.Extradition	PC	<ul style="list-style-type: none"> • Inadequate criminalization of ML act may affect the compliance with the extradition of criminals. • Existence of extradition requests which are still pending on part of Sudan.
40.Other forms of cooperation	NC	<ul style="list-style-type: none"> • The scope of powers and efforts of other AML/CFT competent authorities (other than the FIU) like LEAs and the prosecutions in international cooperation and the extent to which they enjoy the authority to spontaneously exchange information with counterpart and to conduct inquiries and investigations on behalf of the foreign counterparts (and the remaining requirements of R.40) are not clear.

Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I	NC	<ul style="list-style-type: none"> • Insufficient application of CFT Convention. • Lack of mechanisms or measures to implement UNSCR No. 1267 & 1373.
SR.II	NC	<ul style="list-style-type: none"> • TF criminalization or definition of terrorist organization or terrorist act is not consistent with the Terrorism Financing Convention; and the terrorist was not defined. • The definition of funds does not include electronic and digital documents. • The legislator did not determine the moral element represented in knowing that these funds are to be used, in full or in part, in financing terrorist acts. • Absence of provisions related to the application of TF offence regardless of the location of the terrorist or the location where the terrorist act occurred. • Non-presence of texts providing that funds are not linked to their actual use in committing terrorist acts or a specific terrorist act. • Not verifying the possibility of subjecting a legal person to administrative and penal liability. • Absence of dissuasive, proportionate and effective sanctions • Absence of law effectiveness.
SR.III	NC	<ul style="list-style-type: none"> • Non-presence of a legal system governing the freezing procedures of funds and properties of persons whose names are designated by virtue of S/RES/1267. • Non-presence of effective laws and procedures to freeze funds or other terrorist assets of persons designated by virtue of Resolution 1373. • Non-presence of effective laws and procedures to

		<p>examine and give effect to the actions initiated under the freezing mechanisms in other jurisdictions.</p> <ul style="list-style-type: none"> • Absence of evidence on the effectiveness of procedures related to freezing according to the Security Council Resolutions.
SR IV	NC	<ul style="list-style-type: none"> • Conflict between what has been imposed by law on reporting STRs to FIU and what has been imposed by KSE regulations on informing AML/CFT unit at KSE and not the FIU. • Inadequacy of TF criminalisation in the Sudanese penal law affects the reporting obligation and hence the rating of this recommendation. • The reporting obligation does not include cases of suspecting a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers. • Absence of a sufficient level of awareness for the reporting FIs with regard to all aspects pertaining to reporting suspicion. • Absence of effective application of the reporting conditions.
SR V	PC	<ul style="list-style-type: none"> • Factors related to R. 36, 37, 38, 39, 40 and SR.II have a negative effect on this recommendation. • Inadequate criminalization of TF act affects the compliance with criminals' extradition. • Lack of comprehensive statistics on criminals' extradition for TF cases affects the assessment of the effectiveness of procedures. • There are no statistics or data or MLA mechanisms or exchange of information, which are relevant to investigations, inquiries, administrative procedures or those related to Law enforcement procedures criminally and civilly related to the financing of terrorism, terrorist activities or terrorist organizations. • Negative factors mentioned in the context of R.40 affect the rating of compliance with this Special Recommendation.
SR VI	PC	<ul style="list-style-type: none"> • A wide presence of unregistered natural persons who provide money or value transfer services and the lack of mechanisms for registering them or monitoring their activities. • Inadequacy of the inspection being conducted on institutions that practise MVT services. • Lack of obligation on entities that perform transfer activities to maintain a current list of agents and make it available to the designated competent authority. • The mentioned deficiencies pertaining to

		Recommendations 5, 6, 7, 8, 10, 11, 13, 15, 17, 21 & 23 affect the rating of compliance with this Special Recommendation.
SR VII	PC	<ul style="list-style-type: none"> • Banks are not explicitly required by virtue of special rules to keep data related to the sender. • Not requiring beneficiary banks, exchange companies and financial services companies in some cases to consider taking measures such as terminating business relationships with FIs that fail to meet SR.VII standards. • There is no adequate supervision on the activity of wire transfers to verify the compliance of FIs that perform such activity with relevant obligations. • Low level of awareness on part of the exchange companies and financial services companies concerning the obligations related to wire transfers.
SR VIII	PC	<ul style="list-style-type: none"> • No laws or requirements concerning CFT in this sector; • The supervision system of non-profit organizations is not effective; • Absence of the requirement to maintain records for 5 years; • Lack of awareness for NPOs; • Sanctions for non-compliance with the requirements of registration are not effective or dissuasive.
SR IX	NC	<ul style="list-style-type: none"> • The issuance of the executive regulation of the disclosure system by an incompetent authority being the FIU in conflict with AML/CFT law provisions. • Not setting procedures to explicitly cover the disclosure requirements for the transportation of cash and other financial instruments via mail and shipments in containers. • AML/CFT law is unclear about whether confiscation is a procedure that may be ordered by court in cases of non-disclosure or false disclosure. • Absence of secure and adequate protection to retain disclosures; no designation of the related competent entity. • The effectiveness of the sanctions provided for in AML/CFT law has not been tested yet. • Deficiencies set out with regard to SR.III and R.3 affect compliance with this recommendation. Absence of adequate training to officers and members of the customs police department on the implementation of SR.IX requirements and its Interpretative Note. • At the time of the on-site visit, no sufficient mechanisms were developed yet to detect false

		<p>disclosures or non-disclosure.</p> <ul style="list-style-type: none">• Due to recently implemented disclosure system, it was impossible to verify the effectiveness thereof.• Absence of measures to explicitly cover disclosure requirements for cash and other financial instruments transportation via mail and shipments in containers.
--	--	---

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)	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Include the material elements of ML offense in all forms as stipulated by the Vienna and Palermo Conventions. • Include the electronic and digital documents in the definition of properties. • Criminalize (1) illicit trafficking in human beings and migrant smuggling, (2) illicit trafficking in goods, (3) corruption, (4) terrorist financing as required by SR.II. • Verify the possibility of applying administrative proceedings when legal person is subject to criminal liability. • Confirm the presence of dissuasive sanctions. • Prove the implementation and effectiveness of the system through: <ul style="list-style-type: none"> ○ Judicial provisions stating that the illicit funds are not required to prove the crime proceeds; ○ Judicial provisions related to self-laundering; ○ Issuing provisions showing that natural and legal persons are subject to effective sanctions. ○ Non-presence of overlapping in the characterization of the act with the illicit enrichment.
2.2 Criminalization of Terrorist Financing (SR.II)	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Amend the legal provision in the definition of the TF offence to be consistent with the Terrorism Financing Convention in addition to the definition of terrorist organization and terrorist act as well as the terrorist. • Clarify the definition of funds to include electronic and digital documents. • Provide for the knowledge of the use of funds, in full or in part, in financing terrorist acts. • Establish provisions for the application of the TF offence regardless of the location of the perpetrator or the location in which the terrorist act occurred or will occur. • Should not require that the funds are actually used to carry out or attempt a terrorist act(s) or be linked to a specific terrorist act. • Confirm the possibility of subjecting a legal person to administrative liability. • Provide for dissuasive and proportionate sanctions.

<p>2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)</p>	<p>The following must be carried out to comply with R.3:</p> <ul style="list-style-type: none"> • The sanction of confiscation of proceeds must apply to predicate offences. • To identify provisions related to the equal application of the confiscation criterion on proceeds regardless of whether they were held or owned by a criminal defendant or by a third party. • To establish clear legislative and regulatory measures for the freezing mechanism. • To prove the effectiveness of measures related to criminal seizure measures for the predicate offenses.
<p>2.4 Freezing of funds used for terrorist financing (SR.III)</p>	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Develop a legal system governing the freezing procedures of funds and properties of persons whose names are designated by virtue of S/RES/1267. • Establish effective laws and procedures to freeze funds or other terrorist assets of individuals designated in the context of Resolution 1373. • Establish effective laws and procedures to examine and give effect to actions initiated under the freezing mechanisms in other jurisdictions. • Enforce the freezing without delay or prior notice to the persons. • Establish mechanisms for de-listing and releasing the funds of the persons whose names were inadvertently mentioned in the list. • Establish procedures to distribute the Security Council lists to all entities. • Provide a mechanism for the person or entity to challenge the freezing order. • Establish procedures authorizing persons subject to the freezing order to access their funds necessary for basic expenses.
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Enhance FIU independency so that it performs its work according to the powers granted thereto and to enhance its abilities and experience in the field of receiving and gathering information as well as analyzing and investigating STRs. • Issue guidance to the entities subject to the reporting obligation on the manner of reporting. • Adequately and effectively securing the FIU building and the information received. • Focus on financial analysis, provide human and technical resources and provide full-time employees for the unit. • Enhance the training of FIU employees in the AML/CFT and financial analysis field.

	<ul style="list-style-type: none"> • The FIU should issue periodic reports to the reporting and public entities including the typologies and trends in Sudan in addition to information about its activities. • Provide more directions and guidance by the unit on ML/TF trends and typologies in Sudan to the reporting entities to ensure detection and reporting of suspicious transactions.
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Address the ambiguity in the prosecution in charge of cases on ML/TF crimes. • Legally grant the prosecution powers to postpone or waive the arrest of suspected persons or the seizure of funds for the purpose of identifying suspects in criminal activities or collecting evidence as the prosecution member may exercise this right through his discretionary powers only in taking this measure. • Give clear legal powers to the law enforcement authorities to request information from financial and non-financial institutions directly or indirectly. • Focus on additional training in investigating and countering ML/TF crimes by the prosecution, criminal police and economic security to raise awareness and increase knowledge in this regard.
<p>2.7 Cross Border Declaration & Disclosure (SR.IX)</p>	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Establish an integrated disclosure system by the authorized entity based on law provisions. • The customs police department should take more measures to ensure the application of SR.IX provisions and its Interpretative Note fully and effectively. • The customs police department should set clear procedures to ensure the secure retention of disclosure forms (Criteria IX-4 & IX-5) with designating the entity concerned in addition to developing an electronic database (Criterion IX-6) that includes information on all disclosures to be viewed by the competent authorities. • Grant the unit full powers to peruse the information mentioned in the disclosure forms on cash transportation. • Enhance the cooperation between Customs and other authorities. • Clarify the confiscation concept by the court for the natural person in cases of false disclosure or non-disclosure whereas Article (34) of the law refers to the confiscation of crime proceeds only. • The customs police department should develop the mechanisms followed in detecting false disclosures or non-disclosure. • The customs police department should develop disclosure regulations and guidelines on the movement of cash and bearer negotiable instruments, place them in a suitable location at all checkpoints and provide disclosure forms to travelers.

	<ul style="list-style-type: none"> • The customs police department should provide its employees, on a periodic basis, with more training on AML/CFT, SR.IX and its Interpretative Note as well as on Article (36) Clause (1) and (2) of the AML/CFT law. • Set procedures to apply R.3 and SR.III on persons who carry out physical cross border movement. • Set clear procedures to cover the disclosure requirements for the cross border transfer of cash and bearer negotiable instruments and shipments in containers. • Make sure to impose effective, dissuasive and proportionate sanctions in cases of false or non disclosure. • Establish a clear definition on the concept of bearer negotiable financial instruments in law.
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 to 8)	<p>The Sudanese authorities should:</p> <p>R.5:</p> <ul style="list-style-type: none"> • Ensure the effective application of the requirements of AML/CFT law on leasing companies and the financial services provided by SudaPost. • The law or any other primary or secondary legislation should address the following: <ul style="list-style-type: none"> ○ Regulating numbered accounts (either by allowing or preventing their existence) so that FIs are required to maintain them in such a way that full compliance with FATF Recommendations is achieved. ○ With regard to FIs not subject to the Central Bank, undertaking due diligence in occasional transactions exceeding 15000 USD / Euro; this should include (for all FIs including those subject to the Central Bank) the cases where transactions are performed in a single or several operations that appear to be linked. ○ Requiring FIs (other than those subject to the authority of the Central Bank) to identify and verify the identity of the customer by using original documents, data or information from a reliable and independent source. ○ Requiring FIs (other than those subject to the authority of the Central Bank) to verify whether any person claiming to be acting on behalf of the customer is authorized to do so while identifying and verifying the identity of that person. ○ Requiring stock and insurance companies in detail to comply with the requirements of identifying the beneficial owner and taking the necessary reasonable measures to verify his identity. ○ Requiring FIs to identify the natural persons who have actual ownership or control over the customer including persons who exercise effective and full control over the

	<p>legal person or legal arrangement.</p> <ul style="list-style-type: none"> • Circulars issued to FIs should address the following: <ul style="list-style-type: none"> ○ Requiring them (excluding FIs subject to the authority of the Central Bank) with regard to customers from legal persons or legal arrangements to verify their legal status and obtain information on the name of the customer, his legal form, address, managers and the provisions regulating the authority binding the legal person or legal arrangement. ○ Requiring stock and insurance companies to take reasonable measures to understand the ownership and control structure over the legal person. ○ Requiring stock companies to obtain information on the purpose and intended nature of the business relationship. ○ Requiring the bank sector, exchange companies and transfer companies to obtain information on the nature of the business relationship. ○ Requiring stock companies and insurance companies to take enhanced due diligence measures for categories of high-risk customers, business relationships or transactions. ○ Requiring stock companies to verify the identity of the customer and beneficial owner before or during the establishment of the business relationship or when carrying out transactions for occasional customers. ○ Requiring stock companies when failing to complete the due diligence measures to terminate the business relationship and consider submitting an STR. ○ Requiring the bank sector, exchange companies and transfer companies to consider making suspicious transaction report when failing to meet CDD measures. ○ Requiring stock companies and insurance companies upon entering into a business relationship before fulfilling CDD measures to terminate the business relationship and consider making an STR. ○ Requiring FIs to apply CDD measures with regard to existing clients on basis of materiality and risk and addressing the timing issue of taking due diligence measures towards existing business relationships. <p>R.6:</p> <ul style="list-style-type: none"> • Requiring stock companies and insurance companies to abide by the full obligations that are consistent with the essential criteria of R.6. • Requiring FIs subject to the authority of the Central Bank to include whether the future client is PEP under their risk management system. • Requiring FIs to comply with the requirements of R.6; they should not deal with PEPs as regular customers. <p>R.7:</p>
--	--

	<ul style="list-style-type: none"> • Regarding banks, exchange companies and transfer companies, require FIs to identify whether the respondent institution was subject to ML/TF investigation or regulatory action. • Regarding banks, exchange companies and transfer companies, require FIs to evaluate AML/CFT controls used by the respondent institution to ensure they are adequate and effective. They only obtain the approval of the Central Bank to deal with respondent institutions. • Document AML/CFT responsibilities in each institution with regard to correspondent banking relationships. • Verify that FIs practically comply with the requirements of R.7. <p>R.8:</p> <ul style="list-style-type: none"> • Require FIs to comply with the obligations mentioned in R.8 with regard to having in place adequate policies and taking measures to prevent the misuse of technological developments in ML/TF operations, establishing policies and procedures to deal with risks associated with non face to face business or transactions such as request for official notarization of documents or reliance on third parties to identify customers.
<p>3.3 Third parties and introduced business (R.9)</p>	<p>The authorities should do the following:</p> <ul style="list-style-type: none"> • The circular issued for the stock companies should address the potential existence of third parties to which stock companies may have resorted in order to build business relationship with some customers. • The circular issued for the insurance companies should require that insurance agents/intermediaries/producers verify the completion of relevant CDD measures. • The circular issued for the insurance companies should require insurance agents/intermediaries/producers to provide customer identification documents and other relevant documents related to CDD requirements when requested. • Require the competent authorities to take into account the information available on whether countries where third parties may be present sufficiently apply FATF Recommendations.
<p>3.4 Financial institution secrecy or confidentiality (R.4)</p>	<p>Sudan authorities should do the following:</p> <ul style="list-style-type: none"> • To verify that there are no obstacles against the ability of LEAs to obtain banking information in order to efficiently carry out their AML/CFT tasks.
<p>3.5 Record keeping and wire transfer rules (R.10 & SR.VII)</p>	<p>Record keeping (R.10)</p> <p>The authorities are recommended to:</p> <ul style="list-style-type: none"> • Oblige insurance companies explicitly through the AML regulation issued by the Insurance Supervisory Authority to provide the competent authorities in a timely manner with records and information related to transactions and

	<p>customers.</p> <ul style="list-style-type: none"> • Oblige FIs to extend the duration of keeping records pursuant to the request of a competent authority in certain cases and upon proper authority. <p>Wire Transfers (SR.VII)</p> <p>The authorities are recommended to:</p> <ul style="list-style-type: none"> • Oblige beneficiary banks, exchange companies and financial services companies to take measures such as terminating business relationships with FIs that fail to meet SR.VII standards. • Activate supervision on the activity of wire transfers and verify the compliance of FIs that perform this activity with relevant obligations. • Work on increasing awareness of exchange companies and financial services companies about the obligations imposed in the law and the circular.
<p>3.6 Monitoring of transactions and relationships (R.11 & 21)</p>	<p>R.11</p> <p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Expand the requirements of R.11 to include insurance companies, stock companies, leasing companies and financial services companies. <p>R.21</p> <p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Clarify the requirements of R.21 and expand them to include insurance companies, stocks companies, financial services companies and leasing companies. • Impose the requirement of making the results of examining unusual transactions available to competent authorities and auditors for at least five years on all FIs. • Establish effective measures and procedures to ensure FIs are aware of issues related to weakness in the AML/CFT regimes of other countries. • Apply appropriate counter-measures on countries that continue not to apply or insufficiently applying FATF Recommendations.
<p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19 & SR.IV)</p>	<p>The Sudanese authorities are recommended to:</p> <p>R.13 and SR.IV</p> <ul style="list-style-type: none"> • Impose the requirement of making STRs by the financial brokerage companies to the FIU and not any other entity. • Expand the reporting obligation to include cases of suspecting the occurrence of a connection or association between funds and terrorism or terrorist acts or that they will be used by terrorist organizations or terrorist financiers. • Raise level of awareness of the reporting FIs with regard to all aspects pertaining to reporting suspicion including the concept of suspicion, the entity that should be

	<p>notified of suspicion, the information included in the STR and the ability of the FIs to supply the STRs with useful information.</p> <p>R.14</p> <ul style="list-style-type: none"> • Establish a legal framework to keep confidential names and personal details of employees of the FIs that submit STRs. <p>R.19</p> <ul style="list-style-type: none"> • Consider the feasibility of implementing a system where FIs report all transactions in currency above a fixed threshold to a national central authority that has an electronic database. <p>R.25</p> <ul style="list-style-type: none"> • Issue and circulate clear guidance to all FIs especially insurance companies including the reporting, investigation and inspection procedures taken with regard to transactions suspected of being related to ML/TF. • Provide general and specific feedback on these STRs. • Provide feedback on the reports received by the unit to the reporting FIs.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<p>R.15</p> <p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Require insurance companies to include main AML/CFT requirements in their internal systems especially those related to CDD, detection of unusual transactions and record-keeping. • Oblige insurance companies to provide the right of access to the compliance officer with regard to customer identification data, CDD information, transaction records and other related information. • Explicitly require exchange companies, financial services companies, leasing FIs and insurance companies to establish an adequately resourced and independent audit function. • Oblige all FIs except banks to put in place screening procedures to ensure high standards when hiring new employees. <p>R.22</p> <p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Explicitly stipulate the obligation to ensure that the requirements of branches too are consistent with FATF Recommendations in addition to those imposed by the mother country. • Impose the obligation requiring paying special attention with regard to branches and subsidiaries in countries that do not apply or insufficiently apply FATF Recommendations. • Require insurance companies to implement the

	<p>requirements of this recommendation.</p> <ul style="list-style-type: none"> • Oblige the FIs subject to the Core Principles to apply consistent CDD measures at the group level.
<p>3.9 Shell banks (R.18)</p>	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Establish specific provisions obliging FIs to prohibit the continuance in any relationship with shell banks through setting a certain policy to be applied by FIs to update data of correspondent institutions and evaluate it periodically in order to ensure that no relationships with shell banks are continued. • Verify that FIs do not enter into, or continue, correspondent banking relationships with shell banks among the inspection processes conducted on FIs.
<p>3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)</p>	<p>R.17</p> <p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Establish an appropriate framework of the sanctions that can be imposed on insurance companies; such sanctions should be proportionate with the nature and type of each violation. • Expand the scope of sanctions to include imposing sanctions on directors of FIs subject to ISA supervision in case they commit any violations, to ensure the effectiveness of these sanctions. • Activate the sanction system on FIs that violate AML/CFT obligations. <p>R. 23 Criteria (1, 2) and R. 30 Criteria (1, 2, 3)</p> <p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Establish a clear detailed methodology to designate the responsibilities of each supervisory entity with regard to ensuring adequate compliance of the FIs under its supervision with AML requirements, particularly the effective implementation of FATF Recommendations, to prevent the interference of competences. • Increase the inspection visits of supervisory authorities to financial institutions to verify that they are effectively applying the recommendations. • Support the organisational structure of supervisors which are concerned with fulfilling AML/CFT requirements, to enable them achieve the tasks assigned to them according to the number and size of the financial institutions under their supervision. • Support the financial and managerial independence of regulatory and supervisory authorities over the FIs to enable them effectively perform their supervisory role. • Establish legal and regulatory framework based on which employees of AML/CFT authorities are selected and ensure they are of high integrity and maintain high professional standards. • To have all supervisory authorities increase AML/CFT

training of their employees, expand the size of the included subjects considering local experiences in addition to grasping the international standards in this respect.

R.23 Criteria (3, 5, 7) - Market Entry

The Sudanese authorities should:

- Support the mechanisms applied by some supervisory authorities to identify the founders of financial institutions by obtaining their criminal records in order to ensure the prevention of criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function.
- Support the legal framework according to which supervisory authorities work to enable them assess directors and members of senior management based on “Fit and Proper” criteria including those related to expertise and integrity.
- The competent authorities should take the measures that ensure minimising the natural persons' practice of the currency exchange activity in order to have currency exchange processes subject to the Central Bank's supervision.

R.23 Criteria (4, 6, 7) – Ongoing supervision and monitoring

The Sudanese authorities should:

- Activate supervisory systems that provide MVT service to monitor their compliance with AML/CFT requirements.
- Conduct a study on the risk degree related to financial institutions other than those subject to the Core Principles, and subjecting them to monitoring and supervision for AML/CFT purposes, with the degree specified by the risk study.
- Find a mechanism that provides on a periodic basis statistical data, which show the status of financial institutions in each sector concerning AML/CFT inspection and the findings thereof, especially the bodies that operate in money transfer.

R 25

The Sudanese authorities should:

- Supervisory authorities (Central Bank, KSE, ISA) should issue guidelines to FIs with a view to develop their compliance with AML/CFT measures, including a description of the ML/TF techniques and methods.

R.29

The Sudanese authorities should:

- Try to eliminate any restrictions that impair the activation of the powers to conduct inspections and to compel production of documents and records for the Insurance Supervisory Authority.
- Address the deficiencies referred to under R.17 by

	<p>providing an appropriate scope of sanctions on insurance companies including the directors and senior management of financial institutions in those sanctions and activating the sanctions system.</p>
<p>3.11 Money value transfer services (SR.VI)</p>	<p>The Sudanese authorities should do the following:</p> <ul style="list-style-type: none"> • The Central Bank of Sudan should put in place a mechanism that helps place the processes made by natural persons who are not registered in money or value transfer activities under supervision in order to have such activity under control. • Increase inspections on MVT service providers to monitor their compliance with AML/CFT requirements, and increase the scope of inspections to include all the requirements of transfers; the inspection should include sample testing of these transactions. • Require the licensed or registered MVT service providers to maintain a current list of their agents and make it available to the competent authorities.
<p>4. Preventive Measures – Non-Financial Businesses and Professions</p>	
<p>4.1 Customer due diligence and record-keeping (R.12)</p>	<p>The following is recommended:</p> <ul style="list-style-type: none"> • The need to establish an appropriate regulatory framework to require all DNFBPs about all the obligations in R.5 in addition to Recommendations (6, 8, 9, 10 and 11) so it is issued by the supervisory authorities concerned with supervision and monitoring of the DNFBPs. • The need for specific supervisory authorities for non-financial businesses and professions from which regulations concerning relevant recommendations are issued. • Establish provisions and mechanisms to ensure that supervisory and monitoring institutions verify the compliance of non-financial businesses and professions with the obligations required there from. • The need for the NFBPs to comply with the obligations set out in the recommendations.
<p>4.2 Suspicious transaction reporting (R.16)</p>	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Establish controls for DNFBPs in Sudan that meet all the requirements of R. 15 and 21. • Impose binding requirements in what the law has not generally imposed on DNFBPs and consider the disparities among these authorities. • Ensure effective application of the AML/CFT rules by non-financial businesses and professions.
<p>4.3 Regulation, supervision and monitoring (R.24-25)</p>	<p>R.24</p> <p>Sudan authorities should:</p> <ul style="list-style-type: none"> • Designate the competent AML/CFT supervisory and

	<p>monitoring authorities on DNFBPs, or find a legal cover for the FIU powers concerning its supervision over DNFBPs in the AML/CFT field.</p> <ul style="list-style-type: none"> Overcome the administrative obstacles facing some SROs and develop effective mechanisms to enable them monitor the compliance of DNFBPs with AML/CFT requirements. <p>R.25</p> <p>Sudan authorities should:</p> <ul style="list-style-type: none"> Increase coordination between FIU and SROs – after designating their competences—to be able to issue circulars and guidelines proportionate with the nature of each profession in DNFBPs.
<p>4.4 Other non-financial businesses and professions (R.20)</p>	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> Conduct a study for risks surrounding non-financial business and institutions other than DNFBPs in order to find the legal basis to subject some of them to AML/CFT requirements in light of the study's results, and discuss the appropriate extent of imposed obligations based on their activities in order to ensure their effectiveness in combating. Intensify efforts to reduce reliance on cash through creating new mechanisms in this regard by referring to international expertise and in line with local conditions.
<p>5. Legal Persons and Arrangements & Non-Profit Organisations</p>	
<p>5.1 Legal Persons – Access to beneficial ownership and control information (R.33)</p>	<p>Authorities should:</p> <ul style="list-style-type: none"> Establish a mechanism to ensure that information on beneficial owners of legal persons is available and verify such information; Take necessary measures to access information on beneficial owners of legal persons; Obtain and have access in a timely fashion to adequate and current information on beneficial owners and control of legal persons. Take the necessary measures to ensure that bearer shares will not be misused in ML/FT schemes.
<p>5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)</p>	
<p>5.3 Non-profit organisations (SR.VIII)</p>	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> Review NPOs' law with respect to CFT requirements or to prevent the misuse of this sector in TF. Enhance transparency to promote donors' trust in NPOs and protect this sector. Develop an effective program to communicate with non-profit sector including the best practices to address TF risks, organize regular events with the sector to discuss

	<p>scope and methods of misusing NPOs, new trends in terrorist financing and new protection measures and to issue advisory papers and other useful resources.</p> <ul style="list-style-type: none"> • Review NPOs legislations to require them to maintain - at least for 5 years - records which contain local and international transactions, full details required to verify that funds were spent in the manner that fits purposes and objectives of the organization and to make such records available to the competent authorities. • Organize onsite inspections on NPOs projects to verify that funds are spent according to their purposes and objectives: Evaluating the risks of projects would enable the Commission for Voluntary and Humanitarian Works effectively identify the volume of onsite transactions for inspection and appoint responsible officers. • Outreach organizations with a focus to increase awareness of TF risks and direct available measures to protect all types of NPOs against such crimes. • Increase sanctions for non-compliance with requirements of registration to confirm they are effective and dissuasive.
<p>6. National and International Co-operation</p>	
<p>6.1 National co-operation and coordination (R.31)</p>	<p>The authorities are recommended to:</p> <ul style="list-style-type: none"> • Develop and coordinate cooperation on the operational and policies levels across all the competent authorities to achieve AML/CFT objectives and requirements. • Authorities should work together to develop and review regulations and circulars with a view to implement requirements of AML/CFT Act and provide a higher level of common awareness for the sectors to enhance capacity building and promote cooperation among them. • The administrative committee should improve its role, execute its functions and develop a national AML/CFT strategy.
<p>6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)</p>	<p>The Sudanese authorities are recommended to:</p> <ul style="list-style-type: none"> • Address weaknesses necessary to fully implement Vienna and Palermo Conventions. • Take necessary measures to comply with and fully implement Security Council Resolutions 1267 and 1373 (and the subsequent resolutions) under SR.III.
<p>6.3 Mutual Legal Assistance (R.36-38 & SR.V)</p>	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Establish adequate laws and measures for a prompt and effective response to MLA requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets intended to be used in terrorism financing as well as the instrumentalities used to commit such crime. • Consider authorising the sharing of confiscated assets between Sudan and other countries in case the

	<p>confiscation is directly or indirectly a result of co-ordinated law enforcement actions.</p> <ul style="list-style-type: none"> • Consider establishing an asset forfeiture fund into which confiscated properties will be deposited, as required by law.
6.4 Extradition (R.39, 37 & SR.V)	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Adopt procedures and arrangements that allow handling the requests and procedures of extradition regarding money laundering and terrorism financing without any delay.
6.5 Other Forms of Co-operation (R.40 & SR.V)	<p>The Sudanese authorities should:</p> <ul style="list-style-type: none"> • Expand the powers of other competent authorities in AML/CFT (other than the FIU) like LEAs and the prosecutions in international cooperation; which would allow spontaneous exchange of information with the counterparts, conduct inquiries and investigations and obtain information on behalf of the foreign counterparts, if requested. • Find mechanisms of MLA and exchange of information, which are relevant to investigations, inquiries or obtaining information, administrative procedures or those related to Law Enhancement procedures criminally and civilly and related to terrorism financing, terrorist activities or terrorist organizations, and preparing statistics that include all aspects of legal assistance.
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	<p>Sudan authorities should address the following issues:</p> <p>R.30:</p> <ul style="list-style-type: none"> • There are no appropriate financial, human and technical resources available in most of the AML/CFT competent authorities. • There is no appropriate, adequate and specialized training available for staff in the different supervisory authorities and LEAs. • The unbalance of operational independency and autonomy for a number of competent authorities such as FIU and competent prosecutions. <p>R.32</p> <ul style="list-style-type: none"> • There are no statistics available related to the following: <ul style="list-style-type: none"> - Findings of the suspicious cases referred from the FIU to the Prosecution. - Number of crimes of terrorism and terrorism financing. - Number and value of cases on frozen, confiscated, or seized properties related to ML/TF. - Confiscation related to predicate offenses.

	<ul style="list-style-type: none">- Implementation of the Security Council Resolutions.- AML/CFT training courses given to FIU and the prosecutions.- Number of disclosures received by the Customs authority on cross border currency transportation.- AML/CFT training courses for the customs employees.- Status of FIs on the inspection regarding compliance with AML/CFT requirements.- Requests of information incoming to the Sudanese Authorities about NPOs.- Lists received from the United Nations and referred to the different concerned entities.- MLA requests;- Requests of exchanging information with the non-counterparts.• Contradictory and vague statistical data, as an example, with respect to the cases referred from the FIU to the Prosecutions in AML/CFT.• No reliance on statistics information in reviewing the elements of AML/CFT regime in Sudan.
--	---

ANNEXES

Annex 1: Statistics provided by the Country

Annex 2: Copies of key laws, regulations and other measures

Annex 3: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

Annex 4: List of all laws, regulations and other material received

Annex 1: Statistics provided by the Country

Table of the statistics of the criminal investigation department for 2010

State	Description									Total
	Crimes against lives and bodies	Financial crimes	against the state and regulatory	Crimes of morals and assault on liberties	Crimes against public peace	Other laws	Crimes related to the public employee	Crimes of fraud and counterfeiting	Crimes related to religions	
Khartoum	53888	102910	11	17005	126773	24957	7634	917	914	335009
Northern	2360	4789	1	703	3192	3845	297	9	77	15273
River Nile	4047	6886	1	1085	6158	2547	775	13	66	21578
North Kurdufan	9939	13942	1	4062	8081	3765	983	66	97	40936
South Kurdufan	6952	8426	98	2275	3321	628	240	31	62	22033
North Darfur	3488	7184	2	828	2823	805	356	37	41	15564
South Darfur	11636	18121	26	2773	2662	1164	584	47	155	37168
West Darfur	2271	2995	0	653	1084	251	192	6	15	7467
Al Jazirah	13741	19706	2	3362	21822	8587	1449	43	211	68923
Blue Nile	5514	6651	0	969	3134	379	484	15	31	17177
White Nile	8210	10075	6	1990	9559	1956	845	34	41	32716
Sennar	5723	9992	0	1992	9308	2966	249	12	96	30338
Red Sea	4660	6336	0	1382	12345	3696	543	20	73	29055
Kassala	4392	6515	0	876	6117	2603	501	21	8	20933
Al Qadarif	5652	9144	17	1066	6482	3588	204	48	24	26225
Utilities & Establishments	707	1027	0	141	628	399	292	6	4	3204
Total	143080	234699	165	41162	223489	62136	15628	1325	1915	723599

Comparing total reports on offenses during 2010 with 2009

Years	Crimes against lives and bodies	Financial crimes	Crimes against the state and regulatory forces	Crimes of morals and assault on liberties	Crimes against public peace	Other laws	Crimes related to the public employee	Crimes of fraud and counterfeiting	Crimes related to religions	Total
2010	143080	234699	165	41162	223489	62136	15628	1325	1915	723599
2009	134576	225414	187	39204	195361	61302	16415	1240	1359	675058
Comparison	8504 +	9285 +	22-	+ 1958	28128 +	834 +	787-	85 +	556 +	51745 +
Percentage	6,3%	4,1%	11,8%	5%	14,4%	1,4%	4,8%	6,8%	40,9%	7,7%

Statement on the reports of drug crimes, the suspects and seized items by the anti-drugs directorate for the period from 2005-2010

Year	Reports	Suspects	Cannabis (hashish)			Khat			Narcotic pills	Other drugs
			Gram	Kg	Ton	Gram	Kg	Ton		
2005	1944	2457	902	626	1	3	775	285	2259	-
2006	2255	2978	290	321	6	210	-	132	2597	Marijuana
2007	1976	2585	571	306	14	-	200	442	96	-
2008	2163	2838	656	617	58	-	140	436	480	-
2009	2619	3365	941	191	13	-	316		729	(24) Lebanese hash rolls + glue + marijuana
2010	3614	4889	137	462	6	-	284 166 bags		92, 401	23 opium rolls + marijuana

Statistics on the suspicion cases for 2010-2011

Reporting Entities for 2010-2011

Year	Banks	Exchange Companies	Law Enforcement Entities	Supervisory Entities	Other	Total
2010	17	4	4	0	1	26
2011	11	6	6	2	0	25
Total	28	10	10	2	1	51

Findings of Suspicious Cases for 2010-2011

Year	Under Review (Heard)	Dropped	Referred to Prosecution	Total
2010	15	6	5	26
2011	22	3	0	25
Total	37	9	5	51

A table on the number of requests received or sent by the Sudanese authorities and the number of decided requests during 2011:

Type of order	Number of files	Decided
Retrieval	97	58
Extradition	71	39

Table on the status of the requests still pending in 2011 by the Sudanese authorities

Number of requests	Status	Comments
19	Provisional arrest order was issued; Recovery file not received yet	The provisional arrest order is arresting the wanted person based on the agreements precedes the step of sending the extradition request and recovery file; it remains open until the recovery file is received.
12	Before the Judicial judge, referred by the Minister of Justice	
1	Transmission request with Incomplete information	

A table on the number of requests received or sent by the Sudanese authorities and the number of decided requests during 2012:

Type of order	Number of files	Decided
Extradition	55	4

Table on the status of the requests still pending in 2012 by the Sudanese authorities

Number of requests	Status	Comments
44	Provisional arrest order was issued; Recovery file not received yet	
4	Under study being recently received	
2	Before the Judicial judge, referred by the Minister of Justice	
1	Transmission request with incomplete information	

Requests submitted from countries to Sudan on the exchange of information

No.	Country/ Destination	Subject	Date of request	Date of response
1	Hashemite Kingdom of Jordan (AMLU Jordan)	Information required about suspected people	26 January 2011	7 April 2011
2	The Sultanate of Oman (Royal Oman Police)	Information required about suspected people	25 October 2010	22 November 2010
3	USA (USA embassy in Khartoum)	Request to freeze funds and prohibition of transactions according to UNSCR.	10 October 2010	30 November 2010
4	Syrian Arab Republic (CMLC)	Information required about suspected persons.	5 August 2010	11 November 2010
5	The United Arab Emirates (AMLSCU)	Information required about suspected persons	27 April 2011	23 June 2011
6	Sudanese Ministry of Foreign Affairs (Embassy of Sudan in Bahrain Kingdom)	Request for information about suspected person.	12 April 2010	Does not need response
7	International Security Council (Resolutions 1970 & 1973)	Freezing the funds of Libya and Ghadafi and prohibition of travel	17 May 2011	25 May 2011
8	USA embassy in Khartoum	Request of Information	30 October 2011	3 November 2011

Requests issued from Sudan to other countries on the exchange of information

No.	Country/ Destination	Subject	Date of request	Date of response
1	Arab Republic of Egypt (EMLCU)	Information required about suspected person	21 March 2010	12 February 2011
2	The United Arab Emirates (AMLSCU)	Information required about suspected persons	16 June 2010	Not responded

Annex 2: Copies of key laws, regulations and other measures

- 1- **AML/CFT Law for 2010**
- 2- **Circular No. 10/2010 issued by the Central Bank of Sudan addressed to all banks and financial institutions**

In the Name of Allah , the Gracious , the Merciful

Republic of the Sudan

Interim Decree

The Money Laundering and Terrorism

Financing Act 2010

Pursuant of the provisions of Section 109 of the Interim Constitution of the Republic of the Sudan for the year 2005 , the President of the Republic of the Sudan has issued the following Interim decree :-

Chapter I

Preliminary Provisions

Title and commencement

1. This Interim Decree may be cited as, "Money Laundering and Terrorism Financing Act, 2009", and shall come into force, as of the date of signature.

Repeal and saving

2. The Money Laundering (Combating) Act, 2004 shall be repealed; provided that all the regulations, measures and decisions, made thereunder shall continue in force, until revoked, or amended under this Act.

Interpretation

3. In this Act, unless the context otherwise requires, :-
"Money", means property of its types, whether material, or immaterial, movable, or immovable, and currencies of all types thereof, foreign, or local, financial and

commercial papers, bonds and documents, which prove acquiring, or possession of money, or any title, relating thereto;

"Central Bank",

means the Central Bank of Sudan;

"Person",

means any natural, or corporate person;

"Continuous relation",

means any commercial, or professional relation, having connection with one of the activities, named in the definition of the Financial , or Non-financial Institution, whenever the Institution concerned expects the relation to continue for a period of time;

"Casual client"

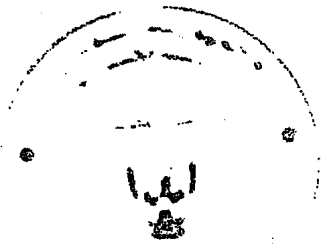
means the customer whom no continuous relation connects with the Financial, or Non-financial Institution;

"Committee",

means the Administrative Committee, established under the provisions of section 29, hereof;

" Revenues"

means the funds accrued , returning or collected directly or indirectly from committing a crime of the crimes provided for in the criminal law for the year 1991 or any other law that replaces it and also any crime provided for in any other law valid in Sudan



"Governor",

means the Governor of the Central Bank;

"Real beneficiary",

means the natural person having the ownership, or actual control of the client, or the person, for the account, or interest of whom the operation is made, or according to his will;

"Financial Institutions",

mean the Commercial Banks, companies, Exchange and Brokerage Shops, and include any person, or other bodies, which operate commercially, in a regular way, any of the following activities, or operations, for the benefit, or account of clients :-

- (a) acceptance of deposits;
- (b) granting credit, of all types thereof;
- (c) financing hire;
- (d) transmission of money;
- (e) the issue of payment instruments of all types thereof; of the same are payment and credit cards and personal and banks cheques;
- (f) financial securities and undertakings;
- (g) dealing in the instruments of the monetary market and the capital market, in sale, and purchase in such dealing in foreign exchange , and the present, or postponed exchange markets;

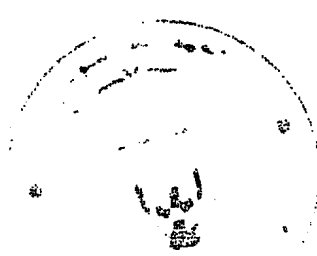


- (h) participation in the issue of financial papers and rendering financial services, having a connection with such issue;
- (i) the investment purses, and the services of investment trustees;
- (j) management and keeping the financial papers and valuable things;
- (k) mutual help, or life insurance, and any other insurance products, having an investment element;

"Non-financial Institutions",

mean the Institutions, or persons, who commercially practice any of the following activities :-

- (a) clubs of wagering games, or gambling;
- (b) estates brokerage;
- (c) trade of minerals and valuable gems;
- (d) the activity of advocacy, or accountancy, as a liberal profession;
- (e) services of instituting companies, and the activities, attached thereto;
- (f) any other activities, as a decision from the Minister may be issued for application of the provisions of this Act thereto.



- "Unit", means the Financial Inquiries Unit, established under section 10, hereof.
- "Minister", means the Federal Minister of Finance and National Economy;

Chapter II

Control and Supervision

Bodies of Control and Supervision

4. The following bodies shall have the competence of control and supervision of the activities of the Financial and Non-financial Institutions, belonging thereto, or situated in the scope of the competence thereof, in pursuance of the law organizing each of such bodies, namely :-
- (a) the Central Bank;
 - (b) the Khartoum Stock Exchange;
 - (c) the Insurance Control Public Corporation;
 - (d) any other body, whom the Minister issues an order for competence thereof, as a control, or supervision body, on any of the activities of the Financial, or Non-financial Institutions, provided therefor in this Act.

Duties of the Control and Supervision Bodies

5. The Control and Supervision Bodies shall have the following duties, in the field of combating Money Laundering and Financing Terrorism, to :-
- (a) make the regulations implementing the provisions of this Act; each in the scope of the competence thereof, with respect to the Financial and Non-financial Institutions, which are subject to the control, or supervision thereof;

- (b) generalize and promote the procedure of audit and the means and standards of follow-up of abidance, of the Financial, and Non-financial Institutions, by the requirements of combating Money Laundering and Terrorism Financing, in accordance with the provisions of this Act;
 - (c) ascertain satisfaction, by the Financial and Non-financial Institutions, which are subject to the supervision, or control thereof, of the obligations, prescribed under the provisions of this Act; and they may use all the control, or supervision powers, for the sake of the same; and shall abide by notifying the Unit of any information, relating to such information, as may be suspected of having a connection with the proceeds, or Financing Terrorism;
 - (d) any other duties, as may lie on the shoulders of the Control and Supervision Bodies, in the field of combating Money Laundering and Financing Terrorism, under the provisions of this Act, or under the international and regional agreements, to which the Sudan is a party;
 - (e) use the punitive powers thereof, prescribed therefor, in accordance with the laws organizing the same, in cases of breach, by the Financial and Non-financial Institutions, of the obligations, under the provisions of this Act;
- (2) The Central Bank shall enlist and control the size and movement of the money transmitted outside the State, or coming from outside the same, through the Financial Institutions, to inquire and know any unfamiliar exit of the movement of such money, as may not be proportionate to the natural, or ordinary rates , or to the economic reality of the State.

Obligations of the Financial and Non-financial Institutions

The Financial and Non-financial Institutions shall abide by the following :-

- (first) exerting due care to know the identity of clients and beneficiaries of the natural persons and ascertain and identify the nature of their activity according to regulation in particular the following cases ;
- (second) upon performing an operation for a casual client, the value of which exceeds the limit shown by the regulations;
- (third) upon performing international telegraphic transmissions;
- (fourth) upon the presence of doubts about the precision, or validity of the pre-registered identification data;
- (fifth) upon the presence of a suspicion of Money Laundering, or Terrorism Financing.

Exercising of Telegraphic Transfers Operations

7. The financial institutions exercising the telegraphic transfers operations shall attach form of data of identity in accordance with the regulations. In case of non-attachment the financial bodies to which the same is sent shall strive to obtain such statement through the financial body sending the same. In case of failure such bodies shall take the necessary proceedings to secure that the transfer does not relate to money laundering or terrorism financing or reject receipt thereof whenever it thinks the high degree of risk.

Secrecy of Information

8. There shall be prohibited directly or indirectly or by any other means save to the bodies authorities competent to apply this Act , any action of notification or inquiry or examination taken in

respect of any operation suspected to relate to proceeds or terrorism financing.

Negation of Responsibility

9. The criminal, civil, administrative and disciplinary responsibility shall extinguish in respect of any person who submits in good faith notification on any suspected transaction, or provide information or data in accordance with the provisions of this Act.
- (b) classify their clients and products, according to the degree of risks of occurring of the operations of Money Laundering , or Terrorism Financing.
 - (c) thorough and continuous follow-up of the operations performed by the clients, to verify that they are consistent with the information, which are available about their identification, and the nature of their activities, and the degree of the risks of the same; and up-date the data, information and documents continuously; in particular where the client is classified as one of a high degree of risk.
 - (d) notify the unit with transactions suspected to be connected with proceeds or financing terrorism whether such transactions made or not provided that advocates shall not be obliged to notify if the information connected with their clients acquired upon performing evaluation of legal status the client or his representation before courts or providing the legal opinion in a matter .
16. the Financial and Non-financial Institutions shall abide by laying down such systems, as may guarantee the application of the provisions of this Act; provided that such systems shall include laying the internal systems , which contain the internal policies , procedure, control systems, abidance, obligation, appointment and training, in accordance with the safeguards, standards and rules, made by the competent bodies, in such way, as may be compatible with the activity of each, and the degree of risks of Money Laundering and Terrorism Financing.
- (e) keep the following registers and statements :

- (first) registers and statements relating to identity or client and real beneficiary for five years at least from the date of termination of the operation or date of termination of the relationship whatever longer;
- (second) registers and statements relating to local or international of operations for five years at least from the date of termination of the operation ;
- (third) any registers or other statements which shall be kept provisions of this Act and the regulations made thereunder;
- (fourth) registers and statements relating to suspicion or case till decided even if the specified period for keeping is exceeded.

Chapter IV

The Financial Inquires Unit

Establishment of the Unit

17.(1) There shall be established, at the Central Bank, an independent unit , for which the necessary funding shall be provided, to be known as the, "Financial Inquiries Unit", The Unit shall have competence to analyse the information which relate to the money suspected to be the proceeds of an offence, or from Terrorism Financing, and send such information to the competent Prosecution Attorneys Bureau, to dispose thereof, whenever it considers the establishment of evidence of the commission of one of the offences, provided for in the Criminal Act, 1991, or any law, as may replace the same. Likewise any offence, provided therefor in this Act, or any other law.

Constitution of the Unit

- 11(1) The Governor shall issue a decision constituting the Unit, it shall be appropriate number .
- (2) The decision shall specify the way of management of the Unit and work system.

Secrecy of Information

- 12.(1) Employees of the Unit shall abide by non-disclosure of the secrecy of such information, as they come to know, by the occasion of the business of their post; and such obligation shall continue up to after leaving work at the Unit . Such information shall not be disclosed, save for the purposes set forth in this Act.
- (2) Such obligation in sub-section (1) shall bind whoever peruses by virtue of his profession, post or work, directly, or indirectly such information.
- 13.(1) Without prejudice to the provisions of section 6(1)(d), concerning the obligations of advocates, the Unit shall require, from any Financial, or Non-financial Institution, any information, as may be useful to carry out its post, or upon a request it receives from a foreign financial inquiry unit; and the Financial and Non-financial Institutions shall supply the Unit with such information and documents, within such period and manner , as the unit may specify; in exceptional cases, during examining the cases of suspicion, may require from the following bodies, additional information , whenever it deems them useful for carrying out its post, or upon a request it receives from a financial inquiry unit :-
- (a) the law enforcement bodies;
 - (b) the Control and Supervision Bodies;
 - (c) any other administrative bodies.

Notification of control and Supervision bodies

14. The Unit may notify the Control and Supervision Bodies, of any suspicion of contravention of the provisions of this Act, as may occur from the side of the Financial and Non-financial Institutions, which are subject to its control, or supervision power .

Temporary Suspension of Suspected Transaction

- 15 The Unit, in exceptional cases, during examining the cases of suspicion, it has received, may order suspension of the transaction, subject of suspicion temporarily, for a period not exceeding five days ; and the Unit, during such period shall transfer the notification to the Prosecution Attorneys Bureau, forthwith the availability of evidence of occurrence of an offence.
- 16.(1) The Unit, upon requirement, and upon the establishment of evidence of occurrence of an offence, may request the Prosecutor General, to issue a temporary order to attach the Money, subject of suspicion; and the Prosecutor General, whenever he deems the request serious, may temporarily attach the Money, for a period, not exceeding two weeks; and he shall submit the matter to the competent Appellate Court, before the end of the period.
- (2) The Minister of Justice, of his own motion, or upon request of the Unit, may order revocation of the order of the Prosecutor General for attachment, whenever the necessity, which required its issue, or the elements of suspicion are negated.
- (3) The competent Appellate Court , after hearing the statements of those concerned, may order extension of the order of the Prosecutor General for attachment, for periods, which do not, in their total, exceed two months, or order its revocation, and the Court shall determine this matter urgently .
- (4) Those concerned may present their grievance against such order to the competent Appellate Court, within three days, of the date of their being notified of the order.

Receipt of Notification

17. The Unit shall inform the notified Institution of the receipt thereby of the notification, as to such safeguards, as the regulations may set forth.

Publication of Reports

18. The Unit shall abide by publication of periodical reports on the activities thereof, containing statistical data, and analytical studies, in the field of combating Money Laundering and Terrorism Financing.

Information Exchange

19. The Unit, of its own motion, or upon request of the counterpart units, in other countries, may exchange therewith information, whenever the same are bound by the rules of secrecy; and on condition of reciprocity. Such information shall not be used, save in the purposes, relating to combating Money Laundering, and Terrorism Financing.

Chapter V

The Administrative Committee

Establishment, seat and supervision

of the Administrative Committee

- 20(1) There shall be established a committee, to be known as the, "Administrative Committee for Combating the Offences of Money Laundering and Terrorism Financing", and shall have corporate personality, and be constituted as follows :-
- (a) the Prosecutor General of the Republic of the Sudan, Chairperson;
 - (b) deputy Governor, at the Central Bank, deputizing Chairperson;
 - (c) Under-Secretary of the Ministry of Finance and National Economy, Member;
 - (d) Under-Secretary of the Ministry of External Trade, Member;
 - (e) Under-Secretary of the Ministry of Foreign Relations, Member;
 - (f) under-secretary of the Ministry of Investment;

- (g) Director of the Criminal General Administration (Investigation) Member;
 - (h) Director of the Administration of International and Regional Police (Interpol), Member;
 - (i) Director of the General Administration of Customs Police;
 - (j) Secretary General of the Taxation Chambers, Member;
 - (k) Director General of Banking Control, Member;
 - (l) Director of the Administration of Commercial and Investment Security (at the Commercial Security Circuit), Member;
 - (m) Director General of the information National Centre, Member;
 - (n) Director of the Financial Inquires Unit, Member .
- (2) The quarters of the Committee shall be in the Khartoum State.
- (3) The Committee shall be subject to supervision of the Minister.

Functions and powers of the Committee

- 21.(1) The Committee shall be the higher administrative authority for combating Money Laundering, and shall have competence to lay down the general policy and plans and programmes for combating Money Laundering and Terrorism Financing. Without prejudice, to the generality of the foregoing, the Committee shall have the following functions and powers, to :-
- (a) plan for combating of the offences of Money Laundering and Terrorism Financing, and make the guidance rules for administrative inquiry, examinations and pursuing, in co-ordination with the competent bodies;
 - (b) follow-up and study the world and regional developments, in the field of Money Laundering and Financing Terrorism, and participate in the symposiums and conferences and international forums, having connection;
 - (c) facilitate exchange of information with similar authorities, and co-ordinate between the bodies, represented in the Committee ;

- (d) lay down the programmes for qualifying and training of cadres operating in the field of combating the offences of Money Laundering and Terrorism Financing;
 - (e) lay down the annual general budget, and submit the same to the Minister, for approval thereof.
 - (f) any other functions, as may be necessary for performing its business.
- (2) The Committee may delegate any of the powers thereof to its Chairperson, or any member thereof, or the Unit, as to such conditions, as it may deem fit.

Oath of the Committee

22. The Chairperson and members of the Committee shall, before receiving the tasks of work thereof, take the oath annexed thereto, before the Minister :-

Immunity

23. No legal proceedings shall be taken against the Chairperson of the Committee, any member thereof or any of its employees, for any matter, which relates to the field of his work, save after taking the necessary permission from the Minister.

Chapter VI

Financial Provisions

Financial resources of the Committee

24. The Committee shall have the following financial resources :-
- (a) such appropriations, as the State may allocate thereto;
 - (b) gifts and donations accepted by the Committee;
 - (c) any other financial resources.

Use of the resources of the Committee

25. The resources of the Committee shall be used to run its business and execute the functions thereof, in accordance with the provisions of this Act.

Budget of the Committee

26. The Committee shall have an independent budget, to be prepared in accordance with the sound accountancy bases laid down by the state from time to time Ministry of Finance and National Economy and the Committee shall submit such budget to the Council of Ministers through the Minister before the end of each financial year before sufficient time..

Keeping of Accounts Deposit of momy

- 27.(1) The Committee shall keep accurate and comprehensive accounts, in accordance with sound accountancy bases; and keep the books and registers, relating thereto.
- (2) The Committee shall keep its funds with the Central Bank, or any other bank, in current accounts, or investment deposits; provided that dealing in such accounts, and withdrawal therefrom shall be as to such manner, as the Committee may specify.

Audit

- 28 Accounts of the Committee shall be audited by the General Audit Chambers, or any other certified auditor, as the Auditor General may approve, and under his supervision after the end of each financial statement of final account and National audit Chambers.

Statement of final account and Audit Chambers report

- 29(1) The Audit shall submit, to the Minister, within three Months, of the end of the financial year, the following reports :-
- (a) statement of the final account;
 - (b) report of the General Audit Chambers;
 - (c) a report showing the progress of the Committee work.
- (2) The statements and reports, referred thereto in sub-section (1), shall be discussed in a meeting, presided by the Minister, and presence of the Auditor General and Chairperson of the Committee, or whoever may represent them, for passing and approval thereof.

Chapter VII

General Provisions

Employees of the Committee

30. The Chairperson, members and employees of the Committee shall be deemed public servants, for the purposes of the Criminal Act.

Competent Court

- 31 The General Criminal Court shall have jurisdiction to consider the offences of Money Laundering, or Terrorism Financing .

Annulment of legal disposal

32. There Annulling of legal disposal disposal made of any money, or property, for the aim of avoiding the procedure of legal confiscation , or attachment; and in such case, there shall not be restituted, to the bona fide person, to whom the disposal is made, save the amount he has actually paid.

Offences of Money Laundering and terrorism financing

- 33.(1) There shall be deemed to commit the offence of money laundering any person whose conduct entails acquiring proceeds, possession, disposal of, use, transfer, administer, keep, exchange, deposit or investment by cheating its value, movement, or lead to conceal , camouflage its source, real nature, place, way of disposal, ownership, rights relating thereto whether the offence occurred from which proceeds resulted inside or outside the Sudan on condition that it is punishable in the Sudanese law and the law of the country in which the offence committed.
- (2) There shall be deemed to commit the offence of terrorism financing whoever perform collection or providing money directly or indirectly for the purpose of commission of terrorist act or uses

terrorist organization or a terrorist . Terrorist act means each act incriminated in terrorism combating Act 2001 or any law replacing it or any act of terrorist nature incriminated by international agreement to which Sudan is a party .

- (3) There shall be deemed to commit the offences provided for in this chapter, whoever attempts or criminally agree or participate, abet, or assist the commission of any of the same shall be punished with the prescribed punishment for the principal wrongder.

Penalties

34.(1) Without affecting any severer penalty, provided for in any other law, there shall, upon conviction, be punished whoever contravenes the provisions of this Act, as follows :-

- (a) the natural person : imprisonment, for a term, not exceeding ten years, and fine, not exceeding double the money, subject of the offence;
- (b) the corporate person : fine, not exceeding double the proceeds; and the natural person , who commits the offence in the name of, or for the interest of the corporate person, shall be punished with the penalty of imprisonment and fine provided therefor in paragraph (a) ; likewise the Court may sentence the corporate person to dissolution of the corporate person and suspension its activity, totally, or partially, or change of the administration.
- (2) In addition to the penalties, provided therefor in sub-section (1), there shall be confiscated the proceeds of the offence, and the instruments used for commission thereof, or prepared therefor. Where it is not possible to seize the proceeds, the Court may order confiscation of other money, equal thereto in value.

Disposal of confiscated money

35.(1) The money confiscated under section 34(2) hereof, shall be deposited in a special fund, which the Committee shall establish and supervise it . Such money shall be used in the following :-

- (a) combating the offences of Money Laundering, and otherwise of economic offences;
 - (b) payment of incentives, to the persons, or organs, which clearly contribute to information and detection of the offence of Money Laundering, or Terrorism Financing, subject of the confiscation; and the Committee may prescribe the matter, type and amount of such incentives;
 - (c) combating and treatment of incurable diseases;
 - (d) any other uses, as the Committee may deem fit, upon necessity.
- (2) The Committee shall keep a special account for the confiscated money, and deposit in the fund, and the amounts, which are withdrawn, for the purposes of use, provided therefor in subsection (1), hereof.

Declaration of Currency

- 36.(1) Every person, upon entry of the country, or departure therefrom shall declare , to the Customs authorities, what he carries, in accordance with the regulations and circulars, of money , or any financial instrument for its bearer, whether in the national , or foreign currency, or metals and valuable gems.
- (2) The declaration shall be in a in form, including the value of the funds referred thereto, and data of identity of the passenger, and any other data, as the Financial Inquiries Unit may specify; provided that the declaration forms shall be available, at specific and conspicuous places at travel and arrival halls, at the various exits; or distributed among those, who arrive and depart; and the Customs authorities of the judicial detection officers.
- (3) In case of non-discharge of the duty to declare, or presenting false data with respect thereto, or the establishment of evidence of the commission of the offence of Money Laundering, or Terrorism Financing, may question the contravener about the source of what is in his possession, and the purposes of use thereof; and they, in such cases, may attach the property , subject of declaration, for a period, not exceeding one week, pending

verifying the establishment of evidence of commission of the offence of Money Laundering, or Terrorism Financing.

- (4) Customs authorities shall refer the matter to the competent Prosecution Attorneys Bureau, whenever there is present evidence of commission of an offence.
- (5) The Customs Police shall be the competent Customs authority, to receive the declaration forms, at the entry and departure exits; and they shall appoint a chief liaison officer, to represent them at the Unit, in the affairs of Money Laundering and Terrorism Financing; provided that he shall be of competence and experience in such affairs, and of a suitable level of post, to perform the tasks, entrusted thereto, and notify the Unit of the name of their representative, and of who replaces him, in case of his absence.

Power to make regulations

37. The Competent Minister , the Financial Inquires Unit and Control and Supervision Bodies, each in the field of his competence may make such regulations, as may be necessary for implementation of the provisions of this Act.

Issued under my signature on²¹... of month

.....^{MUHRAM}..... The year 1431H corresponding to the day of

.....^{7th}..... Of month^{JANUARY}..... year 2010


Field Marshal

Omer Hassan Ahmed El-Bashir
President of the Republic of te Sudan

Scnequie

See Section 22

Oath of the Committee

" I swear by Almighty Allah, his Holy book, to perform my the duties of the committee honesty, and keep secrecy of all what connected my work from information, documents and not disclose except to the competent authorities to make compromise between the required secrecy to preserve, the accounts and transactions of persons and the required transparency for combating offences of money laundering and terrorism financing , and Allah, is a witness to what I say".

IN THE NAME OF ALLAH,
THE MOST GRACIOUS, THE MOST MERCIFUL

CENTRAL BANK OF SUDAN بنك السودان المركزي

Financial Institutions and Systems Wing
والنظم

قطاع المؤسسات المالية

Banking System Regulation
and Development Department

Ref: CBOS/BSRDD/23

Date: 24th Muharram 1432

Corresponding to: 30th December, 2010

Circular No. (10/2010)

Addressed to All Banks and Financial Institutions

Subject: Combating Crimes of Money Laundering
and Terrorism Financing

Introduction:

The process of combating money laundering and terrorism financing receives a keen interest from the monetary and banking authorities and the regulatory and supervisory bodies at the local and international levels due to the risks stemming from money laundering and terrorism financing operations which have adverse repercussions on the security and soundness of the national and international economy. The importance of combat-ing money laundering has increased following its association with another issue, viz., the combating of terrorism financing. This has urged the regulatory and supervisory bodies to enact legislations in order to shield their economies and banking and financial markets against the suspected money laundering and terrorism financing operations which target their financial markets.

For combating money laundering and terrorism financing through the banking system and financial institutions and in the context of solidarity with the international, regional and local efforts to challenge that phenomenon and out of concern for the soundness of banking business and the protection of banks and financial institutions from the risks of being exploited in money laundering and terrorism financing operations and in conformity with the regulatory and supervisory duties of the Central Bank, particularly with regard to the implementation of the Money Laundering and Terrorism Financing Act of 2010 and Articles 8, 36 (2, 3) and 38 of the Banking Regulation Act of 2004, it has been decided to cancel the Circular No. (22/2009) concerning the combating of money laundering and terrorism financing and to issue the following regulations and procedures :-

First: Definitions:

The following words and expressions shall have the meanings hereunder dedicated to them in this Circular :-

Money Laundering:

In addition to the definition cited in the Money Laundering and Terrorism Financing Act of 2010, a money laundering operation is defined as any conduct enclosing the earning of proceeds of funds or their acquisition, or disposition therein or their movement or their management or their safekeeping or their conversion or their depositing or their investment or manipulation of their value or their movement or their transfer or that leads to disguise or conceal their source or their real nature or their haven or the modality of disposing of them or their ownership or the rights relating to them and that is whenever these funds have been generated from a crime and whether this crime was committed within or outside the Sudan and provided that the person is punishable for it under the Sudanese or foreign law.

Terrorism Financing:

Gathering or collecting funds, directly or indirectly, with the intention of using them, wholly or partially, to commit one of the terrorist crimes specified in the Sudanese Anti-Money Laundering Act of 2001, whether that was by a terrorist organization or by any person who commits or sets out or participates or plans or organizes or instigates, directly or indirectly and by any means whatsoever to commit one of the terrorist crimes.

Funds:

In addition to the definition cited in the Sudanese Money Laundering and Terrorism Financing Act of 2010, funds are defined as assets of whatever type: tangible or intangible, chattels or real estate, local or foreign currencies, financial and commercial papers, Sukuk and documents manifesting possession of the funds or any claim relevant to the funds.

Unit:

means the Financial Intelligence Unit established in accordance with Article (10) of Combating Money Laundering and Terrorism Financing Act, of 2010.

Real Beneficiary:

Means the natural people who holds ownership or actual control over the client or the person for whose account or favour the operation is conducted or it is carried out in accordance with his volition.

Continuing Relation:

Means any commercial or professional relation with one of the activities mentioned in the definition of the financial and non-financial institution, whenever the respective institution has expected that the relation will extend for a period of time.

Passing Client:

Means the client who has no continuous relationship with the financial or non-financial institution.

Financial Institutions:

refer to the commercial banks and exchange and financial intermediation companies and they include any persons or other bodies which practice, commercially and regularly, any of the following activities or operations in favour of the clients or to their accounts:-

- a) Acceptance of deposits.
- b) Granting credit of all types.
- c) Lease financing.
- d) Transfer of funds.
- e) Issuance of all types of payment instruments such as payment and credit cards and personal and banking cheques.
- f) Guarantees and financial pledges.
- g) Dealing in money market and capital market, instruments by selling and buying, including dealing in foreign currencies and in the spot and future exchange rate markets.
- h) Participating in issuance of papers and rendering of financial services relevant to the issuance in question.
- i) Investment portfolios and services of investment trustees.
- j) Management and safekeeping of financial papers and valuable items.
- k) Takaful or life insurance and any other insurance products with an investment component.

Non-Financial Institutions:

mean the institutions or persons who commercially carry out any of the following :-

- a) Chance or gambling games clubs.
- b) Real estate brokerage.
- c) Minerals or precious stones trade.
- d) Legal practice or accounting as a profession.
- e) Company incorporation services and the attendant services.
- f) Any other activities launched in accordance with the provisions of this Circular.

Risk-exposed Individuals owing to their Posts:

These are the persons who occupied a senior public post in a foreign country, such as president of a country or head of government, or a notable politician or a magistrate or a military or a top-level government position or prominent personalities in a political party, and this include family members of these persons and those related to them.

Non-Profit Pursuing Societies and Organizations:

mean any society or organization established in accordance with the provisions of this Act and whose purpose is to render social services without aiming to earn profit from its activity or profit partaking or the realization of a personal gain. They include the societies that do not pursue profit and which were established according to the provisions of the Companies Act and the organizations established under the Organization of Voluntary and Humanitarian Work Act, and which include the national non-governmental organizations, civil society organizations, charity organizations and foreign non-governmental organizations.

Bogus Officer:

This is the person responsible for and committed by notifying the Unit about the suspected operations in the financial and non-financial institutions or the financial institution.

Pseudo Bank:

This is a bank with no tangible existence through which it conducts an activity and an actual management in the country in which it was set up.

Joint Accounts:

These are the accounts in which two or more than two persons participate, provided that the relation between them shall not be a commercial relationship.

Committee:

means the Administrative Committee set up under the provisions of Article 20(1) of the provisions of the Act.

Person:

means any natural or legal person.

Act:

means the Combating Money Laundering and Terrorism Financing Act for 2010.

Second: Scope of Applicability:

This Circular is enforceable over all the banks and financial institutions operating in the Sudan and their branches and subsidiaries wherever their head offices are located.

Third: Requirements of Due Diligence for Clients:**A) General Rules:**

- 1) Due diligence for clients means getting to know the identify of the client and the real beneficiary whether he is a natural or legal person, verification of the identity, continuous monitoring of the operations as well as to look into the future relationship among the financial and non-financial institutions and the client and the purpose thereof, particularly in the following circumstances :-
 - a) Upon initiating a steady relation with the client.
 - b) Upon executing an operation for a passing client whose value exceeds the limit shown by the regulations.
 - c) Upon making local or international telegraphic transfers.
 - d) Upon the existence of suspicion about the accurateness or validity of the identification data registered beforehand.
 - e) Upon the existence of a money laundering or terrorism financing suspicion.

- 2) Dealing or entry in banking relations is not allowed with unknown identity persons or with fictitious or illusive names.
- 3) Financial and non-financial institutions must extend due diligence to the clients upon the initiation of any steady relation with them.
- 4) Financial and non-financial institutions must extend due diligence to the passing clients in the following circumstances :-
 - a) If the value of the operation exceeded (SDG30,000) or its equivalent in foreign currencies.
 - b) If there is sufficient suspicion that the passing operation is a money laundering or terrorism financing operation.
- 5) Financial and non-financial institutions must adopt clients' due diligence procedures before or during the initiation of the banking relation or upon the execution of the operations for the account of the passing clients on whom the requirements of (4) above apply.
- 6) In case of inability of the financial and non-financial institutions to fulfill the due diligence procedures with regard to the clients then they should not open the account nor engage in any banking relation with the client or to execute any operations for his account.
- 7) The verification measures may be postponed and carried out after the initiation of the banking relation according to the following :-
 - a) That the postponement of the verification measures should be a necessary matter for the normal proceeding of transactions such that this may not result in money laundering and terrorism financing risks.
 - b) That the financial and non-financial institutions should undertake the verification measures as soon as possible.
 - c) That the financial and non-financial institutions should have introduced the necessary measures for prudent management of money laundering and terrorism financing risks with respect to the case in which postponement came about. This include the setting of limits for the number, type and amounts of the operations which could be executed before completing the verification measures.
- 8) In case any financial and non-financial institution concluded a banking relation with the client before fulfillment of the verification procedures, as noted in item (7) and that the financial and non-financial institutions could not fulfill these procedures subsequently, then this relation has to be terminated and the Unit notified about this in accordance with the procedures stipulated in the item (Sixth) of this Circular.
- 9) It must be ensured that the client is not listed in the defaulting or banned clients' lists which are issued by the Central Bank of Sudan. This shall be done before concluding a continuous relation with the client. Also, no passing operation should be executed for a client included in the lists of banned clients.
- 10) The financial and non-financial institutions must take the due diligence measures by itself and should not rely on any third party in fulfilling these measures.
- 11) The financial and non-financial institutions must acquaint themselves with the identification papers to know the identity of the client and obtain a copy of these papers signed by the competent officer indicating that it is a true copy.
- 12) Obtainment of an acceptable recommendation on the client who wishes to conclude a continuous relation from a bank with which dealings were formerly conducted and in which conditions (3) and (4) are available with respect to dealings with the corresponding banks, cited in item (Fourth) – (d) below, or by reputable persons known to the financial and non-

financial institutions (at least two). Otherwise, the approval of the top management of the bank must be obtained.

- 13) The approval authority for concluding a continuous relation is vested with the branch manager or with the one who deputizes him.
- 14) The financial and non-financial institutions must update the data on getting to know the identity of the client every five years or upon the occurrence of reasons calling for that as suspicion becomes sufficient at the financial and non-financial institutions regarding the validity or conformity of the data and information which were obtained previously or if the financial and non-financial institutions estimated a rise in the degree of risk of money laundering and terrorism financing in respect of a certain client or category of clients.
- 15) The financial and non-financial institutions have to monitor on a regular basis their relations with the client so as to know the pattern of his transactions and to uncover any transactions not conforming with this pattern or the nature of activity of the client.
- 16) No employee in any financial and non-financial institution may manage any account by proxy for any of the clients of the financial and non-financial institutions.
- 17) The financial and non-financial institutions must make sure that their branches and subsidiary companies in other countries observe the terms required for combating money laundering and terrorism financing in line with the requirements of the host country. In case the terms and requirements for combating money laundering and terrorism financing differ between the home country and the host country, the severest terms should be applied.

B) Procedures for Recognizing and Verifying the Identity of the Natural Person:

- 1) Verify the identity of the natural person from the valid identification papers (ID card, passport, driving license, military card, judicial card, police card) on condition that the identification data shall include the full name of the client (quadrupled), nationality, birth date, permanent residence address, phone numbers (if available), business address, type of activity, purpose of dealing, names of those authorized to deal on the account and their nationalities, and any other information that the financial and non-financial institutions may deem necessary to be obtained.
- 2) In case another person deals with the financial and non-financial institutions on behalf of the client, the existence of a legal letter of attorney allowing this has to be ensured. This document or a copy of it has to be retained.
- 3) The necessity of recognizing the identity of the person authorized to use the account and the agent, pursuant to the procedures on recognizing the identity of the client stipulated in this Circular.
- 4) The financial and non-financial institutions must take the necessary measures for verifying the validity of the data and information which were obtained from the client, including the establishment of contact with the competent bodies issuing the identification papers for these data if the institutions had suspicion about their validity.

Concerning the other continuous relations which are established by the natural persons with the financial and non-financial institutions, consideration must be given to verify their existence through the identification papers defined in the circulars of the Central Bank of Sudan in the same regard and what they include in terms of information according to the following :-

1) Joint Accounts:

- Submission of the necessary identification papers for each of the partners.

- Determination of the responsibility for managing the account, whether it is single or joint.

2) Guardians' and Executors of Will Accounts:

- Submission of the identification papers for each of the guardians and the will executors.
- Presentation of evidence of nomination provided that it is issued by a competent court.
- Presentation of the will or guardianship and adherence to the conditions cited in any of the two.

3) Accounts of Managers of Inheritance:

- Presentation of the legal notification.
- Submission of the identification papers for each of the inheritance managers.
- Presentation of the decision of the Sharia Court or the General Manager of Inheritance which has designated a manager for the inheritance in question.

4) Employees' Accounts:

- Submission of the salary certificate from the employer.
- Submission of the necessary identification papers for each employee.

C) Recognition and Verification Procedures of the Identity of the Legal Personality:

- 1) That the data on identity recognition shall include: name of the legal personality, legal form, head office address, type of activity, capital, date and number of registration, names of persons authorized to manage the account and their nationalities, telephone numbers, purpose of dealing, any other information the financial and non-financial institutions may deem necessary to obtain.
- 2) It is essential to obtain the documents indicative of the existence of an authorization from the legal personality to the natural persons authorized to manage the account, in addition to the necessity of recognizing the identity of the person authorized to engage in dealings pursuant to the procedures concerning recognition of the client's identity stipulated in this Circular.
- 3) Obtainment of the names and addresses of the partners. Regarding the public joint companies, a list of the names and addresses of the shareholders whose ownership exceeds (10%) of the company's capital must be obtained.
- 4) Regarding the other continuous relations which are carried out by the legal personality, verification of the existence of the legal personality and its legal nature has to be done through the necessary documents and the information contained in them according to the following :-
- 5) **Partnership Accounts:**
 - Submission of the business name registration certificate produced by the Business Registrar or the partnership registration certificate if it was registered in the name of one or more of the partners.

- Submission of the partnership contract authenticated and certified by the Courts Administration and in which the names of the partners and their addresses are shown.
- Identification of the persons authorized to sign jointly and solely and the limits of authorization for the sole signature.

6) Companies' Accounts:

- Certificate of company registration with the Commercial Registrar and for the public joint companies, a certificate of opening of the business.
- Memorandum and Articles of Association, plus opening budget.
- Address and headquarters of the company.
- Board of director's decision on opening of the account with the financial and non-financial institutions.
- Board of director's decision on nomination of the persons authorized to manage the company's accounts and the limits of their authorizations.

7) Accounts of Government Units, Public Institutions and Corporations:

- Approval of the competent entity to which the unit is attached or the general manager of the institution or corporation, as the case may be, for opening the account with the relevant bank.
- Approval of the Federal or State Ministry of Finance, as the case may be.
- An authorization determining the persons authorized to sign on the account and the limits of their authorizations, signed by the Head of the Unit or the General Manager, as the case may be.
- A copy of the law by which the government institution or corporation was established.

8) Accounts of Non-Profit pursuing Societies and Organizations (Societies and Non-Governmental Organizations):

- Presentation of a registration certificate from the competent entity.
- Presentation of a copy of the constitution and regulation which governs and regulates its business.
- Decision constituting the executive committee and the appointment of the three officers endorsed by the registrar of corporations.
- A letter specifying the bank in which the current account will be opened, signed by the Chairman or Secretary and determining the persons authorized to sign on behalf of the entity in question and the limits of their authorizations to use that account.

D) Real Beneficiary:

- 1) The financial and non-financial institutions must request every client to sign a written acknowledgement in which it determines the identity of the real beneficiary from the continuous relation or passing operation, provided that it shall, at least, disclose the due diligence information concerning this beneficiary so as to recognize his identity.
- 2) The financial and non-financial institutions must recognize the identity of the real beneficiary and to take reasonable measures for verifying this identity. This includes reliance on the data or information to be obtained from official documents and data so that the bank becomes convinced that it is knowledgeable about the identity of the real beneficiary.
- 3) In getting to know the real beneficiary, in case of the legal personality, reasonable procedures have to be adopted by way of seeking information on the structure of ownership and the management controlling the legal person.

Fourth: Cases that need due diligence:

A) Individuals at risk by reason of their office:

- 1) The financial and non-financial institutions must lay a risk management system for the individuals at risk by virtue of their work or the real beneficiaries who belong to this category.
- 2) Approval of the Central Bank must be obtained for initiating a relation with these individuals just as this approval must be obtained upon the realization that one of the clients or real beneficiaries came to be exposed to those risks.
- 3) The financial and non-financial institutions must take adequate measures to verify the sources of wealth of the clients and real beneficiaries who are at risk by reason of their constitutional (political) office.
- 4) The financial and non-financial institutions must monitor very closely and regularly their dealings with these clients.

B) High Risk Clients:

The financial and non-financial institutions must classify all of their clients and products according to the degree of risk in respect of money laundering and terrorism financing taking into consideration the following :-

- Nature of the client and the kind of activity.
- Nature of the banking service.
- Geographical location of the client or the banking operations.
- Means through which the service is rendered, including the means depending on the use of modern technologies.

The financial and non-financial institutions must take due diligence measures regarding high risk clients, among those are the very rich who enjoy a special banking treatment.

C) Clients belonging to countries without appropriate systems for combating money laundering and terrorism financing:

- 1) The financial and non-financial institutions must give due diligence to the operations carried out with persons staying in countries which the Central Bank of Sudan considers as lacking appropriate systems for controlling money laundering and terrorism financing.
- 2) If the financial and non-financial institution verified that the operations indicated in item (1) above do not rest on definite economic justifications, then it must take the necessary measures in order to be informed about the background of circumstance surrounding these operations and their purposes and register the results of that in its records.
- 3) The financial and non-financial institutions shall undertake to notify the Unit about the transactions which are suspected to be in respect of proceeds of money laundering or terrorism financing, whether these transactions were already effected or not yet effected. The notification must be served before concluding the transaction or immediately when the suspicion is substantiated.

D) The Correspondent Financial and Non-Financial Institutions:

The financial and non-financial institutions must take due diligence when initiating a banking relation with the correspondent financial and non-financial institution, taking into consideration the following :-

- 1) Seeking information about the nature of activity of the correspondent financial and non-financial institution and its reputation in the area of combating money laundering and terrorism financing.
- 2) Obtaining the approval of the board of directors of the financial or the non-financial institution on the initiation of a business relation with the financial and non-financial institutions.
- 3) Ensuring that the correspondent financial and non-financial institutions are subject to an effective regulatory supervision from the supervisory authority in the mother country.
- 4) Verifying the availability of adequate systems for combating money laundering and terrorism financing operations at the correspondent financial and non-financial institution.
- 5) Ensuring that the correspondent financial and non-financial institutions already executed the due diligence measures in respect of their clients who have the right to pay through the correspondent account and that the correspondent financial or non-financial institution has the ability to provide the information relating to the clients of these operations, when necessary.
- 6) Dealing with bogus banks is prohibited just as this is so for opening of a correspondent account for any bank or institution rendering correspondent services to bogus banks.

E) Unusual Operations:

- 1) The financial and non-financial institutions must pay due diligence regarding the unusual operations and to inquire, as much as possible, about their background and the purpose behind them, along with keeping special records of this irrespective of the decision taken concerning these operations.
- 2) Some of the unusual operations are the following :-
 - A cash operation whose value exceeds SDG 30,000 or its equivalent in other foreign currencies. Cash operations below this amount are considered to be a single cash operation if there are indications that they are related operations.
 - Large or unusually complex operations.
 - Any other operation of an unusual pattern and with no apparent economic justification.

F) Other Cases:

The financial and non-financial institutions must exert due diligence in the following cases :-

- 1) Upon opening of an account for a non-resident client. This calls for the submission of a valid residence permit, a work permit, a copy of the work contract and a salary certificate. Moreover, the Central Bank of Sudan circulars with regard to the current accounts for non-residents have to be observed. Also, a recommendation or endorsement of the signature has to be obtained from known foreign banks or financial institutions.
- 2) Upon an application for financing against blocked deposits.
- 3) Upon renting safe deposit boxes.
- 4) Upon depositing cash amounts or travelers' cheques in an existing account by person/persons whose names do not appear in the power of attorney contract concerning that account or was not one of those legally authorized by the account holder to deposit funds in this account.

Fifth: Financial Transfers:

A) Scope of Application:

- 1) The provisions of this paragraph are applicable to bank drafts in any currency that are sent or received by the financial and non-financial institutions, subject to bank drafts' regulations and non-violation of any obligations following from the circular on combating money laundering and terrorism financing and other valid supervisory laws and regulations in the Sudan.
- 2) To be excepted from the provisions relating to bank drafts are transfers arising from dealings effected through payment or credit cards or any other similar payment method, provided that all the transfers emanating from these dealings should have a specific reference number to permit tracing of the transaction to the applicant for the transfer.

B) Obligations of the financial and non-financial institution issuing the transfer:

- 1) The financial and non-financial institution must obtain full information about the applicant for the transfer such that it shall include: name of applicant for the transfer, number of account, address, and purpose of the transfer, name of beneficiary and its address and number of its account, if available.
- 2) In case of non-existence of an account for the applicant for the transfer with the financial institution, the latter shall establish a system on the basis of which the applicant for the transfer shall be given a specific reference number.
- 3) The financial and non-financial institution, before executing the transfer, must verify all the information relating to the transferor of the draft out of the official documents and data.
- 4) The financial and non-financial institution must include in the transfer data all of the data indicated in paragraphs (1) and (2) of this item.
- 5) For the transfers which are effected in one package, the financial and non-financial institution issuing the transfer shall attach the account number of the applicant for the transfer or its specific reference number if it has no account, on condition that :-
 - a) The financial or non-financial institution shall maintain full information regarding the transfer applicant as stated in paragraphs (1) and (2) of the item.
 - b) The financial and non-financial institution must have the ability to provide fully the receiving institution and the competent authorities with the required information during three business days from the date of receiving the request for information.

- c) That the financial and non-financial institution should be capable of responding immediately to any order issued by the competent law enforcement authorities obligating the institution to provide access to this information.
 - 6) The financial and non-financial institution must ensure that the non-routine transfers are not effected in one package in the cases which may increase the risks of money laundering and terrorism financing.
- C) Obligations of the Transfer Recipient Financial Institution:**
- 1) The financial and non-financial institution must lay down effective systems to detect any lack of information associated with the applicant for the transfer, as cited in item (b-1, 2).
 - 2) The financial and non-financial institution must adopt effective measures by relying on assessment of the degree of risk in dealing with the transfers in which the information about the applicant for the transfer was incomplete. Of these measures is to request the lacking information from the transferring financial and non-financial institutions. In case of non-fulfillment by these institutions, the bank should take the necessary measures depending on the assessment of the degree of risk, including rejection of the transfer request, as well as notifying the Unit too.
- D) Obligations of the Intermediary Financial and Non-Financial Institution:**
- 1) If the financial and non-financial institution participated in executing the transfer without being the transferor or recipient then it is required to ensure that all of the information attached to the transfer should go with it upon execution.
 - 2) If the financial and non-financial institution failed to attach the information to the transfer, for technical reasons, it should retain the attached information for a period of five years, irrespective of whether these information were complete or incomplete and should be able to make these available to the recipient financial and non-financial institutions during three business days from the date of request.
 - 3) If the financial and non-financial institutions have received incomplete information about the applicant for the transfer, then they have to notify the financial institution upon execution of the transfer.

Sixth: Notification of Suspected Operations:

- 1) Every financial and non-financial institution should identify a notification officer to report the suspected cases to the Unit in accordance with the attached notification form.
- 2) If any of the employees in the financial and non-financial institution has suspicion about the execution of an operation in respect of, or may be in respect of, any money laundering or terrorism financing crime or proceeds thereof, he has to report to the notification officer, provided that he attaches all the data and copies of the document pertaining to that operation.
- 3) The notification officer takes care of providing the Unit with data and facilitating its access to the records and information for the purposes of carrying out its functions.
- 4) Disclosure, whether directly or indirectly or by any method, is prohibited for the authorities and bodies not competent to implement the provisions of this Circular about any of the notification or inquiry or examination measures which are taken with respect to the suspected operation concerning a crime or proceeds of money laundering or terrorism financing.

Seventh: Keeping of Records and Documents:

- 1) The financial and non-financial institutions must keep the records and documents relating to due diligence about the clients for a period of at least five years from the execution date of the operation or termination of the relation whichever of the two is subsequent, taking into consideration Article (45) of the Conformity Act, for 1994 in respect of keeping of documents.
- 2) The financial and non-financial institutions must keep records and supporting evidence for the continuous relations and banking operations such that they include original identification papers or copies thereof and be acceptable to the courts pursuant to the legislations in force in the Sudan, and for a period of five years, at least, from the date of executing the operation or terminating the relation whichever of the two is subsequent.
- 3) The financial and non-financial institution must develop an integrated information system for keeping records and documents alluded to in (1 and 2) above and in a manner that will enable it to respond to the request of the Unit and the competent authorities for obtaining any data or information in an integrated and rapid way, particularly that will inform that the institution was on a continuous relation with a specific person during the previous five years as well as making available information on the nature of this relation.

Eighth: Internal Control System:

The financial and non-financial institution must lay down an appropriate internal system comprising policies, procedures and internal regulations that have to be available for combating money laundering and terrorism financing, provided that this system shall include the following :-

- 1) A clear-cut policy for combating money laundering and terrorism financing, approved by the board of directors or the regional director of the branches of the foreign financial and non-financial institutions. This policy must be updated regularly.
- 2) Articulated written measures for combating money laundering and terrorism financing which make allowance for defining precisely the duties and responsibilities, in conformity with the circulars issued by the Central Bank of Sudan and in line with the adopted policies in this regard.
- 3) An appropriate mechanism for verifying compliance with the circulars, policies and measures designed for combating money laundering and terrorism financing, giving due consideration to coordination in the area of setting the authorizations and responsibilities among the internal auditor and the notification officer.
- 4) Identification of the notification officer and the name of the person whom may replace him in his absence, along with notification of the Money Laundering and Terrorism Financing Unit in the Central Bank of Sudan in case of changing any one of them and provided that their appropriate qualifications were available.
- 5) Defining the competencies of the notification officer, provided that these shall include, at least, the following:-
 - Obtain information and reports on the unusual and suspected operations, examine these and take the appropriate decision with regard to notifying the Unit about these or putting them away, provided that a decision to keep them shall be justified.
 - Notifying of suspected operations.
 - Safekeeping of all the received documents and reports.
 - Preparing periodic reports for submission to the board of directors on the institution's efforts in the area of combating money laundering and terrorism financing and its own reports regarding development of the Unit.

- 6) Defining the competencies of the notification officer provided that these shall include, at least, whatever that might enable him to operate independently in his field of specialization and to safeguard the confidentiality of information received by him and the measures he adopts. To that effect, he should be able to consult the records and data which he may require for examining and auditing of the systems and measures that are laid down by the institution for combating money laundering and terrorism financing.
- 7) That the financial and non-financial institution has to formulate plans and regular training programmes for the employees in the area of money laundering and terrorism financing. These programmes have to attend to forms of money laundering and terrorism financing, the modality for detecting them, modality for dealing with the suspected clients as well as keeping records for all the training programmes which were conducted over a period of not less than five years together with the names of the trainers, their qualifications and the body which carried out the training whether locally or abroad.
- 8) Lay down the necessary systems for the acceptance of clients in the light of what is available for the institution in terms of information and data.
- 9) Lay down the systems and procedures which will enable the internal audit to perform its role of examining the internal control and supervision system to ensure their effectiveness in combating money laundering and terrorism financing, and propose what is required for meeting any deficiency in these systems and procedures or for updating and developing them in order to enhance their efficiency and effectiveness.

Ninth: Concluding Provisions:

- 1) The external auditor of the financial and non-financial institution, as part of his duties, must ensure the application of this Circular and the extent of adequacy of the policies and measures relative to it, incorporation of this in his report to the management along with the need to inform the Central Bank of Sudan immediately of any violation to this Circular.
- 2) If the laws and the practices in force in the host country has prevented the branch or subsidiary of any financial and non-financial institution operating in the Sudan to apply the provisions of this Circular, this institution or the parent institution has to notify the Central Bank of Sudan of this and to take the necessary measures for managing the risks of money laundering and terrorism financing.
- 3) Anyone who violates this Circular is punishable under the list of financial and administrative sanctions Regulation issued by the Central Bank of Sudan.

for/ Central Bank of Sudan,

Ezz Al-Din Mousa Hajo

Howaida A/Hadi Ahmed

Financial Institutions

and Capital Markets Directorate

Banking System Regulation

and Development Department

Report Form of a Suspected Case

Unit	
------	--

(A) Details of the report sent	
Company Name	
The name of the branch (if found)	
Work place	
Reporting date	

(B) Details of the person to be reported about			
Full name		Sex	
Last name			
Date of Birth			
Identification details			

Address details	
City	
State	
P. O. Box	
State	
Job	

(C) The details of entity – the company to be reported about	
Name	
Trade registry No.	
Tax ID	
Type of work	
Address details	
City	
State	
P. O. Box	
State	
Work place	

(D) Reasons for suspicion

- It can be used / additional papers / if necessary.

Annex 3: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

- | | |
|---|---|
| 1- Ministry of Justice | 13- Registrar-General of Trade |
| - AML /CFT Administrative Committee | 14- Ministry of Humanitarian Affairs |
| | - Voluntary Aid Commission |
| - Public Prosecution | 15- General Union of Sudanese Lawyers |
| - Banking Violations Prosecution | 16- Accountancy and Audit Profession (Org.) Council |
| | 17- Union of Real estate Agencies Owners |
| - Prosecution of illicit and suspicious enrichment | |
| - State Security Prosecution | 18- Financial Institutions: |
| 2- Ministry of Finance | – Banks |
| 3- Ministry of Interior | – Insurance Companies |
| – General Directorate for Public Security and Criminal Investigations | – Stock companies |
| – The International Criminal Police Organization (Interpol) | – Exchange Companies |
| – Anti-Drugs Directorate | – SudaPost |
| 4- Security and Intelligence Service | – Financial Services Company |
| – Economic Security Directorate | |
| 5- Ministry of Foreign Affairs | 19-Non Financial Businesses and Professions: |
| 6- General Administration of Customs Police | – Lawyer office |
| 7- Central Bank of Sudan | – Certified Auditor |
| - Financial Institutions and Systems Sector | – Dealers in precious metals and precious stones |
| • Banking Supervision Department | – Gold dealer |
| | |
| • Banking System Regulation and Development Department | – Charitable Organisations |
| • Credit Information & Rating Agency | |
| - Economic & Policies Sector | |
| • Capital Markets Department | |
| 8- Khartoum Stock Exchange | |
| 9- Insurance Supervisory Authority | |
| 10- Financial Information Unit | |
| 11- Coordinating Body against Terrorism | |
| 12- Ministry of Investment | |

Annex 4: List of all laws, regulations and other material received

- Criminal Procedures Law, 1991
- Civil Procedures Law, 1983
- Criminal Law, 1991
- Companies Act, 1925
- Evidence Act, 1994
- Law on the Regulation of Banking Activity, 2004
- The Central Bank of Sudan Act 2002 amended in 2006
- Insurance Supervision Act, 2001
- KSE Act, 1991
- Narcotic Drugs and Psychotropic Substances Act, 1994
- The Extradition Act, 1957
- Organization of Humanitarian and Voluntary Work Act, 2006
- Terrorism Combating Law, 2001
- Law regulating dealing in foreign exchange, 1981
- Business Name Registration Law, 1931
- Companies Registration Law, 1926
- Companies Act, 1925
- Commercial Agents Registration and Regulation Law, 1971
- Police force law, 2008
- AML/CFT regulation issued by KSE Board of Directors on 7-11-2011
- AML/CFT regulation for the Insurance Sector, 2010
- Executive regulations for the customs disclosure system, 2011
- Executive regulations for seizure, freezing and confiscation procedures of terrorist funds, 2010, amended in 2011 and the confiscation by the FIU
- Regulations on the investigation procedure issued by the FIU, 2011
- Decision No. 2/2010 dated 10 January 2010 issued by the Governor of the Central Bank of Sudan on the establishment of a FIU.