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Financial Action Task Force

Mutual Evaluation Report

Anti-Money Laundering and
Combating the Financing of Terrorism

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INTRODUCTION

1- The evaluation of the AML/CFT regime of the People's Democratic Republic of Algeria (Algeria) 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 the Republic of Algeria and information obtained by the evaluation team during its on-site visit to the Republic of Algeria from 6 – 17 December 2009, and subsequently thereafter. During the on-site visit, the evaluation team met with officials and representatives of all relevant governmental agencies in Algeria and the private sector. A list of the bodies met is set out in Annex 3 to the mutual evaluation report.

2- The evaluation was conducted by an assessment team, which consisted of *Dr. Rana Mohamed Aref Matar*, MENAFATF Secretariat, Mutual Evaluation Senior Officer, *Mr. Abdullah Al Takhis* Head of the Division of Investigation on the abuse of public funds (Kingdom of Saudi Arabia), *Mr. Nasr Al Sawai*, First Public Prosecutor (Sultanate of Oman), *Mr. Imad Mawed*, from the AML/CFT Unit (Syrian Arab Republic), *Mr. Hisham Al Hawdi*, an official from the AML Central Service at Bank Al-Maghrib (Kingdom of Morocco), and *Ms. Mirna Al Boustani*, an expert in the Financial Investigation Administrative Unit at the Special Investigation Commission (Republic of Lebanon). The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions 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 Algeria as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Algeria'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 extends its heartfelt gratitude to the Algerian authorities, which facilitated the work of the team in an optimum manner. In particular, the team would like to express thanks and appreciation to *Mr. Abdel Maguid Amghar*, the Head of the Financial Intelligence Unit (FIU) in Algeria. Thanks are also extended to all members of the FIU for their cooperation and support for the team throughout and after the duration of the on-site visit.

¹ As updated in February 2009

Executive Summary

1- Background Information

1. This report provides a summary of the AML/CFT measures in place in Algeria until the date of the onsite visit or immediately thereafter. The report describes and analyzes those measures, and sets out the levels of Algeria's compliance with the FATF 40 Recommendations and FATF 9 Special Recommendations (see the attached Table on the ratings of compliance with the FATF Recommendations).

2. Although Algeria is not considered as a regional financial centre and despite the absence of a relatively high rate of crimes in Algeria, it is noticed that there are some economic crimes, on top of them, corruption, smuggling, forgery and illicit trafficking. This indicates that there are risks related to ML. As for the possibility of TF, a lot of risks related to terrorist activities by the existence of internal terrorist groups in addition to executing terrorist operations have come out. Moreover, there is a link between criminal groups that smuggle drugs and do kidnapping operations and terrorist groups. All these factors form high-level risks in the field of ML/TF.

3. Algeria criminalized ML in 2004, and started its combating against terrorism and terrorism financing since 1995, as it has criminalized the TF act being one of the acts described as terrorism or vandalism acts. In 2005, the Algerian lawmaker has put some provisions by virtue of AML/CFT law, by virtue of which TF act has been defined. Algeria established the Financial Intelligence Unit (FIU) in 2002. Consequently, the main aspects of the legal framework have been covered to establish a new AML/CFT system in Algeria. It is worth to be noted the existence of a practical hindrance concerning CFT as the lawmaker ordained that there should be a link between the terrorist crime and its financing, which contradicts with the international standards regarding this matter.

4. Algeria has established an AML/CFT system that includes a number of positive points. The most important comment that should be highlighted in this system is the non-issuing of all legal tools required for fulfilling basic requirements mentioned in the 40 Recommendations and 9 Special Recommendations of AML/CFT. On the other hand, the AML/CFT system in Algeria did not include all the financial institutions; in addition, the categories subject to the Law are not obligated with some of the basic requirements according to the international AML/CFT standards.

2- Legal Systems and Related Institutional Measures

5. Algeria has criminalized the ML act in 2004; such criminalization is compliant with Vienna and Palermo Conventions with regard to the material and mental elements of the crime. A previous conviction of the perpetrator of the acts that represent the predicate offense is not legally required. But, no provision exists stating that the laundered properties include proceeds resulting directly or indirectly from a crime. Concerning the predicate offense scope, Algeria followed the extensive methodology of identifying the predicate offense. It is worth mentioning that the crime of illicit trafficking in stolen goods is not included in the scope of predicate offense as it is not considered a criminalized act. The predicate offense extends to include any crime even if committed outside Algeria. The crimes related to ML are punished as well as the attempt. The Algerian lawmaker added the penal responsibility of legal persons to the ML crimes. In addition, the natural and legal persons are subjected to dissuasive and proportionate sanctions. As to the effectiveness of the AML system, the effective application of the system could not be verified.

6. Regarding the TF crime, the lawmaker criminalized it in the Penal Code being one of the acts described as terrorism or vandalism acts. The definition is mentioned in the AML/CFT Law. But it is limited as it does not include funds to be used by a terrorist organization or terrorist individual. In addition, terrorism or vandalism acts are limited to the definition mentioned in the Penal Code and does

not include all acts defined in the definitions list in the assessment methodology. In addition, all cases of TF submitted before the courts are also linked to a terrorist crime. Participating and attempting to commit this crime shall be punishable. The TF crime is considered a predicate offense for ML crimes. But, the TF crime does not apply in case a terrorist act was financed or occurred outside Algeria. The penal responsibility for the legal person shall apply in TF crimes. TF crimes are punished with dissuasive and proportionate sanctions, but its effectiveness cannot be measured.

7. There is in Algeria a good system of confiscation; the Penal Code gave the competent judicial authority the power to order the confiscation of properties, subject of a ML crime, including the proceeds and other resulting interests, and the competent judicial authority may also order the confiscation of the means and tools used in executing the ML crime. As for what is related to TF, the court shall order the confiscation of items which have been used or intended to be used to commit the crime or the proceeds thereof. In addition, the properties of the convicted can be confiscated. The FIU may object, in a precautionary manner and for a specified period, to the execution of any banking transaction, and the examining judge may order taking every precautionary procedure or security measure in addition to the seizure of the funds being the crime proceeds or used in committing the crime. But there is no special provision that gives such entities powers to identify and trace properties subject to or that could be subject to confiscation or those suspected to be the proceeds of a crime, noting that the suspension or cancellation of procedures in the TF field is not possible. It is worth mentioning that proving the effectiveness of confiscation system was not possible due to the absence of statistics.

8. There are no special laws in Algeria related to the freezing of terrorist funds or assets belonging to persons designated by the Security Council Resolutions. The Algerian authorities declared the creation a "group" on the level of Republic presidency that is concerned primarily with implementing the Resolution No. 1373, and its principal task is combating terrorism. Concerning the Security Council lists, it is worth mentioning that the lists which are sent to the Central Bank are limited to the names of Algerians, whose names are mentioned in these lists, and the Central Bank does not circulate such lists on the financial institutions governed by it.

9. As to the Algerian FIU (The Unit), it is created as an independent public institution at the Minister of Finance. The Unit undertakes receiving the Suspicious Transaction Reports (STRs) from the reporting entities, processing them, and sending the files related to these Reports to the attorney general. The AML/CFT Law obligates the inspectors of the Bank of Algeria, tax and customs authorities to send confidential reports to the Unit upon discovery of any suspicious transaction. The Unit may object, in a precautionary manner, the execution of suspicious banking transactions. It is worth mentioning that there is an ambiguity in the legal status of the Unit; as the concept of public institution does not exist in the Algerian law. The law did not designate any authority or individual from whom the Unit may request documents and information except the customs and tax departments. The law also does not give the Unit, expressly, the right to obtain additional information from the reporting entities. In addition, the Unit is not entitled to provide any help with regard to information to any entity. And it does not publish any regular report. The Unit submitted an application to join the Egmont Group in 2004, but such application has not been followed up for more than two years. The evaluation team discovered the inefficiency of the Unit, especially in relation to the analysis and dissemination of reports; as the Unit has sent two files only to the attorney general. The remaining STRs were not processed because the Unit does not have trained financial analysts. In addition, there is no appropriate training and human and technical resources to activate the work of the Unit.

10. The regionally competent attorney general receives the files pertaining to ML or TF crime from the Unit. Then, the investigation starts which is undertaken by the attorney general directly or he can authorize the concerned entities from the investigation officers to start the investigation. In addition and in the case of the TF crime (being a felony), the investigation is entrusted to the judge having spatial jurisdiction upon the request of the attorney general. The specializations of the investigation judge are focused on carrying out all investigation procedures to reveal the truth, movement, examination,

provided informing the attorney general, as well as inspecting, seizing things, identifying them, interrogation and confrontation. No explicit provision exists to allow postponing the arrest of suspects and the confiscation of funds in TF crimes. In the final phase of investigation, 4 poles were established and they were given the power of looking into specified crimes, including ML/TF crimes. The aim of establishing these poles is the judges' specialization and their training; Knowing that the number of the attorney general is twelve and therefore there are no sufficient resources to inspect and analyze all the crimes.

11. The system applicable currently in the field of movement of currency into and out of Algeria is related to monitoring the circulation of currency and does not suit the AML/CFT objectives in response to the requirements of SR. IX. The current declaration system does not include the power of asking about the source of funds. The FIU is not provided with the declarations gathered by the Customs Department, except in the event of detecting that a suspected case is related to ML or TF. It is worth mentioning that the employees in the Customs Department have not taken any specialized courses in the AML or CFT field.

3- Preventive Measures – Financial Institutions

12. Algeria is applying, in the field of preventive measures in the finance sector, a number of procedures that fulfill a considerable amount of the obligations stipulated in the FATF recommendations. But the Algerian legal framework lacks the existence of basic or secondary legislation to impose the compliance with principal requirements in some of these recommendations. The current obligations of the financial institutions in the AML system in Algeria result from the AML/CFT Law, which imposes a number of obligations on banks and financial institutions subjected to the Bank of Algeria, in addition to a regulation issued by the Bank of Algeria regarding the prevention and combating of ML/TF, which cannot be considered as one of the other enforceable means according to its definition in the mutual evaluation methodology of 2004.

13. The AML/CFT Law bound three categories which are: (1) Banks, (2) FIs, and (3) other equivalent FIs to the obligations stipulated thereof. Whereas the lawmaker bound the Algerian financial post services, insurance companies, exchange offices, stockbrokers and billing institutions to the reporting obligation only. It is worth noting that the concept of FIs in the law indicates the FIs that are subject to the Bank of Algeria such as the financing leasing institutions, investment, shareholding, and recruitment companies.

14. There is no legal provision that regulates the opening of anonymous accounts, accounts in fictitious names and numbered accounts, and that prevents the FIs not subject to the bank of Algeria from opening anonymous accounts and accounts in fictitious names. Banks and FIs and other similar FIs (FIs subject to the Bank of Algeria) are by law obliged to verify the identity and address of their customers before opening the account and to apply strict supervision on the accounts and operations that may pose high risk and suspicious activities and transactions. It is noteworthy that the law, with regard to identification and verification process, only addresses the FIs subject to the Bank of Algeria, while the Regulation is not regarded as an enforceable means as previously mentioned. This means that the FIs not subject to the Bank of Algeria (insurance companies, brokerage institutions and the Algerian financial post services) are not required to identify and verify their customer's ID.

15. Neither the law nor any other text provides for a definition of the beneficial owner; however, it may be concluded from the provisions that the beneficial owner is the person on whose behalf the client conducts transactions whether explicitly or not. The "Regulation" does not include provisions that require taking reasonable steps to obtain sufficient data for verifying the ID of the beneficial owner through relying on official documents in such cases, except in cases where the transaction is conducted through an agent.

16. The procedures followed do not meet the requirements of R.5 related to obtaining information on the purpose and nature of the business relationship; as such obligation should be imposed by virtue of an explicit provision. There is no legal or regulatory provision that requires financial institutions to take ongoing due diligence measures. As well, the financial institutions are not required to verify that the documents, data or information obtained by virtue of the due diligence procedures are updated and consistent, particularly for the categories of high-risk customers and business relationships.

17. The legal and regulatory framework in the AML field in Algeria does not tackle the enhanced due diligence measures for the categories of risk-posing customers or high-risk business relationships or transactions; as such measures are required without distinction between customers. There are also no instructions or guidelines that identify the categories of high-risk customers, business relationships or transactions for applying the enhanced due diligence. Concerning the existing customers, there is no legal or regulatory provision that tackles the abidance by the requirements of customer identity verification on basis of materiality and risk and applying the due diligence measures with regard to existing business relationships at appropriate times. Moreover, there is no legal or regulatory provision that requires the FIs to perform the due diligence measures for the existing customers if they are the owners of numbered or unidentified accounts or accounts under fictitious names. The system did not tackle the issue of Politically Exposed Persons (PEPs).

18. As for the cross-border correspondent banking, the Law did not make any reference to them. However, the banks and FIs established in Algeria are prohibited from establishing business relationships with foreign FIs that accept the use of their accounts by banks with no physical existence nor affiliated to a supervised financial group. But gathering sufficient information about any respondent institution is not expressly required. The AML/CFT system in Algeria does not require having policies in place or taking special measures and paying special attention to prevent the misuse of technological developments and the risks of non face to face business relationships.

19. Banks and FIs under the Bank of Algeria are obliged to maintain all documents related to transactions conducted by customers for at least five years from the completion date of the transaction and keep documents relating to identity and addresses of customers for five years. The banks and FIs subject to the Bank of Algeria are as well obliged to provide the competent authorities with the maintained documents and records. It is also noted that this obligation does not include all FIs as it does not apply to insurance companies and financial brokerage companies.

20. Regarding the wire transfers in the framework of law and agreements binding the intermediary banks in this kind of transactions, identifying the identity of the originator and the beneficiary is mandatory in the money order or form, but there is no specification of the ceiling for the amount. There is no legal provision that requires including the money order and the related documents, full accurate data of the originator. Also, there is no designated ceiling for the transfer value. There is no distinction between regular transfer and cross border batch transfers. And there are no procedures for the brokerage institutions in the payment chain, including maintaining the information they receive from the issuing financial institution for five years in the cases where the technical restrictions prevent sending full information on the originator enclosed with a cross-border wire transfer associated with a local wire transfer. There is no structure to adopt effective measures based on risks to identify the transfers lacking information.

21. As for the unusual and suspicious transactions, the banks, FIs and other similar FIs (the FIs subject to the Bank of Algeria) are obliged to inquire about the source and destination of funds as well as the purpose and identity of the concerned parties and to issue and maintain a confidential report without prejudice to the reporting obligation. It is noticed that such obligation was not comprehensive as it is only addressed to the FIs subject to the Bank of Algeria. It is also noticed the existence of confusion between the concepts of unusual transactions and suspicious transactions that should be reported to the FIU. Moreover, this obligation did not require the concerned institutions to make available such findings to the competent authorities and auditors for a period of five years at least.

22. The AML/CFT system in Algeria did not include any obligation on FIs to pay special attention to business relationships and transactions performed with persons in or from countries that do not apply or insufficiently apply the FATF Recommendations. As for the shell banks, Algeria prohibits the establishment of banks with no physical existence and the dealing with such banks. The banks and FIs established in Algeria are not licensed to establish relationships with foreign FIs that allow the use of their accounts by banks that neither have physical existence nor belong to a regulated financial group.

23. Concerning the reporting of suspicious transactions, the FIU has been authorized to receive the STRs from the FIs in case of suspecting that they are the proceeds of a felony or misdemeanor or seem to be intended to be used in TF, and it does not include predicate offenses of all twenty categories; in addition, the scope of TF does not include the link of use of funds by terrorist organizations or those who finance terrorism. The AML/CFT Law requires the reporting entities to notify the FIU of any suspected ML/TF transactions and not to exclude any suspicious transactions if they involve tax issues. No judiciary action may be taken against the persons, managers or employees subject to the reporting obligation for breach of the profession secrecy when any of those persons submits in bona fide information or reports of suspicious transactions according to the provisions of the subject law.

24. The insurance companies, exchange bureaus and stockbrokers are not required by any legal or regulatory provision to establish policies, procedures and internal controls. The law stipulated that the Banking Commission should ensure that the banks and other FIs under the Bank of Algeria have adequate programs to detect and prevent ML/TF.

25. The evaluation team noticed the few number of training programs in which the employees at the financial institutions subject to the Bank of Algeria participated and the complete absence of such training programs in the FIs that are not subject to the Bank of Algeria. On the other hand, the Law does not impose any obligation on the branches and affiliate companies of FIs abroad to consider the application of the AML/CFT measures to comply with the Algerian requirements and the FATF Recommendations to the extent permissible by the local laws and regulations in force in the hosting country.

26. The Banking Commission assumes the supervisory role over the FIs subject to the Bank of Algeria. On the other hand, the Commission for the Organization and Surveillance of Stock Market Transactions (COSOB) supervises and regulates the stockbrokers. The Securities Commission supervises the insurance sector, while the ratification of regulations thereof and the licensing of insurance companies and insurance brokers are conducted by the Minister of Finance. The FIU does not perform any regulatory role in the AML/CFT field or other fields.

27. The Law gave the Banking Commission the power of monitoring the existence of adequate programs for ML/TF detection and prevention in banks and FIs subject to the Bank of Algeria. It also gave the Commission the right to proceed with disciplinary action against the bank or financial institution that proves deficiency in its internal measures pertaining to monitoring in the reporting field. This Law or any other law did not grant such power to any entity regarding the brokerage institutions and insurance companies. The majority of employees in the Inspectorate General, which carries out the monitoring on behalf of the Banking Commission, have undertaken many special training programs, but the non-availability of sufficient human resources was noticed. With regard to the Insurance Directorate and COSOB, both entities were not given any power in AML/CFT field. Except for the Banking Commission with regard to banks and FIs subject to the Bank of Algeria, no power exists for the supervisory bodies over the finance sector to impose sanctions in case of non-compliance or incorrect execution of the AML/CFT requirements according to the FATF Recommendations. The evaluation team did not find any effectiveness in the application of sanctions.

28. The Law included financial sanctions against persons subject to the obligation of issuing and/or sending a STR and who deliberately and knowingly refrains from doing that. Also, the Law punished

those who notify on purpose the customer, concerned with the suspicious funds or transactions with the existence of such notification, with a financial fine. As well, the managers and employees of FIs, subject to the Bank of Algeria, who deliberately and recurrently violate the AML/CFT measures pertaining to customer due diligence and records retention, are punished by financial sanctions.

29. As a result of non-existence of suitable, effective legal framework that licenses or registers money transferors and currency exchange service providers, those are not subject to any system of compliance monitoring, despite the widespread of such service providers through an unofficial way outside the financial system subjected to supervision.

4- Preventive Measures – Designated Non-Financial Businesses And Professions

30. The DNFBP sector in Algeria consists of lawyers, notaries, accountants, auditors and chartered accountants, real estate agents and dealers in precious metals, in precious stones, dealers in antiques and arts. There is no evidence on the existence of the two categories of credit companies and trust funds. This sector was subjected to the reporting obligation only.

31. The DNFBPs are not subject to any obligations with regard to the due diligence measures and record retention. Also, no legal or regulatory provisions exist that are related to the requirements of R. 6, 8, 9 and 11. The evaluation team noticed the absence of cases of reporting of transactions by the DNFBPs. Also, the evaluation team was not informed of any written instructions related to the indicators of suspicious transactions or any other guidelines.

32. The Algerian authorities incorporated other activities to the reporting obligation only, without imposing any other requirements. These activities include the judicial officers, organizers of auctions, judicial receivers, judicial experts and certified translators. The obligation of such DNFBPs to the reporting obligation is due to the fact that the persons entrusted with such professions are considered public officers. It is worth mentioning that the FIU was not notified of any suspicious cases by such professions. Encouraging the usage of modern and secure means for the management of funds is also noticed.

5- Legal Persons and Legal Arrangements & Non-Profit Organizations

33. All commercial companies are subject to the Commercial Law; as the company must be proved through an official contract and shall not be considered a legal person except after being registered in the commercial register. This record is held by the National Center for Commercial Register where the articles of association and amended contracts must be deposited. It is worth mentioning that the information provided by the National Centre for Commercial Register to the concerned authorities is of statistical nature and does not give accurate data on the beneficial owners. Although the commercial law includes the rules ensuring transparency with respect to companies' incorporation; however, the fact that the issuance of bearer shares is permitted and it is possible to trade them while no measures exist to avoid their misuse for ML purposes. As for the trust funds, they are not found in Algeria and they are not stipulated in the law.

34. Associations in Algeria shall be established after depositing the establishment license at the governor of the province where the association is located, if it is local, or at the Minister of the Interior if it is of national character and to announce the association in the Official Gazette that is distributed on the national level; the Ministry of Interior shall monitor these associations. The Law obliges associations to inform the public authorities of all amendments that occur in their articles of association and all changes occurring in their leadership; they are also obliged to provide all information related to the number of its members, source of funds, financial status on a regular basis to the competent public authority; Knowing that there is no onsite control or inspection over these associations, as the control is limited to auditing the accounts of the granted aids. It is worth mentioning that the adequacy of the laws pertaining to the sector of associations has not been reviewed and no precautionary measures have

been taken to avoid the misuse of this sector for terrorism financing purposes; no seminars or meetings were held and no instructions were given to those who work in this sector. There is no indication to the existence of cooperation or coordination among the different concerned authorities on the national level with regard to the exchange of information on associations in an efficient and timely manner to avoid their misuse for terrorist purposes or within the framework of investigations.

6- National and International Cooperation

35. In general, the law of penal procedures includes some legal procedures that allow coordination between different security bodies which are responsible for combating the crime. But, there is no national committee or authority in Algeria that includes all the sectors concerned with AML/CFT that are in charge of coordinating policies between all competent authorities: the only authority concerned with the issue of fighting ML/ TF is the FIU. And the national coordination is not included among its specializations. As for the cooperation on the operational level, it is limited to the interests of the national Security Council which responds to the requests submitted by the Unit, which in its turn, has the right to request any document or additional information from the tax authorities and customs authorities at any time.

36. Algeria has ratified the UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Vienna), the International Convention on the Suppression of the Financing of Terrorism and also ratified the United Nations Convention against Transnational Organized Crime (Palermo).

37. The principle applicable in the field of mutual legal assistance requests is the judicial cooperation – in all fields - based on agreements. In case there is no agreement, it depends on the principle of reciprocity in the field of mutual legal assistance requests. In addition to the general rules, the AML/CFT Law stipulated the possibility of making judicial cooperation among the Algerian and foreign judicial authorities which shall take place throughout the investigations and follow-ups and judicial measures related to AML/CFT pursuant to the principle of reciprocity and according to the bilateral and multilateral agreements of which Algeria is a part in accordance with the internal legislation. Moreover, this judicial cooperation may include investigations requests, judicial rogatory letters and extradition of the wanted persons according to the law as well as tracking and seizing the proceeds of the ML crimes and those directed to TF in order to confiscate such proceeds without prejudice to the rights of bona fide third parties.

38. The judicial entities or competent authorities, based on the request of one of the states in the anti-corruption convention, whose courts or competent authorities have ordered the freezing or seizing the proceeds resulting from the ML crime, or the properties, tools or means used or intended to be used in such crimes, may order the freezing or seizure of such properties provided the existence of sufficient reasons to justify such procedures as well as the occurrence of evidence that such properties should be confiscated. These rules do not apply on TF crimes. The requests are sent directly to the central authorities without passing through diplomatic channels when bilateral agreements exist. In all cases, the request shall pass through the Judicial Division concerned with the international cooperation at the Ministry of Justice; then they are examined and, after being approved, they shall be referred to the attorney general who opens an investigation file through which the judicial request shall be implemented. There is no prerequisite in the Algerian law nor in the bilateral and multilateral agreements signed by Algeria that the judicial procedures shall begin in the requesting country or a conviction be issued. It is noteworthy that there is no legal or practical impediment in the State that prevents providing assistance. As for the international cooperation with regard to confiscation, the laws that regulate the freezing, seizure and confiscation of properties based on the request of another state exist only in the field of ML crimes and not TF crimes. No consideration has been given to dividing the confiscated properties between Algeria and the other countries.

39. As to the extradition of criminals, the measures and procedures shall be applied according to the provisions of the Criminal Procedures Code; as no person may be extradited to a foreign government unless the follow up procedures have been taken in their regard for a crime punished in the Algerian law or has been convicted therein. Extradition cannot be accepted if the person required to be extradited is of Algerian nationality, and it may not be accepted in any case if the act is non-punishable under the Algerian law by the sanction for a felony or misdemeanor. In addition to the general rules, the law related to prevention and combating of ML considered both crimes as crimes that obligate the extradition of criminals. The effectiveness of this issue cannot be measured in the field of ML or TF, as there is no case related to the criminals' extradition.

40. As for the other forms of the international cooperation, the international cooperation in the AML/CFT field, especially through the FIU and supervisory authorities with foreign counterparts seems to be not activated. There are no legislative measures to guarantee the controls and safeguards ensuring the use of the information available within the framework of international cooperation only in the manner agreed upon with the foreign authorities, which provided such information.

MUTUAL EVALUATION REPORT

1- GENERAL

1-1 General Information on the Republic of Algeria

41. The People's Democratic Republic of Algeria (Algeria) is a country in North Africa located on the Mediterranean coast. Algeria is bordered in the east by Tunisia and Libya, in the west by Morocco, in the southwest by Mali and Mauritania and in southeast by Niger. It overlooks, to the north, the Mediterranean Sea. It covers an area of 2,381,741 Km², and it has an estimated population of about 30 million. The population density is about 13 person/Km². The official language of Algeria is Arabic and Tamazight (Amazigh language or Berber) has been recognized as a national language". In addition to this, French and Berber dialects are used. Algeria is divided into 48 provinces (*wilayas*), each province divided into district totaling a number of 553 districts (*dairas*), which in turn are divided into municipalities (*baladiyahs*). It has a total of 1541 municipalities (*baladiyahs*). Its national currency is the Algerian dinar (DZD) which is equivalent to USD 0.0136.

42. Algeria became independent from France in 1962 and became member in the United Nations in October 1962. The Constitution has been amended 4 times since Algeria's first Constitution set immediately after its independence in 1963. According to the 1995 amendment, no party may be formed based on differences in religion or race and several parties were dissolved accordingly. The Constitution was also amended on November 12, 2008 to remove the limitation of presidential terms.

43. Algeria is a democratic country. Algeria distinguishes officially between three authorities, namely, the executive, legislative and judicial authorities. In general, the President and the Executive Body supervise the enforcement of laws passed by the Algerian Parliament and the judicial authorities approve the judgments rendered in the civil and criminal courts.

44. The head of state is the President of the Republic. He appoints or dismisses the Prime Minister who is also the head of government. The commander-in-chief of the military is the President, who is also the Minister of National Defense. The President is elected for a renewable term of 5 years. .

45. The Algerian Parliament consists of two chambers, namely, the *National People's Assembly (APN)*, with 389 members who are elected every five years; and the *Council of Nation*, with 144 members. The President appoints 1/3 of them, i.e. 48 members (for the duration of 6 years), while the others two thirds are elected by the provincial people's assemblies with two members for each of the 48 provinces in Algeria.

46. The 1996 constitution gave the government and its head a number of powers to enable him to implement the policy of the state. Although he is appointed and dismissed by the President, he still enjoys much freedom and power in the direction of the President. The ministers are the government members who constitute the Council of Government. They are appointed pursuant to the suggestion of the head of government to the President to appoint a minister or several ministers or the whole government.

47. Under the 1996 constitution, the Algerian judicial system is characterized by the duality of the judicial authorities (the Common Jurisdiction and the Administrative Jurisdiction). The courts are the base judicial authorities, and are found throughout most districts, and every court has a regional competence that covers a number of municipalities according to the Judicial Division Law. All Courts contain eight main sections, which are: the civil section, the personal affairs section, the social section, the commercial section, the real estate section, the expeditious section, the punitive section and the juvenile section. Pursuant to the Ministerial Order No. 11- 97dated 19/3/1997 concerned with judicial division, 48 councils have been programmed distributed according to the administrative division. The judicial division designates the regional competence for the councils, which remains different from the administrative competence in the strictest sense. The council is considered a judicial authority of appeal

that consists of a president, chamber presidents, counselors, public prosecution and the registry (court clerk's office). Each council is divided into several chambers that may be divided in turn into sections, when necessary.

48. Since 1999, Algeria is benefiting from a continued rising in the sales indicator and prices of oil, which resulted in an unprecedented income in the state's revenues and as well from an important accumulation in the external net assets. The period of 2000-2005 has witnessed a great growth, on which the raw national product increased with rate of 4.5%. In 2006, Algeria witnessed a slowdown in the growth of (total/net) national product to reach 2%; and after a little refreshment, it increased to 3% in 2007. It is certain that the fuel sector has given a greater push to this growth during the period of 1999-2005, also the agriculture sector did that but with a lesser degree, and it was also supported by the other sectors as services and construction. While the contribution of the fuel sector, starting from 2006, in the growth of (gross/net) national product became negative with - 2.5% and with - 0.9% in 2007. The growth percentage reached during that year, outside the fuel sector, 6.3%, where the agriculture sector recorded 5.0%, while the construction and services sectors have witnessed a great growth as they reached the percentage of 9.8% and 6.8% respectively.

49. This great growth in the sectors reflects the interference of the state through the gross public investment programs as the Economic Revival and Support Plan (PSRE) and the Complementary Plan for Economic Growth Support (PCSC) as these programs led to providing proper conditions for the construction sector. The value of the Algerian crude oil has increased from 65.4 dollar for the oil barrel in 2006 to 74.4 dollar in 2007. This contributed in a 10% increase in the nominal value of fuel exports as the latter reached the value of 59.2 billion dollar. The growth of the (gross/net) national product reached 3% in 2008. The raw national product away from the fuel reached around 6.1%.

50. In 2009, a growth of 4.1% in the total/net **national** product it has been achieved along with 6.6% percentage in the growth of **national** product away from the fuel sector. The inflation rate reached 3.5% in 2007, against 2.5% in 2006. The percentage of unemployment realized a little decrease as it reached 11.8% in 2007 after it was 12.3% in 2006. But the percentage of 2007 remains low compared with the percentage of 2001 in which it reached its highest point with 27%.

51. The percentage of unemployment decreased according to the application of Economic Revival and Support Plan (PSRE) between 2001 and 2004, and also the "*Programme Complementary de Soutien de la Croissance*" (PCSC) and the additional budget allocations which have been planned to include new programs related to the poverty-stricken areas in the south and highland areas. However, the percentage of youth unemployment is still high with about 72% which consists of those who are under thirty. The nature of temporary work causes also worry, as the percentage of temporary work (37%) is more than the percentage of permanent work (34%) on which persons who work for their own accounts guarantee balance.

52. **The external condition of the Algerian citizen continued improving in 2007 because of the increase of fuel exports.** Although the imports, especially those related to consumer goods and capitals, increased in 2007, it has been equilibrated with the great increase of exports revenues. As for the surplus of current payments, they still at high levels reached 31.1 billion dollars in 2007. The gross reserves of exchange continued increasing till it reached the level of 110 billion dollars in 2007. And it reached 141 billion dollars in 2008.

53. The percentage of external debts decreased compared to the raw national product with 3.3% in 2007. Also the amount of external debts decreased again in the end of December 2008 and reached 5.5 billion dollars, as this a clear decrease in comparison with the amount of 21 billion dollars registered in 2004.

54. In 2007, the total balance of budget was re-enhanced following the fears from reaching to this with respect to the balance of the treasury outside the Revenue Regulation Fund, but the gap of infrastructure deficit, away from fuel, has been expanded. After the deficit was representing 8.4% from the national income in 2006, it increased to 13.7% in 2007. This is explained by the fast application of the Complementary Plan for Economic Growth Support (PCSC).

55. The main challenge for the government is applying wide reforms program aiming at realizing growing liberation, especially the reform of financial sector, the public corporations and privatization through opening infrastructure sectors before the clients and investors from the private sector, applying the agreements of commercial partnership with the European Union (entered the execution phase in 2005) and holding negotiations with the aim of joining the World Trade Organization (WTO).

Economy

56. The Algerian government chose a planned and strongly focused economy since 1962. The primary objectives are represented in giving Algeria independence on the economic level through regaining its national wealth. For this objective, the Republic of Algeria entered into a campaign of nationalizing the foreign corporations and also exerted a great effort to spread the industry field. But soon enough this policy was subjected to the requirements of oil sector of 1986, as the state could not bear the financial investment that resulted from the negative results achieved by the national corporations that could not positively adopt to the new trend of seeking employment, which increased along with the demographical growth witnessed by the state since its independence. As a result, Algeria referred to the International Monetary Fund in 1988 in order to achieve balance in its structures and prepare a renewable program to guarantee the transition from a planned socialist economy to a market economy.

57. Algeria is enjoying a strategic economic position on the internal and external level with respect to the increase of oil prices and this has been noticed from the increase in the growth rate from 2.1% in 2001 to 5.3% in 2005 along with realizing a standard rate of 8% in 2003. While the assessments which have been observed for 2009 indicate a rate of no more than 2.1%. Despite the availability of large cash because of the plenty of oil resources, the rate of inflation decreased as a result of strict monitoring imposed by the Bank of Algeria. The rate of inflation recorded 1.5% at the end of 2005 while it was valued at 3.6% in 2004. On the external level, Algeria is considered the third economic power in the African continent with raw production average estimated at 171.3 billion dollars following South Africa with 300.4 billion dollars and Nigeria with 220.3 billion dollars and the raw interior product is estimated at 5.073 dollar for one person in 2008.

Production and Investment:

58. Algeria is considered a pioneer state in exporting and producing the natural gas as it holds the fifth rank in production and fourth in exportation. As for the oil, it is ranked 13 in terms of production and 9th in exportation. It also enjoys huge resources of iron and gold, in addition to uranium and zinc in the far south of the state. Oil and gas are considered from the principal resources as they are exploited by a national company. Algeria has varied its economy through modifying its system and renewing its mechanism of agriculture and heavy industry, but oil still represents almost all its exports.

59. The external debts of Algeria are estimated at 880 million dinars in September from 2007 against 4.7 billion in 2006. Algeria is paying its debts in large installments by using the unexpected flow of currencies resulted from the increase of oil prices before it falls at the end of 2008. As for these realized results, Algeria started attracting the foreign investors especially after modifying the law No. 01-02 of the fifth of February, which promote the principles of liberating the electricity market, distribution of gas through pipes and establishing a committee to organize the electricity and gas in 2002.

60. Algeria is heading the region of MEDA (Europe and Mediterranean region) concerning the flow of external investment according to a study prepared on the direct foreign investment in 2004 in MEDA region by the Euro Mediterranean Network; this document states that there is a "clear" return of Algeria starting from 2004. This is mostly due to the power sector such as oil, gas, telecommunications, tourism, industry and other. This large number of the mentioned projects confirms that Algeria became a destination for the direct foreign investment. Despite the existence of an investment climate that

should be enhanced, the rate of investments is estimated at 5.857 billion Euros correspondent to 59 project against 2.519 billion Euros in 2003 for 31 projects (the rate of the economic growth realized by the construction and public works sector is +7.1% followed by oil +5.8% and services +5.6, while agriculture increased by 1.9% only).

The Main Economic Indicators

Indicator	Value
The (total/net) interior production?	171.3 billion US dollars in 2008
The raw interior production	5,073 US dollars in 2008
The raw interior production	7.952 USD in
Growth away from oil field	6.5% in 2007
Financial inflation	3.5% in 2007
Unemployment	11.3%, the fourth quarter in 2008
Exchange reserve	150 billion US dollars at the end of March 2009
External debts	700 million USD in June 2007
Net budget	Gross Domestic Product 3.9% in 2003
Exports	63.3 billion USD in 2007
Import	26.13 billion USD in 2007
Oil production	1.450 million barrels per day in 2006
Oil reserve	43 billion barrels equivalent to petroleum in 2006
Gas reserve	4500 billion cubic meters
Foreign direct investment	5.25 billion USD in 2008
Direct foreign investors	

2009 - Source: Presidency of Algerian Republic

Foreign Trade

61. The trade balance of Algeria remains subject to the oil and gas incomes as the latter represent 97% of the total volume of 2007 exports by virtue of the increase in prices of primary resources which recorded a remarkable increase in the beginning of 21st century. Similar to other countries which produce petroleum and gas, Algeria recorded a high increase in its income with the foreign currencies and that led to the progress of its total economic indicator. The value of its exports raised in 2007 to 63.3 billion dollars against 26.13 billion dollars in comparison with import, leading to a standard trade surplus estimated at 37.17 billion dollars. The main trade partner of Algeria is the European Union with which it has realized half of its foreign trade. As for its customers, on the top of the list is the United States with an exchange percentage estimated at 19 billion USD, followed by Italy and Spain.

62. It is worth to be noted that the value of trade exchange between China and Algeria increased to 3.8 billion dollars at the end of 2008. Also, the Canada-Algeria Business Alliance (ACA) (Alliance

d’Affaires Canada Algérie) is working on intensifying the economic relationships with Algeria through investments, whereby the rate of exchange exceeded 3 billion dollars in 2008.

Finance:

63. Starting from 1966, Algeria nationalized its banking sector and all financial and monetary jobs in the state are refocused within the frame of central bank laws which re-liberated the banking sector in 1990, licensing by this the establishment of private banks. Supported by the International Monetary Fund, the Algerian government carried out structural reforms in this sector and other in the public financial field, as the purpose behind this was ending the indebtedness of Algeria. By this, Algeria managed to pay most of its debts, and also it signed on agreements regarding the early settlement of debts with Poland, Saudi Arabia and Turkey. As for its creditors in Paris and London club, Algeria paid a debt valued at around 7.75 billion USD for the first club in the middle of November 2008 and 800 million USD for the second club in last September. The sum of the external debts has decreased from more than 33 billion USD in 1996 to less than 4.5 billion USD in 2007. Also, a decrease in the debts service and an increase in the exchange reserve, which moved from 5 million USD in 1999 to more than 110.18 billion USD in 2007, were noticed.

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

64. Algeria suffers, as other states, from the existence of a number of crimes which proceeds can be used in ML crimes (See annex (1) which includes some statistics in this field). In addition to the attached statistics, the evaluation team discovered from the onsite visit and statements of the authorities that the bribery, exploiting power and financing terrorism are considered from the mostly committed predicate offences in Algeria, which make illicit money that require laundering.

65. As for the means of ML, the Algerian authorities stated that the means used in ML are divided into two categories; the simple means and the complicated ones: **(1) Simple means:** they are the means that are usually used by people who have limited knowledge, lack experience in the financial field and prefer to enter into simple projects which mostly they manage by themselves or by their relatives to take control of these projects. These means are mostly carried out through: **Trading in real estates and commercial projects.**

66. Trading in Real Estates:

- Buying and selling houses or renting them.
- Buying and selling lands and they sell them either as they are or after establishing buildings upon them.
- Establishing commercial centers aiming at buying them.

67. Commercial Projects:

- Practicing different commercial activities such as: Selling home appliances, women wear
- Light meals, car washing stations....., etc.
- Simple service activities (goods and passengers transportation, renting cars...)
- Establishing middle-sized companies for import and export.

68. **(2) Complicated means:** they are the means that are used by professional criminals, especially, when the amount of money to be laundered is large; they are the means that are mostly carried out with the help of competent persons in trade and finance, as they are executed through: smuggling capitals or investment projects.

69. **Smuggling money** to the states that are safe from the judicial and tax collecting authorities (paradise tax or offshore regions) through foreign trade operations by manipulating invoices and customs permits. This type of activities requires establishing a network of shell companies inside and outside the country, in addition to seeking the services of documents forgery professionals.

70. Investment projects: Investing in different projects through available encouragement and assistance systems such as Agence Nationale de Soutien à l'emploi des Jeunes (ANSEJ), National Agency of Investment Development or Agence Nationale de Développement de l'Investissement (ANDI), "APSI" ..) and these are carried out in order to get bank loans paid through dirty money.

71. As for TF, the evaluation team did not obtain comprehensive statistics on terrorism crimes in Algeria; even if it is known that Algeria has been exposed to many terrorist crimes, particularly in the 90's. As for the TF means, on top of which, exercising criminal activities that make a lot of money such as narcotics trade and smuggling cigarettes, in addition to blackmailing citizens by violence or threat, executing theft actions on companies to steal its properties, kidnapping and claiming ransom, which have increased in the last period as per the statement of many persons whom the team met.

1-3 Overview of the Financial Sector

72. The financial sector in Algeria consists of banks, insurance companies, and financial brokerage companies in addition to a number of others FIs that are licensed by the Bank of Algeria.

73. The main activity of banks is receiving money from the public, and loan operations as well as putting payment methods under the disposal of customers and managing such methods. Banks may carry out money exchange operations, gold, precious metal and precious coins operations. They are permitted to invest movables and each financial product, their subscription, purchase, operation and sale. They may also provide consultation and assistance in the field of property operation and financial consultation and operation and financial engineering and in general all services directed to facilitating the establishment of institutions or facilities and their development subject to the provisions of the related legal provisions. By the end of 2008, the number of banks in Algeria reached 21 banks distributed as follows: (7) public banks and (14) private banks. The public banks are more widespread; however, more private banks have been opening in the last years. By the end of 2008, the public banks network included (1095) branches and the network of private banks and financial institutions reached (196) branches. The number of counters including the counters of the Bank of Algeria is estimated at 1338 counters i.e. 25,000 persons for each.

74. In addition to banks, the Bank of Algeria licenses a number of other financial institutions, as five other FIs were licensed, three of which operate in financing leasing, one in mortgage refinancing and one is the financial company for investment and recruitment. The Banking Commission presided by the Governor of the Bank of Algeria exercises the supervision functions on the banks and FIs licensed and authorized by the Bank of Algeria through the General Directorate of Inspectorate General in the Bank of Algeria. The Algerian post services perform banking transactions and in this framework, they are subject to the law of credit and the monitoring supervision of the Banking Commission.

75. The supervisory system in the banking field relies, on one hand, on the Banking Commission, which is made up of 5 members appointed for 5 years and presided over by the Governor of the Bank of Algeria. This Commission performs inspection and control processes over the banks through inspectors affiliated with the Bank of Algeria. It also pronounces sanctions in case of violating the banking system. On the other hand, the Bank of Algeria issues instructions pertaining to the banking system and conducts control on documents over banks and FIs.

76. Regarding the stock market, this market is regulated by the Legislative Decree No. 10/93 dated May 23, 1993 and as amended and completed by Law No. 03-04 dated February 17, 2003. The Commission for the Organization and Surveillance of Stock Market Transactions (COSOB) regulates and supervises the market, whereas the Stock Exchange Management Company (SGBV) regulates the stock operations and trading shares. The number of **intermediaries engaging in stock market operations** reached seven intermediaries; six public banks and one private institution.

77. The Algerian Stock Exchange (AlgSE) consists of three parts which are the **Stock Market**, which currently has two stocks on the exchange; Aurassi and Saidal. The second part is represented in the bonds market, as there are currently five companies issuing bonds. The third part is **Public Treasury Bonds**, which were incorporated in February 2008. The market value of the stocks reached USD 6,7 billion whereas the value of bonds reached DZD 84 billion and the public treasury bonds reached USD 212 billion.

78. Regarding the insurance market, the Insurance Supervisory Commission supervises the insurance sector, while the authorization of the regulations thereof and the insurance companies and insurance brokers is conducted by the Minister of Finance. There are sixteen insurance companies, five of which are public insurance companies (four direct insurance companies and one reinsurance company), seven are private companies, one public company specialized in insuring exports, one public company for insuring loans and two insurance aids. The market size reached 67 billion DZD in 2008, 7% thereof is for life insurance.

79. Regarding the money transfer activities and currency exchange companies, and despite the spread of such activities in Algeria, and in the framework of the black market, the Algerian authorities have not taken any tangible or actual step for the licensing and registration of the money transfer and currency exchange services, except for Instruction 08-96 dated 18/12/1996 issued by the Bank of Algeria pursuant to the provisions of Regulation 95-07 of the Bank of Algeria, which designated the conditions of the establishment and authorization of exchange offices which has not made any change in this field.

1-4 Overview of the DNFBP sector:

80. The DNFBP sector in Algeria consists of lawyers, notaries, accountants, auditors, chartered accountants, brokers, real estate agents and dealers in precious stones, precious metals, antiques and arts. The evaluation team did not find evidence on the existence of the two categories of company service providers and trust funds according to the FATF definition of the DNFBPs within the AML 40 Recommendations' framework issued by FATF. The team could not find evidence whether gambling is legitimate or not in Algeria.

81. **Notaries (the Notary Public):** The notary public is considered a public officer by the public authority; he issues and authenticates contracts according to the law. The notary public's profession is subject to standards and conditions designated by the law and its regulatory provisions. The notary public works for his own account as each notary public is in charge of a notary office.

82. **The accountant, auditor and chartered accountant:** Law No. 08-91 dated April 27, 1991 regulated the accountant, auditor and chartered accountant professions as each person who practices in his name and under his responsibility the auditing and accounting profession by checking the soundness and analyzing the accounts of all kinds at the institutions and commercial or civil companies is considered an **accountant (Article 19)**. A person shall be considered a **chartered accountant** if he is a professional accountant who, in his name and under his responsibility, manages the finances and accounts of the institutions and authorities which require his services on a regular basis. Whereas a person shall be considered an **auditor** if he practices on a regular basis and in his name and under his responsibility the profession of auditing the accounts of the companies and authorities stipulated in Article 1 of Law 08-91.

83. **Lawyers:** The law profession is practiced independently to defend the rights and contribute to achieving justice and ascertain the supremacy of law and ensure defending the rights and freedom of the citizens. The lawyer provides legal consultation and advice and assistance such as representing litigants and defending their rights and within the same framework, he may take the required judicial action and measure. He may regulate contracts and take the required action till the court decisions are

executed. It is prohibited for any person to practice the law profession unless he has been registered in the Roll of the Bar Association.

84. **Dealers in precious metals and precious stones:** Practicing the profession only requires registration in the Commercial Register. Within this framework, we point out that the distribution and importing of gold falls upon the shoulders of the National Gold Agency, which is a governmental authority that aims at securing the gold of jewelry manufacturers.

85. **Real Estate Agent:** Each natural or legal person shall be considered a real estate agent if he performs, by virtue of a power of attorney and in return of a fee, the services of commercial brokerage nature in the real estate field or in the real estate management field for the account or benefit of the owners. Included in this profession are the services and activities such as brokerage in buying, selling, renting or exchanging of lands and real estate or commercial stores and negotiating therein and executing contracts thereof and real estate brokerage and real estate management.

86. The Algerian authorities have subjected other activities to the AML/CFT Law as such activities are only subject to the reporting obligation. Such activities include the judicial officers, organizers of judicial sales/auctions, judicial receivers, judicial experts and certified translators. The obligation of such businesses and professions to report suspicion to the FIU is due to the fact that the persons entrusted with such professions are considered public officers.

1-5 Overview of commercial laws and mechanisms governing legal persons and arrangements

87. The Commercial Law is considered the main source of the Companies Law, however, it is also based on the Civil Law, and in particular its provisions pertaining to the regulation of the establishment of a civil company. The Companies Law includes a number of rules that apply on the commercial companies whether pertaining to their establishment, management, monitoring, amendment, dissolution, liquidation or termination (See the Civil Law). Article 416 of the Civil Law stipulates that the civil company is considered a legal person upon establishment: It may not be protested against third parties unless all registration procedures stipulated by the law are satisfied. The commercial nature of a company is determined by its structure, performance of commercial businesses and its mandatory registration at the Commercial Register. It is mainly regulated by the Commercial Law. The managers of the commercial companies are civilly and criminally liable for the management acts they carry out in violation of the legal and regulatory provisions. As for the types of companies, there are mainly the individual companies and stock companies.

88. Regarding the individual companies: **The joint liability company** is the company in which partners enjoy the capacity of a dealer, and they are jointly liable without designation for the debts of the company; **the limited partnership company** is the company in which joint partners have the same legal position which the partners are subject to in the joint liability company, which means they are jointly liable and without designation for the debts of the company, whereas limited partners are not liable for the debts of the company except within the limits of the value of their shares only; **the joint venture company** is the company established when two or more natural persons come together to carry out commercial operations. Such company does not exist except in the relationship established between the partners; hence, they are neither revealed to third parties nor registered in the Commercial Register.

89. Regarding the stock companies, they are: **The limited liability company** which is the company in which partners are not liable for the damages except within the limits of the shares they hold; **the joint stock company** is the company in which shareholders are not liable for damages except within the value of the shares they hold; **the company limited by shares** is a company that borrowed most of its operation rules from the joint stock company. In essence, three joint shareholders and limited shareholders at least exist and the joint shareholders shall be jointly liable without designation for the debts of the company, whereas the limited shareholders shall not be liable for damages except within the equivalent value of the shares they hold. It is worth to mention that there is another type of joint

stock companies represented in the economic public institutions in which the total stocks go to the State.

90. Law 31-90 dated Jumada al-Awwal 17, 1411 Hijri corresponding to December 4, 1990 regulates **associations** and designates their frameworks. Within the framework of the laws regulating associations, natural or legal persons come together under a contractual non-profit agreement. All adults may establish, operate or manage an association according to the legal conditions. The establishment of the association is subject to legal procedures that start with depositing the establishment license at the competent public authorities. The association shall enjoy a legal civil capacity as soon as it is established. It must submit all information related to the number of its staff members, the source of its funds and its financial condition on a regular basis to the competent public authority.

91. The associations resources consist of: member subscriptions, the proceeds related to their activities, donations and wills, and grants provided by the state, province or municipality. The following donations and wills shall not be accepted from foreign associations or agencies unless the competent public authority approves them after verifying their source and amount and their compliance with the objectives stipulated in the articles of association. The state works on monitoring the financial management of associations through the following entities according to the cases: The inspectorate General of Finance, local offices, and the concerned ministry according to the activity with respect to the provided grants, in addition to the auditor who acts as an external controller over the associations. Algeria has approximately 776 national associations and 44000 local associations.

1-6 Overview of strategy to prevent money laundering and terrorism financing

(a) AML/CFT Strategies and Priorities

92. Regarding the strategy to prevent money laundering in Algeria, there is no written strategy or policy in this field, but the Algerian authorities stated that the actual strategy of the state revolves around the following points: The preventive aspect and the suppressive aspect.

93. The preventive aspect: A number of measures have been established on the level of the financial system with the aim of raising the level of precaution against dumping illicit funds in the official financial system. These measures that were established by Law 01/05 issued on 6 February 2005 related to prevention from ML/TF and combating them are represented mainly in the following:

- Obliging the financial and banking institutions to verify the identity of their customers and maintain all documents that enable their identification.
- Obliging banks and financial institutions to verify the financial transactions performed therein to verify their sound economic purpose, true destination and beneficial owners.
- Obliging banks to set up warning systems that enable them to notify about each suspicious transaction that may involve ML/TF.
- Obliging financial and banking institutions, the different authorities which are active in the financial field and the independent professions to notify the FIU by sending a Suspicious Transaction Report (STR) about each suspicious transaction.
- Setting disciplinary and punitive measures against each negligence that leads to concealing suspected cases.

94. The suppressive aspect:

- Criminalization of ML/TF and including it in the Penal Code (Article 389 and the subsequent).
- Setting procedural measures for these crimes, including:
 - 1- Establishing the criminal liability for the legal person.
 - 2- Expanding the local competence of the judicial police officer in this field.
 - 3- Extending their powers in the field of inspection and keeping under consideration "la garde a vue". .

- Establishing the techniques of special investigations (surveillance of persons – eavesdropping – seizing correspondences – leakage).

(b) *The institutional framework for combating money laundering and terrorism financing*

95. A **committee** was established at the level of the Republic presidency presided over by the President’s Advisor to work on following up the execution of the UN Security Council Resolutions, and in particular Resolutions 1267 and 1373 as well as the CFT agreements for 1999. This Committee is made up of: representatives of the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Justice, Ministry of Transportation, the FIU, the Bank of Algeria, the Customs and other security departments. This Committee convenes on a regular basis and works on continuous consultation between the different governmental institutions to set up the approved strategies in the field of the combating and prevention of terrorism financing and the related crimes including money laundering and the transnational organized crimes. The Committee also submits regular reports to the UN Security Council within the framework of implementing Resolutions 1267 and 1373.

96. **The General Directorate for National Security** is a governmental authority that is entrusted with combating money laundering and the financing of terrorism to be handled as one of the crimes of the Penal Code. This type of crimes is entrusted to the competent departments in combating the economic crime, which are affiliated to the judicial police departments concerned with covering the security of the urban areas.

97. **The National Gendarmerie** is made up of six units, among which is the judicial police concerned with the search and investigation duties and proceeding with the investigation under the supervision of the attorney general. The National Gendarmerie is concerned with covering the non-urban areas.

98. **The Financial Intelligence Unit (FIU) (Cellule de Traitement du Renseignement Financier – CTRF):** The FIU was established in Algeria pursuant to Executive Decree No. 02-127 dated April 7, 2002, and was amended and completed by Executive Decree No. 275-08 dated September 6, 2008. It was considered by the said decree to be an independent public institution at the Minister of Finance that enjoys a legal character and financial independence. The FIU was assigned with combating money laundering and the financing of terrorism. It is a competent authority that is responsible for gathering, processing and analyzing financial information and exchanging it with other financial information units and its foreign counterparts – pursuant to the principle of exchange of information – with the aim of contributing to the detection of the transactions of reusing the funds resulting from crimes and financing of terrorist activities in Algeria and preventing them.

99. **Bank of Algeria:** Bank of Algeria enjoys the legal power to license banks and other FIs through the Council on Money and Credit. It also monitors such institutions according to the directions of the Banking Commission.

100. **The Banking Commission:** It is the supervisory authority that supervises all banks and FIs licensed by the Bank of Algeria.

(c) *Approach concerning risk:*

101. The evaluation team did not find indication that the Algerian authorities have assessed the ML/TF risks in a comprehensive way to designate the high-risk and low-risk sectors. However, some legal references included some aspects pertaining to the classification of risks in the financial institutions.

(d) *Progress since the last mutual evaluation*

102. Algeria has not been evaluated before, according to the evaluation Methodology 2004, as it was evaluated in 2003 on the basis of the Methodology 2002 by the World Bank. However, Algeria has made major achievements by developing the AML/CFT regime through legislative, regulatory and practical means. The major achievements in this field are the following:

- The issuance of Executive Decree No. 06-05 which includes the form, content and receipt for reporting suspicious cases dated January 15, 2005.
- The issuance of the AML/CFT Law No. 05-01 dated February 6, 2005.
- The issuance of Bank of Algeria's Regulation No. 05-05 on AML/CFT dated December 15, 2005.
- Issuance of Law No. 01-06 on corruption prevention dated February 20, 2006.
- The issuance of a mutual ministerial decree, which includes the technical departments of the FIU, dated May 28, 2007.
- The issuance of a decree which specifies the application conditions of Article 21 of Law No. 05-01 dated March 30, 2008.
- The issuance of the Executive Decree No. 275-08 amended and completed by the Executive Decree No. 127-02 which includes the establishment, regulation and functions of the FIU dated September 7.

2- Legal System and Related Institutional Measures

Laws and Regulations

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

2-1-1 Description and Analysis

103. **Legal Framework:** Algeria criminalized ML² in 2004 after amending the Penal Code by virtue of Law No. 15-04 on November 10, 2004 amending and completing Order No. 156-66 which includes the Penal Code which added in Chapter 3 on money crimes and misdemeanors Section 6/bis on ML. The Algerian lawmaker also added some provisions by virtue of Law no. 05-01 dated February 6, 2005 on AML/CFT³. It is noteworthy that the Law No. 01-06 dated February 20, 2006 on anti-corruption⁴ was added to the Penal Code which regarded in its first article the crime of laundering criminal proceeds as a corruption crime.

104. **ML Criminalization:** ML was criminalized by virtue of Article (389)/bis of the Penal Code where ML was defined in the first paragraph as each action which includes, a- *“conversion or transfer of properties with the perpetrator knowledge that they are the proceeds of a crime, with the purpose of hiding or concealing the illegal sources of such properties or helping any person involved in committing the predicate offense which yielded these funds in evading the legal consequences of his action; b- Hiding or concealing their real nature or source or place or the way of disposing of them or their movement or the rights related to the funds with the perpetrator knowledge that they are the proceeds of a crime; c- Earning or possessing or using the funds with the perpetrator knowledge that they are the proceeds of a crime; d- Participating in committing one of the crimes provided for in this article, or collaborating or conspiring to commit, attempt to commit, aiding and abetting, facilitating and counseling the commission of such crime”*. Article 2 of the AML/CFT Law provided the same ML definition as set out in the Penal Code. From what is stated above, it is clear that the criminalization of ML in the Algerian law is compatible with the Vienna and Palermo Conventions with regard to the material elements of the offence.

105. **Laundered Properties:** No definition for funds or properties exists in the Penal Code, but the term “funds” is defined in Article (4) of Law05-01as including any type of financial or nonfinancial, movable or immovable funds which are obtained in any manner, and the legal documents and bonds, of any form whether electronic or digital that show the possession of such funds or any interest thereof, including the bank credits, traveler’s checks, bank checks, transfers, shares, securities, commercial instruments and letters of credit. Article (2) of the Anti-Corruption Law also defined the properties as the funds of all types, whether financial or nonfinancial, movable or immovable, tangible or intangible and the legal documents and bonds that prove the possession of such properties or any interest thereof. Hence, no provision exists stating that the properties include proceeds resulting directly or indirectly from a crime.

106. **Proving that the funds are the proceeds of a crime:** According to the Algerian law, the intentional element in crimes can be inferred from objective and factual circumstances which is the principle applied in a ML crime. The conviction of the predicate offense from which the funds resulted is not required to prove that the funds are the object of ML. The law did not provide for the existence of a previous conviction to the perpetrator of the acts. But the team did not find any judicial provisions that stipulate that the funds should be illegal to prove that they are the proceeds of a crime.

107. **Scope of Predicate Offenses:** The Penal Code did not include any indication to the definition of predicate offense. It can be understood that the Algerian lawmaker relied on the wide concept of the

²In Arabic, the Algerian lawmaker used a term to refer to "money whitening" that is less commonly used.

³The ML/TF Prevention Law.

⁴The Anti-Corruption Law.

predicate offense. Article 4 of the AML/CFT Law, which defined the predicate offense as any crime, even if committed abroad, that allowed its perpetrators to obtain funds, confirmed this meaning. The following table shows the extended scope of the predicate offense in the Algerian law for the (20) designated categories according to the Methodology, where all (20) categories should be criminalized:

Category	Article / Legal Articles Criminalizing the Act / Acts
Participation in an organized criminal group and racketeering	<ul style="list-style-type: none"> Articles 176, 177 and 177/bis of the Penal Code
Terrorism, including terrorism financing	<ul style="list-style-type: none"> Articles 87/bis to 87/bis10 of the Penal Code Law 05/01 in relation to law on Prevention and Fight against money laundering and terrorism financing
Trafficking in human beings and migrant smuggling	<ul style="list-style-type: none"> Articles 303/bis 4 to 303/bis 15 of Law 01/09 dated 25/2/2009 amending and completing the Penal Code in relation to trafficking in human beings Articles 303/bis 30 to 303/bis 41 of the same law in relation to migrant smuggling
Sexual exploitation, including sexual exploitation of children	<ul style="list-style-type: none"> Articles 342 to 349/bis of the Penal Code
Illicit trafficking in narcotic drugs and psychotropic substances	<ul style="list-style-type: none"> Law 18/04 dated 25/12/2004 in relation to prevention from drugs and psychotropic substances and suppression of illicit use and trafficking in drugs and psychotropic substances
Illicit arms trafficking	<ul style="list-style-type: none"> Articles 26-52 of Order 06/97 dated 21/10/1997 in relation to ammunition and arms
Corruption and bribery	<ul style="list-style-type: none"> Law 01/06 dated 20/2/2006 in relation to prevention from corruption and combating it
Fraud	<ul style="list-style-type: none"> Articles 372 and 373 of the Penal Code
Counterfeiting currency	<ul style="list-style-type: none"> Articles 197-204 of the Penal Code
Counterfeiting and piracy of products	<ul style="list-style-type: none"> Article 32 of Order 06-03 dated 19/7/2003 in relation to trademarks Articles 151-159 of Order No. 05-03 dated 19/7/2003 in relation to copyrights and related rights. Articles 61 and 61 of Order 07-03 dated 19/7/2003 regarding patents
Environmental crimes	<ul style="list-style-type: none"> Articles 81-110 of Law 10/03 dated 29/7/2003 regarding environmental protection and sustainable development
Murder and grievous bodily injury	<ul style="list-style-type: none"> Articles 261-263/bis, 264 and 265 of the Penal Code
Kidnapping, illegal restraint and hostage-taking	<ul style="list-style-type: none"> Articles 291-295/bis of the Penal Code
Robbery or theft	<ul style="list-style-type: none"> Articles 350-362 of the Penal Code
Smuggling	<ul style="list-style-type: none"> Articles 10-29 of Order 06/05 dated 23/8/2005 regarding the combating of smuggling
Extortion	<ul style="list-style-type: none"> Article 371 of the Penal Code
Forgery	<ul style="list-style-type: none"> Articles 214-229 of the Penal Code
Piracy	<ul style="list-style-type: none"> Article 417 bis of the Penal Code
Insider trading and market manipulation	<ul style="list-style-type: none"> Articles 172 and 173 of the Penal Code Articles 31-38 of Law 02-04 dated 23/6/2004 regarding trading practices

108. It appears from the foregoing that the scope of the predicate offense for a ML crime does not include illicit trafficking in stolen and other goods as they are not considered acts criminalized in the Penal Code or any other laws in Algeria.

109. **Predicate Offenses Committed outside Algeria's Territory:** The predicate offense of the ML crime extends to include any crime, even if committed outside Algeria, pursuant to Article 4 of the AML/CFT Law. Article (5) of the same law added that the ML/TF penal follow up may not be carried out unless the predicate offenses committed outside Algeria are punishable under the law in force in the country in which the act occurred as well as in the Algerian law.

110. **Self ML of illicit funds:** No legal provision exists to prevent the application of the ML crime on the persons who commit the predicate offense. From a legislative perspective, the Algerian lawmaker regarded the ML crime as an independent act, thus, in case a person committed a predicate offense then laundered the proceeds of such a crime, then, the provisions of Article (34) of the Penal Code apply, which stipulate that in case of many misdemeanors or felonies referred all to one court, then the court has to rule with one sanction, the duration of which may not exceed the maximum imposed on the sanction decided for the most serious crime. However, practically, the team did not find any judgments in which the ML crime was applied on the person who committed the act.

111. **Ancillary Crimes of ML:** The Algerian lawmaker stipulated that in Article (389)/bis/Paragraph "d" that states that "conspiracy to commit, attempt, aiding and abetting, facilitating and counseling the commission of such a crime" is regarded as a ML crime. Article 2 of the AML/CFT stipulated the same content of the foregoing. Moreover, Article 389/3 stipulated that the attempt to commit ML crimes shall be punishable by the sanctions specified for the executed crime.

112. **Additional Element:** Article (4), Paragraph (2) of Law 05-01 stipulates that: "A predicate offense means each crime that is included in the ML crimes framework even if committed outside Algeria if funds resulted from the crime. Article (5) of the subject law added that the ML or TF criminal proceedings may not be carried out unless the primary acts committed outside Algeria are punishable under the law in force in the country in which the act was committed as well as in the Algerian law. Therefore, an act is not considered a ML crime if the proceeds of the crime were caused by an act that is considered a crime outside Algeria but not criminalized in Algeria.

113. **Natural Persons' Liability with the existence of knowledge:** The Algerian lawmaker linked knowledge to all forms of criminalized ML in the law, as Article 389/bis of the Penal Code and Article (2) of the ML/TF Prevention Law stipulated that, "ML is each act that includes (a) transferring or conversion of funds **with the perpetrator knowledge** that they are the proceeds of a crime (...) (b) hiding or concealing funds (...) **with the perpetrator knowledge** that they are the proceeds of a crime (c) earning or possessing or using funds **with the perpetrator knowledge** that they are the proceeds of a crime.

114. **Inferring the intentional element from objective circumstances:** The intentional element can be inferred from the objective factual circumstances based on the Judge's sole discretion as established in Article (212) of the Criminal Procedures Law which stipulates that: "Evidence in crimes may be established through all forms of evidence, unless otherwise stipulated by law, and the Judge shall rule at his sole discretion".

115. **Legal Persons' Liability:** The Algerian Penal Code adopted the criminal liability of the legal persons in ML crimes as Article 389/7 bis of the Penal Law stipulated that, "the legal person who commits the crime provided for in Articles 389/1 bis and 389/2 bis shall be punishable by designated sanctions.

116. **The criminal liability of the legal persons for ML and the possibility of taking criminal, civil or administrative measures:** There is nothing in the Algerian law that prevents the legal persons

from being subject to more than one form of liability. Article (2) of the Criminal Procedures Law stipulates that the right in the civil action is related to the claim for compensation for the damage resulting from a felony, misdemeanor or violation to all who personally suffered a damage directly resulting from the crime. Article (3) provides that the civil action may be prosecuted along with the public action simultaneously before the same judicial entity. It shall be accepted whatever the civil or legal person who is considered civilly liable for the damage. The authorities added that regarding the disciplinary proceedings and the administrative sanctions, the different laws and regulations that regulate the licenses and real rights provided by the different agencies to natural and legal persons allow such agencies to take administrative measures such as closure, license withdrawal, banning from working, etc whether or not actions exist before the criminal entities.

117. **ML Sanctions:** Regarding the natural person, Article 389/1bis of the Penal Code stipulated that each person who launders money shall be punishable by imprisonment for a period of 5-10 years and with a fine from DZD 1000,000 to DZD 3000,000 while applying some of the provisions related to the security period⁵. This sanction is doubled in case of the crime recurrence or the use of facilitations provided by a business or in the framework of a criminal group. The sanction shall be imprisonment for a period of 10-20 years and a fine from DZD 4,000,000 to DZD 8,000,000. Pursuant to Article 389/4 bis, the competent judicial body shall order the confiscation of the properties subject of the ML crime, including the proceeds and other resulting interests. One or more of the complementary sanctions provided for in Article (9) of the Penal Code⁶ shall apply on the natural person convicted for ML crime. As for the legal person, he shall be punishable by the following sanctions: (1) a fine not less than four times the maximum limit of the stipulated fine for the natural person and in case of intensification, (2) the confiscation of the laundered properties and proceeds, (3) the confiscation of means and equipment used in committing the crime, in addition to other sanctions that the judicial body may impose. Therefore, the natural and legal persons are subject to dissuasive and proportionate sanctions if compared with the sanctions of the felonies and misdemeanors against funds. As for the effectiveness, it was clear from the statistics provided by the country the existence of sentences and sanctions on natural persons and that the sanction stipulated for the ML crime is imprisonment for 5 years and a fine that sometimes reaches DZD 1 million.

118. **Statistics:** The table below shows the statistics provided by the Algerian authorities on ML during the period from 2007-2009:

Year	No. of Cases
2007	4
2008	11
2009	09

119. The Algerian authorities stated that the number of cases mentioned above means the cases in which legal judgments were rendered; knowing that the number of investigations and actions in money laundering was not clarified; therefore, it is difficult to confirm the effectiveness of AML system in Algeria while the number of investigations and actions was not provided.

2-1-2 Recommendations and Comments

120. The Algerian authorities are recommended to:

⁵ The security period as per Article 60/bis of the Penal Code is the benefit of the convicted from the temporary suspension measures of the sanction application, the placement in the external workshops or open environment, permission of departure, semi-freedom and conditional release.

⁶ The complementary sanctions are: (1) legal detention, (2) interdiction from practice of national, civil and familial rights, (3) limiting the residency, (4) Forbidding the residency, (5) Partial confiscation of funds, (6) temporary suspension of practice of profession or activity, (6) closure of the institution or establishment, (7) removal from public deals.

- Establish a provision stating that the properties include proceeds resulting directly or indirectly from a crime;
- Expand the scope of predicate offences by criminalizing illicit trafficking in stolen and other goods,
- Prove the application and effectiveness of the system by establishing:
 - Judicial provisions stating that the illicit funds are not required to prove the proceeds of a crime;
 - Judicial provisions related to self-laundering;
 - Provisions to impose effective sanctions on legal persons.

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

	Rating	Summary of factors underlying rating
R.1	LC	<ul style="list-style-type: none"> • Absence of provision stating that the properties include proceeds resulting directly or indirectly from a crime. • Inadequacy of the predicate offenses scope.
R. 2	LC	<ul style="list-style-type: none"> • Lack of evidence on the satisfactory application and effectiveness of the system.

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

2-2-1 Description and Analysis

121. **Legal Framework:** The Algerian lawmaker criminalized the acts of terrorism or vandalism in Section 4/bis of the Penal Code. The act of financing such acts has also been criminalized in the same law. With respect to the definition of TF, it was set out in the ML/TF Prevention Law.

122. **TF Criminalization:** TF has been criminalized in Article 87 (4) bis of the Penal Code. According to the Article, any person who commits, incites or **finances** an act of terrorism or vandalism **by any means** shall be punished. TF is considered one of the crimes described as acts of terrorism or vandalism in the Algerian Law. It is noteworthy that the definition of TF as set out in Article (3) of the ML/TF Prevention Law is provided as “any act committed by any person by any means, directly or indirectly, unlawfully and willfully, by providing or collecting funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to commit the offences described as acts of terrorism or vandalism as stipulated and penalized in Articles 87/bis to 87/10 of the Penal Code”. An act is regarded as an act of terrorism or vandalism when it targets the security of a country, national unity, safety, stability of institutions and the normal course of their work through any act that aims at: (1) Spreading terror and creating an atmosphere of insecurity among the population (...), (2) Impeding traffic or movement (...), (3) Attacking the nation and Republic’s figures (...), (4) Vandalizing the public transportation, the private and public properties (...), (5) Polluting the environment by introducing a material in the air or underground, (6) Hindering the performance of public authorities or the freedom of practicing important religious practices (...) (7) Hindering the progress of public institutions or assaulting their employees (...). Thus, the Algerian lawmaker has linked the terrorist financing act, i.e. offering or collecting of funds, to the commitment of acts of terrorism or vandalism as set out in the Penal Code. It is clear from the foregoing that the TF definition is insufficient and incomplete in the Algerian law as it does not include the funds to be used by a terrorist organization or a terrorist individual. In addition, the acts of terrorism or vandalism do not include all the acts defined in the list of definitions in the Methodology. Through the evaluation team visit and reviewing the decisions of the accusation chambers, it is noteworthy that all TF cases are connected to a terrorist crime in such a way that it seemed to the evaluation team that no TF case may exist unless the authorities start investigating cases of terrorist crimes.

123. **Concept of Funds:** Paragraph (1), Article (4) of the ML/TF Prevention Law defined the funds as anything which could be possessed tangibly or intangibly, movable or immovable, no matter how they were obtained, and any form of the legal documents, whether electronic or digital that establish the

right of ownership of these assets or part thereof. They include the bank credits, money orders, shares, securities, bonds, bills and letters of credit. Thus, the TF crime extends to include funds as defined in the Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention). It is clear that the Algerian lawmaker ratified the CTF principle regardless of the source of funds or how they were obtained.

124. It is noted that Article (3) of the abovementioned law does not require that TF crimes actually use funds. In addition, the term used in defining terrorist acts is the “intended” act; consequently, the law does not require the occurrence of that act for its financing crime to occur.

125. **Attempt to commit a TF crime:** Article 30 of the Penal Code stipulates that, “each attempt to start carrying out a felony or one of the apparent acts leading directly to committing a felony shall be regarded as a felony, so if the perpetrator could not accomplish the acts necessary for the occurrence of that felony due to reasons not related to his will and even if he could not reach the target due to a material condition unknown to its perpetrator.” Article 31 added that the attempt of performing a misdemeanor shall not be punishable except in the cases where the law stipulates it expressly”. Since the TF sanction is the temporary imprisonment for 5-10 years, under Article 87/4 bis of the Penal Code, then, the TF crime shall be regarded as a felony, which leads to criminalizing the TF attempt.

126. **Criminal Complicity:** Article (44) of the Penal Code stipulated that the accomplice involved in a felony or misdemeanor shall be punishable by the sanction provided for the felony or misdemeanor. Therefore, the accomplice involved in the TF crime shall be punishable by the crime’s sanction.

127. **TF is a Predicate Offense of ML:** Paragraph 2 of Article 4 of the ML/TF Prevention Law stipulated that the predicate offense of ML is any crime that allows its perpetrator to obtain funds, and since TF is a crime in the Algerian law, thus, such act shall be regarded as a predicate offense of ML.

128. **Jurisdiction in the TF Crime:** There is no provision in the Algerian laws that state that the TF crime is applicable regardless if the perpetrator is inside or outside the country where the terrorist exists or where the terrorist act was or will be committed.

129. **Inferring the Intentional Element from the Objective Factual Circumstances:** As indicated in the ML criminalization, the intentional element can be inferred from objective factual circumstances pursuant to the Judge’s sole discretion. This was confirmed in Article (212) of the Criminal Procedures Law.

130. **Mental Element in the TF Crime:** Article 3 of the ML/TF Prevention Law stipulates that the TF crime is “any act committed by any person by any means, directly or indirectly, unlawfully and **deliberately**, by offering or gathering funds **with the intention** to use them in full or in part, in order to commit the crimes described as acts of terrorism or vandalism as stipulated and penalized in Articles 87/bis to 87/10 bis of the Penal Code”.

131. **Criminal Liability of the Legal Persons:** Article 96/bis of the Penal Code stipulates that the criminal liability of the legal person may occur for the crimes designated in this chapter (Felonies and Misdemeanors against the State’s Security among which the TF Crime), pursuant to the stipulated conditions in Article 51/bis of the subject law. The sanction imposed on the legal person is a fine, according to the techniques stipulated in Article 18/bis⁷ and in Article 18/bis2 of this law, when necessary. The legal person shall also be punishable by one or more of the complementary sanctions stipulated in Article 18/bis. Article (51) of the Penal Code stipulates that, “With exception of the State,

⁷ The sanction which equals one to five times the maximum limit of the sanction stipulated for the natural person in the law that punishes the crime.

the local groups and the legal persons subject to the general law, the legal person shall be criminally liable for the crimes committed by his legal bodies or representatives when the law stipulates that”.

132. **The legal persons are subject to more than one form of liability:** As stated above, nothing in the Algerian law prevents the application of more than one form of liability on the legal persons; Article (3) of the Criminal Procedures Law stipulates that the civil action and the general action may be proceeded at the same time before the same judicial authority. It shall be accepted whatever the civil or legal person who is considered civilly liable for the damage. The authorities added that in relation to the disciplinary proceedings and the administrative sanctions, the different laws and regulations that regulate the licenses and real rights provided by the different agencies to natural and legal persons allow such agencies to take administrative measures such as closure, license withdrawal, termination of business, etc whether or not actions exist before the criminal entities.

133. **Sanction of the TF Crime:** Article 87/4bis stipulates that each person who incites or funds terrorist acts by whichever means shall be punishable by temporary imprisonment from 5-10 years and with a fine of DZD 100,000 to 500,000. In addition, Article (15)/bis of the Penal Code also stipulated a general provision stating that when a conviction is made against committing a felony, the court shall order the confiscation of items used or planned to be used in committing the crime or **the proceeds thereof**, as well as the other grants and benefits used to award the perpetrator without prejudice to the rights of bona fide third parties. Consequently, this general provision requires judges to impose confiscation as a mandatory complementary sanction for each primary criminal sanction as temporary imprisonment for a TF crime is one of the primary criminal sanctions according to Article 5 of the Penal Code. This is regarding the natural person. Consequently, such sanction can be considered dissuasive and proportionate in comparison with other similar crimes, however, the sanction cannot be judged unless verdicts rendered in the field of TF have been reviewed. As for the sanction imposed on the legal person, the legal person shall be punishable by a fine equal one to five times the fine imposed on the natural person. In addition, the confiscation sanction shall apply since the TF crime is considered a felony.

134. **Statistics:** The Algerian authorities have provided the following statistics on TF during the years 2007-2009:

Year	No. of Cases
2007	61
2008	112
2009	133

135. Such statistics do not clarify what is meant by the number of cases; are they rendered judgments or filed cases. As to the effectiveness, it is difficult to evaluate the effectiveness in the absence of accurate statistics.

2-2-2 Recommendations & Comments

136. The Algerian authorities are recommended to:

- Criminalize TF including financing for use by a terrorist organization or a terrorist individual.
- Expand criminalization of TF to include all terrorist activities and not only terrorist acts or vandalism acts known in the Penal Code.
- Non-application of the TF crime regardless of the place of the perpetrator or the place in which the terrorist act occurred or will occur.

2-2-3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR. II	PC	<ul style="list-style-type: none"> • TF criminalization does not include financing by a terrorist organization or a terrorist. • To limit the TF criminalization to terrorist or vandalism acts. • Non-application of the TF crime regardless of the place of the perpetrator or the place in which the terrorist act occurred or will occur. • Inability to evaluate the effectiveness.

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

2-3-1 Description and Analysis

137. **Confiscation of properties related to ML/TF or the other predicate offenses including properties of corresponding value:** Article 389/4 bis of the Penal Code grants the competent judicial authority with the power to order **the confiscation of the properties of a ML crime**, including the proceeds and other resulting interests (...). The competent judicial authority may order the confiscation of the proceeds of a crime if the perpetrator(s) of the ML crime are anonymous. The competent judicial authority may also order **the confiscation of the used means and tools in executing the ML crime**. If the proceeds of a felony or misdemeanor merged with funds obtained from licit sources, the confiscation shall be in the amount of those proceeds only. Article 389/7 bis stipulated that the legal person shall be punishable by the confiscation of the laundered properties and proceeds and the confiscation of the means and equipment which have been used to commit the crime. Article 15/1 bis of the Penal Code stipulated that when a conviction is made against committing a felony, the court shall order **the confiscation of items which have been used or planned to be used to commit the crime or the proceeds thereof**, as well as the other grants and benefits used to award the perpetrator without prejudice to the rights of bona fide third parties. In case a conviction is made for committing a misdemeanor or violation, the confiscation of the abovementioned items shall be enforced if the law expressly stipulates such sanction without prejudice to the rights of bona fide parties. It is noteworthy that the ML crime in the Algerian law is considered a felony that should be punishable by imprisonment. The law also stipulated the confiscation sanction. Therefore, in case of committing a ML crime, a verdict is rendered to confiscate the properties subject of the crimes and the means and tools which have been used or intended to be used in committing the crime.

138. As well, Article 34 of Law No. 18-04 dated December 25, 2004 on the prevention and suppression of illicit use and traffic of Narcotic Drugs and Psychotropic Substances stipulates that the competent judicial authority is entitled to decide in all cases confiscating the cash amounts used in committing the crimes provided for in this law or being the proceeds of such crimes without prejudice to the rights of bona fide third parties. Article 33 of the same law also stipulated that the competent judicial authority is entitled to decide in all cases confiscating the buildings, facilities and other movable and real properties used or intended to be used in committing the crime whoever their owner is, unless the owner proves acting in good faith.

139. It is noteworthy that Article (51), Paragraph 2 of the Anti-Corruption Law stipulates that the judicial entity shall order the confiscation of the illicit proceeds and funds, while taking into consideration the cases of retrieving funds or rights of bona fide third parties in case of conviction for the crimes provided for in this law, i.e. the bribery of public employees, unjustified benefits in the field of public deals, bribery in the field of public deals, bribery of foreign public employees and the employees in the general international organizations, misappropriation of properties by the public employees or their exploit for an illegal purpose, betrayal of trust, illegal exemption and discount of the tax and fees, exploit of power, abuse of the position, conflict of interests, taking benefits in an illegal manner, non-declaration or false declaration of properties, illicit enrichment, receiving gifts, concealed

financing of political parties, bribery in the private sector, misappropriation of properties in the private sector and laundering of the proceeds of a crime.

140. As for the TF, and since the TF crime is a felony, Article 15/1 bis of the same law shall apply, whereby the court shall order the confiscation of items used or planned to be used in committing the crime or the **proceeds thereof**. In addition, Article 87/9 bis, Paragraph 2 of the Penal Code stipulated the confiscation of the properties of the convicted.

141. **Identifying and tracing properties subject to confiscation:** Article 389/4bis of the Penal Code stipulates the confiscation of properties subject of a ML crime, including **the proceeds and other resulting gains, whomever possess them**, unless their owner proves that they are licit possessions and that he did not know of their illicit source. Therefore, the properties subject to confiscation are the properties resulting directly or indirectly from proceeds of the ML crime regardless of their owner, unless he proves acting in good faith.

142. **Temporary measures:** Article 51 of the Anti-Corruption Law stipulated that, "the illicit proceeds and funds yielded from committing one or more of the crimes provided for in this law shall be frozen or seized by virtue of a judicial decision or an order by a competent authority". Therefore, the Anti-Corruption Law grants the power of freezing or seizing the properties resulting from committing the crimes provided for in the Corruption Law only, including the ML crime; hence, such provisions does not permit taking temporary measures in case of TF for instance. But Article 40/5bis of the Criminal Procedures Law stipulated that the examining judge may, automatically or pursuant to request from the Public Prosecution and throughout the duration of the proceedings, order taking every precautionary procedure or security measure in addition to seizure of funds being the proceeds or used in committing a crime.

143. **The power of identifying and tracing properties:** Articles 17 and 18 of the ML/TF Law stipulate that the FIU may object in a precautionary manner and for a period not more than 72 hours to the execution of any banking transaction for any natural or legal person. Article 40/5bis of the Criminal Procedures Law stipulated that the examining judge may automatically or pursuant to a request from the Public Prosecution and throughout the duration of the proceedings, may order taking every precautionary procedure or security measure in addition to seizure of funds being the proceeds or used in committing a crime. There is no special provision that gives such entities powers to identify and trace properties subject to or that could be subject to confiscation or that are suspected to be crime proceeds.

144. **Protecting the rights of third parties:** In the ML field, the competent judicial entity shall order the confiscation of properties of the ML crime (...) whoever has possession over them, unless their owner provides the title deed and proves that he was not aware of their illicit source by virtue of Article 389/4 bis of the Penal Code. In general, Article 15 of the Penal Code pertaining to confiscation provided that the rights of bona fide third parties shall be considered. Article 15/2 bis defined bona fide third parties as the persons who were not personally tracked or convicted for the circumstances that led to the confiscation, and the ones who have sound and licit title deeds or possession over the items subject to confiscation. Article 51, Paragraph 2 of the Anti-Corruption Law stipulated that the judicial entity shall order the confiscation of illicit proceeds and funds, subject to the cases of retrieval of funds or rights of bona fide third parties.

145. **The authority to void actions:** Article 55 of the Anti-Corruption Law stipulates it is possible to authorize the cancellation of each contract, deal, patent, privilege or license caused by committing the crimes provided for in the Anti-Corruption Law (including the ML crime) and rendering it null and void by the judicial entity, which looks into the case, subject to the rights of bona fide third parties. It is worth mentioning that this Article includes only the crimes stipulated in the Anti-Corruption Law; therefore, such power cannot be used in the field of TF crimes, and there is no other provision that can apply in this field. The authorities stated that the judges may render such procedures null and void if proved that they are the effects of a crime.

146. **Statistics:** The evaluation team could not evaluate the effectiveness of confiscation in the ML/TF crimes due to the lack of statistics on the cases of precautionary seizure. As for confiscation in ML crimes, and through the statistics provided to the evaluation team on the cases, it was not clear to the team the application of the confiscation sanction except in one case only, which raises doubt about the effectiveness of the application of the confiscation system.

2-3-2 Recommendations and Comments

147. The Algerian authorities are recommended to:

- Grant the competent authorities' adequate powers to enable them identify and trace properties subject to, or that could be subject to, confiscation or those suspected to be crime proceeds.
- Provide the authority to cancel the procedures and render them null and void in the field of TF crimes.

2-3-3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R. 3	PC	<ul style="list-style-type: none"> • No evidence on assigning adequate powers to competent authorities to enable them identify and trace properties. • Not enabling the cancellation of procedures in the TF field. • Non-effectiveness of the confiscation of crime proceeds.

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

2-4-1 Description and Analysis

148. **The legal framework for implementing the Security Council Resolutions:** There are no special laws in Algeria related to the freezing of funds or assets proceeding from terrorism and belonging to persons designated by the Security Council Resolutions, but the Algerian authorities stated that the ratification of the agreements and conventions makes them enforceable and they do not need a legal provision as they precede the law. The same thing applies to the UN resolutions issued pursuant to Clause 7 of UN Charter. It is noteworthy in this regard that SR. III requires the State to have effective laws and procedures for the prompt freezing of funds and other assets proceeding from terrorism as well as the assets owned by terrorist financiers and terrorist organizations according to the related Security Council resolutions. Pursuant to Security Council Resolution 1267 (1999), the State should freeze the funds or other assets proceeding from terrorism and belonging to the persons designated by the Security Council Al-Qaida and Taliban Sanctions Committee. The freezing should be executed without prior notice to the designated persons. Whereas according to Security Council Resolution 1373 (2001), the State is required, among other measures, to freeze without any delay the funds and other assets of the persons or entities who commit, attempt to commit or interfere in committing terrorist acts (...). By virtue of RES/ 1373, each member country is granted the power to designate the entities and persons whose funds or assets should be frozen. Therefore, the execution of the Security Council Resolutions requires the State to take precautionary measures different from the criminal requirements provided for in the national laws.

149. **The Procedures Applicable for implementing the Security Council Resolutions:** The Algerian authorities provided the evaluation team with information indicating that after the events of September 11 and the issuance of RES/ 1373, a presidential order was issued to establish a “group” that works on submitting reports to the Security Council about the condition of Algeria with respect to the implementation of RES/1373. This “group” was established at the beginning in the Ministry of Foreign Affairs for a short period under the supervision of the State Secretary entrusted with cooperation. Later, it was proposed to move the group to a higher level, which is to the Republic presidency. The “group”

holds its meetings at the Republic presidency and consists of representatives from the following entities: (1) the Ministry of Foreign Affairs, (2) the Ministry of Justice, (3) the Ministry of the Interior, (4) all security bodies (national security – National Gendarmerie – the army), (5) the Customs, (6) the Central Bank of Algeria, (7) the head of the FIU, (8) one representative from the Ministry of Transportation (in his capacity as in charge of the security of ports and airports). These are permanent representatives/members but the group can invite any representative of any entity, when necessary, such as representatives of the Ministry of Education or the Ministry of Religious Affairs.

150. Despite the information available on the establishment of this “group”, yet the authorities did not provide any documents or decisions indicating the establishment of such “group”; therefore, the evaluation team could not verify the provided information. Pursuant to the statements of the authorities, the duties of this “group” are limited to: (1) responding to the Security Council (SC) Resolutions issued under Clause 7, (2) ensuring that the Algerian legislation’s practices comply with the SC recommendations/ resolutions 1267 and 1373, (3) preparing the reports submitted to the UN, (4) participating in drafting agreements related to combating terrorism, and (5) the group also provides recommendations and proposals to the concerned authorities pertaining to security issues related to combating terrorism. In addition to such main duties, the group is entrusted with ensuring the directional aspect pertaining to bilateral cooperation on combating terrorism. From the foregoing, it is clear that the group's main mission is combating terrorism.

151. **The mechanism of receiving the Security Council lists:** The SC lists are received from Algeria’s permanent representative in the UN, who sends them to the Ministry of Foreign affairs which in turn sends them to the “group” referred to. The “group” refers the lists to the FIU and finally to the Central Bank. It is noteworthy that according to the statements of the Algerian authorities, the regulations which are sent to the Central Bank are ones that are limited to names of Algerians whose names were mentioned on the abovementioned lists and not the lists circulated by the Security Council itself.

152. It is worth mentioning that SR. III includes, in addition to the requirement of the existence of laws and procedures in the State, the requirement that the State adopts a number of mechanisms pertaining to notifying the financial sector of the adopted measures and guidelines, the procedures of de-listing and unfreezing, the mechanisms of unfreezing for persons and entities who were accidentally affected and the procedures of appealing against the decision of freezing and such other mechanism. The authorities have not provided what states the existence of such mechanisms and procedures in an adopted or written form; nor has it submitted any sanitized case of freezing pursuant to the SC resolutions 1267 and 1373. Furthermore, they have not provided any statistics in this regard.

153. The Algerian authorities have not set up laws or procedures to study and implement the measures, which were taken under the freezing mechanisms in other countries. The Algerian authorities did not provide any documents indicating the existence of notification systems to the financial sector about the measures, which were taken under the freezing mechanisms. According to what the team has been informed about, the authorities do not provide any guidelines to the financial institutions, persons or entities, which possess the targeted funds with regard to their obligation in taking measures under the freezing mechanisms. The evaluation team found that none of the lists related to the SC resolutions have been circulated to the financial sector.

154. The Algerian authorities did not set any effective and publicly-known procedures for considering de-listing requests and for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism. Moreover, they did not provide effective and publicly-known procedures for the timely cancellation of the freezing of funds and other assets of persons and entities who were inadvertently affected by the freezing mechanism.

155. The authorities indicated that any person is entitled to appeal against the judicial order of the confiscation or freezing of the funds. The grievance submitted against the Central Bank shall be before the commercial courts whereas grievance against the decision of confiscation or freezing shall be before

the administrative courts. In the opinion of the evaluation team, appealing against a decision not issued by the State cannot take place before the administrative courts; therefore, SR. III requires establishing internal laws.

2-4-2 Recommendations and Comments

156. The Algerian Authorities are recommended to:

- Promulgate laws and procedures for freezing assets and funds pursuant to UN Security Council Resolutions 1267 & 1373.
- Enforce the freezing without delay or prior notice to the persons.
- Designate the suspected persons or suspected entities pursuant to UN Security Council Resolution 1373.
- Review the lists on suspected terrorists or suspected legal entities sent by other countries pursuant to UN Security Council Resolution 1373.
- Set a mechanism to de-list and release the funds of the persons whose names were mentioned by mistake in the list.
- Set procedures to circulate the UN Security Council lists on all FIs including banks.
- Provide a mechanism for the concerned person or entity to challenge the freezing order.
- Process or procedures through which the persons subject to the freezing order can access their funds to obtain the necessary expenses.

2-4-3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR III	NC	<ul style="list-style-type: none"> • Absence of a legal basis and procedures for freezing assets and funds pursuant to UN Security Council Resolutions 1267 & 1373. • The suspected persons or entities are not designated pursuant to UN Security Council Resolution 1373. • Absence of a mechanism to de-list the names and release the funds of persons whose names were mentioned by mistake on the list. • The UN Security Council lists are not circulated among all FIs including banks. • Absence of statistics on the application of UN Security Council Resolutions 1267 & 1373. • Assessment of the effectiveness is not possible because of lack of applications of UN Security Council Resolutions 1267 & 1373.

Authorities:

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

2-5-1 Description and Analysis

157. **The establishment of the FIU:** The FIU was established in Algeria pursuant to Executive Decree No. 127-02 dated Muharram 24, 1423 corresponding to April 7, 2002, issued by the Prime Minister and was amended and completed in Executive Decree No. 275-08 dated Ramadan 6, 1429 corresponding to September 6, 2008. It was called "Financial Intelligence Unit / the Cellule du Traitement du Renseignement Financier (CTRF) " and was considered by the said decree to be an independent public institution at the Minister of Finance that enjoys a legal character and financial independence. The FIU was assigned with combating money laundering and terrorism financing. With

such character (by virtue of Articles 4 and 8 of the Executive Decree No. 127-02), the FIU is responsible for:

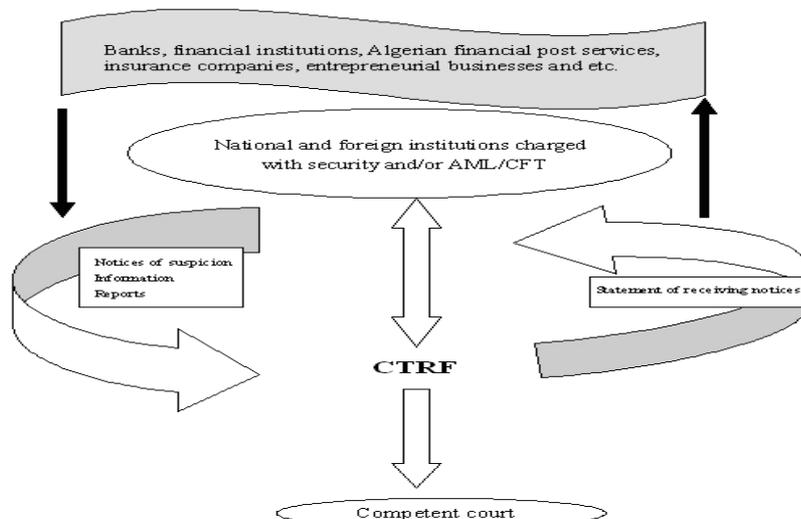
- Receiving the Suspicious Transaction Reports (STRs) of ML/TF sent by the authorities and persons subject to the law.
- Processing the STRs using the appropriate tools or means.
- Sending, when necessary, the files pertaining to STRs to the regionally competent attorney general, whenever the surveyed events are subject to criminal follow-up.
- Proposing an AML/CFT legislative or regulatory provision.
- Setting the necessary procedures for prevention against and detection of any ML/TF forms.
- Exchanging information with counterpart foreign units provided the principle of reciprocity.

158. The entities subject to the reporting obligation have been designated by virtue of Articles 19 & 20 of the ML/TF Prevention Law. These entities included banks, financial institutions, the Algerian financial post services, equivalent financial institutions, insurance companies, exchange companies, gambling, games and casinos. These entities also include every natural or legal person who, within the framework of his profession, provides consultation and/or conducts deposit, exchange investment or transfer transactions or any capital movement, and in particular on the level of regulated independent professions, especially lawyers, notary public, chartered accountants, auditors, brokers, customs agents, exchange agents, stock brokers, real estate agents and billing institutions as well as dealers in precious metals and precious stones, antiques and arts. Such notification of suspicion should be made immediately upon the mere occurrence of the suspicious transaction, even if the execution of such transaction cannot be delayed or after its completion. All information supporting or denying the presence of suspicion must also be submitted in a timely manner.

159. Article (11) of the subject law stipulated the obligation for the Bank of Algeria’s inspectors authorized by the Banking Commission, within the supervisory framework, in banks, FIs and their branches, or within the framework of document monitoring, to send urgently a confidential report to the FIU as soon as they detect an unusual or unjustified transaction or a transaction that seems to lack a clear economic or legal purpose.

160. Article 21 thereof obliged the tax and customs authorities to send urgently a confidential report to the FIU as soon as they detect, through verification and monitoring procedures, the existence of funds or transactions suspected to be connected to a crime or misdemeanor, in particular organized crime, trafficking in drugs or psychotropic substances or seem to be directed to terrorist financing.

161. The following form indicates the mechanism adopted by the FIU:



162. The Unit is also entitled to object, in a precautionary manner, to the execution of suspicious banking transactions for a period not exceeding 72 hours and it is possible to extend this period by the President of the Court of Algeria after consulting the attorney general at the Court of Algeria or he is entitled to order putting the subject funds, accounts or bonds under temporary receivership. The attorney general at the Court of Algeria may submit a petition for the same purpose.

163. After sending the file to the attorney general at the regionally competent Court to handle it according to the legal rules governing the process of the public suit, the Legal Department of the Unit follows up judicial process of the sent files through its relationship with the Public Prosecution established according to the joint ministerial decree dated Jummada al-Awwal 11, 1428 corresponding to May 28, 2007, which regulates the technical departments in the FIU.

164. **Providing Guidance for the Reporting Entities:** A design for the reporting form, and the procedures that should be followed, have been set through the Executive Decree No. 05-06 dated January 9, 2006. This form includes the data to be submitted. The Algerian authorities disclosed that the FIU informs the FIs and other entities of the reporting method through bilateral and multilateral meetings and workshops.

165. The decree dated March 30, 2008 was issued by the Minister of Finance to determine the conditions for applying Article 21 of the ML/TF Prevention Law. It indicated that tax and customs authorities should send a confidential report to the FIU on any detection of funds or transactions that might be connected to crimes and misdemeanors or used to finance criminal operations and to include the required data therein.

166. Within this framework, we point out that the FIU has published a manual for the insurance sector that includes information on ML/TF, the laundering stages, the duties of this sector in the area of due diligence (although there is no obligation in this regard), the ML/TF indicators, the reporting process, the guarantees provided to the reporting entities and the risks that may arise in case of not submitting the reports.

167. **FIU Timely Access to Information:** Article (5) of the Executive Decree No. 127 -02 dated Muharram 24, 1423 Hijri corresponding to April 7, 2002, (Decree of FIU formation) and its amendments in the Executive Decree No. 275-08 dated Ramadan 6, 1429 Hijri corresponding to September 6, 2008, stipulated that the FIU may request from the authorities and persons included in the law any document or information it deems necessary to perform its duties. However, when the AML/CFT Law no. 05-01 was issued on February 6, 2005, the authorities and persons from whom the FIU may request information were not designated. Reference is made here to the content of Article 11 of the said law which stipulates that the Bank of Algeria's authorized inspectors shall send a confidential report to the FIU as soon as they detect an unusual or unjustified transaction or a transaction that seems to lack a clear economic or legal purpose (at the institutions subject to the Bank of Algeria supervision). Reference is also made to the content of article (21) of the subject law regarding the Tax and Customs Authorities sending a confidential report swiftly to the FIU as soon as they detect, while performing their investigation and monitoring duties, the existence of funds or transactions suspected of being the proceeds of a felony or misdemeanor. By virtue of the Decision dated March 30, 2008 issued by the Minister of Finance, which is referred to above, the FIU may request at any time from the Tax and Customs Departments any additional document or information it deems necessary to perform its duties.

168. Practically, it was evident to the evaluation team that the FIU, within its framework, has requested information from the Customs authorities as the number of requests reached 21 requests, whereas it has not requested any information from the Tax Department. It also sent 47 requests for information to the judicial police, although no legal document requiring so exists. These requests are distributed as follows: 22 general requests in 2007, 22 general requests in 2008 and 3 general requests in 2009.

169. **Requesting additional information from the reporting entities:** Law no. 05-01 did not explicitly give the FIU the power to obtain additional information from the entities bound to reporting, but Article 21 of the said law requested from the reporting entities to swiftly provide the FIU with all the information that supports or denies the suspicion. However, Article 6 of the Executive Decree 5-6 dated January 9, 2006 which includes the reporting form and its content and receipt permitted the FIU to request at any time any useful information or document related to the suspicion and assisting in the investigation proceedings.

170. **Dissemination of information:** Article (16) of Law no. 05-01 dated February 6, 2005 allowed the Unit to send the suspected file to the competent attorney general according to the law, each time the STRs are suspected to be related to ML/TF crimes. Article (4) of the Executive Decree No. 127-02 dated April 7, 2002 indicated that the Unit's duties include sending, when it deems necessary, the STRs to the regionally competent attorney general whenever the investigated events can be criminally proceeded. The authorities stated that if the suspicion is verified and confirmed, a file is prepared and sent to the Chairman to be submitted to the Council where deliberations are made before being referred to the Public Prosecution. It is noteworthy that the Legal Follow-up Department follows up the file with the Public Prosecution in the judiciary. The authorities also stated that since its inception, the FIU has sent two files only to the attorney general; i.e. 0.39% only of the STRs it received. It was evident to the evaluation team that these two files were prepared by the Unit's board as there was no financial analyst in the Unit at the time they were sent (in 2005 and 2006).

171. Except for what is permitted by the law with regard to sending files of STRs to the regionally competent attorney general whenever the investigated facts can be criminally proceeded, the FIU is not allowed to provide any informational assistance to any entity (Article 7 of Decree 127-2) even if it is related to law enforcement agencies investigating ML cases.

172. **Operational Independence:** Article 1 of the Executive Decree No. 127-02 dated Muharram 24, 1423 corresponding to April 7, 2002 stipulated that an independent FIU is established at the Minister of Finance. Article 2 of the same decree stipulated that the Unit is a public institution having a legal personality and enjoying financial independence. The Unit has an independent budget financed by the State. Article 4 of the Executive Decree No. 275-08 dated Ramadan 6, 1429 Hijri corresponding to September 6, 2008 stipulated that the FIU's Head and members are appointed by a presidential decree for four renewable years. Regarding the relationship with the Minister of Finance, the authorities stated that the Minister of Finance does not review the operational process and his involvement is limited to the administrative affairs. In addition, proposing and raising regulations is done through him.

173. Regarding the status of the Unit as a public institution, it was evident to the evaluation team through discussion with the Algerian authorities that the concept of a public institution is nonexistent and non-specified in the Algerian Law, as Law 88-01 related to public institutions specified 4 types of public institutions which are:

- Public institutions of administrative nature
- Public institutions of industrial and commercial nature
- Public economic institutions
- Public institutions of private management

In respect to the concept of public institution that was not mentioned objectively; which raises doubt about the legal status of the unit. The Algerian authorities indicated that proposals to amend this status have been submitted, yet this issue requires legal amendment. In this regard, the Unit hopes to be provided with an administrative power position, which gives it more independence and facilitations to manage its business.

174. **Protection of the Information obtained by the FIU:** Article (7) of the abovementioned Executive Decree No. 127-02 stipulated that the information received by the Unit may not be used except for the purposes related to AML/CFT and may not be sent to authorities or agencies other than

the regionally competent attorney general and foreign counterpart authorities. The evaluation team noticed that the Unit has an independent building of 2 floors located inside the Ministry of Finance; it is accessible by electronic fingerprints, which provides privacy and confidentiality to its work and protection to its data. However, it is worth mentioning that the FIU does not have an electronic system to manage its database, where by the information is stored on papers.

175. **Publishing periodical reports:** The FIU did not publish since its establishment any periodical report that includes information and statistics related to its work.

176. **Membership of Egmont Group:** Algeria has submitted a request to join the Egmont group since its establishment in 2004. The FIUs in France (TRACFIN) and Egypt (EMLCU) sponsor the FIU in Algeria to join Egmont Group. But the FIU officials indicated that this process has not been followed up for more than two years and the two sponsor Units have not paid any visits to the Algerian FIU. In this regard, Article (8) of the Executive Decree No. 127-02 dated April 7, 2002 and completed in Article 2 of the Executive Decree No. 275-08 dated September 6, 2008 stipulates that the Unit may, within the framework of the applicable procedures, join directional and/or international organizations that include FIUs.

177. **Egmont Group principles for the exchange of information amongst the FIUs:** Article 25 of Law no. 05-01 issued on February 6 2005 stipulated that the FIU may provide the authorities performing similar duties in other countries with available information on the transactions that seem to be related to ML/TF based on the principle of reciprocity. Such cooperation and exchange of information (according to Article 26 of the subject law) should be conducted within the framework of international agreements and internal legal provisions which apply on the protection of personal life and providing personal data provided the foreign authorities are subject to the same profession secrecy obligations as the FIU. Article 8 of the Executive Decree No. 127-02 dated April 7, 2002 stipulated that the Unit may exchange information in its possession with equivalent foreign authorities on basis of the principle of reciprocity. The authorities also stated that 6 assistance requests have been received by some foreign units. Moreover, assistance was requested from France regarding (6) files, from Lebanon (2 files), Turkey (1 file), Belgium (1 file), the USA (1 file), Monaco (1 file), Brazil (1 file) and Spain (1 file).

178. **Structure and Resources: The FIU organization:** The FIU structure was designated by virtue of the Executive Decree No. 127- 02 dated Muharram 24, 1423 Hijri corresponding to April 7, 2002, and its amendments in the Executive Decree No. 275-08 dated Ramadan 6, 1429 Hijri corresponding to September 6, 2008.

179. According to Article (9) of the abovementioned executive decree, the Unit is run by the Unit Head and the Secretariat. The Unit is divided into:

- The Board.
- The Secretariat.
- The Departments.

180. Article 10 of this executive decree determined the set up of the Unit's board, as it consists of the Head, four members who are selected according to their qualifications in the banking, financial and security fields and two judges who are appointed by the Minister of Justice, Keeper of the Seals, after taking the opinion of the Supreme Judiciary Council. The board head and members are appointed by a presidential decree for four years that could be renewed for one more term. In this regard, it showed to the evaluation team that the current board members (at the time of the visit) were appointed on February 10, 2004, whereas the Unit Board Head was appointed on September 2, 2006, which means that the duty of the Unit Board members (except for the Head) has legally terminated on February 9, 2008, which raises questions about the powers of the current board and the work of the Unit. The Algerian authorities stated that the State Council has been consulted regarding this issue, and that the latter answered in a letter dated December 28, 2008 that in case the duty of any board terminates, and

while waiting to appoint the new staff, the norm is for the current board to perform its duties, and in particular in handling urgent matters that cannot be postponed based on the principle of the continuity of the public utility, until the new members assume their duties⁸.

181. According to Article 10 bis of the abovementioned executive decree, the Unit Board deliberates over the organization of all data, documents and materials related to its field of competence, the preparation of annual and multi-year programs on the Unit's activity, the special procedures for using and processing the STRs and the investigation reports, the execution of each program that aims at encouraging and supporting the work of the board in the fields related to its competences, developing the relationships of exchange and cooperation with each national or foreign authority or institution working in the same field as the Unit's activity and the Unit's draft budget. The decisions are taken by the majority of the members' votes.

182. Article 10/1bis specified the duties of the Unit Head in assigning and terminating the duties for all the positions in which no other method of appointment was stipulated within the limit of the primary laws and ensuring the activity of the departments and coordinating between them and supervising them and working on ensuring the appropriate operation of the Unit and exercising power over all the Unit's employees pursuant to such capacity and ensuring the execution of the decisions taken by the board and working on executing the duties and objectives assigned to the Unit and filing judicial lawsuits and representing the Unit before the national and international authorities and agencies and making deals, contracts and agreements and assigning someone to prepare the estimated proceeds, administrative account and annual proceeds for the Unit's activity and proposing the Unit's internal rules and regulation and working on their execution.

183. Article 15 of the same executive decree designated the technical departments according to the following:

- The Investigation and Analysis Department assigned with gathering information, the relationship with correspondents, analyzing the STRs and conducting investigations.
- The Legal Department assigned with the relationships with the Public Prosecution and the legal follow up and legal analysis.
- The Documentation and Database Department assigned with gathering information and creating the necessary databases for the Unit to perform its duties.
- The Cooperation Department assigned with bilateral and multilateral relationships with equivalent foreign authorities or institutions.

184. The evaluation team viewed the positions of the Unit and the number of appointments until June 2010 as set forth in the following list:

Position Name	Designated Positions	Appointed Positions
Secretary General	1	1
Head of Department	4	1
Studies Employee	8	2
Director	1	1
State Engineer	1	0
Translator	1	1
Authentication Officer	1	1
Economic Analyst	5	2
Technician	1	0
Clerk	1	1
Secretary	1	1

⁸ It is noteworthy that the evaluation team has been informed that by virtue of the presidential decree dated January 3, 2010, the duties of the current Unit's members have been terminated and new members have been appointed for 4 years.

Driver	5	3
Total	30	14

The actual number of employees in the Unit is no more than fourteen persons, out of which seven perform functions that are irrelevant to the FIU duties (driver, administrators and translator), whereas there are only four newly appointed analysts in the Unit who are currently undergoing training.

185. Article (18) of the Executive Decree No. 127-02 dated Muharram 24, 1423 corresponding to April 7, 2002, and its amendments in the Executive Decree No. 275-08 dated Ramadan 6, 1429 corresponding to September 6, 2008, stipulates that the State shall put the necessary human, financial and technical resources at the disposal of the FIU to help it perform its duties. Article (19) of the same executive decree covered the elements of this budget, so that it includes the state grants under the proceeds item, and the operation and supplying expenses and all other expenses in relation to the FIU activity under the expenditures. Article 20 stipulated that the budget payment officer shall be the FIU Head.

186. The evaluation team viewed the FIU 2009 budget, which reached approximately DZ 48,5 million (USD 700 thousand), and the salary shares reached DZD 26 million (53%) and the facilities shares DZD 2 million (4%) and the subscriptions of international organizations DZD 2,5 million (5%), while the conference and training share was only DZD 800 thousand (1.5%). The remaining budget was spent over other administrative expenses, which were not directly related to the work of the Unit.

187. **Integrity of the FIU Employees:** The employees in the FIU are subject to the Order No. 03-06 dated July 15, 2006 which includes the main law for the public job, in their capacity as public employees. Article 75 of this order stipulated there should not be any notes on the public employees' criminal record that contradict with practicing the job he is applying for. Article (45) of the same order prohibited the public employee from owning inside or outside Algeria, directly or through another person, in any capacity, interests of nature that might affect his independence or hamper the performance of his duties on a regular basis in an institution that is subject to the control of the department he belongs to or has connection to that department. Article 46 bound the employee to disclose to his/her department whether his/her partner practices professionally a private profitable business, so that the competent authority may take sufficient measures to keep the interest of the service.

188. **Training the FIU employees:** After the Unit establishment, the work therein was limited to its board members, and no analysts were appointed except in 2009. The Algerian authorities pointed out that these analysts are currently undergoing training. But this training was limited to one workshop that was organized by the US Department of the Treasury within the framework of a Memorandum of Understanding in the field of technical assistance between the FIU and the US Department of the Treasury. It is expected that three training programs will take place soon, one to be held in Washington (in FinCEN), and the other in Namibia in collaboration with the United Nations Office on Drugs and Crime (UNODC), and the third in South Africa.

189. **Statistics:** The FIU, since its establishment to the date of onsite visit (end of 2009), has received 510 STRs distributed as shown below, from the reporting entities. Only two (2) cases have been referred to the prosecution:

Year	Number
2005	11
2006	36
2007	66
2008	135
2009	262*
Total	510

*180 cases out of which were reported from one bank.

190. Below are the sources of reports received by the FIU

Reporting Entity	Number	Percentage
Banks	479	93.74
Post Services	5	0.98
Auditors	3	0.59
Customs	17	3.33
Tax Department	1	0.20
Judicial Police	3	0.59
Foreign Embassies	1	0.20
Ministry of Foreign Affairs	1	0.20
Total	510	

191. Below is the status distribution of reports received by the FIU

Status	Number	Percentage
Under Investigation	508	99.61
Referred to Court	2	0.39

192. **Implementation and Effectiveness:** It is noticed that the FIU is not operating effectively in the tasks entrusted with, particularly regarding analysis of STRs. The FIU received 510 reports but has not finished analyzing except two reports then sent them to the regionally competent attorney general. The remaining reports are still in the FIU without being processed. The evaluation team noticed that the incapacity of analyzing the reports goes back to the lack of analysts; the 4 analysts (out of 14 employees in the FIU) who were recruited in 2009 are still under training (please refer to table of FIU employees and analysis related to the number of analysts). It is also noticed that most of the reports are from banks and that the FIU is not authorized to provide any informational assistance to any entity whatsoever, except by sending files related to STRs to the regionally competent attorney general which affects the local cooperation. The FIU also lacks trained and qualified human resources.

2-5-2 Recommendations and Comments

193. The Algerian Authorities are recommended to:

- Activate the Unit to perform the legally stipulated tasks, especially in relation to the analysis and dissemination of the reports.
- Amend the provision to include the right of the Unit in requesting information from all administrative, supervisory and security entities as well as from all other official entities.
- Provide the Unit with the right to obtain additional information from the reporting entities.
- Grant the Unit the right to supply the entities connected to ML/TF with the information they request.
- Work on providing training and adequate and sufficient human and technical resources for the FIU to be able to perform its tasks.
- Make a legal amendment to make the legal condition of the Unit consistent with the legal condition of the public institutions according to the law definition assigned for them.
- Publish regular reports that include the information and statistics in relation to its work.

2-5-3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R. 26	NC	<ul style="list-style-type: none"> • Inefficiency of the Unit, especially in relation to the analysis and dissemination of reports. • The law did not designate any authority or individual from whom the Unit may request documents and information except the customs and tax departments. • Law no. 05-01 did not explicitly give the right to the FIU to obtain additional information from the reporting entities. • The FIU is not authorized to give any informational assistance to

		<p>any entity whatsoever, except sending files related to the STRs to the regionally competent attorney general whenever the surveyed events can be followed-up criminally.</p> <ul style="list-style-type: none"> • Absence of training as well as appropriate technical and human resources to activate the Unit's work. • Ambiguity in the legal condition of the FIU, as the abstract concept of a public institution, as set out in the definition of the Unit, does not exist in the Algerian law. • The FIU did not publish any regular report that includes the information and statistics related to its work.
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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

194. **Appointing ML/TF Investigation Authorities:** Article (16) of the law concerned with prevention against ML/TF stipulates that in cases the reported events in the STRs sent to the FIU may be connected to a ML/TF crime, the FIU shall send the file to the competent attorney general according to the law. The attorney general is the one who represents the public prosecutor at the Court where his office is located. He proceeds the general lawsuit at the district where the court lies on behalf of the public prosecutor.

195. After the arrival of the file to the attorney general, the law did not specify special procedures to be followed. Consequently, the dependence is on Criminal Procedures Law, as the investigation starts with two forms; either the attorney general directly undertakes the investigation, or he can authorize the concerned entities from the investigation officers to start the investigation depending on the provision of Article 12 of the Criminal Procedures Law, under the supervision of the public prosecutor at the competent regional judicial council. Also, there is a specialization in the investigation entrusted to the judge having spatial jurisdiction upon the request of the attorney general, the authorization is obligatory in relation with felonies (as for TF crime), and optional in relation with misdemeanors, unless there are special provisions (as in ML crime).

196. It is noticed that initiating the general lawsuit is the public prosecution's right. The law entrusted the power of pursuit, exclusively, to the judges of public prosecution, except in legal specified conditions. As for the investigation, its subject is searching and investigating the charges imputed against the perpetrator, and this is carried out by the judge of investigation; as he studies the submitted evidence and decides restraining the trial or referring the perpetrator to the competent court to undertake rendering a judgment with respect to him. These authorities have many guarantees and powers to execute their work in the best way, including: The Interrogation and confrontation (Article 52 and Articles from 100 to 108 of Criminal Procedures Law), movement, inspection and detention (Articles 79 to 86 of the mentioned law), in addition to witnesses hearing (Articles 88 to 50). The concerned entities with investigating in ML/TF in Algeria can be listed as follows:

- 1- The public prosecution
- 2- The judge of investigation
- 3- Some entities in judicial investigation

197. **The public prosecution:** The public prosecution performs the general lawsuit in the name of the community, asks for applying law and is represented before every judicial entity. The public prosecutor represents the public prosecution before the judicial council and courts group. The public prosecutor helps the public prosecutor's first-assistant and many active assistant prosecutors. The attorney general represents the public prosecutor at the court by himself or by one of his assistants, and performs the general lawsuit in the court district where the place of his work locates. The number of attorney generals in the republic reaches twelve (12), (the visit did not allow meeting one of them); so,

the details of division of the structure and efficiency could not be known. The attorney general performs the following:

- Managing the activity of judicial police officers and employees in the court district, and he has all the powers related to the job of judicial police officer.
- Monitoring the measures of police custody "la garde à vue".
- Visiting the places of police custody "la garde à vue" once at least every 3 months, and whenever necessary.
- Performing or ordering to take all necessary procedures for searching and inspecting the crimes related to the Penal Code.
- Receiving reports, complaints and notifications, taking decisions in their regard, informing the judicial entities competent with investigation or trial to look into them, ordering to keep them, making them always available for review and informing the complainant and/or the victim, if he was known, the soonest.
- Revealing the requests he deems necessary before the judicial entities.
- Appealing, when necessary, decisions it rendered by all means of legal appeal.
- Working on executing decisions of investigation and judging entities.

198. **The judge of investigation:** The judge of investigation undertakes the procedures of searching and investigating, and he cannot participate in ruling in the cases he looked into as an investigation judge. The specialization of the investigation judge is locally specified with the place of crime occurrence, the place of residence of one of the persons suspected with contributing in committing it or the place of arresting one of those persons even if the arresting was for another reason. The local specialization of the investigation judge may be extended to include other court districts, through organization, in specified crimes such as ML/TF crimes. It is worth noting that the Algerian lawmaker considered TF included in the terrorism acts stipulated in Article 87/bis and after in the Penal Code. The initial investigation is obligatory in the felonies articles. As in the misdemeanor articles, it is optional, unless there were not special articles. The investigation judge cannot carry out an investigation except under a request from the attorney general to carry out an investigation, even if he was engaged with a flagrante delicto felony or misdemeanor. The investigation judge carries out all procedures of investigation he considers necessary to reveal the truth, through inspecting the evidences of accusation and negative ones.

199. **Judicial investigation:** The judicial investigation includes: (1) Judicial police officers, (2) judicial investigation employees, (3) employees and assistants who are legally in charge of some of the judicial investigation tasks. Persons who enjoy the description of judicial police officers are: (a) presidents of the provincial people's assemblies, (b) Armed Forces officers, (c) major-generals, (d) police officers, (e) ranks holders in (...) Gendarmerie (f) National Security inspectors. In general, judicial police officers exercise their local specialization within the limits they perform their usual jobs. But, in case of searching and inspecting some crimes, including ML/TF crimes, the specialization of judicial police officers extends to include the whole national territory. In the frame of investigation, judicial police officers seek, and under their supervision the judicial police assistants of the Armed Forces, to the special means and advanced techniques for investigation according to what the Criminal Procedures Law stipulates in the Article 65/5bis and thereafter. The special means and advanced techniques for investigation in ML and terrorism crimes (including TF) is sought with the permission of the attorney general or investigation judge under the monitoring of the judicial entities according to what is stipulated in the above mentioned articles.

200. There are two kinds of the concerned entities from the judicial investigation members; the first type is the National Gendarmerie Forces, who are concerned with crimes occurring outside the urban areas. The second type is the National Security Forces, who are concerned with covering the security of urban areas.

201. **As for the National Gendarmerie**, its formation is based on six units (Border forces unit, Order Keeping unit, Roads Security unit, regional units, air formations and Judicial Police unit), and the

last one is responsible for searching and inspection works and carrying out the investigation under the supervision of the attorney general. There are directional units from the Judicial Police unit on which work is carried out on four levels according to the kind of the crime and **nature** of investigating it, depending on the importance and seriousness, as these are assigned by the central unit which is concerned with the financial crimes, and its members are prepared and chosen based on qualifications in these fields, in addition to their education major and specialized courses they follow in order to prepare them. Also, they provide for them the proper help by the specialized experts whom they need to reach best investigation results.

202. **Central Department of Criminal Investigations:** The Algerian authorities mentioned that, from the organizational side, the National Gendarmerie created the **Central Department of Criminal Investigations** which started its missions since 01/01/2008. This Department is concerned with combating serious crimes in the whole Algeria, and it consists of some offices, including combating the economic and financial crimes office and office for combating terrorism; both of them prioritize the ML/TF issue to confront, in addition to assigning the regional units in the difficult investigations.

203. The department of economic and financial crimes is established in the National Institute of Criminal Evidences and Criminality Science of the National Gendarmerie, which analyzes and studies the complicated files, in addition to studying the legal and deterring side in order to eradicate ML/TF issues.

204. **National Security Forces Formations:** There is an allegiance department to the judicial police in every district, including a group of offices, among them the Operational Criminal Analysis Unit, Central Coordination Unit, Studies and Statistics Unit and Combating Terrorism and Instigation Unit. Also, there are **operational** teams consisting of the economic and financial team, searching and interference team, identification team and precautionary investigations team. The financial team includes factions, among them faction for combating financial crimes, faction for combating economic crimes, faction for trademark forgery, faction for combating causing damages to the heritage and culture. The financial crimes faction contains a group of parties, including party for combating banking violations and money laundering, on which its members are identified for working in the financial crimes depending on qualifications and competences, as they are, practically, covering ML/TF crimes and they enjoy, naturally, the judicial investigation capacity; which enables them seizing the proceeds of crimes, sending a notice to the attorney general who, by turn, takes the procedures of freezing, and confiscation according to what is complied with in the judicial provisions, whenever necessary.

205. This is on the searching and inspecting level by the judicial investigation officers. As for the initial investigation, all the investigation officers have to send, immediately, a notice with any procedure or action related to crimes to the attorney general and take instructions from him, in addition to writing reports about this to be filed to him. As we clarified, the attorney general gives permissions, checks papers and he has the right of presentment and filing papers to the court, in case the investigation was enough and fulfilled according to what he considers and it is provided to be in a misdemeanor. If the attorney general considered that the case needs more investigation or its kind is felony, he has to send the case to the investigation judge.

206. **As for the final investigation or what is called the trial**, the justice system established what is called the four poles; they are districts inside the existing courts. The power of withdrawal and looking into, exclusively, 6 specified crimes, including ML/TF crimes was given to these poles. Knowing that this matter can be through the head of the spatial competent court's filing a notice to the pole within which the specified pole district is located.. The judge of the pole has the right to request the file to look into it at his discretion. The aim of creating these poles is to enable the judges' specialization and training them appropriately. The poles are established in Algiers, Oran, Constantine and Ouargla. It has also organized, since 2006, the total of 377 training sessions in its field, during which every judge benefited from, at least, 8 sessions inside and outside Algeria, according to the officials of the Ministry of Justice.

207. **Consider taking measures that allow postponing or abandon the g detention of persons or seizing funds:** The Criminal Procedures Law does not include special provisions that allow the competent authorities, which investigate in ML or TF cases, to postpone or stop the detention of suspected persons, seize funds or both, aiming at appointing participant persons in these activities or collecting evidences.

208. **Additional Elements:** Legal procedures have been set to ensure the use of special investigative techniques in the field of AML/CFT, in addition to some other designated crimes as per Article 65/5 bis to 65/18 of Law No. 22-06, dated on December 20, 2006, completing and amending the **Criminal Procedures Law**, which includes what decides these procedures, such as interrupting the exchange of letters, eavesdropping phone calls, seeking the help of experts or what is called the sneaking (which is foisting a detective into the group of criminals as an original perpetrator of the crime). This procedure shall be pursuant to the permission of the attorney general. Furthermore, the provisions of the articles stipulated in the Article 65/5 to 65/18 bis, mentioned the previous element to include also the permission of taking special investigative techniques in the flagrante delicto crimes, narcotic drugs crimes, organized transnational crimes, crimes of automatic data processing systems and crimes related to the legislation of exchange.

Recommendation 28

209. The judicial police officers and the judicial police assistants under their supervision, carry out the initial investigations as soon as they know about the crime. So, they are allowed to collect deductions, check evidences, write reports and enclose with them documents and papers related to the crime, in addition to the seized items, according to the Criminal Procedures Law, especially, Articles 63. But, if the investigation of the crime began in case of flagrante delicto of it, it will be subject to the provisions of the Articles 41 to 61 of the Criminal Procedures Law. They have great powers in the frame of investigation as execution to the rogatory letter, and these powers are specified by the Articles 138 -139 – 140 in relation with inspecting houses; this procedure cannot be carried out except by the permission of the judicial competent authorities. All these powers authorized to the judicial investigation, and which are specified in the above-mentioned articles, are performed under the control of the attorney general or the local competent investigation judge under the supervision of accusation room. The finance law of 2002 has given the same powers to the tax authority representatives concerning inspecting persons or sites searching for evidences and getting them. Also, Article (81) of the Criminal Procedures Law gave the investigation judge the right to move to anywhere and inspect it, which enables finding things that contribute in revealing the truth. Article (47) of the Criminal Procedures Law gives some exceptions concerning inspection procedures when it is related to designated crimes, including money laundering and terrorism (including TF).

210. The specializations of the investigation judge are focused on: (1) Carrying out all investigation procedures to reveal the truth (Article (68) of Criminal Procedures Law, (2) Movement and examination (Article (79) of the same law) provided informing the attorney general, (3) Inspection, seizure and identification of things in compliance with the provisions of Articles 83 - 82 - 47 - 45 of the same law, (4) interrogation and confrontation according to Articles 91-95.

211. As for the testimony of witnesses, it shall not be heard except before the investigation judge only and not any other person according to the text of Article (89) of the Criminal Procedures Law; it cannot be heard before any person and delegation is not allowed. If the statements of witnesses are heard before the judicial investigation officers, it would not have the pretext of testimony because they are reports of collecting deductions.

212. **Sufficiency of resources of law enforcement agencies and other investigation authorities or instituting legal proceedings in AML/CFT issues:** It is worth to be noted that all reports of seizure are passed to the attorney general, whether related to predicate offences or suspicious in ML/TF crimes;

as the number of the attorney generals is twelve (12) and therefore, practically, there is not enough time for inspection and analysis of these crimes and examination of the incident from all sides. It is clear, from the statistics related to the crime rates in Algeria, the existence of a very large number of predicate offences that yields funds and which, obviously, the accused person will need to launder them. But the investigation did not complete its part as to knowing the destination of such funds and examining whether it was laundered or not, and this is a definite result because of the non-agreement between the number of the attorney general and the size of work they are entrusted with. The same condition applies with the investigation judges. As for the compositions of the investigation officers (National Security Forces and National Gendarmerie), it appears also the non-sufficiency, which is noticeable in the efficiency. Same applies to the non-agreement between the number of the designated and investigated cases in comparison with the nature of the region; knowing that the entities concerned with following up ML crimes can communicate with the spatial competent attorney general without the need to refer to the central command. It is to refer that the number of judges till August, 2010 has reached around 4047.

213. Integrity of the Competent Authorities: Police officers, who obtained their bachelor degrees or equivalents, and after undergoing a close administrative investigation, receive special training for 18 months that qualifies them to proceed with their work. At the end of training, those officers are required to take the oath on the level of judicial councils, which earns them the title of judicial investigation officer. The employees in the judicial police services are obliged to abide by the legal rules that impose confidential investigations pursuant to Article 11 of the Criminal Procedures Law, where the inquiry and investigation procedures are confidential. The same applies for the inspection processes that may be conducted during the investigation process in such cases, while abiding by the secrecy of the inspection results and the Code of Professional Ethics, which impose the same obligation. Moreover, those who conduct such procedures are selected based on qualifications in the field of work.

214. Training of the Competent Authorities: The judges are trained in the Higher School for Judges. The study lasts three years. In addition to basic training, the Ministry of Justice has established a program for specialized training since 2000 in the field of administrative, social, commercial, maritime, and real estate disputes in addition to the Business Law in collaboration with the National Management School, the National Business Institute, the Higher Maritime Institute, the Higher Banking School and the Higher School for Judges. The specialized bodies in AML/CFT benefit from training and qualification sessions in this field; the police departments held five training courses during 2006-2007 whereby 98 officers, out of which were eight officers from the National Gendarmerie, benefited from them. Such course was characterized by high-level training activated by specialized foreigners in the framework of MEDA Programme. The course tackled in particular, issues pertaining to the legislation and the investigative techniques in combating ML crimes. Nine (9) officials of the national security also benefited from specialized training in the AML field in France during 2007. Furthermore, the national security officials participated in many meetings organized by other authorities, such as the Ministry of Justice as well as lectures given on the level of police and province security schools. In 2007 and 2008, and in the framework of technical cooperation with the French authorities, two specialized training programs were held in the investigations field on the financial assets where 49 national security officials benefited from them. The two courses were supervised by French specialists. Moreover, officers and officers from the National Gendarmerie were qualified, trained and specialized on referring to and using special investigative techniques through the organization of training courses inside and outside Algeria. However, no evidence was provided on the size, shape and specialization of such courses in the required structures.

215. Statistics: No sufficient statistics were provided.

2-6-2 Recommendations and Comments

216. The Algerian authorities are recommended to:

- Establish an explicit provision that allows postponing or abandoning the arrest of suspects or the seizure of funds in TF crimes.

2-6-3 Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R. 27	LC	<ul style="list-style-type: none">No explicit provision exists that allows postponing the arrest of suspects and the seizure of funds in TF crimes.
R. 28	C	

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

2-7-1 Description and Analysis

217. **General Framework:** The movement of currency into and out of Algeria is regulated by the following provisions: (1) Regulation No.: 01/07 dated January 9, 2007, pertaining to the rules applicable on current transactions with other countries and hard currency accounts, (2) Bank of Algeria's Instructions No. 97-02 dated March 30, 1997, pertaining to the export of hard currency, (3) Announcement No. 1109/DGC dated July 31, 2007, pertaining to currency exchange control. By reviewing such provisions, it is clear that Algeria monitors the cash circulation, and consequently, the cross-border movement of currency is subject to certain procedures. Upon entering Algeria, each person must declare the cross-border transferred cash amounts of whichever value, without distinction between a citizen, resident or visitor. Whereas upon leaving, each person must also declare the carried amounts; a restriction exists on residents and citizens disallowing them from holding an amount exceeding 7600 Euros except according to designated bases and standards, while visitors may not hold an amount exceeding the declared amount. Such declarations are sent to the Customs Department only and not to the FIU. It is noted that the application of such system is mainly associated with monitoring the movement of currency and is not included under the procedures of the declaration or disclosure systems referred to in SR. IX for AML/CFT.

218. The violation of the abovementioned provisions represents an exchange violation under the concept of Order No. 22/96 dated January 9, 1996 completed and amended by virtue of Order No. 01/03 that is punishable by imprisonment between 2 and 7 years and the confiscation of the currency, subject of crime (currency or the bearer negotiable instruments) as well as the means of transfer or an amount equivalent in case it is not restrained and with a fine of double the value of the restrained funds. These sanctions should be adequately dissuasive against undisclosed funds. Practically, we note the weakness of such mechanisms, as it is noticed through crossing borders at the airport upon entering, that there are no signs that indicate to the travelers that they must disclose the transferred currency. On the other hand, upon departing, each person is asked about any transferred currency, in a comprehensive way and not on the basis of information or suspicion.

219. According to the concerned parties, the Customs Authorities do not have the right to inquire about the source of transferred funds except to know whether or not they were obtained from a bank through the voucher or the declaration form to check the place of obtaining the funds, whenever they are detected. It was evident to the evaluation team that the declaration form of the foreign currency and valuable items, the form that was obtained, does not include any indication to the source of funds.

220. It is noted that the competent authorities (the Customs) do not have the power to restrain or seize the funds for a reasonable period even if there is a suspicion of ML/TF, unless false declaration was detected. In this case, a report is made and sent to the attorney general to obtain the permission to proceed with the investigation.

221. According to the authorities, the declaration data shall be kept for an unspecified period, yet such data shall be kept at the Customs at the border checks without the existence of a central maintenance for it and without being classified according to its exceeding of a certain limit as such limit does not exist; consequently, it is difficult for any other entity to review this data. The detected false declarations shall be referred to the judicial entities or settled at the Ministry of Finance.

222. It is showed that the Customs Department does not allow the FIU to view the declarations it gathers, except in the event of detecting that a suspected case is related to ML/TF, according to the requirements of Article (21) of Law 05-01. It is worth mentioning that the decision issued on 30 March 2008 implementing the mentioned article, article 21, by virtue of which are specified the content and ways of sending the confidential report made by the authorities (...) customs to the competent authority. Article 2 of this decision confirmed that the (...) Customs authorities should send a confidential report to the competent authority related to detecting the movement of funds and transactions that may be arising from crimes and misdemeanors or used to finance criminal activities.

223. Moreover, the Customs Department builds investigation files on the declarations linked to violation of the exchange law such as false declaration or detection of currency smuggling without declaration and refers them to the attorney general. Cooperation between the Customs and the Unit includes providing information automatically or pursuant to request by the FIU only. Regarding statistics, the table below shows the number of notifications between the Customs and the Unit:

The number of requests submitted by the FIU to the Customs	21
The number of information cases submitted by the Customs to the FIU based on a request or automatically	26

224. Within the framework of coordination with the other concerned entities, there are two protocols with the Tax Department and the National Gendarmerie, which were limited to the field of ML without TF. They also addressed mutual cooperation, exchange of information and training. Regarding customs cooperation on the international level, the authorities stated that there are 17 agreements with foreign customs authorities. By viewing the submitted cases, the evaluation team noticed that they are in the field of customs fraud and are not related to the ML/TF field. It is worth noting that the Customs Department includes a directorate assigned with local and international cooperation, which is called the Branch Directorate for Mutual International Assistance and Cooperation between the Departments.

225. According to Law 05-01 and Article (15bis) of the Penal Code, the Algerian legislation permits the freezing or confiscation of funds if it is proved they are related to a crime, and if it is proved that the courier acted in good faith, then his right is guaranteed according to the express provision of Article 389/4 bis of the Penal Code.

226. Regarding the Security Council Resolutions, reference is made here to what was stated above in SR. III; consequently, this does not apply with regard to the freezing and confiscation of funds related to ML/TF for the wanted according to the lists of the internationally wanted persons.

227. With regard to the cross-border movement of precious metals, gold and precious stones, there is no procedure in this regard, as their source, destination and purpose are not verified at all and there is no coordination with the countries from which or to which they are transferred.

228. In addition to the common monitoring body at the borders (monitoring persons, travel documents and means of transportation), the Central Customs Department issues warning notifications about the different forms of illegitimate transfer of currency and bearer negotiable instruments, which are prepared based on internal and external databases.

229. **Structure:** By viewing the structure of the Customs' work, the evaluation team found that all cases are sent to the Customs Information Directorate at the Public Customs Directorate, which in turn checks them and sends them to the Ministry of Finance every three months. The settlement should take place within three months according to the law; in case of no reply within this period, the case should be transferred to judicial authorities.

230. **Professional Standards:** The Customs employees are subject mainly to compliance with the secrecy and integrity standards when performing their duties like other public employees.

231. **Training:** The Customs Department held several training programs in the fields of (cleared drugs, post monitoring, judicial follow up and exchange violations) within two years, but there were no direct special training programs in the AML/CFT field to contribute to preparing and qualifying the employees in an efficient manner.

2-7-2 Recommendations and Comments

232. The Algerian authorities are recommended to:

- Amend the current disclosure system with the view to monitor the currency to comply with the AML/CFT objectives and satisfy the requirements of SR. IX.
- Vest the customs employees with the power to inquire about the source of the cross-border funds.
- Reinforce cooperation between the Customs Department, the FIU and other local entities in the field of reporting to the unit about suspicious cases connected to cross-border transfer of currencies or bearer negotiable instruments.
- Reinforce the international customs cooperation to include AML/CFT.
- Establish a provision that allows the freezing and confiscation of funds involved in ML/TF crimes for the wanted according to the lists of the internationally wanted persons.
- Find a specific procedure related to the movement of precious metals, gold and precious stones to check its source or direction, its objective thereof and coordinate with the country originating from or heading to.
- Send the customs surveys directly to the Ministry of Finance with no need to send them first to the Customs Intelligence Directorate in order to save time. From there, the FIU shall be immediately notified about the suspicious transactions.
- Hold specialized training programs in the AML/CFT field for the employees working at border checks.

2-7-3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR .IX	NC	<ul style="list-style-type: none"> ● The current disclosure system is not consistent with the AML/CFT goals. ● The current disclosure system does not include the power of asking about the source of funds ● Cooperation between the Customs Authority, the FIU and other local entities. ● The international customs cooperation does not include AML/CFT. ● Not finding a procedure related to precious metals, gold and precious stones. Weak training in the AML/CFT field.

3- Preventive Measures – Financial Institutions (FIs)

Legal Framework:

233. The legal and supervisory framework to which the FIs in the field of AML/CFT are subject is as follows:

- Law no. 05-01 dated February 6, 2005 regarding ML/TF prevention and combating has imposed a number of obligations on banks and FIs subject to the Bank of Algeria as well as the reporting obligation of suspicious transactions on all FIs including the Algerian financial post services.
- The Anti-Corruption Law No. 06-01 dated February 20, 2006. Article (58) thereof stipulated the obligations of FIs according to the applicable regulation (without specifying any regulation, and by virtue of any issued law). Article (59) prohibited the establishment of shell banks.
- Bank of Algeria's Regulation No. 05-05 dated December 15, 2005 regarding the prevention and combating of ML/TF addressed banks and FIs under the Bank of Algeria and the Algerian financial post services.

234. The AML/CFT preventive measures cover a number of financial sectors according to the following:

- Law no. 05-01 dated February 6, 2005 requires banks, FIs and equivalent FIs to verify the identity and address of their customers. It also requires these institutions to identify the beneficial owner and inquire about the source and destination of funds and the identity of the economic dealers if the transaction is conducted under unusual or unjustified circumstances or seem to lack an apparent economic or legal purpose. Article (12) thereof stipulated the power to take a disciplinary measure according to the law against the bank or FI where a deficiency is proved in its internal monitoring system of reporting suspicious transactions as well as the power to supervise the availability of appropriate programs for ML/TF detection and prevention in banks and FIs.
- Article (19) of the subject law bound banks, FIs, the Algerian financial post services, equivalent FIs, insurance companies, exchange offices and stock brokers and billing institutions to the reporting obligation.

235. It is clear from the foregoing that Law no. 05-01 bound three categories which are: (1) Banks, (2) FIs, and (3) equivalent FIs to all the requirements mentioned therein. Whereas the lawmaker bound the Algerian financial post services, insurance companies, exchange offices, stock brokers and billing institutions to the reporting obligation only. Hence, it is understood that the Algerian financial post services, insurance companies, exchange offices, stock brokers and billing institutions (subject to the reporting obligation only) are not included in the concept of FIs and equivalent FIs.

236. Returning to Articles 70 to 72 of Order No. 11-03 issued in August 26, 2003, including the Law on Money and Credit, it was clear that the banks take in charge the receipt of funds from the public, loan operations, putting the payment methods at the disposal of the customers and their management as well as exchange operations, gold operations, investment of movable funds, consultancy and assistance in properties and consultancy in financial issues, financial architecture and all services aiming at facilitating the establishment of institutions or equipments and their development. While the FIs take in charge all such operations only, except receiving funds from the public and the management of payment methods and their put at the disposal of the public; which means that the concept of FIs in law 05-01 indicates only the FIs that are subject to the Bank of Algeria such as the financing leasing institutions, investment, shareholding and recruitment companies, where the Bank of Algeria authorized five of these institutions until early 2009. (See Decision No. 01-09 issued on January 22, 2009 by Bank of Algeria).

237. Regarding the concept of equivalent FIs mentioned in Law no. 05-01, the Algerian authorities replied that currently there are no equivalent FIs operating in Algeria, but the Algerian lawmaker has nevertheless incorporated the concept in case of their potential establishment. Hence, they could be defined according to a legislative provision. In all cases, they may not operate except with a license from the Council on Money and Credit.

238. To distinguish between the FIs that are certified and licensed by the Bank of Algeria and the FIs in general in the definition set out in the Methodology, the concept of "the FIs subject to the Bank of Algeria" shall be used in this report, while the term "FIs" shall be used to refer to all FIs in general. The following table sets out the types of FIs which the evaluation team find it operating in Algeria, and the entities providing the license and supervision thereof.

Type of FI	Entity of Certification and Regulation	Supervisory Entity	Legal Provision Related to the Institution	The Obligations to which the FI is subject in the AML/CFT Field According to Law no. 05-01 Passed in 2005
Banks	Council on Money and Credit – Bank of Algeria	The Banking Commission – Bank of Algeria	Order No. 03-11 dated August 26, 2003 associated with money and credit	Due diligence requirements. Reporting obligation
Financing leasing institutions	Council on Money and Credit – Bank of Algeria	The Banking Commission – Bank of Algeria	Order No. 03-11 dated August 26, 2003 associated with money and credit.	Due diligence requirements. Reporting obligation
Investment, shareholding and recruitment companies	Council on Money and Credit – Bank of Algeria	The Banking Commission – Bank of Algeria	Order No. 03-11 dated August 26, 2003 associated with money and credit.	Due diligence requirements. Reporting obligation.
Insurance companies	The National Insurance Council (CNA)	Supervisory Committee on Securities	Order No. 95-07 issued on January 25, 1995 and concluded in Law No. 06-04 passed on February 20, 2006.	Reporting obligation.
Stock brokers	The Commission for the Organization and Surveillance of Stock Market Transactions (COSOB)	The Commission for the Organization and Surveillance of Stock Market Transactions (COSOB)	Legislative Decree No. 93-10 dated May 23, 1993, amended and completed by Law 03-04 passed on 17/2/2003	Reporting obligation.
Algerian financial post services	Algerie Poste	Algerie Poste	Executive Decree No. 43-02, dated 14-1-2002	Reporting obligation.

239. In relation to Law No.06- 01dated February 20, 2006, and associated with prevention against and combating corruption, as mentioned above, the only article (Article 58) therewith that tackles AML/CFT procedures stipulated that without prejudice to the legal provisions associated with ML/TF, and for the purpose of detecting financial transactions associated with corruption, banks and non banking FIs, and according to the applicable regulation, are required to comply with the data regarding the natural or legal persons whose accounts must undergo close inspection by the FIs. They also have to comply with the data regarding the types of accounts and transactions that require special follow up in addition to the measures that must be taken to open and keep such accounts and upon registration of transactions. However, this article did not mention the nature of such data and the evaluation team did not find the meaning of the expression “the regulation in force”.

240. Regarding the Bank of Algeria's Regulation No. 05-05 dated December 15, 2005 with respect to the prevention and combating of ML/TF addressed to banks and FIs under the Bank of Algeria and the Algerian financial post services. This Regulation tackled several issues, out of which are setting a written program for prevention and combating, taking measures of customer and transaction identification, retaining documents, corresponding banks, alarm devices, the reporting of suspicious transactions, wire transfers, putting funds under disposal, the role of the external control authorities of banks and FIs, information and staff training, and the duties of the Bank of Algeria inspectors.

241. According to the Methodology, this regulation cannot be considered as secondary legislation since law 05-01 dated 6 February 2005 related to AML and CFT did not give the Council on Money and Credit or Bank of Algeria the power to issue such regulation. During the discussion on this point, the Algerian authorities stated that the regulation 05-05 responds, in their opinion, to all the elements of the second legislation; the Algerian lawmaker in the Law on Money and Credit issued on 26/08/2003 was the one who granted the Council on Money and Credit the power to issue regulations in many fields. However, the assessment team considers that this power granted to the Council is a power to issue regulation in many fields and there is no express and direct delegation given to the Council to issue such regulation in law 05-05.

242. Referring to the discussion of considering regulation 05-05 another enforceable means, the evaluation team noticed that the regulation has been issued by Governor of Bank of Algeria after deliberations of the Council on Money and Credit, by virtue of Order No. 11-03 dated 26 August 2003 related to the Money and Credit⁹, particularly articles 56 & 57. Referring to this issue, it was clear that articles 56 & 57 are related to Bank of Algeria regulating and supervising the clearing houses and have no relation to issuing this regulation. As well and after reviewing articles 62-65 including the powers of the Council on Money and Credit, they did not stipulate that the Council has the power to issue such a regulation.

243. The Algerian authorities stated that the Council on Money and Credit has issued a regulation based on its power to issue regulations, particularly in the field of risks generally by virtue of paragraph e of article 62. However, paragraph e provides for allowing the Council to put "ratio scales" which are applicable to the banks and financial institutions, especially in relation to covering the risks, their distribution, liquidity, solvency and risks in general". Therefore, the word risk was mentioned in the context of ratio scales and does not mean a regulation.

244. However, the evaluation team sees that the prerequisites that would make this regulation among the other enforceable means are not available. These conditions, according to the adopted Methodology, should dictate that such means be issued by a competent entity (whether a financial supervisory entity or other) or a SRO that uses powers provided by such competent entity or directly provided by law. The language of such means must be binding and not encouraging while imposing effective, proportionate and dissuasive sanctions in case of non compliance.

245. The evaluation team also noticed that the Bank of Algeria's Regulation No. 05-05 dated December 15, 2005 is addressed to the Algerian financial post services as well, although they are not obliged by virtue of law 05-01 with preventive measures provided for in articles 7, 8, 9, 10, 14 whereas legally they are subjected only to the obligation of reporting by virtue of article 19. Asking the Algerian authorities about the legal ground that binds these services to the control and supervision of the Bank of Algeria, the authorities indicated that law No. 03-2000 related to the post and communications provides in its article 12 that the operator shall be licensed to provide and expand the structure of the financial payment services provided to its customers on a commercial basis in accordance with the provisions of

⁹ Law on Money and Credit was amended by virtue of Order 04-10 dated 26/08/2010 whereby article 97 bis 3 was established and which placed banks, financial institutions and Financial Algerian post services under the obligation to put a program and procedures consistent with the laws and regulations within conditions adopted by the regulation taken by the Council of Money and Credit.

the law on Money and Credit. They added that the Law on Money and Credit has defined in Articles (66) and (67) the banking transactions as an activity for banks and financial institutions. Since the Algerian financial post services perform some of these transactions, then they fall under the definition of these two articles and they become subject to the supervision of the Bank of Algeria. The Algerian authorities also indicated that Article (56) of the subject law stipulated the liability of the Bank of Algeria, its supervision of the clearing houses and ensuring the progress and security of the payment systems. They also mentioned that Article (105) thereof stipulated explicitly that the Banking Commission monitors the circumstances of practicing the transactions of banks and financial institutions and ensures the quality of the financial structure. It is worth mentioning that when the team met with the Bank of Algeria, the officers at the Bank indicated that no mission has been performed for the Financial Algerian post services, though they mentioned that such post services are subjected to the law on Money and Credit on the financial part and that Bank of Algeria may perform supervision task therein”.

246. There was lack of evidence for the evaluation team that the legal and regulatory framework to which the financial institutions are subject in the field of AML/CFT includes the Public Treasury Directorate at the Ministry of Finance; whereby, through the onsite visit, it was revealed that the latter performs banking operations by opening banking accounts for its employees that can be used like any other banking account in addition to opening accounts for the companies undertaking public deals.

247. Moreover, the mentioned legal and regulatory framework has specified certain financial institutions and did not rely on approaching the financial activities according to the definition set out in the Methodology for FIs.

Customer Due Diligence & Record Keeping

3-1 Risk of money laundering and terrorist financing

248. The descriptive analysis of the structural nature of the Algerian financial sector leads to noticing the existence of elements which increase the ML/TF risks, among which and in the first place, are the low level of awareness of AML/CFT of many persons working in the financial sectors and the novelty of the system formation which basically started to take shape as of 2005 (and the gaps therein) until its current shape, the novelty of work progress therein and the weak awareness initiatives by the concerned entities. In addition, the FIs not subject to the Bank of Algeria are not subject to any AML/CFT obligations, except the reporting obligation.

249. In general, the AML system does not include the risk based approach. Through the onsite visit, it was evident that a limited number of banks have adopted a risk-based approach in dealing with clients, which are the affiliate institutions of foreign banks. As for reducing the customer due diligence measures, the evaluation team did not find that any procedures were taken in this regard.

250. It was noted, through the discussions with the supervisory and monitoring authorities and the financial institutions, the inefficient role of such authorities in monitoring the compliance of the FIs with their obligations in the AML/CFT field or the absence of such role in some financial sectors such as the insurance and financial brokerage sectors.

251. On the level of the financial sector, the level of awareness of ML/TF risks is low. The evaluation team noticed the existence of a big gap in the techniques of applying the AML/CFT obligations between some banking institutions, which build their policy in this field on the international recommendations and between other institutions.

252. **Factors that may reduce the degree of risk:** Foremost among these factors is the limited dealing in foreign currency sometimes and the intense efforts exerted by Algeria to address the terrorist risks to combat terrorism whether through legislation, conventions, agreements, investigation, follow-

up, tracking or suspension then trial and dissuasive sanctions. However, this follow-up rarely tackles the terrorism financing crime and its risks. At the time when reports, information and statistics on the activities of terrorism financing and terrorists are not available, the abovementioned degree of terrorism risk gives an idea about the seriousness of the TF risks inside Algeria. In addition, a non-governed major market exists in Algeria dealing in foreign currency which raises the volume of risks.

3-2 Customer due diligence, including enhanced or reduced measures (R. 5 to 8)

3-2-1 Description and Analysis

Recommendation 5

253. **Anonymous accounts, accounts in fictitious names and numbered accounts:** There was no evidence for the evaluation team on the existence of a legal provision that regulates the opening of FIs of anonymous accounts, accounts in fictitious names and numbered accounts. It is different between the banks and FIs subject to the Bank of Algeria, on one side, and the other FIs on the other side. Whereas Article 7 of Law no. 05-01 stipulates that banks, FIs and equivalent FIs (FIs subject to the bank of Algeria) should verify the identity and address of their customers before opening an account or book, keeping bonds, values or receipts, renting a safe deposit box or establishing any other business relationship, a similar provision related to other FIs is not available. A manager of an insurance company, during his meeting with the evaluation team, said that the employees in the insurance companies are not qualified to request the identity of customers.

254. It is noteworthy that hypothetically, numbered accounts may be opened since there is no legal provision to prohibit that, but through the onsite visit to a number of banks, they stated that they do not have such accounts (even anonymous ones), but there is no evidence that such accounts cannot be opened.

When CDD is required:

255. According to Article (7) of Law no. 05-01, banks, financial institutions and equivalent financial institutions (FIs subject to the Bank of Algeria) should verify the identity and address of their customers before opening an account or book or keeping bonds, values or receipts or before renting a safe deposit box or establishing any other business relationship. The natural person's identity can be identified by perusing an original official valid document including the photo while his address can be verified by perusing an official document to prove it. The legal person's identity can be identified by perusing its legal form and any document that proves its registration and authorization and that it enjoys actual existence. It is necessary to keep a copy of each document and update the said information annually and upon any change. Agents and employees dealing on behalf of others should submit, in addition to the abovementioned documents, an authorization of the powers delegated to them and the documents that prove the identity and address of the beneficial owner.

256. Article (2) of Regulation 05-05 issued by the Bank of Algeria stipulated that in order to avoid being exposed to real risks related to their customers and counter parties, banks and FIs subject to the Bank of Algeria and the Algerian financial post services must ensure the provision of "customer identification" internal requirements and to continuously comply with such requirements. The customer identification measures are not merely a regular process for opening and holding an account. Such measures require banks and FIs subject to the Bank of Algeria and the Algerian financial post services to bind to the strict due diligence obligation with regard to risk-posing accounts and transactions in addition to strict monitoring of suspicious activities and transactions. Article 4 thereof requires the verification of the customer's ID upon the establishment of a business relationship.

257. Article 5 of the said regulation required the verification of the natural person's ID by submitting official, original valid documents including the photo and to gather information about the concerned person. The legal person's ID is verified by perusing his original legal form and any

document that proved his registration or authorization and that he enjoys actual existence at the time of his ID verification.. Agents and employees dealing on behalf of others should submit, in addition to the abovementioned documents, an authorization of the powers delegated to them and the documents that prove the identity and address of the beneficial owners.

258. It is noteworthy that the law, with regard to identification and verification, only addresses the FIs subject to the Bank of Algeria, while Regulation 05-05 is not regarded as an enforceable means as previously mentioned. This means that the FIs not subject to the Bank of Algeria (such as insurance companies, brokerage institutions and the Algerian financial post services) are not required to identify and verify their customer's ID.

259. **Identifying the ID of the beneficial owner:** Article (9) of Law no. 05-01 stipulated that in case it is not verified if the client is acting on his own behalf, the subject persons should, and by all legal means, verify the ID of the beneficial owner or any person acting on his behalf.

260. Article (10) of Law no. 05-01 stipulates that if a transaction is conducted under unusual or unjustified complex circumstances or seems to lack a clear economic or legal purpose, banks, FIs or equivalent FIs should inquire about the source and destination of the funds and the place of transaction and identity of the economic dealers. It is noted in the two mentioned articles, that the FIs subject to Bank of Algeria are obliged to identify the ID of the beneficial owner in case of doubt; while the recommendation requires the identification of the beneficial owner and the verification if the customer is acting on behalf of another person, in general, and to take thereafter reasonable measures to obtain sufficient data to verify the identity of such other person.

261. A definition of the beneficial owner is not available neither in Law 05-01 nor in any other provision; however, it may be concluded from the above provisions that the beneficial owner is the person on whose behalf the client conducts transactions, whether explicitly or not.

262. There is no legal or regulatory provision that binds FIs to take reasonable measures to understand the structure of ownership and control over the customer or define the natural persons who really own or control the customer (it is worth mentioning that the Algerian law authorizes the issuance of bearer shares).

263. **Information on the purpose and nature of the business relationship:** On the application level, it seemed to the evaluation team that the common understanding is related to the necessity of inquiring about the object of the transaction when conducted in cash as shown from the policies and internal procedures of the FIs examined by the evaluation team and which do not stipulate measures relating to the request of information on the purpose and nature of the business relationship. For the evaluation team, this does not meet the requirement of the recommendation requiring that FIs should obtain information on the purpose and nature of the business relationship. Such obligation should be imposed by virtue of an explicit provision.

264. **Ongoing Due Diligence towards Business Relationships:** The evaluation team could not find a legal or regulatory provision that requires financial institutions to take ongoing due diligence measures towards business relationships. There is no obligation on institutions to monitor transactions carried out during the relationship in order to ensure that the conducted transactions are commensurate with their knowledge about customers, their activities and risk profiles, and if necessary the source of funds. In addition, the financial institutions are not required to verify that the documents, data or information obtained pursuant to due diligence procedures are updated and consistent by reviewing the existing records, and especially the categories of high-risk customers and business relationships. Yet, Article (2) of Regulation 05-05 concerned with the prevention and combating of ML/TF has required banks and financial institutions under the Bank of Algeria and the Algerian financial post services to verify the presence of internal criteria "Know Your Customer (KYC)" and to continuously ensure their consistency. Article (3) of the subject regulation also stipulated that the standards concerned with KYC

should take into consideration the main elements of monitoring procedures, in particular: the policy of accepting new clients, verifying the identity of customers, following up on the movements and transactions and ongoing supervision of the accounts involving risks. However, it is worth mentioning that this system is not an enforceable means as previously indicated.

Risks

265. The legal and regulatory framework in the AML field in Algeria does not tackle the enhanced due diligence measures for the categories of risk-posing customers or high-risk business relationships or transactions. Such measures are required without distinction between customers. There is also lack of instructions or guidelines that identify the categories of high-risk customers, business relationships or transactions for conducting the enhanced due diligence. In fact, it was clear to the evaluation team that some banking institutions affiliated to foreign FIs classify their customers according to the degree of risk without being locally bound to do so.

266. On the other hand, such framework does not allow the implementation of reduced or simplified due diligence measures as such measures are required to be implemented by the FIs subject to the Bank of Algeria on all customers with no exception.

Timing of Verification

267. **Timing of Verification of customer Identity and Beneficial Owner:** According to Article (7) of Law no. 05-01, banks, financial institutions and equivalent financial institutions (subject to the Bank of Algeria) should verify the identity and address of their customers before opening an account or book or keeping bonds, values or receipts or before renting a safe deposit box or establishing any other business relationship. This means that these institutions may not deal with customers unless the verification process is completed. Article (4) of the Regulation 5-5 issued by the Bank of Algeria confirmed that. Article (5) thereof indicated that if, after opening an account, problems pertaining to reviewing (checking the accounts) and updating appeared, the banks and FIs subject to the Bank of Algeria and the Algerian financial post services should close the account and notify the FIU and the Banking Commission. Article (6) of that Regulation stipulated that if a bank or FI subject to the Bank of Algeria or the Algerian financial post services at some point realized that they do not have sufficient information on a customer, they should immediately take the necessary measures to obtain as soon as possible all necessary information.

268. **Failure to complete CDD measures in a satisfactory way:** There is no legal or regulatory provision that requires FIs not to open accounts or establish business relationships or execute transactions and consider submitting an STR when failing to complete CDD measures.

269. **Existing Customers:** There is no legal or regulatory provision that tackles the abidance by the requirements of verification of the identity of existing customers at the time of national AML/CFT requirements' issuance on basis of materiality and risk and the timing of due diligence measures with regard to those customers.

270. Moreover, there is no legal or regulatory provision that requires the FIs to perform the due diligence measures for the existing customers if they are the owners of numbered accounts or anonymous accounts or accounts under fictitious names.

Recommendation 6

271. **Politically Exposed Persons (PEPs):** The AML/CFT Law in Algeria did not tackle the matter of PEPs. The FIs are not required to put in place a risk management system to determine whether a potential customer, a customer or the beneficial owner is a Politically Exposed Person (PEP). Moreover, they are neither required to obtain the approval of the senior management to establish

business relationships with such persons nor take reasonable measures to determine the source of their wealth or funds or conduct enhanced ongoing monitoring on that relationship.

272. **Additional Elements** Algeria has, reservedly, ratified the UN Convention against Corruption pursuant to the Presidential Decree No. 128-04 dated 19/4/2004. In this regard, Algeria has passed Law No. 01-06 dated February 20, 2006 pertaining to corruption.

Recommendation 7

273. **Cross Border Correspondent Banking:** Law 05-01 did not make any reference to the cross-border correspondent banking. However, Article 59 of Law No. 01-06 dated February 20, 2006 prohibited banks and FIs in Algeria from establishing business relationships with foreign FIs that accept the use of their accounts by banks with no physical existence nor affiliated with a supervised financial group. However, such provision did not expressly require gathering sufficient information about any respondent institution in order to be aware of the nature of such institution's activity and its reputation, through the information available to the public, and to make sure it is monitored effectively. Article (9) of Regulation 05-05, however, obligated banks and authorized intermediary FIs to gather sufficient information about the correspondent banks, and obligated the authorized intermediary¹⁰ to establish a correspondent relationship with the foreign banking institutions - provided they have authorized accounts and are monitored by competent authorities - and to cooperate in the framework of an AML/CFT national system. Pursuant to the foregoing, the said system is not regarded as an enforceable means as it is not issued by a competent authority.

274. The evaluation team was not provided with a provision or regulation that requires banks and FIs to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.

275. The evaluation team was not provided with a provision or regulation that obligates banks and FIs to obtain the approval of senior management before establishing new correspondent relationships. However, during the on-site visit, the evaluation team found that the approval of the senior management is obtained prior to establishing new correspondent relationships in banks.

276. The evaluation team was not provided with a provision or regulation that requires banks and FIs to document the responsibilities of each institution in the field of AML/CFT.

277. The evaluation team was not provided with a provision or regulation on the procedures that should be taken in case the relationship with the correspondent banks includes keeping payable-through accounts. There was lack of requirement to verify that the respondent FI can provide relevant customer identification data to the correspondent FI, upon request.

278. In general, the legal and regulatory provisions do not explicitly require the obligation to identify the reputation and level of control of the correspondent institution pursuant to the FATF Recommendations. There is also lack of other provisions that require assessing the AML/CFT correspondent bank's controls and ascertaining that they are adequate and effective as well as obtaining the approval of the senior management before establishing new correspondent relationships and documenting the responsibilities of each party in the AML/CFT field.

¹⁰ The authorized intermediary refers to the authorized intermediary adopted to perform foreign trade and exchange operations and pursuant to the concept specified in Article 11 of the Bank of Algeria's Regulation No. 01-07 dated 3/2/2007.

Recommendation 8

279. Prevent misuse of the technological developments and the risks of non-face-to-face business relationships: The AML/CFT system in Algeria does not include requiring having policies in place or taking such measures and paying special attention in case of transactions concluded by using advanced technology which may allow hiding the true identity. This system does not also include having policies in place or taking such measures to address any specific risks associated with non-face-to-face business relationships or transactions. Moreover, the institutions are not compelled to implement such policies and measures upon establishing relationships with customers and upon the implementation of the ongoing due diligence measures.

3-2-2 Recommendations and Comments

280. The evaluation team recommends to:

▪ Recommendation 5

- Set a legal provision that regulates the opening of numbered accounts and prevents all FIs not subject to Bank of Algeria from opening anonymous accounts.
- Oblige the FIs not subject to the Bank of Algeria to implement CDD measures.
- Oblige Department of Public Treasury at the Ministry of Finance with the legal and supervisory framework to which FIs are subject in AML/CFT.
- Define the beneficial owner and oblige FIs to verify if their customers are acting on behalf of other persons and to take thereafter reasonable measures to obtain sufficient data in order to verify the identity of such other persons.
- Require FIs to take reasonable measures towards legal persons or legal arrangements to understand the structure of ownership and the controlling interest of the customer or identify the natural persons who have actual ownership or control.
- Oblige FIs to obtain information related to the purpose and nature of the business relationship.
- Ratify the concept of beneficial owner and oblige FIs to identify the beneficial owners for all customers (not only in cases of doubt).
- Require the FIs, through a binding text, to verify transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, his business pattern and risk profile, and where necessary, the source of funds.
- Require the FIs, through a binding text, to ensure that the documents, data or information collected under the due diligence process are kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers and business relationships.
- Require the FIs to take enhanced due diligence measures for higher risk categories of customers, business relationships or transactions.
- Oblige FIs to refrain from opening the account or establish business relationships or execute transactions and consider submitting an STR upon failure to complete CDD measures.
- Bind the FIs to identify existing customers on basis of materiality and risk and undertake due diligence measures with regard to existing business relationships at the appropriate times.

▪ Recommendation 6

- Require financial institutions to put in place appropriate risk management systems to determine whether a potential customer, customer or beneficial owner is a PEP and bind them to:
 - Obtain the approval of the senior management before establishing a business relationship with such customer.
 - Take reasonable measures to determine the source of funds of the customer and/or beneficial owner.

- Conduct enhanced ongoing monitoring of the business relationship.

▪ **Recommendation 7**

- Require the financial institutions that have cross-border correspondent banking, through a binding text to:
 - Gather sufficient information on any respondent institution to reach a complete understanding on the nature of such institution activity and to know through the information available to the public its reputation and the level of control to which it is subject.
 - Assess the respondent institution AML/CFT controls and ascertain that they are adequate and effective.
 - Obtain the approval of the senior management before establishing new correspondent relationships.
 - Document the responsibilities of each institution in AML/CFT.
 - Take procedures with regard to such relationships and payable-through accounts in case the relationship with the correspondent bank included maintaining such accounts.

▪ **Recommendation 8**

- Institutions in all sectors are required to:
 - Set policies or take adequate measures to prevent the misuse of technological developments in ML or TF.
 - Set procedures to deal with any particular risks pertaining to non face-to-face business relationships or transactions and to apply such procedures when establishing customer relationships and when conducting ongoing CDD measures.

3-2-3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	NC	<ul style="list-style-type: none"> – Absence of legal provision that regulates the opening of numbered accounts and prohibits FIs not subject to Bank of Algeria from opening anonymous accounts with fictitious names. – Not obliging the FIs not subject to the Bank of Algeria to implement customer identification and verification requirements. – The legal and supervisory framework to which FIs are subject in AML/CFT does not include the Department of Public Treasury at the Ministry of Finance. – Not defining the concept of beneficial owner and not obliging FIs to verify if their customers are acting on behalf of other persons and to take thereafter reasonable measures to obtain sufficient data to verify the identity of such other persons. – FIs are not required to take reasonable measures towards legal persons or legal arrangements in order to understand the ownership and control structure of the customer or identify the natural persons who have actual ownership or control. – Absence of obligation on FIs to obtain information on the objective and nature of the business relationship. – Absence of obligation, through a binding text, on institutions to monitor transactions carried out during the course of the relationship in order to ensure that the conducted transactions are commensurate with their knowledge about customers, their activities and risk profiles, and if necessary, the source of funds. – The FIs are not required, through a binding text, to verify that

		<p>the documents, data or information obtained pursuant to due diligence measures are updated and consistent by reviewing the existing records, and especially the categories of high-risk customers and business relationships.</p> <ul style="list-style-type: none"> - FIs are not obliged to take enhanced CDD measures for high-risk categories of customers or business relationships or transactions. - FIs are not obliged to refrain from opening the account or establishing business relationships or executing transactions and consider submitting an STR when failing to complete CDD measures. - Not obliging FIs to identify and verify the identity of the existing customers, on basis of materiality and risk and undertake due diligence measures with regard to existing business relationships at the appropriate time.
R.6	NC	<ul style="list-style-type: none"> • Absence of obligation to put in place appropriate risk management systems to determine whether a potential customer, customer or beneficial owner is a PEP.
R.7	NC	<ul style="list-style-type: none"> • Absence of obligations pertaining to measures of cross border banking correspondent relationships, save the prohibition of banks and FIs in Algeria from establishing business relationships with foreign FIs that accept the use of their accounts by banks with no physical existence nor affiliated to a supervised financial group.
R.8	NC	<ul style="list-style-type: none"> • Absence of obligation on FIs to set and put in force policies or take measures and pay special attention to transactions based on advanced technology which may allow not mentioning the true identity. • Absence of obligation on FIs to set and put in force policies and procedures to deal with any particular risks pertaining to business relationships or non face -to-face transactions.

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

3.3.1 Description and Analysis

281. **Recommendation 9:** The Algerian legislation stipulated that FIs may not rely on third parties to perform the due diligence procedures on their behalf. The law related to AML/CFT required the FIs subject to the Bank of Algeria to carry out customer identity verification by themselves. On such grounds, these institutions are responsible for the application of all due diligence measures.

3-3-2 Recommendations and Comments

282. The evaluation team recommends the Algerian supervisory authorities to set regulatory principles and rules in case the FIs need to rely on third parties to perform the due diligence measures.

3-3-3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R. 9	NA	The existing legislations did not allow the different FIs to rely on a third party to carry out the due diligence measures or some of their elements towards their customers.

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

3-4-1 Description and Analysis

283. Banks and FIs under the Bank of Algeria are subject to the profession's secrecy by virtue of Article (117) of Order No. 11-03 for the year 2003 on cash and credit. This Article stipulates that each member in the Board of Directors, accountant and every person participating in any way in the operation of a bank or FI or is one of its users, is subject to professional secrecy under the penalties stipulated in the Penal Code. In addition, every person participating or has participated in the supervision of banks or FIs is also subject to the profession secrecy. Excluded were the public authorities authorized to appoint the persons responsible for the operation of banks and FIs, the judicial authorities operating within a criminal procedure framework, the public authorities compelled to report information to international authorized institutions, especially within the framework of combating bribery, money laundering and terrorist financing, the Banking Commission or the Bank of Algeria which operates for the account of the latter. Article (12) of the Executive Decree No. 10-93 for the year 1993 on the stock market in relation to COSOB, compelled the registered stock brokers and their registered operators, managers, directors and employees and accountants to observe the profession secrecy. Article (39) thereof compelled the committee COSOB and its external employees to observe the profession secrecy, within its monitoring framework, as this Commission may request any document or call any person who can provide it with information. With regard to insurance companies, Article (212) of Order No. 07-95 dated January 25, 1995 on insurance vests the securities inspectors affiliated with the Ministry of Finance and operating by order from the Insurance Supervisory Commission with the power of supervising the compliance of such institutions with the legal requirements pertaining only to insurance without explicitly mentioning the possibility of lifting the profession secrecy.

284. The profession's secrecy or the banking secrecy may be disregarded before the FIU pursuant to Article 22 of the AML/CFT Law no. 05-01 for 2005. Moreover, the requirements of Article 6 of the Executive Decree No. 05-06 dated January 9, 2006 including the reporting form, its content and receipt, give the FIU the right to request any useful information or document pertaining to the suspected case and assisting in the investigation process. Through the on-site visit, the evaluation team found that the FIU has actually proceeded with requesting information from the regulatory authorities and subject persons. However, according to the Algerian authorities, the FIU is not legally authorized to reply to the requests for information directed to the Unit by the rest of the competent authorities.

285. The requirements of Articles (25), (26) and (27) of the AML/CFT Law no. 05-01 for 2005 provided the FIU, the Bank of Algeria and the Banking Commission with the right to exchange information with foreign counterpart entities pursuant to the principle of reciprocity and provided that such entities are subject to the profession's secrecy under the same guarantees stipulated in Algeria. The FIU also stated that there is an agreement for exchange of information with its counterpart unit in Senegal.

286. Regarding the exchange of information among FIs pursuant to SR. VII, Article 16 of the Bank of Algeria's Regulation No. 05-05 dated December 15, 2005, obliges banks and FIs subject to the Bank of Algeria and the Algerian financial post services to ensure that bank transfers enclose information about the transferor and the transferee including the residence address. However, this regulation is not deemed an enforceable means. Therefore, there are no sufficient legal or regulatory provisions regarding the exchange of information within the scope of SR. VII.

3-4-2 Recommendations and Comments

287. The Algerian Authorities are recommended to:

- Include the obligation set out in Article 16 of the Bank of Algeria's Regulation in a primary or delegated legislation or other enforceable means

3-4-3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	LC	<ul style="list-style-type: none">• Absence of an obligation that requires bank transfers to enclose all data of the transferor and the transferee under a primary or delegated legislation or by an enforceable means.

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

3-5-1 Description and Analysis

Recommendation 10

288. **Record Keeping for Local and International Transactions:** Article 14 of Law no. 05-01 required banks and FIs under the Bank of Algeria to maintain all documents related to transactions conducted by customers for at least five years from the completion date of the transaction. This obligation has also been included in Article 8 of Regulation 05-05, whereby it has indicated that banks and FIs under the Bank of Algeria and the Algerian financial post services must maintain, for at least five years from the date of closing an account and/or following the termination of a business relationship, the documents and records on the transactions conducted by customers. However, this regulation is not regarded as an enforceable means as previously mentioned.

289. It is noted that this obligation does not include all FIs as it does not apply to other FIs such as insurance companies or financial brokerage companies and others. It is also noted the absence of obligation to maintain sufficient records to reconstruct individual transactions in order to allow, when necessary, building evidence for claim of criminal activity.

290. **Maintaining records of identity verification:** Article 14 of Law no. 05-01 obliged the banks and financial institutions subjected to Bank of Algeria to maintain documents related to the identity of customers and their addresses during a period of five years, at least, after executing the operation. This obligation has been also enlisted in Article 8 of regulation 05-05, as this Article stipulated that the banks and financial institutions subjected to Bank of Algeria and the Algerian financial post services shall maintain, during a period of 5 years after closing the accounts and/or ending the relationship, the documents related to the identity of customers and their addresses. But this regulation is not considered an enforceable means as previously mentioned. It is also noted that this obligation does not include all FIs as it does not apply to the remaining FIs such as insurance companies, financial brokerage companies and others.

291. **Providing competent authorities with the records:** Article 14 of Law no. 05-01 obliged banks and FIs subject to the Bank of Algeria to provide the competent authorities with the retained documents and records. From the text of this obligation, it can be assumed that it is requested to provide such documents and records at an appropriate time. It is also noted that this obligation does not include all FIs as it does not apply to the remaining FIs such as insurance companies, financial brokerage companies and others.

Special Recommendation VII

292. **Obtaining information about the originator and enclosing it therewith:** There is no clear legal obligation that abides the financial institutions to obtain information on the originator (name, account number or unique identification number and address of originator) and to enclose it in the transfer message or payment form accompanying the wire transfer. However, within the framework of the agreements applied to the banks which exercise this kind of operations, as denoted by the Algerian authorities, identifying the identity of the recipient and the beneficiary is mandatory in the money order or form.

293. Article (16) of Regulation 05-05 pertaining to electronic transfers and placing funds under disposal indicates that banks and FIs subject to the Bank of Algeria and the Algerian financial post services should accurately verify the identity and address of the client and beneficiary within the framework of electronic transfers whatever the used means are (SWIFTS, ARTS, ATCI) and/or by placing funds under disposal. However, this regulation is not an enforceable means as previously mentioned.

294. Through our onsite visit to the financial sector, it was indicated that the institutions performing money transfers via electronic means require the money order and the attached documents to include the full and precise information of the originator (name, address, account number or a unique reference number, if no account exists) throughout all the transaction phases. In case of refusal to provide such information, the transfer may not be performed.

295. There is no distinction concerning the value of wire transfers in Algeria (setting a certain ceiling) due to the absence of a clear legal or regulatory obligation related to obtaining information about the originator and enclosing it in the transfer message or payment form accompanying the original wire transfer. In addition, there is no distinction between regular and batch transfers. Practically, it is not clear to the team whether batch transfers are treated as one transfer or each transfer included in the batch is treated separately.

296. **Local wire transfers:** Because of the absence of a clear legal or regulatory obligation related to obtaining information about the originator and enclosing it in the transfer message or payment form accompanying the wire transfer, there is no distinction concerning the obligations related to SR. VII between local wire transfers and cross-border wire transfers. It is enough to mention only the originator account number or his unique reference number in the transfer message or payment form, on condition of providing all the required information about the originator within three working days to the competent authorities or beneficiary financial institution.

297. There is no obligation that abides every brokerage and beneficiary financial institution in the payment chain to verify all the information related to the money order and accompanying the wire transfer being sent with such transfer. Thus, there is no obligation on these institutions to maintain the information they receive from the issuing financial institution for five years in the cases where technical restrictions prevent sending full information on the originator.

298. **Adopting efficient measures based on risks to identify the transfers lacking information:** The team was not provided with any legal or regulatory provision on obligating the beneficiary financial institutions to adopt efficient measures regarding the level of risks to identify the transfers lacking full information on the originator and dealing with them. Moreover, there is no obligation on these institutions to look into restricting or terminating business relationships with the financial institutions which do not abide by the criteria of SR. VII.

299. Algeria does not have any effective measures to efficiently monitor the compliance of financial institutions with the rules and regulations related to the application of SR. VII. There are no measures related to imposing sanctions in this regard because of the absence of clear legal or regulatory obligation related to obtaining information about the originator and enclosing it in the transfer message or payment form accompanying the original wire transfer.

3-5-2 Recommendations and Comments

300. **It is recommended to:**

Recommendation 10

- Expand the obligation of financial institutions to keep all documents related to transactions so that it includes all other FIs and in particular, insurance, financial brokerage institutions and others.

- Expand the obligation of financial institutions to keep documents related to the identity of customers so that it includes all other FIs and in particular, insurance, financial brokerage institutions and others.
- Expand the obligation of financial institutions to provide the competent authorities with the records so that it includes all other FIs and in particular, insurance, financial brokerage institutions and others.

Special Recommendation VII

- Set a clear legal obligation, or by another enforceable means, oblige the financial institutions to obtain the full information on the originator and enclose it in the transfer message or payment form accompanying the wire transfer according to the requirements of SR. VII.
- Set an obligation on each brokerage and beneficiary financial institution in the payment chain to verify all the information related to the originator and accompanying it is sent with such transfer.
- Set an obligation on brokerage and beneficiary financial institutions in the payment chain to maintain the information they receive from the issuing financial institution for five years in the cases where technical restrictions prevent sending the full information on the originator.
- Set an obligation on the beneficiary financial institutions to adopt efficient measures concerning the level of risks to identify the transfers lacking full information on the originator and dealing with them.
- Set an obligation on the beneficiary financial institutions to look into restricting or terminating the business relationships with the financial institutions which do not abide by the criteria of SR. VII.
- Set applicable measures to effectively monitor the compliance of financial institutions with the rules and regulations related to the application of SR. VII.
- Set measures related to imposing sanctions to efficiently monitor the compliance of financial institutions with the rules and regulations related to the application of SR. VII.

3-5-3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R 10	PC	<ul style="list-style-type: none"> • The obligation to retain documents pertaining to transactions does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others. • The obligation to keep documents relating to identity of customers does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others. • The obligation to make records available for competent authorities does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others.
SR. VII	NC	<ul style="list-style-type: none"> • No clear legal obligation was set or any other enforceable means that abides the FIs to obtain full information on the originator and include it in the transfer message or the form accompanying the wire transfer. • No obligation that imposes on each intermediary or beneficiary financial institution in the payment chain to verify that all full information on the originator and the accompanying information are sent with the transfer.

		<ul style="list-style-type: none"> ● No obligation on FIs, intermediaries and beneficiaries in the payment chain, to keep for a period of 5 years the information they receive from the FI issuing the transfer in the cases where technical restrictions prohibit sending full information on the originator. ● No obligation on beneficiary FIs to adopt effective procedures that rely on the risk level to identify wire transfers that do not include full information on the originator and take action in this regard, ● No obligation on beneficiary FIs to look into restricting or terminating the business relationship with FIs that do not comply with SR. VII requirements. ● Algeria does not have any measures in force to effectively monitor the compliance of FIs with rules and regulations related to the application of SR. VII. ● Algeria does not have any measures related to imposing sanctions to monitor the compliance of FIs with the rules and regulations related to applying SR. VII.
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Unusual and Suspicious Transactions

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

3-6-1 Description and Analysis

Recommendation 11

301. In case of transactions performed under unusual or unjustified circumstances or seem to lack a clear economic or legal purpose, Article 10 of Law 05-01 obliged banks, FIs and equivalent FIs (the FIs subject to the Bank of Algeria) to inquire about the source and destination of funds as well as the purpose and identity of the concerned parties and to issue and maintain a confidential report without prejudice to the reporting obligation. Article 10 of Regulation 05-05 tackled the same issue, as it obliged such institutions to report to the FIU about suspicious transactions.

302. From the foregoing, it is noticed that such obligation is not comprehensive as it only addressed the FIs subject to the Bank of Algeria and not all FIs.

303. Moreover, this obligation did not require the concerned institutions to make such findings available to the competent authorities and auditors for a period of at least five years.

Recommendation 21

304. The AML/CFT system in Algeria did not include any obligation for FIs to pay special attention to business relationships and transactions performed with persons (including legal persons and other FIs) in or from countries that do not apply or insufficiently apply FATF Recommendations. Moreover, the system lacked an obligation that requires measures to examine the background and purpose of such transactions and to set forth their findings in writing and to make the same available to competent authorities (such as the supervisory entities, the law enforcement agencies and the FIU) and auditors.

3-6-2 Recommendations and Comments

305. It is recommended to:

▪ Recommendation 11

- The Algerian authorities should oblige all FIs expressly to examine unusual transactions that lack clear economic justifications and to examine the background and purpose of such

transactions, set forth their findings in writing and make the same available to competent authorities and auditor, while retaining them for a period of at least 5 years.

▪ **Recommendation 21**

- Oblige all FIs to comply with the required measures regarding the business relationships and transactions with persons (including legal persons and other FIs) belonging to or from countries that do not apply or insufficiently apply the FATF Recommendations and to establish efficient applied measures that ensure that such institutions are aware of the concerns related to weaknesses in the AML/CFT systems in other countries and if such transactions have economic or legal purpose.
- Oblige FIs to examine the background and purpose of such transactions, set forth their findings in writing and to make the same available to competent authorities.
- Find a mechanism or a set of procedures that can be taken by the Algerian authorities to apply counter-measures against countries that do not apply or insufficiently apply FATF recommendations.

3-6-3 Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R. 11	PC	<ul style="list-style-type: none"> • Failure to require FIs to examine the background and purpose of such transactions, set forth their findings in writing and make them available to competent authorities. • Absence of an express provision that requires maintaining reports on unusual transactions for a period of five years.
R.21	NC	<ul style="list-style-type: none"> • Absence of an obligation for FIs to pay special attention to business relationships and transactions with persons (including legal persons and other FIs) from countries or residing in countries that do not apply or insufficiently apply the FATF Recommendations. • Absence of an obligation to examine the background and purpose of such transactions.

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

3-7-1 Description and Analysis

Recommendation 13 and Special Recommendation IV

306. **The Obligation of reporting:** The FIU was established in Algeria by virtue of the Executive Decree No: 127-02 dated April 7, 2002 and its amendments in the Executive Decree No.: 275-08 dated September 6, 2008. Such executive decree along with Article 20 of Law 05-01 entrusted the unit with the task of receiving Suspicious Transaction Reports (STRs) (which it had obligated the entities specified in Article 19) pertaining to each transaction related to funds suspected of being the proceeds of a felony or misdemeanor, especially the organized crime or the traffic in narcotic drugs and psychotropic substances or funds that seem to be directed to TF. The entities subject to the reporting obligation have been designated by virtue of Article (19) of Law 05- 01 which included such entities as banks and other FIs governed by the Bank of Algeria, the Algerian financial post services, equivalent FIs, insurance companies, exchange offices, cooperatives, exchange assistants, stock brokers and billing institutions. Such reporting of suspicion should be made immediately upon the mere occurrence of the suspicious transaction even if the execution of such transaction cannot be delayed or after its completion. All information supporting or denying the presence of suspicion must also be submitted immediately.

307. Although Article (4) of Law 05-01 defined the predicate offense as any crime, even if committed abroad, that allows its perpetrator to obtain funds, the scope of the predicate offense for the ML crime does not include all (20) designated categories since: (1) illicit trafficking in stolen and other

goods and (2) piracy are acts non-criminalized in the Penal Code or any other laws in Algeria. This does not comply with the requirements of R.13, which requires the reporting requirement to apply, at least, to the funds being the proceeds of all the designated predicate offenses in the 40 Recommendations.

308. Article (11) of Regulation No. 5-5 dated December 15, 2005 on the prevention and combating of ML/TF that is issued by the Bank of Algeria stipulated that banks and other FIs governed by the Bank of Algeria and the Algerian financial post services are legally bound by the reporting obligation in the regulatory form (reporting form) and that such institutions should inform the FIU about each transaction related to funds suspected of being the proceeds of a felony or misdemeanor, and in particular, being the proceeds of an organized crime or the traffic in narcotic drugs and psychotropic substances or seem to be directed to be used in TF. Such reporting of suspicion should be made immediately upon the mere occurrence of the suspicious transaction even if the execution of such transaction cannot be delayed or after its completion. Furthermore, all information pertaining to confirming or denying the suspicion must be immediately reported to the FIU. The form, content and receipt note of such STR were identified under the Executive Decree No. 05-06 issued on January 9, 2006. The STR included information on the reporting institution, data on the suspicious persons and transactions, the reasons for suspicion and other information. It is worth mentioning that this regulation cannot be regarded as a primary or delegated legislation, or one of the other enforceable means as discussed before.

309. It was clear to the evaluation team, through the onsite visit to a number of FIs, that this form has been circulated in such institutions, especially banks. The total number of STRs received by the FIU since its establishment till the on-site visit in the last month of 2009 reached 510 STRs, 479 of which are from banks and 5 of which are from the Algerian financial post services (The statistics provided did not differentiate between the STRs related to ML and those related to TF). However, it was noted the lack of any notification from any FIs other than banks and the Algerian financial post services. Moreover, the on-site visit to a number of the FIs subject to the reporting obligation evoked a number of questions about the nature of the submitted STRs as one of the banks indicated that it had submitted 180 STRs in 2009 out of 262 that were submitted during the same year to the FIU, while that same bank submitted in 2007 and 2008 only 17 and 1 STR(s) respectively. By talking to a number of banks, it was noted that a part of such STRs pertains to issues related to the Exchange Law. The weak level of reporting can be justified (in terms of quantity and quality) on the part of banks and FIs by the low level of their employees' awareness on ML/TF risks, and the absence of any obligation to check the transactions that occur during the relationship in order to ensure the consistency of transactions with the institution's knowledge of the customers, their activity and risk profile, including and if necessary, the source of funds.

310. The non-existence of STRs from FIs other than banks and the Algerian financial post services can be attributed to the fact that such institutions are not required to bind to all the obligations imposed on banks, except the reporting obligation, which does not motivate them to improve the internal controls and monitor transactions in the AML/CFT framework, which in turn reduces the potential identification of suspicious transactions. Moreover, the absence of STRs from such institutions is attributed to the low level of awareness of ML/TF risks. As an example, during a visit to one of the insurance companies, its Chairman stated that he does not consider himself legally eligible to request the client's ID. We refer here, once again, to the inefficiency of processing STRs on part of FIU as previously mentioned under R.26 related to FIU.

311. **Reporting funds suspected of being connected to terrorism and terrorism financing:** Law 05-01 obliges in its article 20 the entities provided for in article 19 with the obligation of reporting every transaction related to funds and seems to be directed to financing terrorism. The evaluation team finds it limited whereby SR.IV requires requesting FIs by virtue of law or regulation to report the FIU if it has suspected or had reasonable grounds to suspect the funds being linked to terrorism or terrorist activities or that will be used in terrorist acts by terrorist organizations or financiers. Therefore, the

reporting obligation should extend to include the funds' connection to terrorism or terrorist acts or their use by terrorist organizations or financiers whereby the definition of terrorism financing in article 3 of Law 05-01 included only the use of funds to commit acts described as terrorism or vandalism acts.

312. **Reporting suspicious transactions regardless of their value:** Law no. 05-01 does not provide for a threshold as a condition to submit STRs; however, the reporting obligation did not include the attempts to commit suspicious acts regardless of the value of the transaction.

313. **Reporting suspicious transactions regardless of involving tax issues:** Article 19 and 20 of Law 05-01 requires the abovementioned reporting entities to notify the FIU of any suspected ML/TF transactions without excluding any suspicious transactions, even if they involve tax issues.

314. In this framework, we point out that Article 21 of Law 05-01 compelled the tax and customs authorities to send a confidential report immediately to the FIU as soon as they detect, during the verification and supervision tasks, that there are funds or transactions suspected to be the proceeds of a misdemeanor or felony, or seem to be directed to terrorism financing. This Article is also applied through regulation. The decision dated March 30, 2008 issued by the Minister of Finance specified the conditions of applying this Article. This decision emphasized the commitment of the said tax and customs authorities, including the data that must be mentioned in such report such as verification of identity, address, place and nature of business, nature and value of the declared income, the real and/or acquired or assigned properties during the period of tax supervision and control. The report also must include data on the banking account statement, saving accounts and postal current accounts or otherwise owned by the monitored person and the persons belonging to his taxable income and shares in different companies and any luxury appearances. The evaluation team found out that the tax authorities have reported only one suspicion since it became subject to such obligation by virtue of the law.

Additional Elements

315. **Reporting the proceeds of a criminal act that represents locally a ML predicate offense:** Article 20 of Law 05-01 stipulates the obligation to report funds or transactions suspected to be the proceeds of a felony or misdemeanor, especially the organized crime or trafficking in drugs or psychotropic substances.

Recommendation 14

316. **Protection from criminal and civil liability in case of any breach of the disclosure:** Article (23) of Law 05-01 stipulated that no action may be taken against the persons, managers or employees subject to the reporting obligation for breach of banking or profession secrecy when any of those persons submits in good faith information or reports suspicious transactions according to the provisions of the subject law. Article 24 of the same law stipulates that the administrative, civil, or criminal responsibility shall be relieved from every natural or legal person subject to the subject law when any of those persons acts in good faith. Such relief from responsibility shall be ongoing even if the investigations did not yield any results. Article (15) of Regulation 05-05 issued by the Bank of Algeria and addressed to banks and other FIs subject to the Bank of Algeria and the Algerian financial post services stipulated the full protection of any report of suspicious transaction in good faith, even if the report was in vain.

317. **Prevention from Tipping off:** Article (33) of Law 05-01 stipulated the punishment of the managers and employees of the FIs subject to the obligation of reporting suspicion who intentionally, notified the owner of suspicious funds or transactions, about the existence of the STR or the data related therewith, with a fine at the amount of DZD 200,000 – 2,000,000 without prejudice to more severe sanctions or any other disciplinary sanction. Within the framework of the profession secrecy, Article 13 of Regulation 05-05 issued by the Bank of Algeria included that the reporting should be only addressed

to the FIU and is included in the related monitoring within the profession secrecy; The customer or the beneficiary may not peruse the same.

Recommendation 25:

318. **Providing Feedback:** Save the receipt note of submitted report, whose form was included in the executive decree No. 05-06 issued on January 9, 2006, the FIU did not provide any sufficient feedback whether general feedback that includes statistics on the number of reported cases with the appropriate details and results of the reported cases or information on the current general techniques, methods and trends, or real examples of ML cases, sufficient and appropriate to assist the financial institutions that are required to report the suspicious transactions, or specific feedback or feedback for each case separately.

Recommendation 19:

319. **Considering the feasibility of a reporting system of cash transactions that exceed a certain limit:** The evaluation team found no proof showing that the Algerian Authorities have considered the feasibility of implementing a system obliging financial institutions to report all cash transactions whose amount exceeds a certain limit to a national central committee, equipped with an electronic database.

3-7-2 Recommendations and Comments

320. **The Algerian Authorities are recommended to:**

R. 13 and SR. IV:

- Criminalize the crime categories mentioned in Section 2-1 so that they cover all the twenty predicate offences (See Section 2-1).
- Extend the range of TF crimes so that they cover the funds connected to terrorism or terrorist acts or their use by terrorist organizations or financiers of terrorism.
- Oblige the financial institutions subject to the reporting obligation to report suspicious transactions when suspecting attempts of conducting suspicious transactions.
- Increase awareness of the institutions under the reporting obligation to the cases worth reporting, the identification of suspicious transactions and the other obligations related to AML/CFT and their importance, in particular, the obligations related to due diligence towards the clients. These institutions should be aware of the risks they could be exposed to as a result of not reporting suspicious transactions.

Recommendation 25:

- The FIU and the financial sector's supervisory authorities must inform the financial institutions subject to the reporting obligation about ML/TF indicators.
- Provide feedback to the financial institutions subject to the reporting obligation through providing guidance to assist them in setting forth the measures they may take in future transactions, through specific feedback or on a case by case basis.

Recommendation 19:

- Consider the implementation of a system obliging financial institutions to report all cash transactions exceeding a certain limit to a national central committee.

3-7-3 Compliance with Recommendations 13, 14, 19 and 25 (criterion 25.2), and Special Recommendation IV.

	Rating	Summary of factors underlying rating
R.13	PC	<ul style="list-style-type: none"> • Inadequate range of the ML predicate offenses • The scope of TF crime does not include funds linked to

		<p>terrorism or terrorist acts or used by terrorist organizations or those who finance terrorism</p> <ul style="list-style-type: none"> • Absence of any obligation to report attempts of suspicious transactions. • The legal and supervisory framework, which the FIs are subject to in AML/CFT related issues, does not include the Department of Public Treasury at the Ministry of Finance. • Issues related to effectiveness: <ul style="list-style-type: none"> - Absence of the reporting by any FIs other than banks and the Algerian financial post services which limits the system effectiveness. - Doubts about the nature of STRs sent to the FIU by banking institutions. - Inefficiency of processing STRs by the FIU.
R.14	C	
R.19	NC	<ul style="list-style-type: none"> • No consideration was given to the implementation of a system obliging FIs to report all cash transactions, which amount exceed a certain limit to a national central committee.
R.25	NC	<ul style="list-style-type: none"> • Absence of sufficient feedback to the reporting entities regarding the STRs, save the receipt note of the STR.
SR.IV	PC	<ul style="list-style-type: none"> • The scope of TF crime does not include the link of funds to terrorism or terrorist acts or their use by terrorist organizations or those who finance terrorism. • Absence of any obligation to report attempts of suspicious transactions.

Internal controls and other measures

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

3-8-1 Description and Analysis

Recommendation 15

321. **Setting policies, procedures and internal controls:** Article (12) of Law 05-01 stipulates that the Banking Commission should take a disciplinary measure according to the law against the bank or other FI under the Bank of Algeria that have inadequate internal procedures of monitoring in the field of reporting suspicious transactions. The same Article stipulated that the Banking Commission should ensure that the banks and other FIs under the Bank of Algeria have adequate programs to detect and prevent ML/TF.

322. Article (1) of Regulation No. 05-05 issued by the Bank of Algeria on December 25, 2005 concerned with AML/CFT stipulated that the banks and other FIs under the Bank of Algeria and the Algerian financial post services should have a written program for detecting and combating ML/TF. This program should include the procedures, monitoring processes and the due diligence measure for customer identification and providing appropriate training for its users and a relationship system (correspondent and reporting of suspicion) with the FIU.

323. The evaluation team noticed that some banks and other FIs under the supervision of the Bank of Algeria such as the financing leasing companies have set AML/CFT programs. However, such programs differed in their level and requirements and the authority that ratified them. Only some of the programs abided by all or some of the national requirements set out in the Algerian legislation, while other institutions abided by larger and wider requirements imposed by the Algerian legislation that comply with the international standards since they are companies or branches of foreign companies existing outside Algeria. This was clear in the reference to some of these programs as one indicated clearly that compliance with the AML/CFT measures is a result of the fact that such bank is part of a certain banking group that complied with the international requirements and the requirements of the

country of the headquarters of such banking group. It was also noticed that some of these programs included requirements not approved by the Algerian legislation such as PEPs and covered transactions not performed by these banks in Algeria.

324. Regarding the FIs not subject to Bank of Algeria such as the insurance companies and stock intermediaries, these entities are not required by any legal or regulatory provision to set policies, procedures and internal controls. By visiting a number of these FIs, the evaluation team noticed the low awareness level of ML/TF matters, hence the absence of AML/CFT programs. As stated above, such low awareness level may be due to the fact that these institutions are not required to abide except by the reporting obligation.

325. Article (18) of the abovementioned Regulation No. 05-05 stipulated that banks and other FIs subject to the Bank of Algeria and the Algerian financial post services are required to appoint at least one compliance officer to be responsible for ensuring AML/CFT compliance and report to the FIU. There was no evidence to the evaluation team that this regulation (or any other legal or regulatory text) grants such person the right to timely access to the customer identity data, due diligence information, records of transactions and other relevant information. Some of these institutions have appointed a compliance officer, yet it was noticed that such officer is usually assigned with this responsibility in addition to other duties. It is to mention here that such regulation is not among the primary or delegated legislations and cannot be considered among the other enforceable means, according to what has been previously discussed.

326. As for the FIs not subject to the Bank of Algeria such as the insurance companies and stock brokers, no legal or regulatory provision required them to appoint a compliance officer for the AML/CFT procedures. The evaluation team did not find any evidence that any of these institutions has appointed a compliance officer.

327. **Establishing an independent audit unit:** The evaluation team found no evidence that the financial institutions are required to establish an independent audit unit that is provided with sufficient resources to verify the compliance with AML/CFT procedures, policies and controls. Moreover, the team found no evidence that the FIs have established such a unit.

328. **Setting an ongoing training program:** Article (17) of the abovementioned Regulation No. 05-05 requires the banks and other financial institutions subject to the Bank of Algeria and the Algerian financial post services to set continuous training programs to adequately qualify their employees on the AML/CFT regulation. The content and agenda of such programs should be compatible with the special needs of each institution. Article (18) of this regulation obliged such institutions to ensure notifying all their employees with their procedures. It is to mention here that such regulation is not among the primary or delegated legislations and cannot be considered among the other enforceable means according to what has been previously discussed.

329. It was evident to the evaluation team the few number of training programs in which the employees of financial institutions subject to the Bank of Algeria participated in, whether the programs organized by the FIU or the supervisory bodies (the Bank of Algeria) or the institutions themselves, which affected the extent of compliance of such institutions with the AML/CFT procedures. It is worth mentioning that the FIU has organized one training program for the financial institutions. The degree of commitment in providing training is different between banks; it was noticed that the banks affiliated with foreign groups are more committed to providing training.

330. Regarding the FIs not subject to the Bank of Algeria such as the insurance companies and stockbrokers, such institutions are not obliged to set an ongoing training program for their employees to ensure their awareness of the latest developments pertaining to ML/TF. The evaluation team noticed a complete absence of such training programs in these institutions.

331. **The application of procedures to ensure high standards of competency when recruiting employees:** Article 80 of Order 11-03 issued on August 26, 2003, including the law on Money and Credit, prohibited any person from being a founder of a bank or financial institution subject to the Bank of Algeria or member in its Board of Directors or to manage, operate or represent directly or on behalf of another person a bank or institution in any capacity or to be authorized to sign on its behalf without prejudice to the conditions specified by the Council on Money and Credit through the systems for the employees in such institutions if such person was convicted by the Algerian judiciary or the foreign judicial entities for committing a felony, embezzlement, treachery, robbery, issuance of a bad check, betrayal of trust, deliberate restraining by public trustees or the racketeering of funds or values, bankruptcy, violation of the legislation or regulation related to exchange, fraud of instruments or fraud of special commercial or banking instruments, violation of the laws of companies, concealing funds received as a result of one of these violations or any violation related to trafficking in drugs and money laundering and terrorism. Or if such person declared his bankruptcy or was sentenced by a civil liability as a member in a bankrupt legal person whether inside or outside Algeria, unless rehabilitated. The evaluation team did not find evidence on the existence of procedures that ensure the existence of high standards of efficiency for employees, other than the top management at banks and FIs subject to the Bank of Algeria, upon their recruitment.

332. Article 5 of the system related to the conditions of the authorization of stockbrokers and their duties and monitoring issued by COSOB on July 3, 1996 stipulated that the natural persons who wish to practice the activity of brokerage in stock market transactions must comply with the required ethics and integrity to guarantee the protection of the traders. Article 37 of the same system also required that the stockbrokers and qualified employees should comply with the profession's code of honor through their acts and behavior. Regarding the high standards of efficiency, the abovementioned Article 5 indicated that the natural persons should hold a bachelor degree in higher education or its equivalent. Moreover, Article 8 obliged the candidates nominated by the stockbrokers to act as a negotiator or operator of stocks, to have successfully completed a qualification course in stock trading and operation, plus having sufficient experience in their career.

333. Regarding the insurance sector, no information was available to the evaluation team on the existence of high criteria of integrity and efficiency when appointing employees.

334. **Additional Elements:** The evaluation team did not find any legal or regulatory provision permitting the AML/CFT compliance officer to work independently and to communicate with an administrative level higher than the level right above him or the Board of Directors.

Recommendation 22

335. **Obligation of branches and affiliate companies abroad to comply with the combating measures:** Neither Law 05-01 dated February 6, 2005 nor any other provision stipulates any obligation on the branches and affiliate companies of FIs abroad to consider the application of the AML/CFT measures to comply with the Algerian requirements and the FATF Recommendations to the extent permissible by the local laws and regulations in force in the hosting country. The FIs are not required to pay special attention with regard to their branches and affiliate companies operating in countries that do not apply or insufficiently apply the FATF Recommendations. Moreover, such institutions are not required to ensure that their branches and affiliate companies in the hosting countries apply the higher standard to the extent permissible by the local laws and regulations (i.e. the laws and regulations in force in the hosting country) whenever the AML/CFT requirements are different between the mother country and host country.

336. **Notifying the regulatory entity in the mother country about the inability of the branch or affiliate company to execute the combating measures:** The subject institutions under Law no. 05-01 are not required to notify the supervisory entities when one of the branches or affiliate of an Algerian financial institution is unable to execute the adequate AML/CFT measures because the laws, regulations or other local measures in force in the hosting country prohibits that.

337. It was evident to the evaluation team the existence of Algerian FIs, which have branches and affiliate companies, such as BEA (Banque Exterieur d'Algerie) which owns many affiliate companies and international contributions, such as BIA PARIS and others

Additional Elements

338. The evaluation team was not informed of any provision that expressly requires the FIs operating in Algeria and their foreign branches and affiliate companies under the main principles to implement due diligence measures in a compatible manner on the level of the group, while taking into consideration the customer's business with the branches and affiliate companies they own therein the share of the majority all over the world.

3-8-2 Recommendations and Comments

339. The Algerian authorities should:

Recommendation 15:

- Oblige the FIs operating in Algeria to set AML/CFT internal policies and procedures. Verify that such institutions have set these policies and procedures according to the type of their activities.
- Oblige the FIs operating in Algeria to appoint a compliance officer for the AML/CFT procedures through binding provisions.
- Oblige FIs, through binding texts, to set internal controls and procedures to ensure that the compliance officer reviews the customer identification data and other available information in a timely manner pursuant to the application of due diligence measures and reviews the transaction records and other information.
- Oblige FIs to establish an independent audit unit provided with sufficient resources to test the compliance with AML/CFT procedures, policies and controls.
- Oblige FIs, through binding provisions, to set ongoing training programs in the AML/CFT field.
- Pay special attention to training in the AML/CFT field, as the low level of training programs in the FIs subject to the Bank of Algeria and its complete absence in other FIs were noticed.
- Oblige all FIs to apply procedures to ensure the application of high-level standards of efficiency and integrity when recruiting new employees.

Recommendation 22:

- Work on applying AML/CFT requirements to include foreign branches and affiliate companies of all banking and financial institutions.
- Stipulate expressly the application of due diligence in the event of practicing business in countries that do not apply or insufficiently apply AML/CFT standards issued by the FATF.
- Expressly stipulate that the foreign branches and subsidiary companies apply the higher standards, whenever possible, in case the AML/CFT requirements are different in the hosting country.
- Oblige banking and financial institutions to notify the regulatory authorities in Algeria when a branch or subsidiary company cannot execute adequate AML/CFT procedures as a result of prohibiting the applicable laws, regulations or measures in the hosting country.

3-8-3 Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	PC	<ul style="list-style-type: none"> • No obligation on all the FIs operating in Algeria to set AML/CFT internal policies and procedures. • No obligation on the FIs operating in Algeria to appoint a compliance officer for the AML/CFT procedures through binding texts. • No obligation on FIs through binding texts to set internal controls and procedures to ensure that the compliance officer reviews, in a timely manner, the customer identification data and other available information as a result of the application of due diligence measures and reviews the transaction records and other information. • No obligation on FIs to establish an independent audit unit provided with sufficient resources to test the compliance with AML/CFT procedures, policies and controls. • No obligation on FIs to set an ongoing training program for employees to update them with the latest developments in ML/TF. • No special attention is given to training in the AML/CFT field. • No obligation on all FIs to apply procedures to ensure the existence of high-level standards of efficiency and integrity upon recruiting employees.
R.22	NC	<ul style="list-style-type: none"> • No obligation to apply AML/CFT requirements on foreign branches and subsidiary companies of banking and financial institutions. • No explicit provision exists on performing due diligence in the event of practicing business in countries that do not apply or insufficiently apply the FATF standards. • No explicit provision on foreign branches and affiliate companies to apply highest standards possible in case of discrepancy in the AML/CFT requirements in the hosting country. • No obligation on banking and financial institutions to notify the supervisory authorities in Algeria when a branch or subsidiary company cannot execute adequate AML/CFT procedures as a result of prohibiting the applicable laws, regulations or measures in the hosting country.

3.9 Shell Banks (R. 18)

3-9-1 Description and Analysis

340. Algeria prohibits the establishment of banks with no physical existence. It also prohibits dealing with such banks. Article 59/ paragraph 1, of ML/TF Prevention Law No. 06-01 dated February 20, 2006 stipulated that it is not allowed in Algeria to establish banks with no physical existence that do not belong to a financial group that is subject to monitoring. Paragraph 2 of the said article stipulated that banks and FIs established in Algeria are not licensed to establish relationships with foreign FIs that allow the use of their accounts by banks that neither have physical existence nor belong to a regulated financial group.

341. Article (9) of Regulation 05-05 dated December 15, 2005 issued by the Bank of Algeria (which cannot be considered as an enforceable means as previously discussed) stipulated that banks, and intermediary and authorized FIs must gather sufficient information about the correspondent banks. The authorized intermediary may establish relationships with foreign banking institutions provided the latter are monitored by competent authorities and cooperate within the framework of a national AML/CFT system.

342. The evaluation team noticed that although Banks and FIs established in Algeria are not licensed to establish relationships with foreign FIs that allow the use of their accounts by banks with no physical existence or not belonging to a regulated financial group, the legal provision did not explicitly stipulate the prohibition of banks and FIs established in Algeria from entering into a correspondent relationship or continuing in such relationship with shell banks.

343. The evaluation team did not find evidence on how the FIs make sure that the correspondents FIs in a foreign country do not allow shell banks to use their accounts.

3-9-2 Recommendations and Comments

344. **The Algerian Authorities are recommended to:**

- Explicitly oblige all banks and FIs not to enter into a correspondent relationship or continue in such a relationship with shell banks.

3-9-3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	LC	<ul style="list-style-type: none"> • Explicit non obligation of all banks and FIs not to enter into a correspondent relationship or continue in such a relationship with shell banks.

Regulation, supervision, guidance, monitoring and sanctions

3-10 The supervisory and oversight system – competent authorities and Self Regulating Organization’s Role, functions, duties and powers (including sanctions) (R. 23, 29, 17 & 25)

3.10.1 Description and Analysis

Recommendations 23 and Recommendation 30:

345. **Subject to sufficient regulation and monitoring:** Regarding the regulatory entities, the Banking Commission presided over by the Governor of the Bank of Algeria assumes the supervisory role over the banks and FIs licensed and authorized by the Bank of Algeria through the General Directorate of Inspectorate General in the Bank of Algeria. On the other hand, the Commission for the Organization and Surveillance of Stock Market Transactions (COSOB) supervises and regulates the stock brokers. The Insurance Commission supervises the insurance sector, while the ratification of regulations thereof and the licensing of insurance companies and insurance agents are conducted by the Minister of Finance. The FIU was not entrusted with any regulatory role in the AML/CFT field.

346. **The Central Bank of Algeria:** The Bank of Algeria, through the Council on Money and Credit, is considered the legal authority responsible for licensing and authorizing banks and FIs subject to the Bank of Algeria, the opening of branches of banks and foreign FIs and offices to represent them. The Banking Commission is responsible for the supervision of banks and FIs, as stipulated by Article (105) of the Law on Money and Credit passed by virtue of Order 11-03 dated August 26, 2003.

347. Article 105 of the Law on Money and Credit designated the duties of the Committee in monitoring the compliance of banks and FIs with the subject legislative and regulatory provisions, imposing penalties for detected violations and inspecting the conditions of the use of banks and FIs and their financial status. It shall also work on ensuring compliance with the profession’s progress, and surveys, when necessary, the violations committed by non-licensed persons who perform the activities of the bank or financial institutions without being approved. Such persons shall be punishable by the disciplinary sanctions stipulated in the Law on Money and Credit without prejudice to the other criminal and civil sanctions.

348. The Banking Commission is made up of the Governor of the Bank of Algeria as the President of the Commission, three members who are selected based on their qualification in the banking, financial and accounting fields and two judges who are delegated from the Supreme Court and selected by the First President of this court after consulting the Supreme Judiciary Council. The President of the Republic shall appoint the members of the Commission for five years. The Commission is supplied with General Secretariat whose powers, regulation and functions are specified by the Board of Directors of the Bank of Algeria pursuant to the Commission's proposal. The Commission takes its decision by the majority; only the Commission's decisions pertaining to the appointment of a temporary manager or liquidator and the disciplinary sanctions may be judicially challenged.

349. The Commission is responsible for monitoring banks and FIs based on documents (offsite inspection) and onsite (onsite inspection) as the Bank of Algeria is entrusted with regulating this monitoring for the Commission through its employees and the Commission may appoint any person of its choice. The Commission regulates its monitoring process programs and has the power to request from banks and FIs all the necessary information, evidence and proofs to proceed with its task and may request from each concerned person to provide it with any document or information. The secrecy of the profession may not be used to hold requested information from the Commission. The Commission extends its investigations to contributions and financial relationships between the legal persons who have direct or indirect control over a bank or financial institution and to their affiliate branches. The monitoring of the Banking Commission may also extend, within the framework of international agreements, to include the branches of Algerian companies residing abroad.

350. If any of the institutions subject to the control of the Commission fails to comply with the rules governing the operation of the profession, the Commission shall address a warning to such institution after giving a chance to its managers to submit their reasons. The Commission may also call upon any bank or financial institution subject to the Bank of Algeria to take all measures within a specific period to retrieve or support its financial balance or remedy the techniques of its operation. Furthermore, the Commission may appoint a manager and provide him with all the necessary powers to manage and operate the business of the concerned institution or its branches in Algeria.

351. As stated above, the Bank of Algeria regulates such monitoring for the Commission through its employees. Within such framework, the General Directorate of Inspectorate General in the Bank of Algeria performs this task, as it consists of a number of departments and is represented in an external department which is responsible for monitoring the banks, implementing the exchange law and the external trade and an internal department which is responsible for internal monitoring in the Bank of Algeria in addition to three directional departments (in the western, eastern and middle parts of Algeria).

352. **Monitoring the insurance companies:** The insurance market is subject to the provisions of Order No. 07-95 issued on January 25, 1995 and completed in Law No. 04-06 issued on February 20, 2006. The insurance sector was monitored by the Minister of Finance before the issuance of Law 16-04 in 2006, which entrusted the Insurance Supervisory Commission with monitoring the insurance sector. Such Commission started functioning in 2008.

353. This monitoring aims at protecting the interests of the insured and the beneficiaries from the insurance contract by ensuring the legitimacy of the insurance transactions and the operation of the insurance companies. It also aims at promoting and developing the insurance national market to be part of the economic and social activity. The Insurance Supervisory Commission is responsible for: 1) ensuring the compliance of certified insurance companies and brokers with the legislative and regulatory provisions pertaining to insurance and reinsurance, 2) ensuring that such companies fulfill and are still capable of fulfilling their obligations towards the insured, 3) verifying the information about the source of funds used in creating or increasing the capital of an insurance and/or reinsurance company.

354. The Insurance Supervisory Commission consists of five members, including the President of the Commission, who are selected according to their qualifications especially in the fields of insurance, law and finance. The Commission consists of two judges recommended by the Supreme Court, a representative of the Minister of Finance and an expert in the insurance field recommended by the Minister of Finance. The list of names designates the members of the Insurance Supervisory Commission by virtue of a presidential decree pursuant to a recommendation by the Minister of Finance.

355. The Insurance Supervisory Commission shall assume its role through the employees of the Insurance Directorate in the Ministry of Finance. Such directorate is deemed a tool under the control of the Insurance Supervisory Commission. Moreover, the entity which performs the monitoring (the Insurance Supervisory Commission) and the entity which regulates this sector (the National Insurance Board) assume their roles separately.

356. The National Insurance Board deliberates in all issues related to all aspects of the insurance and reinsurance activity and the issues related to those involved in this field. The National Insurance Board may submit to the Minister of Finance all suggestions that aim at setting up measures to regulate the insurance activity as well as proposing all measures related to the technical and financial rules aiming at improving the general circumstances of the operation of the insurance and reinsurance companies and brokers, the general conditions of the insurance contracts and definitions and regulating the prevention of risks. The Minister of Finance issues the instructions and regulations for the insurance sector.

357. The National Insurance Board is presided over by the Minister of Finance and made up of the President of the Insurance Supervisory Commission, the insurance director at the Ministry of Finance, representative of the Bank of Algeria in addition to representatives of the insurance companies and brokers and a number of experts. A committee called the Approval Committee was created in the Council to carry out the role of giving its opinion about granting or withdrawing any approval. This committee is presided over by the insurance director at the Ministry of Finance.

358. **Monitoring the stock market – The Algerian Stock Exchange (AlgSE):** The stock market is subject to the provisions of Legislative Decree No. 10-93 dated May 23, 1993 amended and complemented by Law 04-03 dated 17/2/2003. The Commission for the Organization and Surveillance of Stock Market Transactions (COSOB) represents the authority over the stock market, which is an independent regulatory authority that is deemed a legal person and enjoys financial independence.

359. The president of the commission is appointed for four years by virtue of an executive decree issued in the Government Council pursuant to the recommendation of the Minister of Finance. His duties may not be terminated while in office unless he commits a serious professional error or due to exceptional circumstances that are shown officially in the Government Council. The position of the President of COSOB is classified as a senior position in the State.

360. The members of COSOB are appointed for four years by virtue of a decree by the Minister of Finance according to the following distribution (Article 22):

- A judge recommended by the Minister of Justice.
- A member recommended by the Minister of Finance.
- A university professor recommended by the Minister of High Education.
- A member recommended by the Governor of the Bank of Algeria.
- A member selected from the managers of legal persons issuing stocks.
- A member recommended by the national association for expert accountants, auditors and chartered accountants.

361. The president of the commission and all permanent users may not conduct any trading transactions about acceptable stocks in the stock market. The members and employees of the

commission are subject to the profession secrecy with regard to the facts, business and information that they know by virtue of their positions.

362. COSOB's mission is to regulate and monitor the stock market by (Article 30):

1. Protecting the savings invested in stocks or other financial products within the framework of public resort to savings.
2. Ensuring the appropriate operation and transparency of the stock market.

363. COSOB regulates the operation of the stock markets, issues techniques pertaining in particular to the funds that can be invested in the stock market transactions and authorizes the stockbrokers and the applicable professional rules and the scope, content and guarantees of the responsibility of the brokers towards their clients. COSOB also sets the conditions and rules governing the relationships between the central trustee over the bonds and the beneficiaries, the rules pertaining to keeping bonds and the operation and management of the current accounts of bonds, the rules pertaining to the management of the settlement system and delivering bonds and the qualification conditions and practicing the maintenance and management of bonds. Regarding the regulations issued by COSOB, the Minister of Finance should approve such regulations before being effective. (Articles 31 and 32)

364. Regarding the role of COSOB in monitoring and regulation, the Commission must ensure that the companies, which are authorized to trade their stocks in the stock market, must abide by the legislative and regulatory provisions in force, especially in the field of stocks and holding general assemblies, forming the administrative and monitoring bodies and legal publication operations. In this framework, we mention that COSOB, the Banking Commission and the Council on Money and Credit are authorized to exchange the necessary information so that each of the two commissions and the council may perform their duties.

365. **The existence of an authority to ensure the compliance of the financial institutions with the combating requirements:** Article 12 of Law no. 05-01 issued on February 6, 2005 on the Prevention from ML/TF gave the Banking Commission the power of monitoring the existence of adequate programs for ML/TF detection and prevention in banks and FIs subject to the Bank of Algeria. It also gave the Commission the right to proceed with disciplinary actions against the bank or financial institution that proves deficiency in its internal measures pertaining to monitoring in the reporting field.

366. Moreover, Article 105 of the Law on Money and Credit gave the Banking Commission the power to monitor the extent of compliance of banks and FIs subject to the Bank of Algeria with the legislative and regulatory provisions in force and punish the surveyed violations. Among such legislative provisions are the ML/TF provisions.

367. The institutions subject to the monitoring of the Banking Commission and the Bank of Algeria are 21 banks, three of which are branches of foreign banks. They also include five financial institutions, three of which are financing leasing institutions and the other two are a mortgage refinancing institution and an investment and recruitment institution.

368. Regarding the brokerage institutions and insurance companies, Law no. 05-01 issued on February 6, 2005 on the Prevention from ML/TF did not grant any entity with any monitoring power over the compliance of such institutions and companies in the AML/CFT field, knowing that such obligations were limited in this law only to the suspicious transaction reporting. However, Article (14) of the Executive Decree No. 113-08 issued on April 9, 2008 by virtue of Article (210) of Order No. 07-95 issued on January 25, 1995 and completed in Law No. 04-06 issued on February 20, 2006, gave the Insurance Supervisory Commission the power to request from insurance companies and/or reinsurance companies and branches of foreign insurance companies, a ML prevention, detection and combating system within the framework of internal monitoring as will be mentioned later.

369. There are sixteen insurance companies, five of which are public insurance companies (4 direct insurance companies and 1 reinsurance company), seven of which are private companies, one public company specialized in insuring exports, one public company for insuring loans and two insurance cooperatives (insurance company established on cooperative basis). The market size reached 67 billion DZD in 2008, 7% thereof is for life insurance.

370. Regarding the stock market sector, six financial brokerage institutions were licensed and one new institution is affiliated with a foreign bank. There are two companies whose stocks are traded and five companies which issue bonds. The public treasury bonds were listed in the stock market in February 2008. The market value of the stocks reached USD 6,7 billion whereas the value of bonds reached DZD 84 billion and the public treasury bonds reached USD 212 billion.

The competent authorities enjoy an adequate level of structure and financial and human resources:

371. **The General Directorate for Inspectorate General in the Bank of Algeria:** As stated above, this directorate, on behalf of the Banking Commission, monitors banks and FIs subject to the Bank of Algeria. The Inspectorate General works under the supervision of the Secretary General of the Bank of Algeria. The Inspectorate General consists of:

1. The External Inspectorate (onsite inspection) consists of 26 inspectors working in teams made up of 4-5 inspectors.
2. The Internal Inspectorate (offsite inspection) consists of 24 inspectors.
3. The Internal inspection related to the Bank of Algeria consists of 20 internal inspectors
4. Three directional departments which consist of 120 controllers are responsible for monitoring the foreign trade and the exchange laws and counters.

372. The majority of employees in the Inspectorate General have undertaken special training programs in ML/TF in the period from 2005-2009 as experts from Central Banks and the World Bank were invited to assume these training and qualification programs. The Algerian authorities provided the evaluation team with this table on the most important training programs held in the ML/TF field.

Session Name	Organizing Entity	Date	No. of Participants from Inspectors
AML/CFT	USA - OCC	2008	1
Financial Crimes	Bank of Algeria	2005	6
Money Laundering	Bank of Algeria	2005	9
Financial Crimes and Money Laundering	Bank of Algeria	2005	23
AML	Bank of Algeria and the World Bank	2006	18
AML	Bank of France	2006	5
AML/CFT	Bank of Algeria and the World Bank	2006	29
AML/CFT	Bank of Algeria and the World Bank	2006	24
AML	The Central Banks of Algeria and France	2006	18
Currency Counterfeiting	The Central Banks of Algeria and France	2007	3
Specifying ML Risks	Bank of Algeria	2007	1
AML	Bank of France	2009	21
Combating Financial Crimes	Bank of France	2009	2
AML		2009	24
AML/CFT		2009	2

373. The evaluation team noticed that the non-availability of sufficient human resources represents a main aspect of deficiency, in particular with regard to onsite inspection (26 inspectors); this number

does not allow, as the team sees, an efficient coverage of the operation of banks and FIs subject to the Bank of Algeria.

374. **Insurance Directorate:** The Insurance Directorate is considered one of the directorates of the Ministry of Finance, and as stated above, this directorate performs control over the insurance companies for the Insurance Supervisory Commission and the insurance director is a member in the National Insurance Board. The Insurance Directorate is made up of three departments:

- The Legislation and Studies Department: This department focuses on conducting studies on the authorizations of insurance companies and brokers and the regulations and procedures of the insurance companies and studies pertaining to insurance contracts. Four persons work in this department.
- The Department of Offsite Inspection: This department performs offsite inspection over the insurance companies and four persons work therein.
- Department of Onsite Inspection: This department consists of three control groups of seven persons who work in monitoring and controlling the companies and brokers. The authorities pointed out that the onsite inspection is conducted pursuant to the findings of the offsite inspection.

375. By meeting the Insurance Directorate, the persons in charge pointed out that it is only authorized to monitor the insurance companies by looking into the application of the legislation regulating the operation of these companies only. Moreover, no inspection related to AML/CFT is carried out and the employees in the Insurance Directorate have not received any special training in this field.

376. **The Commission for the Organization and Surveillance of Stock Market Transactions (COSOB):** As stated above, COSOB is considered the regulatory and monitoring body of the stock market. The members of COSOB are distributed among three directorates: The Directorate of the Market Development and Surveillance (three persons), the Directorate of Operations and Financial Information (three persons) and the Directorate of Administrative and Legal Affairs (seven persons).

377. By meeting the President of COSOB, it was apparent to the evaluation team that COSOB does not perform any monitoring in the market with regard to AML/CFT and that its members have not received any special training regarding ML/TF. The authorities indicated that COSOB does not have any powers to issue regulations regarding ML/TF or to monitor the compliance of brokerage companies in this field.

Recommendations 29 and 17

378. **The powers of monitoring the FIs to ensure their compliance with the combating requirements:** Article (12) of Law no. 05-01 gave the Banking Commission the power to ensure that the banks and FIs subject to the Bank of Algeria have proper ML/TF detection and prevention systems. It also empowered the Commission to investigate the presence of the confidential report that should be made and kept in case an unusual transaction is conducted under complex circumstances or seems to lack a clear economic or legal justification.

379. Regarding the Insurance Commission, Article 14 of the Executive Decree No. 113-08 issued on April 9, 2008 by virtue of Article 210 of Order No. 07-95 issued on January 25, 1995, and completed in Law No. 04-06 passed on February 20, 2006, stipulated that the Insurance Commission, within the framework of verifying the financial resources, may require the insurance companies and/or reinsurance companies and branches of foreign insurance companies to implement a ML prevention, detection and combating system within the framework on internal monitoring. However, the evaluation team noticed that such institutions are not legally required to put in force such programs. Moreover, such power is not stipulated in a law as the legal article on which this article of the Executive Decree relies is related

to the verification of information on the source of financial resources that are invested in creating or increasing the capital of insurance companies and/or reinsurance companies.

380. Such power was not granted to COSOB with regard to brokerage institutions in the stock market.

381. **The power of conducting inspection on the FIs:** As stated above, Article 105 of the Law on Money and Credit designated the duties of the Commission in ensuring the compliance of banks and FIs with the legislative and regulatory provisions enforced thereto. This law granted the Banking Commission with the power to regulate such supervision through carrying out onsite inspections. Accordingly, the Banking Commission assigns the General Directorate of Inspectorate General in the Bank of Algeria with conducting such as offsite and onsite inspections. The following is the table of onsite inspections conducted by this Directorate the in recent years:

	2005	2006	2007	2008
Comprehensive Inspection	6	4	5	5
Foreign Trade	6	10	3	16
Per Subject				
ML			8	1
Payment Systems			5	5
Portfolio	4	3	2	1
Special Investigations	2	6	2	3
Establishment of Banks and Opening counters	50	76	101	97

382. In 2008, the AML/CFT system was evaluated in five banks and FIs subject to the Bank of Algeria within the framework of comprehensive monitoring. Moreover, a ML inspection task was conducted. In 2007, a ML/TF inspection task was conducted that covered 8 banks and FIs subject to the Bank of Algeria. These tasks showed several gaps related to non compliance with the imposed obligations. However, improvement was noticed in subsequent tasks. The Banking Commission did not explain to the evaluation team the type of such violations and the measures taken against the breaching banks and if any sanctions have been imposed.

383. The evaluation team obtained a handbook to evaluate the AML/CFT procedures. This handbook mainly included:

- Regulation and internal procedures (the role and function of the FIU correspondent, the type of internal procedures, the monitoring system and the internal monitoring)
- The efficiency of procedures (due diligence, making reports on unusual transactions, keeping records, type of notifications on suspicious transactions and training).

384. The Banking Commission prepared a form for the AML/CFT procedures, which the banks and FIs should submit to the Banking Commission every year after signing it by the bank's legal representative.

385. Regarding COSOB, Article (30) of the Legislative Decree No. 93-10, as stated above, showed that COSOB is responsible for regulating and monitoring the stock market by working on protecting the stock investors and ensuring the progress and transparency of the stock market. As for the Insurance Supervisory Commission, Article (210) of Order No. 07-95 issued on January 25, 1995 and completed in Law No. 06-04 issued on February 20, 2006, showed that the Insurance Supervisory Commission is responsible for ensuring that the licensed insurance companies and brokers comply with the legislative and regulatory provisions pertaining to insurance and reinsurance and that such companies fulfill and are still capable of fulfilling their obligations towards the insured and verifying the information on the source of funds used in creating or increasing the capital of insurance and/or reinsurance companies.

386. **The power of requiring the submission of records and documents and their reviewing:** Article (109) of Order 11-03 including the Law on Money and Credit granted the Banking Commission with the power to request from banks or FIs subject to the Bank of Algeria all the necessary information, proofs and evidence to perform its task and to request from each concerned person to notify it with any document or information. Moreover, this Article stipulated that the profession secrecy may not be used to hold requested information from the Commission. According to Article (136) of the same Order, each member in the Board of Directors or a manager of a bank or financial institution subject to the Bank of Algeria and each person who works for such an institution who does not respond to the information requests by the Banking Commission or hampers in whichever way the work of the Banking Commission in proceeding with its monitoring task, or deliberately provides it with false information shall be punishable by imprisonment for one to three years and with a fine from five to ten million DZD.

387. With regard to COSOB, Article (37) of the Legislative Decree No. 10-93 issued in May 1993 amended and completed in Law No. 04-03 issued on February 17, 2003, gave the Commission's employees the power to request any documents or copies thereof and to access any venues of professional use. According to Article 59 of the same legislative decree, each person who hampers the exercise of such power shall be punishable by imprisonment from 30 days to three years and with a fine of an amount of DZD 30, 000 or any of them.

388. Regarding the Insurance Supervisory Commission, Article (212) of Order No. 07-95 dated January 25, 1995 pertaining to insurance, granted the insurance inspectors affiliated with the Ministry of Finance and those working by order from the Monitoring Committee on the insurance sector with the power to monitor the compliance of these institutions with the legal requirements pertaining to insurance.

389. **The power to impose sanctions:** Except for the Banking Commission with regard to banks and FIs subject to the Bank of Algeria, no power exists for the supervisory bodies over the insurance sector and the stock market to impose sanctions in case of non-compliance or incorrect execution of the AML/CFT requirements according to the FATF Recommendations.

Recommendation 17

390. **Ensuring the existence of effective sanctions:** Pursuant to Article 32 of the AML/CFT Law no. 05-01 issued in 2005, each person subject to the obligation of issuing and/or sending a STR who deliberately and knowingly refrains from doing that shall be punishable with a fine from DZD 100,000 to 1,000,000 without prejudice to more severe sanctions and any other disciplinary sanction. Article (33) punishes the managers and employees of the FIs subject to the reporting obligation who deliberately notify the owner of the suspicious funds or transactions about the notification or the information on the findings related to the customer with a fine from DZD 200,000 to 2,000,000 without prejudice to more severe sanctions or any other disciplinary sanction.

391. Article (34) of the subject law punished the managers and employees of banks, FIs and equivalent FIs (the institutions subject to the Bank of Algeria) who deliberately and recurrently violate the AML/CFT measures stipulated in Articles 7, 8 and 9 pertaining to customer due diligence, Article (10) pertaining to the issuance and keeping of a confidential report in case a transaction is performed under unusual or unjustified complex circumstances or seems to lack an apparent economic or legal purpose and Article (14) pertaining to keeping records stipulated in the subject law with a fine from DZD 50,000 to 1,000,000. Moreover, the mentioned FIs shall be punishable with a fine from DZD 1,000,000 to 5,000,000 without prejudice to a more severe sanction.

392. Article (114) of Order 11-03 issued on August 26, 2003 and including the Law on Money and Credit stipulates that the Banking Commission has the right to impose one of the sanctions of warning, reprimand, and prohibiting the practice of some transactions and other restrictions on the practice of activity as well as temporary suspension of a manager or more while appointing or not appointing a

temporary manager and terminating the duties of one person or more of these same persons while appointing or not appointing a temporary manager and withdrawing the license if a bank or financial institution subject to the Bank of Algeria breached one of the legislative or regulatory provisions related to its activity or did not submit to an order or did not consider a warning. In addition, the Commission may impose, instead of the abovementioned sanctions, or in addition to them, a financial sanction that is equal at most to the minimum capital which the bank of financial institutions is obliged to provide. The treasury shall collect the due amounts.

393. The evaluation team noticed that the AML/CFT system did not impose any obligations on the insurance and financial brokerage institutions and companies except the reporting obligation, consequently, the imposed sanctions by virtue of the AML/CFT Law 05-01 issued in 2005 do not cover all the AML/CFT obligations which should be imposed on the FIs according to the FATF Recommendations, this limits the effect of such sanctions.

394. **Appointing an authority to impose sanctions:** Law no. 05-01 does not specify the authority, which has the power to impose the stipulated sanctions. However, Article (12) thereof granted the power to the Banking Commission to proceed with the disciplinary procedures towards banks or FIs subject to the Bank of Algeria, which prove a deficiency in their internal procedures with regard to monitoring in the field of reporting of suspicious transactions. As mentioned above, the Banking Commission is entitled to impose a number of sanctions stipulated by the Law on Money and Credit when a bank or financial institution subject to the Bank of Algeria violates one of the legislative or regulatory provisions related to its activity.

395. As for the brokerage institutions operating in the stock market or the insurance companies, they are subject to the monitoring of other authorities, which might have the power to impose administrative sanctions in case of violation of the laws and other systems. There is no evidence that such power exists to impose sanctions for violating Law no. 05-01.

396. **Extending the sanctions to include the managers of legal persons:** The provision of the imposed sanctions by virtue of Law no. 05-01 is comprehensive; therefore, the sanctions do not apply only on legal persons, but extend to apply on the institutions, their managers and employees.

397. **Adequacy of the sanctions to violations:** It is noted that the imposed sanctions did not cover all cases of violation of the AML/CFT obligations, such as due diligence and recordkeeping, since such obligations were not legally imposed on the majority of FIs. Moreover, such sanctions do not have a wide and proportionate scope to the gravity of the situation so that disciplinary and financial sanctions, license withdrawal, restriction or suspension could be imposed, with exception to the sanctions provided for by the Law on Money and Credit. The evaluation team did not find any aspects of effectiveness in applying the sanctions related to cases of violation of AML/CFT obligations whereby no statistics related to such sanctions were provided.

Recommendation 23 – Market Entry

398. **Criterion 23-3-1:** Article 80 of Law on Money and Credit stipulated that it is not permitted to anyone to be founder of a bank, financial institution subjected to Algeria Bank or be a member in its board, nor to be in charge of a bank or financial institution directly or through another person, nor manage, represent it under any description or to be authorized to sign on its behalf if he was sentenced because of felony, embezzlement, betrayal, stealing, fraud, issuing checks without provision, breach of trust, deliberate detention without right committed by general trustees, extortion of money or values, bankruptcy, violating the legislation and organization of exchange, forgery in documents, forgery in commercial or banking documents, violating company laws, hiding money received after one of these breaches or breaches related to trade in narcotics, whether this sentence was issued by a national or foreign judiciary.

399. Concerning insurance companies, Article (217) of Order No. 07-95 issued on January 25, 1995 and complemented with Law No. 04-06 issued on February 20, 2006, stipulated that persons condemned of committing a misdemeanor punished by the general law, stealing, breach of trust, fraud, committing misdemeanor punishable by the laws related to fraud sanctions, plunder money or values, issuing bonds without funds, hiding items obtained by these misdemeanors or as a result of dishonored behaviors after the liberation war can never establish, manage or control insurance and/or reinsurance companies. And every conviction for the attempt of committing or conspiring to commit the above-mentioned crimes results in the fall of the same capacity. Also, bankrupts, who are not rehabilitated, are subject to these impediments, in addition to persons condemned of violating the legislation and organization related to insurance.

400. Article 6 of the Executive Decree No. 267-96 issued in August 3, 1996 which is amended and completed by the Executive Decree No. 152-07 issued in May 22, 2007, stipulates that the file of ratification shall contain an abstract of the judicial record of every person of the principal founders and managers of the company.

401. Regarding the brokerage companies, Article (5) of the Regulation of COSOB issued on July 3, 1996 related to the conditions of the authorization of stockbrokers, their duties and supervision provided that the natural persons who wish to exercise the brokerage activity should enjoy professional ethics and integrity.

402. *Licensing and registering money transfer and currency exchange services:* Despite of the spreading of money transfer and currency exchange services in Algeria's streets, in the frame of the parallel (black) market, the Algerian authorities did not take any real step for licensing and registering money transfer and currency exchange service providers, except the instruction 08-96 dated 18/12/1996, issued by Algeria Bank, according to the provisions of 95-07 system of Algeria Bank, which specify the conditions of establishing and certifying the currency offices, and which has not been activated to establish such offices or to license and register the providers of these services.

Recommendation 23 – Regulation and Supervision

403. **Submission of money transfer and currency exchange service providers to the systems of compliance monitoring:** As a result of non-existence of suitable, effective legal framework that enjoins licensing or registering money transfer and currency exchange service providers, those are not submitted to any system of compliance monitoring.

404. **Setting the guiding principles for implementing the requirements of AML:** With the exception of the publication issued by the FIU and addressed to the insurance sector, the evaluation team was not informed of any guiding principles in the issues covered by the FATF recommendations, especially concerning the description of ML/TF means and techniques, or other measures that the financial institutions can carry out to guarantee the effectiveness of AML/CFT measures.

3-10-2 Recommendations and Comments

405. **The Algerian authorities have to:**

Recommendation 17:

- Identify an authority to impose sanctions concerning the brokerage institutions in the stock market and insurance companies.
- Impose all obligations stipulated by the FATF recommendations upon insurance companies and brokerage institutions.
- Set a wide scope that is proportionate to the gravity of the situation in order to impose disciplinary and financial sanctions and withdraw, restrict or suspend the license under the ML/TF Law.

Recommendation 23:

- Grant a supervisory power to the supervisory entities regarding the obligations of brokerage institutions and insurance companies in the field of AML/CFT.
- Take steps towards licensing and registering money transfer and currency exchange service providers.
- Subject money transfer and currency exchange service providers to the systems of compliance monitoring.

Recommendation 25:

- Issue guiding principles in the issues covered by the relative FATF recommendations, especially concerning the measures that the financial institutions can carry out to guarantee the effectiveness of AML/CFT measures.

Recommendation 29:

- Grant monitoring powers to the supervisory entities upon the brokerage institutions and insurance companies to assert the compliance of these institutions and companies with the AML/CFT requirements.
- Grant powers to the supervisory entities upon the insurance sector and stock market through imposing sanctions in case of non-compliance or incorrect execution of the AML/CFT requirements according to the FATF recommendations.

3-10-3 Compliance with Recommendations 17, 23, 25 and 29

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R. 17	NC	<ul style="list-style-type: none"> • Not identifying an authority to impose sanctions concerning the brokerage institutions in the stock market and insurance companies. • The imposed sanctions did not cover all cases of breaching AML/CFT obligations, such as the due diligence and retention of records, because these obligations were not legally imposed on the insurance companies and brokerage institutions. • The imposed sanctions do not, under Law 05-01, have a wide scope that is proportionate with the intensity of the situation in order to impose disciplinary and financial sanctions and withdraw, restrict or suspend the license, except the sanctions stipulated in the Law on Money and Credit. • Absence of effectiveness, No sanction was imposed related to the breach of AML/CFT obligations
◌R. 23	PC	<ul style="list-style-type: none"> • Non-existence of a supervisory authority to any entity regarding the obligations of brokerage institutions and insurance companies in the field of AML/CFT. • The Algerian authorities did not take any real step for licensing and registering money transfer and currency exchange service providers. • Non-submission of money transfer and currency exchange service providers to the systems of compliance monitoring.
R.25	NC	<ul style="list-style-type: none"> • Non-issuance of any guiding principles in the issues covered by the related FATF recommendations, especially concerning the measures that the financial institutions can carry out to guarantee the effectiveness of AML/CFT measures. • Existence of other factors that affect the rating (Section 3-7)
R. 29	NC	<ul style="list-style-type: none"> • Non-existence of monitoring powers to the supervisory entities upon the brokerage institutions and insurance companies to assert the compliance of these institutions and companies with the AML/CFT requirements. • Non-existence of powers to the supervisory entities upon the insurance sector and stock market through imposing sanctions in case of non-compliance or incorrect execution to the AML/CFT requirements according to the FATF recommendations.

3-11 - Money or value transfer services (SR.VI)

406. Law No. 01-07 dated on February 3, 2007 regulates the rules applied on the current transactions with abroad and accounts in hard currency. Article (37) of this law stipulates that the banks and certified financial brokerage companies are considered the only authorized entity to execute, for the benefit of their customers, the transfers and carrying over related to the transactions of goods and services which have been domiciled in advance at its counters, as well as the Algerian financial post services can execute the transfers - carrying over related to the transactions qualified to execute.. The validity of the licensing and controlling over money exchange businesses goes back to Algeria Bank. The Algerian authorities mentioned that there is only one money exchange business which has been licensed, but it did not start working yet as the profit margin remains very limited in the currency transfers. The Algerian authorities added regarding this, that practically, an institution cannot be based on the principal of providing only this kind of banking operations.

407. The evaluation team noticed the widespread of money or value transfer service providers by natural persons through unofficial way outside the financial system subjected to control despite of the opposition of LEAs to this phenomenon through the available means, as many transactions have known seizure of currencies and arrest of activists. Although the law punishes such activities with the Order 22-96 dated on 09/07/1996, amended and concluded in Law 01-03 dated on 19/02/2003¹¹. As a result of the work of those outside the official system (in the black market), there is no effective system to make sure of their compliance with the forty recommendations (4-11, 13-15 and 21-31) and the nine special recommendations (especially SR. VII). Also, there are no valid systems to monitor their works and guarantee their compliance with these recommendations or any other obligation of keeping a modern list of their agents and making it available to appointed competent authority. Also, they are not subjected to any sanctions as a result of their non-compliance with the criteria of AML/CFT, because they originally work outside the framework of law.

408. **Additional Elements.** The Algerian authorities did not apply the procedures stipulated in the memorandum of Best Practices related to SR.VI.

3-11-2 Recommendations and Comments

409. The Algerian authorities have to:

- Put the legislations and systems required to license or register the (natural or legal) persons who provide money or value transfer services.
- Subject the money or value transfer service providers, including unofficial systems, after licensing or registering them, to the FATF 40 recommendations (particularly the recommendations from 4 to 16 and from 21 to 25) and the nine special recommendations (particularly SR. VII).
- Set systems for monitoring the works of money or value transfer service providers to guarantee their compliance with the FATF recommendations.
- Guarantee the existence of effective, proportionate and dissuasive sanctions, whether penal, civil or administrative, in order to deal with the money or value transfer service providers, who do not comply with the related FATF recommendations. Also, the Algerian authorities have to appoint an authority responsible for applying these sanctions.

¹¹ The Algerian Authorities stated that Order 22-96 was amended once again by Order 03-10 dated 26/8/2010, and which aggravates the sanctions on the holders of payment methods with the national or foreign currency that violate the exchange legislation without license upon import or export or purchase or sale. It is worth mentioning that the mutual evaluation procedures take into consideration only the legal amendments that are within the defined period.

3-11-3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	NC	<ul style="list-style-type: none">• Spreading of transfer activities by persons exercising these activities without any license (Black market) and not monitoring, following them up and their non-submission to licensing or registration.• Non-assurance that the money or value transfer service providers including unofficial systems are subject to compliance with the FATF 40 recommendations (2003) (particularly the recommendations from 4 to 16 and from 21 to 25) and the nine special recommendations (particularly SR. VII).• There is no system to impose sanctions on money or value transfer service providers, especially the unofficial systems of currency exchange, which work without license or registration and do not comply with the related FATF recommendations.

4- Preventive Measures – Designated Non-Financial Businesses and Professions

General Description

410. Law no. 05-01 dated February 6, 2005 listed the non-financial businesses and professions designated by the FATF in its recommendations, and this in Article 19 from Law no. 05-01, related to the duty of reporting the suspicious actions to FATF. These businesses and professions included lawyers, notary public, accountants, auditors, brokers, real estate agents, dealers in precious metals and stones, antiques and arts. Article 612 of Order 75-58 dated 26/09/1975, including the civil law, prohibits gambling and betting except the Algerian sports betting and horse race (although article 20 of law 05-01 mentioned Casinos as being among the entities subject to the reporting obligation). Also, it is mentioned that there is no trust and company service providers.

411. The following table states the categories of designated non-financial businesses and professions as mentioned in the recommendations of FATF which are subject to the obligations of AML/CFT, and states also the legislation that organize each of these businesses and professions.

Sector	Number	Governing Law
Notary Public	1848	Law No. 06/02, dated February 2, 2006, issued in the Official Gazette on March 8, 2006, Issue 14
Accountants	651	Law No. 91-08 dated April 27, 1991
Auditors	2524	Law No. 91-08 dated April 27, 1991
Lawyers	18900	Law No. 91-04 dated January 8, 1991
Real Estate Agents	6300	Executive Decree No. 09-18 dated January 20, 2009

412. **Notary Public:** The profession of the notary public depends on the principal of authorization from the general authority to make the transactions official; as Article 03 of Law 06/02 stipulated that the notary public is a public officer authorized by the public authority, and responsible for concluding contracts, on which law provides the official formula, in addition to contracts which the persons want to give this feature. Joining the profession of notary public is subject to measures and conditions specified by this law and its regulatory provisions¹². The notary public works for his own account as each notary public is charged of a registration office and he is considered a collector of the public treasury rights represented in the registration fees, real estate identification, value added fee and stamp fee. Also, the notary public is considered a general depository, as he is deposited the capitals of establishing companies in the event of concluding transactions, assignment of quotas and shares and selling contracts (currently, the deposit is one fifth 1/5 the transaction, according to the provision of Article 256 of the amended and completed Algerian Registration Law). The notary public informs the detail departments, in the event of concluding assignment contracts, in order to enable them to restrain the deposited amounts, in case the concerned party is indebted to the public treasury (tax authorities).

413. **Accountant, Auditor and the Certified Accountant:** Law No. 91-08, dated April 27, 1991, regulates the professions of accountant, auditor and certified accountant; as every person usually exercises, with his own name and under his responsibility, the profession of accounting organization

¹² Executive decree No. 242/08 dated 3 August 2008, defines the conditions for joining the authenticator profession and its practice and disciplinary regulation and rules of regulation, Executive decree no. 243/08 dated 3 August 2008 defines the authenticator fees, executive decree No. 244/08 dated 3 august 2008 defines the way of holding accounts and their audit, executive decree no. 245/08 dated 3 august 2008 defines the conditions and ways of operating documented archives.

and accounts of every kind, checking its correctness and analyzing it at the commercial or civilian institutions and companies (Article 19), is considered **accountant**. The accountant has the right to execute works that fall within exercising the profession of the certified accountant. No one is allowed to exercise this profession if he was not registered in the national organization table.

414. The professional accountant is considered a **certified accountant** when usually exercising, with his own name and under his own responsibility, the profession of keeping, opening, checking, controlling accounting and accounts of institutions or authorities require his service. He also can prepare all social, criminal and administrative statements related to the accounting works; he is in charge of helping his customers in all concerned authorities and has the right to prepare the final accounts or balances justification.

415. While every person usually exercising, with his own name and under his own responsibility, the profession of testifying the correctness and regularity of the accounts of companies and institutions stipulated in the First Article of Law 91-08, **is considered an auditor**.

416. **Lawyers:** The legal profession is subject to the provisions of Law 04-91 for year 1991. Its First Article stipulates that the legal profession is a free and independent one that works on respecting the maintenance of defense rights, contributing in realizing justice, respecting the principal of law sovereignty and guaranteeing the defense of citizen rights and freedom. The lawyer's tasks are offering legal advice, consultancy and assistance, such as representing and defending the opponents. He may, within the same scope (except the exclusions which the law stipulates), interfere in each procedure and judicial measure. He may conclude all contracts and carry out the necessary formations for the purpose of accelerating the execution of justice decisions.

417. No one is allowed to assume the title of "lawyer" if he was not registered in the Bar Association roll, and that falls under the sanctions stipulated in the Article (243) of the Penal Code. The Bar Association enjoys the legal personality. It is headed by a president and managed by the association council. It has the capacity of representing the interest of lawyers in the judicial district of Bar Association. Throughout the evaluation team meeting with a number of lawyers, it appeared that lawyers and the Bar are reserved regarding the lawyer performing the role of detective", in spite of asserting their concern with the AML issue.

418. The tenth chapter of the Law No. 91-04 tackles organizing the legal profession, obligations of lawyers and their rights. Article 97 from this chapter points out that "the lawyer is prevented from reporting to others, any information or document related to a case he is in entrusted with, and entering into conflict concerning this case. In all cases, he has to keep the secrets of his agent". Article 84 also points out to the responsibility of the lawyer to keep all documents, he was given, for five years starting from the date of settling the case or the last time of making a procedure or settling the accounts with the agent in case of changing the lawyer.

419. **Dealers in precious metals and precious stones:** Performing this profession requires only registering in the commercial register. Within this framework, it is to refer that the task of distributing and importing gold falls upon the National Agency of Gold; it is a governmental authority which aims at securing the gold of jewelry makers.

420. **Real Estate Agent:** Every natural or legal person abides by, under agency agreement and in return for fees, performing services of mediator of commercial type in the real estate field or in the real estate administration and management field for the account or benefit of the owners, is considered a real estate agent. And falls under this profession, services and activities as mediating in searching for buying, renting or exchanging real properties or commercial shops, negotiating and concluding contracts concerning in this regard, the real estate mediation and real estate administration and management (Article 3 of Executive Decree No. 18-09 issued on 20 January 2009). The following professions are, according to Article 4 of this Decree, considered amongst the real estate agents:

- Real estate agency
- Real estate mediator
- Real properties manager

4-1 Customer due diligence and record-keeping (Recommendation 12) (Applying Recommendations 5, 6 and 8 to 11)

421. **Obligations of the DNFBPs regarding customer due diligence measures:** The DNFBPs are not subject to any special obligations in the AML/CFT field, in particular with regard to the due diligence procedures with exception to Article 19 of Law 05-01, which designated non-financial businesses and professions and subjected them to the reporting obligation only.

422. **Applying Recommendation 5:** There is a lack of enforceable provisions that call for the verification of identity and the legal status of the clients and beneficial owners in the AML/CFT framework.

423. **Applying Recommendation 6:** No legal or regulatory provisions exist that refer to the Politically Exposed Persons (PEPs) and the due diligence measures that should be applied on them. Consequently, the AML/CFT system lacks any obligation on the DNFBPs to set adequate risk management systems to determine whether or not the potential client, the client or the beneficial owner is a PEP, obtain the approval of the senior management to establish a business relationship with such clients, take reasonable measures to identify the source of their funds and conduct enhanced ongoing business relationship with those clients.

424. **Applying Recommendation 8:** The DNFBPs are not subject to any obligation to take special measures or pay special attention in case of transactions based on advanced technology, which may not require the mentioning of true identity.

425. **Applying Recommendation 9:** This recommendation does not apply to the current situation in Algeria as the legal and regulatory provisions did not refer to the permissibility of relying on third parties to perform the due diligence process.

426. **Applying Recommendation 10:** The DNFBPs are not subject to any obligation of maintaining records and documents for the performed transactions, which include sufficient data to identify such transactions in the framework of the AML/CFT system. Moreover, there is no obligation that the records should include all necessary information and data for the verification entities and for bringing actions.

427. **Applying Recommendation 11:** The DNFBPs are not subject to the due diligence requirement of lending special care for the complex and unusually large-scale transactions or all patterns of unusual transactions which have no apparent economic or legal purpose.

4-1-1 Recommendations and Comments

428. The Algerian Authorities are recommended to:

- Oblige the DNFBPs to perform due diligence in identifying the customers and beneficial owners whether natural or legal persons.
- Oblige the DNFBPs to perform due diligence in dealing with high-risk transactions including transactions with PEPs.
- Oblige the DNFBPs to take special measures and pay special attention in case of transactions based on advanced technology, which may not require the mentioning of true identity of the customer.
- Set regulatory bases and rules in case the DNFBPs need to rely on third parties to perform the customer due diligence measures.

- Oblige all DNFBPs to maintain records and documents for the performed transactions, which should include sufficient data to identify those transactions.
- Oblige the DNFBPs to perform due diligence in dealing with high-risk transactions, including the unusual transactions and transactions which have no apparent economic or legal purpose.

4-1-3 Compliance with Recommendation 12

	Rating	Summary of factors underlying rating
R.12	NC	<ul style="list-style-type: none"> • The DNFBPs are not subject to all obligations pertaining to Recommendations 5, 6, 8, 10 and 11; moreover, Recommendation 9 is not applicable.

4-2 Suspicious transaction reporting (Recommendation 16) (Applying R. 13 to 15 & 21)

4-2-1 Description and Analysis

429. **Applying Recommendation 13:** The DNFBPs are subject to the obligation of reporting transactions related to funds suspected to be the proceeds of a felony or misdemeanor, especially the organized crime or traffic in narcotic drugs and psychotropic substances or seem to be related to TF.

430. **The reporting obligation of the DNFBPs:** The entities subject to the reporting obligation were designated by virtue of Article 19 of Law 05-01. Such entities include the lawyers, notaries, chartered accountants, auditors, real estate agents and dealers in precious stones, precious metals, antiques and arts.

431. During the onsite visit, the evaluation team noticed the absence of any cases of reporting transactions related to the proceeds of crimes or TF by the DNFBPs (except for 3 cases by auditors). The representatives of such DNFBPs stated the non-existence of written guidelines related to the indicators of suspicious transactions. Moreover, the evaluation team did not review such guidelines. The team sees that the absence of notifications from such DNFBPs is attributed to the fact that such institutions are not bound by any legal requirement except the reporting obligation, as the obligations of customer identification and ongoing monitoring of their transactions help in identifying and reporting the suspicious transactions.

432. Like the financial institutions, the DNFBPs are subject to sanctions in case of violating the reporting obligation. According to Article 32 of Law 05-01, each person who deliberately and knowingly refrains from issuing and sending the notification of suspicion shall be punishable by fines reaching an amount of DZD One Million, which is approximately equivalent to USD 14000.

433. Regarding lawyers, the evaluation team noticed through its meeting with the lawyers their reluctance to comply with the reporting of suspicious transactions as the National Association of the Lawyers' Groups was not consulted when enforcing such obligation. The association referred to also sees that such obligation infringes the independence of the lawyers' profession. The evaluation team sees that the lawyers' stance towards the reporting of suspicious transactions is attributed to the wide scope of the reporting obligation, i.e. such obligation, which is the reporting when conducting certain financial transactions for or on behalf of their clients, is open and not specified according to Recommendation 16. The reporting obligation as set out in the Algerian law may affect the lawyer in performing his job in defending or representing his client.

434. **Reporting suspicious transactions regardless of whether they include tax issues or not:** Article 20 of Law 05-1 obliges the subject institutions to report each transaction related to funds suspected of being the proceeds of a felony or misdemeanor or seem to be related to TF with no

exclusions, which means that the institutions are obliged to report suspicious transactions regardless of whether they are thought to include, among other, tax issues..

435. Sending Suspicious Transaction Reports (STRs) to the Self Regulatory Organization: According to Article 20 of Law 05-01, the institutions mentioned in Article 19 of the subject law should report the suspicious transaction directly to the FIU and not through the **Self Regulatory Organizations** .

436. Applying Recommendation 14: Article (23) of Law 05-01 stipulated that no action may be taken against the persons, managers or employees subject to the reporting obligation for breach of the bank's or profession secrecy when any of those persons submits in good faith information or reports suspected transactions according to the provisions of the subject law. Furthermore, Article 24 of the subject law stipulates that the administrative, civil, or criminal responsibility shall be relieved from every natural or legal person subject to the same law when any of those persons acts in good faith. Such relief from responsibility shall be ongoing even if the investigations did not yield any results.

437. There is no obligation preventing the DNFBPs included in the subject law and their managers, officials and employees from notifying the customer about the reporting of transactions suspected of being related to the proceeds of crimes or TF. Article (33) of Law 05-01, including the sanctions of notifying the owners of funds or transactions related to the reporting about the existence of such reporting or disclosing to the customer the data related therewith, was limited to the managers and employees of FIs only.

438. Applying Recommendation 15: The DNFBPs are not required to set internal regulatory procedures, policies and measures for AML/CFT. Furthermore, these businesses and professions are not required to train their employees or set criteria of high efficiency for recruitment. During the on-site visit, the evaluation team noticed the absence of any training programs that target such businesses and professions in the AML/CFT field. It is noteworthy, as stated above, that such institutions and professions are not subject to any obligation in the AML/CFT field except the reporting obligation.

439. Applying Recommendation 21: The DNFBPs are not obliged to lend due care to the business relationships and transactions performed with persons from countries or residing in countries that do not apply or insufficiently apply the FATF Recommendations.

4-2-2 Recommendations and Comments

440. The evaluation team recommends to:

- Raise the efficiency of reporting by the non-financial businesses and professions by increasing the awareness of such entities in the ML/TF field. And by obliging such businesses and professions to comply with the rest of the AML/CFT requirements.
- Specify the reporting scope for the lawyers, notaries and accountants pursuant to the requirements of Recommendation 16.
- Impose a legal obligation that prevents the DNFBPs from notifying the customer about the reporting of transactions suspected to be linked to the proceeds of crimes or TF.
- Impose a legal obligation that requires the DNFBPs to set internal AML/CFT regulatory procedures, policies and measures.
- Impose a legal obligation that requires the DNFBPs to pay special attention to business relationships and transactions with persons from countries or residing in countries that do not apply the FATF Recommendations.

4-2-3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	NC	<ul style="list-style-type: none"> • Absence of efficiency as no notification of suspicion has been reported by the non-financial businesses and professions, except for 3 cases. • Absence of legal obligation that prevents the DNFBPs from notifying the customer about the reporting of transactions they suspect to be linked to the proceeds of crimes or TF. • No obligation on DNFBPs to set internal AML/CFT regulatory procedures, policies and measures. • No obligation on DNFBPs to pay special attention to business relationships and transactions with persons from countries or residing in countries that do not apply the FATF Recommendations.

4-3 Regulation, Supervision and Monitoring (R. 24 and 25)

4-3-1 Description and Analysis

General Description:

441. **Casinos are subject to a comprehensive regulatory and supervisory system:** As stated above, the Algerian law prohibits gambling and the establishment of gambling casinos.

442. **The existence of a competent authority for monitoring the compliance of the DNFBPs with the AML/CFT Law:** The following is an explanation of the regulation of the non-financial businesses and professions (the professions of lawyers, notaries, accountants, auditors, real estate brokers and dealers in precious metals) and the supervisory entities, and the self-regulatory in particular that performs the monitoring role over such institutions, including the role of these entities in ensuring the compliance of these institutions in the AML/CFT field.

443. **Lawyers:** The lawyers are organized into fourteen directional independent organizations and each organization consists of 15 and 31 member board headed by a president. These presidents convene on the level of the National Union of Lawyer's Organizations that includes all these directional organizations. Such union plays a coordinating role. The directional organizations are deemed independent in the disciplinary field, but the sanction may be challenged before the Union or jurisdiction.

444. The professional errors are followed up in the disciplinary board, which imposes sanctions according to the gravity of the error. When such error is a criminal error, the professional follow up is suspended until the completion of the criminal follow up. The disciplinary board consists of seven members who are elected. The board is entitled to issue the sanctions of warning, reprimand, temporary suspension and removal from the lawyers' roll. The said sanctions apply to each violation of laws and regulations and each breach of the disciplinary rules. The decisions of the disciplinary board are subject to challenge before the National Committee for Appeal, which consists of seven members, including three judges. No lawyer shall appear before the disciplinary board except through a complaint submitted against him or pursuant to a request from the Minister of Justice.

445. A person may not practice the law profession without obtaining the Algerian nationality and holding a degree in law. The candidate shall study for two years to obtain the professional efficiency certificate; then undergo a nine-month training under the supervision of the internship manager (a lawyer for more than six years). The number of practicing lawyers throughout Algeria is 18900 lawyers, whereas their number in Algiers is 5400 lawyers.

446. As stated above, it showed to the evaluation team that the obligations stipulated in the ML/TF Law 05-01 are not accepted by the lawyers, as they see that the obligations imposed on lawyers by this

law affect the independence of their profession. It was also found that there are no written guidelines or special memos for the lawyers related to ML/TF.

447. **Chartered Accountants and Auditors:** Law No. 91-08 issued on April 27, 1991 regulates the professions of chartered accountants, auditors and certified accountants. To practice any of these professions, the candidate must be an Algerian who enjoys all civil rights and registered in the roll of the National Organization for Chartered Accountants, Auditors and Certified Accountants, plus having the legally required licenses and degrees.

448. This organization works on regulating the profession and its appropriate operation and defending its members and their independence. The organization also ensures the professional and technical quality of the tasks accomplished by its members to guarantee compliance with the ethics of the profession and its applicable laws and regulations. The chartered accountants, auditors and certified accountants are criminally liable for any failure to comply with a legal obligation according to the Criminal Procedures Law. The disciplinary liability before the National Organization for any violation or negligence in the professional rules also applies to them.

449. In addition to the National Organization for Chartered Accountants, Auditors and Certified Accountants, there is also the National Accounting Board, which is a ministerial panel which supervises the application of national accounting standards; in general, its role is limited to giving opinion about accounting issues. The Board currently follows up the transition to the new accounting system, which will come in force at the beginning of 2010.

450. The Algerian authorities indicated that there is a new bill on the profession regulation that includes exempting the National Organization from supervising the accountants, as the role of the organization is not of a satisfactory level; moreover, it lacks the resources to carry out that role adequately and it is unable to conduct training and supervision. It was evident to the evaluation team the low level of awareness of this sector of the ML/TF risks. The team also noticed the absence of any written guidelines or special memos for such professions pertaining to ML/TF.

451. **Notaries (the Notary Public):** As stated before, Law No. 06-02 issued on February 20, 2006 regulates the notary public profession in public notary offices and each office is assigned a notary public who manages the office for his own account and under his responsibility. The notary offices enjoy legal protection, which means they may not be inspected and the documents therein may not be seized except pursuant to a written judicial order. The notary public is obliged to comply with the profession secrecy. He may not publish or disclose information except by permission from the parties or pursuant to requirements or exemptions provided for in the laws and regulations in force.

452. Joining the notary public profession occurs through a qualification and training test to obtain the professional notary certificate organized by the Ministry of Justice. Each candidate in the test must be holder of the Algerian nationality and a Bachelor of Law. This qualification program lasts for three years, and the winners of a professional notary certificate undergo training at one of the notary offices before being appointed as notary public by virtue of a decision from the Minister of Justice, Keeper of the Seals.

453. The notary profession is supervised by the High Council for the Notary Public presided over by the Minister of Justice, who is assigned with examining all general matters related to the profession. In addition to the national chamber for notaries, which is a legal person, and which works on performing each task that ensures compliance with the rules and regulations of the profession and drafts the profession's code of ethics. This chamber assists the directional chambers of notaries, as there are three of them: The mid directional chamber (Algiers) which consists of 840 notaries; the eastern directional chamber consisting of 646 notaries; the western directional chamber (Wahran) consisting of 353 notaries.

454. The notary offices are subject to the control of the Minister of Justice, Keeper of the Seals, as they are subject to regular inspection according to programs set by the national chamber for notaries. The inspection tasks are assigned to notaries who are selected by the national chamber in consultation with the directional chambers and who are appointed by the Head of the national chamber for a renewable term of 3 years. Copies of the inspection reports shall be sent to the Minister of Justice. The notary public shall be punishable by the sanctions of warning, reprimand, banning from practicing the profession for a period not exceeding six months and expulsion.

455. On each level of directional chamber, a disciplinary board is established consisting of seven elected members provided the head of chamber is among them. The Minister of Justice, the head of the national chamber for notaries and the concerned notary public are entitled to challenge the decisions of the disciplinary board before the National Appeal Panel. In case the notary public committed a serious error, whether pertaining to his professional duties or one of the crimes of the general law, he shall be discharged from practicing his activity; the Minister of Justice may suspend him from work immediately after conducting an initial investigation.

456. It was evident to the evaluation team that the obligations stipulated in the AML/CFT Law 05-01 have not yet been included in the inspection process. Moreover, through meeting with notaries, the evaluation team found that they prefer refraining from executing a transaction without reporting it if it was suspicious. Other professional entities pointed out that the notaries do not give due attention to the value of the contracts organized by them. It was also found that there are no written guidelines or special memos for the notaries related to ML/TF.

457. **Real Estate Agents:** The real estate agents are organized in the National Association of Real Estate Agents, which is a professional association established by virtue of Law 31-90. The association has 1800 real estate agents out of 6300 real estate agents registered in the Commercial Register (among which are 2200 real estate agents in Algiers), As membership in the association is not mandatory. The association estimates the number of real estate agents unregistered in the Commercial Register to be double that number. According to its representatives during meeting with them, the association seeks to direct agents, sellers and buyers towards transparency.

458. The Executive Decree No. 09-18 issued on January 20, 2009, which was supposed to take effect on July 24, 2009 seeks to regulate the profession of the real estate agent, but the law was not enforced, as it did not take the current situation in consideration When setting the condition of obtaining a high academic degree which is not available at 90% of the real estate agents who currently practice the profession to be authorized as certified real estate agents; which caused them to refrain from submitting their files because they are certain they will not obtain their authorization. Moreover, the majority do not have the necessary financial resources to recruit holders of academic qualifications.

459. As stated above, the Executive Decree No. 09-18 considered each natural or legal person who, by virtue of a power of attorney and in return for a fee, performs services of commercial nature as a broker in the real estate field or real estate management for the account or benefit of the owners, to be a real estate agent. The said Executive Decree divided the real estate agents into the following professions:

- Real Estate Agents: This profession carries out all the procedures on behalf of the customers to sell, rent, exchange or promote plots of lands and real estate and take the necessary action to organize contracts in the name and for the benefit of the customers.
- Real Estate Broker: This profession includes the persons who act as intermediaries between two persons to complete the process of purchasing, selling, renting or exchanging plots of lands and real estate.
- Real Estate Manager: This profession includes the persons who rent real estate, collect the rentals and maintain the same.

460. The said executive decree required the profession of the real estate agent to obtain prior authorization from the Minister of Housing and to register in the Commercial Register. To obtain such authorization, the real estate agent and the real estate manager should have a high academic degree in the legal, economic, commercial, accounting, real estate or technical field. Whereas the real estate broker should have a technical degree in the commercial, accounting, real estate or technical field. If the applicant does not fulfill the said qualification conditions, he should hire a natural person who satisfies these conditions on a full time and actual basis. The authorization of the real estate agent shall be personal and revocable and of a ten-year renewable period.

461. The legally authorized real estate agent should, according to the Executive Decree No. 09-18, submit an annual report to the Ministry of Housing and Urban Affairs supported by figures on the activities of his institution. He shall also be subject to the monitoring of qualified employees affiliated with the Housing Department and every other legally qualified employee and obliged to provide them with each document that is relevant to his activity.

462. It was evident to the evaluation team the complete lack of awareness of the real estate agents of the ML/TF risks and the importance of their combating, although they encounter such risks from time to time. Furthermore, no concerned entity has contacted them in this regard, and in particular, the FIU and the Ministry of Finance that the Ministry of Housing and Urban Affairs considered the authorized supervisory entity with respect to AML/CFT. The evaluation team did not find any written guidelines or special memos for the real estate agents related to ML/TF.

463. **Dealers in jewelry and precious stones:** As stated before, the dealers in jewelry and precious stones are not subject to any supervision or special regulation. They can practice their activity as soon as they get a commercial register. The evaluation team did not find any written guidelines or special memos for the dealers in jewelry and precious stones related to ML/TF.

464. **Recommendation 25.** No guidance or instructions were issued by the FIU or the monitoring entities to tackle the best practices for the non-financial institutions and professions and the patterns of suspected transactions they might be exposed to nor any other guiding principles were issued to strengthen the awareness of such businesses and professions of the ML/TF risks and to invigorate the efforts of such entities in combating these crimes.

4-3-2 Recommendations and Comments

465. **The Algerian authorities are recommended to:**

- Increase the level of awareness of the self-regulatory organizations and departments on the ML/TF risks and methods of their combating.
- Impose all AML/CFT obligations set out in Recommendations 12 and 16 on the DNFBPs.
- Amend the Executive Decree 18-09 in such a way to take the current factual situation into consideration when regulating the real estate agent profession so that it does not create a category of real estate agents not subject to the law.
- Issue regulations to strengthen the AML/CFT systems at the DNFBPs.
- Establish governmental bodies to supervise the implementation of the AML/CFT measures in the NFBPs.
- Increase the capacity of the self-regulatory organizations to perform their supervisory role in the AML/CFT field, within such framework in order to respect laws and regulations in force.
- Issue guidelines that tackle the best practices for the DNFBPs and the patterns of the suspicious transactions.

4-3-3 Compliance with Recommendations 24 and 25 (criterion 25-1, DNFBPs)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	NC	<ul style="list-style-type: none"> • Insufficient awareness of the self-regulatory organizations and departments of supervisory entities of the ML/TF risks and methods of their combating. • Absence of any obligation for the FIs and DNFBPs in the AML/CFT field, save the reporting obligation. • No regulations have been issued to reinforce the AML/CFT systems at the Non financial institutions and professions, whether by governmental bodies, syndicates and SROs. • No regulation is available to some non financial professions and institutions or such regulation does not include a major part of the concerned sector (i.e. Real estate agents). • No governmental entities are available to supervise the implementation of AML/CFT procedures. Such supervision is limited to the self-regulatory organizations • Weakness of the SROs and their inability to assume a supervisory role because of their low level of awareness in the AML/CFT field and their lack of necessary resources.
R. 25	NC	<ul style="list-style-type: none"> • No guidance was published on the best practices to NFBPs and the patterns of suspicious transactions that these institutions and professions may encounter or any other guidelines.

4-4 Other non financial businesses and professions – Modern secure transaction techniques (R.20)

4-4-1 Description and Analysis

466. **Other NFBPs exposed to risk:** The Algerian authorities incorporated other activities under Article 19 of Law 05-01 and submitted such activities to the reporting obligation only. Such activities include the judicial officers, organizers of judicial sales, judicial receivers, judicial experts and certified translators. The obligation of such NFBPs to report suspicion to the FIU is due to the fact that the persons entrusted with such professions are considered public officers

467. The following table shows the number of employees under each category:

Category	Number
Judicial Officers	1620
Organizers of Judicial Sales	317
Judicial Receivers	36
Judicial Experts	5665
Translators & Certified Translators	183

468. **The Judicial Officer:** This profession is subject to Law No. 06-03 dated February 20, 2006; Article (4) thereof indicates that the judicial officer is a public officer authorized by the public authority to run a public office for his own account and under his own responsibility. Such profession can be practiced on individual basis or through a professional civil company or collective offices (Article 5). According to Article (12), the judicial officer is responsible for serving contracts, bills and notifications stipulated by the laws and regulations: to execute orders, judgments and judicial decisions except in the penal matters and to collect due debts amicably or judicially or to accept their offer or deposit and to conduct surveys, interrogations or warnings pursuant to a judicial order without giving his opinion.

469. **Organizers of Judicial Sales:** This profession is regulated by Order No. 96-02 issued on January 10, 1996 as this order created public offices for the organizers of judicial sales in a way so that each organizer is entrusted with an office to run for his own account and under his responsibility and under the supervision of the attorney general of the office's competent jurisdiction. The organizer of judicial sales is considered a public officer who is entrusted, according to the designated conditions

pursuant to the applicable laws and regulations, with assessment and sale in public auctions of movables and financial movable funds. An organizer of judicial sales may be delegated judicially or pursuant to petition from private companies for the public assessment and sale of movables and financial movable funds.

470. **Judicial Receivers:** This profession is subject to Order No. 96-23 dated July 9, 1996 as the judicial receiver is entrusted, pursuant to judicial decision, with managing the funds of third parties or assuming the functions of an assistant or monitoring the management of such funds within the framework of the current legislation. The judicial receiver may also be assigned with representing the creditors or, when necessary, to liquidate the company that is declared bankrupt according to the designated conditions in the commercial law. The judgment issued by settlement or bankruptcy appoints a judicial receiver from the list prepared by the national committee of registered judicial receivers.

471. **Judicial Experts:** The judicial experts are subject to the Executive Decree 95-310 issued on October 10, 1995, which determines the conditions and methods of registering in the judicial experts' lists. It also designates their rights and duties.

472. **Translators & Certified Translators:** This profession is regulated by Order 95-13 issued on March 11, 1995 whereby the translator is considered a public officer.

473. It is noteworthy that the Algerian authorities did not impose on such categories any requirements pertaining to AML/CFT, such as due diligence measures or keeping records, but only imposed the reporting obligation on them. It is worth mentioning that the FIU was not notified of any suspected cases by such professions. Through the meetings held by the evaluation team, it was clear that the other DNFBPs included in the law have very low level of awareness of the law obligations due to absence of provisions or guiding principles.

474. **Encouraging the development and use of modern and secure means for financial transactions:** The evaluation team noticed the encouragement of the Algerian authorities and Bank of Algeria in particular to use modern and secure mean for management of funds. It is noteworthy that Article 6 of Law 05-01 requires that each payment exceeding a certain amount determined by a regulation should be conducted via payment methods and through banking and financial channels. However, this article has not been applied yet. Moreover, the evaluation team found the issuance of a decision that requires the payment of each amount exceeding DZD 50000 to be conducted through banking and financial channels; however, such decisions has not been implemented since such amount was considered low. Currently, a new decision is being drafted in this regard to raise the amount to DZD 500,000.

4-4-2 Recommendations and Comments

475. The Algerian Authorities are recommended to:

- Impose other AML/CFT requirements, such as due diligence measures or retention of records on other activities subject to the reporting obligation.
- Issue and implement the decision related to the payment of amounts exceeding a certain limit through banking and financial channels.

4-4-3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R. 20	LC	<ul style="list-style-type: none"> • No consideration has been given by the State to implementing the AML/CFT requirements, such as due diligence measures on other NFBPs and imposed only the reporting obligation on them. • Non-implementation of the decision related to the payment of amounts exceeding a certain limit through banking and financial channels.

5- Legal Persons and Legal Arrangements & Non-Profit Organizations

5-1 Legal Persons - Access to beneficial ownership and control information (R.33)

5-1-1 Description and Analysis

476. Commercial companies in Algeria are divided into individual companies and stock companies. The individual companies are represented in joint liability companies, limited partnership companies and joint venture companies. As for stock companies, such category includes limited liability companies, joint stock companies and companies limited by shares.

477. All commercial companies are subject to the provisions of Order No. 75-59 dated September 26, 1975 including the Commercial Law. By virtue of Article 545 of this Order, each company must be proved through an official contract, and the articles of association and amended contracts of each company must be deposited at the National Center for Commercial Register (Article 548). In addition, a company shall not be considered a legal person except after being registered in the commercial register (Article 549).

478. By virtue of Article 715/34 of Order No. 75-59, the joint stock companies issue stocks in the form of bearer bonds or nominal bonds. Article 715/35bis also allows the owner of bonds to request converting their form from nominal bonds to bearer bonds and vice versa. The issued shares can be financial in which case the bond shall be delivered, or they can be registered in an account. The issuing company holds such account if the issued shares are nominal or issued through an eligible broker if they were bearer shares. The bearer shares transfer from one person to another upon delivery or through registering in the accounts (Article 715/38).

479. **Special measures preventing the misuse of legal persons:** Algeria has a commercial register held by the National Centre for Commercial Register that is numbered and countersigned by the Judge (Article 2 of Law No. 04-08 dated August 14, 2004 pertaining to the conditions of practicing commercial activities). Public officers shall register each natural or legal person in the commercial register on the level of the National Centre's branches found in all provinces of Algeria (Article 10 of Law No. 04-08), then they are required to send the registrations to the National Centre within a week according to the statements of the Algerian authorities.

480. Article 19 of Order No. 75-59 dated September 26, 1975 including the Commercial Law obliges each legal person which is commercial in form or in subject and located in Algeria or has an office, branch or any institution whatsoever to register in the Commercial Register. Registering in the Commercial Register refers to each registration, amendment or deletion (Article 5 of Law No. 04-08).

481. By virtue of Article 13 of the Executive Decree No. 97-41 dated January 18, 1997 pertaining to the criteria of designating the governed activities and professions subject to registration in the commercial register and its amendments, the legal persons must submit a registration application at the Commercial Register that consists of: 1- two copies of the articles of association including the establishment of the company issued in a notarized contract, 2- copy of the announcement of the articles of association of the company in the official bulletin of legal announcements, 3- birth certificate and transcript of the judicial record not exceeding three months for the managers and administrative directors and members of the monitoring board and the Board of Directors, and 4- the authorization or license for the subject activities.

482. **Timely access to accurate and up-to-date information on beneficial ownership:** The requirements of the Executive Decree No. 06-197 dated May 31, 2006, specifying the conditions of sending information pertaining to retained transactions by the National Centre for Commercial Register to the concerned departments, institutions and authorities, obliges the said centre to send information to all concerned departments within 15 days at most after the end of the concerned month through adequate means including magnetic disks. The information comprises the name, title, and address of the

company as well as its legal status, address of business, capital and the names and titles of each of the partners and members of the board of directors or the monitoring board and the nationality, date and place of birth of the manager and the activity sector, its code and content and the number and date of registration. Moreover, the Algerian authorities stated that the information requests submitted by the concerned authorities to the National Centre for Commercial Register are responded to within a period of 2 days at most. The information provided by the National Centre for Commercial Register to the concerned authorities remains of statistical nature and does not give accurate data on the beneficial owners.

483. **Avoiding misuse of bearer shares:** Order No. 75-59 dated September 26, 1975 which includes the commercial law stipulates the rules ensuring transparency with respect to companies' incorporation; however, the fact that the issuance of bearer shares is permitted and it is possible to trade them while no measures exist to avoid their misuse can be used in ML.

484. **The Additional Element – Access of financial institutions to information on the true beneficial owners from the legal persons:** No measures exist to facilitate the access of FIs to information on the controllers and beneficial owners; yet, the Algerian authorities stated that the information available at the National Centre for Commercial Register may be reviewed by the public.

5-1-2 Recommendations and Comments

485. The Algerian Authorities are recommended to:

- Take adequate measures to avoid misuse of bearer shares in ML.
- Provide the concerned authorities with accurate information on the beneficial owners.

5-1-3 Compliance with Recommendation 33

	Rating	Summary of factors underlying rating
R.33	PC	<ul style="list-style-type: none"> ○ Lack of adequate measures to avoid misuse of bearer shares in ML. ○ Failure to provide the concerned authorities with accurate information on the beneficial owners in a timely manner.

5-2 Legal Arrangements - Access to beneficial ownership and control information (R. 34)

5-2-1 Description and Analysis

486. Trust funds were not found in Algeria; neither are they stipulated in the law nor exist in reality.

5-2-2 Recommendations and Comments

5-2-3 Compliance with Recommendation 34

	Rating	Summary of factors underlying rating
R.34	NA	

5-3 Non-profit organizations (SR VIII)

5-3-1 Description and Analysis

487. **SR VIII.** Pursuant to Articles 7 and 10 of the Associations Law No. 90_31 dated December 4, 1990, associations shall be established after depositing the establishment license at the *governor* of the province where the association is located, if it is local, and at the Minister of the Interior if it is of national character and to announce the association in the Official Gazette that is distributed on the national level. Such license should be enclosed in a file that includes a list of names of the incorporating members, their signatures, civil statuses, functions and addresses of residence in addition to true copies of the articles of association and the constituent assembly. The objective of the association must also be identified accurately. The Ministry of the Interior shall take in charge the

mission to monitor the associations according to the requirements of Articles 10, 17 and 18 of the abovementioned law.

488. Article 17 of Law No. 90-31 obliges associations to inform the general authorities stipulated in Article 10 (the governor for local associations and the Minister of the Interior for associations of a national character) with all amendments that occur in their articles of association and all changes occurring in their leadership within thirty days. Article 18 of the same law obliges each association to provide all information pertaining to its employees, source of funds and financial status on a regular basis to the competent general authority by virtue of a regulation. There was not a chance to verify such control during the visit. There is no onsite control or inspection for associations. Whereas, by virtue of the Executive Decree No. 01-351 dated November 10, 2001, the supervision of the associations that benefit from the aids provided by the State or the local groups is limited to obliging such associations to appoint an accountant to audit the accounts of the granted aids and prepare a written report thereof. A copy of such report is then sent to the relevant treasurer, the grantor and the general assembly of the association. The competent general authority (the Ministry of the Interior as interpreted from the provision of the law) by virtue of Article 28 of the abovementioned law shall be responsible for monitoring the aids granted from abroad and within this framework, the grantor, the type and amount of the grant and its adequacy for the objective of the association stipulated in the articles of association shall be verified.

489. The adequacy of the laws pertaining to the sector of associations has not been reviewed and no precautionary measures have been taken to avoid the exploitation of this sector in terrorist financing. No seminars or meetings have been organized and no guidelines were given to the actors in this sector as stated by the Algerian authorities.

490. Each association shall maintain at its main office information pertaining to its objective, managers and members. Such information is also available at the Ministry of the Interior and may be accessed upon request according to what the Algerian authorities stated.

491. There is no indication to the existence of cooperation or coordination among the different concerned authorities on the national level with regard to exchange of information on associations in an efficient and timely manner to avoid their use for terrorist activities or within the framework of investigations. Moreover, the law did not cover the techniques that enable the exploitation of the associations for such purpose.

492. Pursuant to Article 31 of Law 90-31, the use of donations, aids and contributions by associations in purposes other than those specified by the administration constitutes a violation. The sanction of imprisonment ranging between 3 months to 2 years and a fine ranging between 50,000 and 100,000 DZD shall be implemented on the persons who control or manage unlicensed or degenerated associations. Moreover, a fine of 2000 to 5000 DZD shall be implemented against any person who refuses to provide information on the finances of the association and associations in violation of the provisions of the subject law are subject to dissolution pursuant to a judicial order as well as taking precautionary measures to control or confiscate their properties.

5-3-2 Recommendations and Comments

493. The Algerian authorities are recommended to:

- Evaluate on a regular basis the local legislation pertaining to associations and take into consideration the updates about the weakness points in this sector.
- Take tangible measures to communicate with associations about the risk of their misuse in terrorism financing.
- Establish a cooperation mechanism among the different competent authorities, in particular, in the field of exchange of information.

5-3-3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	NC	<ul style="list-style-type: none">• Lack of regular evaluation of the local legislation pertaining to associations while taking into consideration the updates about the weakness points in this sector.• Not taking tangible measures to communicate with associations about the risk of their misuse in terrorist financing.• Non-existence of any cooperation mechanism among the different competent authorities, in particular, in the field of exchange of information.

6- National and International Cooperation

6-1 National cooperation and coordination (R.31)

6-1-1 Description and Analysis

494. The Criminal Procedures Law includes in general several legal procedures that allow the coordination between the security bodies responsible for combating crime including ML/TF crimes and the judicial authorities with which such security bodies are affiliated pursuant to the rules of regional competence.

495. **As for the aspect of cooperation on the policies level**, the sole authority concerned with AML/CFT is the FIU, which consists of (1) the Council, (2) the Secretariat, and (3) the Departments. National coordination is not included under the Council's competences. Consequently, there is no national committee or authority in Algeria including all the AML/CFT sectors that is in charge of coordinating policies between all competent authorities.

496. In this regard, it is worth referring to the committee established on the level of the Republic presidency headed by the President's adviser. The committee consists of a representative from each of the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Justice, Ministry of Transport, the FIU, the Bank of Algeria, the Customs and security bodies. This committee is concerned with following up the execution of the Security Council Resolutions, in particular Resolution 1373, and the provisions of the 1999 Terrorist Financing Convention. The authorities stated that this committee works on ensuring consultations between governmental institutions to set strategies for combating terrorist financing, thus, coordination in the field of fighting money laundering is not included in the committee's work.

497. **Cooperation on the operational level:** Some of the cooperation aspects on the operational level appear through the following: (1) The national security bodies respond to the requests submitted by the FIU on the persons suspected of committing ML/TF crimes; (2) The national security bodies coordinate their activity with other bodies such as the FIU, National Gendarmerie, the national Customs and others. The law gave the FIU the right to request information from the law enforcement authorities and the decree dated March 30, 2008 issued by the Minister of Finance allowed the unit to request from the Tax and Customs Authorities, at any time, any additional document or information it deems necessary to assume its duties.

498. The Algerian authorities stated that within the framework of cooperation with the local authorities, mutual units were established that comprise elements from the national gendarmerie, national security, customs, and tax authorities for combating ML and TF. They also stated that a cooperation protocol was signed between the leaders of the national gendarmerie and the Customs Authority in order to exchange information and combat ML and TF. However, no supporting documents were available to the team to prove that.

499. **Local cooperation and coordination mechanisms in the AML/CFT field:** The Algerian authorities did not provide any consultation mechanisms between the competent authorities and other sectors (including the DNFbps) that are subject to the laws or measures pertaining to AML/CFT. The existing mechanisms are concerned with cooperation between the concerned authorities and not coordination between them. The evaluation team did not find an indication on the existence of coordination on the local level to set AML/CFT policies and activities.

6-1-2 Recommendations and Comments

500. The Algerian authorities are recommended to:

- Set mechanisms that allow local cooperation and coordination between the policy makers, the FIU and the law enforcement agencies with regard to setting and executing policies in the AML/CFT field.

6-1-3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	PC	<ul style="list-style-type: none">- Lack of mechanisms that guarantee local cooperation or coordination on the level of policies.- Inability to measure the effectiveness of national cooperation.

6-2 The Conventions and UN Special Resolutions (R.35 and SR. I)

6-2-1 Description and Analysis

501. Algeria approved the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances on December 20, 1988 and ratified it pursuant to the Presidential Decree No. 95-41 on Sha'aban 26, 1415 hijri corresponding to January 28, 1995. Algeria also ratified the UN International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) approved by the UN General Assembly pursuant to the Presidential Decree No. 2000_445 dated Ramadan 27, 1421 hijri corresponding to December 23, 2000. The UN Convention against Transnational Organized Crime was also ratified by Algeria pursuant to the Presidential Decree No. 02_55 dated on Dhu al-Qi'dah 22, 1422 corresponding to February 5, 2002. (Regarding the implementation of such agreements, please refer to Recommendation 1 and Special Recommendation II).

502. **Implementation of the Security Council Resolutions:** No laws, regulations or measures pertaining to the implementation of the Security Council Resolutions Nos. 1267 and 1373 were available to the evaluation team. No sanitized cases for the implementation of the Security Council Resolutions were available to the evaluation team. (For more details, kindly see the analysis of Special Recommendation III).

503. **Additional Element:** Algeria joined the Arab Agreement for the Suppression of Terrorism, signed in Cairo on Dhu al-hijjah 25, 1418 Hijri corresponding to April 22, 1998, ratified pursuant to the Presidential Decree No. 413-98 dated Sha'aban 18, 1419 hijri corresponding to December 7, 1998. Algeria also joined the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism signed in the 35th Ordinary Session for the OAU Assembly of Head of States and Governments held in Algeria in the period from 12-1 July, 1999 and ratified pursuant to the Presidential Decree No. 79-2000 dated Muharram 4, 1421 Hijri corresponding to April 9, 2000.

6-2-2 Recommendations and Comments

504. The authorities are recommended to:

- Fully implement the UN Convention for the Suppression of the Financing of Terrorism and the Palermo Convention.
- The Algerian authorities should ratify 13 agreements pertaining to combating terrorism.
- Implement the UN Security Council Resolutions Nos. 1267 & 1373 on fighting and suppressing the financing of terrorism.

6-2-3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	PC	<ul style="list-style-type: none">• Convention for the Suppression of the Financing of

		Terrorism and the Palermo Convention are not fully implemented.
SR. I	NC	<ul style="list-style-type: none"> • The United Nation Convention for the Suppression of the Financing of Terrorism is not fully implemented. • The UN Security Council resolutions Nos. 1267 & 1373 on fighting and suppressing the financing of terrorism are not implemented.

6-3 Mutual Legal Assistance (R.36-38 and SR. V)

6-3-1 Description and Analysis

505. **General Description:** The applicable principle in this field is judicial cooperation – in various areas - based on agreements. In case there is no agreement, it depends on the principle of reciprocity in the field of mutual legal assistance requests. Algeria signed several bilateral agreements with a number of countries on judicial cooperation in general that included mutual judicial assistance. These agreements have regulated the formal and relevant conditions for methods for exchange of information and provision of assistance or what is known as rogatory letters. Regarding the approaches used in legal assistances, the Algerian judicial entities distinguish between two types of the entities requesting judicial assistance as follows: (1) there are entities with which Algeria has bilateral agreements. In this case, a request for assistance is directly sent between the judicial entities in the two countries without the need to be sent via the diplomatic channel; (2) there are entities with which there are bilateral agreements. In this case, the judicial assistance requests must be sent via the diplomatic channel (the consular entities) in the two countries.

506. The following is a list of the main agreements of judicial and legal assistance ratified by Algeria:

- Judicial Cooperation Agreement between Algeria and Morocco on March 15, 1963
- Judicial Cooperation Agreement between Algeria and Tunisia on January 26, 1963
- Judicial and Legal Cooperation between Algeria and Egypt signed on February 29, 1964
- Judicial Cooperation Agreement between Algeria and Mauritania on December 3, 1970
- Judicial and Legal Cooperation Agreement between Algeria and Syria on April 27, 1981 (and an annex signed on June 17, 1995)
- Judicial Cooperation Agreement between Algeria and Libya on July 8, 1994
- Judicial and Legal Cooperation Agreement between Algeria and Jordan on June 25, 2001
- Judicial and Legal Cooperation between Algeria and Yemen on February 3, 2002
- The Franco-Algerian Judicial Protocol signed on August 28, 1962
- Criminals' Extradition and Judicial Cooperation Agreement in penal matters between Algeria and Belgium on June 12, 1970
- Judicial Cooperation Agreement in civil, commercial, personal and penal matters between Algeria and Bulgaria on December 20, 1975
- Judicial and Legal Cooperation Agreement in civil, personal and penal matters between Algeria and Hungary on February 7, 1976
- Judicial and Legal Cooperation Agreement between Algeria and Bologna on November 9, 1976
- Judicial and Legal Cooperation Agreement in civil, personal and penal matters between Algeria and Romania on June 26, 1979
- Judicial Cooperation Agreement between Algeria and Turkey on May 14, 1989
- Judicial Cooperation Agreement in penal matters between Algeria and Spain on October 7, 2002
- Judicial Cooperation Agreement in penal matters between Algeria and Italy on July 22, 2003

- Judicial and Legal Cooperation Agreement between Algeria and Mali on January 28, 1983
- Judicial Cooperation and Assistance Agreement between Algeria and Niger on April 12, 1984
- Judicial Cooperation Agreement in penal matters between Algeria and South Africa on October 19, 2001
- Judicial and Legal Cooperation Agreement between Algeria and Cuba on August 30, 1990
- Judicial Cooperation Agreement in penal matters between Algeria and Iran on October 19, 2003
- Judicial Cooperation Agreement in penal matters between Algeria and the UK on July 11, 2006
- Judicial Cooperation Agreement in penal matters between Algeria and Switzerland on June 3, 2006
- Judicial Cooperation Agreement in penal matters between Algeria and South Korea on March 12, 2006
- Judicial Cooperation Agreement in penal matters between Algeria and China on November 6, 2006
- Agreement on Judicial Cooperation, judicial notifications, rogatory letters, execution of judgments and criminals' extradition between Algeria and the UAE on October 12, 1983
- Judicial and legal Cooperation Agreement between Algeria and Sudan on January 24, 2003
- Judicial Cooperation Agreement in penal matters between Algeria and Portugal on January 22, 2007

507. **Providing maximum mutual legal assistance:** Article 29 of the AML/CFT Law no. 05-01 stipulated that judicial cooperation between the Algerian and foreign judicial authorities shall take place throughout the investigations and follow-ups and judicial measures related to AML/CFT pursuant to the principle of reciprocity and according to the bilateral and multilateral agreements of which Algeria is a part in accordance with the internal legislation. _Moreover, Article (30) adds that the judicial cooperation may include investigations requests, international judicial rogatory letters and extradition of the wanted persons according to the law as well as requests of tracking and seizing the proceeds of the ML crimes and those directed to TF in order to confiscate such proceeds without prejudice to the rights of bona fide third parties.

508. Article 57 of the Anti-Corruption Law No. 06-01 stipulated that, “Pursuant to the principle of reciprocity, and within the extent permissible by the relevant conventions, agreements and arrangements, judicial cooperation relationships shall be established on a maximum scale, especially with countries that are part of an agreement in the field of investigations, follow-up and judicial measures related to the crimes provided for in such law”. Hence, the provision of Article 57 applies within the cooperation framework in the ML crimes and not TF crimes. In this regard, it can be referred to the general rules and Article 29 of the AML/CFT Law. Article 63 of the same law added that the foreign judicial sentences which ordered the confiscation of properties being the proceeds of one of the crimes stipulated in this law (including the ML crime) or the means used in such crimes are deemed enforceable on the Algerian territory in accordance with the applicable rules and procedures. While reviewing the ML crimes or other crimes under their jurisdiction according to the applicable legislation, the judicial authorities may order the confiscation of properties of foreign origin being the proceeds of one of the crimes stipulated in this law or used in committing such crimes. The properties mentioned in the above paragraph shall be confiscated even if no conviction was made due to the lapse of the public action or for any other reason.

509. Article 64 added that the judicial entities or competent authorities, pursuant to request of one of the states which are part of the convention (the convention against corruption) whose courts or

competent authorities have ordered the freezing or seizing of proceeds resulting from one of the crimes stipulated in this law (including the ML crime), or the properties, tools or means used or intended to be used in such crimes, may order the freezing or seizing of such properties provided the occurrence of sufficient reasons to justify such procedures as well as the occurrence of evidence that such properties should be confiscated. It is worth mentioning that this article does not apply to TF crimes as well.

510. In addition to the abovementioned, regarding the judicial rogatory letters, Article 721 of the Criminal Procedures Law indicated that in case of non-political penal follow-up in a foreign country, the judicial rogatory letters shall be submitted by the foreign authority through diplomatic channels to the Ministry of Justice (through the Minister of Foreign Affairs). The rogatory letters shall be implemented according to the Algerian law based on the principle of reciprocity. Article 724 added, “If the foreign government found it necessary in a criminal suit that a witness appears before court in Algeria, the Algerian government which notifies through diplomatic means shall summon the said witness. However, this notification shall not be received unless the witness may not be tracked or imprisoned for acts or judgments prior to the request for summons. The request for sending the imprisoned persons for confrontation purposes must be submitted through diplomatic channels which shall be responded to, provided those imprisoned persons are returned in the shortest possible period unless other consideration prohibit from doing so”. This procedure is conducted to ensure the smooth progress of the investigation. It is included among the investigation procedures provided for in the Criminal Procedures Law. Article 722 of the same law stipulates the procedures related to the declaration of foreign judgments. Article 724 of the Criminal Procedures Law stipulated the procedures regulating the request for hearing the statement of a foreign witness and the judicial announcement to appear through diplomatic channels.

511. Article 723 of the Criminal Procedures Law granted the right for a foreign country to request from the Algerian authorities to send evidence or documents in its possession. The request shall be submitted through diplomatic channels and responded to, provided the foreign country returns the papers and documents in the shortest possible period unless otherwise specified.

512. Hence, there is lack of evidence on offering mutual legal assistance pertaining to identifying, freezing, seizing or confiscating the assets intended to be used in TF, as well as the instrumentalities used to commit such crimes.

513. **Providing assistance in a timely manner and in an efficient and constructive way:** Article 721 of the Criminal Procedures Law stipulates that in case of non-political penal follow-up in a foreign country, the judicial rogatory letters issued by the foreign authority shall be submitted through diplomatic channels to the Ministry of Justice (through the Ministry of Foreign Affairs). The rogatory letters shall be implemented pursuant to the Algerian law, based on the principle of reciprocity. However, the requests are sent directly to the central authorities without passing through diplomatic channels when bilateral agreements exist. In all cases, the request shall pass through the Judicial Division concerned with the international cooperation in the Ministry of Justice and be examined then, after being approved, it shall be referred to the attorney general who opens an investigation file through which the judicial request shall be implemented. These procedures take a lot of time, but the Algerian authorities conformed that the time taken to respond to requests ranges between two and three months at the time of implementing the judicial rogatory letters and does not exceed six months.

514. **There are no unreasonable, inadequate, unnecessary or binding conditions:** There is no prerequisite in the Algerian law nor in the bilateral and multilateral agreements signed by Algeria that the judicial procedures begin in the requesting country or a conviction be made; Article 29 of the AML/CFT Law stipulates that, “Judicial cooperation is conducted ... during the investigations, follow-ups and judicial procedures pertaining to ML/TF ...”. The bilateral agreements signed by Algeria refer to the conditions of rejecting the execution of the judicial rogatory letter on the sole basis of the incompetence of the authority according to the law or that the rogatory letter contradicts with the sovereignty, security or public system of Algeria. The reasons for rejection must be provided.

515. **Providing assistance regardless of possible involvement in financial issues:** There are no legal provisions that refer to the possibility of rejecting an assistance request on the basis that the crime includes financial issues. Moreover, the bilateral agreements did not include any conditions pertaining to financial issues to be the reason for rejecting assistance requests.

516. **Providing assistance regardless of the existence of laws imposing secrecy and confidentiality:** Article (27) stipulated that within the AML/CFT framework, the Bank of Algeria and the Banking Commission may provide the authorities entrusted with monitoring banks and FIs in other countries with information pursuant to the principle of reciprocity and provided that such authorities are subject to the profession's confidentiality under the same guarantees in Algeria. This provision does not settle the issue of providing assistance regardless of the existence of laws imposing secrecy. It can be understood, through this article, that the authorities abiding by secrecy may provide information while requesting guarantees for the profession's confidentiality.

517. **Providing powers to the competent authorities by virtue of Recommendation 28:** According to the Algerian Criminal Procedures Law, the judicial authorities are entrusted with replying to the Mutual Legal Assistance (MLA) requests. Pursuant to Article 721 of the Criminal Procedures Law, the judicial rogatory letters issued by a foreign authority shall be submitted through diplomatic channels to the Ministry of Justice and shall be implemented according to the Algerian law based on the principle of reciprocity. By virtue of the agreements made between Algeria and other countries, different types of judicial assistance may be provided including any required judicial procedure such as hearing witnesses, obtaining documents, seizure, hearing experts, using expertise ... and such other procedures as long as they do not contradict with the provisions of the local law.

518. **Competence:** Articles 582-589 of the Criminal Procedures Law state the judicial procedures in crimes committed abroad, however, it is noted that Article 28 of the ML Law stipulates that information may not be provided if criminal procedures started in Algeria based on the same events. In case of the non-existence of agreements, the common practice is to bring the convicted to trial in the two countries and whichever country reaches the perpetrator first shall proceed with executing its judgment.

R 37 and SR V:

519. **Dual Criminality and Mutual Assistance:** A legal provision in the Criminal Procedures Law or in the Corruption Prevention Law that requires the dual criminality as a condition to provide mutual legal assistance is not available. The bilateral agreements held by Algeria within the framework of mutual legal assistance which were reviewed by the evaluation team do not include such condition.

520. By referring to the agreements held by Algeria in the field of judicial cooperation, it is noteworthy that there is no legal or practical obstacle in the State that prevents providing assistance. The authorities stated that the simple technical differences such as differences in the classification of crimes or the terms used to refer to such crimes do not form any obstacle for Algeria to providing legal assistance requested by a country, which refers to "Money Laundering", the term used by the Algerian lawmaker, by another name. The most important thing is the elements of offence, which are usually common between different systems except for some details in the formation of legal elements such as the circumstances underlying the act or paving the way for it and other issues that may differ between one country and another.

Recommendation 38 and Special Recommendation V:

521. **General Description:** Article 30 of the ML/TF Prevention Law stipulated that judicial cooperation includes (...) inspecting and restraining the proceeds resulting from ML and those directed to TF to be confiscated. Furthermore, the Corruption Prevention Law included a chapter on international cooperation and the retrieval of funds, where Article 60 stipulates that the similar national

authorities may provide the competent foreign authorities with the financial information in its possession, on the occasion of the current investigations taking place on its territory, and within the framework of measures taken for the purpose of requesting and retrieving the proceeds of the crimes stipulated in the law. Hence, the TF crime is not included in the framework of applying this article. Article 63 of the same law added that the foreign judicial sentences that order the confiscation of properties being the proceeds of one of the crimes stipulated in this law (including the ML crime) or the means used in such crimes are considered enforceable on the Algerian territory in accordance with the applicable rules and procedures. While reviewing the ML crimes or other crimes under their jurisdiction according to the applicable legislation, the judicial authorities may order the confiscation of properties of foreign origin being the proceeds of one of the crimes stipulated in this law or used in committing such crimes. The properties mentioned in the above paragraph may be confiscated even if no conviction was made due to the lapse of the public action or for any other reason.

522. Article 64 added that the judicial entities or competent authorities, pursuant to request of one of the states in the convention (the convention against corruption) whose courts or competent authorities have ordered the freezing or seizure of proceeds resulting from one of the crimes stipulated in this law (including the ML crime), or the properties, tools or means used or planned to be used in such crimes, may order the freezing or seizure of such properties provided the occurrence of sufficient reasons to justify such procedures as well as the occurrence of evidence that such properties should be confiscated. It is worth mentioning that this article does not apply to TF crimes as well.

523. From what is stated above, it is clear that there are laws that regulate the freezing, seizure and confiscation of properties pursuant to request of another state; yet it is worth mentioning that such laws are limited to the field of ML crimes and among states that are part of the convention against corruption. Thus, the TF crimes are not included in the application framework of these provisions. Moreover, cooperation in this field is not obligatory even in ML crimes for states that are not part of the convention against corruption. In case of TF crimes, only Article 30 of the AML/CFT Law applies. In addition, all such laws and procedures do not apply when the request pertains to properties of corresponding value.

524. **International cooperation procedures for confiscation:** The request submitted by one of the countries in the convention against corruption to confiscate criminal proceeds or properties, tools or others means mentioned in Article 64 of the abovementioned law, occurring on the national territory, is addressed directly to the Ministry of Justice who in turn refers it to the Public Prosecutor at the competent judicial entity. The public prosecution shall then send this request to the competent court along with its requests (...). The confiscation judgments rendered based on the submitted requests according to this article shall be executed by the public prosecution using all legal means. It is noteworthy that Article 64 indicated that the public prosecution presents the requests submitted to it to the competent court which settles the matter according to the procedures stipulated in the jurisdiction of summary matters. Hence, such procedures can be regarded as adequate and quick, but their effectiveness cannot be decided because no statistics are available in this regard.

525. Algeria did not consider the creation of a fund for expropriated properties where all confiscated properties or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes.

526. **Division of confiscated properties:** No consideration has been given to licensing in dividing the confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated procedures in the law enforcement field as the criminal properties and proceeds are confiscated for the benefit of the treasury.

527. The following is the number of processed cases in the framework of international cooperation in the AML/CFT field.

Year	No. of ML Cases	No. of TF Cases
2004	04	-
2005	03	01
2006	-	12
2007	01	21
2008	02	40

528. It is noteworthy that these statistics submitted by the authorities do not show whether the cooperation included a request submitted by Algeria or a request submitted by another country.

6-3-2 Recommendations and Comments

529. The Algerian authorities are recommended to:

- Remove ambiguity over potential conflict in the scope of competence of Algeria and another requesting country.
- Establish adequate laws and measures for a swift and effective response to mutual legal assistance requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets intended to be used in TF as well as the instrumentalities used to commit such crimes.
- Establish laws for the confiscation of properties of corresponding value in the TF field.
- Consider the creation of a fund for expropriated properties where all confiscated properties or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes.
- Consider the licensing in the division of confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated measures in the law enforcement field.

6-3-3 Compliance with Recommendations 36-38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	LC	<ul style="list-style-type: none"> • Occurrence of ambiguity with respect to potential conflict in the scope of competences. • Lack of evidence on offering legal assistance with respect to identifying, freezing, seizure or confiscation of assets intended to be used in TF, as well as the instrumentalities used to commit such crimes.
R.37	C	
R.38	PC	<ul style="list-style-type: none"> • No adequate laws and measures exist for the quick and effective response to the mutual legal assistance requests submitted by foreign countries when the request pertains to identifying, freezing, seizing or confiscating assets used or intended to be used in TF as well as the instrumentalities used to commit such crimes. • No laws exist for the confiscation of properties of corresponding value in the TF field. • No consideration has been given to the creation of a fund of expropriated properties where all confiscated properties or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes. • No consideration has been given to the licensing in the division of confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated measures in the law enforcement field. • Inadequate criminalization of ML may affect the rating.

SR.V	PC	<ul style="list-style-type: none"> • All abovementioned factors. • Inadequate criminalization of TF may affect the rating.
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6-4 Extradition (R. 37 & 39 & SR.V)

6-4-1 Description and Analysis

Recommendation 39 and Special Recommendation V

530. **General Description:** The implemented measures and procedures in Algeria with respect to the extradition of criminals are carried out according to the provisions of the Criminal Procedures Code, where Article 68 of the Algerian Constitution stipulated that no one shall be extradited outside Algeria except according to and in application of the Criminals' Extradition Law. The provisions related to the extradition of criminals are stipulated in the Criminal Procedures Law in Articles 694-720. Chapter 7 of this law with respect to relations with the foreign judicial authorities provided provisions related to the extradition of criminals. Chapter One thereof includes provisions that stipulate the conditions of criminals' extradition as well as the procedures and effects of extradition.

531. This is with respect to the general law. In case of the occurrence of a judicial agreement, its provisions shall apply in the field of criminals' extradition. The following are the most important bilateral agreements signed by Algeria in this field:

- Agreement on the implementation of provisions and criminals' extradition with France on August 27, 1964.
- Agreement on criminals' extradition and judicial collaboration in criminal matters with Belgium on June 12, 1970.
- Agreement on criminals' extradition with Spain on December 12, 2006.
- Agreement on criminals' extradition with Italy on July 22, 2003.
- Agreement on criminals' extradition with Nigeria on March 12, 2003.
- Agreement on criminals' extradition with South Africa on October 19, 2001.
- Agreement on criminals' extradition with Pakistan on March 25, 2003.
- Agreement on criminals' extradition with Iran on October 19, 2003.
- Agreement on criminals' extradition with the UK on July 11, 2006.
- Agreement on criminals' extradition with South Korea on March 12, 2006.
- Agreement on criminals' extradition with China on November 6, 2006.
- Agreement on criminals' extradition with Portugal on January 22, 2007.

532. **On Conditions of Criminals' Extradition in the Algerian Law:** Article 695 of the Criminal Procedures Code stipulates that no person may be extradited to a foreign government unless the follow up procedures have been taken in their regard for the stipulated crime in this chapter or has been convicted therein. Article 696 added that the Algerian government may turn in a non-Algerian person to a foreign government pursuant to its request if this person exists in Algeria and the follow up procedures have been taken in their regard under the name of the applicant country or has been convicted by one of this country's courts. However, extradition may not take place unless the crime, subject of the request, has been committed:

- the territories of the applicant country by one of its citizens or by a foreigner;
- Or outside its territory by one of the citizens of such country;
- Or outside its territory by a foreigner if the crime is one of the crimes that may be followed up in Algeria by the Algerian law even if committed by a foreigner abroad.

533. Article (698) thereof provided the cases where extradition may not take place: (1) If the person required to be extradited is of Algerian nationality at the time of committing the crime in action, (2) If the crime or misdemeanor has a political nature or it was found out, under the circumstances, that the extradition is requested for a political purpose, (3) If the crime or misdemeanor is committed within the

Algerian territory, (4) If the crime or misdemeanor is followed up and a final judgment is rendered therein in Algeria even if it is committed outside Algeria, (5) If the public action lapsed by prescription before submitting the request or the penalty lapsed by prescription before arresting the person to be extradited. In general, whenever the public action lapses in the applicant country according to the laws of the applicant country or the country required to carry out the extradition, (6) If a pardon is granted in the applicant country or the country required to carry out the extradition provided that in the latter case, the crime may have been followed up in such country if it was committed outside its territory by a foreigner.

534. Procedures of Criminals' Extradition: Article 702-707 of the Criminal Procedures Law provided the procedures of criminals' extradition. The extradition request is addressed to the Algerian government via the diplomatic channels along which is attached either the judgment rendered with the penalty even if in absentia or the criminal procedures papers by which an official order is issued to refer the convict to the criminal jurisdiction or the papers leading to that by the law or an arrest warrant or any paper issued by the judicial authority which have the same power; provided that such latter papers include accurate details and date of the act in action. The abovementioned original papers or official copies must be submitted. At the same time, the applicant country must submit a copy of the provisions applying to the act representing the offence along which a statement of the facts of the case must be attached. The Public Prosecutor shall interrogate the foreigner to verify his identity and inform him of the document by virtue of which he is under arrest within twenty-four hours after the arrest. A report shall be made by such procedures. The foreigner shall be transferred soonest and detained in the capital's prison. At the same time, the documents submitted in support of the extradition request shall be referred to the Public Prosecutor at the Supreme Court who in turn interrogates the foreigner and submits a report in this regard within twenty four hours. The said reports and all other documents shall be immediately sent to the criminal chamber at the Supreme Court where the foreigner submits before it eight days at most from the date of submitting the documents. The foreigner may be granted an eight-day period before the pleadings pursuant to request by the Public Prosecution or the foreigner. After that, the foreigner is interrogated and a report is made on such interrogation. The court hearing shall be held publicly unless decided otherwise pursuant to a request of the public prosecution or the attendee. The statements of the public prosecution and the concerned party shall be heard and the latter may hire a certified attorney and translator. The foreigner may be released temporarily any time during the procedures. Article (712) added that the attorney general at the Judicial Council, in case of expedition, and upon direct request by the judicial authorities in the applicant country, may order the temporary arrest of the foreigner, if only a notice has been sent to them by mail or any other express means which would have a physical written effect that shows the existence of any of the documents set out in Article (702). A legal notice must be sent, at the same time, to the Ministry of Foreign Affairs, about the request via diplomatic channels or by mail or wire or any other mailing means that might have a written effect. The Public Prosecutor must inform the Minister of Justice and the Public Prosecutor at the Supreme Court of such arrest.

535. Dual criminality with respect to extradition of criminals: Extradition may not be accepted in any case if the act is non-punishable under the Algerian law by the sanction for a felony or misdemeanor. Article 697 of the Criminal Procedures Law listed the acts that allow extradition whether requested or acceptable as follows: (1) All acts that are punishable under the law of the requesting country by the sanction of a felony; (2) The acts that are punishable under the law of the requesting country by the sanction of a misdemeanor if the maximum period of the applicable sanction according to the provisions of this law is 2 years or less or if the matter is related to an accused who has been sentenced if the sanction decided by the judicial authority of the requesting country is equal to or exceeds imprisonment by 2 months. Extradition may not be accepted in any case if the act is non-punishable under the Algerian law by the sanction for a felony or misdemeanor. The acts of attempt or participation are subject to the previous rules provided they are punishable under the law of the requesting country and the country requested to conduct extradition. If the request is related to several crimes committed by the person requested to be extradited and a judgment has not been rendered therein, extradition shall not be accepted unless the maximum period of the applicable sanction under the law of the requesting country for such crimes is equal to or exceeds imprisonment by 2 years. If the

person requested to be extradited has been sentenced before in any country through a final judgment by imprisonment for 2 months or more for one of the misdemeanors of the general law, extradition shall be accepted according to the previous rules. In other words, extradition shall be accepted only for felonies or misdemeanors but without consideration of the period of the applicable or sanction ruled in the last crime.

536. **ML/TF crimes whose perpetrators are extradited:** In addition to the general provisions stipulated in the Criminal Procedures Law, Article 29 of the AML/CFT Law stipulated that judicial cooperation among the Algerian and foreign judicial entities shall take place throughout the investigations and proceedings and judicial measures related to ML/TF based on the principle of reciprocity and according to the bilateral and multilateral agreements which are ratified by Algeria in this field in accordance with the internal legislation. Article (30) added that the judicial cooperation may include investigation requests, international rogatory letters and extradition of wanted persons according to the law. Thus, the ML/TF crime in Algeria is regarded as a crime that obligates the extradition of criminals.

537. **Extradition of subjects:** It was previously referred to Article (697) of the Criminal Procedures Law, which states that the extradition of the Algerian subjects is not acceptable. By referring to the bilateral agreements held by Algeria in the field of extradition of criminals, we find that neither of the involved parties hand over their subjects to the other; however, the country to which the request is submitted promises to bring to trial its subjects who committed crimes on the territory of the other country, crimes that are punishable under the laws of both countries.

538. No statistics in the field of extradition of criminals were available to the evaluation team.

539. **Additional Element:** Article 708 of the Criminal Procedures Law stipulates that if the concerned party decides upon trial to waive his right in holding to the previous provisions, and accepts his extradition officially to the authorities of the requesting country, then the court validates such declaration. A copy of this declaration is referred without delay, through the Public Prosecutor, to the Minister of Justice to take the necessary action. The provisions of the bilateral agreements which stipulate the measures of simplified extradition (Article 7 of the Agreement on criminals' extradition between Algeria and Portugal ratified by virtue of the Presidential Decree No. 07/280 dated 23/9/2007) shall be considered.

6-4-2 Recommendations and Comments

6-4-3 Compliance with Recommendations 37 and 39 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	LC	<ul style="list-style-type: none"> Inadequate criminalization of ML may affect the rating. Inability to judge the effectiveness of the criminals' extradition system due to lack of statistics.
R.37	C	
SR. V	PC	<ul style="list-style-type: none"> Previously mentioned factors. Inadequate criminalization of TF may affect the rating.

6-5 Other Forms of International Cooperation (R.40 and SR V)

6-5-1 Description and Analysis

540. The requirements of Article (25) of the AML/CFT Law no. 05-01 for 2005 allow the FIU to provide the authorities exercising similar duties in other countries with the available information on the

transactions that seem to be related to ML/TF on the basis of the principle of reciprocity and according to the international agreements and the applicable internal legal provisions in the field of protection of personal information and data provided that the competent foreign authorities are subject to the same profession's confidentiality as the FIU pursuant to Article (26). The FIU also stated that an agreement on exchange of information exists with Senegal, however, no one was appointed in the Cooperation Department inside the Unit which is assigned with the bilateral and multilateral relationships with foreign authorities and institutions operating in the same field of activity as the Unit pursuant to Article (15) of the Executive Decree No. 02-172 dated April 7, 2002 and its amendments.

541. Pursuant to Article (27) of the AML/CFT Law no. 05-01 for 2005, the Bank of Algeria and the Banking Commission may exchange information with counterpart foreign entities based on the principle of reciprocity and provided these entities are subject to the profession's confidentiality under the same guarantees specified in Algeria.

542. Article 25 of the same law granted the FIU with the right to provide the authorities exercising similar duties in other countries with information in its possession on the transactions that seem to be related to ML/TF based on the principle of reciprocity. Consequently, it is noteworthy that the FIU, within the framework of conducting inquiries on behalf of counterpart foreign entities, may search only in its own database and may not access or search in the database of the law enforcement authorities; it has only the right to request information from some of the law enforcement agencies.

543. Pursuant to Articles 29 and 30 of the AML/CFT Law no. 05-01 for 2005, the law enforcement authorities in Algeria – the examining judge and the public prosecution – may conduct measures of research and investigation in the ML/TF acts pursuant to the request of foreign authorities within the framework of investigation requests and rogatory letters based on the principle of reciprocity and following the bilateral and multilateral agreements applied in this field and ratified by Algeria according to the internal legislation.

544. Nothing in the Algerian legislation indicates that cooperation requests may not be replied to based on laws imposing the profession confidentiality or merely because the assistance request includes tax matters.

545. The Algerian law did not specify any guarantees with respect to the use of information received by the competent authorities except in the manner agreed upon by the foreign authorities. However, by virtue of the requirements of Article 15 of the previously mentioned law, the information received by the unit is confidential and may not be used for purposes other than those stipulated in this law.

546. Regarding cooperation in the police field, Algeria has signed bilateral agreements on security and combating crime with several countries such as Spain, France, Italy and Yemen. Algeria also exchanges information through the Interpol and accesses its database.

547. Regarding cooperation in the customs field, the Algerian Customs stated that it has signed several agreements on international cooperation in the field of combating customs fraud especially with countries with which transactions and flows of goods take place such as Tunisia.

6.5.2 Recommendations and Comments:

548. The Algerian Authorities are recommended to:

- Activate the international cooperation in the AML/CFT field, especially through the FIU and supervisory authorities with their foreign counterparts.
- Take legislative measures to guarantee the controls and safeguards ensuring the use of the information available within the framework of international cooperation only in the manner agreed upon with the foreign authorities, which provided such information.

6-5-3 Compliance with Recommendation 40

	Rating	Summary of factors relevant to s.6.5 underlying overall rating
R.40	PC	<ul style="list-style-type: none">- Non-activation of the international cooperation in the AML/CFT field, especially through the FIU and supervisory authorities with their foreign counterparts.- Not taking legislative measures to guarantee the controls and safeguards ensuring the use of the information available within the framework of international cooperation only in the manner agreed upon with the foreign authorities, which provided such information.

7 - Other Issues

7-1 Resources and Statistics

	Rating	Summary of factors relevant to Recommendations 30 and 32 underlying overall rating
R.30	NC	<p>FIU:</p> <ul style="list-style-type: none"> • Inadequate and unqualified human resources in the unit. • Inadequate training and inadequate budget share for training. <p>Law Enforcement Agencies:</p> <ul style="list-style-type: none"> • Inadequate human resources, in particular, in connection to the number of Republic Deputies with regard to the number of crimes. • Inadequate training for the employees working at the border checks on AML/CFT. <p>Customs Authorities:</p> <ul style="list-style-type: none"> • Not binding employees working at the borders to AML/CFT training sessions <p>Financial Institutions:</p> <ul style="list-style-type: none"> • Weakness of training programs at the FIs subject to the Bank of Algeria and their full absence in other FIs.
R. 32	NC	<ul style="list-style-type: none"> • No regular review is available on the effectiveness of the systems in fighting ML and TF. • No statistics are available on the ML/TF investigations and legal actions • No statistics are available on the number of cases and values of frozen, seized and confiscated properties related to the proceeds of a crime. • No statistics are available on the local and international assistance requests received or being notified pertaining to AML/CFT. • No statistics are available on the exchange of information with related local or international institutions.

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

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

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

Table 1: Ratings 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).

Forty Recommendations	Rating	Summary of factors underlying rating ¹³
Legal systems		
1. ML offence	LC	<ul style="list-style-type: none"> • Absence of provision stating that the funds include proceeds resulting directly or indirectly from a crime. • Inadequacy of the predicate offenses scope.
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> • Lack of evidence on the satisfactory application and effectiveness of the system.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • No evidence on assigning adequate powers to competent authorities to enable them identify and trace properties. • Not enabling the cancellation of procedures in the TF field. • Non-effectiveness of the confiscation of crime proceeds.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> • Absence of an obligation that requests bank transfers to enclose all data of the transferor and the transferee under a primary or delegated legislation or by an enforceable means.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • Absence of legal provision that regulates the opening of numbered accounts and prohibits FIs not subject to Bank of Algeria from opening anonymous accounts or accounts with fictitious names. • Not obliging the FIs not subject to the Bank of Algeria to implement customer identification and verification requirements. • The legal and supervisory framework to which FIs are subject in AML/CFT does not include Bank of Algeria and the Department of Public Treasury at the Ministry of Finance. • Not defining the concept of beneficial owner and not obliging FIs to verify if their customers are acting on behalf of other persons and to take thereafter reasonable measures to obtain sufficient data to verify the identity of such other persons. • FIs are not required to take reasonable measures towards legal persons or legal arrangements in order to understand the ownership and control structure of the customer or identify the natural persons who have actual ownership or control. • Absence of obligation on FIs to obtain information on the objective and nature of the business relationship. • Absence of obligation, through a binding text, on institutions to monitor transactions carried out during the relationship in order to ensure that the conducted transactions are

¹³ These factors are only required to be set out when the rating is less than “Compliant” (C)

		<p>commensurate with their knowledge about customers, their activities and risk profiles, and if necessary the source of funds.</p> <ul style="list-style-type: none"> • The FIs are not required, through a binding text, to verify that the documents, data or information obtained pursuant to due diligence procedures are updated and consistent by reviewing the existing records, and especially the categories of high-risk customers and business relationships. • FIs are not obliged to take enhanced CDD measures for high-risk categories of customers or business relationships or transactions. • FIs are not obliged to refrain from opening the account or establishing business relationships or executing transactions and consider submitting an STR when failing to complete CDD measures. • Not obliging FIs to identify the existing customers on basis of materiality and risk and undertake due diligence measures with regard to existing business relationships at the appropriate time.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Absence of obligation to put in place appropriate risk management systems to determine whether a potential customer, customer or beneficial owner is a PEP.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • Absence of obligations pertaining to measures of cross border banking correspondent relationships, save the prohibition of banks and FIs in Algeria from establishing business relationships with foreign FIs that accept the use of their accounts by banks with no physical existence nor affiliated to a supervised financial group.
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> • Absence of obligation on FIs to set and put in force policies or take measures and pay special attention to transactions based on advanced technology which may allow not mentioning the true identity. • Absence of obligation on FIs to set and put in force policies and procedures to deal with any particular risks pertaining to business relationships or non face -to-face transactions.
9. Third parties and intermediaries	NA	The existing legislations did not allow the different FIs to rely on a third party to carry out the due diligence measures or some of their elements towards their customers.
10. Record keeping	PC	<ul style="list-style-type: none"> • The obligation to retain documents pertaining to transactions does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others. • The obligation to keep documents relating to identity of customers does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others. • The obligation to make records available for competent authorities does not include all FIs. Such obligation does not apply to the remaining FIs such as insurance companies, financial brokerage institutions and others.
11. Unusual transactions	PC	<ul style="list-style-type: none"> • Failure to require FIs to examine the background and purpose of such transactions, set forth their findings in writing and make them available to competent authorities. • Absence of an express provision that requires maintaining reports of unusual transactions for a period of five years.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • The DNFBPs are not subject to all obligations pertaining to Recommendations 5,6,8,10 and 11; moreover,

		Recommendation 9 is not applicable.
13.Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • Inadequate range of the ML predicate offenses • The scope of TF crime does not include funds linked to terrorism or terrorist acts or used by terrorist organizations or those who finance terrorism • Absence of any obligation to report attempts of suspicious transactions. • The legal and supervisory framework, which the FIs are subject to in AML/CFT related issues, does not include the Department of Public Treasury at the Ministry of Finance. • Issues related to effectiveness: <ul style="list-style-type: none"> - Absence of the reporting by any FIs other than banks and the Algerian financial post services which limits the system effectiveness. - Doubts over the nature of notifications sent to the FIU by banking institutions - Inefficiency of processing STRs by the FIU.
14.Protection & no tipping-off	C	
15.Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • No obligation on the FIs operating in Algeria to set AML/CFT internal policies and procedures. • No obligation on the FIs operating in Algeria to appoint a compliance officer for the AML/CFT procedures through binding texts. • No obligation on FIs through binding texts to set internal controls and procedures to ensure that the compliance officer reviews the customer identification data and other available information in a timely manner pursuant to the application of due diligence measures and reviews the transaction records and other information. • No obligation on FIs to establish an independent audit unit provided with sufficient resources to test the compliance with AML/CFT procedures, policies and controls. • No obligation on FIs to set an ongoing training program for employees to update them with the latest developments in ML/TF. • No special attention is given to training in the AML/CFT field. • No obligation on all FIs to apply procedures to ensure the existence of high-level standards of efficiency and integrity upon recruiting employees.
16.DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • Absence of effectiveness whereby no STRs was recorded by NFBPs, except 3 cases. • Absence of a legal obligation that prohibits DNFBPs from tipping off the customer in case of suspicion about transactions related to crime proceeds or terrorism financing. • No obligation on the DNFBPs to set AML/CFT internal policies and monitoring procedures. • Absence of an obligation for DNFBPs to pay special attention to business relationships and transactions with persons from countries or residing in countries that do not apply or insufficiently apply the FATF Recommendations.
17.Sanctions	NC	<ul style="list-style-type: none"> • Not identifying an authority to impose sanctions concerning the brokerage institutions in the stock market and insurance companies. • The imposed sanctions did not cover all cases of breaching AML/CFT obligations, such as the due diligence and retention of records, because these obligations were not legally imposed on the insurance companies and brokerage institutions.

		<ul style="list-style-type: none"> • The imposed sanctions do not, under Law 05-01, have a wide scope that is proportionate with the intensity of the situation in order to impose disciplinary and financial sanctions and withdraw, restrict or suspend the license, except the sanctions stipulated in the Law on Money and Credit. • Absence of effectiveness, No sanction was imposed related to the breach of AML/CFT obligations
18.Shell banks	LC	<ul style="list-style-type: none"> • Explicit non obligation of all banks and FIs not to enter into a correspondent relationship or continue in such a relationship with shell banks.
19.Other forms of reporting	NC	<ul style="list-style-type: none"> • No consideration was given to the implementation of a system obliging FIs to report all cash transactions, which amount exceed a certain limit to a national central committee.
20 Other NFBP & secure transaction techniques	LC	<ul style="list-style-type: none"> • No consideration has been given by the State to implementing the AML/CFT requirements, such as due diligence measures on other NFBPs and imposed only the reporting obligation on them. • Non-implementation of the decision related to the payment of amounts exceeding a certain limit through banking and financial channels.
21.Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Absence of an obligation for FIs to pay special attention to business relationships and transactions with persons (including legal persons and other FIs) from countries or residing in countries that do not apply or insufficiently apply the FATF Recommendations. • Absence of an obligation to examine the background and purpose of such transactions.
22.Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • No obligation to apply AML/CFT requirements on foreign branches and subsidiary companies of banking and financial institutions. • No explicit provision exists on performing due diligence in the event of practicing business in countries that do not apply or insufficiently apply the FATF standards. • No explicit provision on foreign branches and affiliate companies to apply highest standards possible in case of discrepancy in the AML/CFT requirements in the hosting country. • No obligation on banking and financial institutions to notify the supervisory authorities in Algeria when a branch or subsidiary company cannot execute adequate AML/CFT procedures as a result of prohibiting the applicable laws, regulations or measures in the hosting country.
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • Non-existence of a supervisory authority to any entity regarding the obligations of brokerage institutions and insurance companies in the field of AML/CFT. • The Algerian authorities did not take any real step for licensing and registering money transfer and currency exchange service providers. • Non-submission of money transfer and currency exchange service providers to the systems of compliance monitoring.
24.DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • Insufficient awareness of the self-regulatory organizations and departments of supervisory entities of the ML/TF risks and methods of their combating. • Absence of any obligation on non financial institutions and professions in the AML/CFT field, save the reporting obligation. • No regulations have been issued to reinforce the AML/CFT systems at the Non financial institutions and professions,

		<p>whether by governmental bodies, syndicates and SROs.</p> <ul style="list-style-type: none"> • No regulation is available to some non financial professions and institutions or such regulation does not include a major part of the concerned sector (i.e. Real estate agents). • No governmental entities are available to supervise the implementation of AML/CFT procedures. Such supervision is limited to the self-regulatory organizations • Weakness of the SROs and their inability to assume a supervisory role because of their low level of awareness in the AML/CFT field and their lack of necessary resources.
25.Guidelines & Feedback	NC	<ul style="list-style-type: none"> • Absence of sufficient feedback to the reporting entities regarding the STRs, save the receipt note of the STR. • Non-issuance of any guiding principles in the issues covered by the related FATF recommendations, especially concerning the measures that the financial institutions can carry out to guarantee the effectiveness of AML/CFT measures. • No guidance was published on the best practices to NFBPs and the patterns of suspicious transactions that these institutions and professions may encounter or any other guidelines.
Institutional and other measures		
26.The FIU	NC	<ul style="list-style-type: none"> • Inefficiency of the Unit, especially in relation to the analysis and dissemination of reports. • The law did not designate any authority or individual from whom the Unit may request documents and information except the customs and tax departments. • Law no. 05-01 did not explicitly give the right to the FIU to obtain additional information from the reporting entities. • The FIU is not authorized to give any informational assistance to any entity whatsoever, except sending files related to the STRs to the regionally competent attorney general whenever the surveyed events can be followed-up criminally. • Absence of training as well as appropriate technical and human resources to activate the Unit's work. • Ambiguity in the legal condition of the FIU, as the abstract concept of a public institution, as set out in the definition of the Unit, does not exist in the Algerian law. • The FIU did not publish any regular report that includes the information and statistics related to its work.
27.Law enforcement authorities	LC	<ul style="list-style-type: none"> • No explicit provision exists that allows postponing the arrest of suspects and the seizure of funds in TF crimes.
28.Powers of competent authorities	C	
29.Supervisors	NC	<ul style="list-style-type: none"> • Non-existence of monitoring powers to the supervisory entities upon the brokerage institutions and insurance companies to assert the compliance of these institutions and companies with the AML/CFT requirements. • Non-existence of powers to the supervisory entities upon the insurance sector and stock market through imposing sanctions in case of non-compliance or incorrect execution to the AML/CFT requirements according to the FATF recommendations.
30.Resources, integrity and training	NC	<p>FIU:</p> <ul style="list-style-type: none"> • Inadequate and unqualified human resources in the unit.

		<ul style="list-style-type: none"> • Inadequate training and inadequate budget share for training. <p>Law Enforcement Agencies:</p> <ul style="list-style-type: none"> • Inadequate human resources, in particular, in connection to the number of Republic Deputies with regard to the number of crimes. • Inadequate training for the employees working at the border checks on AML/CFT. <p>Customs Authorities:</p> <ul style="list-style-type: none"> • Not binding employees working at the borders to AML/CFT training sessions <p>Financial Institutions:</p> <ul style="list-style-type: none"> • Weakness of training programs at the FIs subject to the Bank of Algeria and their full absence in other FIs.
31.National co-operation	PC	<ul style="list-style-type: none"> - Lack of mechanisms that guarantee local cooperation or coordination on the level of policies. - Inability to measure the effectiveness of national cooperation.
32.Statistics	NC	<ul style="list-style-type: none"> • No regular review is available on the effectiveness of the systems in fighting ML and TF. • No statistics are available on the ML/TF investigations and legal actions • No statistics are available on the number of cases and values of frozen, seized and confiscated properties related to the proceeds of a crime. • No statistics are available on the local and international assistance requests received or being notified pertaining to AML/CFT. • No statistics are available on the exchange of information with related local or international institutions.
33.Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Lack of adequate measures to avoid misuse of bearer shares in ML. • Failure to provide the concerned authorities with accurate information on the beneficial owners in a timely manner.
34.Legal arrangements – beneficial owners	NA	
International Co-operation		
35.Conventions	PC	<ul style="list-style-type: none"> • Convention for the Suppression of the Financing of Terrorism and the Palermo Convention are not fully implemented.
36.Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> • Occurrence of ambiguity with respect to potential conflict in the scope of competences. • Lack of evidence on offering legal assistance with respect to identifying, freezing, seizure or confiscation of assets intended to be used in TF, as well as the instrumentalities used to commit such crimes.
37.Dual criminality	C	
38.MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • No adequate laws and measures exist for the quick and effective response to the mutual legal assistance requests submitted by foreign countries when the request pertains to identifying, freezing, seizure or confiscation of assets used or intended to be used in TF as well as the instrumentalities used to commit such crimes. • No laws exist for the confiscation of properties of corresponding value in the TF field. • No consideration has been given to the creation of a fund of expropriated properties where all confiscated properties

		<p>or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes.</p> <ul style="list-style-type: none"> • No consideration has been given to the licensing in the division of confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated measures in the law enforcement field. • Inadequate criminalization of ML may affect the rating. 	
39.Extradition	LC	<ul style="list-style-type: none"> • Inadequate criminalization of ML may affect the rating. • Inability to judge the effectiveness of the criminals' extradition system due to lack of statistics. 	
40.Other forms of co-operation	PC	<ul style="list-style-type: none"> • -Non-activation of the international cooperation in the AML/CFT field, especially through the FIU and supervisory authorities with their foreign counterparts. • -Not taking legislative measures to guarantee the controls and safeguards ensuring the use of the information available within the framework of international cooperation only in the manner agreed upon with the foreign authorities, which provided such information. 	
Nine Recommendations	Special	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> • The United Nation Convention for the Suppression of the Financing of Terrorism is not fully implemented. • The UN Security Council resolutions Nos. 1267 & 1373 on CFT are not implemented. 	
SR.II Criminalize terrorist financing	PC	<ul style="list-style-type: none"> • TF criminalization does not include the act carried out by a terrorist organization or a terrorist. • To limit the TF criminalization to terrorist or vandalism acts. • Non-application of the TF crime regardless of the place of the perpetrator or the place in which the terrorist act occurred or will occur. • Inability to assess the effectiveness. 	
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> • Absence of a legal basis and procedures for freezing assets and funds pursuant to UN Security Council Resolutions 1267 & 1373. • The suspected persons or entities are not designated pursuant to UN Security Council Resolution 1373. • Absence of a mechanism to de-list the names and release the funds of persons whose names were mentioned by mistake on the list. • The UN Security Council lists are not circulated to all FIs including banks. • Absence of statistics on the application of UN Security Council Resolutions 1267 & 1373. • Assessment of the effectiveness is not possible because of lack of applications of UN Security Council Resolutions 1267 & 1373. 	
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • The scope of TF crime does not include the link of funds to terrorism or terrorist acts or their use by terrorist organizations or those who finance terrorism. • Absence of any obligation to report attempts of suspicious transactions. 	
SR.V International co-operation	PC	<ul style="list-style-type: none"> • Occurrence of ambiguity with respect to potential conflict in the scope of competences. • Lack of evidence on offering legal assistance with respect to identifying, freezing, seizure or confiscation of assets intended to be used in TF, as well as the instrumentalities 	

		<p>used to commit such crimes.</p> <ul style="list-style-type: none"> • Inadequate criminalization of TF may affect the rating • No adequate laws and measures exist for the quick and effective response to the mutual legal assistance requests submitted by foreign countries when the request pertains to identifying, freezing, seizing or confiscating assets used or intended to be used in TF as well as the instrumentalities used to commit such crimes. • No laws exist for the confiscation of properties of corresponding value in the TF field. • No consideration has been given to the creation of a fund of expropriated properties where all confiscated properties or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes. • No consideration has been given to the licensing in the division of confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated measures in the law enforcement field • Inability to judge the effectiveness of the criminals' extradition system due to lack of statistics.
SR VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> • Spreading of transfer activities by persons exercising these activities without any license. (Black market) and not monitoring, following them up and their non-submission to licensing or registration. • Non-assurance that the money or value transfer service providers including unofficial systems are subject to compliance with the FATF 40 recommendations (2003) (particularly, the recommendations from 4 to 16 and from 21 to 25) and the nine special recommendations (particularly SR. VII). • There is no system to impose sanctions on money or value transfer service providers, especially, the unofficial systems of currency exchange, which work without license or registration and does not comply with the related FATF recommendations.
SR VII Wire transfer rules	NC	<ul style="list-style-type: none"> • No clear legal obligation was set or any other enforceable means that abides the FIs to obtain full information on the originator and include it in the transfer message or the form accompanying the wire transfer. • No obligation that imposes on each intermediary or beneficiary financial institution in the payment chain to verify that all full information on the originator and the accompanying information are sent with the transfer. • No obligation on FIs, intermediaries and beneficiaries in the payment chain, to keep for a period of 5 years the information they receive from the FI issuing the transfer in the cases where technical restrictions prohibit sending full information on the originator. • No obligation on beneficiary FIs to adopt effective procedures that rely on the risk level to identify wire transfers that do not include full information on the originator and take action in this regard, • No obligation on beneficiary FIs to look into restricting or terminating the business relationship with FIs that do not comply with SR. VII requirements. • Algeria does not have any measures in force to monitor the compliance of FIs with rules and regulations related to

		<p>the implementation of SR. VII.</p> <ul style="list-style-type: none"> Algeria does not have any measures related to imposing sanctions to monitor the compliance of FIs with the rules and regulations related to implementing SR. VII.
SR.VIII Non-profit organizations	NC	<ul style="list-style-type: none"> Lack of regular evaluation of the local legislation pertaining to associations while taking into consideration the updates about the weakness points in this sector. Not taking tangible measures to communicate with associations about the risk of their misuse in terrorist financing. Non-existence of any cooperation mechanism among the different competent authorities, in particular, in the field of exchange of information.
SR.IX Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> The current disclosure system is not consistent with the AML/CFT goals. The current disclosure system does not include the power of asking about the source of funds Cooperation between the Customs Authority, the FIU and other local entities. The international customs cooperation does not include AML/CFT. Not listing precious metals, gold and precious stones, in terms of cross border movement under the declaration system. Weak training in the AML/CFT field.

TABLE 2: Recommended Action Plan to improve the AML/CFT system

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Establish a provision stating that the funds include proceeds resulting directly or indirectly from a crime; • Expand the scope of predicate offences by criminalizing illicit trafficking in stolen and other goods, • Prove the application and effectiveness of the system by establishing: <ul style="list-style-type: none"> ▪ Judicial provisions stating that the illicit funds are not required to prove the proceeds of a crime; ▪ Judicial provisions related to self-laundering; ▪ Provisions to impose effective sanctions on legal persons
2.2 Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • Criminalize TF including financing for use by a terrorist organization or a terrorist individual. • Expand criminalization of TF to include all terrorist activities and not only terrorist acts or vandalism acts defined in the Penal Code. • Non-application of the TF crime regardless of the place of the perpetrator or the place in which the terrorist act occurred or will occur.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • Grant the competent authorities' adequate powers to enable them identify and trace properties subject to, or that could be subject to, confiscation or those suspected to be crime proceeds. • Provide the authority to cancel the procedures and render them null and void in the field of TF crimes.
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Promulgate laws and procedures for freezing assets and funds pursuant to UN Security Council Resolutions 1267 & 1373. • Enforce the freezing without delay or prior notice to the persons. • Designate the suspected persons or suspected entities pursuant to UN Security Council Resolution 1373. • Review the lists on suspected terrorists or suspected legal entities sent by other countries pursuant to UN Security Council Resolution 1373.

	<ul style="list-style-type: none"> ● Set a mechanism to de-list and release the funds of the persons whose names were mentioned by mistake in the list. ● Set procedures to distribute the UN Security Council lists to all FIs including banks. ● Provide a mechanism for the concerned person or entity to challenge the freezing order. ● Process or procedures through which the persons subject to the freezing order can access their funds to obtain the necessary expenses.
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<ul style="list-style-type: none"> ● Activate the FIU to perform the legally stipulated tasks, especially in relation to the analysis and dissemination of the reports. ● Amend the provision to include the right of the FIU in requesting information from all administrative, supervisory and security entities as well as from all other official entities. ● Provide the FIU with the right to obtain additional information from the reporting entities. ● Grant the FIU the right to supply the entities connected to ML/TF with the information they request. ● Work on providing training and adequate and sufficient human and technical resources for the FIU to be able to perform its tasks. ● Make a legal amendment to make the legal condition of the FIU consistent with the legal condition of the public institutions according to the law definition assigned for them. ● Publish regular reports that include the information and statistics in relation to its work.
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<ul style="list-style-type: none"> ● Establish an explicit provision that allows postponing or abandoning the arrest of suspects or the seizure of funds in TF crimes.
<p>2.7 Cross Border Declaration & Disclosure (SR. IX)</p>	<ul style="list-style-type: none"> ● Amend the current disclosure system which aims at monitoring the currency in such a way to comply with the AML/CFT objectives and satisfy the requirements of SR. IX. ● Vest the customs employees with the power to inquire about the source of the cross-border funds. ● Reinforce cooperation between the Customs Department, the FIU and other local entities in the field of reporting to the unit about suspicious cases connected to cross-border transfer of currencies or bearer negotiable instruments. ● Reinforce the international customs

	<p>cooperation to include AML/CFT.</p> <ul style="list-style-type: none"> ● Establish a provision that allows the freezing and confiscation of funds involved in ML/TF crimes for the wanted according to the lists of the internationally wanted persons. ● Include the movement of precious metals, gold and precious stones under the declaration system. ● Send the customs surveys directly to the Ministry of Finance with no need to send them first to the Customs Intelligence Directorate in order to save time. From there, the FIU shall be immediately notified about the suspicious transactions. ● Hold specialized training programs in the AML/CFT field for the employees working at border checks.
<p>3.Preventive Measures – Financial Institutions</p>	
<p>3.1 Risk of money laundering or terrorist financing</p>	
<p>3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)</p>	<ul style="list-style-type: none"> – Set a legal provision that regulates the opening of numbered accounts and prevents all FIs not subject to Bank of Algeria from opening anonymous accounts. – Oblige the FIs not subject to the Bank of Algeria to implement CDD measures. – Oblige Department of Public Treasury at the Ministry of Finance with the legal and supervisory framework to which FIs are subject in AML/CFT. – Define the beneficial owner and oblige FIs to verify if their customers are acting on behalf of other persons and to take thereafter reasonable measures to obtain sufficient data in order to verify the identity of such other persons. – Require FIs to take reasonable measures towards legal persons or legal arrangements to understand the structure of ownership and the controlling interest of the customer or identify the natural persons who have actual ownership or control. – Oblige FIs to obtain information related to the purpose and nature of the business relationship. – Ratify the concept of beneficial owner and oblige FIs to identify the beneficial owners for all customers (not only in cases of doubt). – Require the FIs, through a binding text, to verify transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer, his business pattern and risk profile, and where necessary, the source of

	<p>funds.</p> <ul style="list-style-type: none"> – Require the FIs, through a binding text, to ensure that the documents, data or information collected under the due diligence process are kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers and business relationships. – Require the FIs to take enhanced due diligence measures for higher risk categories of customers, business relationships or transactions. – Oblige FIs to refrain from opening the account or establish business relationships or execute transactions and consider submitting an STR upon failure to complete CDD measures. – Bind the FIs to identify existing customers on basis of materiality and risk and undertake due diligence measures with regard to existing business relationships at the appropriate times. <p>▪ Recommendation 6</p> <ul style="list-style-type: none"> – Requiring financial institutions to put in place appropriate risk management systems to determine whether a potential customer, customer or beneficial owner is a PEP and bind them to: <ul style="list-style-type: none"> • Obtain the approval of the senior management before establishing a business relationship with such customer. • Take reasonable measures to determine the source of funds of the customer and/or beneficial owner. • Conduct enhanced ongoing monitoring of the business relationship. <p>▪ Recommendation 7</p> <ul style="list-style-type: none"> – Require the financial institutions that have cross-border correspondent banking relationships to: <ul style="list-style-type: none"> • Gather sufficient information on any respondent institution to reach a complete understanding on the nature of such institution activity and to know through the information available to the public its reputation and the level of control to which it is subject. • Assess the respondent institution AML/CFT controls and ascertain that they are adequate and effective. • Obtain the approval of the senior management before establishing new correspondent relationships. • Document the responsibilities of each institution in AML/CFT. • Take procedures with regard to such
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	<p>relationships and payable-through accounts in case the relationship with the correspondent bank included maintaining such accounts.</p> <ul style="list-style-type: none"> ▪ Recommendation 8 – Institutions in all sectors are required to: <ul style="list-style-type: none"> • Set policies or take adequate measures to prevent the misuse of technological developments in ML or TF. • Set procedures to deal with any particular risks pertaining to non face-to-face business relationships or transactions and to apply such procedures when establishing customer relationships and when conducting ongoing CDD measures.
3.3 Third parties and introduced business (R.9)	
3.4 Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> - Include the obligation set out in Article 16 of the Bank of Algeria’s Regulation in a primary or delegated legislation or other enforceable means
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<p>Recommendation 10</p> <ul style="list-style-type: none"> • Expand the obligation of financial institutions to keep all documents related to transactions so that it includes all other FIs and in particular, the insurance and financial brokerage institutions and others. • Expand the obligation of financial institutions to keep documents related to the identity of customers so that it includes all other FIs and in particular, the insurance and financial brokerage institutions and others. • Expand the obligation of financial institutions to provide the competent authorities with the records so that it includes all other FIs and in particular, the insurance and financial brokerage institutions and others. <p>▪ Special Recommendation VII</p> <ul style="list-style-type: none"> • Set a clear legal obligation, or by another enforceable means, to oblige the financial institutions to obtain the full information on the originator and enclose it in the transfer message or payment form accompanying the wire transfer according to the requirements of SR. VII. • Set an obligation on each brokerage and beneficiary financial institution in the payment chain to verify all the information related to the originator and accompanying it is sent with such transfer. • Set an obligation on brokerage and

	<p>beneficiary financial institutions in the payment chain to maintain the information they receive from the issuing financial institution for five years in the cases where technical restrictions prevent sending the full information on the originator.</p> <ul style="list-style-type: none"> ● Set an obligation on the beneficiary financial institutions to adopt efficient measures concerning the level of risks to identify the transfers lacking full information on the originator and dealing with them. ● Set an obligation on the beneficiary financial institutions to look into restricting or terminating the business relationships with the financial institutions which do not abide by the criteria of SR. VII. ● Set measures to efficiently monitor the compliance of financial institutions with the rules and regulations related to the application of SR. VII. ● Set measures related to imposing sanctions to efficiently monitor the compliance of financial institutions with the rules and regulations related to the application of SR. VII.
<p>3.6 Monitoring of transactions and relationships (R.11 & 21)</p>	<ul style="list-style-type: none"> ■ Recommendation 11 <ul style="list-style-type: none"> – The Algerian authorities should oblige all FIs expressly to examine unusual transactions that lack clear economic justifications and to examine the background and purpose of such transactions, set forth their findings in writing and make the same available to competent authorities and auditor, while retaining them for a period of at least 5 years. ■ Recommendation 21 <ul style="list-style-type: none"> – Oblige all FIs to comply with the required measures regarding the business relationships and transactions with persons (including legal persons and other FIs) belonging to or from countries that do not apply or insufficiently apply the FATF Recommendations and to establish efficient applied measures that ensure that such institutions are aware of the concerns related to weaknesses in the AML/CFT systems in other countries and if such transactions have no economic or legal purpose. – Oblige FIs to examine the background and purpose of such transactions, set forth their findings in writing and to make the same available to competent authorities. – Find a mechanism or a set of procedures

	<p>that can be taken by the Algerian authorities to apply counter-measures against countries that do not apply or insufficiently apply FATF recommendations.</p>
<p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<p>R. 13 and SR. IV:</p> <ul style="list-style-type: none"> • Criminalize the crime categories mentioned in Section 2-1 so that they cover all the twenty predicate offences (See Section 2-1). • Extend the range of TF crimes so that they cover the funds connection to terrorism or terrorist acts or their use by terrorist organizations or those who finance terrorism. • Oblige the financial institutions to comply with the obligation of reporting suspicious transactions when suspecting attempts of conducting suspicious transactions. • Increase awareness of the institutions under the reporting obligation to the cases worth reporting, the identification of suspicious transactions and the other obligations related to AML/CFT and their importance, in particular, the obligations related to due diligence towards the clients. These institutions should be aware of the risks they could be exposed to as a result of not reporting suspicious transactions. <p>Recommendation 25:</p> <ul style="list-style-type: none"> • The FIU and the financial sector's supervisory authorities must inform the financial institutions of the reporting obligation about ML/TF indicators. • Provide feedback to the financial institutions subject to the reporting obligation through providing guidance to assist them in setting forth the measures they may take in future transactions, through specific feedback or on a case by case basis. <p>Recommendation 19:</p> <ul style="list-style-type: none"> • Consider the implementation of a system obliging financial institutions to report all cash transactions exceeding a certain limit to a national central committee.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<p>Recommendation 15:</p> <ul style="list-style-type: none"> • Oblige the FIs operating in Algeria to set AML/CFT internal policies and procedures. Verify that such institutions have set these policies and procedures according to the type of their activities. • Oblige the FIs operating in Algeria to appoint

	<p>a compliance officer for the AML/CFT procedures through binding provisions.</p> <ul style="list-style-type: none"> • Oblige FIs, through binding texts, to set internal controls and procedures to ensure that the compliance officer reviews the customer identification data and other available information in a timely manner pursuant to the application of due diligence measures and reviews the transaction records and other information. • Oblige FIs to establish an independent audit unit provided with sufficient resources to test the compliance with AML/CFT procedures, policies and controls. • Oblige FIs through binding provisions to set ongoing training programs in the AML/CFT field. • Pay special attention to training in the AML/CFT field, as the low level of training programs in the FIs subject to the Bank of Algeria and its complete absence in other FIs were noticed. • Oblige all FIs to apply procedures to ensure the application of high-level standards of efficiency and integrity of newly recruited employees. <p>Recommendation 22:</p> <ul style="list-style-type: none"> • Work on applying AML/CFT requirements to include foreign branches and affiliate companies of all banking and financial institutions. • Stipulate expressly the application of due diligence in the event of practicing business in countries that do not apply or insufficiently apply AML/CFT standards issued by the FATF. • Expressly stipulate that the foreign branches and subsidiary companies apply the higher standards, whenever possible, in case the AML/CFT requirements are different in the hosting country. • Oblige banking and financial institutions to notify the regulatory authorities in Algeria when a branch or subsidiary company cannot execute adequate AML/CFT procedures as a result of prohibiting the applicable laws, regulations or measures in the hosting country.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • Explicitly oblige all banks and FIs not to enter into a correspondent relationship or continue in such a relationship with shell banks.
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 30)	<p>Recommendation 17:</p> <ul style="list-style-type: none"> • Identify an authority to impose sanctions

<p>29, 17, 32 & 25)</p>	<p>concerning the brokerage institutions in the stock market and insurance companies.</p> <ul style="list-style-type: none"> • Impose all obligations stipulated by the FATF recommendations upon insurance companies and brokerage institutions. • Set a wide scope that is proportionate to the gravity of the situation in order to impose disciplinary and financial sanctions and withdraw, restrict or suspend the license under the ML/TF Law. <p>Recommendation 23:</p> <ul style="list-style-type: none"> • Grant a supervisory power to the monitoring entities regarding the obligations of brokerage institutions and insurance companies in the field of AML/CFT. • Take steps towards licensing and registering money transfer and currency exchange service providers. • Subject money transfer and currency exchange service providers to the systems of compliance monitoring. <p>Recommendation 25:</p> <ul style="list-style-type: none"> • Issue guiding principles in the issues covered by the relative FATF recommendations, especially concerning the measures that the financial institutions can carry out to guarantee the effectiveness of AML/CFT measures. <p>Recommendation 29:</p> <ul style="list-style-type: none"> • Grant monitoring powers to the supervisory entities upon the brokerage institutions and insurance companies to assert the compliance of these institutions and companies with the AML/CFT requirements. • Grant powers to the supervisory entities upon the insurance sector and stock market through imposing sanctions in case of non-compliance or incorrect execution of the AML/CFT requirements according to the FATF recommendations.
<p>3.11 Money value transfer services (SR.VI)</p>	<ul style="list-style-type: none"> • Put the legislations and systems required to license or register the (natural or legal) persons who provide money or value transfer services. • Subject the money or value transfer service providers, including unofficial systems, after licensing or registering them, to the FATF 40 recommendations (particularly, the recommendations from 4 to 16 and from 21 to 25) and the nine special recommendations (particularly SR. VII). • Set systems for monitoring the works of money or value transfer service providers to guarantee their compliance with the FATF

	<p>recommendations.</p> <ul style="list-style-type: none"> • Guarantee the existence of effective, proportionate and dissuasive sanctions, whether penal, civil or administrative, in order to deal with the money or value transfer service providers, who do not comply with the related FATF recommendations. Also, the Algerian authorities have to appoint an authority responsible for applying these sanctions.
<p>4. Preventive Measures – Non-Financial Businesses and Professions</p>	
<p>4.1 Customer due diligence and record-keeping (R.12)</p>	<ul style="list-style-type: none"> • Oblige the DNFBPs to perform due diligence in identifying the customers and beneficial owners whether natural or legal persons. • Oblige the DNFBPs to perform due diligence in dealing with high-risk transactions including transactions with PEPs. • Oblige the DNFBPs to take special measures and pay special attention in case of transactions based on advanced technology, which may not require the mentioning of true identity of the customer. • Set regulatory bases and rules in case the DNFBPs need to rely on third parties to perform the customer due diligence process. • Oblige all DNFBPs to maintain records and documents for the performed transactions, which should include sufficient data to identify those transactions. • Oblige the DNFBPs to perform due diligence in dealing with high-risk transactions, including the unusual transactions and transactions which have no visible economic or legal purpose.
<p>4.2 Suspicious transaction reporting (R.16)</p>	<ul style="list-style-type: none"> • Raise the efficiency of reporting by the non-financial businesses and professions by increasing the awareness of such entities in the ML/TF field. And by obliging such businesses and professions to comply with the rest of the AML/CFT requirements. • Specify the reporting scope for the lawyers, notaries and accountants pursuant to the requirements of Recommendation 16. • Impose a legal obligation that prevents the DNFBPs from notifying the customer about the reporting of transactions suspected to be linked to the proceeds of crimes or TF. • Impose a legal obligation that requires the DNFBPs to set internal AML/CFT regulatory procedures, policies and measures. • Impose a legal obligation that requires the DNFBPs to pay special attention to business relationships and transactions with persons

	from countries or residing in countries that do not apply the FATF Recommendations.
4.3 Regulation, supervision and monitoring (R.24-25)	<ul style="list-style-type: none"> ● Increase the level of awareness of the self-regulatory organizations and departments of supervisory entities of the ML/TF risks and methods of their combating. ● Impose all AML/CFT obligations set out in Recommendations 12 and 16 on the DNFBPs. ● Amend the Executive Decree 18-09 in such a way to take the current factual situation into consideration when regulating the real estate agent profession so that it does not create a category of real estate agents not subject to the law. ● Issue regulations to strengthen the AML/CFT systems at the DNFBPs. ● Establish governmental bodies to supervise the implementation of the AML/CFT measures in the DNFBPs. ● Increase the capacity of the self-regulatory organizations to perform their supervisory role in the AML/CFT field, within its supervisory role in order to respect laws and regulations in force. ● Issue guidelines that tackle the best practices for the DNFBPs and the patterns of the suspicious transactions.
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> ● Impose other AML/CFT requirements, such as due diligence measures or retention of records on other activities subject to the reporting obligation. ● Issue and implement the decision related to the payment of amounts exceeding a certain limit through banking and financial channels.
5. Legal Persons and Arrangements & Non- Profit Organizations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> ○ Take adequate measures to avoid misuse of bearer shares in ML. ○ Provide the concerned authorities with accurate information on the beneficial owners.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organizations (SR.VIII)	<ul style="list-style-type: none"> ● Evaluate on a regular basis the local legislation pertaining to associations and take into consideration the updates about the weakness points in this sector. ● Take tangible measures to communicate with associations about the risk of their misuse in terrorism financing. ● Establish a cooperation mechanism among the different competent authorities, in particular, in the field of exchange of

	information.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • Set mechanisms that allow local cooperation and coordination between the policy makers, the FIU and the law enforcement agencies with regard to setting and executing policies in the AML/CFT field.
6.2 The Conventions and UN Special Resolutions(R.35 & SR.I)	<ul style="list-style-type: none"> • Fully implement the UN Convention for the Suppression of the Financing of Terrorism and the Palermo Convention. • The Algerian authorities should ratify 13 agreements pertaining to combating terrorism. • Implement the UN Security Council Resolutions Nos. 1267 & 1373 on fighting and suppressing the financing of terrorism.
6.3 Mutual Legal Assistance (R.36-38 & SR.V, R.32)	<ul style="list-style-type: none"> - Remove ambiguity over potential conflict in the scope of competence of Algeria and another requesting country. - Establish adequate laws and measures for a swift and effective response to mutual legal assistance requests submitted by foreign countries when the request pertains to identifying, freezing, seizing or confiscating assets intended to be used in TF as well as the instrumentalities used to commit such crimes. - Establish laws for the confiscation of properties of corresponding value in the TF field. - Consider the creation of a fund for expropriated properties where all confiscated properties or part thereof are deposited and used for law enforcement, health care, education or other adequate purposes. - Consider the licensing in the division of confiscated properties between Algeria and other countries in case the confiscation is the direct or indirect result of coordinated measures in the law enforcement field.
6.4 Extradition (R.39, 37 & SR.V)	
6.5 Other Forms of Co-operation (R.40 & SR.V)	<ul style="list-style-type: none"> • Activate the international cooperation in the AML/CFT field, especially through the FIU and supervisory authorities with their foreign counterparts. • Take legislative measures to guarantee the controls and safeguards ensuring the use of the information available within the framework of international cooperation only in the manner agreed upon with the foreign authorities, which provided such information
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	

7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

Table 3: Authorities' Response to the Evaluation

Relevant Sections and Paragraphs	Country Comments
<p>Recommendation 5</p>	<ul style="list-style-type: none"> • The abovementioned Law on Money and Credit has defined in its Articles (66) and (67) the banking transactions as an activity for banks and financial institutions. Since the Algerian financial post services perform some of these transactions, then they fall under the definition of these two articles and they become subject to the supervision of the Bank of Algeria. On the other hand, Article (56) of the same law stipulates the liability of the Bank of Algeria, its supervision of the clearing houses and ensuring the progress and security of the payment methods. Article (105) thereof explicitly stipulates that the Banking Commission monitors the circumstances of practicing the transactions of banks and financial institutions (FIs) and ensures the quality of the financial structure. This can be supported by the reports submitted recently to the Financial Intelligence Unit (FIU) by the Bank of Algeria following its onsite inspection of the Algerian financial post services. (From January to June 2010, the post services were subject to monitoring by the Bank of Algeria inspectors within the framework of compliance with the legal and regulatory provisions pertaining to AML/CFT. In this regard, the FIU received 1484 reports from the Bank of Algeria). • On 26/10/2006, the Banking Commission sent a questionnaire to the Algerian financial post services with the purpose of investigating and assessing the procedures they have taken within the framework of setting an internal ML/TF prevention and combating system. • Article (62)/Paragraph (h) of the Law on Money and Credit gave the Council on Money and Credit the power of regulating the banking activity and imposing the control of risks pertaining to the ability of solvency and liquidity as well as risks in general, including the ML/TF risks which integrate in the internal monitoring stipulated by Regulation No. 03-02 issued on 14/11/2002 by the Council on Money and Credit. Indeed, the Law on Money and Credit did not explicitly stipulate money laundering and terrorist financing as one of its powers since it was passed before the law criminalizing ML crimes; the indication to addressing the risks on part of the Council on Money and Credit makes AML/CFT one of its powers as ML/TF are considered risks that threaten the national economy and affect the reputation of the concerned banks. • The concept of beneficial owner has been defined in Article (09) of Law 05-01. Moreover, Article (10) of the subject law required the identification of all those involved in the economic process including the beneficial owner.
<p>Recommendations 6-7-8-9</p>	<p>Due to the repeated criticism directed towards Regulation 05-05 issued by the Council on Money and Credit, and which are mentioned in several parts of the report, which revolve mainly around the fact that it does not include enforceable means, the Algerian authorities see the necessity of providing the following clarifications:</p> <ul style="list-style-type: none"> • In the methodology for assessing compliance with the FATF 40 Recommendations, under the list of definitions, "Law or Regulation (Règlement) is any primary or secondary legislation such as the laws, decisions, executive controls, or any other equivalent requirements issued or licensed by a legislative authority which imposes enforceable requirements that entail sanctions for noncompliance." • Regulation 05-05 fulfills all the elements of such definition. In the Law on Money and Credit passed on 26/08/2003 amended and completed in Order 10-04 dated 26/08/2010, the Algerian legislator is the one who authorized the Council on Money and Credit to issue regulations in

	<p>several fields, and in general, the field of risks, as shown in Paragraph (h) of Article (62), and in the field of the rules of appropriate operation and code of ethics of the profession as shown in Paragraph (n) of the same article.</p> <ul style="list-style-type: none"> •Regarding the criticism that this authorization by the legislator does not include, in particular, the AML field, which, in fact, is merely part of the abovementioned field of risks; this is normal, as long as the Law on Money and Credit for 2003 was issued before Law No. 05-01 dated 06/02/2005. Therefore, after such criminalization, the Law on Money and Credit was amended by virtue of Order 10-04 dated 26/08/2010. Article 97/3bis was established to oblige the banks, FIs and the Algerian financial post services to set a program and procedures equivalent to laws and systems among the conditions set by the system taken by the Council on Money and Credit. Failure to comply with such obligations by banks and FIs lead to the implementation of the sanctions stipulated in Article (114) of the Law on Money and Credit, and which could reach the extent of license withdrawal. <p>Based on the above, it is clear that Regulation 05-05 is a secondary legislation, thus, it is considered an absolute enforceable means.</p>
<p>Recommendation 13</p>	<p>Algeria confirms that the scope of predicate offenses for the ML crime in the Algerian legislation is an adequate scope. As for the criticism that the Algerian law did not include what may address trading in stolen objects, Articles (387) and (388) of the Penal Code cover all ranges of possession and disposal of stolen objects however diverse they might be. Thus, the Algerian legislator has covered all aspects related to the crime of concealing, and in particular, the aspect related to trading in stolen objects.</p> <p>As for the scope of TF crime, Algeria confirms that Articles 87/3bis and 87/4bis of the Penal Code criminalize the financing of a terrorist act of any type. On the other hand, the formation of a group of any form for the purpose of committing terrorist acts falls under the scope of terrorist acts.</p> <p>Regarding the obligation to report suspicion of attempts to conduct suspicious transactions, Article (20) of Law 05-01 dated 06/02/2005, stipulates, in its last paragraph, that reporting suspicion may take place before, during or after the execution of the transaction. In addition, the attempt to commit a ML crime is explicitly punishable in Article 389/3bis of the Penal Code.</p>
<p>Recommendation 40</p>	<p>Algeria notes that this recommendation included 9 criteria according to the assessment methodology and that the comments of the evaluation team were limited to two criteria only;; thus, it would have been more fair that the evaluation falls under the rating “LC”.</p> <p>Regarding the comment of not activating international cooperation with regard to AML/CFT, the Criminal Procedures Law, under the chapter of cooperation with foreign judicial authorities, as well as Law 05-01, under the international cooperation chapter, relied on what the recommendation stipulated while emphasizing the principle of reciprocity.</p>
<p>Special Recommendation II</p>	<p>Algeria was among the first countries to set an appropriate legislation according to the circumstances witnessed by the country during the period in which it fell a victim to the terrorist acts committed by criminal organizations or organized structures and diverse criminal fields such as drugs, smuggling, trafficking in arms, trafficking in human beings and illegal immigration, while emphasizing the transnational nature of terrorism and other criminal acts.</p> <p>The amendment made to the Penal Code as included in Order No. 95-11 dated 25/02/1995 has put several articles, and in particular Article 87/3bis which addresses the subject of terrorist organizations and Article (03) of Law 05-01.</p>
<p>Special Recommendation III</p>	<p>Algeria is a country that records its policy among the international legitimacy and in harmony with the UN principles. It seeks to respond to the international decisions taking into consideration their compatibility with the requirements of national security and public order in the Republic and the national constants. It is</p>

	<p>noteworthy, in this regard, that the perspective on the concept of terrorism and who is considered as terrorist is not clear on the international level.</p> <p>The team of MENAFATF expert assessors considered, in their report, that the committee founded on the level of the republic presidency, which carries out advisory tasks at the president of the republic regarding the subject of terrorism, did not, during meeting with the experts, provide the necessary clarifications about the implementation of the Security Council Resolutions 1267 and 1373. Moreover, the content of the two resolutions is related to the necessity of compliance of countries with the requirement of approving the lists of the persons, whose financial and commercial transactions conducted by them around the world are required to be tracked.</p>
<p>Special Recommendation V</p>	<p>The team of expert assessors has been reminded that, through reviewing carefully and objectively the Algerian legislation, we notice that it includes the criminalization of the ML act in the articles in Section 6 of the Penal Code amended in Order No. 04-15 dated 10/11/2004 on ML as well as in Law 05-01.</p>
<p>Special Recommendation IX</p>	<ul style="list-style-type: none"> • Not including precious metals, gold and precious stones regarding the cross-border movement in the declaration system: <p>It is sufficient to refer to the provision of Article (05) of the Customs Law, which defines goods as “all products and commercial and noncommercial objects, and in general, all objects that can be traded and owned”, in order to understand that the declaration and disclosure system at the Customs includes, in addition to the rest of the goods, precious metals, gold and precious stones. This can be verified through the automated declaration and application system pertaining to the automated processing of declarations in foreign currency, part of which includes all objects of value.</p> <ul style="list-style-type: none"> • The power to inquire about the source of funds: <p>The powers vested to the Customs Department, and in particular by virtue of Article (258) of the Customs Law, largely exceeds the mere inquiring about the source of funds. The Customs Law, by virtue of the abovementioned article, allows the Customs Department to prove the customs violations and follow up on them via all legal means, even if no seizure takes place. The declared goods were not subject to any comment during the inspection process.</p> <ul style="list-style-type: none"> • The current declaration system is not compatible with the AML/CFT goals: <p>By referring to the provisions of Article (197) of the Customs Law pertaining to travelers and Article (198) of the same law pertaining to the obligation of customs disclosure, in addition to the executive provisions, and in particular, Article (03) of the Decree dated 30 July, 1999, which includes the methods of applying Article (197) of the Customs Law, we can easily understand that the procedures related to security remain enforceable when entering the customs region, including but not limited to: Transfer of arms, weapons and ammunition. This shows that customs monitoring can respond to all aspects related to security (Terrorist Financing). In addition, the definition provided by the Customs Law of the concept of monitoring includes all measures taken to ensure compliance with the effective laws and regulations which the Customs Department is required to apply, including the legal provisions pertaining to the monitoring of exchange, ML and TF.</p>

Annexes

Annex 1: Statistics submitted by Algeria

Annex 2: Copies of key laws, regulations and other measures (*Available in French Language only*)

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 submitted by Algeria

The national statistics of the hemp amount confined from 1999 to 2008

Year	Amounts of Confined Drugs (Ton)
1999	4,452
2000	6,262
2001	4,826
2002	6,110
2003	8,068
2004	12,373
2005	9,644
2006	10,046
2007	16,595
2008	38,037
First 1/6 of 2009	46,000
Total	162,867

Statistics related to detriming cultural heritage cases treated by police departments

Year	No. of Cases	No. of Involved Persons
2007	2	1
2008	12	20
First 1/3 of 2009	3	3

Statistics related to currency counterfeiting cases treated by police departments

Year	No. of Cases	No. of Involved Persons
2007	232	393

2008	278	328
First 1/3 of 2009	114	76

Statistics related to embezzlement and bribery cases treated by police departments

Year	No. of Cases	No. of Involved Persons	Financial Evaluation of Damage
2007	313	1428	3.212.471.211 DZD
2008	329	1033	2.326.775.682 DZD
First 1/3 of 2009	75	222	1.227.446.440 DZD

Statistics related to stealing cars cases treated by police departments

Year	No. of Cases	No. of Involved Persons
2007	1926	829
2008	2190	725
First 1/3 of 2009	700	271

Statistics of smuggling crimes according to the type of the committed crime, which has been looked into on the level of courts compound during 2008 (order no. 05-06 dated on August 23, 2005)

Type of Crime (Decided)	No. of Committed Crimes in (Decided Cases)	No. of Convicted Persons		
		No. of Algerians	No. of Foreigners	Total
Smuggling goods M(10)	1685	2188	80	2268
Possession of storehouses or transportation means specified for smuggling (M 11)	129	162	2	164
Smuggling Using transportation means (M 12)	1059	1546	76	1622
Smuggling along with carrying guns (M 13)	10	11	0	11
Smuggling weapons (M 14)	1	2	0	2
Smuggling which forms serious threat (M 15)	0	0	0	0
Selling the confiscated goods (M 17)	1	1	0	1
Non-reporting of	11	12	0	12

smuggling actions (M 18)				
Total	2896	3922	158	4080

Statistics table related to drugs cases during 2008 on the level of courts compound

Judicial Entity	Drugs Possessing and Abuse Cases		Smuggling and Trading in Drugs Cases	
	No. of Decided Cases	No. of Convicted Persons	No. of Decided Cases	No. of Convicted Persons
Adrar	15	24	27	39
Chlef	277	348	51	103
Laghouat	29	31	12	12
Oum El Bouaghi	193	253	57	85
Batna	221	305	38	52
Bejaya	124	177	43	62
Biskra	220	308	58	89
Béchar	84	118	28	54
Blida	672	876	203	339
Bouïra	104	134	10	17
Tamanrasset	123	149	16	26
Tébessa	198	246	60	98
Tlemcen	281	376	132	185
Tiaret	215	290	69	102
Tizi Ouzou	94	112	17	27
Algeria	1977	2180	220	298
Djelfa	59	82	13	17
Jijel	98	128	17	27
Sétif	329	375	43	68
Saïda	157	200	28	42
Skikda	237	328	42	88
Sidi Bel-Abbes	309	423	111	193
Annaba	385	519	102	178
Guelma	342	559	89	134
Constantine	428	652	107	137
Médéa	93	105	17	21
Mostaganem	162	174	66	90
Msila	134	179	42	73
Mascara	248	285	82	105
Ouargla	81	109	30	37
Oran	544	729	122	162
Illizi	8	10	5	6
Ghardaïa	43	56	10	11
Bordj Bou Arréridj	107	132	23	36
Boumerdès	260	367	28	43
Relizane	139	178	40	54
Total	8990	11517	2058	3110

Statistics related to the number of cases of prevention against and combating corruption (Law No. 01-06 dated on 20/02/2006 related to prevention against and combating corruption)

Year	Scheduled Cases	Decided Cases	No. of Convicted Persons
2006	818	680	930
2007	1054	861	1789
2008	807	739	1694

Statistics related to the number of cases of corruption crimes and combating them (Law No. 01-06 dated on 20/02/2006 related to prevention against and combating corruption)

Year	No. of Crimes Decided by the Courts	No. of Convicted Persons
2006	1378	930
2007	1050	1789
2008	787	1694
Total	3224	4413

Annex 2: Copies of key laws, regulations and other measures (*Available in French Language only*)

- (1) Loi no. 05-01 du 27 Dhou El Hidja 1425 correspondant au 6 Février 2005 relative à la prévention et à la lutte contre le blanchiment d'argent et le financement du terrorisme.
- (2) Règlement No. 05-05 du 13 Dhou El Kaada 1426 correspondant au 15 Décembre 2005 relatif à la prévention et à la lutte contre le blanchiment d'argent et le financement du terrorisme.

LOIS

Loi n° 05-01 du 27 Dhou El Hidja 1425 correspondant au 6 février 2005 relative à la prévention et à la lutte contre le blanchiment d'argent et le financement du terrorisme.

Le Président de la République,

Vu la Constitution, notamment ses articles 119, 120, 122 (1, 7, 9 et 15), 126 et 132 ;

Vu la Convention de l'Organisation des Nations Unies contre le trafic illicite des stupéfiants et substances psychotropes, adoptée le 20 décembre 1988 et ratifiée par le décret présidentiel n° 95-41 du 26 Chaâbane 1415 correspondant au 28 janvier 1995 ;

Vu la Convention arabe de lutte contre le terrorisme signée au Caire le 25 Dhou El Hidja 1418 correspondant au 22 avril 1998 et ratifiée par le décret présidentiel n° 98-413 du 18 Chaâbane 1419 correspondant au 7 décembre 1998 ;

Vu la Convention de l'Organisation de l'Unité africaine (O.U.A) sur la prévention et la lutte contre le terrorisme adoptée lors de la 35ème session ordinaire tenue à Alger du 12 au 14 juillet 1999 et ratifiée par le décret présidentiel n° 2000-79 du 4 Moharram 1421 correspondant au 9 avril 2000 ;

Vu la Convention internationale pour la répression du financement du terrorisme adoptée par l'assemblée générale de l'Organisation des Nations Unies le 9 décembre 1999, ratifiée par le décret présidentiel n° 2000-445 du 27 Ramadhan 1421 correspondant au 23 décembre 2000 ;

Vu la Convention de l'Organisation des Nations Unies contre la criminalité transnationale organisée, adoptée par l'assemblée générale de l'Organisation des Nations Unies le 15 novembre 2000 et ratifiée par le décret présidentiel n° 02-55 du 22 Dhou El Kaada 1422 correspondant au 5 février 2002 ;

Vu le Protocole additionnel à la convention de l'Organisation des Nations Unies contre la criminalité transnationale organisée visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, adopté par l'assemblée générale de l'Organisation des Nations Unies le 15 novembre 2000 et ratifié par le décret présidentiel n° 03-417 du 14 Ramadhan 1424 correspondant au 9 novembre 2003 ;

Vu le Protocole contre le trafic illicite de migrants par terre, air et mer, additionnel à la Convention de l'Organisation des Nations Unies contre la criminalité transnationale organisée, adopté par l'assemblée générale de l'Organisation des Nations Unies le 15 novembre 2000 et ratifié par le décret présidentiel n° 03-418 du 14 Ramadhan 1424 correspondant au 9 novembre 2003 ;

Vu l'ordonnance n° 66-155 du 8 juin 1966, modifiée et complétée, portant code de procédure pénale ;

Vu l'ordonnance n° 66-156 du 8 juin 1966, modifiée et complétée, portant code pénal ;

Vu l'ordonnance n° 75-58 du 26 septembre 1975, modifiée et complétée, portant code civil ;

Vu l'ordonnance n° 75-59 du 26 septembre 1975, modifiée et complétée, portant code de commerce ;

Vu la loi n° 79-07 du 21 juillet 1979, modifiée et complétée, portant code des douanes ;

Vu la loi n° 88-27 du 12 juillet 1988 portant organisation du notariat ;

Vu la loi n° 91-03 du 8 janvier 1991 portant organisation de la profession d'huissier ;

Vu la loi n° 91-04 du 8 janvier 1991 portant organisation de la profession d'avocat ;

Vu la loi n° 91-08 du 27 avril 1991 relative à la profession d'expert-comptable, de commissaire aux comptes et de comptable agréé ;

Vu l'ordonnance n° 95-07 du 23 Chaâbane 1415 correspondant au 25 janvier 1995 relative aux assurances ;

Vu l'ordonnance n° 96-02 du 19 Chaâbane 1416 correspondant au 10 janvier 1996 portant organisation de la profession de commissaire-priseur ;

Vu l'ordonnance n° 96-22 du 23 Safar 1417 correspondant au 9 juillet 1996, modifiée et complétée, relative à la répression de l'infraction à la législation et à la réglementation des changes et des mouvements de capitaux de et vers l'étranger ;

Vu la loi n° 2000-03 du 5 Joumada El Oula 1421 correspondant au 5 août 2000 fixant les règles générales relatives à la poste et aux télécommunications ;

Vu la loi n° 02-11 du 20 Chaoual 1423 correspondant au 24 décembre 2002 portant loi de finances pour 2003 ;

Vu l'ordonnance n° 03-11 du 27 Joumada Ethania 1424 correspondant au 26 août 2003 relative à la monnaie et au crédit ;

Après adoption par le Parlement ;

Promulgue la loi dont la teneur suit :

Chapitre I

Des dispositions générales

Article 1er. — Outre les dispositions prévues par le code pénal, la présente loi a pour objet de prévenir et de lutter contre le blanchiment d'argent et le financement du terrorisme.

Art. 2. — Est considéré comme blanchiment d'argent :

a) la conversion ou le transfert de biens dont l'auteur sait qu'ils sont le produit d'un crime, dans le but de dissimuler ou de déguiser l'origine illicite desdits biens ou d'aider toute personne impliquée dans l'infraction principale à la suite de laquelle ces biens sont récupérés à échapper aux conséquences juridiques de ses actes ;

b) la dissimulation ou le déguisement de la nature véritable, de l'origine, de l'emplacement, de la disposition, du mouvement ou de la propriété des biens ou des droits y afférents dont l'auteur sait qu'ils sont le produit d'un crime ;

c) l'acquisition, la détention ou l'utilisation de biens par une personne qui sait, lors de leur réception, que lesdits biens constituent le produit d'un crime ;

d) la participation à l'une des infractions établies conformément au présent article ou à toute autre association, conspiration, tentative ou complicité par fourniture d'une assistance, d'une aide ou de conseils en vue de sa commission.

Art. 3. — Est considéré comme infraction de financement du terrorisme, au sens de la présente loi, tout acte par lequel toute personne, par quelque moyen que ce soit, directement ou indirectement, illicitement et délibérément, fournit ou réunit des fonds dans l'intention de les voir utilisés en tout ou en partie en vue de commettre des infractions qualifiées d'actes terroristes ou subversifs, faits prévus et punis par les articles 87 bis à 87 bis 10 du code pénal.

Art. 4. — Aux termes de la présente loi :

— le terme « **fonds** » s'entend des biens de toute nature, corporels ou incorporels, notamment mobiliers ou immobiliers, acquis par quelque moyen que ce soit, et des documents ou instruments juridiques sous quelque forme que ce soit, y compris sous forme électronique ou numérique, qui attestent un droit de propriété ou un intérêt sur ces biens, y compris les crédits bancaires, les chèques de voyages, les chèques bancaires, les mandats, les actions, les titres, les obligations, les traites et les lettres de crédit.

— le terme « **infraction d'origine** » désigne toute infraction pénale, même commise à l'étranger, ayant permis à ses auteurs de se procurer les biens prévus par la présente loi.

— le terme « **assujetti** » désigne les personnes physiques et morales ayant l'obligation de faire la déclaration de soupçon.

— « **l'organe spécialisé** » désigne la cellule de traitement du renseignement financier prévue par la réglementation en vigueur.

Art. 5. — Les faits d'origine commis à l'étranger ne peuvent donner lieu à des poursuites pénales pour blanchiment d'argent et/ou financement du terrorisme que s'ils ont le caractère d'infraction pénale dans le pays où ils ont été commis et dans la loi algérienne.

Chapitre II

De la prévention du blanchiment d'argent et du financement du terrorisme

Art. 6. — Tout paiement d'un montant supérieur à un seuil fixé par voie réglementaire doit être effectué par les moyens de paiement à travers les circuits bancaires et financiers.

Les modalités d'application du présent article sont précisées par voie réglementaire.

Art. 7. — Les banques, les établissements financiers et les autres institutions financières apparentées doivent s'assurer de l'identité et de l'adresse de leurs clients avant d'ouvrir un compte ou livret, de prendre en garde des titres, valeurs ou bons, d'attribuer un coffre ou d'établir toute autre relation d'affaires.

La vérification de l'identité d'une personne physique se fait par la présentation d'un document officiel original en cours de validité et comportant une photographie ; la vérification de son adresse se fait par la présentation d'un document officiel en établissant la preuve.

Copie en est conservée.

La vérification de l'identité d'une personne morale est effectuée par la présentation de ses statuts et de tout document établissant qu'elle est légalement enregistrée ou agréée et qu'elle a une existence réelle au moment de l'identification.

Copie en est conservée.

Les renseignements cités aux alinéas 2 et 3 doivent être mis à jour annuellement et à chaque modification.

Les mandataires et les employés agissant pour le compte d'autrui doivent présenter, outre les documents prévus ci-dessus, la délégation de pouvoirs ainsi que les documents prouvant l'identité et l'adresse des véritables propriétaires des fonds.

Art. 8. — L'identification des clients occasionnels s'effectue selon les conditions prévues à l'article 7 ci-dessus.

Art. 9. — Dans le cas où il n'est pas certain que le client agit pour son propre compte, les banques, les établissements financiers et les autres institutions financières apparentées se renseignent, par tout moyen de droit, sur l'identité du véritable donneur d'ordre ou de celui pour lequel il agit.

Art. 10. — Lorsqu'une opération est effectuée dans des conditions de complexité inhabituelle ou injustifiée, ou paraît ne pas avoir de justification économique ou d'objet licite, les banques, les établissements financiers ou les autres institutions financières apparentées sont tenus de se renseigner sur l'origine et la destination des fonds ainsi que sur l'objet de l'opération et l'identité des intervenants économiques.

Un rapport confidentiel est établi et conservé sans préjudice de l'application des articles 15 à 22 de la présente loi.

Art. 11. — Les inspecteurs de la Banque d'Algérie mandatés par la commission bancaire et agissant aussi bien dans le cadre des contrôles sur place au sein des banques et des établissements financiers et de leurs filiales et participations que dans le cadre du contrôle des documents, transmettent immédiatement un rapport confidentiel à l'organe spécialisé dès qu'ils décèlent une opération présentant les caractéristiques citées à l'article 10 ci-dessus.

Art. 12. — La commission bancaire ouvre, en ce qui la concerne, une procédure disciplinaire conformément à la loi à l'encontre de la banque ou de l'établissement financier dont la défaillance de ses procédures internes de contrôle en matière de déclaration de soupçon, cité à l'article 20 ci-dessous, a été établie. Elle peut s'enquérir de l'existence du rapport visé à l'article 10 ci-dessus et en demander communication.

La commission bancaire veille à ce que les banques et les établissements financiers disposent de programmes adéquats pour détecter et prévenir le blanchiment d'argent et le financement du terrorisme.

Art. 13. — L'organe spécialisé doit être informé des suites réservées à toutes procédures ouvertes en la matière par la commission bancaire.

Art. 14. — Les banques, les établissements financiers et les autres institutions financières apparentées sont tenus de conserver et de tenir à la disposition des autorités compétentes :

1. les documents relatifs à l'identité et à l'adresse des clients pendant une période de cinq (5) ans au moins après la clôture des comptes ou la cessation de la relation d'affaires ;

2. les documents relatifs aux opérations effectuées par les clients pendant cinq (5) ans au moins après l'exécution de l'opération.

Chapitre III

De la détection

Art. 15. — L'organe spécialisé est chargé d'analyser et de traiter les informations que lui communiquent les autorités habilitées et les déclarations de soupçon auxquelles sont assujettis les personnes et organismes mentionnés à l'article 19 ci-dessous.

Les informations communiquées à l'organe spécialisé sont confidentielles, elles ne peuvent être utilisées à d'autres fins que celles prévues par la présente loi.

Art. 16. — L'organe spécialisé accuse réception de la déclaration de soupçon. Il collecte tous renseignements et indices permettant d'établir l'origine des fonds ou la nature réelle des opérations faisant l'objet de la déclaration et assure la transmission du dossier au procureur de la République compétent conformément à la loi, chaque fois que les faits déclarés sont susceptibles de constituer l'infraction de blanchiment d'argent ou de financement du terrorisme.

Art. 17. — L'organe spécialisé peut s'opposer, à titre conservatoire, pour une durée maximale de 72 heures, à l'exécution de toute opération de banque de toute personne physique ou morale sur laquelle pèsent de fortes présomptions de blanchiment d'argent ou de financement du terrorisme. Mention de cette mesure est portée sur l'accusé de réception de la déclaration de soupçon.

Art. 18. — Les mesures conservatoires prises par l'organe spécialisé ne peuvent être maintenues au delà de 72 heures que sur décision judiciaire.

Le président du tribunal d'Alger peut, sur requête de l'organe spécialisé et après avis du procureur de la République près le tribunal d'Alger, proroger le délai prévu à l'alinéa ci-dessus ou ordonner le séquestre provisoire des fonds, comptes ou titres objet de la déclaration.

Le procureur de la République près le tribunal d'Alger peut présenter une requête aux mêmes fins.

L'ordonnance qui fait droit à la requête est exécutoire sur minute avant notification à la partie concernée par l'opération.

Si l'accusé de réception de la déclaration de soupçon n'est pas assorti des mesures conservatoires prévues ci-dessus ou si aucune décision du président du tribunal d'Alger ou le cas échéant du juge d'instruction saisi, n'est parvenue aux personnes et organismes visés aux articles 19 et 21 de la présente loi, dans le délai maximum de 72 heures, ceux-ci peuvent exécuter l'opération, objet de la déclaration.

Art. 19. — Sont soumis à l'obligation de déclaration de soupçon :

— les banques et établissements financiers, les services financiers d'Algérie poste, les autres institutions financières apparentées, les compagnies d'assurances, les bureaux de change, les mutuelles, les paris et jeux et les casinos ;

— toute personne physique ou morale qui, dans le cadre de sa profession, conseille et/ou réalise des opérations entraînant des dépôts, des échanges, des placements, conversions ou tout autre mouvement de capitaux, notamment les professions libérales réglementées, et plus particulièrement les avocats, les notaires, les commissaires-priseurs, les experts-comptables, les commissaires aux comptes, les courtiers, les commissionnaires en douanes, les agents de change, les intermédiaires en opérations de bourse, les agents immobiliers, les entreprises d'affacturage ainsi que les marchands de pierres et métaux précieux, d'objets d'antiquité et d'œuvres d'art.

Art. 20. — Sans préjudice des dispositions de l'article 32 du code de procédure pénale, les personnes physiques et morales, mentionnées à l'article 19 ci-dessus, sont tenues de déclarer à l'organe spécialisé toute opération lorsqu'elle porte sur des fonds paraissant provenir d'un crime ou d'un délit notamment le crime organisé et le trafic de stupéfiants et de substances psychotropes ou semblent être destinés au financement du terrorisme.

Cette déclaration doit être faite dès qu'il y a soupçon, même s'il a été impossible de surseoir à l'exécution des opérations ou postérieurement à leur réalisation.

Toute déclaration d'informations tendant à renforcer le soupçon ou à l'infirmer doit être faite sans délai à l'organe spécialisé.

La forme, le modèle, le contenu et l'accusé de réception de la déclaration de soupçon sont déterminés par voie réglementaire sur proposition de l'organe spécialisé.

Art. 21. — Les services des impôts et des douanes adressent immédiatement un rapport confidentiel à l'organe spécialisé dès qu'ils découvrent, lors de leurs missions de vérification et de contrôle, l'existence de fonds ou d'opérations paraissant provenir de crimes ou délits notamment de crime organisé ou de trafic de stupéfiants ou de substances psychotropes ou semblent être destinés au financement du terrorisme.

Les modalités d'application du présent article sont précisées par voie réglementaire.

Art. 22. — Le secret professionnel ou le secret bancaire ne sont pas opposables à l'organe spécialisé.

Art. 23. — Aucune poursuite pour violation de secret bancaire ou professionnel ne peut être engagée contre les personnes ou les dirigeants et préposés assujettis à la déclaration de soupçon qui, de bonne foi, ont transmis les informations ou effectué les déclarations prévues par la présente loi.

Art. 24. — Les personnes physiques et morales assujetties à la déclaration de soupçon ayant procédé de bonne foi sont exemptes de toute responsabilité administrative, civile ou pénale.

Cette exemption de responsabilité reste fondée même si les enquêtes n'ont donné lieu à aucune suite ou si les poursuites ont abouti à des décisions de non-lieu, de relaxe ou d'acquiescement.

Chapitre IV

De la coopération internationale

Art. 25. — L'organe spécialisé peut communiquer aux organismes des autres Etats qui exercent des missions similaires les informations qu'il détient sur des opérations qui paraissent avoir pour objet le blanchiment d'argent ou le financement du terrorisme, sous réserve de réciprocité.

Art. 26. — La coopération et l'échange d'informations, visés à l'article 25 ci-dessus, s'effectuent dans le respect des conventions internationales et des dispositions légales internes applicables en matière de protection de la vie privée et de communication de données personnelles sous réserve que les organismes étrangers compétents soient soumis aux mêmes obligations de secret professionnel que l'organe spécialisé.

Art. 27. — Dans le cadre de la lutte contre le blanchiment d'argent et le financement du terrorisme, la Banque d'Algérie et la commission bancaire peuvent transmettre des informations aux organismes chargés de la surveillance des banques et établissements financiers dans d'autres pays, sous réserve de réciprocité et à condition que ces organismes soient soumis au secret professionnel avec les mêmes garanties qu'en Algérie.

Art. 28. — La communication des informations ne peut être accordée si une procédure pénale a déjà été engagée en Algérie sur la base des mêmes faits ou si cette communication est de nature à porter atteinte à la souveraineté et à la sécurité nationales ou à l'ordre public et aux intérêts fondamentaux de l'Algérie.

Art. 29. — La coopération judiciaire est établie entre les juridictions algériennes et les juridictions étrangères lors des enquêtes, poursuites et procédures judiciaires relatives au blanchiment d'argent et au financement du terrorisme, sous réserve de réciprocité et dans le respect des conventions bilatérales et multilatérales applicables en la matière, ratifiées par l'Algérie, et conformément à la législation interne.

Art. 30. — La coopération judiciaire peut porter sur les demandes d'enquête, les commissions rogatoires internationales, l'extradition des personnes recherchées conformément à la loi ainsi que la recherche et la saisie des produits du blanchiment d'argent et ceux destinés au financement du terrorisme aux fins de leur confiscation sans préjudice des droits des tiers de bonne foi.

Chapitre V

Dispositions pénales

Art. 31. — Quiconque effectue ou accepte un paiement en violation des dispositions de l'article 6 ci-dessus est puni d'une amende de 50.000 DA à 500.000 DA.

Art. 32. — Tout assujetti qui s'abstient, sciemment et en connaissance de cause, d'établir et/ou de transmettre la déclaration de soupçon prévue par la présente loi est puni d'une amende de 100.000 DA à 1.000.000 DA sans préjudice de peines plus graves et de toute autre sanction disciplinaire.

Art. 33. — Les dirigeants et les agents des organismes financiers ainsi que les assujettis à la déclaration de soupçon qui auront sciemment porté à la connaissance du propriétaire des fonds ou opérations ayant fait l'objet de déclaration l'existence de cette déclaration ou communiqué des informations sur les suites qui lui sont réservées sont punis d'une amende de 200.000 DA à 2.000.000 DA sans préjudice de peines plus graves et de toute autre sanction disciplinaire.

Art. 34. — Les dirigeants et les préposés des banques, des établissements financiers et des autres institutions financières apparentées qui ont sciemment enfreint de manière répétée les mesures de prévention du blanchiment d'argent et du financement du terrorisme prévues par les articles 7, 8, 9, 10 et 14 de la présente loi sont punis d'une amende de 50.000 DA à 1.000.000 DA.

Les établissements financiers visés dans cet article sont punis d'une amende de 1.000.000 DA à 5.000.000 DA sans préjudice de peines plus graves.

Chapitre VI

Dispositions finales

Art. 35. — Les dispositions des articles 104 à 110 de la loi n° 02-11 du 20 Chaoual 1413 correspondant au 24 décembre 2002 portant loi de finances pour 2003 sont abrogées.

Art. 36. — La présente loi sera publiée au *Journal officiel* de la République algérienne démocratique et populaire.

Fait à Alger, le 27 Dhou El Hidja 1425 correspondant au 6 février 2005.

Abdelaziz BOUTEFLIKA.

ANNONCES ET COMMUNICATIONS

BANQUE D'ALGERIE

**Règlement n° 05-05 du 13 Dhou El Kaada 1426
correspondant au 15 décembre 2005 relatif à la
prévention et à la lutte contre le blanchiment
d'argent et le financement du terrorisme.**

Le gouverneur de la Banque d'Algérie,

Vu l'ordonnance n° 75-59 du 26 septembre 1975,
modifiée et complétée, portant code de commerce ;

Vu l'ordonnance n° 03-11 du 27 Jomada Ethania 1424
correspondant au 26 août 2003 relative à la monnaie et au
crédit, notamment ses articles 56 et 57 ;

Vu la loi n° 05-01 du 27 Dhou El Hidja 1425
correspondant au 6 février 2005 relative à la prévention et
à la lutte contre le blanchiment d'argent et le financement
du terrorisme ;

Vu le décret exécutif n° 02-127 du 24 Moharram 1423
correspondant au 7 avril 2002 portant création,
organisation et fonctionnement de la cellule de traitement
du renseignement financier (CTRF) ;

Vu le décret exécutif n° 05-442 du 12 Chaoual 1426
correspondant au 14 novembre 2005 fixant le seuil
applicable aux paiements devant être effectués par les
moyens de paiement à travers les circuits bancaires et
financiers ;

Vu le décret présidentiel du 10 Rabie El Aouel 1422
correspondant au 2 juin 2001 portant nomination du
gouverneur et des vice-gouverneurs de la Banque
d'Algérie ;

Vu le décret présidentiel du 10 Rabie El Aouel 1422
correspondant au 2 juin 2001 portant nomination des
membres du conseil d'administration de la Banque
d'Algérie ;

Vu les délibérations du conseil de la monnaie et du
crédit en date du 15 décembre 2005 ;

Promulgue le règlement dont la teneur suit :

Article 1er. — Les banques, les établissements financiers
et les services financiers d'Algérie poste doivent, en
application de la loi n° 05-01 du 27 Dhou El Hidja 1425
correspondant au 6 février 2005 relative à la prévention et
à la lutte contre le blanchiment d'argent et le financement
du terrorisme, tels que définis dans ses articles 2 et 3, faire
preuve de vigilance. Ils doivent, à cet effet, disposer d'un
programme écrit de prévention, de détection et de lutte
contre le blanchiment d'argent et le financement du
terrorisme. Ce programme doit comprendre, notamment :

- des procédures,
- des contrôles,
- une méthodologie de diligence en ce qui concerne
la connaissance de la clientèle,
- des formations appropriées à l'attention de leur
personnel,
- un dispositif de relations (correspondant et
déclarations de soupçon) avec la cellule de traitement du
renseignement financier (CTRF).

Ce programme s'intègre dans le dispositif de contrôle
interne des banques et établissements financiers et rapport
en est fait annuellement à la commission bancaire.

TITRE I

CONNAISSANCE DE LA CLIENTELE ET DES OPERATIONS

Art. 2. — Les banques, les établissements financiers et
les services financiers d'Algérie-poste doivent, dans le but
d'éviter de s'exposer à des risques sérieux liés à leur
clientèle et à leurs contreparties, veiller à l'existence de
normes internes « connaissance de la clientèle » et à leur
adéquation en permanence.

Les mesures de protection liées à la connaissance de la
clientèle dépassent le cadre d'une simple opération
d'ouverture et de tenue de compte. Elles exigent de la part
des banques, des établissements financiers et des services
financiers d'Algérie-poste un devoir de diligence
rigoureux à l'égard des comptes et opérations pouvant être
à risques et une surveillance vigilante des activités et
opérations pouvant être suspectes.

Art. 3. — Les normes connaissance de la clientèle
doivent prendre en compte les éléments essentiels de la
gestion des risques et des procédures de contrôle,
notamment :

1. la politique d'acceptation des nouveaux clients ;
2. l'identification de la clientèle et le suivi des
mouvements et opérations ;
3. la surveillance continue des comptes à risques.

Les banques, les établissements financiers et les
services financiers d'Algérie-poste doivent connaître
l'identité et l'adresse de leurs clients et surveiller les
mouvements de comptes pour déceler les types
d'opérations et les transactions atypiques et/ou
inhabituelles et leur justification économique pour un
client précis ou une catégorie de comptes.

Art. 4. — La procédure d'identification de la clientèle
intervient lors de l'établissement de la relation d'affaires.
Aux fins du présent règlement, on désigne notamment par
le terme « **client** » :

— toute personne ou entité titulaire d'un compte auprès de la banque ou au nom de laquelle un compte est ouvert (propriétaire effectif du compte) ;

— les bénéficiaires de transactions effectuées par des intermédiaires professionnels ;

— les clients occasionnels ;

— les mandataires et les agents agissant pour le compte d'autrui ;

— toute personne ou entité associée à une transaction financière effectuée par l'intermédiaire d'une banque, d'un établissement financier ou les services financiers d'Algérie-poste.

Art. 5. — La vérification de l'identité d'une personne physique se fait par la présentation d'un document officiel original en cours de validité et comportant une photographie. Il est important de recueillir les informations sur la filiation de l'intéressé.

La vérification de l'identité d'une personne morale, y compris tout type d'association et autres organisations, est effectuée par la présentation d'un original de ses statuts et de tout document établissant qu'elle est légalement enregistrée ou agréée et qu'elle a une existence et une adresse réelles au moment de l'identification.

La vérification de l'adresse se fait par la présentation d'un document officiel en établissant la preuve et par le retour d'un accusé de réception retourné d'une correspondance (lettre d'avis d'ouverture de compte ou de courtoisie) transmise à l'adresse déclarée.

Les mandataires et les agents agissant pour le compte d'autrui doivent présenter, outre les documents prévus ci-dessus, les pouvoirs ainsi que les documents prouvant l'identité et l'adresse des propriétaires effectifs des fonds.

Une copie des éléments de preuve d'identité et d'adresse est conservée.

Les banques, les établissements financiers et les services financiers d'Algérie-poste doivent privilégier dans le cadre de la relation avec leur clientèle des contacts périodiques.

Si après l'ouverture d'un compte, apparaissent des problèmes de vérification et de mise à jour, les banques, les établissements financiers et les services financiers d'Algérie-poste doivent clôturer le compte, en informer la cellule de traitement du renseignement financier et la commission bancaire, et restituer le solde sauf stipulation contraire d'une autorité compétente.

Art. 6. — Pour s'assurer que les données qu'ils détiennent sont à jour, les banques, les établissements financiers et les services financiers d'Algérie-poste doivent les actualiser annuellement, et au moins à l'occasion d'une transaction importante, d'une modification substantielle des normes de documentation sur la clientèle ou d'un changement important dans le mode de gestion du compte.

Toutefois, si une banque, un établissement financier ou les services financiers d'Algérie-poste réalisent à un moment donné, qu'ils manquent d'informations au sujet d'un client existant, ils devront prendre des mesures pour obtenir le plus tôt possible tous les renseignements nécessaires.

Art. 7. — Les banques, les établissements financiers et les services financiers d'Algérie-poste doivent, à la discrétion de leur direction générale, obtenir de tout nouveau client, personne potentiellement exposée, suffisamment de renseignements et prendre les dispositions de prudence adéquates dans la gestion de cette relation.

TITRE II

CONSERVATION DES DOCUMENTS

Art. 8. — Les banques, les établissements financiers et les services financiers d'Algérie-poste doivent conserver durant une période de cinq (5) ans, après la clôture des comptes et/ou la cessation de la relation d'affaires :

— les documents relatifs à l'identité et à l'adresse des clients,

— les documents relatifs aux opérations effectuées après l'exécution de l'opération.

Ces documents sont tenus à la disposition des autorités compétentes.

Les banques, les établissements financiers et les services financiers d'Algérie-poste sont tenus d'élaborer des procédures, à l'attention de leurs structures opérationnelles, précisant quelles sont les données à conserver sur l'identification de la clientèle, sur les transactions individuelles et sur la durée légale et réglementaire de conservation.

TITRE III

BANQUES CORRESPONDANTES

Art. 9. — Les banques et les établissements financiers, intermédiaires agréés doivent réunir suffisamment d'informations sur leurs correspondants bancaires. L'intermédiaire agréé doit établir des relations de correspondant avec des établissements bancaires étrangers à la condition :

— que la reddition de leurs comptes soit certifiée ;

— qu'elles soient soumises à un contrôle par les autorités compétentes ;

— et qu'elles collaborent, dans le cadre d'un dispositif national de lutte contre le blanchiment d'argent et du financement du terrorisme.

Les conventions de comptes correspondants doivent être actualisées, pour intégrer les obligations prévues ci-dessus.

TITRE IV SYSTEMES D'ALERTE

Art. 10. — Les banques, les établissements financiers et les services financiers d'Algérie-poste sont tenus de disposer de systèmes permettant, pour tous les comptes, de déceler les activités ayant un caractère inhabituel ou suspect.

Les types d'opérations de nature à éveiller les soupçons doivent faire l'objet d'une déclaration de soupçon qui sera transmise à la cellule de traitement du renseignement financier. Il s'agit, notamment, des opérations :

- qui ne semblent avoir aucune justification économique ou commerciale perceptible,
- qui présentent des mouvements de fonds démesurés par rapport au solde du compte,
- qui portent sur des montants, notamment en liquide sans relation avec les transactions habituelles ou concevables du client,
- qui sont d'une complexité inhabituelle ou injustifiée,
- qui ne paraissent pas avoir d'objet licite.

Pour ces opérations, les banques, les établissements financiers et les services financiers d'Algérie-poste sont tenus de se renseigner sur l'origine et la destination des fonds ainsi que sur l'objet de l'opération et l'identité des intervenants.

Outre la déclaration de soupçon, un rapport confidentiel est établi et conservé sans préjudice des articles 15 à 22 de la loi n° 05-01 du 6 février 2005, susvisée.

TITRE V DECLARATION DE SOUPÇON

Art. 11. — Les banques, les établissements financiers et les services financiers d'Algérie-poste sont soumis à l'obligation légale de déclaration de soupçon dans les formes réglementaires et en requérir accusé de réception.

Les banques et les établissements financiers doivent déclarer à la cellule de traitement du renseignement financier (CTRF), toute opération lorsqu'elle porte sur des fonds paraissant provenir d'un crime ou d'un délit notamment le crime organisé et le trafic de stupéfiants et de substances psychotropes ou en relation avec le financement du terrorisme.

Les déclarations de soupçon doivent être faites dès qu'il y a soupçon, même s'il a été impossible de surseoir à l'exécution des opérations ou postérieurement à leur réalisation.

Tout élément tendant à renforcer le soupçon ou à l'infirmer doit être communiqué sans délai à CTRF.

La déclaration de soupçon doit être faite conformément au modèle réglementaire.

Les banques, les établissements financiers et les services financiers d'Algérie-poste sont tenus au strict respect des mesures conservatoires édictées par l'article 18 de la loi relative à la prévention et la lutte contre le blanchiment d'argent et le financement du terrorisme. Ils doivent veiller à son application.

Art. 12. — Les procédures de déclaration des opérations suspectes doivent être clairement précisées par écrit par chaque banque, établissement financier et les services financiers d'Algérie-poste et portées à la connaissance de leur personnel. Ces procédures internes doivent, en outre, déterminer les conditions de déclaration de soupçon à la cellule de traitement du renseignement financier.

Art. 13. — La déclaration de soupçon est à destination exclusive de la cellule de traitement du renseignement financier. La déclaration de soupçon et les suites qui lui sont réservées entrent dans le cadre du secret professionnel et ne peuvent être portées à la connaissance du client ou du bénéficiaire des opérations.

Art. 14. — En application de la loi, le secret bancaire n'est pas opposable à la cellule de traitement du renseignement financier.

Art. 15. — La loi protège les déclarants ayant procédé de bonne foi, de toute poursuite et de responsabilité administrative, civile et pénale. Cette disposition doit être portée à la connaissance du personnel.

TITRE VI VIREMENTS ELECTRONIQUES ET MISE A DISPOSITION DE FONDS

Art. 16. — Dans le cadre des virements électroniques, quel que soit le support utilisé (SWIFT, ARTS, ATCI etc...) et/ou de mise à disposition de fonds, les banques, les établissements financiers et les services financiers d'Algérie-poste veillent à l'identification précise du donneur d'ordre et du bénéficiaire ainsi que de leur adresse.

TITRE VII INFORMATION ET FORMATION

Art. 17. — Chaque banque, établissement financier et les services financiers d'Algérie-poste doivent mettre en place un programme permanent de formation préparant convenablement son personnel à la connaissance des dispositifs de lutte contre le blanchiment d'argent et le financement du terrorisme. Le calendrier et le contenu des séances organisées devront être adaptés aux nécessités spécifiques de l'établissement.

Art. 18. — Les banques, les établissements financiers et les services financiers d'Algérie-poste doivent habiliter au moins un cadre supérieur responsable de la conformité en matière de lutte contre le blanchiment d'argent et le financement du terrorisme, comme correspondant de la cellule de traitement du renseignement financier et chargé de veiller au respect de leurs politiques et procédures en matière de lutte contre le blanchiment d'argent et le financement du terrorisme.

Les banques, les établissements financiers et les services financiers d'Algérie-poste s'assurent que les procédures sont communiquées à tout le personnel et permettent à chaque agent de rapporter toute opération suspecte au responsable de la conformité en matière de lutte contre le blanchiment d'argent et le financement du terrorisme. Un rapport annuel en est fait à la commission bancaire.

Art. 19. — Les banques, les établissements financiers et les services financiers d'Algérie-poste doivent définir dans un document les critères de déontologie et de professionnalisme, en matière de déclarations. Ce document est obligatoirement porté à la connaissance de tout leur personnel.

TITRE VIII

ROLE DES ORGANES DE CONTROLE EXTERNE DES BANQUES ET DES ETABLISSEMENTS FINANCIERS

Art. 20. — Les commissaires aux comptes évaluent la conformité des dispositifs internes de prévention et de lutte contre le blanchiment d'argent et le financement du terrorisme, des banques et établissements financiers agréés, par référence aux pratiques normatives et de prudence en vigueur. Un rapport annuel en est fait à la commission bancaire.

Art. 21. — La commission bancaire veille à ce que les banques et les établissements financiers disposent de politiques, pratiques et procédures appropriées, notamment de critères stricts de connaissance de la clientèle et de ses opérations, de la détection et surveillance ainsi que de la déclaration de soupçon, assurant un haut niveau d'éthique et de professionnalisme dans le secteur bancaire.

Elle doit s'enquérir de l'existence du rapport visé à l'article 10 du présent règlement.

En cas de défaillance, une procédure disciplinaire pourra être engagée par la commission bancaire.

Art. 22. — Les inspecteurs de la banque d'Algérie, mandatés par la commission bancaire et agissant dans le cadre du contrôle sur place ou sur pièces, transmettent immédiatement un rapport, sous couvert de la hiérarchie, à la cellule de traitement du renseignement financier dès qu'ils décèlent une opération présentant les caractéristiques citées à l'article 10 du présent règlement.

Art. 23. — Les bureaux de change agréés doivent adopter des mesures d'identification de leur clientèle. Ils sont soumis à l'obligation de déclaration de soupçon à la cellule de traitement du renseignement financier.

Art. 24. — Le présent règlement sera publié au *Journal officiel* de la République algérienne démocratique et populaire.

Fait à Alger, le 13 Dhou El Kaada 1426 correspondant au 15 décembre 2005.

Mohammed LAKSACI.

Règlement n° 05-06 du 13 Dhou El Kaada 1426 correspondant au 15 décembre 2005 portant sur la compensation des chèques et autres instruments de paiement de masse.

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Le gouverneur de la Banque d'Algérie,

Vu l'ordonnance n° 75-58 du 26 septembre 1975, modifiée et complétée, portant code civil ;

Vu l'ordonnance n° 75-59 du 26 septembre 1975, modifiée et complétée, portant code de commerce ;

Vu l'ordonnance n° 03-11 du 27 Jomada Ethania 1424 correspondant au 26 août 2003 relative à la monnaie et au crédit, notamment ses articles 56, 57 et 62 ;

Vu le décret présidentiel du 10 Rabie El Aouel 1422 correspondant au 2 juin 2001 portant nomination du gouverneur et des vice-gouverneurs de la Banque d'Algérie ;

Vu le décret présidentiel du 10 Rabie El Aouel 1422 correspondant au 2 juin 2001 portant nomination des membres du conseil d'administration de la Banque d'Algérie ;

Vu le règlement n° 97-03 du 16 Rajab 1418 correspondant au 17 novembre 1997 relatif à la chambre de compensation ;

Vu le règlement n° 05-04 du 10 Ramadhan 1426 correspondant au 13 octobre 2005 portant sur le système de règlements bruts en temps réel de gros montants et paiements urgents ;

Vu les délibérations du conseil de la monnaie et du crédit du 15 décembre 2005 ;

Promulgue le règlement dont la teneur suit :

Article 1er. — Le présent règlement a pour objet la mise en place d'un système de compensation des ordres de paiement de masse. En outre, il précise les responsabilités du gestionnaire de ce système et de ses participants et définit les règles de son fonctionnement.

Un glossaire annexé au présent règlement contient les définitions des termes propres à ce système de paiements.

a) Système interbancaire de paiement de masse :

Art. 2. — Le système de compensation électronique, dénommé Algérie – Télé-compensation Interbancaire dit ATCI est mis en place par la Banque d'Algérie. Il s'agit d'un système interbancaire de compensation électronique de chèques, effets, virements, prélèvements automatiques et retraits et paiements par carte bancaire.

Seuls les virements d'une valeur nominale inférieure à un (1) million de dinars sont acceptés par ce système. Les ordres de virement d'une valeur nominale supérieure ou égale à ce montant doivent être effectués dans le système de règlements bruts en temps réel de gros montants et paiements urgents.

Le système ATCI fonctionne sur le principe de la compensation multilatérale des ordres de paiement présentés par les participants à ce système.

Annex 3: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

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| 1. Ministry of Justice <ul style="list-style-type: none">● (General Directorate for Judicial Affairs) | 1.– A number of Financial Institutions: <ul style="list-style-type: none">● Banks● Insurance companies● Exchange companies● Money transfer company● Stock Exchange |
| 2. National Diwan for Anti Drugs | 2- DNFBPs: <ul style="list-style-type: none">● One Lawyer's office● One Audit company● A Notary Public● A Dealer in jewellery |
| 3. Ministry of Finance: <ul style="list-style-type: none">● General Directorate for Treasury● General Directorate for Tax● General Directorate for Customs | National Chamber for Authenticators |
| 4. FIU (CTRF) | Ministry of Religious Affairs and Awkaf |
| 5. Ministry of Interior and local groups | Accountants and Auditors Association |
| 6. General Directorate for National Security <ul style="list-style-type: none">● AML/CFT Group | Real Estate Agents Association |
| 7. National Gendarmerie <ul style="list-style-type: none">● AML/CFT group | Ministry of Commerce
(National Center for Commercial Register) |
| 8. Ministry of Foreign Affairs | |
| 9. Advisor to the President of Republic | |
| 10. Bar of Association | |

Annex 4: List of all laws, regulations and other material received

1. Penal Code
2. Code of penal procedures
3. Commercial law
4. Customs law
5. Law No. 18-04 dated 25 December 2004, related to prevention from drugs, and psychotropic substances, and the suppression of their illicit use and trafficking.
6. Law No. 01-05 dated 6 February 2005 on the prevention of ML/TF and their combating.
7. Law No. 01-06 dated 20 February 2006 related to prevention and fighting the corruption.
8. Law No. 08-91 dated 27 April 1991 related to regulating the professions of expert accountant, governor of accounts and certified accountant.
9. Law No. 31-90 dated 4 December 1990 related to associations.

10. Regulation No. 05-05 dated 5 December 2005 related to prevention against ML/TF and their combating.
11. Regulation No. 01-07 dated 3 February 2007 related to the rules applicable on the transactions occurring with abroad and accounts in foreign currency.

12. Executive Decree No. 275-08 dated 6 September 2008, amending and completing the executive decree No. 127-02 dated 7 April 2002 and including the establishment, regulation and functions of a FIU.
13. Executive Decree No. 05-06 dated 9 January 2006 including the form, sample, content and the acknowledgement receipt of an STR.
14. Executive Decree No. 442-05 dated 14 November 2005 specifies the threshold applicable on the payment transactions which should be made by payment tools and through banking and financial channels.
15. Executive Decree No. 127-02 dated 7 April 2002 including the establishment, regulation and functions of a FIU.

16. Order No. 06-05 dated 23 August 2005 related to fighting smuggling.’
17. Order No. 11-03 dated 26 August 2003 related to cash and credit.

18. Decision dated 30 March 2008 which specifies the conditions of applying Article 21 of law 01-05 dated 6 February 2005 related to the prevention against ML/TF and their combating.
19. Joint Ministerial resolution dated 28 May 2007 includes regulating the technical interests of the CTRF.