

**Middle East & North  
Africa Financial Action  
Task Force**



***Mutual Evaluation Report  
Of  
The Syrian Arab Republic  
On  
Anti-Money Laundering and Combating Financing of  
Terrorism***

**15 November 2006**

**All rights reserved**  
**© 2006 – MENAFATF, P.O. Box 10881, Manama**  
**KINGDOM OF BAHRAIN**

## TABLE OF CONTENTS

<b>PREFACE</b>	<b>5</b>
<b>Executive Summary</b>	<b>6</b>
<b>Mutual Evaluation Report</b>	<b>19</b>
<b>1. GENERAL</b>	<b>19</b>
1.1 General Information on Syria	19
1.2 General situation of Money-Laundering and Financing of Terrorism	22
1.3 Overview of the Financial Sector and DNFBPs	23
1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements	26
1.5 Overview of strategy to prevent money laundering and terrorist financing	28
<b>2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES</b>	<b>30</b>
2.1 Criminalization of Money Laundering (R. 1 & 2)	30
2.2 Criminalization of Terrorist Financing (SR. II)	35
2.3 Confiscation, Freezing and Seizing of Proceeds of Crimes (R. 3)	38
2.4 Freezing of Funds Used For Terrorist Financing (SR III)	42
2.5 The Financial Intelligence Unit and its functions (R 26)	45
2.6 Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R 27 & 28)	53
2.7 Cross-border declaration/disclosure (SR IX)	58
<b>3. PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS</b>	<b>61</b>
3.1 Risk of Money Laundering and Terrorist Financing	61
3.2 Customer due diligence, including enhanced or reduced measures (R 5 to 8)	62
3.3 Third parties and introduced business (R 9)	74
3.4 Financial Institution Secrecy or Confidentiality (R. 4)	75
3.5 Record Keeping and Wire Transfer Rules (R 10 & SR VII)	76
3.6 Monitoring transactions and relationships (R 11 & 21)	79
3.7 Suspicious Transaction Reporting and other Reporting Conditions (R. 13, 14, 19, 25 & SR. IV)	82
3.8 Internal Controls, Compliance, Audit and Foreign Branches (R 15 & 22)	88
3.9 Shell banks (R 18)	92
3.10 The supervisory and oversight system – Competent authorities and SROs: Roles, functions, duties and powers (including sanctions) (R. 23, 29, 17, 25)	93
3.11 Money or Value Transfer Services (SR VI)	102
<b>4. PREVENTIVE MEASURES–DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS (DNFBP)</b>	<b>104</b>
4.1 Customer Due Diligence and Record-Keeping (R 12)	104
4.2 Suspicious Transaction Reporting (STR) (R 16)	107
4.3 Regulation, Supervision and Monitoring (R 24 & 25)	109
4.4 Other Non-Financial Businesses and Professions—Modern Secure Transaction Techniques (R 20)	110

<b>5. LEGAL PERSONS, LEGAL ARRANGEMENTS AND NONPROFIT ORGANIZATIONS</b>	<b>111</b>
5.1 Legal Persons- Access to beneficial ownership and control information (R 33)	111
5.2 Legal Arrangements- Access to Beneficial Ownership and Control Information (R.34)	114
5.3 Non Profit Organisations (NPOs) (SR VIII)	114
<b>6. NATIONAL AND INTERNATIONAL COOPERATION</b>	<b>117</b>
6.1 National Cooperation and Coordination (R 31)	117
6.2 The Conventions and UN Special Resolutions (R 35 & SR I)	118
6.3 Mutual Legal Assistance (R 36-38 and SR V)	119
6.4 Extradition (R 37, 39 & SR V)	126
6.5 Other Forms of International Cooperation (R 40 & SR V)	129
<b>7. OTHER ISSUES</b>	<b>131</b>
7.1 Resources and Statistics	131
<b>Tables</b>	<b>132</b>
Table 1: Ratings of Compliance with FATF recommendations	132
Table 2: Recommended Action Plan to Improve the AML/CFT System	141
<b>Annex (I)</b>	<b>155</b>

## **PREFACE - Information and methodology used for the evaluation of Syria**

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Syria was based on the 2003 Forty Recommendations and the Nine Special Recommendations on Terrorist Financing 2001. It was prepared using the AML/CFT Methodology 2004<sup>1</sup>, and was based on the laws, regulations and other materials supplied by Syria and the information obtained by the assessment team during its on-site visit to Syria from 29 April to 11 May 2006 and subsequently. During the mission, the assessment team met with officials and representatives of all relevant government agencies in Syria (Damascus) and the private sector. A list of the bodies met is set out in Annex 1 to the mutual evaluation report.

2. The evaluation was conducted by a team consisted of members from MENAFATF Secretariat and MENAFATF experts in criminal law, law enforcement, as well as financial and banking issues. The team included: *Mr. Talal Al-Sayegh*, (Financial Expert) Assistant Manager, On-site Supervision Department at the Central Bank of Kuwait (Kuwait) – *Mr. Issam Barakat*, (Financial Expert) Assistant Manager- Banking Supervision (Egypt) – *Mr. Abdul Latif Al Hraish*, (Legal Expert) Head of the Financial Crimes Unit at the Investigation and Public Prosecution Commission (Saudi Arabia) – *Mr. Adel Al Qulish*, MENAFATF Executive Secretary – *Dr. Rana Matar*, Administrative Officer, MENAFATF Secretariat. The team experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines, and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs). The capacity, implementation, and effectiveness of all these systems were examined.

3. This report provides a summary of the AML/CFT measures in place in Syria as at the date of the on site visit or immediately thereafter. It describes and analyses those measures, sets out Syria's level of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

4- The assessment team extends its heartfelt gratitude to Syrian Authorities for their generous hospitality and their cooperation throughout the on-site visit of the assessment team. In particular, the team would like to express thanks and appreciation to *Dr. Mohammad Al-Hussain*, Minister of Finance; *Dr. Adeeb Mayala*, Governor of the Central Bank, and all those who gave the team the opportunity to fulfill its mission.

---

<sup>1</sup> As amended in June 2006.

## **Executive Summary**

### **1- Background information**

1. This report provides a summary of the Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) measures in place in the Syrian Arab Republic as the time of the on-site visit (1<sup>st</sup> of May 2006) or immediately thereafter. The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Syria's levels of compliance with the FATF Recommendations based on the AML/CFT methodology 2004. (See attached table on the Ratings of Compliance with the FATF Recommendations).

2. Syrian authorities realize that it is urgent to create a preventive and deterring regime related to money laundering and financing of terrorism that guarantees the necessary protection against economic, political and social risks linked to the financial crime. Thus, it worked on setting a legal framework that is capable of fighting money laundering, by issuing Legislative Decree (LD) No 59 on 9/9/2003, which was later amended by LD No 33 issued on 1/5/2005 which added the combating the financing of terrorism, in compliance with international requirements. In terms of the effectiveness of this system, the assessment team faced some difficulty in evaluating the system's effectiveness since the designated LD has been recently promulgated.

3. Syria is considered as a transit country in the region in terms of trafficking of drugs coming from neighbor countries towards neighboring countries. Moreover, there is only limited internal traffic. There are no recent statistics on the situation of crime in Syria. However, all recent researches consider that the majority of crimes had to do with murder, robbery, defame and libel, and crimes against the public security such as assassinations or crimes such as bribery and fraud. Thus, most of the crimes that could generate illicit proceeds in Syria have to do with drug trafficking, corruption and bribery. Syria has to draw more attention to money-laundering risks resulting from these crimes. According to Syrian authorities, all of these crimes are considered as non-organized crimes in Syria, i.e. there are no linked networks inside or outside Syria. Crime proceeds arise from local crimes in spite of the slight increase in those crimes due to the development of communications and modern technology.

4. Most of these crime proceeds may be laundered by simple methods and techniques such as the purchase and resale of real estate and luxurious cars, or the opening of big restaurants and commercial stores to disguise the source of illicit funds. Syrian authorities consider that money laundering through financial institutions is currently rare, and does not represent a critical problem. However, it is worth mentioning that due to the development of legislations related to the financial and economic sector, the creation of the Stock Market and Insurance companies, and the increase of banks and their branches, money laundering operations are further expected to be carried out through financial channels and institutions.

5. With regard to the Terrorist Financing (TF) crime, it is considered as a "new" crime covered by article 2, paragraph (b) of LD No 33 of 2005. Law enforcement authorities in Syria are working on the implementation of the provisions of this LD and the follow-up of any activity related to terrorism and TF, and they are taking all the necessary measures in this regard. Syria signed and ratified the UN International Convention for the Suppression of Terrorism. With respect to the implementation of Security Council resolutions, Syria did not promulgate any laws in this regard, as it is working on freezing the account of the designated people and entities based on practices and without the existence of any legal basis. It is noteworthy that the Decision issued by US Treasury Department has listed the Commercial

Bank of Syria, which is one of the largest banks operating in Syria, as a body suspected in financing terrorism.

6. Syria is not considered as an important financial center in the region due to the stringent economic restraints imposed by the Government until recently, and to the restrictions imposed on the circulation of foreign currency at the time of the on-site visit. Therefore, the risks of ML/TF are low in general, but the assessment team fears an increase of risks as a result of the economic openness policy which is currently adopted by the Syrian Government and is meant to attract capitals for investment purposes. The assessment team is concerned that gaps in the regulation of the financial and banking activity, policies and implemented measures in financial institutions may be negatively exploited by money launderers or terrorist financiers. On another hand, the team realized that a few officials underestimate the presence of ML/FT risks currently in Syria due to the role that the government still plays in economy.

7. Syria has three types of banks which all operate under the supervision and control of the Central Bank of Syria. With regard to the control of anti-money laundering operations, it is governed by Resolution No 4 issued by the Combating Money Laundering and Terrorist Financing Commission (CMLTFC), and by Resolution No 71 of the Council for Money and Credit. These types of banks are as follows: Specialized governmental banks amounting (6 banks); Private banks (7 banks) which initiated their business in Syria around three years ago, except for Syria Gulf Bank (which became operational in August 2006); the banking branches in free zones (6 branches of foreign banks).

8. With regard to insurance, the Syrian economy is considered as one of the markets which are in most need for insurance in the Arab world and the emerging markets. In fact, Syria holds less than 2% of the total insurance premiums in the Arab world, and insurance premiums amount to 0.6% of the GDP. These indications demonstrate that the insurance sector in Syria is a weak sector, although it has a high potential of growth.

9. Currently, Syria has one government-owned insurance company namely the Syrian Insurance Company (SIC). An Insurance Supervisory Commission was created as per the LD No 68 of 2004 which assigned to the Commission the mission of regulating and supervising the insurance and re-insurance sector. LD No 43 of 2005 regulating insurance operations was issued, and it provided for the creation of private insurance companies. In summer 2006 (following the mission), three private insurance companies initiated their business (after the on-site visit).

10. There were many exchange and money remittance offices in Syria in the past few years, which worked outside legal frameworks, due to certain economic conditions in Syria. Nevertheless, Syrian Arab Republic is currently working on regulating this sector. For instance, Law No 24 of 2006 on exchange institutions was issued, and it forbids the exercise of this business without prior licensing. It also made these institutions subject to the provisions of ML/TF laws.

11. On June 5, 2005, the President of Syria issued a LD to create a Stock Market in Syria. The law provides for the creation of the "Syrian Stocks and Financial Markets Authority" (SSFMA) which affiliated to the Prime Minister and has a headquarters in Damascus.

12. LD No 33 defined the Designated Non-Financial Business and Professions (DNFPB) as companies that purchase, promote and sell real-estates; real-estate broker offices; dealers of high-value goods, such as jewelry, precious stones, gold, bibelots and rarities; lawyers and editors of legal exhibits; independent accountants; other non-financial institutions defined by

the CMLTFC. Syrian laws do not permit the establishment of casinos or gambling activities exclusively.

13. Despite some above-mentioned positive efforts, the AML/CFT issue is a new concept in Syria. Promoting combating efforts necessitates an awareness campaign that covers most of the state's sectors, on the level of officials and involved employees, who should be informed about new rules and regulations based on texts of newly established laws. In this context, local authorities deployed remarkable efforts that included the main sectors covered by the new LD No 33. This necessitated the enhancement of the monitoring concept to include the financial and banking sectors. While the banking sector includes 13 banks and six branches in free zones, it does not however possess the adequate IT systems that enable it to use efficient methods of control and monitoring. Currently, banks are working on developing such systems.

## **2- Legal system and related institutional measures**

14. The Syrian legislator criminalized money laundering in the LD No 33 of 2005 and limited the predicate offenses for ML to a list of crimes that do not include all the designated predicate offences for ML set up in the FATF Glossary. In fact, the LD ignores some crimes including the FT crime. Besides, the definition of illicit funds does not state that they represent directly or indirectly the proceeds of a crime. Pursuant to the LD, the ML crime is punishable by temporary imprisonment ranging between three years and six years, and the payment of a fine equaling the value of the seized assets or a fine equaling the value thereof if assets were not seized, provided that this value is not less than one million Syrian pounds. Along with these sanctions, there is also the punishment for the confiscation of ML proceeds or funds collected as a result of ML. The ML crime also applies to legal persons who can be punished by the confiscation sanction in addition to the payment of a fine. The LD covers appropriate ancillary offences to the offence of ML as conspiracy, attempt, assistance, abetting, facilitation and guidance to commit the crime. No judgments about ML crimes were issued; therefore, the effectiveness of the prosecution of ML crimes in Syria could not be evaluated. It is worth mentioning that 6 cases were referred to the Public Prosecutor in 2005 and 33 cases were referred since the beginning of 2006 until 31/8/2006 by the CMLTFC. This may be attributed to the LD newly issued, weakness in efficient implementation of the LD, and the difficulty in understanding of the mechanisms and techniques of this new type of crimes.

15. The Syrian legislator criminalized the TF act as per LD No 33 of 2005. Even the FT offence definition is consistent, in its largest part, with the definition of the 1999 UN International Convention for the Suppression of the Financing of Terrorism, it overlooks the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist. The LD provides that ML TF offence extends to cover funds whether from legitimate or illegitimate source. It is not necessary that funds were actually used to carry out a terrorist act cover funds having a licit or illicit source, and the funds may not have been used to commit a terrorist act. No judgments were issued in TF crimes, and this is due to the recent promulgation of the LD (2005).

16. Syria has an integrated system with regard to confiscation. In fact, the Penal Code (PC) includes some general provisions whereby it is possible to confiscate the proceeds of a deliberate felony or misdemeanor or the assets that were used or intended to be used to commit such felony or misdemeanor. There are also some specific provisions in some special laws such as the Law on Drugs<sup>2</sup>, the LD on weapons<sup>3</sup> and other laws. The general provisions represent a good basis for the confiscation of properties which are proceeds or means used or intended to

---

<sup>2</sup> Law number 2 of 12/4/1993.

<sup>3</sup> LD No 51 of 24/9/2001 regarding weapons.

be used to commit felonies and misdemeanors, as well as the confiscation of properties arising directly or indirectly from crime proceeds including revenues, profits or other interests of crime proceeds. Confiscation measures also include the proceeds held or owned by a third party. The AML/CFT LD also includes some provisions on confiscation. It includes, the competent court rules that the funds – subject of the crime or collected as a result of ML crimes – should be confiscated. In the event where funds are transferred or substituted by other types of funds, the alternative funds should also be confiscated, and if illicit funds are mixed with other licit funds, they should be confiscated as per the value estimated for the illicit funds. The LD and the Penal Procedural Code (PPC) did not include any express text about giving a particular power to identify and track the properties that are or may be confiscated or are suspected to be arising from crime proceeds. It is difficult to assess the effectiveness of this regime, as Syrian authorities did not provide the assessment team with any statistics related to confiscation.

17. In Syrian Arab Republic, there is no legal basis with regard to the procedures and practices applied in the freezing of terrorists' funds or the assets of persons designated in S/RES/1267 (1999) and S/RES/1373 (2001). Such practices are only taken by competent authorities to execute the instructions and orders of the permanent delegation of Syria to the UN. In practice, the CMLTFC notifies the financial sector of the measures taken as per the mechanisms of freezing, by distributing to the financial sector the names of persons whose assets should be frozen. No legislative measures have been adopted to discuss and carry out the actions that were taken by virtue of the freezing mechanisms in another country, in implementation of S/RES/1373 (2001). There are no statistics in Syria about the freezing of terrorists' funds or the assets of persons as defined by previously mentioned Security Council Resolutions. It is noteworthy that there was only one freezing case where the account of a person was frozen because his name was on the list of wanted person; however, the freezing action was lifted after it was found that his name was similar to that of another person.

18. "The Money Laundering Combating Commission" was created as per LD No 59 at the Central Bank of Syria, and started its work in May 2004. Its scope of competence was limited to AML operations only, but pursuant to LD No 33, the Commission's name was changed into "Combating Money Laundering and Terrorist Financing Commission" (CMLTFC) and operations related to the financing of terrorism were included in its scope of business. The CMLTFC mission includes receiving STR and other information related to ML/TF operations, carrying out financial investigation into these operations, and providing competent authorities with the information needed. Furthermore, the CMLTFC verifies the good implementation of the LD by the institutions subject thereto. The CMLTFC also has some powers such as the power to review financial and administrative information or information related to law enforcement bodies in order to perform its functions properly, and the power to request such information and details from all Syrian official authorities (judicial, administrative, financial, security authorities) or their foreign counterparts. It is also entitled to freeze suspicious accounts temporarily. The CMLTFC is considered as new, and it bears many responsibilities since it represents the main tool of success of the AML/CFT regime. One of the major aspects that need to be considered by Syrian authorities is to protect the independence of the CMLTFC through the independence of its budget, and to provide a better protection for the information received by the CMLTFC, as well as to adopt rules to regulate the exchange of information and expedite the issue of the annual report. It is worth mentioning **that the human and financial resources of the CMLTFC** shall not enable it to fulfill its mission, thereby affecting the efficient work of the CMLTFC. It is important that the CMLTFC shows more interest in training its staff and providing the necessary computer devices and techniques to be able to fulfill its mission properly. It is noteworthy that the CMLTFC signed two memorandum of understanding (with Cyprus and Lebanon) and is seeking to sign more MOU with other countries. It has also requested that it adheres to Egmont Group, and it was invited to attend the Fourteenth Plenary Meeting – held in Cyprus, last June - as an observer.

19. The LD defining the CMLTFC provided that the Commission has the status of prosecution, and competent courts enjoy the powers to decide on the subject. It is understood from this text that the prosecution competent authority in ML/FT cases is the CMLTFC, as an exception from the general rule, as this is the competence of the public prosecution. However, in real life, according to competent Syrian authorities, the prosecution in ML/FT cases is entrusted to the public prosecution. The public prosecution is the party that conducts preliminary investigations and establish public lawsuits in ML/FT cases due to the powers and authorities it had pursuant to PPC. Syria is considered as largely compliant with R.27 and 28 relevant to law enforcement authorities, establishment of judicial lawsuits and other competent authorities. To evaluate the effectiveness and competence of law enforcement authorities in combating money laundering and financing of terrorism, statistics on investigations conducted and referred to the public prosecution, which have not been made available to the team, should have been reviewed.

20. Syria does not have a disclosure/declaration system for cash amounts and bearer financial instruments at borders. The Syrian foreign exchange system is subject to certain restrictions aimed at preventing currency smuggling, but this does not cover AML and CFT. The restrictions imposed by the Foreign Exchange Office are limited to the exit of currencies and not their entry, since there is a specific limit that differs between residents<sup>4</sup> and non-residents<sup>5</sup> in terms of taking out currency, and this limit cannot be exceeded unless a prior authorization is given to enter the amounts that are taken out of the country. There is some sort of cooperation between the CMLTFC and the Customs General Directorate which has created an AML division. However, this division still needs the necessary human and technical resources, and the forms provided for in the LD need to be implemented as well. These forms oblige the Customs General Directorate to notify the CMLTFC of the cash amounts exceeding a certain limit.

### **3- Preventive Measures – Financial Institutions**

21. Financial institutions in Syria are divided into three main sectors: banks and money changers, insurance sector, and investment in financial stocks sector (it is not activated currently). The Council for Money and Credit (CMC) controls the banking profession and guides its activities pursuant to the Basic Monetary Order Law, and this is via Syrian Central Bank, especially in relation to license and control within the rules, regulations, conditions that are set by the CMC and endorsed by the Prime Minister. This role is carried out by the Banking Supervision Department (BSD) through on-site and off-site monitoring that it practices in a comprehensive or limited way, including verification of the banks' compliance with AML/CFT. The Exchange Law subjected exchange institutions (exchange companies and exchange offices) to the authority of the CMC in terms of licensing to exercise business, knowing that until the date of the on-site visit, no exchange institution in Syria has been registered though there are some institutions that practice money exchange and remittance. The newly-promulgated Exchange Law gave a deadline for these institutions to settle their legal status, setting deterrent sanctions against illegal practice of this activity. By virtue of this law, any violating activity is controlled by law authorities. As for investment in financial securities sector, it is not activated despite the establishment of the Syrian Stocks and Financial and Markets Authority on 19/6/2005.

22. With regard to the supervision of financial institutions, the BSD is in charge of supervising banks. In the insurance sector, regulating and monitoring of the insurance and re-insurance are fulfilled by the ISC. This ISC is entitled to request any person or company subject

---

<sup>4</sup> 2000 \$.

<sup>5</sup> 5000 \$.

to the provisions of LD No.43 of 2005, which organizes the functions of this sector, to suspend the execution or participation in the execution of any transactions related to insurance activities or others, if these arise from ML acts. Also, the ISC should notify any official or judicial body, in pursuance of the LD No 33. Besides, the role of the CMLTFC basically is to verify the implementation of AML/CFT measures, through the Compliance Unit at CMLTFC.

23. Pursuant to LD No 33 of 2005, Syria applies some preventive measures in the AML/CFT field. Subject to those measures are the banks registered at Central Bank of Syria, including foreign branches and foreign banking subsidiaries, branches operating in Syrian free zones, as well as other financial institutions, other than banks. The mentioned LD criminalized ML/FT act, and it provided for the establishment of CMLTFC, the powers of which have been determined. The LD also defined the financial institutions subject to it, as well as the obligations that those institutions should fulfill, the most significant of which are Customer Due Diligence (CDD) measures and Suspicious Transaction Reporting (STR). The LD divided those institutions into financial institutions subject to banking secrecy, i.e. banks registered at Syria Central Bank, and others not subject to banking secrecy, i.e. other financial institutions. The LD covered all the financial institutions and activities currently operating in Syria, including some institutions and activities that have not been into business yet.

24. It is worth mentioning that the distinction between financial institutions subject to banking secrecy and financial institutions that are not subject to banking secrecy, and the different obligations imposed on them can create some confusion in the future as mentioned in the report.

25. The on-site visit revealed that financial institutions in Syria implement CDD measures on all customers and transactions without exception. It is worth mentioning here that the Syrian legislation allowed for the opening of numbered accounts in banks only. According to the statement of some commercial banks that were visited for this subject, it turned out that in practice, there are no such accounts in Syria. LD No.33 obliged all financial institutions with CDD measures with customers. It also included special prudential instructions, the Regulations on the control of financial and banking operations and some provisions that oblige banks to verify customer identity and identify the beneficial owner. These obligations should be applied to all financial institutions and should be promulgated by a mean which has the force of law.

26. Regarding the identification of the beneficial owner, LD No 33 tackled this subject with regard to financial institutions, other than banks, by only mentioning that these institutions should keep specific records to identify changes in the identity of the customer or the beneficial owner, without mentioning the necessary procedures to identify the beneficial owner. Besides, the assessment team did not notice the implementation of that obligation or the presence of any relevant measures in the insurance company.

27. Following the on-site visit to one of the branches of the insurance company currently operating in Syria (Damascus Branch), the assessment team noticed the absence of written instructions or procedures of verification of customer's identities. There is only a guide on work procedures issued in 1986. Since the ISC was recently created, it did not issue any instructions in this regard although it licensed seven companies to work in the insurance field (at the time of the on site visit, the companies were still not operating). It is worth mentioning that the on-site visit revealed that all measures taken, by the time of the visit, were limited to a draft regulations applied to insurance companies and including a warning about some operations which might involving some risks.

28. With respect to the ongoing monitoring of accounts, the LD bound financial and banking institutions with monitoring the transactions that they conduct with their customers. However,

the team noticed that implementation of those legislative commitments did not take place in real life. As for commitment to update customers' data, despite the availability of monitoring instructions for banks, especially in terms of updating the customers' data and documents. However, there are no such instruction imposed on Insurance and money exchange sector. Through the on-site visit, it turned out that financial institutions rarely updated customers' data in practice linked that operation to the risks that might be related to customers.

29. Pursuant to the resolution of the CMC, the conditions for admission of customers differ according to the higher-risk customer. However, this obligation is imposed on banks only, while financial institutions do not implement enhanced CDD measures related to some categories of high-risk customers or transactions. In fact, CDD measures are applied to all customers and transactions without distinction. If the customer or the beneficial owner is a Politically Exposed Person (PEP), financial institutions are bound to take special measures upon accepting to deal with this category of customers. However, if financial institutions discover that the customer or the beneficial owner have become PEP after establishing the business relationship, they are not bound to get the approval of the senior management for the pursuance of the relationship. At the practical level, there seems to be no measures or work procedures to give a particular attention to the transactions of customers or economic beneficiaries who are PEPs. Besides, the BSD does not control this aspect, and the ISC is still not playing its supervisory role in this regard.

30. Financial institutions were obliged to take special measures for transactions performed without a presence of a customer or through high technology means. At the practical level, this kind of transactions is rare due to the uncompleted automation of systems applied in banks and to the small-scale delivery of banking and financial services in Syria.

31. Regarding third parties and introduced business, R. 9 does not apply to the current situation in Syria. In fact, the existing legislation did not regulate the reliance of financial institutions on third parties to meet CDD requirements.

32. Syria is rated as compliant with R. 4, since LD No. 34 of 2005 on banking secrecy provides that this LD cannot be applied when the AML/CFT LD is implemented and when the CMLTFC submits requests and resolutions including the reporting of suspicious transactions, account freezing, the lifting of banking secrecy from accounts, and the submittal of information as required by the CMLTFC.

33. All institutions are committed in practice to the record-keeping requirements in accordance with R. 10. However, the related legal obligation - regarding financial institutions other than banks, including the insurance company currently operating in Syria and exchange companies of which some applied for a license but have not yet started their business, excluded the transactions conducted by those institutions, the value of which are less than 500000 S.P. (around \$9500), from keeping their records. Besides, there are no legislative obligations imposed on these institutions regarding keeping account files and business correspondence, and providing all customer-related records, information and transactions in a timely manner to local competent authorities after obtaining the suitable authorization. For banks, the legislative text only provides for the requirements of keeping copies of transactions and customers' identity papers. The other requirements of R. 10 are part of the control instructions issued by the CMLTFC. These requirements should have been legally binding or should be issued as part of regulations or resolutions promulgated by a legislative power according to the said recommendation.

34. With regard to the money exchange sector, article 22 of the Money Exchange Law issued on March 20<sup>th</sup>, 2006, obliged exchange companies to comply with the provisions of the

AML/CFT LD and make sure that the amounts equivalent to 10000 USD (i.e. exceeding the limit fixed in SR. VII) are enclosed with establishing certificates that should be safely kept. There are no expressed obligations to receive information about the source of transfer, and it is worth mentioning that some non-licensed money remittance companies are practicing their business without any control or accountability. However, these companies were given a time period to settle their situation, especially with the promulgation of the Exchange Law.

35. LD No 33 obliges all financial institutions to take special measures and give a particular attention to all complicated and large-scale transactions and all unusual transactions that do not have an explicit economic purpose. The CMLTFC issued a Rulebook on AML which included some verification procedures, prudential measures with some transactions, and measures to report to Compliance Officers any related suspicions. The assessment team noticed that financial institutions are not obliged to register in writing the examination results of such transactions. Therefore, these results cannot be made available to competent authorities. The on-site visit also revealed the difference in the implementation of these obligations by financial institutions. It is worth mentioning that there are no relevant control instructions for the insurance company in Syria, and the assessment team noticed that the Company does not implement any measures in this regard. Nevertheless, Syrian authorities declared that the ISC is currently setting a system for the control of insurance companies.

36. The legislative text obliges financial institutions to take enhanced CDD measures with individual or corporations belonging to the countries mentioned in the FATF NCCT list. Therefore, the scope of implementation of the R.21 is extremely limited. However, the assessment team noticed that the instructions issued by the CMLTFC considered expanding the scope of implementation of the Recommendation to cover transactions made with natural or legal persons that reside in a country that does not apply or insufficiently applies FATF recommendations. However, the visit revealed the absence of real measures for the application of such obligations in financial institutions. Besides, there are no legislative texts, control instructions or practical implementation in financial institutions regarding the registration in writing of the results of examining of these transactions to identify their background and purpose. Therefore, such results cannot be referred to competent authorities. Furthermore, control authorities did not issue any instructions about the obligation of informing financial institutions about the points of weakness in the AML/CFT regimes in other countries.

37. The LD obliges all financial institutions to report immediately to the CMLTFC Chairman or his representative all details about suspicious ML/TF transactions. However, it does not include the reporting of the funds that are related or connected to terrorism or that will be used by terrorist organizations or those who finance terrorism. It should also include the requirement to report attempts at carrying out suspicious operations. Practically, STRs are rare although they increase relatively from one year to another, notably in 2006. Besides, there are no reports from other financial institutions other than banks. This may be attributed to many reasons including the rare training programs to identify unusual and suspicious transactions, the newly promulgated legislations and the absence of sufficient automated systems to identify some unusual transactions.

38. Banking and financial institutions and their staff undertake to keep STR confidential, and not to inform customers that the CMLTFC is inquiring or examining their accounts. It is worth mentioning that the banks' commitment towards the confidentiality of STR is provided for in the Regulations on the control of financial and banking operations issued by the CMLTFC, without the imposition of penalties in the event of violation. R.14 requires that this commitment should be made by the force of law, or pursuant to regulations or resolutions promulgated by a legislative authority. Currently, there are no legislative texts or control instructions that are

binding on the other financial institutions non-registered with the Central Bank of Syria in terms of keeping STR confidential.

39. The instructions issued only oblige banks to keep the information related to these local and international monetary transactions, which exceed a certain value, confidential, for the purpose of controlling them and disclosing extraordinary transactions. Syrian legislations do not provide for any feedback that should be given by the CMLTFC to the reporting entity regarding STRs.

40. In accordance with Article 5 of LD No.55, the scope of implementation of obligations imposed on financial and banking institutions registered at the Central Bank of Syria (banks) includes foreign branches and subsidiaries of banking, without affecting the remaining other financial institutions, other than banks. In this regard, particular importance must be given to expand the concept of implementing AML/CFT requirements to include the foreign branches and subsidiaries of those institutions. Moreover, importance should be attached to the training and rehabilitation of employees, since the assessment team noticed that training programs for banks' staff are rare and quite absent for the remaining employees of other financial institutions.

41. It has been noticed that there is a lack of internal controls at financial institutions for providing the compliance officer in a timely manner with the details of the identities of customers and other available information obtained as a result of applying the procedures of due diligence, as well as the records of transactions and other relevant information. The assessment team did not identify the existence of an independent audit function that might test such compliance.

42. There are no shell banks in Syria since the mechanism for the establishment of banks as defined in Law No 28 of 2001 and its executive instructions do not allow for the creation of such banks. However, preventing the dealing with shell banks applies to banks only and not to the other banking and financial institutions, thereby affecting the efficiency of the combating regime.

43. LD No 33 provides for criminal sanctions in the event of violation of the provisions of the LD, and the CMLTFC By-Laws has given the CMLTFC Directors Committee the power to approve sanctions and request the legal persecution of violating parties. However, it did not specify the criminal, civil or administrative sanctions that may be imposed on natural and legal persons who fail to comply with AML/CFT requirements. The LD does not provide that sanctions should be applied to the managers and senior management of legal persons who are financial institutions and business companies.

44. The Central Bank of Syria is in charge of supervising and monitoring the money transfer transactions performed by banks, without prejudice to the constraints of money exchange imposed by the Exchange Office. Regarding exchange companies, the Exchange Law allows them to perform money transfer transactions to the extent allowed by the Foreign Exchange regulations. Besides, pursuant to the Exchange Law, exchange companies are subject to the control of the Central Bank, knowing that until the date of the visit no exchange institution has been registered in Syria.

45. Control authorities that are in charge of monitoring banking and financial institutions are not obliged to implement the Core principle of efficient banking control, and to verify the compliance of these institutions with the application of these principles. The CMLTFC is exclusively charged with the mission of verifying the compliance with AML/CFT standards, and it shares this role with the Banking Supervision Department only.

#### **4- Preventive measures – Designated Non-Financial Businesses and Professions (DNFBP)**

46. All Designated Non-Financial Businesses and Professions (DNFBPs) are subject to all Due Diligence measures and to punishments in the event where they violate AML/CFT obligations, notably with regard to CDD and record-keeping. It is worth mentioning that associations and unions, that regulate the work of this kind of sector, do not have sufficient knowledge about AML/CFT standards. Besides, there are no stable professional standards that guarantee the compliance of DNFBPs with AML/CFT standards. The assessment team did not notice any preventive circulars or guidelines including those standards, which are issued by association and unions to strengthen tier guiding role in this regard.

47. There are no legal obligations or instructions issued by control authorities, or practical application that oblige DNFBPs to pay special attention to verify if the customer or the beneficial owner is a Politically Exposed Person (PEP). Besides, there are no legal obligations or instructions issued by control authorities or practical application that oblige DNFBPs to take the necessary measures to prevent the misuse of technological developments in ML or TF acts, and there are no policies or measures regarding work relationships or indirect transactions.

48. All these professions are obliged to report, but there are no instructions or directives issued by the CMLTFC, or by associations and unions regarding the reporting mechanisms and the type of suspicious transactions that should be reported, and any guidelines take into account the characteristics of the non-financial profession. Furthermore, there are no clear policies or training sessions for such professions. The DNFBPs are not legally bound to keep STR confidential without informing or notifying related persons of these transactions and of reports submitted against them. Stable standards should be fixed by associations and unions about the relation with customers belonging to countries that do not comply with FATF standards, and deterring measures should be taken if these countries continue to be non-compliant.

49. The Compliance Unit of the CMLTFC verifies the compliance of the DNFBPs with AML/CFT measures in accordance with the LD No 33, the control regulations and the circulars issued by the CMLTFC. However, the assessment team noticed that no resolutions were issued to strengthen the control of these parties and ensure their compliance with AML/CFT requirements. The DNFBPs are regulated by relevant government authorities, associations and unions, and they play an administrative supervisory role without exercising efficient control or without having powers to impose administrative punishments in the event of the violation of AML/CFT requirements.

#### **5- Legal Persons and Arrangements & Nonprofit Organizations**

50. The Syrian system adopts the declaration system with regard to commercial companies. In fact, the commercial register enables the public to obtain sufficient information about all commercial companies operating in the country, and registration procedures are binding on all companies as per the Law. Pursuant to Article 57 of the Syrian Trade Law, all commercial companies should be declared and they are considered as legal entities<sup>6</sup>. The names of partners and other persons authorized to manage the Company and its affairs and to be the authorized signatory thereof, can be disclosed. Therefore, competent authorities can receive information about partners and managers. In anonymous companies, partners subscribe to negotiable shares which are nominal. However, dividends may be to bearer or nominal (Article 97 of the Trade Law). This affects the efficiency of implementation of AML/CFT system. Article 2, paragraph

---

<sup>6</sup> The Syrian Trade Law provides for joint ventures which may not be declared and are not considered as legal entities. Pursuant to Article 331 of the Trade Law "Joint ventures differ from the other commercial companies in that they are limited to contractors and are not open to third parties".

(1) of Law 28 of 2001 on banks provides that banks are established provided that all their shares are nominal and negotiable.

51. In Syria, there are no Trusts in the form or in the content. Therefore, R. 34 cannot be implemented.

52. In Syria, the sector of non-profit organizations is composed of charitable organizations and private institutions. The Ministry of Social Affairs and Labor gives licenses to non-profit organizations pursuant to the Law on Associations and Private Corporations issued in 1958. This Law is limited to the regulation, declaration, and account auditing of non-profit organizations as well as the collection of donations and management in such organizations. However, the Law does not provide for any specific measures to prevent the exploitation of this sector by terrorists or terrorist organizations. It is worth mentioning that Syria is currently preparing a bill to amend this law in order to take into consideration the international requirements in combating the financing of terrorism. This includes the amendment of resolutions and legislations related to the collection of donations from civil organizations. It is important that Syria is seeking ways of cooperation between civil organizations and the CMLTFC while giving a particular importance to the implementation of the best practices issued by FATF or MENA FATF regarding SR. VIII.

## **6- National and International Cooperation**

53. The cooperation among the authorities in charge of implementing AML/CFT measures is bilateral in most cases. Cooperation is made between the authorities in charge of implementing AML/CFT Regime and the authorities in charge of providing the CMLTFC with information and details related to reports and investigations. Syria is trying to make another kind of coordination by holding coordination meetings with the different relevant bodies, according to the Syrian authorities' statement. It is noteworthy that no evidence has been produced supporting the presence of this coordination or any trace of coordination in respect of implementing AML/CFT policies and activities.

54. On 3/9/1991, Syria adhered to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention). It also signed the 2000 UN Convention on Transnational Organized Crime (Palermo Convention) on 15/12/2000 without ratifying it, although some provisions of this Convention are applied through LD No 33. Syrian authorities declared that measures are now taken to complete the adherence of Syria to the Convention. Pursuant to Law number 5 of 2005, Syria adhered to the 1999 UN Convention for the Suppression of the Financing of Terrorism. With regard to the Security Council Resolutions provided for in SR. I, Syrian authorities do not have any special procedures to implement these resolutions, and there is not a clear policy for the freezing and de-freezing of assets. Besides, no instructions were issued to financial institutions and other entities that may have assets or funds that need to be frozen.

55. The rules and measures defined by international, regional or bilateral agreements signed by Syria include giving many forms of assistance including mutual assistance with a view to taking investigation procedures such as interrogating the accused, hearing witnesses, experts and the parties suffering damages, or exchanging documents that establish the accusation and taking measures related to inspection or attachment. However, the assessment team did not review any statistics about this kind of assistance, to verify if the assistance is provided in a timely, constructive and effective manner, and verify the presence of clear and efficient processes for the execution of the mutual legal assistance requests without undue delay. In the AML/CFT field, the LD includes the general framework for giving mutual legal assistance in this respect, notably with regard to the issues of lifting banking secrecy, carrying out

investigations on behalf of foreign counterparts, ensuring judicial cooperation, executing the final criminal judgments rendered by foreign competent courts specialized in the confiscation of ML/TF crime proceeds, and disposing of the ML/TF proceeds which Syrian or foreign courts ordered to confiscate in judgments that include the rules for the distribution of proceeds among parties in accordance with the provisions of the agreement. A fund should be created for confiscated assets to deposit all or part of confiscated properties, and divide confiscated assets.

56. The extradition of criminals in Syria is regulated firstly by international conventions and then by internal laws. In fact, where there are no conventions, the extradition of criminals in Syria is subject to the Law No 53 of 1955 for the extradition of ordinary criminals and criminals prosecuted in court for ordinary crimes, which applies the general principles of the extradition of criminals. The legal regime in Syria provides for the conditions of objective extradition. Extradition does not apply to those who appear in Syrian courts and to Syrian nationalities. Furthermore, no extradition takes place in the event of a political crime. The act, subject of extradition, must be a misdemeanor or a felony for both countries, and the crime should have a certain degree of gravity. Syria is not bound to extradite criminals whose crimes enter in the scope of regional, corporeal or personal powers of its procedural law. Along with the aforesaid provisions, The Agreements which Syria signed regarding the judicial cooperation, demonstrate that Syria offers all kinds of mutual legal assistance without the principle of dual criminality except in the extradition of criminals. The Arab Convention for the Extradition of Criminals to which Syria adhered requires dual criminality in the laws of both countries – the country requesting extradition and the country to which criminals are extradited. The LD No.33 does not include any provisions related to the extradition of criminals in ML/TF crimes. However, since both ML and TF acts are considered as crimes, they are both governed by the general provisions in the event where there are no conventions in this regard. The Law for the extradition of criminals provides that the requests of extradition of criminals and prosecuted people should be sent through political, "diplomatic" means. On the other hand, the conventions signed by Syria with a number of countries regarding the extradition of criminals provide that requests should be directly exchanged by the Ministries of Justice of both countries, and the "diplomatic" means may still be used when needed. Syrian authorities did not provide us with statistics to verify if requests are considered efficiently and extradition procedures are taken properly.

57. The LD allows for many mechanisms and channels of international cooperation with counterpart authorities. In fact, the CMLTFC is entitled to adhere to conventions or sign Memorandum of Understanding with foreign counterparts to exchange information and assistance in AML/CFT. The CMLTFC signed 2 MOUs with the FIU of Cyprus and the Special Investigation Commission (SIC) in Lebanon (According to Egmont Form). Besides, a positive response was given in this regard by Poland, Egypt and Turkey, Qatar and Tunisia. The CMLTFC can lift banking secrecy and carry out investigations, within its scope of business, on behalf of foreign counterparts according to the rules and procedures provided for in the applied Syrian laws and regulations, and in the international, regional or bilateral agreements where Syria is a party thereof, or in pursuance of the reciprocity principle. Nevertheless, there are no statistics related to international cooperation with counterparts or non-counterparts to verify the efficiency of such cooperation. In addition, there are no such cooperation among control authorities on financial sector with their foreign counterparts.

58. Since the AML/CFT Laws is new, there are no statistics or figures about the kinds of predicate offenses for ML or the most common money laundering techniques in Syria. Therefore, it is difficult to estimate the extent of money laundering in Syria, i.e. the quantity of illicit laundered proceeds. Syria should be more concerned with giving statistics about predicate offenses, the confiscation of crime proceeds, provisions and prosecutions related to ML/TF

crimes, and statistics about requests of mutual legal assistance, the extradition of criminals and all statistics related to the CMLTFC and to reporting.

## Mutual Evaluation Report

### 1. GENERAL

#### 1.1 General Information on Syria

1. Syrian Arab Republic (Syria) is located in the south west of Asia, on the eastern coast of the Mediterranean Sea. It borders Turkey to the north, Iraq to the east, Jordan and Palestine to the south, and Lebanon and the Mediterranean Sea to the west. It stands at a distance of 100 kilometers only from the European borders (Cyprus). This geographical location gives Syria a strategic position from the commercial viewpoint, as it represents the junction of the three continents: Asia, Europe and Africa. Syria covers an area of 185,000 km<sup>2</sup>, and its population reaches 18 million (with a population density of 93 persons/km<sup>2</sup>). Syria is administratively divided into 14 governorates, including the governorate of Damascus.

2. Syria is a socialist and people's democratic country with a republican regime as per the amended constitution of 1973. Pursuant to article 8 of the Constitution, the Arab Socialist Baath Party is the leading party in the state and society. The President of the Republic is the Head of State and the Secretary General of the governing Baath Party. He is elected by public and direct referendum for a 7 year term. The political parties in Syria amount to 8 under the umbrella of the National Progressive Front.

3. Authorities in Syria are: the executive, legislative and judiciary authorities. The Syrian Parliament represents the legislative authority, and the President of the Republic retains the executive authority, although he assumes the legislative authority according to article 111 of the Constitution, in the following cases:

- when the Syrian Parliament is not in session, but his decrees have to be confirmed by the Syrian Parliament when it reconvenes;
- when the Syrian Parliament is in session in case of absolute needs relating to the national interest of the country or to the requirements of national security. These legislations should also be submitted to the Syrian Parliament during its first meeting.
- during the period separating two session terms of the Syrian Parliament.

Article 131 of the Constitution guarantees the independence of the judicial authority. The Supreme Constitutional Court has the power to rule on the constitutionality of laws pursuant to articles 145-147 of the Constitution.

4. The President of the Republic has the power to execute the State's policy of the Council of Ministers and the Prime Minister who is appointed by the President. The Prime Minister participates in the general policy-making process with the President and the Council of Ministers. Ministers are also appointed by the President at the proposal of the Prime Minister. Ministers exercise their powers as per the resolutions, reports and instructions issued by them, in accordance with the provisions of legislative texts.

5. The Syrian Parliament consists of 250 members directly elected for a four-year term. Half of them are workers and farmers, and currently 12% of the members are women. The Syrian Parliament has the power to discuss, amend and approve legislations and presidential decrees. The Syrian Parliament may also discuss proposals about the withdrawal of confidence from the entire Council of Ministers or any of the ministers. The Council discusses and promulgates legislations. Moreover, all laws promulgated by the Syrian Parliament are

reviewed by the President who has a period of one month to pass the law or return it to the Parliament. The Syrian Parliament may vote a second time on any bill returned by the President to the Parliament. If the bill obtains the two thirds of the present members' votes in the second round of vote, or if it is voted by the absolute majority of the Parliament's members, the President of the Republic will be obliged to pass the bill as a law. A third of the Parliament's members may suggest the amendment of the Constitution; however, this suggested amendment will not be approved and adopted unless it obtains the approval of the three quarters of the Parliament's members and is ratified by the President of the Republic.

6. The Syrian judicial system is divided into two parts: the administrative jurisdiction and the general jurisdiction. The Council of State exercises the administrative jurisdiction which is composed of two divisions, namely the Consultative Division for Legal Advice (Fatwa) and Legislation, and the Judicial Division which includes the Administrative Supreme Court, the Administrative Justice Court, and the administrative courts. The general jurisdiction, which settles civil and criminal disputes, is composed of the conciliation courts, first instance courts, appeal courts and cassation court. Conciliation courts are chaired by a single magistrate who has the power to examine simple civil and commercial cases, real estate cases and simple violations where the sanction does not exceed ten days. First instance courts can be divided into civil and criminal courts, and they settle civil, commercial and criminal cases where acts are misdemeanors that are punishable by imprisonment of ten days to three years. Appeal courts before which the judgments of conciliation courts and first instance courts can be appealed against, are composed of a chairman and consultants distributed in the criminal and civil rooms. The Criminal Court settles cases where the sanction exceeds three years of imprisonment. Cassation courts, which are at the head of the judicial hierarchy, are in charge of verifying the good implementation or interpretation of law. Therefore, they either return the decision or judgment objected against to the appeal courts, conciliation courts, trial courts, or court of merits; or settle the matter according to the conditions of each case. Cassation courts are divided into competent court rooms composed of three judges, such as the civil room, the penal room and the criminal room, etc. Some courts have specialized powers, such as the Juvenile Court, the Court of Customs, the Court of Labor Disputes, military courts, as well as religious and confessional courts. There is also one extraordinary court which settles cases related to the State security, and it is known as the State security court.

7. The Syrian legal system is based initially on the principles of "civil law" and Islamic Law (Shari'a). Legislations in Syria have three forms: laws, legislative decrees, and executive, control or procedural instructions, resolutions and notices issued by the Prime Minister, the ministries and other authorities in accordance with the applicable laws.

8. Crimes in Syria are classified according to the gravity of the act, into three categories: Felonies, misdemeanors and violations. Felonies are punished by death sentence, life hard labor, life imprisonment, temporary hard labor and temporary imprisonment, where the temporary hard labor and temporary imprisonment sanctions for felonies range between a minimum of 3 years and a maximum of 15 years. Misdemeanors are punished by an imprisonment term ranging between ten days and 3 years. Offensive sanctions (violations) are for crimes where the sanction term ranges between a minimum of one day and a maximum of ten days.

9. In the framework of anti-corruption efforts, the President of the Republic took a public stance against corruption. He ran an anti-corruption campaign in 2000, during which fired some high officials including a former prime minister and a former deputy prime minister who were referred to a competent court for prosecution. Another campaign executed in 2003 removed dozens of public employees from the civil service and the army. On December 9, 2003, Syria signed the United Nations Convention against Corruption. The Tenth Conference of the ruling

Baath party adopted in June 2005 a recommendation aimed the establishment of anti-corruption mechanisms in the country. On July 21, 2005, Syrian authorities arrested the head of the Court of Cassation and his deputy to interrogate them about corruption issues and bribes.

10. In Syria, there are public authorities which have, among others, the power of inspection and investigation in cases of administrative corruption, including the *Central Commission for Control and Inspection* which, according to its powers given by law, inspects the State departments and investigates in the cases of administrative corruption and crimes arising there from, such as the misappropriation of funds/ misuse of credit/ bribes/ labor-related robbery and others. Besides, as per the legislative decree No 64 of 2003, the Central Authority for Financial Control was re-created and its powers were expanded. It is an independent control authority affiliated to the Prime Minister and aims to ensure an efficient control of the State's funds and follow up the performance of executive, administrative and economic bodies. Syria also has the *Judicial Inspection Commission* which monitors the work performance of judges, courts, State's attorneys and refers violators to Supreme Council of Justice.

11. The Syrian economy is a planned socialist economy, and article 13 of the Constitution provides that the State-based national economy seeks to "end all form of exploitation", and the private property is protected pursuant to article 15 of the Constitution. The Tenth National Conference of the Arab Socialist Baath Party, held in June 2005 acknowledged the concept of social market economy. The Syrian economy has been witnessing, in the past years, a new policy that encourages the growth of the private sector. In fact, the Government initiated a number of reforms aimed at strengthening the added value in the private sector. The reforms of the financial sector are considered as the most important, since the first private banks were created and authorizations were given to establish private insurance companies. Recently, the process of building a financial market was launched, by creating the Syrian Stocks Markets Authority in charge of setting the regulatory frame of the stock market. The Syrian Government has also executed a number of economic reforms designed to attract foreign investments. The capstone of these reforms was the promulgation of Law No 10 of 1991 which exempted foreign investors from taxation for five years, and provided for the repatriation of overseas profits back to Syria itself. Significantly, under the terms of the act, Syrians were allowed, as were foreigners, to invest in foreign currencies in the country.

12. At the economic level, Syria belongs to the low category of middle-income countries (where the average per capita income in 2004 was of 1020 USD<sup>7</sup>). Following the economic slowdown in 2003, Syria witnessed a slight improvement at the end of 2004. The 2003 slowdown is attributed to many factors namely the decrease in oil production and the war on Iraq which led to a decrease in exportations. The Syrian economy took advantage of rising oil prices and the recent regional boom (2004–2005) which strengthened the movement of capitals incoming to Syria and resulting from the transfers of employees from abroad and tourists' expenditure. The real Gross Domestic Product (GDP) growth was estimated at 4.5% in 2005<sup>8</sup>. In spite of the stagnation in private consumption and investment, the picture of the Syrian economy looks positive, following the exemptions from part of foreign debts, the settlement of another part of debts and the strengthening of a good level of reserves in foreign currencies. In fact, the ratio of foreign debts decreased to 48% from the GDP (in 2004).

13. Agriculture plays a crucial role in the Syrian economy since it employs the third of the manpower, and represents the largest contributor in the GDP. In 2004, the gross product of the agricultural sector reached 423 billion Syrian Pounds (or around 80 billion USD), or one fifth of

---

<sup>7</sup> All statistics mentioned in this report are the latest available statistics given to us by Syrian authorities, unless otherwise stated.

<sup>8</sup> [www.cia.gov](http://www.cia.gov).

the GDP. The industrial sector witnessed a growth of 10.6%, as the gross production amounted to 708 billion Syrian Pounds (or around 133.6 billion USD). The production of the construction sector reached 98.5 billion Syrian Pounds (or around 18.6 billion USD) in 2004 i.e. 5% of the GDP. This sector witnesses a significant activity since the ongoing demand, the reduction of interest rates, the new laws and the increase in the costs of construction materials led to a significant increase in real estate prices. Oil plays an important role in the Syrian economy, as oil exports represent two thirds of Syrian revenues in foreign currencies, notably with the growing increase in global oil prices. The commercial and service sector also had a good performance in 2004 as a result of the growing tourist movement and the increase of demand.

14. In the commercial sector, Syria initialed on October 19, 2004 the draft partnership agreement with the European Union (EU). In July 2000, Syria ratified the framework of the Euro-Mediterranean partnership agreement (MEDA), thereby paving the way for some EU assistance. Syrian has officially applied to the World Trade Organization (WTO) for membership; however, the country is far from being ready to join the institution. Its current customs system needs complete overhaul. This process started to be implemented since the Law on Customs No 38 was promulgated on 6/7/2006<sup>9</sup> in order to be consistent with international laws on customs, notably the laws of neighboring countries, international agreements, especially the agreements of the World Customs Organization (WCO), and the European Partnership Agreement. However, the new law included provisions for the simplification of customs procedures in compliance with Kyoto Agreement. The industrial sector also needs reforms. Moreover, Syria needs to lift many constraints on the movement of foreign currencies and exchange rates. According to Syrian authorities, exchange rates will be unified in the near future. Despite all that, the Syrian initiative to apply for accession to WTO indicates the seriousness with which the authorities will approach economic reforms and modernization, in order to comply with WTO rules of open economy and free trade.

15. It is worth mentioning that Syrian authorities are seeking to promote transparency in economy, since they allowed for the first time last year, the publication of Syrian Report issued by the International Monetary Fund (IMF). The Central Bank is also seeking to create a centralized system for banking risks. The Trade Law obliged all joint-stock companies (in the private and public sectors) to publish their budgets regularly following the approval of the general assembly.

## 1.2 General situation of Money-Laundering and Financing of Terrorism

16. Syrian authorities consider that most crimes that may generate illicit funds and whose proceeds are exposed to being laundered are robbery, forced robbery, drug trafficking, currency counterfeiting, smuggling, misappropriation of funds, fraud, High Tech crimes (counterfeiting of credit cards), administrative corruption, tax evasion, secret prostitution, and other crimes which were never registered in Syria, such as children trafficking, white slavery trafficking and the trafficking of human organs. Yet, it is note-worthy that Syria is considered as a transit state in the region in terms of trafficking of drugs coming from neighbor countries in particular, towards neighboring countries. Moreover, there is only limited internal traffic (cultivation of *hasheesh*)<sup>10</sup>. There are no recent statistics on the situation of crime in Syria. Old statistics published in UN reports consider that the majority of crimes had to do with murder, robbery, defame and libel, and crimes against the public security. Most of foreign researches tackle crimes tampering with security, such as assassinations, or crimes such as bribery and fraud. Thus, most of the crimes that could generate criminal proceeds in Syria have to do with drug

---

<sup>9</sup> The assessment team did not have the chance to verify this matter, since the insurance companies were created after the on-site visit.

<sup>10</sup> INCSR 2006 volume 1.

trafficking- even if Syria is a transit country- as well as corruption and bribery crimes. The State has to draw more attention to money-laundering risks resulting from these crimes.

17. Syrian authorities state that all the aforementioned crimes are not organized within Syrian territories as they do not have inter-related networks inside or outside Syria. In fact, proceeds of crimes are generated by local crimes despite the slight increase in the number of such crimes in view of the development of communications and modern technology.

18. Most proceeds generated by the aforesaid crimes are laundered through simple techniques and methods such as the purchase and resale of real estate and luxurious cars or the opening of large restaurants and commercial stores to cover the source of illicit funds.

19. Syrian authorities consider that money laundering through financial institutions is currently rare, and does not represent a critical problem. However, it is worth mentioning that due to the development of legislations related to the financial and economic sector, the creation of the stock exchange market and insurance companies, and the increase of banks and their affiliates, money laundering operations are further expected to be carried out through financial channels and institutions.

20. With regard to the Terrorist Financing crime, it is considered as a "new" crime covered by article 2, paragraph (b) of the Legislative Decree (LD) No 33 of 2005.

21. Since the AML/CFT LD is still new, no statistics or accurate numbers are available, covering in particular the different kinds of predicate crimes or the most common methods of money laundering in Syria. Therefore, it is difficult to assess the extent of money laundering in Syria or the amount of illicit laundered proceeds.

### **1.3 Overview of the Financial Sector and DNFBPs**

#### ***a. Syrian financial sector***

22. The Central Bank of Syria controls the monetary policy in the country. The cost of living index fell slightly between 1998 and 2001, and the annual GDP deflator averaged below 5%. The Industrial Bank invests in both the public and private sectors, while the Commercial Bank of Syria funds businesses endeavors. In January 2001, the Syrian Government directed banks to alter exchange rate values to reflect the true value of the currency.

23. Although the banking sector has improved, it is still relatively weak in attracting deposits. In fact, at the end of 2004, deposits in this sector reached 13.8 billion USD or 56% of the GDP. This sector is composed of a network of 300 bank affiliates i.e. the equivalent of one affiliate for every 64000 residents, compared to a regional average of one affiliate for every 25000 residents. Banking loans to the private sector amount to 12.3% only of the GDP, compared to a regional average of 37.5%.

24. Syrian banks are undergoing a process of modernization which is aimed at attracting foreign investments. Plans have also been offered to bring Syria's banking and trade laws more in line with the WTO regulations. In 2001, the Syrian Government approved a new law for banks (Law No 28 of 2001) allowing the establishment of private commercial banks such as Syrian shareholding companies, on condition that the share of Syrian citizens would not be less than 51% of shares. The first private banks to take advantage of the new legislation opened for business in January 2004. These are: "The Syria and Overseas Bank" (BSOM) in conjunction with the Lebanese "Banque du Liban et d'Outre-Mer" (BLOM), BEMO-Saudi French Bank, the

Arab Bank – Syria, Audi Bank - Syria, Byblos Bank – Syria, the International Bank for Trade and Finance, and the "Syria Gulf Bank".

25. On March 30, 2005, a Law that permits the establishment of Islamic Banks was approved. The approval was given for the sake of promoting the banking and financial markets, attracting financial savings, and financing development projects. The Law on Islamic Banks sets the minimum capital required from an Islamic Bank at 100 million USD. A number of Islamic Banks had already applied for licenses to operate in Syria, such as Qatar Islamic Bank, Islamic Development Bank, and Saudi Dallat Al-Baraka Group.

26. In line with the reform and modernization of banks, credit cards were issued for the first time in the country's history, since such cards were only made available through foreign banks. A law on banking secrecy has been approved in Syria by LD No 34. Syria has also become part of the free Arab trade zone and is seeking to adhere to the Association Agreement with the EU and Mediterranean Countries under the Barcelona process.

27. Syria has three types of banks which all operate under the supervision and control of the Central Bank of Syria. With regard to the control of its operations with regard of AML, it is governed by Resolution No 4 issued by the Combating ML & TF Commission (CMLTFC), and by Resolution No 71 of the Council for Money and Credit. These types of banks are as follows:

a- Specialized governmental banks (6 banks): Commercial Bank of Syria, Popular Credit Bank, Industrial Bank, Agricultural Cooperative Bank, Real Estate Bank and Savings Bank.

b- Private banks (7 banks): They started operating in Syria three years ago: Syria and Overseas Bank (BSOM) – BEMO-Saudi French Bank – International Bank for Trade and Finance, Audi Bank-Syria, Arab Bank, Byblos Bank, and Syria Gulf Bank (which started operating in August 2006).

c- The banking affiliates in free zones (Resolution 793 of 24/5/2000 on the banking system in Syria's free trade zones): There are six affiliates of foreign banks (most are Lebanese): Euro Mediterranean Bank, Société Générale Bank, Bank of Beirut and Arab Countries (BBAC), Arab Banking Corporation, Lebanon and Overseas Bank (BLOM), Fransabank.

28. With regard to insurance, the Syrian economy is considered as one of the markets which are in most need for insurance in the Arab world and in emerging markets. In fact, Syria holds less than 2% of the total insurance premiums in the Arab world, and insurance premiums amount to 0.6% of the GDP. These indications demonstrate that the insurance sector in Syria is a weak sector, although it has a high potential of growth.

29. Currently, Syria has one government-owned insurance company namely the Syrian Insurance Company. The Insurance Supervisory Commission (ISC) was created as per the LD No 68 of 2004 which assigned to the Commission the mission of regulating and supervising the insurance and re-insurance sector. The LD No 43 of 2005 regulating insurance operations was issued, and it provided for the creation of private insurance companies. Syrian authorities declared that three private insurance companies have started their business in the summer of 2006<sup>11</sup>.

---

<sup>11</sup> The assessment team did not have the chance to verify this matter, since the insurance companies were created after the on-site visit.

30. Since last few years, many unlicensed private offices offered insurance services provided by foreign insurance companies, notably Lebanese insurance companies. Nevertheless, these offices started to recede upon the implementation of the LD No 43 of 2005 and starting the licensing of insurance companies. Furthermore, article 33 of the said decree prevents the providers of insurance services from performing their work without receiving a license from the Commission, registering themselves in the relevant record and satisfying the conditions set forth by the Regulations on the Providers of Insurance Services, and by the other Commission's regulations and instructions.

31. Regarding AML/CFT efforts, and along with the LD No 33 of 2005, some articles of the LD No 43 provided that the Insurance Supervisory Commission (ISC) should oblige any person or company subject to the provisions of this LD, to refrain from executing or participating in the execution of any transaction related to its insurance activities or others, if this transaction arises from a ML or TF act. The Commission should also notify any official or judicial body of this process, in pursuance of the provisions of the LD No 33 of 2005 on AML/CFT and its executive instructions. The aforesaid articles oblige any life insurance company to provide the Commission with tables for the refunding of life insurance policies and any other payments related to insurance products to the extent set by the Commission.

32. Since last few years, there were many exchange and money-remittance offices in Syria, which operated outside the legal frameworks, due to a special economic situation in Syria. However, Syria is currently working on the regulation of this sector. In fact, Law No 24 of 2006 on exchange companies was promulgated and it allows for a better control and monitoring of the exchange and money-remittance activities in AML/CFT. This law prevented the performance of exchange operations without authorization, and it made institutions subject to the provisions of AML/CFT laws.

33. On June 5, 2005, the President of the Republic promulgated a LD with a mandate to set up a stock market in Syria. This decree provided for the creation of the "Syrian Stocks and Financial Markets Authority" (SSFMA) which is affiliated to the Prime Minister and has a headquarters in Damascus.

34. In line with the economic and financial reforms policy, Syria encourages the creation of financial studies institutes. In this regard, the Business High School was established in collaboration with the European Union (HEBA), and a Master's Degree in banking and financial studies was created in the frame of Trans European mobility program for university studies (TEMPUS) of the EU, in cooperation between Damascus University and the French Bordeaux IV University. This program gives students two degrees from both universities. On March 17, 2005, Syria approved a law mandating the establishment of banking rehabilitation and training center, aimed at promoting the technical and vocational level of banks employees, upgrading their performance, and developing their educational, technical and administrative capacities. The Law provides that the Center should be affiliated to the Central Bank of Syria.

**b. *The DNFBP Sector***

35. The profession of notary was created in Syria as per Law No 54 of 1959. The notary is an employee in charge of the tasks set forth by this Law, including the elaboration, editing and authentication of documents. Syria has 176 notaries distributed in the different governorates. Lawyers are supervised by the Bar Association, and the legal practice is regulated by the amended law on the legal profession No 39 issued on 21/8/1981. There are 18374 lawyers in Syria.

36. There are 2600 chartered accountants in Syria, 1660 of them are affiliated to the Association of Chartered Accountants. They are authorized to practice their work by the Ministry of Economy. Some governmental bodies are working with the Association of Chartered Accountants to reconsider the regulation of this practice, particularly after the promulgation of the Law on Financial Markets. A bill was elaborated in this regard to make chartered accountants subject to the Accountants' Union which has quite the same work as the bar association. A special committee for the study of the bill was created and it is composed of the Assistant Minister of Finance, representatives of the Association of Chartered Accountants, the Central Authority for Financial Control, the Ministry of Economy & Trade, and Damascus University, for the purpose of approving the bill.

37. Real estate brokers are licensed and controlled through local administrative units: Governorates and municipalities. This practice is performed by individuals. The jewelry trade and traders are subject to a special regulation through the jewelry association. With regard to gambling, it is forbidden and there are no official activities in this field.

38. In the framework of the AML/CFT regime, Syria introduced some non-financial professions within the circle of persons who are subject to obligations with regard to AML/CFT. Syrian legislations defined the Designated Non-Financial Businesses and Professions (DNFBPs) as the real estate building, promoting and selling companies, real estate brokerage offices, dealers of high value goods such as jewelry, precious stones, gold, bibelots, rarities and other non-financial institutions as identified by the CMLTFC, as well as lawyers and editors of legal exhibits and independent accountants.

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

39. Article 54 of the Civil Law sets forth the legal persons as follows: The State, governorates and municipalities as per the conditions provided for by law, the public institutions and other bodies which are given the status of legal entities by law, the religions confessions and authorities to which the State recognizes a legal person status, Al-Awqaf (or endowments), commercial and civil companies, associations and corporations created as per the provisions of this law, and every group of persons or funds having a legal personality established by law.

40. The legal entity is created voluntarily and is subject to declaration and to the State's intervention in most cases. Pursuant to article 55 of the Civil Law, the legal person has all rights except those related to natural persons, to the extent provided for by law. The legal person also has an independent financial liability and a legal capacity to the extent defined by its memorandum of association or by laws, as well as a litigation right and an independent domicile. The commercial register which includes sufficient information about all commercial corporations operating in Syria (commercial legal persons) is considered as a tool of declaration since its provisions are opposable to third parties. With regard to nonprofit organizations, articles 7, 8, 9 and 10 of the Law on associations and private corporations provide that the declaration of these associations is only established when their articles of association are published at the Ministry of Social Affairs and Labor. The publication of the articles of Association is made once it is registered in the relevant register, and the registration summary will be published for free in the official gazette.

41. Syria has an investment law issued in 1991 that has to do with the investment of resident Syrian citizens, immigrants and nationals of Arab and foreign countries in investment projects in the context of public economic, social and political development plans for the State. This law provides for the right to receive credit facilities as well as many exemptions, such as exemption

from taxes, financial, municipal, customs and other fees, provided that they will be exclusively used for the project purposes. This law established the Supreme Investment Council, the powers of which are to entitle natural and legal persons to establish fiduciary projects, where they would be pursuant to the provisions of this law. The competent party- the investment office- issues the necessary licenses to implement that. In accordance with LD No 7 of 2000 that includes the amendment of the investment law, the investment office is in charge of receiving and registering investment applications submitted to it by the competent authorities, working on completing the information and data relevant to every application, in cooperation and coordination with different relevant competent authorities, registering the invested money incoming from abroad- whether in foreign cash, in-kind contributions or moral rights after being adopted by the council in a special record- examining the draft statutes of joint stock companies and limited liability companies that are established pursuant to the investment law provisions and other duties. Syrian authorities indicated that these projects are licensed without violating the AML/CFT provisions. However, the assessment team did not have access to the legal basis pointed out by the Syrian authorities in this regard.

42. Regarding the subsidiaries of foreign companies, the licensing authorities investigate in the funds of these subsidiaries before granting them licenses and allowing the practice of their business.

43. The company is considered as a legal person upon its establishment, but it is not opposable to third parties unless it satisfies the declaration procedures set by law. Regarding the subsidiaries of incorporated foreign companies in Syria, article 6 of the LD No 151 of 1953 provides that incorporated companies have a recognized legal personality in Syria as of their establishment, in accordance with the provisions of this law.

44. The characteristics of the legal person were measured according to the natural person of individuals. As a result, the company has a name, domicile, nationality and a financial liability that are similar to the characteristics of natural persons. Besides, they have a recognized legal capacity and are represented by their managers.

45. Legal personality for association are formed in two kinds: Limited Liability Companies and Joint-stock companies that can also be divided into two types: First, shareholding companies that offer their shares to public subscription, and are licensed as per a decree with their articles of association being ratified by a resolution from the Ministry of Economy & Trade, and published in the official gazette. Second, the anonymous shareholding companies which are licensed as per a ministerial resolution, and their articles of association are also ratified, as per a request of establishment submitted to the Ministry and signed before a sworn employee. Limited liability companies are established as per a license issued by a resolution of the Minister of Economy & Trade. The signatures of the founders are then ratified before a sworn employee, and a resolution is issued to ratify the company's articles of association after signing it according to the provisions of law.

46. The Partnerships, according to the Syria law, are based on the personal consideration of partners. The simplest form of these companies is the **joint venture** where every partner should have certain features with regard to the age, legal capacity, commercial status and sometimes nationality according to special provisions. Therefore, violating any of the conditions that should be met by partners may affect the legal presence of the company or its continuity in the future, if one of partners is exposed to an urgent incident, thereby affecting the validity of partnership. The second type of Partnerships is the **limited partnership** which includes two kinds of partners, general partners (GPs) and limited partners (LPs). General partners have joint liability for the debts of the partnership, while limited partners are only liable on debts to the extent of their registered investment. There is a third type of Partnerships which do not have a

legal personality, cannot be open to third parties and are not subject to the declaration and registration procedures. The manager works in his name for the account of partners, and the profit & loss distribution is then calculated as agreed by partners in the memorandum of association.

47. The companies covered by the Investment Law No 10 are established in accordance with the regulating provisions of this law. Regarding the main characteristics of these entities, the ownership right may be given to natural or legal persons, and it is subject to the share trading of shareholding companies, and to waivers between partners and third parties in limited companies.

48. The Syria Trade Law is under amendment, particularly following the promulgation of many decrees related to the banking sector, the creation of the financial market, insurance and the bill on exchange, in order to ensure its compliance with these new developments.

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

### *a. AML/CFT strategies and priorities*

49. Until the early years of the current decade, the procedures and policies applied in Syria in terms of the Regulations on control of exchange operations and the transfer of funds, as well as the Economic Penal Law, were thought to be sufficient to prevent ML & FT. Nevertheless, with the current trend towards modernizing the financial sector which started to emerge early this decade, the concerned authorities recognized the importance of developing a strategy to combat ML & FT and a relevant legislation.

50. The LD No 59 of 2003 was the first step in this regard, since it criminalized money laundering and created a Financial Intelligence Unit (FIU) in charge of receiving and analyzing Suspicious Transactions Reports (STR), as well as setting procedures related to the implementation of this LD. Nevertheless, the developments taking place in this field, particularly in terms of international recommendations, urged officials in the Ministry of Finance, the Central Bank and the ML Combating Commission to develop LD No 59 of 2003 to keep pace with these developments. Thus, LD No 33 of 2005 was issued and it criminalized the financing of terrorism. The LD provisions were set in accordance with the FATF (40+9) recommendations. The law on banking secrecy was amended as per LD No 34 of 2005 so as to lift all obstacles preventing the Combating ML/FT Commission (CMLTFC) from fulfilling its duties.

### *b. Institutional Framework of AML/CFT*

51. CMLTFC is the main body in charge of combating money laundering and financing of terrorism. Its duty is to: 1/ Receive and analyze STRs and other information related to ML/FT operations; 2/ Carry out financial investigations in transactions that are suspected to include illicit ML/FT; 3/ Provide judicial authorities and other authorities concerned with the implementation of the provisions of the LD No 33, with the required information related to this LD, 4/ Set procedures and models for the implementation of the provisions of the LD No 33 and supervise the implementation thereof.

52. In line with its mission, CMLTFC took many steps to complete the AML/CFT legislative framework, the most important of which are: 1/ Issue some circulars on 18 August 2004<sup>12</sup>, including the issuance of Circular No 1 related to Customer Due Diligence (CDD), Circular No 2 related to the due diligence of correspondents and their activities, Circular No 3 related to STRs, Circular No 4 related to the identification of the beneficial owner, Circular No 5 related to other financial institutions, other than banks; 2/ CMLTFC prepared and adopted a module on AML Guide procedures to assist banks to take the necessary AML measures; 3/ Issue Resolution No 71/MN/ b 1 by the Council for Money and Credit, including the prudential instructions about the relationship with customers; 4/ Approve the Regulations on the control of banking and financial operations in the financial and banking institutions operating in Syria and the Syrian free zones for the purpose of combating ML/FT, so that it supersedes the 692 executive instructions of 2004.

53. CMLTFC sought, on the other hand, to coordinate with law enforcement authorities (criminal security – customs service – other control and inspection bodies); thus, many meetings were held and all these authorities agreed on specified coordination modules. Furthermore, CMLTFC held many meetings with banks to encourage them to exert more efforts in this respect.

54. Efforts are currently made to regulate the exchange and money remittance sector. In fact, Law No 24 of 2006 on exchange institutions was promulgated. It allows for better control and monitoring of exchange and money remittance operations in the AML/CFT field. Besides, efforts are made to increase the supervision of the DNFBPs with regard to their commitment to combat ML & FT. Special AML/CFT offices were established in the Customs Directorate and the Ministry of Interior. Syrian authorities, led by the CMLTFC, are seeking to raise awareness about these crimes and their risks thereof by organizing training sessions.

**c. Risk-based method**

55. It is still early to tackle a method that is related to money laundering risks. Undoubtedly, Syrian authorities realize the necessity of combating ML & FT, which pushed them to promulgate LD No 33. Yet, there is still no risk-based method through which we could justify the looseness in taking some monitoring measures and strictness in other measures. Currently, Syria is not considered as an important financial center in the region due to the government's strict economic control until recently, as well as the constraints imposed on foreign currency circulation until the time of the visit. Thus, money laundering and financing of terrorism risks are considered as rare in general. However, the team fears the increase in the level of those risks due to the economic openness policy adopted by the Syrian government, which would encourage the entry of funds for investment purposes, and which the team fears would be misused by money launderers or those in charge of financing terrorism to pass their transactions, benefiting from the facilities granted by the Syrian government in this regard.

56. On the other hand, the team realized that a few officials underestimate the presence of money laundering and financing of terrorism risks currently in Syria due to the role that the government still plays in economy. Yet, the assessment team realizes the importance of raising the awareness of officials in this regard for fear of exploiting the financial system when undertaking those transactions, especially in light of the economic openness policy adopted by the Syrian authority currently.

---

<sup>12</sup> These circulars were issued in light of LD No 59 of 2003. Therefore, on 30 August 2006, following the on-site visit, the Commission cancelled these circulars and promulgated new circulars about the same subjects, and addressed Circular 5 to non-financial institutions, to be consistent with the LD No 33 of 2005.

**d. Progress since the last mutual evaluation**

57. This cannot be verified currently, as Syria has not been subjected to an evaluation that determines the details of AML/CFT before the assessment team's field visit. There is no assessment conducted by the World Bank or the International Monetary Fund in this regard.

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

**Laws and Regulations**

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

**2.1.1 Description and analysis**

58. **Recommendation 1:** Syria sought to set a legal framework that is capable of combating money laundering, by issuing LD No 59 on 9/9/2003, which was later amended by AML/CFT LD No 33 issued on 1/5/2005 in compliance with international requirements.

59. The Syrian legislator criminalized money laundering in the LD No 33 which defined this crime in article 2 as "any act aimed at: (1) *Concealing the real origin of illicit funds by any means, or giving false justifications about this origin;* (2) *transferring or converting funds, knowing that such funds are illicit, with the aim of concealing or disguising their origin, or of aiding any person involved in the commission of the offence to evade the legal consequences thereof;* (3) *acquiring, possessing, managing, investing or using illicit funds for the purchase of movable or immovable properties or for the performance of financial operations, knowing that funds are illicit.*" This definition is consistent, in terms of the material elements of the money laundering offence, with the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 UN Convention against Transnational Organized Crime (Palermo Convention).

60. With regard to illicit funds, the definition of funds according to article I, Paragraph (b) of the aforesaid LD, covers all "*kinds of assets whether tangible or intangible, movable or immovable, regardless of how they are possessed, as well as the legal documents or exhibits, whether electronic or digital, that establish the right of ownership of these assets or a part thereof, and all what arises from this ownership or any right related thereto including but not limited to the national currency, foreign currencies, banking facilities, travelers cheques, bank checks, money transfers, shares, securities, bonds, bills and documentary letters of credit.*" Paragraph (c) of the same article provides as follows: "*Illicit funds are funds proceeding or arising from one of the offences*" mentioned in this paragraph.

61. ML offence in the Syrian Law, pursuant to the aforesaid LD, extends to cover all types of property, regardless of its value and mode of possession, which represent the crime proceeds or assets arising from a crime. However, it did not state in the definition of illicit funds that they represent the direct or indirect crime proceeds. The LD does not provide that a person should be convicted of a predicate offence when proving that property is the proceeds of crime. Besides, no similar conclusion can be inferred from any other text in the decree.

62. With regard to the predicate offenses of money laundering crimes, Syria adopts the list approach to define the money laundering predicate offense in article 1 of the LD as follows:

1- Cultivation, manufacture, smuggling or transfer of narcotic drugs or psychotropic substances or the illicit traffic thereof;

2- Acts committed by Wrongdoers' Associations as provided for in Articles 325 and 326 of the Penal Code and all offences considered worldwide as organized crimes;

3- Terrorist offences as provided for in Articles 304 and 305 of the Penal Code and in international, regional and bilateral agreements where Syria is a party thereof;

4- Smuggling, manufacture or illicit trafficking of fire weapons, parts thereof, munitions and explosive;

5- Illicit transfer of emigrants, piracy and abduction;

6- Organized prostitution, traffic of people and children, and illicit traffic of human organs;

7- Robbery, smuggling or illicit traffic of nuclear, chemical, bacterial or toxic material;

8- Robbery and misappropriation of public or private funds or appropriation thereof by means of assault, robbery or by fraudulent means, or the illicit transfer of these funds through computer systems;

9- Counterfeit of currency, other payment means, public deeds, valuable securities or official exhibits and instruments;

10- Robbery or illicit traffic of monuments or cultural properties;

11- Corruption and blackmail crimes;

12- Smuggling crimes;

13- Use of registered trademarks by people other than their owners or the counterfeit of intellectual property rights."

63. It is clear that the list of predicate crimes mentioned in the DL did not cover all the designated categories of offences (20) as they are defined in the glossary of the FATF 40 recommendations, since the LD did not mention the following offences:

1- Financing of terrorism;

2- Illicit trafficking in stolen and others goods;

3- Environmental crimes;

4- Murder, grievous bodily injury;

5- Trading and market manipulation.

64. The definition of the predicate offense for ML extends to conduct that occurs in another country. In fact, article (1) of the aforesaid LD provides that: "Illicit funds are funds proceeding or arising from a number of crimes [...], whether committed in Syria territories or abroad [...]". Although this text is consistent with the international standard applied in this respect, it is worth

mentioning that the efficiency of the Syrian law may be affected because the list of predicate offenses in the LD Law does not include some of the designated categories of offences as defined in the FATF 40 recommendations' glossary.

65. The LD does not expressly exclude the possibility of prosecuting a person first for committing a predicate offense, and then prosecuting the same person for a crime of laundering the proceeds of this predicate crime. Syrian judicial authorities stated that the crime of money laundering and the predicate offense are not considered as one act to which article 181/ Paragraph 1 of the Penal Code applies. This article provides that "*one act is only prosecuted once*". In fact, both are considered as independent acts and each is punishable by the sanction of the crime committed, but upon the execution of sanction, the most severe sanction is applied. Therefore, since the money laundering crime is independent and requires the presence of a material element that is different from the predicate offense in terms of concealing the real origin of funds, then it can be inferred that from the legal viewpoint, self-money laundering can be applied by the Syrian Law. Nevertheless, in order to reach a conclusive decision in this jurisprudential issue, this question will have to be decided by the Syrian courts.

66. Regarding the execution of sanctions in the event of the concurrence of crimes, the most severe sanction shall be applied. Money laundering is punishable by the sanctions provided for in article 14, paragraph (a): "*unless the act is punishable by a more severe sanction*". Article 204 of the Syrian Penal Code issued as per the LD No 148 on 22/6/1949, provides as follows: "*(1) If many felonies or misdemeanors are established, there shall be a sanction for every offense, and the most severe sanction shall be applied; (2) however, the sanctions of the rendered judgments can be grouped in such a way that the total temporary sanctions exceed by half only, the extreme sanction of the most severe crime*".

67. Paragraph (1) of article 14 of the LD punishes the one who commits, intervenes or participates in illicit money laundering operations arising from one of the crimes mentioned in article (1) of this LD. Paragraph (b) provides that: "*the attempt of illicit money laundering is punishable [...]. The accomplice involved in the crime, the abettor or the one who conceals the facts is punishable by the author sanction.*" Paragraph (c) considered that the sanction has a criminal nature.

68. Article 199 of the Syrian Penal Code defines the attempt as follows: "*Every attempt to commit a felony starting with acts directly aimed at committing the felony is considered as a felony per se unless it was hindered by circumstances that went out of the control of the author*". Article 212 of the Penal Code provides that: "*Every accomplice in the crime is exposed to the relevant sanction as provided for by law.*"

69. The abettor is defined in article 216 as every person who "*urges or attempts to urge another person, by any means whatsoever, to commit a crime.*" Article 218 of the Penal Code provides that "*the person intervening in a felony or misdemeanor is: (a) the one who gave instructions to commit it even if these instructions did not help the act, (b) the one who strengthened the will of the crime's author by any means whatsoever, (c) the one who accepted, for a material or moral interest, the author's offer to commit the crime, (d) the one who helped or supported the crime's author in the predicate offenses that led to or facilitated the crime, or in the committed acts, (e) the one who agreed with the crime's author or one of the intervening parties before committing the crime, and contributed to concealing facts, hiding or disposing of things arising from the crime, or hiding one or more accomplices to keep them away from justice, (f) the one who was aware of the criminal history of wrongdoers who committed banditry or violent acts against the State's security and public safety, or against persons or properties, and gave them food, shelter or a place to meet.*"

70. Therefore, complicity acts mentioned in the LD cover all ancillary offences including conspiracy to commit, attempt, aiding and abetting, facilitating and counseling the commission.

71. **Additional Elements.** Pursuant to article (1) of the LD, illicit funds are funds arising or resulting from a number of crimes [...], *whether committed Syria territories or abroad [...]*". The article did not expressly provide that acts which generated illicit funds should be criminalized in the laws of the other country. Besides, Syrian authorities affirm that proceeds of the crime are examined regardless of them being criminalized in the laws of other countries.

72. **Recommendation 2.** The Syrian Law provides for the principle of knowledge in the money laundering crime, through article 14, paragraph (a) of the LD which provides as follows: *"Sanction is imposed on every person who has performed, assisted or participated in illicit money laundering operations [...], knowing that they arise from illicit acts"*. Article (2), paragraph (a) of the LD added that ML offence applies to natural persons that knowingly engage in ML activity in the following acts: (1) transferring or converting funds, with the aim of concealing or disguising their origin, or of aiding any person involved in the commission of the offence to evade the legal consequences thereof; (2) acquiring, possessing, managing, investing or using illicit funds for the purchase of movable or immovable properties or for the performance of financial operations. In the case of concealing the real origin of illicit funds by any means, or giving false justifications about this origin, it is not expressly provided that the person should have the knowledge that funds are illicit. Syrian legislators consider that, in this case, the knowledge element can be inferred from the material act i.e. the concealment of facts or the false justifications.

73. The Syrian law mentions the concept of freedom of evidence in criminal affairs. This principle is confirmed by article 175, Paragraph 1 of the Penal Procedure Code (PPC) which provides that: *"evidence in felonies, misdemeanors and violations is established through all forms of evidence, and the Judge shall rule at his sole discretion"*. Furthermore, Syrian judicial authorities state that, pursuant to the established principles in criminal evidence, as provided for in article 175 PPC, the intentional element of the money laundering offence can be inferred from objective factual circumstances.

74. The Syrian criminal law applies the criminal liability does apply to legal persons, since article 209 of the Penal Code (PC) provides that: *"[...] (2) legal authorities bear the criminal liability for the acts of their managers, Board members, representatives and employees, when such acts are performed in the name of the legal authorities or any of its means, (3) however, such acts are only punishable by a fine, confiscation and publication of the judgment."* Article 15, paragraph (e) of the LD also provides that *"the provisions related to the confiscation of ML and FT proceeds or arising from these crimes apply to legal persons as they apply to natural persons"* Article 16 of the same LD provides that *"court judgments and the sanctions provided for in articles 13 and 14 of this LD should include paragraphs that require the publication of the judgment, the expulsion of Syrian and non-Syrian residents from Syrian territories or the extradition thereof, closure of the business place, the suspension of the legal person's business, and the dissolution of the legal person in the event of recurrence. The last three measures do not apply to public bodies, and do not bring prejudice to the criminal liability of natural persons"*.

75. With a clear reference that the criminal liability of legal persons does not bring prejudice to the criminal responsibility of natural persons, the LD does not expressly provide that if legal persons are subject to criminal liability in money laundering, it is not possible to take parallel civil or administrative measures. Syrian authorities consider that administrative, civil and criminal sanctions can be imposed on legal persons.

76. Pursuant to Article 14, paragraph (a) of the LD, the money laundering act is punishable by temporary imprisonment ranging between three years and six years, and the payment of a fine equaling the value of confiscated funds or equaling the value thereof if it was impossible to confiscate funds, provided that this value is not less than one million Syrian pounds<sup>13</sup>. Article 15, paragraph (e) of the LD also provides that *"the provisions related to the confiscation of funds arising from money laundering crimes apply to legal persons as they apply to natural persons.* Pursuant to Paragraph (b) of article 15, *if funds are converted or turned into other types of funds, the alternative funds shall also be confiscated, and if illicit funds are mixed with other licit funds, they shall be confiscated according to the estimated value of illicit funds. The proceeds, due amounts arising from illicit funds or alternative funds to which they were converted and the funds which were mixed with illicit funds may be frozen or confiscated to the same extent by which illicit funds are frozen and confiscated."* Article 16 also provides that the natural and legal persons shall be punished as follows: *"The court judgments and the sanctions mentioned in articles 13 and 14 of this LD include paragraphs about the publication of judgments, the expulsion of Syrian and non-Syrian residents from Syrian territories or the extradition thereof, the closure of the business place, the suspension of the legal person's business, and the dissolution of the legal person in the event of recurrence. The last three measures do not apply to public bodies, and do not bring prejudice to the criminal liability of natural persons"*.

77. Therefore, the sanctions mentioned in the LD seem to be dissuasive for natural persons especially that they are complemented by the fine payment sanction if funds are confiscated or the payment of an equivalent value if funds are not confiscated. Besides, the LD provides for the confiscation of money laundering crime proceeds. These sanctions appear to be proportionate and sometimes more severe if compared to the sanctions applied on financial crimes mentioned in articles 621-735 of the Penal Code.

78. It seems difficult to evaluate the efficiency of sanctions mentioned in the LD for natural persons, since the LD was recently promulgated and no court judgments were promulgated. However, when the assessment team was informed of the period since the referral of money laundering crimes from the Public Prosecution to Justice, it realized that this period is of six months or more and that no court judgments were issued during the period. Thus, it can be inferred that the efficient implementation of the LD is weak and that it is difficult to understand the mechanisms and methods of this new type of crimes in Syria.

79. With regard to the criminal liability for ML of legal persons, article 14 of the LD provided for sanctions that suit the nature of the corporate person, as it included the payment of a fine. Article 16 provided for the sanction of closing down the working place or the suspension of the corporate person from work, as well as the dissolution of the corporate body in case of repetition. The Syrian Penal Code stipulates that the legal person may be subject to criminal liability, pursuant to paragraphs 2 and 3 of article 209 as follows:

*"2- Legal entities bear a criminal liability for the acts of their managers, board members, representatives and employees when these acts are performed in the name of the legal entities or through any of their means.*

*3- However, legal entities are only punishable by the payment of a fine, confiscation and the publication of judgment. If the law provides for a predicate sanction other than the fine, the sanction should be replaced by the fine which will be imposed on the legal entity to the extent defined in articles 53, 60 and 63"*.

---

<sup>13</sup> Approximately 20 000 \$.

Therefore, the sanctions applied to the legal person are defined in the LD No 33 or in the general legal principles, and they are proportionate with the nature of the legal person.

80. **Statistics.** There are no statistics about money laundering offences in Syria. In fact, Syrian authorities declare that no court judgments were rendered in money laundering crimes until the on site visit of the mutual assessment team. This is attributed to the recent promulgation of the LD which has criminalized money laundering acts since 2003.

### 2.1.2 Recommendations and comments

81. Syria should take the necessary legislative procedures as follows:

- including in the definition of illicit funds that they represent directly or indirectly the proceeds of a crime.
- including among the predicate offenses in article 1 of the LD, the following crimes:
  - 1- Financing of terrorism;
  - 2- Illicit trafficking in stolen and others goods;
  - 3- Environmental crimes;
  - 4- Murder, grievous bodily injury;
  - 5- Trading and market manipulation.

### 2.1.3 Compliance with R. 1 & 2.

	Rating	Summary of factors underlying rating
<b>R 1</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ The definition of illicit funds does not state that they represent directly or indirectly the proceeds of a crime.</li> <li>▪ LD did not cover all the designated categories of offences.</li> </ul>
<b>R. 2</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ Lack of evidence of an effective regime and lack of statistics.</li> </ul>

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

### 2.2.1 Description and analysis

82. **Special Recommendation II.** The Syrian Penal Code issued as per DL No 148 of 22/6/1949 includes special provisions related to terrorist acts. Article 304 PC defines these acts as follows: "*Terrorist acts mean all acts aimed at creating terror. They are committed with many tools such as explosive materials, "war weapons", inflammable materials, toxic or combustible products, and epidemical or bacterial factors which create a public danger.*" Such acts are punishable, as per article 305, paragraph 2, by "*hard labor for a period ranging from fifteen years to twenty years*". Paragraph 3 provides that "*The act should be punishable by a*

*death sentence if it causes sabotage, albeit partial, to a public building, an industrial corporation, a ship or other facilities, or disruption in intelligence, communication and transportation channels, or if the act causes a man's death."*

83. Syrian legislators criminalized the TF act as per the LD No 33 of 2005, since article 2, paragraph (b) defined this crime as follows: *"Is considered as a FT crime, every act aimed at providing or collecting funds, by any mean, directly or indirectly, from legitimate or illegitimate source, with the intention to carry out a terrorist act inside or outside Syria, in accordance with the applied Syrian law and regulations, and the international, regional or bilateral conventions where Syria is a party thereof"*. Even the FT offence definition is consistent, in its largest part, with the definition of the 1999 UN International Convention for the Suppression of the Financing of Terrorism, it overlooks the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist (in accordance with the interpretative note of SR.II). However, Syrian authorities replied that article 304 PC has criminalized all terrorist acts that lead to this offense, and defined the sanction related thereto. Syria also adhered to the 1999 UN International Convention for the Suppression of the Financing of Terrorism.

84. Regarding funds, they were defined in article 1, Paragraph (b) of the said legislative decree covering *all kinds of assets, whether tangible or intangible, movable or immovable, regardless of how they are possessed, as well as the legal documents or exhibits, whether electronic or digital, that establish the right of ownership of these assets or a share thereof, and all what arises from this ownership or any right related thereto including but not limited to the national currency, foreign currencies, banking facilities, travelers cheques, bank checks, money transfers, shares, securities, bonds, bills and documentary letters of credit.*

85. TF offence – as per the LD – extends to cover funds whether from legitimate or illegitimate source. It is not necessary that funds were actually used to carry out a terrorist act since article 2, paragraph (b) does not require the real use of funds but only the intention of use. Besides, pursuant to article 14, paragraph (b) of the LD, the attempt to commit the offence of TF is punishable with the perpetrator sanctions. The perpetrator sanction is also imposed on the accomplice involved in the crime, the abettor and the one who conceals facts.

86. When article 1 paragraph (c) of the LD defined illicit funds (predicate offenses for money laundering), it did not include among them the FT offence. Therefore, the LD is not consistent with the international standard in this respect.

87. Article 2, paragraph (b) of the LD does not differentiate between the FT crime committed by a person in Syria or abroad regarding carrying out a terrorist act, but this does not apply to the use of funds by a terrorist organization or by an individual terrorist.

88. The Syrian law adopts the principle of the freedom of evidence in criminal affairs. This principle is confirmed by article 175, Paragraph 1 PPC Code which provides that: *"evidence in felonies, misdemeanors and violations is established through all forms of evidence, and the Judge shall rule at his sole discretion"*. Furthermore, Syrian judicial authorities state that, pursuant to the established principles in criminal evidence, as provided for in article 175 PPC, the intentional element of the FT offence can be inferred from objective factual circumstances.

89. Article 15, paragraph (e) of the LD provides that *"the provisions related to the confiscation of funds arising from FT crimes apply to legal persons as they apply to natural persons. If funds are converted or turned into other kinds of funds, the alternative funds shall also be confiscated, and if illicit funds are mixed with other licit funds, they shall be confiscated according to the estimated value of illicit funds. The proceeds, due amounts arising from illicit*

*funds or alternative funds to which they were converted and the funds which were mixed with illicit funds may be frozen or confiscated to the same extent by which illicit funds are frozen and confiscated."* Article 16 also provides that: *"Court judgments and sanctions mentioned in articles 13 and 14 of this LD include paragraphs about the publication of judgments, the expulsion of Syrian and non-Syrian residents from Syrian territories or the extradition thereof, the closure of the business place, the suspension of the legal person's business, and the dissolution of the legal person in the event of recurrence. The last three measures do not apply to public bodies, and do not bring prejudice to the criminal responsibility of natural persons"*. Article 209 PC also provides that legal entities bear the criminal liability for the acts of their managers, Board members, representatives and employees, when such acts are performed in the name of the legal entities or any of their means; however, such acts are only punishable by a fine, confiscation and publication of the judgment.

90. With regard to the criminal liability of legal persons in the FT offence, provisions that apply to ML offence are thus implemented (paragraph 79).

91. Pursuant to article 14, paragraph (a) of the LD, the FT act is punishable by temporary imprisonment ranging between three years and six years, and the payment of a fine equaling the value of confiscated funds or equaling the value thereof if it was impossible to confiscate funds, provided that this value is not less than one million Syrian pounds<sup>14</sup>. Sanctions are imposed on the persons who commit, intervene or participate in illicit money laundering operations arising from one of the crimes mentioned in article 1 of the LD while knowing that they arise from illicit acts. Paragraph (b) of the same article provides that the attempt of FT crime, the accomplice involved in the crime, the abettor and the one who conceals facts are punished as the perpetrator sanction". Article 15, paragraph (e) of the LD also provides that *"the provisions related to the confiscation of ML and FT proceeds or arising from these crimes apply to legal persons as they apply to natural persons*. Pursuant to Paragraph (b) of the same article, *if funds are converted or turned into other kinds of funds, the alternative funds shall also be confiscated, and if illicit funds are mixed with other licit funds, they shall be confiscated according to the estimated value of illicit funds. The proceeds, due amounts arising from illicit funds or alternative funds to which they were converted and the funds which were mixed with illicit funds may be frozen or confiscated to the same extent by which illicit funds are frozen and confiscated."* Article 16 also provides that the natural and legal persons shall be punished as follows: *"The court judgments and the sanctions mentioned in articles 13 and 14 of this LD include paragraphs about the publication of judgments, the expulsion of Syrian and non-Syrian residents from Syrian territories or the extradition thereof, the closure of the business place, the suspension of the legal person's business, and the dissolution of the legal person in the event of recurrence. The last three measures do not apply to public bodies, and do not bring prejudice to the criminal responsibility of natural persons"*.

92. The sanctions mentioned in the LD seem to be dissuasive for natural persons especially that they are complemented by the fine payment sanction if funds are confiscated or the payment of an equivalent value if funds are not confiscated. Besides, the LD provides for the confiscation of FT proceeds or arising from this crime. These sanctions appear to be proportionate if compared to the sanctions of the stipulated crimes (304-306) of the Penal Code.

93. It seems difficult to evaluate the efficiency of sanctions mentioned in the LD for natural persons, since the LD was recently promulgated and no court judgments were promulgated.

94. With regard to the sanctions of legal persons in the LD, they seem to be dissuasive.

---

<sup>14</sup> Approximately 20 000 \$.

95. **Statistics.** There are no statistics about FT offences in Syria. In fact, Syrian authorities declare that no court judgments were rendered in FT crimes until the on site visit of the assessment team. This is attributed to the recent promulgation of the LD (which has criminalized the act since 2005).

## 2.2.2 Recommendations and Comments

96. Syria should:

- Take the necessary legislative procedures to amend the LD in compliance with the international standard related to the definition of the FT, by providing the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist.
- Include the FT offence among the predicate offenses for ML mentioned in LD.
- Article 2, paragraph (b) of the LD should include FT crimes committed in Syria territories or abroad, with regard to the use of funds through by a terrorist organization or by an individual terrorist, and not only regarding carrying out a terrorist act.

### 2.2.3 Compliance with SR II

	Rating	Summary of factors underlying rating
SR II	PC	<ul style="list-style-type: none"> <li>▪ The text does not mention the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist.</li> <li>▪ FT offence is not considered as predicate offence for ML.</li> <li>▪ Lack of evidence of an effective regime and lack of statistics.</li> </ul>

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

### 2.3.1 Description and Analysis

97. **Recommendation 3.** The Syrian Penal Code includes provisions related to confiscation, since it provides for the possibility of confiscating all things arising from a deliberate felony or misdemeanor, or which were used to commit the felony or misdemeanor, while maintaining the rights of *bona fide* third parties, as per article 69, paragraph (1). The Law on Drugs No 2 issued on 12/4/1993 includes some provisions about confiscation in drug affairs, as per article 58 which provides that "the competent judicial body which filed the public legal action in one of the crimes mentioned in articles 39-40 of this law, shall seize the movable and immovable assets of all persons against whom the legal action was filed with regard to one of these crimes. The court should also investigate in the sources of funds of the accused, regardless of the holder or owner thereof, and if it is established that these funds arise – partially or totally – from one of the crimes mentioned in the two aforesaid articles, a judgment shall be rendered to confiscate such funds. The persons concerned are entitled to establish the legitimacy of their funds during

the case proceedings". Article 59 of the same law also provides that in all cases, judgments are rendered to confiscate drug substances, plants and seeds from which drug substances are produced, as well as the seized funds, materials, equipments, machines, used recipients and transportation means which may have been used to commit the crime, without prejudice to the rights of *bona fide* third parties.

98. LD No 51 of 24/9/2001 on weapons includes some provisions related to confiscation, such as article 47, paragraph (a) which provides that "whoever violates the provisions of articles 2, 5, 6, 9, 13, 16, 21, 27, 28 and 32 of this LD or whoever commits any of the crimes provided for in Paragraphs 2 and 3 of article 40, shall face the judgment of confiscation of weapons, munitions, fireworks, explosives, silencers, sound reducers and binoculars used in the crime, as well as the confiscation of machines and equipments used in the manufacture thereof".

99. The AML/FT LD also includes some provisions related to confiscation, such as article 15 which provides that the competent court rules that the proceeds of ML and FT crimes or arising from these crimes shall be confiscated. If funds are converted or turned into other kinds of funds, the alternative funds shall also be confiscated, and if illicit funds are mixed with other licit funds, they shall be confiscated according to the estimated value of illicit funds. The proceeds, due amounts arising from illicit funds or alternative funds to which they were converted and the funds which were mixed with illicit funds may be frozen or confiscated to the same extent by which illicit funds are frozen and confiscated.

100. The provisions of article 69 PC represent a sound basis for the confiscation of properties that are proceeds or means used or intended to be used to commit felonies and misdemeanors in general. ML and FT offences are governed by this provision as per article 14, Paragraph (c) of the LD which provides that the sanction of the ML and FT offences has a criminal nature. There are also provisions related to confiscation in article 15, paragraphs (a), (b) and (c) which cover the confiscation of properties arising directly or indirectly from the crime proceeds, including the income, profits or other interests of crime proceeds. Besides, the proceeds held or owned by a third party are subject to confiscation, since article 69 PC provides that, while protecting the rights of *bona fide* third parties, all assets proceeding from a deliberate felony or misdemeanor or having been used or intended to be used to commit the felony or misdemeanor, can be confiscated. Furthermore, article 98 of the same law provides that the things whose manufacture, holding, sale or use is illegal should be confiscated even if such thing is not owned by the defendant or convicted person or if the prosecution did not end with the rendering of a judgment.

101. Article 9, paragraph (b) of the LD provides that CMLTFC Secretary or his representative in his absence, who is in charge of investigations and the analysis of information related to suspicious account (s) within six working days, directly or through the observer representing him under the supervision of CMLTFC President or his representative, is entitled, within a one-day period, to request the temporary freezing of the suspicious account (s) within six non-renewable days. The freezing shall take place with the approval of CMLTFC President or his representative. Paragraph (c) of the same article provides that CMLTFC Directors Committee can take a temporary decision to freeze assets for a non-renewable period of twelve days if the source of assets is still unknown or if it is suspected to be arising from a ML crime or if funds are aimed at financing a terrorist act. Paragraph (e) of the same article provides that following financial investigations and analyses, and during the temporary freezing of the suspicious account (s), CMLTFC Directors Committee shall issue a final decision to release the account (s) if the source of funds does not seem illicit, or to lift the banking secrecy from the suspicious account (s) and maintain the freezing thereof. This decision should be justified, and if CMLTFC does not issue any decision after the period mentioned in paragraphs (b) and (c) elapses, the

account shall be deemed released *de facto*, and CMLTFC decisions shall not accept any administrative recourse.

102. The Minister of Finance is entitled to impose conservatory seizure on the movable and immovable assets of employees and accountants of all the State's public departments and corporations that have legal personality and financial independence. The said seizure may be imposed on the funds of the wives of employees and accountants, unless it is demonstrated that they have acquired these funds from their own money, pursuant to article 1 of the LD No 12 issued on 5/7/1952. This measure is taken upon a decision issued by the competent judicial authority, or upon a proposal given by the Central Authority for Financial Control and the Central Commission for Control and Inspection.

103. The PPC includes provisions about the seizure of crime proceeds, as provided for in article 32 which gives the Public Prosecutor the power to seize *weapons and everything that seems to have been used or intended to be used to commit the crime. The Public Prosecutor is also entitled to seize all the crime traces and other things that may help disclose the truth.* Article 33 of the same law provides the following: "*If the crime facts reveal that the papers and things possessed by the defendant may be used as evidence establishing that he committed the crime, then the Public Prosecutor may immediately order the inspection of the defendant's house to search for the things that may help in revealing the truth*". Article 90 of the same law provides that "*the investigating magistrate is entitled to investigate in all places where it is possible to find things that help reveal the truth*".

104. The LD on ML/FT provides that it is necessary to take temporary measures including the provisional and final freezing of suspicious accounts only, but this measure does not cover all properties that may be confiscated. These are the powers granted to the Public Prosecution in PPC.

105. The LD and PPC did not include any express text about giving a particular power to identify and track the properties that are or may be confiscated or are suspected to be arising from crime proceeds. However, article 32 PPC gives the Public Prosecutor the power to seize *weapons and everything that seems to have been used or intended to be used to commit the crime. The Public Prosecutor is also entitled to seize all the crime traces and other things that may help disclose the truth.* Article 33 of the same law provides the following: "*If the crime facts reveal that the papers and things possessed by the defendant may be used as evidence establishing that he committed the crime, then the Public Prosecutor may immediately order the inspection of the defendant's house to search for the things that may help in revealing the truth*". Article 90 of the same law provides that "*the investigating magistrate is entitled to investigate in all places where it is possible to find things that help reveal the truth*".

106. Article 69 PC ensures protection for *bona fide* parties, since it provides that, by protecting the rights of *bona fide* third parties, all assets proceeding from a deliberate felony or misdemeanor or having been used or intended to be used to commit the felony or misdemeanor, can be confiscated. Besides, this measure is consistent with the international standard in this regard.

107. Articles 136-137-138 of the Civil Law provides for the cases to prevent actions in which contracts establishing that they have an illegitimate subject matter, an illegitimate reason or that they violate the public order or public morals. Furthermore, every commitment which is not justified in the contract should have a legitimate reason, unless otherwise established by evidence. The reason mentioned in the contract will be the real reason unless otherwise established by evidence. If evidence shows that the reason is unreal, then the party claiming that the commitment has a legitimate reason should prove such claims.

108. **Additional elements.** Article 69 PC provides that every thing of a deliberate felony or misdemeanor or that were used or intended to be used to commit the felony or misdemeanor can be confiscated, without specifying the owner of these things.

109. **Statistics.** The assessment team did not have statistics about the confiscation of the proceeds of predicate crimes particularly the drug traffic crimes. With regard to ML crimes, there are no statistics about confiscation, since no provisions were issued in this regard. However, we received the frozen accounts related to ML, the number of persons and the total amounts for 2004, 2005 and 2006, as below. It is noted that some of these accounts are frozen for a long time without taking any measure or issuing any verdicts on them:

#### Frozen accounts in money laundering cases until 31/8/2006

Year	Number of persons	Number of accounts	Total amounts
2004	3	4	30000 S.P. (or 566 USD)
2005	19	29	2300000 S.P. (or 43400 USD)
2006	24	121	1504309 S.P. (or 221600 USD) + 379062 USD + 7787 €
2006 Lists of Liberia	1	3	1943 S.P. (or 37 USD) + 127890 USD

**Note:** The amount mentioned above represents the total assets that were permanently frozen, with the banking secrecy being lifted therefrom, and which were referred to the public attorney.

### 2.3.2 Recommendations and Comments

110. Syria should take the necessary legislative procedures to amend the LD so that it includes an express text about giving a power to identify and track the properties that are or may be confiscated or are suspected to arise from crime proceeds.

### 2.3.3 Compliance with R. 3

	Rating	Summary of factors underlying rating
R 3	PC	<ul style="list-style-type: none"> <li>▪ lack of an explicit text that grants definite powers to appoint and track properties that are subject or that might be subject to confiscation, or that are suspected are arising from crime proceeds.</li> <li>▪ lack of evidence of an effective regime related to confiscation and freezing and lack of statistics</li> </ul>

## 2.4 Freezing of Funds Used For Terrorist Financing (SR III)

### 2.4.1 Description and Analysis

111. *Special Recommendation III.* The assessment team did not have access to laws and procedures to freeze terrorists' funds or other assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001). There are no clear and effective laws and procedures in this regard. However, Syrian Authorities stated that the adopted procedure requires that the Ministry of Foreign Affairs – through a special office created in the Ministry of Foreign Affairs in the International Organizations and Conferences Directorate, regarding the "International cooperation in the fight against terrorism" – notifies the competent authorities Syria, namely the National Security Office, the Ministry of Interior, the Ministry of Finance and CMLTFC, of the decisions of the UN Security Council regarding the persons or entities that were added to its list, pursuant to S/RES/1267 (1999) and S/RES/1373 (2001), in order to take the necessary measures based on the obligations mentioned in the Resolution. The following measures are then taken:

- Ministry of Finance: The list of persons and entities is notified to the Customs General Directorate and to all public and private banks, and the final reply should be notified to CMLTFC.

- Ministry of Interior: The list is referred to the Interpol division where it will be translated and notified to the Immigration and Visa Directorate which also distributes circulars to all outlets and borders to prevent the entry of Non-Syrians, and issues entry control reports for Syrian residents, to help the Ministry of Interior to take the necessary action when any of them is arrested. The Ministry of Interior also contacts the Ministry of Finance and the CMLTFC to include the persons, entities and authorities in the list of prohibited parties and freeze their accounts if they have assets in the country. The Ministry also introduces the necessary amendments to the new lists which are returned and where a person's or entity's name was written off or added, and it reports the new amendments to the Immigration and Visa Directorate after keeping a copy of these lists. The aforesaid measures also include the lists mentioned in S/RES/1373 (2001). The National Security Office is then notified of the measures taken as per the rules and procedures mentioned in the lists.

- CMLTFC: Article 6, paragraph 5 of the CMLTFC bylaw provides that CMLTFC powers include requesting the financial institutions to freeze the accounts of suspects whose names are mentioned in the UN lists.

The UN Sanctions Committee will be reported accordingly through the Ministry of Foreign Affairs.

Syrian authorities declared that a legal procedure is currently being studied, and it aims to track immovable assets if they are available.

112. With respect to confiscation provision, see paragraphs 101 to 104.

113. The assessment team reviewed the method for communicating actions taken under the freezing mechanism to the financial sector. CMLTFC circulates the names of persons whose assets should be frozen, to the financial sector.

114. Syrian authorities do not provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.

115. The assessment team did not review the publicly-known procedures. However, Syrian Authorities stated that whenever the Ministry of Foreign Affairs notifies the de-listing a person that was already reported, the competent authorities are notified to exclude this person and cancel the freezing procedures related thereto.

116. In Syria, there are no special laws or procedures to discuss and implement acts that were undertaken pursuant to freezing mechanisms in another country. S/RES/1373 (2001) requires freezing, without delaying the response to any request forwarded by another country.

117. Syrian authorities declared that the authority issuing the list is normally notified of the asset freezing of the persons mentioned in the list, and the same authority later confirms if these persons are concerned. The CMLTFC once ordered the freezing of a person's account, but it later realized that the person was not concerned, and it immediately cancelled freezing after it was notified by the Ministry of Foreign Affairs.

118. Syrian authorities do not provide appropriate procedures for authorizing access to funds or other assets that were frozen pursuant to S/RES/1267 (1999) and that have been determined to be necessary for basic expenses, the payment of certain types or fees, expenses and service charges or for extraordinary.

119. Syrian authorities do not have appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that with a view to having it reviewed by a court.

120. Article 69, Paragraph 1 provided that every things of a deliberate felony or misdemeanor, or used or intended to be used to commit the felony or misdemeanor shall be confiscated.

121. Article 69, Paragraph 1 PC provides that, while maintaining the rights of *bona fide* third parties, every things of a deliberate felony or misdemeanor or used or intended to be used to commit the felony or misdemeanor, shall be confiscated.

122. Syrian authorities do not have appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.

123. **Additional elements.** Syrian authorities did not implement the measures set out in the Best Practices Paper for SR III.

124. Syrian Authorities did not implement procedures authorizing for the use of frozen funds or assets pursuant to S/RES/1373 (2001) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, and that these procedures are consistent with S/RES/1373 (2001) and the spirit of S/RES/1452 (2003).

125. **Statistics.** The CMLFTCC received through the Ministry of Foreign Affairs a list of names designated in S/RES/1267 (1999) in an effort to freeze their funds and assets. The CMLFTC distributed those names to the financial sector, where it was observed that a person whose name was on the list had an account at a certain bank. In fact, the bank has immediately

frozen the said account according to the instructions of the CMLFTC, and the Ministry of Foreign Affairs has been notified of this case. Two months later, the Ministry of Foreign Affairs advised the CMLFTC that the person whose account was frozen was not the wanted person and that his name was similar to that of another person. Consequently, the Ministry of Foreign Affairs requested that the freezing action was lifted, and the relevant bank was notified to take similar action. The Syrian authorities stated that no freezing cases were reported, as defined by the Security Council Resolutions, until the on-site visit.

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

126. Syria should do the following:

- Take the legislative procedures to promulgate the necessary laws and procedures to freeze the terrorists' funds or the assets of persons designated by the UN Al-Qaeda Sanctions Committee, in accordance with S/RES/1267 (1999). There is no legal basis in Syria with regard to the procedures and practices applied in the freezing of terrorists' funds or the assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001). Such measures are only practices taken by competent authorities to execute the instructions of the permanent delegation of Syria to the UN.
- Take special legislative procedures to discuss and implement the acts that were undertaken pursuant to the freezing mechanisms in another country, in enforcement of S/RES/1373 (2001).
- Take legislative procedures to amend the LD in order to take provisional or final procedures to freeze all assets according to the definition given in the LD, without limiting the temporary and final freezing measures to suspicious accounts only.
- Set effective communicating systems to notify the financial sector of the actions taken as per the mechanisms of asset freezing.
- Set clear guides for financial institutions, persons or other entities that may possess the targeted funds or assets, regarding their obligations in taking measures as per the mechanisms of asset freezing.
- Promulgate effective and publicly-known procedures to consider requests of de-listing names from the list, canceling the freezing of funds or other assets of persons or entities whose names were de-listed, in compliance with international obligations.
- Promulgate appropriate procedure for authorizing to use the frozen funds or other assets pursuant to S/RES/1267 (1999), and that have been determined to be necessary for basic expenses, the payment of certain types or fees, expenses and service charges or for extraordinary.
- Promulgate appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that with a view to having it reviewed by a judicial power.
- Take appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.

### 2.4.3 Compliance with SR III

	Rating	Summary of factors underlying rating
SR. III	PC	<ul style="list-style-type: none"> <li>▪ No efficient laws and procedures to freeze the terrorists' funds or the assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001).</li> <li>▪ Lack of laws and special procedures to discuss and implement the acts undertaken pursuant to the freezing mechanisms in another country.</li> <li>▪ LD is limited to provisional measures including the temporary and final freezing of suspicious accounts only, without covering all properties that can be confiscated.</li> <li>▪ No effective communicating systems to notify the financial sector of the actions taken under the freezing mechanisms. No clear instructions for financial institutions, persons or other entities which may possess the targeted funds or assets, regarding their obligations in taking measures as per the mechanisms of asset freezing. No effective and publicly-known measures to study requests to de-list names from the list and cancel the freezing of funds or assets of persons or entities whose names were de-listed, in compliance with international obligations.</li> <li>▪ No appropriate procedure for authorizing to use the frozen funds or other assets pursuant to S/RES/1267 (1999), and that have been determined to be necessary for basic expenses, the payment of certain types or fees, expenses and service charges or for extraordinary.</li> <li>▪ No appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that procedure with a view to having it reviewed by a court.</li> <li>▪ No appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.</li> </ul>

### Authorities

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

### 2.5.1 Description and Analysis

127. **Recommendation 26.** Syria established an Financial Intelligence Unit for anti-money laundering and combating the financing of terrorism, as per article 7 of LD No 33 of 2005 which provides as follows: "*An independent judicial Commission called CMLTFC with legal personality shall be created at the Central Bank of Syria, with the following mission:*

*a- Receive and analyze STRs and other information related to ML or FT;*

*b- Perform financial investigations in operations which are suspected to include illicit money laundering or terrorist financing, and comply with the rules and procedures provided for in this LD;*

*c- Provide judicial authorities and other bodies in charge of the implementation of this LD, with information required by these authorities regarding the LD".*

128. CMLTFC is responsible for all matters related to money-laundering and the financing of terrorism according to article 1, paragraph (d) of the LD. CMLTFC initiated its work in May 2004 upon the promulgation of the LD No 59 of 2003, amended as per LD No 33 of 2005.

129. CMLTFC gave instructions about the reporting system, including the specifications of reporting forms and the procedures that should be taken in reporting, in accordance with Circular No (3) issued by the CMLTFC on 18/8/2004<sup>15</sup> which defined the Suspicious Transactions Reporting forms. Article 9 of the LD No 33 of 2005 provides that reports shall be submitted to CMLTFC President.

130. Article 9, paragraph (a) of the LD provides as follows: "The authorities mentioned in Articles 4 and 5 of the LD, the internal auditors of operating banks, the auditors of the Banking Supervision Department at the Central Bank of Syria, and the chartered accountants shall immediately report to the CMLTFC President or his representative about the details of suspicious ML or FT operations."

131. The authorities mentioned in Articles 4 and 5 of this LD are:

a- Institutions, other than banks, notably exchange institutions, money remittance institutions and institutions issuing payment instruments such as credit cards, payment cards, travelers cheques, ATM cards, investment funds and the management thereof, financial brokerage institutions, financial renting corporations, investment or financial groups, insurance companies and other financial institutions as identified by the CMLTFC, as well as real estate building, promoting and selling companies, real estate brokerage offices, dealers of high value goods such as jewelry, precious stones, gold, bibelots, rarities and other non-financial institutions as identified by the CMLTFC.

b- Lawyers and editors of legal exhibits and chartered accounts, when they prepare or execute transactions for the account of their customers, regarding the following activities:

- Purchase and sale of real estate
- Management of customers' funds, securities or any other assets.
- Management of bank accounts, savings accounts or accounts of investment in local and international financial markets.
- Organization of contributions related to the construction, operation or management of companies.
- Creation, operation or management of legal persons or arrangements, and purchase or sale of commercial entities.

---

<sup>15</sup> Amended on 30/8/2006.

c- Banking and financial institutions registered with the Central Bank of Syria, including its foreign branches and affiliated foreign banking institutions, in charge of monitoring operations executed with customers, to avoid its involvement that may be hidden in illicit money laundering or terrorist financing operations.

132. CMLTFC has access to the financial, administrative and law enforcement information that it requires to properly undertake its function. Article 10 of the LD No 33 of 2005 provides that: "(a) CMLTFC has the right to request additional information and to have access on details related to investigations carried out by reporting authorities to complete investigations. It has also the right to request such information and details of all official Syrian authorities (judicial, administrative, financial and security) or foreign counterparts. Syrian authorities should immediately provide the CMLTFC with the information within the set period of time. (b) CMLTFC is entitled to request General Directorate of Customs to notify it of the financial amounts that are transferred across national borders in cash or in the form of negotiable financial instruments with values exceeding the amount set by the CMLTFC and authorized as per a module prepared by CMLTFC.

133. CMLTFC is entitled to provide local authorities with financial information to carry out investigations or take measures when there are reasons to suspect a ML/TF crime. In fact, pursuant to article 7, paragraph (c) of the LD No 33 of 2005, judicial authorities and other bodies in charge of implementing this LD shall be provided with the information required by these authorities regarding the LD. Article (9) of the LD provides that: "*CMLTFC shall send a certified copy of its final decisions on investigations to the General Attorney to initiate court proceedings*". Article 13 of Resolution No (3) issued by CMLTFC Directors Committee on 27/10/2005 regarding the CMLTFC work procedures upon receiving STRs, provides that if the CMLTFC Directors Committee discovers that suspicions are serious, the institution and the concerned party will be notified by the Secretary. Besides, the General Attorney in the governorate, where the institution and the concerned party are, shall be notified of the CMLTFC decision, to initiate court proceedings. Mandating that the FIU should inform the institution and the concerned party when it discovers that suspicions are serious is burdensome and may jeopardize the effectiveness of the AML/CFT regime.

134. CMLTFC independence may be affected by the source from which it takes its budget. In fact, article 35 of CMLTFC bylaw provides that: "*CMLTFC budget is considered as part of the budget of the Banking Supervision Department, since its charges are incurred by the banks operating in Syria, and this budget is annually fixed upon fixing the budget of the Central Bank of Syria*".

135. Information held by CMLTFC is protected and can be disseminated only in accordance with the LD No 33 of 2005. Article 11, paragraph (a) of the LD provides that "*a unit shall be created at the CMLTFC, called Financial Information Unit which has the mission of collecting, analyzing, keeping and exchanging information related to ML and FT crimes with its foreign counterparts, under the supervision of the CMLTFC President. This unit shall send periodic reports to the CMLTFC about the available information on ML and FT crimes. The members of this unit shall be subject to all obligations imposed on the CMLTFC members, notably the confidentiality obligation. The unit is created as per a resolution issued by the CMLTFC Directors Committee*". Article 12 of the LD provides that: "except the decision of the CMLTFC Directors Committee to approve of the lifting of the banking secrecy, the reporting system mentioned in this LD shall have the absolute confidentiality, whether it is made by a natural or legal person. All documents submitted to this end, and all documents and procedures of the different stages of investigation shall also be kept in absolute confidentiality. It is worth mentioning that Article 17 of the LD provides for sanctions when the confidentiality obligation

is breached. It is worth-mentioning that the imprisonment sanction of 3 months to one year and the fine ranging between 250,000 SP to 1 million SP, in case the secrecy obligation is breached, is considered as a dissuasive sanction. Yet, the LD did not mention the necessity of banning the dissemination of information that the person accesses due to his job after the end of the capacity in which the information was received. During the on site visit, the assessment team noticed that the protection of information is limited with the access of some persons from outside the CMLFTC to the information premises or with the absence of guarantees that secure confidentiality of CMLFTC database.

136. Article 22 of the CMLFTC bylaw provides that the Information Technology Unit shall perform the following tasks under the supervision of CMLFTC secretary "2- Create, update and maintain the required IT programs for the units' work, the database and the security and control systems. It is worth mentioning that the on-site visit demonstrated that this Unit seems inefficient and lacking human resources to fulfill its mission.

137. Article 8 of the LD provides that "*the CMLFTC is entitled to publish periodic statistics about the number of STR that were received and distributed, the number of investigations in money laundering and the financing of terrorism, the number of cases filed in this regard, the number of related convictions, the frozen and confiscated properties, the mutual legal assistance and other international requests of cooperation*". CMLFTC President stated that the CMLFTC will publish its first report by the end of the first semester of 2006. It is note-worthy that the commission's delay in issuing its annual report, as it commenced its action effectively 2 years ago, during which no report has been issued.

138. Article 8, paragraph (g) provides that "*CMLFTC is entitled to engage in agreements or conclude memorandum of understanding with foreign counterparts to exchange information and assistance related to anti-money laundering and combating the financing of terrorism*". The CMLFTC signed two memorandum of understanding with Cyprus and Lebanon respectively, and is getting ready to sign MOU with Qatar, Egypt, Tunisia, Poland and Turkey. CMLFTC in Syria applied to Egmont Group, and it is still waiting for this request to be settled, knowing that CMLFTC was invited to attend the Fourteenth Plenary of Egmont Group, held last June, and that Lebanon, Cyprus and Poland are supporting its adherence to the Group.

139. Article 4 of the CMLFTC by-Law states that CMLFTC Directors Committee exercises a number of authorities, including those set forth in Paragraph No. 3, stipulating the adoption of information exchange rules with counter FIUs in other countries (Para. 3), assigning FIU to provide other FIUs the requested information through the Secretary and under the supervision of the CMLFTC President as well as investigation findings to the requesting party, particularly lifting banking secrecy in such a that it does not contradict the rules regarding information exchange (Para 13). The Syrian Authorities stated that such rules were not issued by the team of the on site visit. Resolution No.3 of 27/10/2005 issued by CMLFTC included in article 1, paragraph 16, that in case a foreign counterpart requested that investigations be conducted on its behalf, the file is submitted to the CMLFTC Directors Committee before conducting any investigation, in order to decide its conformity with measures enforced. In case the investigation is conducted, this counterpart is informed about the investigation results, except for the freezing requests incoming via the Syrian Foreign Ministry. The commission circulates these requests immediately and notifies the Foreign Ministry in case there is evidence of funds found in Syria for the involved people.

140. **Structure and resources of CMLTFC<sup>16</sup>**. Article 8 paragraphs (a – b – c), and article 11 paragraphs (a-b-c) of the LD, as well as Resolution 6150 issued by the Prime Minister on 23/11/2005 provide for the structural framework of the CMLTFC. The CMLTFC Directorate is composed of: (1) the Directors Committee, (2) the President, (3) the Secretary, (4) the units.

141. The CMLTFC board of directors is composed of the Governor of the Central Bank of Syria, the President, and is replaced in his absence by the First Deputy of the Governor of the Central Bank of Syria. The other members are: (1) Second deputy of the Governor of the Central Bank of Syria, supervising the Banking Supervision Department, who is replaced in his absence by the Manager of the Banking Supervision Department, (2) A magistrate appointed by the Supreme Council of Justice or his representative in his absence, (3) Assistant Minister of Finance, (4) Head of the Syrian Stocks and Financial Markets Authority, (5) Expert in legal, financial and banking matters. The powers of the CMLTFC Directors Committee are defined in article (4) of Resolution No 6150 on the approval of the CMLTFC bylaw.

142. The CMLTFC Directors Committee appoints a Secretary from among the auditors of the Banking Supervision Department, at the proposal of the Directors Committee of the Central Bank of Syria. A bureau composed of 3 officers is affiliated to the Secretary. The following units are created within the CMLTFC: The Investigation Unit (2 employees), the Financial Information Unit (2 employees), the Compliance Unit (one employee), and the IT Unit (one employee).

143. The financial budget of 2006 and 2007 (including figures which the CMLTFC asked to adopt and figures to be adopted) of the CMLTFC included the following detailed information:

	<b>Item</b>	<b>2006</b>	<b>2007</b>
1	Salaries and their supplements	1200000	3500000
2	Social insurance subscriptions	100000	420000
3	Compensation of additional working hours	120000	600000
4	Transportation fees, transfer compensation, expatriation fees	1000000	3000000
5	Insurance against labor injuries	25000	90000
6	Contribution in the Health Insurance and Social Security Fund	10000	30000
7	Production bonus	200000	550000
8	Incentive remunerations	240000	150000
9	CMLTFC compensations	1500000	2000000
10	Consumables	200000	500000
11	Literature and stationery	50000	150000
12	Expenses of legal experts, accountants and investors	400000	600000

<sup>16</sup> Since this matter is related to R. 30, please refer to section 7-1 to know about the rating of compliance with this recommendation.

13	Organization of Conferences	2000000	2000000
14	Training	600000	600000
15	Car renting expenses	500000	200000
16	Subscription fee in international organizations		250000
	<b>Total</b>	<b>8145000 S.P.</b> <b>(157 000 \$)</b>	<b>16640000 S.P.</b> <b>(320 000 \$)</b>

144. The following remarks can be made on the financial, human and technical resources of the CMLTFC:

1- Articles 14, 16, 18 and 21 of the CMLTFC bylaw provide for defined numbers of employees in the CMLTFC units, which cannot be exceeded. These provisions impose limitations and restrictions on the CMLTFC capacity to fulfill its mission as provided for in the AML/CFT LD, and reflect a lack of understanding of the future mission of the CMLTFC, the possible expansion of its work scope and the perfect execution of its tasks.

2- Lack of sufficient financial resources enabling the CMLTFC to fulfill its functions as provided for in the AML/CFT LD. In fact, the CMLTFC budget does not include capital costs and there is a lack in the employees' salaries.

3- Lack of sufficient financial and human resources that enable the CMLTFC to fulfill its duties in terms of monitoring the compliance with all the bodies mentioned in the LD.

4- No suitable headquarters for the CMLTFC which is currently located at the Central Bank in a place made up of two rooms only, covering a maximum area of 4 \* 5 m<sup>2</sup>. The CMLTFC mentioned that it will have one floor in the annexed building which will be completed within less than one year.

5- Computer technologies and equipments are still limited, and the simple database of the CMLTFC is not private, since any employee at CMLTFC may have access thereto.

145. **Training of CMLTFC staff:** CMLTFC Staff received internal training sessions organized by the CMLTFC in collaboration with international organizations. Some employees also attended seminars and workshops in this field. Below is a table illustrating the training sessions received by employees:

***The Participation of CMLTFC staff in Training Seminars on AML/CFT***

<b>Seminars</b>	<b>Date</b>	<b>Place</b>	<b>Organizer</b>	<b>Number of Participants From CMLTFC</b>
Non-profit organizations and informal transfers	January 10-12, 2005	Abu Dhabi	Arab Monetary Fund	2
Developing a National AML/CFT implementation Strategy	June 19-21, 2005	Amman	World Bank,	2
Combating Money Laundering and Terrorism Financing Forum	September 1-2, 2005	Sharm El-Sheike	Arab Banks Union	1

Fight Against Financial Delinquency and ML	October 17-21, 2005	Paris	Banque de France	1
Money Laundering: Its Techniques and Global AML Action	November 20-25, 2005	Damascus	Arab Organization for Management Sciences	4
Developing a National AML/CFT implementation Strategy	December 11-13, 2005	Damascus	World Bank, CMLTFC	7
Developing An Effective AML/CFT Regime (MENA Regional Conference)	December 14-15, 2005	Damascus	CBS, CMLTFC, World Bank IMF, MENAFATF	7
MENAFATF Training Workshop on Mutual Evaluation	December 17-21, 2005	Kuwait	MENAFATF, FATF, IMF, WB	2
AML/CFT Training Workshop for Trainers	2-6 April 2006	Cairo	Egyptian Banking Institute, WB, and MENA FATF	7
Compliance of banks with the international standards and legislations on AML/CFT	7-10 May 2006	Damascus	Arab Banks Federation	3
Session on AML/CFT	25-29 June 2006	Damascus	Arab Academy for Banking Studies	3
Workshop on AML/CFT	20-23 August 2006	Sharm El-Sheikh	Arab Organization for Administrative Development	3

146. *Statistics.* Present hereinafter statistics related to the reserved cases and STRs as well as cases referred to the General Attorney for years 2004, 2005 and 2006.

*Statistics about the reserved cases and STRs, and cases reported to the General Attorney in 2004*

Parties	Number of STRs	Reserved cases	Cases referred to the GA
Criminal Security	18	18	-
Customs	6	4	2
Banks	1	1	-
Others	-	-	-
<b>Total</b>	<b>25</b>	<b>23</b>	<b>2</b>

**Note:** Some cases were reserved pending the emergence of new information.

*Statistics about the reserved cases and STRs and cases referred to the General Attorney in 2005*

Parties	Number of STRs	Reserved cases	Cases referred to the GA
Criminal Security	48	6	3
Customs	28	6	1

Banks	3	1	2
Others	2	1	-
<b>Total</b>	<b>81</b>	<b>14</b>	<b>6</b>

*Statistics about the reserved cases and STRs and cases referred to the GA until 31/8/2006*

<b>Parties</b>	<b>Number of STRs</b>	<b>Reserved cases</b>	<b>Cases referred to the GA</b>
<b>Criminal Security</b>	105	70	14
<b>Customs</b>	3	-	11
<b>Banks</b>	21	-	7
<b>Attorneys</b>	1		
<b>Others</b>	5	1	1
<b>Total</b>	<b>135</b>	<b>71</b>	<b>33</b>

**Note:** The number of cases referred to the General Attorney in 2005 is 22 cases.

## 2.5.2. Recommendations and Comments

147. Syria should:

- Take the necessary procedures to update the instructions of financial institutions, banks and other authorities obliged to report, in accordance with the new amendment of the AML/CFT LD.
- Take practical procedures in order not to interfere with CMLTFC independence through the independence of its budget.
- Provide sufficient financial, human and technical resources for the CMLTFC to enable it to fulfill its duties as provided for in the AML/CFT LD. In fact, the restrictions imposed on the financial, human and technical resources of the CMLTFC have adversely affected its efficiency and its capacity to fulfill its functions properly<sup>17</sup>.
- Take necessary procedures to ensure safety of CMLFTC information.
- Facilitate the issuance of periodical annual reports of the CMLFTC.

<sup>17</sup> Since this matter is related to R. 30, please refer to section 7-1 to know about the rating of compliance with this recommendation.

### 2.5.3 Compliance with R 26.

	Rating	Summary of factors underlying the rating of compliance related to Section 2.5
R 26	PC	<ul style="list-style-type: none"> <li>▪ No updating of circulars issued to the financial institutions and banks regarding reporting instructions.</li> <li>▪ Interfering with CMLTFC independence through the source from which its budget is derived.</li> <li>▪ The weakness of CMLTFC information protection.</li> <li>▪ - The CMLTFC is not efficient in fulfilling its functions.</li> </ul>

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

### 2.6.1 Description and Analysis

148. **Recommendation 27.** Article 9, paragraph (F) of the LD provides that when the lifting of banking secrecy is approved, the CMLTFC should send a certified copy of its final and justified decision to the General Attorney in the Governorate where the headquarters of the Bank in which money was deposited is located, to initiate judicial proceedings. A copy of the decision should also be sent to the concerned person and bank, and to the foreign authority which is concerned, directly or via the reference through which information was given. Article 1, paragraph (1) PPC provides that the Public Prosecution is exclusively in charge of filing public right cases, except in the cases provided for by law.

149. Filing a public case is the right of the Public Prosecution which files the case after carrying out some investigations, notably through the judicial police. Investigations should collect evidence on the accusations addressed to the concerned person, and the Investigating Magistrate will study the collected evidence and decide to end the prosecution or to refer the accused to justice.

150. The PPC differentiated between the Public Prosecution which collects evidence, and the Investigating Magistrate who decides to end the prosecution or refer the accused to justice, and considered both as two separate entities. Although the Law allows the public prosecution attorney to replace the investigating magistrate in terms of collecting and analyzing evidence for acts committed in *flagrante delicto*, the attorney is bound to submit the file, upon the termination of investigations, to the Investigating Magistrate to take a decision about investigations.

151. The Investigating Magistrate becomes involved in the following four cases: act committed in *flagrante delicto*, case filed by public prosecution, personal prosecution, and referral of the case by appointing a reference. The Investigating Magistrate, in the acts committed in *flagrante delicto*, felonies or misdemeanors, shall be authorized to initiate all proceedings which fall under the jurisdiction of the public prosecutor (articles 52-53-54 PPC). With regard to the case filed by the public prosecution, article 58 (1) provides that "*the public prosecutor is entitled to refer to the Investigating Magistrate all complaints lodged by the*

*employee of the judicial police, annexed to his prosecution, and request what he deems necessary."* With regard to personal prosecutions, the person incurring damages shall lodge a complaint as a personal plaintiff to the Investigating Magistrate, and the magistrate will settle both public and civil cases. The case is referred by appointing a reference; in the event of a conflict between the investigating magistrate and another reference on the jurisdiction, and in the event where the higher reference is given to the jurisdiction of the investigating magistrate, then the latter shall be obliged to settle the case which is considered as filed in his jurisdiction. Article 10 of the same Law provides that the public prosecution is governed by judges fulfilling their powers as provided for by law. They are linked by the hierarchy of powers and are administratively affiliated to the Minister of Justice.

152. The jurisdiction of the Public Prosecution in the preliminary investigation is related to filing a public case and initiating the proceedings thereof (Article 15 PPC, and article 58 of the Judicial Power Law), and it requests the investigating magistrate to carry out investigations (Article 43 PPC). If the act is a felony, it refers investigations to the investigating magistrate pursuant to article 51, paragraph (1) which provides that in the event of a felony, the public prosecutor refers to the investigating magistrate all investigations carried out by the prosecutor or whose papers were referred to him by the employees of the judicial police. The public prosecution is entitled to keep papers if it considers that the act is not a crime and that there is no evidence related thereto.

153. The employees of the judicial police are persons in charge of investigating crimes, collecting evidence, arresting the authors of crimes and referring them to competent courts in charge of punishing them (Article 6 PPC). This mission is fulfilled by the public prosecutor, its agents, assistants, its investigating magistrates, and justice of the peace where there is no public prosecution (Article 7 PPC). The public prosecutor is assisted in the functions of the judicial police by: governors, local administrators, the general manager of the police, police officers, general security, heads of marine and air vessels, and all employees who are given the powers of the judicial police pursuant to special laws (Article 8 PPC). The investigation powers of the aforesaid persons start only when the criminal acts provided for by the Penal Code or special laws are committed. During investigation about these crimes and their authors, the aforesaid investigating parties may receive important information in this regard, especially if the crimes generate illicit funds that fall under the scope of competence of the CMLTFC.

154. These authorities have many guaranties and powers to fulfill their duties properly, including: inspection (articles 89-90-91 PPC), seizure of all letters, newspapers, literature and packages at Post Offices, and even cable letters at Cable offices, tapping of phone conversations when this is necessary to disclose the truth (Article 96 PPC), and the possibility of hearing witnesses or sending seizure warrants, subpoenas, arrest warrants, provisional seizure and others. The law provides for specific rules to hear witnesses in articles 74-88 PPC, and rules of inspection and seized materials in articles 89-101 PPC.

155. **Public Prosecution:** The Public Prosecution is one judicial institution chaired by the Minister of Justice, and whose functions and jurisdiction are regulated by law (Article 137 of Syrian Constitution of 1973). The public prosecution is governed by judges fulfilling their powers as provided for by law. They are linked by the hierarchy of powers and are administratively affiliated to the Minister of Justice (Article 10 PPC). The main function of the Public Prosecution is defined in article 1, paragraph 1 PPC, as follows: "The Public Prosecution is exclusively in charge of filing public right cases (public cases) and initiating the proceedings thereof, except in the cases provided for by law."

156. The public prosecution is composed of: The Public Prosecutor of the Republic (with a headquarters in Damascus), the Senior General Attorney (with a headquarters in Damascus), the

Senior General Attorney (with a headquarters in Aleppo), the General Attorney (in each governorate of the Republic), the Prosecution Chairmen, the Prosecution Agents and the Prosecution Assistants. They are all appointed as per a decree signed by the President of the Republic and the Minister of Justice pursuant to a resolution issued by the Supreme Council of Justice, just like ruling judges (Article 17 of the Judicial Power Law, issued as per LD No 98 of 15/11/1961). Functions are distributed to them pursuant to a decision taken by the Minister of Justice in every judicial year within governorates and in accordance with their ranks and levels.

157. The public prosecution magistrates are totally independent from the ruling judges who are not entitled to blame them for any illegal behavior they do, whether verbally, in the causes of judgment, or by ordering them to file the case if they are charged of looking for other evidence. Ruling judges are not allowed to control the work of the public prosecution. In the context of the independence of the public prosecution from courts, its representative remains seated when the Chairman of the Court renders the judgment.

158. It can be inferred from the above that the Public Prosecution is specialized in carrying out preliminary investigations and filing public cases in ML and TF cases, according to its powers and prerogatives provided for by the PPC and the LD No 33 of 2005 on AML/CFT. It is noteworthy that the LD in article 1, paragraph (d) stipulated in the CMLTFC definition that it has the status of prosecution, and competent courts enjoy the powers to decide on the subject. It is understood from this text that the prosecution competent authority in ML/FT cases is the CMLTFC, as an exception from the general rule, as this is the competence of the public prosecution. However, in real life, according to competent Syrian authorities, the prosecution in ML/FT cases is entrusted to the public prosecution.

159. **Anti-Drugs Directorate:** The work of the Anti-Drugs Directorate is regulated by Resolution 154/k/ issued by the Ministry of Interior on 3/2/1998, whereby article 1 provides that the Anti-Drugs Directorate is affiliated to the assistant (under-secretary) of the Minister of Interior. Pursuant to article 2 of the Resolution, this Directorate is specialized in the following:

- 1- Guide and coordinate efforts aimed at fighting the illicit traffic, plantation, use and smuggling of narcotic drugs and psychotropic substances.
- 2- Prepare plans to ensure an efficient fight against drugs in collaboration and coordination with the competent authorities.
- 3- Execute international anti-drugs operations
- 4- Contact anti-drug authorities at local and international levels, and cooperate and coordinate with them.
- 5- Collect information on drug crimes.

160. Pursuant to article 3 of the Resolution issued by the Minister of Interior, the Anti-Drug Directorate is subdivided into: (1) Internal anti-drug division, (2) international anti-drug division, (3) Information division, (4) Rehabilitation and training division. Currently, 5 officers, 42 noncommissioned officers, 138 individuals, 6 civil employees and 12 conscripts work at the Anti-Drugs Directorate.

161. **Criminal Security Directorate:** The Criminal Security Directorate is affiliated to the Minister of Interior, and it fulfills its mission as a law enforcement agency in anti-money laundering and combating the financing of terrorism through the anti-counterfeiting and anti-currency smuggling unit and the International Criminal Police (Interpol). 6 officers and 100

noncommissioned officers work at the anti-counterfeiting and anti-currency smuggling unit. This unit is linked to all anti-counterfeiting and anti-currency smuggling units in all the Syrian governorates. The International Criminal Police (Interpol) is a connecting link in providing mutual AML/CFT assistance.

162. The LD or the PPC did not include texts about taking legislative measures or others enabling competent authorities investigating in cases of money laundering to defer or suspend the arrest of suspected persons or seize funds, in order to identify people involved in these activities or collect evidence. However, these measures can be inferred from the powers granted to the public prosecution which is considered as the authority empowered to carry out investigations and settle the public case – as provided for by the PPC in articles (112-116). Article 102, paragraph I provides that the Investigating Magistrate in the cases of felonies or misdemeanors may only issue a subpoena, provided that this subpoena is replaced by an arrest warrant, following the defendant's interrogation, if required by investigations.

163. **Additional elements.** The LD or the PPC do not include special texts that provide an appropriate legal basis to use a wide range of investigation methods while investigating in ML and TF cases (such as the controlled delivery of crime proceeds or funds intended to be used in terrorism or illicit operations). However, through recognized practical procedures, special investigation measures may be used to facilitate the disclosure of truth in all crimes, whether felonies or misdemeanors.

164. Pursuant to article 1 PPC, the public prosecution is specialized in filing public cases, carrying out investigations, and taking measures to disclose the truth such as resorting to technical expertise in accordance with article 40 of the same law. If the identification of the nature and circumstances of the offense requires some techniques, the public prosecutor shall bring in one or more professionals or technicians. This article includes financial inspectors and those with financial expertise. Article 266, paragraph 1 of the law provides that the Chairman of the Criminal Court has the power to take all measures he deems suitable to disclose the truth.

165. The LD does not provide that law enforcement authorities, the CMLTFC and the other competent authorities review the methods and general trends of anti-money laundering and combating the financing of terrorism periodically among authorities, and distribute information, analyses or studies performed by the staff of law enforcement authorities, the Financial Intelligence Unit and the staff of other competent authorities. However, Syrian authorities declared that such a review is performed among all AML/CFT authorities through letters and meetings of coordination.

166. **Recommendation 28. Public Prosecution:** The public prosecution – which is specialized in carrying out preliminary investigations and filing public cases in AML/CFT crimes – has the necessary powers to inspect people and places for the purpose of collecting evidence that may be useful for investigations, in accordance with the PPC. Articles (89-101) of this Law include all provisions related to inspection and seized materials. Article 89 of this law provides that: *"The inspection of houses may only take place when the concerned person is suspected of committing an offense, of being involved therein, of having materials related to the offense, or of hiding a defendant person"*.

167. The investigating magistrate is entitled to carry out investigations in all places where it is possible to find things that may help disclose the truth (Article 90 PPC). The inspection is performed in the presence of the defendant if arrested. If the defendant refuses or finds it impossible to attend, or if he/she was arrested outside the region where the inspection needs to take place, the process will take place in the presence of his agent if the act is a felony. If the defendant does not have an agent or could not call in his agent immediately, the investigating

magistrate will appoint an agent for the defendant to attend the inspection (Article 91 PPC). If the defendant is not arrested and is present in the place of inspection, he/she is invited to attend the inspection process, but should not be notified previously. If the defendant is absent, the inspection will be carried out in accordance with the provisions of Article 92 PPC. If inspection should take place in the house of a person other than the defendant, that person will be invited to attend the inspection process. If he/she was absent or found it impossible to attend, the inspection will take place in the presence of two of his/her family members at the place of inspection, or in the presence of two witnesses called in by the investigating magistrate (Article 93 PPC). The investigating magistrate is entitled to inspect the defendant and other parties if there are strong indications that he/she is hiding facts that may be useful to disclose the truth. If the inspector is female, the inspection should take place with the knowledge of a woman appointed to that end (Article 94 PPC). The investigating magistrate shall inform the public prosecutor that he went to the crime scene or carried out inspection. The investigating magistrate shall bring in his clerk and shall seize or order the seizure of all things he deems necessary to disclose the truth. He shall also draft the relevant minutes and keep it in accordance with the provisions of Paragraph (1) of article 35 (Article 95 PPC). The investigating magistrate shall seize at Post Offices all letters, newspapers, literature and packages, as well all cable letters in cable offices. The investigating magistrate may also tap all phone conversations whenever needed to disclose the truth (Article 96 PPC). Article 35 PPC provides that: (1) The seized properties should be kept as they were found. They will be packed or placed in a recipient if possible and officially sealed in both cases. (2) If paper currency was found, and is not required to be kept for the purpose of disclosing the truth, and preserving the rights of both parties, or the rights of third parties, the Public Prosecutor may authorize the lodging thereof at the Treasury Fund. If it is necessary to look for papers, the investigating magistrate only or the duly delegated employee of the judicial police are entitled to review papers before seizure. The seals are dissolved and papers are sorted only in the presence of the defendant or the agent thereof or in their absence if they were duly invited but failed to attend. The person owning the place, where the process takes place, will be also invited to attend the process. The investigating magistrate only will review the seized letters and cables upon the receipt of papers in sealed envelopes, and he will keep the letters and cables he deems necessary to disclose the truth or which may bring prejudice to investigations if they are kept with third parties. The remaining letters or cables will be delivered to the defendant and to the relevant recipients. All or some of the original copies of the seized letters and cables or true copies thereof should be sent to the defendant or to the recipient as soon as possible, unless contacting them may bring prejudice to investigations. Paper currency will be governed by the provisions of Paragraph 2 of article 35 (Article 97 PPC).

168. Article 4 of the bylaw stipulates that the CMLTFC Directors Committee has many powers some of which are mentioned in Paragraph 14, such as requesting the Secretary to provide judicial authorities and other competent bodies specialized in the implementation of the LD, with the information available at the Financial Information Unit and requested by these authorities with regard to the LD. Article 103 provides that: *"If a subpoena is sent to the witness but he/she abstain to attend, the investigating magistrate will decide to summon the witness to appear and impose a fine on him/her as provided for in article 82"*. Article 82 provides that whoever is summoned to be a witness is obliged to appear before the investigating magistrate and give testimony; otherwise, he/she will incur a fine not exceeding three hundred Syrian Pounds (or 6 USD) imposed by the investigating magistrate after taking the opinion of the public prosecutor, as per a self-executing decision. The investigating magistrate will decide the summoning of the witness.

169. The public prosecution – which is specialized in carrying out preliminary investigations and filing public cases in ML/TF crimes – has the necessary powers to take the testimony of witnesses and use it in investigations and prosecutions related to AML/CFT and the other

predicate offenses. The PPC includes provisions related to testimonies and their role in investigations, in articles (74-88) which provide that the investigating magistrate may summon people whose names are mentioned in the list of complaints and in the Public Prosecutor's request, as well as the persons who are reported to have information related to the crime and its circumstances, and the names of persons appointed by the defendant (Article 74 PPC). The testimony of every witness is registered in the minutes that include the questions asked to the witness and the answers thereof. The testimony is then read to the witness who will certify it and sign every paper or set his/her fingerprint onto every paper (in case he/she is illiterate). If the witness fails or finds it impossible to sign/seal the testimony, this matter will be pointed out in the minutes. At the end of the minutes, the number of pages that include the witness' testimony is mentioned and every page thereof is signed by the investigating magistrate and his clerk. The same rules shall also apply to the testimonies of the plaintiff, the defendant and experts. At the end of investigations, a list of persons hearing the testimony, the date of hearing and the number of pages composing the minutes of testimonies will be prepared.

170. **Statistics.** The assessment team did not receive any statistics in this regard.

## 2.6.2. Recommendations and Comments

171. Syria should take the following steps:

- Should consider the possibility of drafting an accurate and clear text authorizing the Public Prosecution to defer or terminate the arrest of suspects, seize their funds or both, for the purpose of identifying the persons involved in these activities or collecting evidence in ML/TF crimes, and allowing the use of secret agents as persons involved in the crime.
- Maintain exhaustive statistics on ML/TF investigations, the number of prosecutions and the judgments of convictions to be sure about the effectiveness and competence of such systems in AML/CFT.

## 2.6.3 Compliance with R 27 & 28.

	Rating	Summary of factors underlying the rating of compliance related to Section 2-6
<b>R 27</b>	<b>LC</b>	Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics.
<b>R 28</b>	<b>C</b>	

## 2.7 Cross-border declaration/disclosure (SR IX)

### 2.7.1 Description and Analysis

172. Dealing with foreign exchange is governed by strict limitations imposed by the Foreign Exchange Office. There is a clear distinction with regard to the amounts entering Syria, whether they are local or foreign currencies, and a difference in treatment between citizens/residents and non-residents. The assessment team noticed that there is a freedom to enter cash amounts to Syria without legal limitations. On the other hand, when amounts are taken out of the country, the resident/non-resident traveler is entitled to take out the amount of 2000/5000 USD respectively or an equivalent amount in foreign currencies, without exceeding this limit unless a

prior authorization is given to enter the amount intended to be taken out of the country and according to the amount that was strictly authorized. The local currency may not be taken out. It is clear that the implementation of this system is basically linked to foreign exchange and to the restrictions imposed by the foreign exchange office on the process of entering or taking out local currencies without covering ML and TF operations.

173. Pursuant to article 10 ,Paragraph b of the LD No 33 of 2005, the CMLTFC is entitled to request Customs General Directorate to notify it of the financial amounts transferred across borders in cash or in the form of negotiable financial instruments with a value exceeding the amount set by the CMLTFC, and authorized in accordance with a module prepared by the CMLTFC. Although this paragraph is still not implemented in practice, the assessment team learned that current efforts are being made by the CMLTFC and the Customs General Directorate to implement it. In fact, the CMLTFC fixed the relevant module, and is currently studying it with the concerned parties. It is worth mentioning that the CMLTFC does not currently have databases related to the foreign currencies data declared by the Foreign Exchange Office. According to Syrian authorities, the declared databases of foreign currency in the Customs General Directorate will be linked to the CMLTFC.

174. There is a margin of cooperation between the Customs Authorities and the CMLTFC since a Customs Department was created to combat money laundering and the financing of terrorism. Nevertheless, by the date of the on-site visit, this department was still lacking human and technical resources. Besides, the cases referred by the department to the CMLTFC are limited to information provided about people suspected in currency smuggling. The cooperation between the department division and the CMLTFC does not cover ML or TF cases, and no cooperation was reported in this field between the CMLTFC and the immigration authorities or others<sup>18</sup>.

175. With regard to international cooperation, the assessment team was informed in the presence of customs officials at the periodic meetings in Brussels and in some other conferences related to the customs department, and with an exchange of customs information with some countries. However, there were no cooperation arrangements with other countries, allowing the bilateral exchange of customs information between the customs authorities and the other concerned parties, regarding foreign currencies and the material instruments seized across borders, or ensuring the possibility of informing foreign competent authorities of information registered in this regard.

176. Due to the absence of an applied disclosure/declaration system in Syria, there are no sanctions for false declarations with regard to the cash amounts and the bearer financial instruments.

177. Legislations did not provide for special sanctions, including sanction of persons or confiscation, that apply to persons who make a material cross-border transfer of currencies or negotiable financial instruments issued to bearer with regard to money laundering or terrorist financing. Such persons are subject to the sanctions provided for in article 14 of the LD No 33 that applies to the one who commits or takes part in illicit money laundering operations arising from one of the crimes mentioned in article 1 of this LD.

---

<sup>18</sup> Syrian authorities declared that following the on-site visit, Law No 38 of 2006 was promulgated, but the assessment team did not view it. Pursuant to this law, the General Directorate Customs was restructured since an AML/CFT department was created and employees were distributed and trained, including the personnel of the AML/CFT department.

178. **General Directorate of Customs:** The Minister of Finance of Syria issued Resolution No 786/C that provides for the creation of a specialized department to combat money laundering and the financing of terrorism, which is affiliated to the secret bureau officer. The number of employees at the Department is defined as per a resolution issued by the Customs General Director. At the time of the on-site visit of the assessment team, no resolution was issued by the Customs General Director defining the number of employees in this Department or the job description thereof<sup>19</sup>. The CMLTFC entitled to request the Customs General Directorate to notify it of the amounts transferred across borders in cash or in the form of negotiable financial instruments with values exceeding the amount fixed by the CMLTFC and authorized as per a module prepared by the CMLTFC, in accordance with article 10, paragraph (b) of the LD No 33 of 2005. Article 177 of the Customs Law issued under No (9) on 16/7/1975 provides that "*the Customs employees are considered as part of the judicial police in terms of their work, and the employees of the customs police are considered as part of the general forces and the judicial police according to their jurisdiction*".

179. **Additional Elements.** The assessment team did not notice the implementation by Syrian Authorities of the measures mentioned in the Best Practices Paper for SR IX.

180. **Statistics.** No statistics are available on the amount of cross-border currencies or the amounts seized or confiscated as per the LD in the context of the implementation of this Recommendation.

## 2.7.2 Recommendations and Comments

181. Syrian authorities should:

- Implement a disclosure/declaration system in compliance with the SR IX, provided that this implementation is not limited to the restrictions imposed on the freedom of foreign exchange or on taking out local currencies outside the country only. It should, in fact, cover the combating of money laundering and the financing of terrorism.
- Set up a system to keep the data of travelers carrying amounts that exceed the national limit (500 000 Syrian Pounds, or around 9500 USD).
- Amend legislations to create sanctions for false disclosure/declaration of the currency or financial instruments that could be circulated and that are issued for their bearer, carried by travelers, and create special sanctions including the sanction of persons or confiscation, that apply to the ones who transfer, across borders, currencies in cash or negotiable financial instruments issued to bearer and related to money laundering or terrorist financing.
- Promote cooperation between the General Directorate of Customs and the CMLTFC in terms of notifying the CMLTFC of the amounts transferred across borders in cash or in the form of negotiable financial instruments with a value exceeding an amount set by the CMLTFC and authorized as per a module prepared by the CMLTFC; and create a database at the CMLTFC, including all declared data related to currencies and bearer financial instruments.

---

<sup>19</sup> Syrian authorities declared that following the on-site visit and pursuant to the Customs Law issued on 6/7/2006, the AML/CFT was annexed to the Anti-Smuggling Department, and the number of employees and their specializations in this department were defined. The job description will be issued in line with the restructuring of the General Directorate Customs.

- Promote the role of the AML Department Customs and provide it with human and technical resources; and offer AML/CFT training programs to the Department staff.
- Create cooperation between the Customs, the immigration authorities and the other concerned authorities.
- Set up arrangements to cooperate with the concerned authorities in the other countries for the purpose of exchanging information on foreign currencies and the financial instruments seized at borders.

### 2.7.3 Compliance with the SR IX

	Rating	Summary of factors underlying the rating of compliance related to Section 2.7
SR IX	NC	<ul style="list-style-type: none"> <li>▪ No disclosure/declaration system related to currencies or bearer financial instruments for travelers coming to or leaving the Syrian territories.</li> </ul>

## 3. Preventive Measures – Financial Institutions

### Customer Due Diligence and Record-Keeping

#### 3.1 Risk of Money Laundering and Terrorist Financing

182. Currently, Syria is not considered as an important financial center in the region due to the Government's strict economic dominance until recently, and to the restrictions imposed on the circulation of foreign currencies at the time of the on-site visit. Besides, the Syrian Government is not expected to reduce such restrictions in the near future. Therefore, the risks of money laundering and terrorist financing are low in general, but the assessment team fears an increase of risks as a result of the economic openness policy which is currently adopted by the Syrian Government and is meant to encourage the entry of funds for investment purposes. The assessment team is concerned that these funds may be badly exploited by money launderers or terrorist financiers who would perform their operations by taking advantage of the facilities offered by the Syrian Government in this regard.

183. Syria implemented, in its legislations, some reduced due diligence measures, such as reducing the occasional customer due diligence measures at financial institutions in the event where customers perform low-value transactions which are considered as low-risk operations. Article 5 of the LD No 33 obliges financial and banking institutions to implement occasional customer due diligence if the transaction exceeds a certain amount set as per a resolution issued by the CMLTFC (and was later fixed at 500000 Syrian Pounds, or around 9500 USD). However, in practical terms, financial institutions in Syria do not exploit this reduction in measures since they apply due diligence measures to all permanent and occasional customers regardless of the transaction value. The reduced due diligence measures also include what is mentioned in the Regulations on the control of financial and banking operations (Article 3-d-6) issued by the Commission, whereby the State-owned companies and corporations, the public sector, and corporate bodies which are listed in the financial market, are released from the obligation of submitting a written declaration identifying the beneficial owner of the transaction to be performed, when due diligence measures are taken.

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

### 3.2.1 Description and Analysis

#### Overview

184. Two types of financial institutions are subject to AML/CFT obligations, according to the following:

- **Banks registered at the Central Bank of Syria**, including their external branches and their subsidiary banking institutions, as well as the branches operating in the Syrian duty-free zones. According to the above-mentioned, those banks include six specialized public banks and seven private banks. Branches operating in duty-free zones are six branches of foreign banks (most of which are Lebanese).

- **Financial institutions other than banks**, especially exchange institutions, money-remittance institutions, and institutions in charge of issuing payment instruments such as credit cards, payment cards, travelers cheques, ATM cards, investment funds and the management thereof, financial brokerage institutions, financial leasing corporations, the investment or financial groups, insurance companies, and the other financial institutions as defined by the CMLTFC. Other financial institutions operating in Syria at the time of the visit, other than banks, include one insurance company that is government-owned, which is the Syrian Insurance Company. Syrian authorities reported that three private insurance companies commenced work during summer 2006 (after the visit).

185. It is worth noting that evaluating the financial institutions' compliance to their obligations, according to the criteria mentioned in the methodology is limited to the types of financial institutions operating in Syria at the time of the above-mentioned visit.

186. The legal and monitoring framework that financial institutions are subject to in AML/CFT is embodied in the following:

**LD No.33 of 2005:** that incriminated ML/FT operations and it included the establishment of CMLTFC and the determination of its competencies, the financial institutions subject to the decree, as well as the commitments that those institutions are subject to, the most important of which are the customer due diligence procedures and suspicious transaction reporting. The LD divided those institutions into financial institutions subject to banking secrecy, i.e. the banks registered at the Syria Central Bank and others not subject to banking secrecy, (i.e. other financial institutions) The LD covered all financial institutions and activities operating in Syria, and it also included some institutions and activities that have not commenced business yet.

187. Due to the distinction made by the LD between the financial institutions that are subject to banking secrecy and those which are not subject to banking secrecy, and since some articles address one of the two types of institutions, then this distinction is expected to create some confusion about the obligations imposed on financial institutions upon the incorporation of new financial institutions at the Central Bank of Syrian when they fit in the two categories at the same time. For instance, exchange institutions which will be registered with the Central Bank of Syria are also considered as financial institutions that are not subject to banking secrecy.

188. **Resolution No (4) issued by the CMLTFC regarding the Regulations on the control of banking and financial operations** in the financial and banking institutions operating in Syria and in the Syrian free zones for AML/CFT includes details about customer due diligence measures and monitoring transactions carried out by financial and banking institutions with

their customers to avoid their involvement in ML or TF operations that could hide laundering of illegitimate funds or financing of terrorism as provided for in LD No 33.

189. **Resolution No 71/MN/b1 of the Council for Money and Credit of 29/8/2004 provides for special prudential instructions about dealing with customers** at the banks operating in Syria. It is worth noting that the Council for Money and Credit Resolution and the Regulations on the control of financial and banking operations have dealt with the same topics. Yet, Regulations issued by the CMLTFC tackled those topics more comprehensively, as it was promulgated in light of LD No.33 of 2005 which includes wider commitments with respect to financial institutions.

190. On 18 August 2004<sup>20</sup>, the CMLTFC issued many circulars to banks and other financial institutions especially on the following topics:

- Verification of customer identity forms (Know Your Customer/Client)
- Due diligence of correspondents and their activities
- Suspicious transactions reporting
- Identification form of the beneficial owner
- Keeping records related to transactions of a value exceeding 500000 Syrian Pounds or its equivalent value in foreign currency (around 9500 USD) in other financial institutions, other than banks.

191. Syrian authorities reported that the Insurance Supervisory Commission, with the entrance of private insurance companies to the market, is drafting special and definite instructions that Syrian insurance companies abide by. They will be circulated before the end of this year. They will include details on the customer due diligence measures, monitoring of transactions conducted by these parties with their customers. It is also setting a draft regulation that is similar to that of money changer institutions that will be licensed by virtue of Law No 24 of 2006.

192. It is worth-noting that the Exchange Law No 24 was promulgated to regulate exchange institutions in Syria in April 2006. However, no exchange institution was licensed at the time of the on-site visit. In June 2005, a LD was promulgated for the creation of a stock exchange market in Syria. It provides for the establishment of the "Syrian Stocks and Financial Markets Authority", but this market did not start to operate and no legislations were issued at the time of the visit to regulate the work of financial institutions in this field. Therefore, no institution was licensed to work in the stock exchange.

### **Recommendation 5**

#### *Anonymous accounts, accounts in fictitious names and numbered accounts*

193. Financial institutions in Syria do not open any anonymous or accounts in fictitious names in Syria, since they verify the identities and addresses of customers, based on official documents and pursuant to articles (4) and (5) of the LD.

---

<sup>20</sup> Due to the promulgation of those instructions in light of LD No 59 of 2003, it was annulled with the promulgation of LD No 33 of 2005, on August 30, 2006, the CMLTFC, after the visit, re-promulgated the same instructions in light of the new decree, without an essential change, except their scope was broadened to include the topic of financing of terrorism.

194. With regard to *numbered accounts*, legislations do not forbid the opening of such accounts in banks only, and provide the regulation of dealings with this kind of accounts. According to the statement of some commercial banks on this subject, there are practically no numbered accounts in Syria. Article (5) of the LD 33 obliges banking and financial institutions registered with the Central Bank of Syria to verify permanent customers identity and the beneficial owner identify if the dealing is made through agents or via numbered accounts or accounts where the owner is not the beneficial owner.

195. Furthermore, article (2) of the LD No 34 of 2005 on banking secrecy provides that operating banks are entitled to open numbered accounts whose owners only are known by the manager of the bank or his representative. Article (9) of the LD provides that banks and other financial institutions should verify the real names of the owners of open accounts, whether numbered or nominal, and should keep the necessary related documents. In this regard, article 4 of the Regulations on the control of financial and banking operations issued by the CMLTFC provides that, upon opening a numbered account, the financial or banking institution where the account was opened should verify customers identity, the beneficial owner identify and perform continued monitoring as usually applied for non-numbered accounts. The prudential instructions about the relationship with customers, issued by the Council for Money and Credit as per Article 1 (Clause 8) of Resolution No 71/MN/b1 provide that if a numbered account is opened, the person in charge of opening the account at the Bank should implement the prudential principle on the owner of this account, in order to take enough information related thereto. The opening of a numbered account requires the approval of at least one person from the Senior Management and the approval of the person in charge of opening the account. It is noted that each of LD No 34 of 2005 and LD No 33 of 2005 did not expressly stipulate the permission to make customers' identity records, owners of those accounts, to the compliance officer, other competent officials and competent authorities.

196. Based on the foregoing, the obligations related to the numbered accounts are limited to the financial and banking institutions registered at the Central Bank of Syria, namely banks only for the time being, as no exchange offices, companies or other financial institutions were registered at the time of the on-site visit. These obligations are limited to banks, since banks are the only institutions allowed to open such accounts.

#### ***When Customer Due Diligence is required***

197. *The on-site visit demonstrated that financial institutions in Syria implement CDD measures on all customers and transactions without excluding any category of customers or any kind of transactions. Legislative obligations of financial institutions in this regard, include:*

##### **First – Banks:**

198. Paragraph (a) of article 5 of the LD No 33 provides that banking and financial institutions registered with the Central Bank of Syria, including their foreign branches and affiliated foreign banking institutions, are bound to monitor the transactions carried out with their customers to avoid being involved in illicit ML/TF operations. Paragraph (b) of the same article provides that the rules of such monitoring are defined as per a Regulations issued as per a Resolution of the CMLTFC and include the following:

- Verify permanent customers identities, and the beneficial owner identify if the dealing was made through agents or via numbered accounts, or accounts whose owners are not the beneficial owner.

- Undertake verification identity procedures on occasional customers if the value of the transaction exceeds a certain amount that is fixed as per a Resolution of the CMLTFC (and was later fixed at 500000 Syrian Pounds or around 9500 USD, pursuant to Resolution No 2 issued by the CMLTFC in October 2005).
- Undertake verification identity procedures if any doubts arise about the attempt of a customer to carry out ML/TF operations, about the validity of information previously declared, or in the event of any subsequent changes in the identities of customers or the beneficial owner.
- When performing local and international banking transfers, the issuer of the transferred amount and the beneficiary thereof should be identified in all incoming and outgoing transfers. The economic reason of the transfer should be given if the amount exceeds a particular value fixed as per a Resolution from the CMLTFC (which was later fixed at 500000 Syrian Pounds or around 9500 USD, pursuant to Resolution No.2 issued by the CMLTFC in October 2005).
- Keep the copies of documents related to all transactions and copies of official documents related to the identity of customers, for at least five years following the completion of transactions or the closure of accounts, thereby enabling the CMLTFC to use these documents when needed.

#### **Second – Other financial institutions:**

199. Paragraph (b) of article 4 of LD No 33 obliges the other financial institutions, other than banks, to implement CDD measures to verify the identities and addresses of customers based on official documents, and to keep a copy of such information and of documents related to the following transactions and events for a minimum period of five years following the completion of the transaction or the termination of the relation with the customer, whichever is longer, thereby enabling the CMLTFC to use these documents when needed:

- Transactions of a value exceeding the amount fixed by the CMLTFC (and which was later fixed at 500000 Syrian Pounds or around 9500 USD, pursuant to Resolution No.2 issued by the CMLTFC in October 2005).
- Upon building a business relationship with permanent customers.
- In transactions where doubts arise about a customer's attempt to carry out ML/TF operations.
- In the event of doubts about the validity of information previously declared.
- In the event of subsequent changes in the identity of the customer or the beneficial owner.

200. It is noted that the threshold mentioned in the CMLTFC resolution No 2 relevant to the implementation of CDD measures in banks and other financial institutions, including walk-in customer (if the transaction is worth more than 500000 SP, an equivalent of around \$9500) is considered as huge with respect to dealings in the Syrian financial sector.

#### ***Customer Due Diligence Measures***

201. Financial institutions in Syria undertake CDD measures based on official documents of identity, and as mentioned above, Paragraph (b) of article 4 of the LD No 33 (regarding financial institutions except banks) provides that the verification of the customers' identities and addresses is performed, based on official documents. In relation to banks, the LD No 33 does not explicitly express the verification of the customers' identities based on official documents,

however, Paragraph (b) of article 5 of the same LD provides that the rules of control of transactions, including the CDD measures to avoid ML/TF operations, are defined as per a regulation issued by the CMLTFC, as mentioned above. Therefore, paragraph (d) of article (3) of the Regulations on the control of financial and banking operations, issued by the CMLTFC, provides for CDD measures based on official documents, for all kinds of customers, whether physical or legal persons, agents, or customers by correspondence.

202. With regard to legal persons, Paragraph (b) of article 5 of the LD No 33 provides for a resolution to be issued by the CMLTFC including the Regulations on the control performed by banking and financial institutions with their customers, provided that it includes the CDD measures of the permanent customers and the beneficial owner if the dealing is made through agents.

203. Paragraph (d) of article 3 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, provides that legal persons, should submit duly registered and certified documents about their regulations, registration certificates, personal data related to physical persons authorized to deal with the account as per a power of attorney or an authorization, as well as the names of the members of the Board of Directors. Besides, the agent performing the transaction on behalf of the customer should be required to submit a certified copy of the power of attorney and documents establishing the identity of the principal and the agent.

204. This obligation seems to be applied only to banks operating in the country in accordance with the definition given in the Regulations on the control of financial and banking operations, issued by the CMLTFC. It is worth mentioning that Syrian Authorities declared that this obligation will be applied to insurance companies in accordance with the nature and characteristics of the insurance work, since the obligation will be provided for in the instructions to be issued by the Insurance Supervisory Commission. This is also the case of the other financial institutions when they are licensed.

205. During the on-site visit, the assessment team noticed that some banks set up an independent forms to verify the legal persons' identity, in pursuance of Circular No (1) issued by the CMLTFC on 18 August 2004<sup>21</sup>. This form includes information about the legal person including the name, address, activity, legal status, the number of the commercial register, the corporate capital and information related to partners, managers, and persons authorized to deal with the account as per a power of attorney or an authorization.

206. Following the on-site visit to one of the branches of the insurance company currently operating in Syria (Damascus Branch), the assessment team noticed the absence of written instructions or procedures on Customer Due Diligence. There is only a guide work procedures issued in 1986, and does not include any CDD instructions or procedures. Since the Insurance Supervisory Commission was recently created, it did not issue any instructions in this regard although it licensed seven companies to work in the insurance field (at the time of the visit, the companies were still not operating). It is worth mentioning that the visit to the Commission revealed that all measures taken, at the time of the visit, are limited to a draft regulation including a warning to insurance companies about some operations which might involving some risk.

207. Regarding the identification of the beneficial owner and the relevant due diligence requirements, article 4 of the LD No 33 obliges financial institutions, other than banks, to keep records about changes in the identities of the customer or the beneficial owner. The definition

---

<sup>21</sup> Amended on August 30, 2006.

of a beneficial owner was mentioned in the Regulations on the control of financial and banking operations, issued by CMLTFC. He is the real beneficiary from a transaction or an account, or beneficiaries from corporate persons. It is worth noting that the definition is not clear and it is not conform to the definition mentioned in the methodology in this regard.

208. Paragraph (b) of Article 5 of the same LD obliges banking and financial institutions to verify permanent customers identity and the beneficial owner identify if the dealing is made through agents or via numbered accounts or accounts whose owners are not the beneficial owner.

209. The prudential instructions about the relationship with customers, issued by the Council for Money and Credit as per article 1 of Resolution No 71/MN/b 1 provide the verification of existing or potential customers identities based on the Know Your Customer/Client (KYC) principle, and require customers to submit all identity documents with regard to natural, legal persons or beneficiaries of transactions performed through professional mediators or any person in relation with the bank and whose operations bring or may bring prejudice to the Bank's reputation or expose the Bank to other risks. The same article requires every customer to submit a written declaration establishing the identity of the beneficial owner of the financial transaction to be performed, and to enclose with this declaration all personal and financial information about the beneficiary. Circular No (1) issued by the CMLTFC to the banks, included the identity verification forms which require data identifying the beneficial owner.

210. LD No 33 tackled this issue with regard to financial institutions other than banks, only by mentioning that these institutions should keep records about the changes in the identity of the customer or the beneficial owner, but did not mention the necessary measures identifying the beneficial owner in the transactions performed by the customers of these institutions. Besides, the assessment team noticed that this obligation is not executed and that there are no relevant measures in the insurance company. Nevertheless, according to Syrian Authorities, the relevant instructions will be included in the Regulations on insurance companies which will be issued by the Insurance Supervisory Commission.

211. Regarding the identification of beneficial owners among legal persons dealing with financial institutions, the assessment team noticed that the financial institutions operating in Syria at the time of the on-site visit (i.e. banks and one insurance company) do not try to know practically about the ownership structure of legal persons except for one bank which added this information to the identity verification form issued by the CMLTFC in August 2004<sup>22</sup>. In this regard, Paragraph (d) of Article 3 of the Regulations on the control of financial and banking operations issued by the CMLTFC obliges banks to request every customer (natural or legal) to submit a written declaration identifying the beneficial owner of the transaction to be performed, include the full name, family name, the place of residence and profession of the customer who shall also keep a copy of the declaration. This article does not apply to the State-owned companies and corporations, the public sector and the legal persons who are listed in financial markets. In this regard too, the identity verification forms issued as per Circular No 1 on legal persons require banks to receive data on legal persons and the legal status thereof, and to identify the names of the members of the Board of Directors and the main partners. However, the data available in this form are not sufficient to know the ownership structure of such persons and identify the natural persons who own or have full control of the legal person<sup>23</sup>.

212. The assessment team found no legislative texts, controls or supervision instructions for financial institutions or a practical implementation in such institutions for the purpose of

---

<sup>22</sup> Amended following the on-site visit, to include this statement.

<sup>23</sup> This form was amended on 30 August 2006, following the on-site visit, in a way that responds to that remark.

obtaining information related to the object and nature of the business relationship with customers, at the time of the visit<sup>24</sup>.

213. With regard to conducting on going CDD measures on business relationships with customers, Article 5 of the LD 33 obliges financial and banking institutions to monitor the transactions carried out with their customers, to avoid their involvement in potential illicit ML/TF operations. Paragraph (g) of Article 3 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, obliges banks to monitor all transactions and accounts (credit or debit) of their customers in a continuous manner throughout the business relationship, to make sure that these transactions are performed in light of the Institution's knowledge of customers, their activities and the source of their funds, and to track any suspicious movement that may arise in these transactions and accounts. Article 9 of these Regulations provides that Banks should take certain measures and give particular attention to the transactions that seem to be performed without an economic reason or a legitimate objective, and notably when there is a remarkable difference between the nature of transaction, its value and the professional activity of the customer, or between the transaction and the customer's behavior and personality.

214. Also, the prudential instructions, issued to banks by the Council for Money and Credit about the relation with customers, include a part related to the ongoing control of accounts, to ensure the following:

- Implement systems to identify extraordinary and suspicious activities, and set limits to the amounts of transactions performed with some categories of customers or certain types of suspicious accounts with suspicious activities, and give special attention to amounts exceeding these limits.
- Make sure that the Bank has administrative information systems that are timely reported to the Management and officials to identify, analyze and follow up the customers' accounts which include extraordinary or suspicious transactions.
- Some indicators related to extraordinary or suspicious transactions.

215. It is worth mentioning in this regard that the on-site visit of the assessment team demonstrated that banks do not implement in practice the legislative obligations related to the ongoing CDD implementation in the relations with customers. This is due to the absence of automated systems in many financial institutions to disclose some extraordinary transactions. Furthermore, there are no relevant legislations in the insurance or exchange field.

216. With regard to updating the customers' data, Article 5 of the Regulations on the control of financial and banking operations issued by the CMLTFC, provides that banks should periodically (at least once every three years) perform review to re-verify the identities of customers or the beneficial owner, in the event of doubts about the validity of information previously declared or in the event of subsequent changes in the identities of customers or the beneficial owner. To implement that, the same article also obliges banks and financial institutions to prepare a work plans with a specific date. Article 1, paragraph 11 of Resolution No 71/MN /b1 of the Council for Money and Credit obliges banks to apply re-verification periodically, notably in the event of doubts about the validity of information previously declared, or in the event of subsequent changes in the identities of customers. Although there are control instructions for banks to verify that the documents, data or information received as

---

<sup>24</sup> Circular No 1 on identification of customer was amended on 30/8/2006. The CMLTFC added to the forms issued by the CMLTFC, the request of such information.

per the CDD process are updated. Yet, there are no similar instructions for insurance companies. The on-site visit also revealed that financial institutions hardly update customers' data and do not link this process to the risks related to customers.

### **Risks**

217. Article 1 of Resolution No 71/MN/b1 of the Council for Money and Credit provides that banks should set specific policies and measures for the admission of customers. These include identifying the type of higher-risk customers. The said article addresses banks only and not the other financial institutions. The on-site visit also revealed that enhanced CDD measures for some categories of customers or for high-risk transactions are not implemented in practice at financial institutions. In fact, CDD measures are applied to all customers and transactions without distinction.

218. LD No 33 obliges financial institutions to verify occasional customers identities if they perform transactions exceeding the value set as per a Resolution issued by the CMLTFC (and was later fixed at 500000 Syrian Pounds or around 9500 USD). Whereas the Regulations on financial and banking operations issued by the CMLTFC, according to the LD, since Article 3 – b of the Regulations obliges banks to verify all occasional customers identities, whether residents or non-residents, when performing the transaction<sup>25</sup>. In fact financial institutions in Syria verify customer identities of all permanent and occasional customers regardless of the value of transaction.

219. Reduced CDD measures also include the provisions of the Regulations on the control of financial and banking operations issued by the CMLTFC (Article 3 – d – 6) which exclude State-owned companies and corporations, the public sector and legal persons listed in the stock market, from the obligation of submitting a written declaration, upon taking CDD measures, identifying the beneficial owner of the transaction to be performed.

220. Legislations or applied instructions do not allow the implementation of reduced CDD measures on customers belonging to specific countries. Besides, the reduced CDD measures cannot be implemented when there are doubts about ML/TF operations. Paragraph (a) of Article 9 of the LD requires all financial and non-financial institutions to notify the Chairman of the CMLTFC or his representative of the details of suspicious ML/TF transactions.

221. Article 1 of Resolution No 71/MN/b 1 of the Council for Money and Credit provides that banks should set specific policies and measures for the admission of customers. These include identifying the type of higher- risk customers. Nevertheless, no provisions were issued to enable these institutions to define the level of CDD measures on a risk-based approach.

### **Timing of verification**

222. Financial institutions in Syria perform verification on permanent customers upon the creation of the work relation. With regard to occasional customers, the verification measures are applied upon conducting transactions, knowing that the verification process is made through KYC forms which also help to identify the real beneficiary. The control guidelines and legislations do not authorize financial institutions to complete the verification of the customers identities and the real beneficiary, following the establishment of business relationship.

---

<sup>25</sup> Circular No 1 issued by the CMLTFC on 30 August 2006 obliges banks to apply CDD measures on all permanent and occasional customers.

**Failure to satisfactory complete CDD**

223. Financial institutions in Syria are not allowed to initiate a business relationship before completing CDD measures and identifying customers based on official documents. Paragraph (f) of Article 3 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, obliges banks to notify the CMLTFC, when they are unable to complete all CDD measures or when there is a contradiction between the declared information and the information received from other sources. Currently, there are no similar instructions for insurance companies.

**Existing Customers**

224. Circular No 1 on identification customers forms, before it was amended, gave banks a period of one year to fill in identity verification forms for accounts previously opened. Banks should also provide the CMLTFC, every six months, with a statement about the executed number of accounts and the ratio of execution of the accounts previously opened<sup>26</sup>. Article 5 of the Regulations on the control of financial and banking operations issued by the CMLTFC provides that banks should periodically (at least once every three years) re-verify customer identity or re-identify the beneficial owner, in the event of doubts about the validity of information already declared, or in the event of subsequent changes in the identity of the customer or the beneficial owner. Besides, no control instructions were issued to insurance companies in this regard.

225. **Recommendation 6.** In article 6 of LD No.33 of 2005, it has been stated that every person entrusted with a public or a senior post in a foreign country is a politically exposed person (PEP). Although that article obliges financial institutions to take special measures and give a particular importance when the customer or the beneficial owner is a Politically Exposed Person (PEP). Banks should also obtain the approval of the Senior Management of the said institutions to establish a business relationship and perform an ongoing control of this relation, and take reasonable measures to identify the source of funds. However, financial institutions are not obliged to obtain the approval of the Senior Management regarding the continuation of the business relationship, if they discover that the customer or the real beneficiary has become a Politically Exposed Person (PEP) after the establishment of the business relationship.

226. Practically, the assessment team noticed that financial institutions in Syria do not implement this recommendation as there are no work procedures and regulations giving a special attention to the transactions of customers or beneficial owners who are politically exposed. Currently, CDD measures are only applied to all customers and this is attributed to the recent issuance of the LD and its control instructions. Besides, the Banking Supervision Department does not take any control measures in this regard, and the Insurance Supervisory Commission is still not playing its supervisory role. The CMLTFC mentioned that requests are currently made, through the Compliance Unit during its on-site visits, to submit the names of politically exposed persons as defined by the Bank and if they are available, thereby identifying the procedures taken by the Bank with such persons. However, the assessment team did not notice the implementation of this procedure in the banks visited by the team.

227. **Additional Elements.** It is worth mentioning that the definition of the Politically Exposed Person (PEP) in Syria is limited to every individual having a public or eminent position in a foreign country, but does not cover local persons.

---

<sup>26</sup> This circular, after it was amended in August 2006, obliges banks to fill in the aforesaid forms in the event of accounts previously opened but for which no CDD forms were completed. This procedure should be taken within six months as of the issuance of this circular.

228. **Recommendation 7.** Article 5 of the LD No 33 and Article 6 of the Regulations on the control of financial and banking operations, issued by the CMLTFC oblige banking and financial institutions to collect sufficient information about correspondent banks to understand the nature of their work, know the main financial activities they perform, and the place where their main activities are carried out, and to evaluate their internal AML/CFT procedures to ensure their efficiency. In the event where it was impossible to collect this information, the dealing should not take place. Circular No 2 issued by the CMLTFC also obliges banks to verify that their correspondents have adopted efficient AML policies and procedures and have satisfied the conditions of the form on the evaluation of procedures, to deal with them in light of these procedures. The assessment team noticed that the mentioned sample form did not include CFT procedures<sup>27</sup>. Practically, the on-site visit demonstrated that banks set Due Diligence policies and measure to identify their correspondents, the activities thereof and the applied policies and procedures governing the correspondents' work.

229. **Recommendation 8.** Article 6 of LD No 33 obliges financial institutions to take special measures and give a particular attention to transactions performed without a customer presence or through High Technology means that may allow the non-disclosure of the real identity.

230. Article 3 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, provides that if the transaction is performed by correspondence, the customer will be requested to legalize the signature on the same document, or pursuant to a separate statement duly certified. The signature can be legalized and identity verification can be applied to customers living abroad through a correspondent bank, a subsidiary, a representative office of the bank, one of its branches, or through another bank where the validity of accredited signatures can be verified. The correspondence and the legalized signature should also be enclosed with a certified copy of the passport, identity card or residence card.

231. Practically, this type of transactions (whether based on high-tech means or indirect transactions with customers) is rare since the systems applied in banks and currently operating insurance company are still not automated, the banking and financial services are not used on a large scale in Syria and the public still deals directly with banking and financial institutions.

### 3.2.2 Recommendations and Comments

232. **R 5.** Syria has to:

- Promulgate laws, regulations or resolution that obliges financial institutions to make available the registers identifying the holders of numbered accounts, to the compliance officers, to other competent officers and to competent authorities.
- Promulgate a legislative text that obliges insurance companies and any other financial institutions that are not registered with the Central Bank of Syria to take the following measures:
  - Apply customer identity verification in the transactions performed through agents, and verify the legal status of the legal person or arrangement.
  - Verify the identity of the real beneficiary upon conducting a transaction with the institution.

<sup>27</sup> However, Circular No 2 issued by the CMLTFC in August 2006 obliges banks to verify that their correspondents are real, that they have adopted efficient AML/CFT policies and procedures and that they have satisfied the conditions of the form on the evaluation of procedures, to deal with them in light of these procedures.

- Identify the physical persons who own the legal entity or have a complete or efficient control thereon.
- Amend the limit mentioned in the CMLTFC resolution No.2 related to the implementation of verification measures in banks and other financial institutions, including the identity of walk-in customers (if the transaction crossed 500000 SP, i.e. an equivalent of around \$9500) to conform with the level of dealings in the Syrian financial sector.
- Amend the definition of the beneficial owner in the Regulations on the control of financial and banking operations issued by the CMLTFC so that it conforms to the definition mentioned in the methodology in this regard.
- Promulgate a legislative text and control instructions for insurance companies and exchange corporations regarding the ongoing control of customers' transactions. Supervisory authorities should also verify that these obligations are applied in banks and in the other financial institutions, to make sure that sound systems are in place to disclose some extraordinary transactions, including automated systems.
- Promulgate instructions that oblige insurance companies and exchange companies, when they are licensed, to update documents, data or information received through the CDD process. Supervisory authorities of financial institutions should verify the implementation in practice of that measure, while taking into consideration that this process should be linked to customer-related risks.
- Promote the role of the Insurance Supervisory Commission in the promulgation of instructions and procedures to insurance companies in all AML/CFT fields, notably CDD measures, whether for physical or legal persons.
- Issue control instructions for insurance companies and any other financial institutions when these institutions are licensed to apply enhanced CDD measures to some categories of high-risk customers or transactions. The CMLTFC, the Banking Supervision Department and the other supervisory authorities should also verify the real implementation of these measures in banks and other financial institutions.
- Issue control instructions obliging insurance companies to notify the CMLTFC when they are unable to perform all CDD measures, or if there is a contradiction between the information declared and the information received from other sources. Similar instructions should also be issued to the other financial institutions when they are licensed.
- It is suggested to issue monitoring instructions relative to the implementation of CDD measures with existing customers with respect to insurance companies.

233. **R 6.** Recommendation 6 should be implemented through supervisory authorities, which should verify the implementation of the obligations provided for in LD 33 by banking and financial institutions. Besides, all institutions should be obliged, expressly and not only implicitly, to obtain the approval of the Senior Management to continue the work relationship if they discover that the customer or the beneficial owner are Politically Exposed Persons.

## 3.2.3 Compliance with R 5 – 8

	Rating	Summary of factors underlying the rating of compliance
R 5	PC	<ul style="list-style-type: none"> <li>▪ Lack of laws or regulations to oblige financial institutions to submit registers identifying the holders of numbered accounts, to the compliance officers, to other competent officers and to competent authorities.</li> <li>▪ The obligations related to verification measures are applied when transactions are performed through agents, and the obligation of verifying the legal status of legal persons or arrangements is binding only on banks operating in Syria, according to the definition given in the Regulations on control. No similar control instructions are issued to insurance companies.</li> <li>▪ No legislative text obliging insurance companies, exchange institutions and financial institutions (other than banks) to take the following measures: <ul style="list-style-type: none"> <li>- Verify the identity of the real beneficiary when starting a transaction with the institution.</li> <li>- Identify the physical persons who own the legal entity or have a complete or efficient control thereon.</li> <li>- Perform an ongoing monitoring of customers' transactions.</li> </ul> </li> <li>▪ Lack of implementation of legislative obligations related to the ongoing monitoring of customers' transactions, in financial institutions. This is due to the lack of automated systems in many financial institutions to disclose some extraordinary transactions. Besides, the legislative text and the relevant instructions are considered as binding on banks only without the other financial institutions currently operating in Syria.</li> <li>▪ Lack of binding instructions to the insurance sector related to the updating of documents, data or information received as per the CDD process, in addition to the fact that financial institutions hardly update the customers' data and link this process to customer-related risks.</li> <li>▪ There no control instructions issued for insurance companies to apply enhanced CDD measures to some categories of high-risk customers or transactions. The on-site visit demonstrated that banks and insurance companies do not implement these measures in practice.</li> <li>▪ No control instructions obliging insurance companies to notify the CMLTFC when they are unable to meet all CDD requirements, or in the event of a contradiction between the information declared and the information received from other sources.</li> <li>▪ No control instructions for insurance companies have been issued in the field of implementing CDD measures with existing</li> </ul>

		customers.
<b>R 6</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Financial institutions do not implement risk-management procedures related to Politically Exposed Persons although a legal text is issued in this regard.</li> </ul>
<b>R 7</b>	<b>C</b>	
<b>R 8</b>	<b>C</b>	

### 3.3 Third parties and introduced business (R 9)

#### 3.3.1 Description and Analysis

234. **R. 9.** This recommendation does not apply to the situation in Syria since the existing legislations did not regulate the reliance of financial institutions on third parties to apply some CDD measures, but charged the different financial institutions of implementing CDD measures by themselves. Article 4 of the LD No 33 of 2005 provides that other financial institutions, other than banks, including individual companies, should apply CDD measures to verify the customers' identities and addresses based on official documents. The same article also imposes the same obligation on lawyers, editors of legal exhibits and independent accountants when they prepare or execute transactions for their customers in some of the aforesaid activities.

235. Article 5 of the LD obliges banking and financial institutions that are registered with the Central Bank of Syria, including their foreign branches and affiliated foreign banking institutions, to monitor the transactions performed with their customers to avoid any involvement in illicit ML or TF operations. The rules of this monitor are defined by the Regulations issued as per a resolution from the CMLTFC, provided that it includes some requirements such as the verification of permanent customers identities and the identification of the beneficial owner.

236. Article 34 of LD No 43 of 2005 allows insurance companies to use the services of agents, insurance brokers or re-insurance brokers provided that they are licensed by the CMLTFC and registered with the special relevant register. The LD includes a definition of every agent or broker as follows:

- Insurance agent: Person approved by the Company and authorized to sell insurance policies on behalf of the company and in consideration of a commission paid by the company. The insurance agent should be licensed by the Commission to perform this type of work.
- Insurance broker: Person authorized by the party requesting insurance coverage in consideration of a salary, to discuss with the company the execution of an insurance contract on behalf of that party, provided that the broker is licensed by the Commission.
- Re-insurance broker: Person authorized by the Commission to be the introduced business between the direct insurer (insurance company) and the re-insurer.

It is worth mentioning that Recommendation 9 does not apply to the aforesaid persons since their relations are considered as agency relations or work relationships pursuant to a contractual arrangement with the financial institution.

### 3.3.2 Recommendations and Comments

237. In line with the openness that is coinciding with the liberalization of the Syrian banking and financial sector, the assessment team recommends that Syrian authorities set regulatory basics and rules in the event where financial institutions need to rely on third parties to apply CDD measures.

### 3.3.3 Compliance with R 9

	Rating	Summary of factors underlying the rating of compliance
R 9	NA	<ul style="list-style-type: none"> <li>▪ Legislations do not allow financial institutions to rely on third parties to implement some CDD measures.</li> </ul>

## 3.4 Financial Institution Secrecy or Confidentiality (R. 4)

### 3.4.1 Description and Analysis

238. **Recommendation 4.** Article 1 of the LD No 34 of 2005 on banking secrecy provides that all banks operating in Syria, including banks operating in Syrian free zones, are subject to the provisions of banking secrecy. Article 6 of this LD provides that banks may maintain the placement of their funds by exchanging among them and with the Banking Supervision Department, under complete confidentiality, information related to the debit accounts of their customers. Article 3 of this LD obliges staffs in these banks, and all those who know, through their positions or capacity, about the entries of books, records, transactions, correspondence and investment certificates, to keep these entries confidential in favor of the banks and its customers. They may not, in any case whatsoever, disclose the names and funds of their customers, as well as information related to their deposits and banking affairs to any person, whether an individual or an administrative or judicial Commission, except in the cases mentioned in Article 8 of this LD. This prohibition remains valid even after the termination of the business relationship between the customers and the bank. Article 8 of the same LD provides that its provisions shall not be applied in any event during the implementation of the AML/CFT LD No 33 of 2005, and upon the CMLTFC requests and decisions, including reporting suspicious transactions and accounts, and cooperating with the CMLTFC to meet its demands related to the freezing of accounts, the lifting of banking secrecy, without delay, and the submittal of the required information. Article 7 of the LD No 33 provides that the CMLTFC has, among others, the mission of providing judicial authorities and other competent authorities in charge of implementing this LD, with the required information related to this LD, and adopting rules for the exchange of information available at the FIU with counterpart units in other countries, in accordance with the rules and procedures set by the applicable laws and regulations in Syria, the international, regional or bilateral agreements where Syria is a party thereof, or on the basis of principle of reciprocity.

239. Based on the foregoing article 6 of the LD No 34 on banking secrecy limited the information that may be exchanged between banks and the Banking Supervision Department to information related to debit accounts of customers. However, pursuant to Article 8 of the same LD, the CMLTFC is able to request all information from financial institutions without constraints related to banking secrecy.

### 3.4.2 Recommendations and Comments

#### 3.4.3 Compliance with R 4

	Rating	Summary of factors underlying the rating of compliance
R 4	C	

### 3.5 Record Keeping and Wire Transfer Rules (R 10 & SR VII)

#### 3.5.1 Description and Analysis

240. **Recommendation 10.** Though during the on-site visit, it turned out that all financial institutions practically abide by the record-keeping prerequisites in accordance with R.10, it is noted that legislative texts included some gaps. Article 4 of the LD No 33 obliges other financial institutions, other than banks, including the current insurance company and exchange institutions which applied for licenses and still are not operating, to keep copies of CDD papers and documents related to the following transactions and events for a minimum period of five years as of the termination of the transaction or relation with the customer, whichever is longer:

- Transactions with values exceeding the amount set as per a Resolution from the CMLTFC (which was later defined by the CMLTFC at 500000 S.P. or around 9500 USD)
- Upon the establishment of the business relation with the permanent customers
- Transactions where it is suspected that a customer has attempted to perform ML or TF operations,
- In the event of doubts about the validity of information previously declared,
- In the event of subsequent changes in the identity of the customer or the beneficial owner,

In such a way that the CMLTFC uses these papers and documents when needed.

241. Based on the foregoing, it is noted that legal obligation has excluded the transactions carried out by those institutions, the value of which is less than 500000 SP (an equivalent of around \$9500), from record-keeping. Moreover, there are no obligations issued by a legislative power for those institutions in terms of keeping account files and correspondence related to the activity and ensuring all the records and information on customers and transactions at the right time to the local competent authorities after obtaining the adequate authorization.

242. With respect to banks, article 5 of the same LD obliges banks to keep copies of documents related to all transactions, and copies of official identification documents for a minimum period of five years following the completion of transactions or the closure of accounts, in such a way that the CMLTFC uses these documents when needed. Pursuant to Article 10 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, instructions were issued to banks requesting them to keep all necessary records about local and international transactions, in order to meet the requirements of the CMLTFC and the competent judicial authorities when the banking secrecy is lifted to receive information. These transactions should be sufficient to track the stages of transactions including the amounts

of currencies used and their types if any, with a view to collecting evidence for the prosecution of the criminal act when needed.

243. With respect to record-keeping of transactions, the same article of the Regulations on the control of banks obliges banks to keep records of the CDD data obtained through the CDD process, as well as copies of official documents used in this process, and files of accounts and work correspondence for a minimum period of five years following the termination of the transaction or the relation with the customer, whichever is longer, and ensure CDD data and the records of transactions should be provided to the CMLTFC and to the competent judicial authorities when the banking secrecy is lifted at its request.

244. Based on the foregoing, with respect to banks, the legislative text only provides for the requirements of keeping copies of documents related to all transactions, and copies of official documents about the identity of customers. The other requirements of the essential criteria of R.10 related to control instructions are included in the Regulations on the control of financial and banking operations issued by the CMLTFC. These requirements should have legally binding pursuant to the said recommendation, or they should be promulgated in regulations or laws issued by a legislative authority, in accordance with the mentioned recommendation.

245. **Special Recommendation VII.** In Syria, there are constraints on money transfers abroad which are not allowed except in special circumstances such as treatment expenses or schooling fees, at the approval of the Foreign Exchange Office, or transfers in the context of money transfers already sent to the customer.

246. Pursuant to Article 22 of Exchange Law, exchange institutions should comply with the provisions of the AML/CFT Law, its amendments and executive instructions. Banks and exchange companies should make sure that the amounts equaling or exceeding 500000 Syrian Pounds or around 9500 USD, and that are sold, purchased or transferred from/to banking institutions, are enclosed with the necessary identity papers that establish the nature of the transaction subject of the purchase, sale or transfer, and the identity of its parties. They should also make sure that these documents are properly kept. It is worth mentioning that the limit amount exceeds the amount mentioned in the interpretative note of SR. VII which provides that the limit should not exceed 1000 USD.

247. Paragraph b (4) of Article 5 of the LD No 33 and Article 7 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, obliges banking institutions upon performing local and international banking transfers to identify the source of transfers (the payer) and the beneficiary thereof in all incoming and out-going transfers.

248. Based on the foregoing, the existing legislations or any other control instructions do not expressly oblige financial institutions to obtain the basic information about the transfer issuer such as the account number and the address, although the assessment team noticed that some banks receive such data in practice. However, Syrian authorities declared that the identification of the transfer issuer includes these data.

249. Legislations or control instructions do not define the procedures and data obtained when compiled transfers are made; however, following the visit to banks, it seemed that money transfers are performed in practice on an individual basis. Besides, legislations or control instructions do not provide for the measures that should be taken by the benefiting banking institutions in the case of wire transfers that are not enclosed with complete information about the issuer of the transaction.

250. Article 17 of the LD provides for sanctions to be imposed on the parties in charge of implementing its provisions, including provisions related to transfers as mentioned in Article 5 regarding the obligation of identifying the transaction issuer and beneficiary. Furthermore, Article 22 of the Exchange Law provides for sanctions to be imposed upon the non-compliance with its provisions, including those related to the aforementioned transfers. Nevertheless, these legislative texts did not differentiate, in the implementation mechanism, between natural and legal person. Syrian authorities declared that the public law should be referred to, with regard to the difference in the implementation mechanism between the natural person and the legal person.

### 3.5.2 Recommendations and Comments

251. **R. 10.** Therefore, we recommend:

- the amendment of legislative texts or promulgation of binding decisions by a legislative power to oblige all financial institutions, other than banks, to keep the records of all transactions they perform, and keep the files of accounts and correspondence related to business, and provide all customers' records, information and transactions in a timely manner for the local competent authorities, after obtaining the adequate authorization.
- For banks, we recommend the amendment of legislative texts or the promulgation of binding decisions by a legislative power to include the provisions of Article 10 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, and mentioned in the paragraph entitled "Description and analysis".

252. **SR. VII.** With regard to the SR. VII, we recommend:

- the issuance of clear instructions from the competent supervisory authorities, including details of the data that financial institutions should receive from the issuer of the transfer such as the account number and the address, in compliance with the SR. VII.
- the amendment of the limit amount mentioned in Article 22 of the Exchange Law, which should be enclosed with the necessary identity papers that establish the nature of the transaction, subject of the transfer, and the identity of its parties, to be consistent with the limit mentioned in the interpretative note of the SR. VII (1000 USD).
- the issuance of control instructions that define the measures and data obtained when financial institutions perform compiled transfers, and the definition of measures that should be taken by the benefiting financial institutions when wire transfers are not enclosed with complete information about the issuer of the transaction.

### 3.5.3 Compliance with R 10 & SR VII

	Rating	Summary of factors underlying the rating of compliance
<b>R 10</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ Although all financial institutions are committed in practice to the requirements of record-keeping, pursuant to R. 10. Yet, there are no legislative texts or decisions promulgated by a legislative power that bind financial institutions, other than banks, to keep records and documents of all the transactions performed by those institutions, without exception, or to keep the files of accounts and correspondence relevant to activity, and provide all customer-related</li> </ul>

		<p>records, information and transactions in a timely manner to local competent authorities after obtaining the suitable authorization.</p> <ul style="list-style-type: none"> <li>▪ For banks, most the requirements of R. 10 are part of the control instructions issued by the CMLTFC. Those requirements should have been issued by a legislative power.</li> </ul>
<b>SR VII</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No legislations or any other control instructions including details about the data that should be obtained from issuer of the transfer, such as the account number and the address.</li> <li>▪ The amount which requires the enclosure of the necessary identity papers establishing the nature of the transaction, subject of the transfer, and the identity of its parties, was set at a limit exceeding the amount mentioned in the SR. VII.</li> <li>▪ Legislations or control instructions do not define the procedures and data that need to be obtained when compiled transfers are performed, and they do not define the measures that should be taken by the benefiting financial institutions in the event of wire transfers that are not enclosed with complete information about the issuer of the transaction.</li> </ul>

### **Unusual and Suspicious Transactions**

#### **3.6 Monitoring transactions and relationships (R 11 & 21)**

##### **3.6.1 Description and Analysis**

253. **Recommendation 11.** Article 6 of the LD No 33 obliges all financial institutions to take special measures and give a particular attention to all complicated and large-scale transactions, and to all kinds of unusual transactions which do not have an apparent economic purpose.

254. With regard to banks, Article 9 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, provides for taking special measures and giving particular attention to transactions that have the following characteristics:

- All complicated and large-scale transactions, and all kinds of unusual transactions that do not have an apparent economic purpose

- Transactions that do not have an economic reason or a legitimate objective, notably due to the difference between the nature of the transaction, the value thereof and the professional activity of the customer, and between the transaction and the customer's behavior and personality.

Provided that these special measures require at least the approval of the Senior Management of the institution on the transactions, and inquiries about the objective of the transaction, the identity of the beneficiary and of the beneficial owner, and the conditions of these transactions. The same article provides for defining such measures in the AML/CFT Guide which should be enforced by these institutions in pursuance of Article 15 of the same Regulations.

255. The CMLTFC issued a module for the AML Guide procedures including some CDD measures and prudential measures related to some transactions, and reporting to compliance

officers about any related suspicions. Measures in this Guide cover the opening of accounts, payments in cash, cheques (including bank cheques), incoming and out-going transfer, documentary letters of credit, accounts of correspondents, and some indications about ML operations.

256. The assessment team noticed that financial institutions are not obliged to register the results of their examination of transactions to identify the background and purpose thereof in writing. Therefore, institutions are unable to submit these results to competent authorities and account auditors. The team also noticed that all financial institutions do not implement in practice the provisions of legislative texts, and that practices in this regard differ among banks. For instance, one of the banks prepares daily or weekly reports about cash and non-cash transactions which exceed a certain limit, while another bank requests some additional documents and information (including the source of funds) in the event of the cash deposit of an amount exceeding a particular limit.

257. It is worth mentioning that there are no control instructions in this regard for the insurance company operating in Syria. Besides, the assessment team noticed that no relevant measures are implemented by the insurance company. In this context, Syrian authorities declared that the Insurance Supervisory Commission is setting an AML/CFT Regulations including all obligations of insurance companies and relevant AML/CFT obligations.

258. **Recommendation 21.** The legislative text issued in this regard, namely article 6 of the LD No 33, is restricted to oblige financial institutions to take special measures for transactions performed with natural or legal persons, including banking and financial institutions, that are residing in the countries mentioned in non-cooperative countries and territories (NCCT) list in the AML/CFT field, issued by the FATF. Therefore, the scope of implementation of the recommendation is extremely limited, although the examining team noticed that the instructions issued by the CMLTFC in the Regulations on the control of financial and banking operations, issued by the CMLTFC for banks, had a larger scope than the LD. In fact, instructions provide that a particular attention should be given to transactions with persons from countries that do not apply FATF standards including those mentioned in the list of NCCT.

259. The aforesaid instructions require that special measures should be taken, including at least the approval of the Senior Management of the institution on these transactions, inquiries about the purpose of the transaction, the identity of the beneficiary and the beneficial owner, and the conditions of these transactions. The same article provides that these measures should be included in the AML/CFT Guide. The module on the AML Guide procedures issued by the CMLTFC does not include special measures for the implementation of this recommendation, although some guiding notes for ML indicators mention customers introduced by a foreign branch or a bank operating abroad in one of the countries known for drug trafficking.

260. When the assessment team reviewed some guides procedures applied in banks, it noticed that this issue is not mentioned in these guides, and that there are no practical measures to implement it in banks. The team also noticed that the legislative text is not applied in practice by the insurance company currently operating in Syria. It is worth mentioning that there are no control instructions issued in this regard to the insurance sector, and there are no legislative texts, control instructions or practical implementation in financial institutions with regard to the registration of the results of examination of these transactions for the purpose of defining in writing the background and purpose thereof. Therefore, institutions are not able to submit these results to competent authorities and to account auditors. Furthermore, the CMLTFC or the Insurance Supervisory Commission did not issue any circulars or publications that inform financial institutions of the points of weakness in the AML/CFT systems in other countries. There are also adequate counter-measures provided for in the legislation and control

instructions, or applied in practice at financial institutions. Such measures are taken when a country does not sufficiently apply or does not apply FATF recommendations.

### 3.6.2 Recommendations and Comments

261. **R. 11.** We recommend supervisory authorities to take the following steps:

- Oblige financial institutions to register the results of examination of unusual transactions to identify the background and purpose thereof in writing, and make them available to competent authorities and account auditors for a minimum period of 5 years.
- Verify that financial institutions implement the provisions of legislative texts.
- Issue control instructions in this regard for the insurance sector and the other financial institutions when they are licensed.

262. **R. 21.** We recommend the following steps:

- Verify the presence of efficient procedures for the implementation of the obligations mentioned in the LD and the control instructions issued to banks, with regard to giving particular attention to business relations and to transactions with persons belonging to the countries that do not apply or insufficiently apply FATF recommendations; issue similar instructions to insurance companies and to the other licensed financial institutions.
- Promulgate instructions for financial institutions to bind them to record the results of their examination of those transactions to determine their background and purpose behind them in writing and provide competent authorities with them.
- Promulgate circulars or bulletins that guarantee that financial institutions go over the weaknesses in AML/CFT systems in other countries.
- Promulgate instructions for financial institutions that include adequate counter measures that would be taken in case a certain country that does not apply or that insufficiently applies the FATF recommendations.

### 3.6.3 Compliance with R 11 & 21

	Rating	Summary of factors underlying the rating of compliance
<b>R 11</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Legislative texts issued to all financial institutions, and control instructions issued to banks include all requirements provided for in the recommendation. However, the legislative texts do not oblige financial institutions to register the results of examination of the transactions, to define in writing the background and purpose thereof. Therefore, these institutions are not able to submit these results to competent authorities and account auditors.</li> <li>▪ Besides, financial institutions do not implement in practice the provisions of the legislative texts, and there are different practices in this regard among banks.</li> <li>▪ There are no control instructions in this regard for the insurance</li> </ul>

		company operating in Syria. The assessment team also noticed that no related measures are applied by the Insurance Company.
<b>R. 21</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ The legislative text only mentions transactions performed with physical or legal persons, including banking and financial institutions, residing in a country mentioned in the FATF list of non-cooperative countries in the AML/CFT field. Therefore, the scope of implementation of the recommendation is extremely limited.</li> <li>▪ No legislative text, control instructions, or practical implementation in financial institutions with regard to the registration of the results of examination of these transactions, to define in writing the background and purpose thereof. Thus, institutions are not able to submit these results to competent authorities and to account auditors.</li> <li>▪ No circulars or publications are issued by the CMLTFC or by the Insurance Supervisory Commission to inform banking and financial institutions of the points of weakness in the AML/CFT systems in other countries, or clarify adequate counter-measures to be taken when a country does not apply or insufficiently apply FATF recommendations.</li> <li>▪ No evidence of the implementation in practice of this recommendation in the financial institutions operating in the country.</li> </ul>

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

#### 3.7.1 Description and Analysis

263. **Recommendation 13.** Legislative texts, namely Article 9 of the LD No 33, oblige all financial institutions- parties mentioned in articles 4 and 5 of the LD- to notify the Chairman of the CMLTFC or his representative of the details of suspected ML/TF transactions.

264. With regard to banks, Article 11 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, obliges the management of banks, if it has reasonable ground of suspicious or suspicious that a financial and banking transaction is related to illicit transactions, to notify the Chairman of the CMLTFC, immediately and confidentially, of the details of this transaction, especially when it has irreversible doubts about the validity of the written declaration submitted by the customer or the agent thereof about the identity of the beneficial owner, or when it discovers that it received false information about this identity or that the Bank or institution were misled during the verification of the identity of the customer or the beneficial owner. The management of banks should also notify the Chairman of the CMLTFC when transfers or cheques are returned, notably by correspondent banks, due to counterfeiting or to doubts that they might include suspicious transactions; when there are important and justified doubts about the accuracy of information submitted by the customer and the agent thereof about the transaction, the source of funds, the destination of funds or the purpose of the transaction; if there are doubts that the funds related to transactions are the proceeds of a criminal act or are related to terrorist financing; and when there are indications that lead to doubt that transactions are suspicious. The report should include the name of the customer and the agent, the numbers of accounts from which and to which amounts are transferred, the amount of funds, the nature of the transaction, the reasons of doubt and the source and form of funds.

265. Based on the foregoing, there is a legal obligation to report suspicious transactions – whether ML or TF transactions - to financial institutions, regardless of their value. The obligation of reporting suspicious transactions is absolute regardless of their link to other issues, including tax issues. However, the legislation does not provide that financial institutions are obliged to report attempts of carrying out suspicious transactions.

266. With regard to the practical implementation of legislative texts and control instructions, we present below a statement of reports sent to the CMLTFC until 31/8/2006, according to the reporting entity:

<b>Reporting entity</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Banks	1	3	21
Attorneys			1
Others (Ministry of Finance and individuals)	-	2	5
<b>Total</b>	<b>1</b>	<b>5</b>	<b>27</b>

This statement demonstrates that reports are remarkably rare although they have relatively increased from one year to the other, notably in 2006. Besides, no reports are submitted by financial institutions other than banks.

267. The visit made to some banks and to the insurance company currently operating in Syria confirms the findings of the above statement. In fact, it demonstrated that some banks do not submit reports despite the presence of some suspicious cases, and they only terminate their relations with the customer. Besides, training programs for staff are rare, particularly those related to the disclosure of unusual and suspicious transactions, and there are no sufficient automated systems for the disclosure of some unusual transactions. Furthermore, no AML officer was appointed in the insurance company and no STR forms were submitted to the Company. Besides, no training programs in this field are organized for the Company's staff; therefore, not one case was reported at the time of the visit.

268. We cannot overlook the presence of some reasons to which the limited number of STRs may be attributed, for example:

- Distribution of STR forms to banking and financial institutions on 18 August 2004 following a relatively long period (around one year) as of the promulgation of Decree No 59 of 2003 which provides, for the first time, that banking and financial institutions are obliged to report suspicious ML transactions<sup>28</sup>.
- Recent promulgation of the Regulations on the control of financial and banking operations, issued by the CMLTFC (on 27 October 2005) including clear instructions about the banks' obligations and covering many topics, the most important are the identity verification, the control of banking operations, the AML/CFT training, and the procedures that should be followed for reporting. Besides, these Regulations provide that banks

<sup>28</sup> It is worth mentioning the distribution by the CMLTFC of new reporting forms on 30 August 2006, in accordance with the provisions of LD No 33 of 2005 regarding the reporting of suspicious TF transactions.

should be given a time limit of two months to create the AML/CFT Committee as of its promulgation.

- Lack of awareness in the banking sector due to the decrease of training programs for financial institutions.

- Weak role of the control authority on banks (Banking Supervision Department) since its role was recently consolidated following the current authorization given to private banks to operate in Syria. Some parts of the Banking Supervision Department are still inactive and its human resources are rare.

- There are no other financial institutions operating in the country, other than banks, except for one insurance company which is mostly specialized in mandatory insurance (such as the insurance on goods and cars). Besides, the relevant control Commission was recently activated, namely the Syrian Insurance Supervision Commission, which did not issue, by the time of the visit, any control instructions regarding reporting mechanisms and guidelines for the identification of suspicious transactions.

269. Despite the aforementioned justifications, the current situation clearly reveals, in view of the number of financial institutions currently operating in the country (13 banks and six foreign branches of banks in the free zone, and one insurance company), that the efficient implementation of the STR obligation by financial institutions is weak. However, it should be noted that this efficiency has remarkably increased during 2006.

270. **Recommendation 14.** Article 13 of the LD No 33 provides that the immunity should be given to banking and financial institutions and other institutions in charge of reporting, including their managers and staff that report and disclose, in good faith, suspicious ML/TF transactions. They may not be prosecuted or accused by any civil or criminal liability.

271. Pursuant to article 11 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, the banking and financial institutions and their staff are obliged to remain confidential about STRs. They should not inform or notify persons related to these transactions and accounts of the reports submitted against them. The banking and financial institutions undertake not to inform customers that the CMLTFC has inquired or checked their accounts, unless a decision is issued by the CMLTFC to lift the banking secrecy from these accounts and inform the holders thereof.

272. It is worth mentioning that obliging banks to remain confidential about STRs is mentioned in the Regulations on the control of financial and banking operations, which includes instructions issued by the CMLTFC, without being accompanied by any sanctions in case of violation. However, Recommendation 14 requires that this obligation be imposed by the force of law.

273. Currently, there are no legislative texts or control instructions that are binding on the other financial institutions which are not registered with the Central Bank of Syria, in terms of keeping the confidentiality of Suspicious Transactions Reporting. The instructions mentioned in the Regulations on the control of financial and banking operations, issued by the CMLTFC, apply to banks only, according to the definition given by these Regulations to financial and banking institutions which are governed by them.

274. **Additional elements.** Pursuant to Article 12 of the LD No 33 / 2005, reporting to the CMLTFC is absolutely confidential, whether performed by a natural or legal person. Documents submitted to this purpose, and documents related to investigations and to the

investigation procedures in all stages are also kept confidential. It is worth mentioning that the STR form where the name of reporting person is mentioned, constitutes a part of the documents mentioned herein.

275. **Recommendation 19.** Article 10 (b) of the LD No 33 allows the CMLTFC to create a database for local and international cash transactions performed by the banking and financial institutions, which exceed a certain amount and can be used in ML and TF cases. The CMLTFC has not yet established such a database.

276. Article 8 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, obliges banks to inquire about the source of funds when the transaction is performed in cash or with one of the payment instruments which can conceal their owner, and when it is equivalent to or exceed the amount of 500000 S.P (10000 \$). Therefore, banks should fill in a form about cash transactions according to the forms set by the CMLTFC in this regard. However, the article does not oblige banks to send these forms to the CMLTFC or to any other central authority.

277. It is clear, therefore, that the current legislations allow the creation of a database for the local and international transactions in cash performed by the banking and financial institutions, and which exceed a certain amount. Nevertheless, the instructions issued only obliged banks to keep information related to these transactions for the purpose of control and disclosure of unusual transactions. At the time of the on-site visit, there was no applied system whereby financial institutions report to the CMLTFC or to another central authority, transactions in cash which exceed a certain amount. Syrian authorities declared that this system will be created when the CMLTFC work develops.

278. **Recommendation 25.** Article 9 of LD No.33 stipulated the obligation to send a certified copy of the CMLTFC resolution to the General Attorney. A copy should also be sent to the concerned person, to the concerned Bank and to the concerned foreign entity, whether directly or through the reference which provided information. Moreover, Resolution No.3, issued by the CMLTFC Directors Committee on 27/10/2005 relative to CMLTFC work procedures when it receives notices about suspicious transactions, stated in Article 13 that in case the CMLTFC Directors Committee discovered that the suspicions are serious, the involved institution and party are informed by the secretary. Moreover, the General Attorney in the governorate where the involved institutions and party are found will be notified about the CMLTFC decision in order to initiate judicial proceedings. Sending a copy about the resolution to the concerned bank and notifying the involved institution or party at this stage, as is demonstrated above, does not mean a feedback. On the contrary, notifying these parties at this stage will notify the person involved that the suspicions are raised vis-à-vis his activities, which could harm the process of investigations.

279. The CMLTFC prepared a module on AML Guide procedure as a guide for banks only. It includes indications of ML transactions through: transactions in cash, bank accounts, documentary letters of credit, banking loans and other general indications. These indications did not cover TF operations. The CMLTFC did not offer instructions about completing STR data or the measures that should be taken by the reporting entity upon submitting the STRs. Officials in Syria attribute this fact to the recent promulgation of LD No 33 and the to the recent work of the CMLTFC.

280. There are no statistics published to the public, about the number of STR, the cases referred to Justice and the cases for which court judgments were issued or guiding examples about real ML or TF cases. Besides, the CMLTFC does not publish periodic reports including the types of suspicious transactions disclosed in Syria, and the methods and techniques used by

money-launderers to execute their operations. Syrian authorities declared that they are considering the possibility of submitting such information and data to the public in the near future, as the number of STR is not currently sufficient and does not allow for the publication of information about the types of suspicious transactions to the public.

281. **Special Recommendation IV.** All financial institutions should immediately notify the Chairman of the CMLTFC or his representative of the details of suspicious ML or TF transactions (Article 9 of the LD No 33).

282. In reference to Article 11 of the Regulations on the control of financial and banking operations issued by the CMLTFC, what has been mentioned in paragraphs 273-274 will be implemented with respect to the reporting system relevant to financing of terrorism.

283. Reporting is limited to cases involving a TF offense, in accordance with the definition in the decree, which is an act aimed at submitting or collecting funds by any means whatsoever, directly or indirectly, from licit or illicit sources, for the purpose of using them in a terrorist act (Article 2/b of LD No 33) without including the reporting of the funds that are related to terrorism or connected to terrorism or that will be used by terrorist organizations or those who finance terrorism. It should also include the requirement to report attempts at carrying out suspicious operations. Reporting is not linked to a certain amount of money and is absolute regardless of its relation to other issues, including tax issues. Until the date of the visit, no reporting has been made about terrorist-financing operations.

### 3.7.2 Recommendations and Comments

284. **R. 13.** the following is recommended:

- Promulgate a legislative text to oblige financial institutions to report attempts of suspicious transactions.
- Supervisory authorities should take measures to promote the competence of financial institutions in the identification and reporting of suspicious transactions, such as for instance:
  - Provide assistance for financial institutions to organize training programs for staff in this field, notably with regard to the identification of unusual and suspicious transactions.
  - Oblige financial institutions to create sufficient automated systems to identify some unusual transactions.
  - Issue control instructions in this field to financial institutions, other than banks, notably the insurance sector which is currently performing its activities.
  - Verify the appointment of an AML officer at the insurance company currently operating in Syria, and provide the company with reporting forms about suspicious cases.

285. **R. 14.** It is recommended that the current legislation should be amended to oblige all financial institutions and their managers, officials and staff (permanent and provisional) not to disclose the Suspicious Transactions Reports or any other related information submitted to the (FIU).

286. **R. 25.** the following is recommended:

- The scope of instructions mentioned in the module AML guide procedures should be extended to cover financial institutions other than banks as well as terrorist financing operations. The CMLFTC should also provide instructions regarding how to complete the STR form or the measures which should be taken by the reporting party when submitting the said report.
- The CMLTFC should set a feedback mechanism for the notifier entities of the results of the reports submitted to it. The reporting mechanism should not be used to notify the suspected person when the suspicious report is referred to the General Attorney, as this may allude to the presence of doubts about his activities and may bring prejudice to investigations.
- The CMLTFC should immediately publish periodic statistical reports to the public about the number of suspicious reports submitted to the CMLTFC and for which conviction judgments were rendered and the number of those report which were kept. The public should also be informed of the disclosed types of suspicious transactions and the techniques used therein.

287. **SR. IV.** The scope of reporting should be expanded to include the reporting of the funds that are related or connected to terrorism or that will be used by terrorist organizations or those who finance terrorism. It should also include the requirement to report attempts at carrying out suspicious operations.

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

	Rating	Summary of factors underlying the rating of compliance
<b>R. 13</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ No legislative text obliging financial institutions to report attempts of suspicious transactions.</li> <li>▪ Weak efficiency in terms of the financial institutions' implementation of the commitment relevant to STR.</li> </ul>
<b>R 14</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ No legislative text obliging all banking and financial institutions to keep STR confidential.</li> </ul>
<b>R 19</b>	<b>C</b>	
<b>R 25</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ The scope of instructions mentioned in the module AML guide procedures does not cover financial institutions other than banks as well as terrorist financing operations. The CMLFTC does not provide instructions regarding how to complete the STR form or the measures which should be taken by the reporting party when submitting the said report.</li> <li>▪ No feedback mechanism from the CMLTFC regarding STRs and the types of suspicious transactions.</li> </ul>
<b>SR IV</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of any obligation requiring the financial institutions to report the funds that are related or connected to terrorism or that will be used by terrorist organizations or those who finance</li> </ul>

		<p>terrorism</p> <ul style="list-style-type: none"> <li>▪ There is no legislative text that binds financial institutions to report attempts of suspicious transactions.</li> <li>▪ Weak efficiency in terms of the financial institutions' implementation of the commitment relevant to STR.</li> </ul>
--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### Internal Controls and Other Measures

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

##### **3.8.1 Description and Analysis**

288. **R. 15. Financial and banking institutions registered with the Central Bank of Syria** should set control systems including at least the following measures (Article 5 (b) of the LD No 33):

a- Verify the real identity of permanent customers of banking and financial institutions, as well as the identity of beneficial owner, if the transactions are performed through agents or via numbered accounts or accounts where the owner is not the beneficial owner. With regard to occasional customers, these measures should be applied to transactions exceeding 500000 S.P. or around 9500 USD. Such measures are also applied if there are doubts about a customer's attempt to carry out ML or TF transactions, or doubts about the validity of information previously declared, or if there are subsequent changes in the identity of the customer or the beneficial owner.

b- Keep copies of documents related to all transactions, and copies of official documents establishing the identity of customers for a minimum period of five years, after performing transactions or closing accounts, thereby allowing the CMLTFC to use these documents when needed.

c- Undertake to train the staff about the methods of controlling financial and banking transactions to combat money laundering and the financing of terrorism.

d- Undertake to appoint an AML/CFT official or create an AML/CFT committee at a high professional level.

289. Articles 13 and 14 of the Regulations on the control of financial and banking operations, issued by the CMLTFC provide for a detailed description of the work of AML/CFT committees and units as follows:

First: **Creation of an AML/CFT Committee specialized in the following:**

- a- setting an AML/CFT Guide;
- b- setting a KYC forms to monitor banking and financial transactions provided that they include at least specific information in accordance with a circular issued by the CMLTFC in this regard;
- c- Verify the right application and efficiency of AML/CFT measures and systems;

- d- Review and develop the aforementioned measures and systems periodically;
- e- Set training programs for staff about the monitoring of ML and TF operations;
- f- Review reports submitted by the Compliance Unit (which will be later discussed), by the internal control and the internal controller with regard to the compliance with AML/CFT measures, as well as reports related to suspicious transactions and high-risk accounts; give an opinion about these reports and submit the opinion and the reports to the Board of Directors.

Second: *Creating a Compliance Unit*, the duties of which are as follows:

- a- Verify the compliance of concerned employees with the legal provisions on AML/CFT, the Guide Procedures, and the completion of Know Your Customer forms.
- b- Review the efficiency of AML/CFT measures periodically, and submit proposals to amend these measures and systems to the AML/CFT committee.
- c- Review daily and weekly reports submitted by the branches about the transactions in cash and money transfers.
- d- Monitor customers' accounts on a compiled, in-budget/off-budget basis at the headquarters and branches in Syria and abroad.
- e- Inquire about suspicious transactions, and prepare a periodic report (at least on a monthly basis) about transactions involving the risk of suspicious transactions.
- f- Notify the CMLTFC of all transactions that are surely or unsurely involved in attempt to launder illicit money or in attempt to finance terrorist.

290. The assessment team noticed that banks, which were visited, implement the above mentioned CMLTFC requirements by establishing policies and procedures that are actually a mere repetition of the content of those requirements, without taking in consideration the type of their customers and their activities (commercial, specialized, ..etc).

291. Prudential measures defined policies for the admission of customers and the verification of their identities and transactions performed through the correspondent bank. They also defined measures to deal with correspondents, perform ongoing monitor of accounts and manage risks. The risk management part includes setting clear and defined identity verification policies and measures, elaborating methods of reporting, evaluating these measures and the execution thereof by the Auditing or Inspection Department at the Bank, explain ML/TF policies and measures to all employees and providing ongoing training about the disclosure of suspicious transactions and methods for dealing with customers. With regard to the only insurance company that was operating by the time of the on-site visit, the assessment team reported the absence of application of the CMLTFC requirements.

292. It has been also noticed that there is a lack of internal controls at the financial institutions for providing the Compliance Officer in a timely manner with the details of the identities of customers and other available information obtained as a result of applying CDD measures as well as the records of transactions and other relevant information. The assessment team did not identify the existence of an independent audit function that might test such compliance.

293. The assessment team noticed that training programs offered to the staff of financial institutions are rare, whether programs organized by the CMLTFC or by the institution. Therefore, the staff does not have sufficient knowledge of the current developments and trends in ML and TF including the ML/TF methods, and does not have a clear explanation of all relevant legal and technical obligations.

294. High integrity standards should be imposed during the recruitment of human resources at the financial institutions, in accordance with LD No 33. However, these standards take only into consideration the absence of a criminal record for the employee, in accordance with the requirements of the civil law. Regarding banks, Chapter IV of the Basic Monetary Order Law and the Law of the Central Bank of Syria prohibit the appointment of a Board member or a manager if he was convicted for robbery, mistrust, counterfeiting, fraud, fraudulent bankruptcy, misappropriation of funds, financial aggression, money laundering, drug trafficking, withdrawal of uncovered cheque, attacking the financial position of the State, or crimes undermining public trust, or any felony or misdemeanor, or concealing or disposing of the proceeds of these crimes, whether the judgment is rendered in Syria or abroad. This is also applied to persons against whom judgments of bankruptcy or judicial liquidation are rendered. These judgments can also be rendered against the banks managed by the said persons. With regard to the standards of competence and propriety for a position, the qualifications are defined in the statutes of banks, notably with regard to the Management of Banks. However, laws and instructions in force do not require more stringent qualifications for senior management levels or for Board members. Any change in the composition of the Board, or the position of the General Manager of the public Bank, requires the approval of the Central Bank of Syria to ensure the ongoing compliance with the conditions and qualifications mentioned in the statute.

295. **Recommendation 22.** The scope of implementation of obligations imposed on financial and banking institutions that are registered with the Central Bank of Syria, pursuant to Article 5 of LD No 33, covers the foreign branches and affiliated foreign banking institutions, without the other banking and financial institutions that are not registered with the Central Bank of Syria. In this regard, the importance of broadening the scope of implementing AML/CFT prerequisites to include external branches and subsidiaries of the remaining banking and financial institutions is noteworthy.

296. Financial and banking institutions are not obliged to give particular attention when foreign branches or subsidiaries are in countries that do not apply or insufficiently apply FATF recommendations.

297. In the event of a conflict between the basic AML/CFT conditions in the country of origin and the hosting country, branches of banks and their subsidiaries located in hosting countries will not be obliged to apply the higher standard to the extent allowed by the laws and regulations of the hosting country.

298. Banking and financial institutions are not obliged to notify the supervisory authorities in the country of origin when a branch or subsidiary is unable to implement adequate AML/CFT measures due to the prohibition of laws, bylaws or other measures in force in the hosting country.

299. **Additional elements.** The aforementioned articles do not expressly provide that the banks operating in Syria, their foreign branches and subsidiaries, are subject to the basic principles for the implementation of CDD measures in a consistent manner, while taking into consideration the customer's transactions with the branches and subsidiaries where these banks own the majority share in the world.

### 3.8.2 Recommendations and Comments

300. **R. 15.** Syrian authorities should:

- AML/CFT policies and controls should cover all financial institutions and not only banks. Verification that financial institutions have established internal policies and controls that are convenient with the type of their activities.
- Establishment of internal controls at the financial institutions for providing the Compliance Officer in a timely manner with the details of the identities of customers and other available information obtained as a result of applying CDD as well as the records of transactions and other relevant information. The assessment team did not identify the existence of an independent audit function that might test such compliance.
- Attach a particular importance to the training and rehabilitation of employees, since training programs for the banks' staff are rare, and even absent for the staff of other banking and financial institutions.

301. **R. 22.** Syrian authorities should:

- Expand the scope of implementing AML/CFT prerequisites to include external branches and subsidiaries of the remaining banking and financial institutions other than banks.
- Promulgate a text that expressly provides for giving particular attention in case activity is practiced in countries not compliant with AML/CFT standards that are issued by FATF or that do not sufficiently apply them, while foreign branches and subsidiaries should apply the higher standards in case of a conflict in the AML/CFT requirements in the host country.
- Bind banking and financial institutions to notify supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the host country.

### 3.8.3 Compliance with R 15 & 22

	Rating	Summary of factors underlying the rating of compliance
<b>R 15</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ The existing instructions cover banks only. The banks also establish internal policies and procedures for the implementation of those instructions, without taking in consideration the type of their customers and their activities (commercial, specialized, etc)</li> <li>▪ Lack of internal controls for providing the Compliance Officer in a timely manner with the details of the identities of customers and other available information obtained in addition to the lack of an independent audit function that might test such compliance.</li> <li>▪ Lack of training programs.</li> </ul>
<b>R 22</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ There is no obligation on external branches and subsidiaries of the remaining banking and financial institutions except Banks to</li> </ul>

		<p>implement AML/CFT prerequisites.</p> <ul style="list-style-type: none"> <li>▪ There is no obligation to apply CDD in case activity is undertaken in countries that do not apply or insufficiently apply AML/CFT standards that are issued by FATF, while foreign branches and subsidiaries should implement the higher standards when there is a conflict in AML/CFT requirements in the host country.</li> <li>▪ Banking and financial institutions are not obliged to report to supervisory authorities in the mother country when a branch or a subsidiary cannot undertake the AML/CFT adequate requirements due to the ban of laws, regulations or other measures valid in the host country.</li> </ul>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### 3.9 Shell banks (R 18)

#### 3.9.1 Description and Analysis

302. **Recommendation 18.** There are no shell banks in Syria since the mechanism for the establishment of banks, which is provided for in Law No 28 of 2001 and the executive instructions thereof, do not allow for the creation of such banks.

303. Banks should gather enough information about correspondent banks to understand the nature of their business and know their main financial activities, and the place where their main activities are performed. They should also gather information to evaluate their internal AML/CFT measures to ensure their efficiency, and evaluate the rating of compliance of the countries where these banks operate, with AML/CFT standards, and make sure that they are not shell banks. In the event where this information could not be gathered, the transaction should not take place.

304. Banks should verify the identity and activity of correspondents, through a questionnaire which is prepared by the CMLTFC and which regulates a number of issues. For instance, the correspondent is not allowed to open accounts with shell banks. The banks, visited by the assessment team, seemed to have met these requirements by filling in the said questionnaire.

#### 3.9.2 Recommendations and Comments

305. Syrian authorities should expand the scope of prohibited transactions with shell banks through the relations of correspondents, to cover the other banking and financial institutions operating in Syria.

#### 3.9.3 Compliance with R 18

	Rating	Summary of factors underlying the rating of compliance
R 18	LC	<ul style="list-style-type: none"> <li>▪ Prohibiting the dealings with shell banks covers banks only, without the other banking and financial institutions.</li> </ul>

**Regulation, supervision, guidance, monitoring and sanctions****3.10 The supervisory and oversight system – Competent authorities and SROs: Roles, functions, duties and powers (including sanctions) (R. 23, 29, 17, 25)****3.10.1 Description and Analysis**

306. There are many supervisory entities which monitor the work of financial institutions.

307. **Banking Supervision Department:** This entity oversees banks, and in its supervisory work, it is subject to the instructions of the Council for Money and Credit. Its duties consist of monitoring all banking risks. The Banking Supervision Department is made of many divisions, namely the Banking Affairs Division (Off-site Control), the On-site Control Division, the Banking Risks Division, the Studies and Research Division, the Information Division, and the Registration and Follow-up Division. The Banking Supervision Department proposes that sanctions be imposed in the event of the violation of laws and regulations in force. The Council for Money and Credit is entitled to impose such sanctions. LD No 28 of 2001 and its executive instructions provide for the banks' ways to enter the market and how authorities can verify the conditions of ownership and control in these banks. The documents enclosed with the license application (Section III – Paragraph 14 – Article 8) include a summary of the judicial record of founders, issued three months ago, and a summary of the judicial records of the chairmen and members of the boards of directors of legal entities and the general managers thereof (Section III – Paragraph 15 – Article 8). The Banking Supervision Department performs an ongoing follow-up on a monthly basis through the off-site control, as well as continuous and periodic inspection visits to banks. The Council for Money and Credit issued Resolution No 71 regarding prudential instructions in dealing with customers. **Along with banks, the exchange institutions will be subject to the Banking Supervision Department.**

308. In practice, the role of the Banking Supervision Department becomes clearer in controlling some ML/FT risks, in cooperation with CMLTFC, through drafting reports on the banks' compliance with obligations imposed on them with respect to AML/CFT and submitting them to the CMLTFC (Paragraph 4 of Article 19 of the CMLTFC bylaws.

309. **Insurance Supervisory Commission:** The Insurance Supervisory Commission was created as per LD No 68 of 2004 which assigned to this Commission the mission of regulating and monitoring the insurance and re-insurance sector. LD No 43 of 2005 which regulated insurance activities and allowed the establishment of private insurance companies, was promulgated. No private company started to operate at the time of the visit<sup>29</sup>. The licensing of insurance companies is governed by strict measures, since Article 7 of the LD No 43 of 2005 provides that licensing applications of an insurance or re-insurance company should be presented to the ISC in the set dates and according to the modules and conditions defined to this purpose. The Commission studies the applications in light of the provisions of this LD and the applicable laws and regulations, while taking into account the reputation, qualifications, competence and previous experience of the applicant in the insurance field. Applications are also studied in light of the requirements and needs of the Syrian insurance market. Then, the studies and relevant proposals are submitted to the Council of Ministers, provided that the licensing decision is rendered by the Prime Minister. The Commission has licensed many insurance companies of which some have started to operate. With regard to AML/CFT efforts, along with LD No 33 of 2005, Articles 23, 24 and 25 of the LD No 43 provide that the Insurance Supervisory Commission has the right to request from any person or company,

---

<sup>29</sup> Three private companies started to operate during summer 2006.

subject to this LD, to refrain from executing or participating in the execution of any transaction related to its insurance activities or others if these are related to ML transactions. They also provide that the Commission should notify any official or judicial authority of this matter, in pursuance of the provisions of the AML/CFT LD No 33 of 2005 and its executive instructions. The aforesaid articles also oblige any life insurance company to provide the Commission with tables for the refunding of life insurance policies and any other payments related to insurance products to the extent set by the Commission.

310. **Combating Money Laundering Terrorist Financing Commission (CMLTFC):** The CMLTFC plays an important role in verifying the implementation of AML/CFT measures, along with its role as a Financial Intelligence Unit, through the Compliance Unit. LD No 33 of 2005 defined the mission of this Compliance Unit which verifies all measures taken by all institutions in charge of implementing AML/CFT obligations. The CMLTFC issued many guidelines, the most important of which are circulars related to the identification of customers and the reporting of suspicious transactions, and the Regulations on the control of banking and financial operations in financial and banking institutions operating in Syria and in the Syrian free zones for the purpose of AML and CFT.

311. The Banking Supervision Department cooperates with the CMLTFC to carry out on-site inspection duties to verify the compliance of banks with the implementation of AML/CFT measures.

312. **Recommendation 23 (23.1 & 23.2):** Financial institutions in the Syrian Arab Republic are divided into three main sectors: banks and money changers, insurance sector and investment in securities sector.

313. **Banks and Money Changers:** The Council for Money and Credit regulates the profession of banks and money changers by virtue of the Basic Monetary Order Law, as it licenses the activity of banks (public sector, private banks, joint, duty-free zones, Islamic banks) as well as other financial institutions which provide services: management of funds, properties, investment portfolios of others, financial consultations, financial leasing, credit via bonds. There are 13 registered banks in Syria that carry out their work via 289 branches. The money changers' law subjected money changer institutions (money changer companies and money changer offices) to the powers of the Council for Money and Credit in terms of license to practice work. Until the date of the visit, no money changer institution has been registered in the Syrian territories though there are a few institutions that practice money changing and money transfer in public. Syrian authorities asserted to the assessment team that those institutions have been in activity for a while and they are not subject to any monitoring. Moreover, it was noticed that Western Union and Eastern Union were practicing money changer activities in Syria; however, Syrian authorities did not provide the team with clarifications about the basis of activity of these two institutions, and the entity in charge of monitoring them. Yet, Syrian authorities made it clear later on that all of these institutions will be subject to monitoring when licenses will start to be issued for them. Until the end of August 2006, 14 institutions applied for a license from the Central Bank of Syria by virtue of Law No.24 of 2006 on money changer and money transfer institutions. Every unlicensed institution that practices work will be sanctioned according to the sanctions stipulated in the law.

314. The Council for Money and Credit has been delegated to follow-up with the banking apparatus and discuss all the matters related to banking and relevant activities, and take the adequate decisions via Central Bank of Syria. Central Bank of Syria was entrusted the monitoring of the banking profession and guidance of its efficiency, especially in terms of licensing and monitoring in the context of the rules, regulations and conditions set by the Council for Money and Credit and endorsed by the Prime Minister. This role will be carried out

by the Banking Supervision Department – the Banking Supervision Department is part of the Central Bank- through on-site and off-site monitoring which it practices in a comprehensive or defined manner, and in a way that includes verification of banks' commitment to anti-money laundering and combating the financing of terrorism (AML/CFT). The Exchange Law entrusted monitoring over money changer institutions to Central Bank of Syria. The money changer institutions shall abide by the regulatory measures adopted by the said bank and by the measures that it imposes to protect clients dealing with them, provided that these institutions abide by the provisions of the LD No.33. Syrian authorities did not set any regulatory measures in this regard due to the recent promulgation of the Exchange Law according to those authorities. This is in addition to that no money changer institution has been registered as previously mentioned.

315. During the visit, it was noticed that the Banking Supervision Department has commenced three field inspection duties to verify the compliance of three banks with AML/CFT measures during 2005. The team was also presented an inspection plan that has jointly started for 2006 by the CMLTFC, with the support of the Banking Supervision Department to a few banks. The inspection plan identified on-site visits to money changer institutions at the end of the year after licensing some of them (until the date of visit, no institution has been registered).

316. **Insurance Sector:** On the supervisory level, insurance companies follow the Insurance Supervisory Commission, pursuant to decree No.68, which granted the Commission the powers to regulate the insurance and reinsurance sector and supervise it in a way that guarantees the adequate climate to develop it and promote the role of insurance industry in ensuring people's life. It has also been granted the powers to supervise, develop, and invest all national savings to support economic development in Syria according to duties defined by that article without any details about the monitoring rules and regulations that secure the efficiency of supervision and monitoring. Currently, there is one insurance company (Syrian Insurance Company) practicing the activity, and it is a public-sector institution. A few companies have been licensed, three of which started operating this summer, according to the Syrian authorities' statement. The Assessment team did not see any regulations issued by the Insurance Supervisory Commission though the Public Insurance Company has been in activity for a long time.

317. **Investment in Securities Sector:** It is an inactive sector in spite of the establishment of the Syrian Commission on Financial Markets and Securities on 19/6/2005. The following are subject to the Commission's supervision and monitoring: companies issuing securities; financial services, consultations and brokers companies; investment companies and funds; financial markets; as well as accredited accounting and audit companies and offices. Until the date of visit, no above-mentioned party has been licensed, and no company was found to be practicing this activity except for accounting offices, which are not subject to the supervision of Syrian Stocks and Financial Markets Authority at the moment. The Syrian Stocks and Financial Markets Authority was entrusted to issue guidelines and perform all functions to achieve its objectives, particularly regulating and monitoring the works and activities of parties subject to its monitoring. Until the date of visit, no monitoring regulations have been issued.

318. In principle, the CMLTFC Compliance Unit is delegated to verify the mentioned institutions' compliance with the monitoring measures of operations in order to combat money laundering and financing of terrorism, as well as the obligations stipulated in the LD No.33 and the monitoring regulations and circulars set and issued by the CMLTFC. Promoting this matter remains limited currently as the CMLTFC did not issue comprehensive monitoring regulations for all the mentioned parties. This is in addition to the limited compliance measures for the verification of commitment, practiced by the CMLTFC until the date of visit. Besides, until the

date of visit, some financial activities were still not subject to monitoring and were not regulated.

319. **Recommendation 30 (Criteria 1 & 3):** The duty of supervision and monitoring of financial institutions is entrusted to the Banking Supervision Department, the Insurance Supervisory Commission and the Syrian Stocks and Financial Markets authority. The last two authorities did not perform their duties efficiently. The Banking Supervision Department practices its duties via 58 employees distributed as follows:

- a/ registration and follow-up- 3 employees
- b/ off-site monitoring- 9 employees
- c/ on-site monitoring- 32 employees
- d/ banking risks- 5 employees
- e/ research and studies- 3 employees
- f/ database- 6 employees

320. There are aspects of shortage in the Banking Supervision Department's structure, as the regulatory structure has not been promoted in an integrated way due to the lack of sufficient human resources. Moreover, some sections of the Banking Supervision Department have not commenced their duties for the same reason. The Banking Supervision Department's financial resources are ensured through allocating a certain percentage of the banks' budget. According to Syrian authorities' statement, the Banking Supervision Department's budget for 2006 reached 42 million Syrian Pounds (an equivalent of 810 thousand USD)

321. When selecting employees at the Banking Supervision Department, elements of competence and good-conduct are respected pursuant to the requirements of the Civil Code. (All employees at the CMLTFC proved competence in their work and good conduct before joining the CMLTFC. Moreover, most of them have earned post-graduate degrees (Post-graduate diploma) after completing their first university study, according to the statements of the Banking Supervision Department officials.) Employees with different practical expertise are also taken into account. The Banking Supervision Department's employees have undergone a few training programs in AML/CFT, as shown on the following chart:

**Training sessions on ML/TF for the employees of the Banking Supervision Department  
(Banking Monitoring)**

Duration of Session	Party	Title	Number of Trainees
16-20/2/2002	Arab Institute for Sciences (Damascus)	Preventing Money-Laundering	2
3-5/6/2002	Paris- French Bank	Financial Fraud and Money Laundering	1
17-18/9/2002	Tunisia- Union of Arab Banks	Money Laundering	2
6-10/10/2002	Bahrain- Bahrain Institute of Banking and Finance	Assessment of Risk Management, Capital Solvability, Anti-Money Laundering	2
14-17/12/2002	Arab Investment Company (Damascus)	Anti-Money Laundering	10
16-18/12/2002	Beirut-Arab States Center for Research and Studies	Prevention of Dirty Money Laundering	1
2003	Arab Quality Makers (Damascus)	Avoiding Involvement in Money Laundering	5
21-25/6/2003	Amman-Arab Academy for Financial and Banking	Anti-Money Laundering	1

	Sciences		
9-11/3/2004	Abu Dhabi- Arab Monetary Fund +International Monetary Fund	Anti-Money Laundering	1
11-13/5/2004	Beirut- Financial Stability Institute	Anti-Money Laundering	1
13-15/6/2004	Cairo- Arab Academy for Financial and Banking Sciences	Increasing Money Laundering Threats, Diversification of its types and Periodical Work to combat it	2
21-25/6/2004	Paris- French Bank	Combating Financial Offences and Money Laundering	1
29-30/9/2004	Syrian Commercial Bank	Money Laundering	4
10-12/1/2005	Abu Dhabi- Arab Monetary Fund	Anti-Money Laundering	2
1-2/8/2005	Central Bank of Syria (Session for new staff)	AML/CFT	20
November 2005	Abu Dhabi- Arab Monetary Fund	Drafting Legislations on Financing Terrorism	1
9-11/6/2006	World Bank- Cyprus	Training trainers in AML/CFT	2

#### **Authorities' Powers and Sanctions- R. 29 & 17**

322. **Recommendation 29:** The Basic Monetary Order Law charges the Banking Supervision Department of probing into the violations against the provisions of the Monetary Law and the directives issued to implement it, as well as supervising and monitoring banks according to the directives of the Council for Money and Credit. Central Bank of Syria can also contract with experienced people to perform field and office monitoring entrusted to them by the Banking Supervision Department. Banks also have to appoint an adequate number of internal monitors, the appointment of whom shall be approved by the Council for Money and Credit. They shall verify the bank's compliance with the legal texts and provisions that banks are subject to, provided that internal monitors submit a monthly report on their works to the Banking Supervision Department. Following the on-site visit to the sample banks, it turned out that those monitors were performing the duties entrusted to them.

323. The Exchange Law entrusted the duty of monitoring money changer institutions to Central Bank of Syria, and it forced those institutions to abide by the provisions of decree No.33. Syrian Commission on Financial Markets and Securities and Insurance Supervisory Commission were entrusted to regulate and monitor the works and activities of the parties subject to their monitoring. Yet, those two commissions did not perform the duties assigned to them as previously mentioned, and no details about the monitoring rules and regulations that secure the efficiency of supervision and monitoring existed.

324. The CMLTFC Compliance Unit, by virtue of article 19 of the Regulation of Monitoring Financial and Banking transactions issued by the CMLTFC, practices the measures of monitoring transactions in order to combat ML/FT, as well as the obligations stipulated in decree No.33 and the monitoring regulations and circulars set and issued by the CMLTFC for all banking and financial institutions. The assessment team was provided with the plan of action of the Compliance Unit which commenced in April 2006, and which is expected to be completed in December 2006.

325. The CMLTFC has the powers to conduct inspection of the banking and financial institutions, including on-site inspection. However, the Compliance Unit's role is very limited

as the inspection duties are not promoted to include all the currently existing financial and banking institutions besides there are few numbers of other licensed financial institutions, other than banks.

326. The Banking Supervision Department has the same powers over banks only at the time being. Those powers are expected to extend to money changer institutions once they are registered and subjected to monitoring. However, those powers have not been efficiently implemented due to the shortcomings mentioned before.

327. The Insurance Supervisory Commission and The Syrian Stocks and Financial Markets Authority enjoy the powers of inspection. However, the two commissions did not perform the duties assigned to them as previously mentioned.

328. Articles 4 and 5 of decree No.33 obliged banking and financial institutions to keep a copy of official documents and papers related to clients' transactions for a period not less than 5 years after the transaction is completed or after the termination of relationship with the client depending on which is longer, in a way that enables the CMLTFC to use these documents and papers when it needs to do so. It is noticed that the Banking Supervision Department's powers are not complete, as they are limited only to access of clients' debit accounts. Moreover, there have been no explicit texts that entitle the Insurance Supervisory Commission and Syrian Stocks and Financial Markets Authority to access records and documents relevant to transactions.

329. Except for the CMLTFC, no explicit texts are found for remaining monitoring parties that grant them enough powers to impose the implementation of standards and sanctions against financial institutions, their managers or senior administration as a penalty for non-compliance with or inadequate implementation of the AML/CFT conditions.

330. **Recommendation 17:** The LD on AML/CFT in article 17 imposes penal sanctions *on anyone violating AML/CFT requirements stipulated in articles 4,5,6,9-a,11-a,11-c and 12 of the same LD, be it a natural or legal person*, with imprisonment ranging from three months to one year and a fine ranging between 250,000 Syrian Pounds and 1 million Syrian Pounds (*from \$4,800 to \$19,250*). It can be noted in this article that the imprisonment and fine sanctions are obligatory and not optional nature. Moreover, the sanction of imprisonment is not proportionate the legal person. This remark might reduce the effectiveness of implementing these sanctions against the legal person.

331. The CMLTFC-By-laws provides the *Directors Committee in article 4, paragraph 17* with the powers to pass penalties and request judicial prosecution against the parties violating the obligations stipulated in the LD, the regulations of the monitoring transactions and circulars issued by the CMLTFC and other adopted measures.

332. The LD on AML/CFT did not include anything that refers to the implementation of sanctions on managers of financial institutions and business companies and their senior management.

333. The LD on AML/CFT did not include anything that refers to the expansion of the sanctions' scope in a way that is adequate to the gravity of the situation, where they include the powers to impose disciplinary and financial sanctions and the powers to withdraw, restrict or suspend the license of the financial institution, wherever found. However, Article 16 of the LD stipulated that court judgments rendered in a ML/TF crime shall include the closure of the working place, suspension of the legal person from work and dissolution of the legal person in

case of repetition. These sanctions have nothing to do with the violation of AML/CFT conditions but with committing ML/TF crime.

### Market Entry

334. **Recommendation 23 (Criteria 3, 5, 7).** Law No. 28/2001 and its executive rule deals with the regulation of the founders' contribution and major banks shareholders, as well as the steps to establish and register banks working on Syrian territories:

- a- Central Bank of Syria studies the license application submitted, taking into account the reputation, qualifications and competence of the party (Article 4-a of Law No.28), and taking into consideration the banking expertise, world reputation and financial solvency of legal persons (Article 5-6 of Law No.28).
- b- Central Bank's prior approval, and a decision by the Cabinet based on it, to assign shares (Article 9-b of Law No.28).
- c- The bank's statute defines the qualifications and the necessary conditions in the members of board of directors. The central bank is also entitled to verify these qualifications (Article 31 of Law No.28).
- d- The executive rule stipulated in details the information required from physical and legal bodies required by founders (Article 4 of the executive rule), provided that the share of the physical person, his wife and children is not more than 5% of the capital, and 49% for legal persons (Article 9 of the executive rule).
- e- Any change in the composition of the board of directors or the general manager of the public bank shall be subject to the approval of Central Bank of Syria to guarantee continuous compliance with conditions and qualifications identified in the bank's statute.

335. Based on the above-mentioned, legislative texts governing banks and that have to do with the change of the board of directors' composition or the general manager cover public banks only without extending to other banks in the country. Moreover, standards of honesty and integrity are not available, among which are standards related to experience and integrity to evaluate the directors and senior administrative members in banks.

336. With respect to insurance companies, legislative texts defined the percentage of physical and legal person's property, without having other texts that prevent criminals and their accomplices to acquire large or dominating shares or to become the benefiting owners through these shares, or that prevent them from assuming an administrative job, including executive or supervisory boards. Legislative texts did not define standards to verify that the honesty and integrity are available, among which, are standards relating to experience and honesty to evaluate the directors and senior higher administrative members in the insurance sector.

337. The Exchange Law provides that money changer institutions' founders shall be well-reputed and that no one of them is convicted by any crime that tampers with honor and integrity. There are no other standards to verify honesty and integrity.

338. There are no conditions that deal with what has been previously mentioned in terms of institutions subject to the monitoring of the Stocks and Financial Markets Authority.

339. The Exchange Law regulates the profession of money changers and money transfer. Due to the recent promulgation of the law and the non-promulgation of regulatory rules and measures related to it, the assessment team did not have the chance to stand on the efficiency of the implementation of this law. This is in addition to the fact that no institution illegally practicing money-changing, until the date of the visit, is subject to the monitoring of the Central Bank.

***On-going Supervision and Monitoring***

340. **Recommendation 23 (Criteria 4,6,7):** Different monitoring parties in Syria in charge of monitoring banking and financial institutions are not obliged to implement the Core principle of an effective banking control in order to verify the institutions compliance with these principles implementation. According to what was mentioned earlier in this report, the CMLTFC is the exclusive party in charge of verifying the compliance with AML/CFT standards. This role is done, in a limited way, with the Banking Supervision Department with respect to banks only. As previously mentioned, the inspection duties performed by the CMLTFC are still limited and have not covered all banking and financial institutions.

341. The team was not able to judge the periodicity and the continuity of field monitoring to verify the banking and financial institutions' compliance with their statutes and the shrewd management of risks, as well as monitoring laws and directives regulating their work on one hand, and their compliance with AML/CFT standards on the other. This is because this role has not been fulfilled by different monitoring parties, except for the limited role of the Banking Supervision Department in banks and that of the Commission with respect to banking and financial institutions.

342. (Criterion 32.2) The Banking Supervision Department undertook many duties last year to monitor the compliance of banks in AML/CFT, where it visited three banks in this regard, in addition to the duties it carried out during its comprehensive duties in all banks. As for the Compliance Unit, it conducted six rounds for six banks this year. Currently, it is preparing three rounds that include another three banks. It sent the remarks noted during the on-site visit to banks in the form of a feed-back to perform the required corrections. It is worth-mentioning that the CMLTFC sanctioned a bank this year for not reporting a suspicious transaction that was discovered.

***Offering opinion and guidance in relation to Suspicious Transaction Reports Only***

343. **Recommendation 25 (Criterion 1):** The CMLTFC issued an AML Guide procedures addressed to banks only. It includes an annex that covers ML indicators using banking transactions. It can be noted that the guide was prepared in 2004, and it was not updated, as it did not take into account the financing of terrorism transactions or cover the other banking and financial institutions.

**3.10.2 Recommendations and Comments**

344. Syrian authorities shall:

- Set comprehensive monitoring procedures and measures for AML/CFT for all financial institutions addressed pursuant to LD No 33 in a way that guarantees consistent implementation according to the specializations of the three main sectors at least in the time being.
- Regulate the money changers' activity in Syria quickly and register money changer institutions that desire to register, where they shall be subject to monitoring regulations and measures, in consistency with provisions of decree No.33, and taking the adequate legal measures against institutions which did not apply for registration.
- Promote the monitoring and supervision duties of Insurance Supervisory Commission and Syrian Stocks and Financial Markets authority through issuing regulatory rules for the activity of parties subject to their monitoring, in consistency with the duties assigned to each authority.

- Promote the regulatory structures of the Banking Supervision Department and the Insurance Supervisory and Syrian Financial Stocks and Markets Authority and provide them with qualified human resources and ensure continuous training programs to them.
- Reinforce the duties of on-site inspection of the CMLTFC to encompass all banking and financial institutions.
- Provide all monitoring parties, not the CMLTFC only, with the right to have access to records and documents related to accounts and transactions with respect to institutions subject to the monitoring of every monitoring party, in a way that promotes the latter's capacity to monitor compliance on one hand and the implementation of administrative penalties in case of violations in addition to the sanctions stipulated in decree No.33.
- Verify the availability of honesty and integrity elements in all main shareholders and members of board of directors for all banking and financial institutions, and not for banks only. These standards should be exclusively issued by the involved monitoring party without including them only in Statutes. The monitoring party shall be given the right to assess those elements.
- Promote the compliance of banking and financial institutions with core principles of efficient banking control and implement well-defined periodical inspection of those institutions, which enable different monitoring parties to verify their compliance with their Statutes and AML/CFT standards.
- Draft an integrated guide for patterns of suspicious transactions of ML/FT operations which covers all banking and financial institutions, provided that it includes the locally and internationally discovered cases, and it be updated regularly.

345. With respect to recommendation 17, the following are recommended:

- Accurately define the penal, civil or administrative sanctions in order to deal with physical or legal persons who fail to comply with AML/CFT conditions in a way that achieves efficiency and deterrence, as they are not accurately defined with respect to the legal person in particular.
- The mentioned LD shall include the implementation of sanctions on directors of legal persons constituting financial institutions and business companies, as well as their senior management.
- The mentioned LD shall include the expansion of the scope of sanctions properly according to the gravity of the situation, where they would include powers to impose disciplinary and financial sanctions, as well as powers to withdraw, restrict or suspend the license of a financial institution, wherever found.

### 3.10.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors underlying the rating of compliance
<b>R 17</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ No accurate determination of criminal, civil or administrative sanctions to deal with a legal person who fails to comply with AML/CFT conditions.</li> <li>▪ The LD on AML/CFT does not include the implementation of sanctions on directors of legal persons constituting financial institutions and business companies, as well as their senior management.</li> <li>▪ The mentioned LD does not include the expansion of the scope of sanctions in a way that is adequate to the gravity of the situation.</li> </ul>
<b>R 23</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No promotion of monitoring and supervision duties of the Insurance Supervisory Commission and the Syrian Stocks and Financial Markets authority.</li> <li>▪ Lack of making the informal money changer sector in Syria subject to regulation and setting supervisory and monitoring standards for registration and</li> </ul>

		<p>practice of activity and taking into consideration preventive measures against parties that did not apply for registration.</p> <ul style="list-style-type: none"> <li>▪ The availability of elements of honesty and integrity for all major shareholders and members of board of directors for all banking and financial institutions and not banks only is not set as a condition.</li> <li>▪ Lack of promotion of banking and financial institutions' compliance with the core principles of efficient banking monitoring, implementation of the principle of well-defined periodical inspection of those institutions, which would enable different monitoring parties to verify their compliance with their Statutes and AML/CFT standards.</li> </ul>
<b>R 25</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ No integrated and new guide for patterns of suspicious transactions of ML/FT operations</li> </ul>
<b>R 29</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ All monitoring parties– except the CMLTFC- are not entitled to access records and documents related to accounts and transactions with respect to institutions subject to the monitoring of every monitoring party, in a way that promotes the latter's capacity to monitor compliance on one hand and the implementation of administrative penalties in case of violations in addition to the sanctions stipulated in decree No.33 on the other hand.</li> </ul>

### 3.11 Money or Value Transfer Services (SR VI)

#### 3.11.1 Description and Analysis (summary)

346. The Central Bank of Syria is in charge of supervising and monitoring activities of money transfer conducted by banks, without violating the constraints imposed by the Exchange Office on currency conversion. With respect to money changer companies, the newly-promulgated Exchange Law entitled them to practice transfer according to the purposes permitted by foreign exchange regulations, and it subjected them to the central bank monitoring. Yet, the activation of this process is still at its beginning, as the executive instructions of this law were issued on 24/5/2006. License applications have started to be received and examined as of 1/7/2006, whereby 14 applications were received until the end of August 2006. Most of the money transfer activities are still practiced illegally and via unlicensed service providers (individuals and institutions), taking into consideration the strict restrictions imposed by the foreign exchange office on the purchase and selling of foreign currencies with respect to the public, which encouraged them to resort to the informal money changers market. With respect to banks only, there is an accredited list of banks registered at the central bank.

347. Banks are subject to standards of verification of the identity of clients as previously mentioned while analyzing Recommendation 5. Money changer institutions are also subject, by virtue of Exchange Law, to the provisions of decree No.33 regarding the record-keeping of the transactions whose value exceeds the limit defined by the CMLTFC resolution, as well as when business relation is established with permanent clients, in transactions when doubts are raised on the attempt of a client to carry out ML/FT transactions, or in case of doubts regarding the validity of information previously declared, or in case of later changes in the identity of the client or the identity of the beneficial owner. They were also bound to verify the identity of clients and their addresses, relying on official documents and to keep a copy of them and the documents related to the transactions and the above-mentioned cases for a period not less than 5 years following the end of the transaction or the end of relation with the client, depending on which is longer, in a way that enables the CMLTFC to use these documents and papers when it needs them. They are also obliged to take special measures and draw special attention in case:

- a- The client or the beneficial owner is a politically exposed person. Such measures in this case include the approval of the senior management of the mentioned institutions to establish a business relation, continuous monitoring of this relation, as well as reasonable

measures to determine the source of funds. Every individual entrusted with a public or a senior post in a foreign country is a politically exposed person.

b- Transactions that are conducted without the presence of the client or via advanced technology, which may not necessitate the mentioning of the real identity.

c- All unusual complicated and large transactions and all unusual patterns of transactions that do not have an apparent economic purpose.

d- Transactions conducted with physical or legal persons, including banking and financial institutions, residing in the countries on the list of NCCT in the field of AML/CFT issued by FATF.

348. Due to the non-registration of any of the money changer institutions until the date of visit, the team did not have the chance to examine the mechanism of binding those institutions to the provisions of relevant laws.

349. In principle, banks and money changer institutions are subject to the monitoring of Central Bank of Syria according to the supervision and monitoring mechanisms that were previously mentioned in other areas of the report. The CMLTFC has been assigned, as mentioned earlier, to verify the compliance with AML/CFT standards.

350. *Additional elements*: Syrian authorities did not draft any tangible plans- except for the promulgation of the Exchange Law- to subject informal transfer systems operating now to monitoring. Hence, those authorities did not implement the best practices issued by FATF in general.

### 3.11.2 Recommendations and Comments

351. Syrian authorities have to expedite the setting of tangible action plans in order to organize the activity of money transfers. The team fears that current service providers, who are not subject to any regulations, would abstain from applying for registration voluntarily, and would resort to methods to hide their activity by practicing other different activities, such as the transport of goods for example. During the visit, the team looked into the fact that the transportation of goods is exploited to transfer money to areas where banking and financial services are not available. The team recommends quick encouragement of service providers to join the central bank monitoring and set deterring sanctions against unregistered service practitioners.

#### 3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR VI	NC	<ul style="list-style-type: none"> <li>▪ No regulations for transfer activities, where those operations are practiced via unlicensed money changer offices. This is in addition to the incapacity to transfer money via banks unless pursuant to conditions and tight restrictions set by Foreign Exchange Office.</li> </ul>

#### **4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS (DNFBP)**

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

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

###### **4.1.1 Description and Analysis**

352. LD No.33 defined the non-financial business and professions as:

- Companies that purchase, promote and sell real-estates
- Real-estate broker offices
- Dealers of high-value goods, such as jewelry, precious stones, gold, bibelots and rarities.
- Lawyers and editors of legal exhibits
- Independent accountants
- Other non-financial institutions defined by the CMLTFC

353. Lawyers, editors of legal exhibits, and Independent accountants are subject to some provisions of decree No.33 in case they performed transactions for clients in the field of:

- Purchasing and selling real-estates
- Management of client's funds, securities or any other assets.
- Management of bank accounts, saving accounts or investment accounts in local and international financial markets.
- Organization of private contributions through establishing, operating or running companies.
- Establishment or operation or management of legal bodies or legal arrangements, as well as purchase and selling of commercial entities.

354. Syrian laws do not allow the establishment of casinos or gambling activity exclusively.

355. By virtue of Article 4 of LD No.33 of 2005, all DNFBPs, including companies purchasing, promoting and selling real-estates, real-estate brokers, dealers of high-value goods, such as jewelry, precious stones, gold, bibelots and rarities, and other non-financial institutions defined by the CMLTFC, as well as lawyers, writers of legal documents and independent accountants are bound when performing certain transactions for their clients to keep special books of the transactions, the value of which exceeds the limit set by the CMLTFC decision, as well as when a business relation is established with permanent clients, and in transactions when doubts are raised on the attempt of a client to carry out ML/FT transactions, or in case of doubts regarding the validity of information previously declared, or in case of later changes in the identity of the client or the identity of the beneficial owner. This article also forced these parties to verify the identity of clients and their addresses, relying on official documents and to keep a copy of them and the documents related to the transactions and the above-mentioned cases for a

period not less than 5 years following the end of the transaction or the end of relation with the client, depending on which is longer, in a way that enables the CMLTFC to use these documents and papers when it needs them. Moreover, by virtue of article 6 of LD No.33 of 2005, all DNFBPs are bound to take special measures and draw special attention in case the client or the beneficial owner is a PEP, or transactions are performed, without the presence of the client or via advanced technology, which may not necessitate the mentioning of the real identity, or in case of all unusual complicated and large transactions and all unusual patterns of transactions that do not have an apparent economic purpose.

356. Just like financial professions, non-financial professions are subject to sanctions in case the AML/CFT obligations imposed are violated, particularly in the field of customer due diligence and record-keeping. Article 17 of LD No 33 of 2005 stipulated that anyone breaching the provisions of articles 4,5,6,9-a,11-a,11-c and 12 (articles including the AML/CFT obligations) of this LD shall be sentenced to three-months to one-year imprisonment and shall pay a fine ranging between 250000 and 1 million Syrian Pounds (between 5000 and 20000\$).

357. It was noted that associations and unions organizing the work of profession owners lack sufficient knowledge about AML/CFT standards. This is in addition to the lack of stable professional standards that guarantee the binding of non-financial professions and businesses to AML/CFT standards. The team did not see preventive circulars and instructions issued by associations and unions to promote their guidance role in this regard.

358. **Implementation of Recommendation 5:** Though non-financial businesses' and professions are bound to verify the identity and addresses of clients, relying on official identification papers, they have to keep special records of the transactions where doubts are raised on the attempt of a client to carry out ML/FT operations, or in case of later changes in the identity of the client or the beneficial owner, or in case of doubts regarding the validity of previously declared information, it was noticed through the on-site visit to unions and associations organizing non-financial businesses and professions that they have not implemented those prerequisites, and some were not aware those prerequisites in the first place.

359. It turns out through this on-site visit that there is no legal binding or instructions issued by monitoring parties or a practical application of the following:

- Detailing the identification papers which could be accepted and accessed when dealing with clients, whether physical or legal bodies.
- Carrying out the necessary measures to identify the beneficial owner for clients of those professions.
- Obtaining information related to the purpose and nature of the business relation.
- Updating the clients' identity with respect to categories of clients and high-risk business relations.
- Implementing CDD in terms of updating the clients' identity or monitoring changes on transactions, accounts and taking into account customer-related risks.
- Not opening an account or initiating a business relation or carrying out the transaction, as well as notifying the CMLTFC in case of inability to meet all CDD requirements, or in case a contradiction is proved between the information declared and the information obtained from other sources.
- Setting definite policies and measures related to the conditions of admission of clients, including the clarification of the type of clients involving a higher risk than the other ordinary clients.

- Defining the level of CDD measures on a risk-based approach.

360. As previously mentioned when analyzing R.5 at another place in the report, legislations and instructions implemented in Syria do not allow the following:

- Set reduced CDD measures to enforce due diligence in a reduced or simplified manner on clients from certain countries.
- Allow to complete CDD measures after a business relation is established.

361. **Implementation of Recommendation 6:** There is legal binding that obliges non-financial businesses and professions to draw special attention to determine whether the client or the beneficial owner is a Politically Exposed Person (PEP). However, there is no practical application or guiding rules issued by the non-financial businesses and professions in this regards.

362. **Implementation of Recommendation 8:** There is legal binding that obliges non-financial businesses and professions to adopt the necessary measures to prevent the misuse of technological advancements in ML/FT operations. In addition, policies or measures related to indirect business relations or transactions. However, there is no practical application or guiding rules issued by the non-financial businesses and professions in this regards.

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

364. **Implementation of Recommendation 10:** Non-financial businesses and professions have to keep special records according to certain cases, and they have to keep a copy of the official identification documents, as previously mentioned, for a period not less than 5 years following the end of the transaction or the end of the relation with the client, depending on which is longer, in a way that enables the CMLTFC to use these documents and papers when necessary. It was observed that there are no legislative texts or monitoring instructions for these parties that define the conditions and information that should be available in those records, where they would be enough to retrace the steps of transactions, including the volume of currencies used and types if any, and that obliges these parties to ensure the identification data and transaction records to the CMLTFC and competent judicial authorities when banking secrecy is lifted for their sake and at their request.

365. **Implementation of Recommendation 11:** According to what has been previously mentioned, DNFBPs have been bound to keep records and verify the identity in the above-mentioned cases, which include unusual patterns of transactions that do not have a clear economic purpose. Yet, those parties are not forced to register the results of their examination of these transactions to determine their background and purpose in writing and make these results available to competent authorities and account auditors.

#### 4.1.2 Recommendations and Comments

366. The following is recommended:

- Set instructions and guidance rules to organize the mechanisms of record and book keeping in case DNFBPs establish business relations on behalf of clients according to the requirements of LD No 33, which would facilitate the restoration of those data at the request of competent authorities.

- Set instructions and guiding rules on dealing with Politically Exposed Persons (PEP).
- Set instructions and guiding rules on dealing with complicated and large transactions, which includes binding, examining and writing the background of those transactions and making them available to competent authorities.
- Organize the profession of auditing in Syria and oblige auditing service providers to adopt stable and unified standards for auditing and revision.

#### 4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors underlying rating
R 12	PC	<ul style="list-style-type: none"> <li>▪ No instructions and guiding rules to implement AML/CFT requirements</li> <li>▪ Lack of the awareness of some unions and associations organizing non-financial businesses and professions of the requirements of LD No 33</li> </ul>

## 4.2 Suspicious Transaction Reporting (STR) (R 16)

(Implementation of recommendations 13 to 15 & 21)

### 4.2.1 Description and Analysis

367. All DNFBPs are obliged to notify the Chairman of the CMLTFC or person acting on his behalf immediately about the details of the transactions that are suspected to conceal illegitimate money laundering or financing of terrorism, pursuant to Article 9 of LD No.33 of 2005, including companies purchasing, promoting and selling real-estates, real-estate brokers, dealers of high-value goods, such as jewelry, precious stones, gold, bibelots and rarities, and other non-financial institutions defined by the CMLTFC, as well as lawyers, writers of legal documents and independent accountants. For this reason, Article 13 of the LD No.33 of 2005 provided these professions with immunity when they report with good faith.

368. Just like financial institutions, non-financial professions are subject to sanctions in case the AML/CFT obligations imposed are violated, particularly in the field of suspicious transaction reporting. Article 17 of LD No.33 of 2005 provided that anyone breaching the provisions of Articles 4,5,6,9-a,11-a,11-c and 12 (articles including the AML/CFT obligations) of this LD shall be sentenced to three-months to one-year imprisonment and shall pay a fine ranging between 250,000 and 1 million Syrian Pounds (between 5000 and 20.000 \$).

369. **Implementation of Recommendation 13:** All DNFBPs are obliged to notify the Chairman of the CMLTFC or person acting on his behalf immediately about the details of the transactions that are suspected to conceal illegitimate money laundering or financing of terrorism. It can be noticed that the same reserves highlighted when analyzing Recommendation 16 apply in this case. The team did not observe any guiding rules by the associations and unions regarding the mechanism of reporting suspicious transactions or the patterns of suspicious transactions that should be reported, or even any guidelines emanating from the specificity of non-financial profession. Moreover, the team did not notice the awareness of some unions and associations organizing non-financial businesses and professions of the requirements of reporting pursuant to LD No 33.

370. **Implementation of Recommendation 14:** Non-financial businesses and professions, their managers and those working in them, as well as those who report and unveil suspicious transactions which they suspect include ML and FT, with good faith, enjoy immunity. They shall not be prosecuted or sued by any civil or penal liability (Article 13 of LD No 33). There is

no legislative text or regulatory instructions which prohibit disclosure of STRs or related information presented to the CMLFTC. It should be noted that Article 12 of LD No 33 stipulated that reporting should be carried out in absolute secrecy, whether this reporting was performed by a physical or legal person. Documents submitted for this reason, as well as investigation documents and procedures at all stages should be kept confidential as well. This was supported in Article 17 of the same decree, where sanctions have been imposed for not respecting that prerequisite. This prohibition covers the CMLFTC staff.

371. **Implementation of Recommendation 15:** There is no legal binding or monitoring instructions or a practical application in those parties to set policies, measures or internal regulations to combat ML/FT and inform their employees about them, which covers, among other things, customer due diligence in terms of verifying the identity of clients, record-keeping, the disclosure of extraordinary and suspicious transactions, and the obligation of reporting, or obliging those parties to appoint an officer or form a committee in charge of AML/CFT or determine the duties of that function, or create a post to verify compliance. Moreover, no training plans were provided to make sure that those working in the aforesaid entities are well informed of AML/CFT requirements and of the latest developments in this regard. Finally, no rules have been set to guarantee high standards of competence when hiring employees.

372. **Implementation of Recommendation 21:** There is legal binding for the mentioned parties to take special measures and draw special attention in the event of transactions with physical or legal persons, including banking and financial institutions, residing in countries on the FATF list of NCCT. This is pursuant to Article 6, paragraph (d) of LD No.33. Yet, those parties do not have any mechanisms or directives on how to implement that. As mentioned earlier, those parties are not bound to register the results of their examination of these transactions to determine their background and purpose in writing and make these results available to competent authorities and account auditors. Furthermore, CMLTFC or supervisory authorities to which those parties are subject did not issue any circulars or bulletins that guarantee the examination of weaknesses in AML/CFT systems in other countries. It was not clear, as well, that those parties have taken measures in this regard. Moreover, no adequate counter-measures, to be taken in case a certain country continued not to apply FATF recommendations or did not apply them sufficiently, have been remarked.

#### 4.2.2 Recommendations and Comments

373. The following is recommended:

- Set guiding rules issued by the CMLTFC or associations and unions regarding reporting mechanisms and patterns of suspicious transactions that should be reported, in addition to any guidelines emanating from the specificity of non-financial professions.
- Establishment of legislative text or regulatory instructions for DNFBPs prohibiting disclosure of STRs or related information presented to the CMLFTC
- Set policies and work procedures that guarantee the compliance of non-financial businesses and professions with AML/CFT standards, promote the awareness of workers and train them continuously.

- Set stable standards by associations and unions on how to deal with clients from non-compliant countries with FATF standards and set deterring measures in case those countries continued not to abide.

### 4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors underlying rating
<b>R 16</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of awareness of unions and associations organizing non-financial businesses and professions of the prerequisites of LD No 33.</li> <li>▪ Lack of guiding rules by the CMLTFC or associations and unions regarding reporting mechanisms and patterns of suspicious transactions that should be reported.</li> <li>▪ Lack of legislative text or regulatory instructions prohibiting disclosure of STRs or related information presented to the CMLTFC.</li> <li>▪ Lack of policies and work measures that guarantee the compliance of non financial business and professions with AML/CFT standards, as well as promote the awareness of workers and train them continuously.</li> <li>▪ Lack of guiding rules on how to deal with clients from countries non-compliant with FATF standards.</li> </ul>

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

### 4.3.1 Description and Analysis

374. **Recommendation 24:** As previously mentioned, Syrian laws do not permit the establishment of casinos in Syria.

375. The CMLTFC Compliance Unit is specialized in validating non-financial businesses and professions' compliance with AML/CFT procedures pursuant to decree No 33 and monitoring regulations set by the CMLTFC and circulars issued by it (Article 19 of the Monitoring Regulation). Yet, it was observed that no resolution have been issued to promote monitoring over those parties and guarantee their compliance with AML/CFT requirements, except for circulating the STR form among supervisory authorities over those parties, as well as a letter issued by the CMLTFC and addressed to supervisory authorities over those parties to secure those parties' compliance with decree No.33.

376. Non-financial businesses and professions are subject to the regulations of number of parties in accordance with the nature of the activity including government agencies, associations and unions, which practice an administrative supervisory role; however, this does not extend to practicing an efficient monitoring role or to enjoying powers to impose administrative sanctions in case of violating AML/CFT requirements. Non-financial businesses and professions licensed to operate in Syria may be identified as follows:

- Real-estate broker offices and real estate companies are licensed by local administrative units.

- Lawyers are licensed by Lawyers Bar.
- Editors of legal exhibits are licensed by Ministry of Justice.
- Independent accountants are licensed by Ministry of Economy.
- Dealers of jewelry and gold are licensed by Jewelry Association.

It was observed that both Lawyers and Dealers of Jewelry and Gold are required to join the Lawyers union and Jewelry association in order to conduct their business.

377. **Recommendation 25:** The CMLTFC did not issue any guiding rules that include the best practices for non-financial businesses and professions and patterns of suspicious transactions which non-financial businesses and professions could fall victim of. It did not issue as well any other guidelines to promote AML/CFT efforts, which could promote the interest of those parties in ML/FT risks.

#### 4.3.2 Recommendations and Comments

378. The CMLTFC monitoring and supervisory role should be promoted to verify the compliance of non-financial businesses and professions with the provisions of decree No.33, provided that the CMLTFC be in charge of issuing regulatory rules to promote AML/CFT systems for that category of business. Relevant government agencies, associations and unions have to practice a vaster supervisory and monitoring role by issuing supervisory rules and best-practice standards and should look into imposing administrative sanctions on the non-compliant party.

379. The CMLTFC, relevant government agencies, associations and unions regulating the activities of non-financial businesses and professions should expedite the setting of guidelines and best-practices for that category of businesses. They should also set guidelines and work procedures and patterns for suspicious transactions that would serve as an awareness source and guidance methodology to promote combating efforts.

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

	Rating	Summary of factors underlying rating
R 24	NC	<ul style="list-style-type: none"> <li>▪ The CMLTFC did not issue regulatory rules to promote combating systems for non-financial businesses' and professions. Relevant government agencies, associations and unions have not issued supervisory regulations and best-practice standards and should look into imposing administrative sanctions on the non-compliant party.</li> </ul>
R 25	NC	<ul style="list-style-type: none"> <li>▪ Lack of guidance and best practices for non-financial businesses and professions, or any guidelines and work procedures or patterns of suspicious transactions which would serve as an awareness source and guidance methodology to promote combating efforts, which could be issued by unions and associations.</li> </ul>

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

#### 4.4.1 Description and Analysis

380. When defining the parties subject to LD No.33, the possibility of the expanding the scope of institutions subject to the LD to include other non-financial institutions defined by the CMLTFC becomes clearer. Through the visit, it turned out that there are no efficient non-financial professions and business in Syria, constituting risks in terms of ML and FT.

381. E-payment services are not widespread among most retail shops and sales outlets. Moreover, the use of plastic cards is very narrow and for purposes of cash withdrawal in most cases. Thus, the public relies on cash in the first place.

382. Most employees in the public and private sectors get their wages cash, as there is no obligation to pay salaries and wages via bank accounts.

#### 4.4.2 Recommendations and Comments

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

#### 4.4.3 Compliance with R 20

	Rating	Summary of factors underlying rating
R 20	LC	<ul style="list-style-type: none"> <li>▪ Lack of measures to encourage the spreading of banking services and continuous reliance on cash.</li> </ul>

## 5. LEGAL PERSONS, LEGAL ARRANGEMENTS AND NONPROFIT ORGANIZATIONS

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

#### 5.1.1 Description and Analysis

384. **Recommendation 33:** In general, the corporation sector in Syria is not highly complicated. It includes the types of common companies in general. Part 4-1 of this report describes this sector and the type of companies that constitute it. The trade register in Syria is considered as the main mechanism to know about the legal forms of legal persons, relative information about them, as well as information on beneficiaries. Article 22 of the Syrian Trade Code No 149 of 1949, stipulated that the trade register should include sufficient information on all commercial institutions operating in the country. It is a tool of public declaration, as its provisions are opposable to third parties. This register is divided into three branches: one to register companies outside Syria, another one to register insurance, economic and saving companies, and the last one to register commercial institutions. The law stipulated the necessity to register all the companies headquartered in Syria, regardless of their nationalities. The register applicants submit a certified copy of the Memorandum of Association or its Statute, as well as a summary of this memorandum or statute set for public declaration to the trade register secretary. Pursuant to Article 22 of the same law, the trade register enables the public to obtain

sufficient information about all commercial institutions operating in the country, and it is a tool of public declaration, i.e. its provisions are opposable to third parties. This register is organized in every governorate, under the supervision of the Ministry of Economy and Trade.

385. It is noticed that the trade register is not centralized, as in accordance with Article 22, there is a register in every governorate. Through the visit, it turned out that there is no communication among registers in governorates, which could lead to a repeated registration of the legal person with different data.

386. Article 26 of the same law, in paragraph 2, includes the basic data of the trade register: name and surname of partners, nationalities, trade name of the company or its address, as well as its object, locations of the company's branches or dealers in Syria or abroad, names of partners or other people licensed to run the company, manage its affairs and sign on its behalf, in addition to the capital, sums or securities that shareholders or partners should submit. Moreover, it should include the money or other funds offered to the company, date of the company's inception, termination and object, as well as the minimum capital in case it had a changeable capital. Article 27 of the same law highlighted the necessity of registering any modification or change in terms of the matters that should be registered, as well as the name and surname and everything related to the company's managers, members of its board of directors, and manager who are appointed for the period of its existence. During the visit, it turned out that there is no monitoring mechanism of the compliance with the above-mentioned part. In practice, there is no mechanism or a specific party that is in charge of following up with and controlling the possible changes in data recorded in the trade register, whether the legal person's data, or the beneficiaries', and monitoring the updating of such data by the legal persons.

387. In addition to the previous mechanism, information about the beneficiaries from legal persons could be available via the powers vested in some authorities that are entitled or that should verify the beneficial owner of the legal person, i.e. companies. An example on that is:

388. **CMLTFC:** Article 10 of LD No.33 provides for the CMLTFC right to request additional information or know about the details of matters related to the investigations it is conducting from all reporting bodies to continue the CMLTFC investigations. It also provides for its right to request information and details from all official Syrian authorities (judicial, administrative, financial and security) or their foreign counterparts.

389. **Public Prosecution or members of Judicial Police:** They are the people in charge of inquiring about crimes, gathering evidence, arresting their perpetrators and referring them to the courts entrusted to sanction them (Article 6 PPC). This duty is carried out by the public prosecutor, his district attorneys, assistants, investigating magistrates and reconciliation judges in centers where there is no public prosecution (Article 7 of the PPC). To carry out the functions of the judicial police, the Public Prosecutor is assisted by each of the: governors, directors of neighborhoods and regions, chief of police, police officers, general security, heads of marine and air vehicles, and all the employees who were entrusted with the powers of the judicial police by virtue of special laws, such as tax information, observers of provision, health and public sales (Article 8 of the PPC). All of the above-mentioned shall not start exercising the powers of inquiry unless criminal acts stipulated in the PC or special laws are committed. During inquiry and investigation into these crimes and during the search for their perpetrators, such party might reach useful information in this regard, especially if it is a crime resulting in illegal money and falls under the competence of CMLTFC, i.e. it starts with the establishment of the company, commencement of work and suspicions that this company hides some sort of a banned activity. Research, inquiry and investigation cover the source of funds used to establish this company, as well as the company's activity if it was banned, and everything related to its

work, among which is the presence of hidden people or beneficiary owners from the company's work.

390. **Central Commission for Control and Inspection:** It is an independent monitoring body that is related to the Prime Minister. Its objective is to perform efficient monitoring over the work of the State's administrations and its different institutions in order to develop administrative work, protect public funds, achieve efficiency in production, raise the level of competence and performance, and facilitate the citizens' access to services (Article 2 of the Central Monitoring and Inspection Commission's Law). The competencies of this Commission extend to almost all the parties and administrations operating in the State, including joint sector institutions, as well as private institutions and facilities (Article 3 of the Central Commission for Control and Inspection's Law).

391. **Notary Public:** He is the employee in charge of organizing, editing or documenting exhibits and contracts falling under his competence at the request of concerned parties or pursuant to law provisions. The procedure is often followed due to the credibility and protection it offers to the people's contracts and documents which could not be challenged except through counterfeit, by virtue of the strict regulations. Among the notary public's powers is to verify the presence of people involved in person or whoever represents them legally before him, verify their identity or the quality they are working under, whether they are physical or legal persons. He verifies their identity either through documents that have a photograph or ID card or other legally accepted certificates, or the identification provided by two witnesses enjoying legal capacity. If the person involved is representing a legal person, or the contract added him to another one, or if the person is in charge of business, or a guardian, or a patron or a custodian or any quality that entitles him to practice civil matters on behalf of others, his quality should be proved by the required formalities through presenting official and certified papers, provided that a copy of these papers is saved in a special file after signing them by the person presenting them, and it should be mentioned in the document (Article 15-16 of the Notary Public Law).

392. In Syria, issuing bearer shares is not permitted, as in article 97, paragraph 2, the Syrian Code of Trade referred to anonymous companies, stating that the shares of companies established in Syria should be nominal. Law No 28 of 2001 on banks stipulated in Article 2, paragraph 1, that banks are established with the condition that all of their shares should be nominal and could be circulated.

393. **Additional elements:** The identity verification form issued by the CMLTFC relative to legal persons did not include a section that covers the structure of ownership, shareholders' shares in the Capital<sup>30</sup>, which limits the financial institutions' capacity to know who has the right to control legal persons.

### 5.1.2 Recommendations and Comments

394. We recommend the following:

- Find a mechanism of communication among different registers in governorates or adopt the centralization system to guarantee control of data and verify them in a healthy manner.
- Find a mechanism or a specific party that is in charge of following up with and controlling the possible changes in data recorded in the trade register, whether the

<sup>30</sup> The form modified on 30/8/2006 took into account these modifications.

legal person's data, or the beneficiaries', and monitoring the updating of such data by the legal persons.

### 5.1.3 Compliance with R 33

	Rating	Summary of factors underlying rating
R 33	PC	<ul style="list-style-type: none"> <li>▪ Lack of a mechanism of communication among different registers in governorates or adopt the centralization system to guarantee control of data and verify them in a healthy manner.</li> <li>▪ Lack of a mechanism or a specific party that is in charge of following up with and controlling the possible changes in data recorded in the trade register, whether the legal person's data, or the beneficiaries, and monitoring the updating of such data by the legal persons.</li> </ul>

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

### 5.2.1 Description and Analysis

395. *Recommendation 34:* There is nothing in Syria known as trust funds, whether in form or content.

### 5.2.2 Recommendations and Comments

### 5.2.3 Compliance with R 34

	Rating	Summary of factors underlying rating
R 34	NA	

## 5.3 Non Profit Organisations (NPOs) (SR VIII)

### 5.3.1 Description and Analysis

396. *In February 2006, FATF issued the interpretative note of SR VIII. Syria's compliance was not evaluated in this report regarding SR VIII based on the interpretative note but on the basis of the methodology up dated on October 2005.*

397. *Special Recommendation VIII:* NPOs in Syria are subject to the Law on associations and private institutions No.93 of 1958 and its executive instructions issued by virtue of Resolution No.1330/1958. This law regulates the provisions relevant to the establishment of associations and private institutions in Syria, and the method of declaring and monitoring them.

398. Associations and private institutions are subject to the monitoring of the Ministry of Social Affairs and Labor (MSAL), as well as the social affairs and labor directorates in governorates. The directorates are provided, by virtue of Resolution No.306/1973, with vast powers in the field of supervision over the work of associations, particularly direct supervision to verify the implementation of laws and regulations in force. More specifically, they supervise the associations' compliance with the implementation of provisions relevant to the organization of the associations' financial and administrative registers, verification of drafting and certifying of the financial and accounting system, continuous follow-up of the association, and monitoring of all fund-raising activities to make sure that they are held in accordance with the licenses granted to them and the instructions issued by the ministry.

399. Article 3 of this law sets as a condition that to establish an association, a written and signed statute should be set. The statute shall include the association's name and objective, names of the founding members, their titles, age, nationality, profession, and address, as well as the association's resources, method of their use and disposal, bodies representing the associations and the competencies of each of them, appointment of the associations' members, methods of their revocation, methods of financial monitoring and other data. Article 7 added the necessity of declaring the association's statute in accordance with the provisions of the law in order to give it the status of a legal person. Public declaration takes place through registering the association's statute in the register set for this purpose. Every person has the right to access the association's registers and documents that are submitted for public declaration.

400. By virtue of Article 2, Law 93/1958 provides for the annulment of any association established for an illegitimate reason or purpose or that contradicts with laws or ethics, or the establishment of which is aimed at tampering with the safety of the republic or the republican form of the government. The Social Affairs and Labor directorate has to conduct an investigation about the founders via the General Security Directorate. It also has to examine the bylaws from the legal aspect and in terms of the importance of the association's objectives and the area's needs for its services, provided that the opinion of the Interior Ministry and those of official authorities and bodies concerned with the association's objectives should be consulted before deciding on the procedures of declaring the association's Statute in public (Article 6 and 8 of the executive rules).

401. The association keeps hold of its documents, correspondence and registers. It also notes down in a special register the name of every member, title, age, nationality, profession, address, date of joining the association, as well as any change in these data. The association also has to record in special registers the minutes and decisions of the general assembly's and board of directors' sessions. Every member is entitled to access these registers.

402. The law imposes strict standards in terms of accounting. Hence, the association has to record its accounts in books that detail the expenses and revenues, including donations and their sources. The competent administrative party is entitled to access these registers and documents. Neither the association is entitled to receive or obtain money or funds from a person, or an association or a body or a club outside Syria, nor shall it send anything of the mentioned to people or organizations abroad, except upon an authorization by the competent administrative party.

403. By virtue of article 17 of Law 93/1958, every association has to deposit its cash money, under the name it declared, in a bank after the approval of the administrative party. It should also notify this party when it changes the bank within one week of the change. No prior approval should be obtained when an association changes the bank it deals with in accordance with the law. Thus, this matter could be exploited by terrorism financiers. Therefore, no account

shall be opened or no bank shall be changed for any charity association or institution except after obtaining an official authorization from the supervising administrative party and after fulfilling all the necessary regular requirements.

404. With respect to private institutions, an institution is established upon allocating funds for an unlimited period for an act of a humanitarian, religious, scientific or technical character or any other type among non-profit acts of philanthropy and social care or public benefit. The institution is established by virtue of an official document or a will that should include the name and headquarters of the institution, the purpose it is established for, as well as an accurate statement of the funds allocated for this act, as well as the structure of the institution's management, including the name of its director. Private institutions are subject to the same provisions applied to associations in terms of public declaration. The institution's director has to provide the competent administrative body with the institution's budget and annual account with supporting documents.

405. No fund-raising from the public is accepted, except via associations, where a prior license from the Ministry of Social Affairs and Labor should be obtained. Religious places are excluded, as they raise money via funds or plates on religious occasions to be spent on the places themselves. Fund-raising is subject to the ministry's monitoring, where the latter has the right to inspect donations accounts. Fund-raising from abroad is prohibited, except with a prior license from Ministry of Social Affairs and Labor and after consulting the opinion of the Foreign Ministry. The institution is not entitled to accept donations and legacies except with the authorization of the competent administrative party.

406. The law provides for a series of sanctions in case the above-mentioned standards are violated. In fact, Article 72 stipulates that whoever violates them shall pay a sum of 200000 Syrian Pounds as a maximum. In addition, in spite of the criminal measures, the Social Affairs and Labor Minister has the right to dissolve the association, by virtue of a causative decision, in the cases stipulated in Article 36, among which the association's deviation from the objective stated in its Statute, its incapacity to meet its objectives or fulfill its pledges, or allocate its funds for purposes other than those for which it was established. Article 71 imposes the sanction of imprisonment and fine on whoever raises donations for an association or institution in contradiction with the provisions of this law, which entitles the confiscation of the donations collected to the benefit of the MSAL.

407. Texts applied to associations and private institutions entitle the Syrian authorities to monitor the identity of members of associations and to implement sanctions in case these rules are violated. Yet, those working in the Social Affairs Ministry who are in charge of supervising associations and private institutions were not alerted vis-à-vis issues related to ML/TF. The awareness of the same sector should be raised towards these risks.

408. It is noticed that this law does not deal with the possibility of exploiting associations and private institutions in financing terrorism. Competent Syrian authorities reported that currently, a draft-amendment of the above-mentioned Law No.93/1998 and executive instructions is underway, so that it would take into account Arab and international developments. It would include the amendment of decisions and legislations relative to fund-raising for civil associations. Moreover, giving associations some flexibility in their work, while controlling its movement and that of its funds by competent administrative parties at the same time, has also been taken into account.

409. **Additional Elements:** The majority of the measures stipulated in the best practices related to SR VIII are not implemented in Syria.

### 5.3.1 Recommendations and comments

410. Syrian authorities have to:
- Quickly draft a legislation that would deal with AML/CFT with respect to nonprofit organizations and that would force them to report suspicious transactions.
  - Should consider the implementation of measures stipulated according to the best-practices relevant to Special Recommendation VIII issued by the MENA FATF.

### 5.3.2 Compliance with SR VIII

	Rating	Summary of factors underlying rating
SR VIII	PC	<ul style="list-style-type: none"> <li>▪ Lack of legislation that deals with AML/CFT in an integrated manner with respect to NPOs and that force them to report suspicious transactions.</li> <li>▪ Lack of tangible measures to verify that money and others that are raised or transferred via NPOs are not embezzled to promote terrorist activities or organizations.</li> </ul>

## 6. NATIONAL AND INTERNATIONAL COOPERATION

### 6.1 National Cooperation and Coordination (R 31)

#### 6.1.1 Description and Analysis

411. **Recommendation 31:** The mentioned LD stipulated in article 7 that "*An independent judicial Commission called CMLTFC with legal personality shall be created at the Central Bank of Syria*". Paragraph (c) of the same article stated that among the CMLTFC duties is "*providing judicial authorities and other bodies in charge of implementing this LD with the information required by these authorities regarding this LD*".

412. Article 10 provides that: "(a) CMLTFC has the right to request additional information and to have access to details related to investigations carried out of all reporting authorities to complete its investigations. It has also the right to request such information and details of all official Syrian authorities (judicial, administrative, financial and security) or foreign counterparts. Syrian authorities should immediately provide the CMLTFC with the information within the set period of time. (b) CMLTFC is entitled to request of General Directorate of Customs to notify it of the financial amounts that are transferred across national borders in cash or in the form of negotiable financial instruments with values exceeding the amount set by the CMLTFC and that are declared in a module prepared by CMLTFC. The CMLTFC could also establish a database for local and international monetary transactions that are performed by banking and financial institutions and that exceed a defined sum, where they could be used in ML/FT cases.

413. Article 4, paragraph 14 of the CMLTFC bylaws, stated that among the CMLTFC administration committee powers is to "*request the secretary to provide judicial authorities and other authorities involved in the implementation of the provisions of the LD with the information available at the Financial Information Unit and which are requested by these authorities and are related to the LD*."

414. Cooperation between bodies involved in AML/CFT in Syria is made through cooperation among the CMLTFC, criminal security, Anti-Drugs Directorate, Customs, Public Prosecution and the judiciary in order to implement the provisions of the LD. Cooperation is equally made through the CMLTFC Directors Committee which comprises representatives from bodies involved in AML/CFT. At this level, the assessment team noticed that cooperation is made at the CMLTFC request to be provided with information and details relevant to STRs and investigation conducted on ML cases. Cooperation is also done through the CMLTFC instructions and directives issued to financial institutions, and other businesses and professions.

415. With regard to coordination, between different parties (especially parties other than law enforcement parties) involved in AML/CFT. The Syrian authorities stated that coordination is continuous as coordinative meetings are periodically held between these parties, where the CMLTFC, the Central Bank of Syria, as well as Ministries of Finance, Justice, Foreign Affairs, Interior, and Social Affairs and Labor, Customs General Directorate, Central Authority for Financial Control, Central Commission for Control and Inspection, and the Insurance Supervisory Commission are participating. These meetings discuss the best implementation of the LD No 33 of 2005. It is noteworthy that no evidence has been produced supporting the presence of this coordination or any trace of coordination in respect of setting and implementing AML/CFT policies and activities.

416. **Additional Elements:** There are no available official mechanisms in Syria for consultation between competent authorities the financial sector and other sectors (including DNFPBs) that are subject to AML/CFT laws, regulations or guidelines or other measures. However, there are meetings between compliance representatives in the financial sector and the CMLTFC in an unofficial framework.

## 6.1.2 Recommendations and Comments

417. Syria should take necessary measures to coordinate, promote efforts among different AML/CFT parties, and to implement appropriate methods in this regard.

### 6.1.3 Compliance with R 31

	Rating	Summary of factors underlying rating
<b>R 31</b>	<b>LC</b>	-Lack of evidence supporting the presence of this coordination or any trace of coordination in respect of setting and implementing AML/CFT policies and activities among different competent bodies.

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

### 6.2.1 Description and Analysis

418. **Recommendation 35:** On 3/9/1991, Syria joined the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention). This convention was implemented in accordance with the 40 recommendations (See the analysis for R.1 & R.2).

419. On 15/12/2000, Syria signed the 2000 UN Convention against Transnational Organized Crime (Palermo Convention). And until the on site visit, it has not been ratified yet. However, some of the convention's provisions are enforced in Syria, including articles 6 and 7 of the convention, and this is via the mentioned LD. Syrian authorities reported that at the moment, the procedures relevant to the adhesion to the convention are being completed.

420. By virtue of Law No 5 of 2000, Syria adhered to the 1999 UN International Convention for the Suppression of the Financing of Terrorism. The major part of this convention was implemented via the mentioned LD (See the analysis in SR II). Syria also ratified 10 conventions out of 13 relevant to combating terrorism, among which is the International Convention for Combating Nuclear Terrorism.

421. **Additional elements:** Syria adhered to the 1998 Arab Anti-Terrorism Convention. Syrian authorities reported that the UN Convention against Corruption has been signed. Currently, legal procedures are underway to ratify it.

422. **Special Recommendation I:** By virtue of Law No 5 of 2005, Syria joined the 1999 UN International Convention for the Suppression of the Financing of Terrorism. The major part of this convention has been implemented via the mentioned LD (See the analysis of SR II).

423. **Implementation of SR I via UN Security Council Resolutions:** Syrian authorities do not have any special procedures to implement S/RES/1267 (1999) and S/RES/1373 (2001) (See the analysis in SR III).

## 6.2.2 Recommendation and Comments

424. The following is recommended:

- Adopt legislative and procedural measures to enforce the 1999 UN International Convention for the Suppression of the Financing of Terrorism, as it has not been fully implemented.
- Adopt legislative and procedural measures to ratify the 2000 UN Convention against Transnational Organized Crime (Palermo Convention) and enforce it.

## 6.2.3 Compliance with R 35 & SR I

	Rating	Summary of factors underlying rating
<b>R 35</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of full implementation of the 1999 UN International Convention for the Suppression of the Financing of Terrorism.</li> <li>▪ Non-ratification of the 2000 UN Convention against Transnational Organized Crime (Palermo Convention)</li> </ul>
<b>SR I</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of full implementation of the 1999 UN International Convention for the Suppression of the Financing of Terrorism and S/RES/1267 (1999) and S/RES/1373 (2001).</li> </ul>

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

### 6.3.1 Description and Analysis

425. **Recommendation 36 and Special Recommendation V:** Syria concluded many judicial agreements with various countries in the field of judicial assistance, exchange of information and extradition of criminals.

426. In the field of AML/CFT, LD No 33 of 2005 included the general framework to provide mutual legal assistance (MLA) in this regard, especially in issues of lifting banking secrecy and conducting investigations on behalf of foreign counterparts, as well as in judicial cooperation, enforcement of final criminal verdicts issued by the competent foreign judicial authorities to confiscate money resulting from ML crimes and their proceeds, as well as FT crimes, and to dispose the funds deemed for confiscation in ML/FT crimes by Syrian or foreign judicial authorities. The rules of the distribution of those sums between the parties to the agreement would be in accordance with its provisions. The frameworks of assistance in the LD are based on different levels, whether via multi-lateral agreements, bilateral agreements or according to the reciprocity principle.

427. Article 8, paragraph (d) of the mentioned LD stipulated that the Syrian judicial authorities are entitled to order the enforcement of the final criminal verdicts issued by the competent foreign judicial counterparts to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, pursuant to the rules and procedures set by the Syrian rules and regulations in force, as well as international, regional or bilateral agreements where Syria is a party thereto, or in accordance with the reciprocity principle. Bilateral or multilateral agreements may be concluded to organize the disposal of the funds that are deemed to confiscation in ML/FT crimes by Syrian or foreign judicial authorities, where these agreements would include rules to distribute the proceeds between the parties to the agreement in accordance with its provisions.

428. Among the judicial agreements concluded by Syria with various countries in the field of judicial assistance, exchange of information and extradition of criminals are as follows:

- 1- Friendship and Criminals Extradition Agreement with Turkey by virtue of protocol No 1,2,3 of 1926.
- 2- Judicial Cooperation Agreement with Lebanon by virtue of Law No 148 of 1951.
- 3- Judicial Cooperation Agreement with Hashemite Kingdom of Jordan by virtue of LD No 29 of 1954.
- 4- Arab Convention for Extradition of Criminals which Syria joined on 29/9/1956.
- 5- Riyadh Judicial Assistance Agreement with Arab Countries by virtue of Law No 14 of 1983.
- 6- Judicial Assistance Agreement with Hungary by virtue of LD No 27 of 1986.
- 7- Judicial and Legal Assistance Agreement with Sudan by virtue of LD No 17 of 2001.
- 8- Judicial Assistance Agreement with Iran by virtue of LD No 48 of 2000.
- 9- Judicial Assistance Agreement with Turkey by virtue of Law No 7 of 1982.
- 10- Judicial Assistance Agreement with Czechoslovakia by virtue of Law No 12 of 1985.
- 11- Judicial Assistance and Criminals Extradition Agreement with Egypt by virtue of Law No 8 of 1998.
- 12- Judicial Assistance and Criminals Extradition Agreement with Algeria by virtue of Law No 63 of 1981.
- 13- Judicial Assistance Agreement with Greece by virtue of Law No 8 of 1982.
- 14- Judicial Assistance and Criminals Extradition Agreement with Kingdom of Bahrain by virtue of LD No 37 of 2000.
- 15- Judicial Assistance and Criminals Extradition Agreement with United Arab Emirates by virtue of LD No 47 of 2000.
- 16- Judicial Assistance Agreement with Poland by virtue of Law No 23 of 1985.
- 17- Judicial Assistance Agreement with Democratic Republic of Germany by virtue of LD No30 of 1971.
- 18- Judicial Assistance Agreement with Cyprus by virtue of law No 10 of 1986.
- 19- Arab Anti-Terrorism Agreement by virtue of LD No 48 of 2001.
- 20- Judicial Assistance Agreement with the Soviet Union by virtue of Law No 14 of 1985.

21- Judicial Assistance Agreement with Tunisia by virtue of Law No 28 of 1982.

It can be said here that all of the above-mentioned agreements are similar with some differences in details.

429. Syrian authorities did not provide the assessment team with any statistics related to this type of assistance to make sure that it is provided in an efficient and in a timely manner and to verify the existence of clear and efficient processes to implement the requests of obtaining MLA at the right time and without any delay.

430. The mentioned LD included Syria's commitment to provide mutual assistance in most of its forms and manners, defining the framework to offer this assistance where it should be pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with the reciprocity principle. Looking into the rules and procedures set by international, regional or bilateral agreements which Syria is a party to, the assessment team members noticed that they did not set illogical or inadequate or very restrictive conditions in terms of their provision – for instance, judicial procedures have not started yet in the applicant country - or the necessity of issuing a convicting verdict before offering assistance. Moreover, Syria is capable of providing many forms of assistance including mutual assistance in order to carry out investigation process, such as interrogation of the accused, listening to witnesses, experts or harmed parties, or exchange of exhibits backing the accusation, as well as files and other documents, in addition to procedures relevant to inspection or seizure of items.

431. The mentioned LD and the agreements related to mutual assistance concluded by Syria and which we have accessed enable us to deduce that Syria does not have what supports the rejection of fulfilling the demand to receive MLA, based on the only fact that the crime includes as well tax-related matters.

432. The mentioned LD paves the way for the deduction that Syria does not reject the fulfillment of the demand to receive MLA, based on the fact that laws stipulate that banking institutions shall maintain secrecy and discretion, pursuant to article 8, paragraph (h) of the LD. The article confirmed that the CMLTFC may lift the banking secrecy and conduct investigations, in the framework of its work, on behalf of foreign counterparts pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity. However, the LD did not include the possibility of lifting the banking secrecy off other financial institutions or other non-financial businesses and professions to meet the demand of receiving MLA, among which is the profession of law. The law regulating the legal profession stipulated in article 22 the necessity to preserve the profession's secrecy.

433. The assessment team members noticed that the rules and procedures set by international, regional or bilateral agreements concluded by Syria included the offering of many forms of assistance, including mutual assistance in order to conduct investigations, such as interrogating the accused, listening to witnesses, experts and parties that incurred damages, or exchanging exhibits supporting the accusation, as well as files and other documents, in addition to procedures relevant to inspection or seizure of items.

434. The Syrian Penal Code provided for, from articles 15 to 23, the necessity to implement the Syrian Law in accordance to the territorial, personal, autonomous and universal jurisdiction. Article 3 PC specified the place to file the public right lawsuit, where it shall be established before the competent judicial authority to which the crime scene, or the defendant's homeland, or the place of his arrest belongs.

435. **Additional Elements:** The mentioned LD in article 18, including the provision stipulating that Syrian judicial authorities have to exchange judicial assistance with foreign judicial authorities in the field of ML/FT crimes, pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity, as well as the agreements on judicial assistance concluded by Syria, and which we have gone over, enable us to deduce that the powers stipulated by virtue of R 28 are available to be used in case of a direct request by judicial authorities addressed to local counterparts.

436. **Recommendation 37 and SR V:** The mentioned LD in article 18, including the provision stipulating that Syrian judicial authorities have to exchange judicial assistance with foreign judicial authorities in the field of ML/FT crimes, pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity, as well as the agreements on judicial assistance concluded by Syria, and which we have gone over, enable us to deduce that Syria offers MLA of all forms in the absence of dual criminality, except for the issue of criminals' extradition. Law No 53 of 1955 dealt with the issue of criminals' extradition, confiscation of material and tools and their extradition to the country requesting extradition.

437. **Recommendation 38 and SR V:** Laws and procedures in Syria allow to provide response to MLA requests by foreign countries related to the identification, freezing, seizure, or confiscation of proceeds, instrumentalities used, or instrumentalities intended for use. The LD in article 8, paragraph (h) stipulated that the CMLTFC could lift banking secrecy and conduct investigation, in the framework of its work, on behalf of foreign counterparts pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity.

438. Article 18 of the LD stipulated that Syrian judicial authorities have to exchange judicial cooperation with foreign judicial authorities in the field of ML/FT, pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity. Resolution No 3, dated 27/10/2005, issued by the CMLTFC, stated in article 1, paragraph 16, that "in case a foreign counterpart requested to conduct investigation on its behalf, the case would be presented to CMLTFC Directors Committee before initiating any investigation in order to decide its compatibility with the procedures in force. In case the investigation is conducted, this foreign counterpart shall be notified about the investigation findings, except for the freezing requests incoming via the Syrian Foreign Ministry, where CMLTFC would circulate these requests immediately and notify the Foreign Ministry in case there is proof of presence of funds in Syria for the designated people".

439. The Procedural Law on the Extradition of normal criminals and those judicially sued by ordinary crimes, No 53/1955, stipulated in article 16:

1. *"Reserving the rights of others, and in accordance with criminals extradition committee discretion, the country requesting Extradition shall be handed the items collected by the wanted person as a result of the crime he committed, for which he is wanted, or the items found with him, which were confiscated, as well as the tools used in committing the crime, and anything else that helps in proving the crime.*

2. *These items shall be handed to the applicant country in case a decision was issued, approving of the criminal's extradition, whether this extradition occurred or not due to the criminal's death or escape or in case he was not arrested.*

3. *The extradition involves all the hidden or deposited items by the wanted person, which appear after the extradition takes place.*

4. *The criminals' extradition committee has the right to keep the confiscated items if it deems that necessary, and it is entitled to hold the right to restore them."*

440. The agreements concluded by Syria, such as the Syria's agreement with Turkey on the extradition of criminals and judicial assistance, allow in the penal articles to seize items and values: a) that were used in perpetrating the crime, or which could be used as exhibits for the accusation, b) that resulted from the crime or that were discovered later on, c) that were acquired in return for matters resulting from the crime. The judicial agreement between the Syrian and Greek governments permits judicial assistance through performing definite procedures, particularly inspection, seizure, and hand-over of exhibits supporting the accusation.

441. Those agreements stated that the foreign country requesting assistance has the right to determine the place and date of assistance, or representation, and that papers should be referred as soon as possible by the country seeking assistance. They also stated that the assistance application should be sent by the Justice Ministry seeking the assistance directly to the Justice Ministry in the country required to offer assistance. The application should be returned in the same manner. Both countries could resort to diplomacy when necessary.

442. The agreements concluded by Syria include most of the forms and manners of mutual assistance. ML/FT crimes fall under its context, or predicates crimes leading to ML/FT offences since they were not specified by certain or special crimes.

443. In the context of offering mutual assistance relevant to the confiscation of proceeds, instrumentalities used, or instrumentalities intended for use, the mentioned LD stipulated in article 15, paragraph (d) that Syrian judicial authorities are entitled to order the enforcement of the final criminal verdicts issued by the competent foreign judicial counterparts authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, pursuant to the rules and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity.

444. Agreements concluded by Syria do not include any provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities used in those crimes. Nevertheless, PC does not include texts that stipulate the acknowledgement of the foreign penal verdicts with an original executive force. Yet, this acknowledgement could be based on an international treaty, such as the treaties which Syria is a party to: "Arab League's Agreement on Extradition of Criminals, issued by virtue of Law No 155 of 1955; the judicial agreement between Syria and Lebanon issued by virtue of Law No 148 of 1951. Yet, the public acknowledges the foreign rulings with a secondary executive force, stipulated by article 29 of the PC. This acknowledgement justifies that criminal regulations and effects referred to in article 29 are aimed at facing the danger residing in the criminal, which threatens the society, and at determining the type of factor with the nature and size of this danger. article 29 of the PC stipulates that penal verdicts pronounced by a foreign judiciary regarding acts described by the Syrian Law as crimes or offence could be relied on:

1- to implement the resulting preventive measures, the loss of capacity and rights prescription as long as they are compatible with Syrian Law, and to implement the responses, compensations and other civil results.

2- to implement the preventive measures, loss of capacity and rights prescription stipulated in the Syrian law or to implement the responses, compensations and other civil results.

3- to implement the provisions of the Syrian Law regarding repetition, habit of criminality, assembly of crimes, suspension of enforcement, suspension of the enforced verdict, and restoration of dignity.

The Syrian judge has to verify if the foreign verdict applies to the law in form and content through going back to the case's documents.

445. The mentioned LD and the agreements concluded by Syria did not include any provisions relevant to offering MLA where the request relates to property of corresponding value.

446. In article 15, paragraph (d), and article 18, in particular, the mentioned LD set in ML/FT crimes the legal basis relative to the special arrangements to coordinate the procedures of seizure and confiscation with other countries. The said LD referred the implementation of these verdicts to the rules and procedures set by the Syrian laws and regulations in force, as well as the international, regional or bilateral agreements, which Syria is a party to, or according to principle of reciprocity. Hence, the agreements concluded by Syrian stated that the procedures of applying mutual assistance and the enforcement competent authorities should be directly between the Justice Ministries in both countries. Diplomacy could be sought when necessary. In case of lack of international, regional or bilateral agreements relative to mutual assistance in ML/FT crimes, mutual assistance could be provided, based on principle of reciprocity.

447. The mentioned LD did not stipulate the establishment of an asset forfeiture fund in which all or a portion of confiscated properties will be deposited and will be used for law enforcement, health care, education, or other appropriate purposes. Moreover, there is no legal text that allows the establishment of this fund. And Syria has not established this fund yet.

448. The mentioned LD stipulated the legal basis to divide the confiscated properties. Article 15, paragraph (d) stipulated that bilateral or multilateral agreements could be concluded to organize the disposal of the funds that are deemed to confiscation in ML/FT crimes by Syrian or foreign judicial authorities, where these agreements would include rules to distribute the proceeds between the parties to the agreement in accordance with its provisions.

449. **Additional elements:** Agreements concluded by Syria do not include any provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities used in those crimes, pursuant to the definition in Criteria 3.7 of the 40 recommendations. Nevertheless, PC does not include texts that decide to acknowledge the foreign penal verdicts with an original executive force. Yet, this acknowledgement could be based on an international treaty, such as the treaties which Syria is a party to: "Arab League's Agreement on Extradition of Criminals, issued by virtue of Law No 155 of 1955; the judicial agreement between Syria and Lebanon issued by virtue of Law No 148 of 1951. Yet, the public acknowledges the foreign rulings with a secondary executive force, stipulated by article 29 PC. This acknowledgement justifies that criminal regulations and effects referred to in article 29 are aimed at facing the danger residing in the criminal, which threatens the society, and at determining the type of factor with the nature and size of this danger. Article 29 PC stipulates that penal verdicts pronounced by a foreign judiciary regarding acts described by the Syrian Law as crimes or offence could be relied on:

1- to implement the resulting preventive measures, the loss of capacity and rights prescription as long as they are compatible with Syrian Law, and to implement the responses, compensations and other civil results.

2- to implement the preventive measures, loss of capacity and rights prescription stipulated in the Syrian law or to implement the responses, compensations and other civil results.

3- to implement the provisions of the Syrian Law regarding repetition, habit of criminality, assembly of crimes, suspension of enforcement, suspension of the enforced verdict, and restoration of dignity.

The Syrian judge has to verify if the foreign verdict applies to the law in form and content through going back to the case's documents.

450. **Statistics:** There aren't any statistics related to the implementation of the mutual assistance requests, whether by Syria's requests from other countries, or other countries' requests from Syria. Syrian authorities indicated that the Justice Ministry is currently preparing a computer program that includes the required statistics. It will be ready soon.

### 6.3.2 Recommendations and Comments

451. Syria has to:

- Take special care to keep statistics on mutual assistance requests to verify the efficiency of the mutual assistance frameworks.
- Look into the necessary steps to provide the greatest mutual assistance possible to combat ML/FT since the LD did not include the possibility of lifting the banking secrecy off other financial institutions or other non-financial businesses and professions to meet the demand of receiving MLA, among which is the legal profession. The law regulating the legal profession stipulated in article 22 the necessity to preserve the profession's secrecy.
- Set mechanisms for the identification of the best place to establish a lawsuit.
- Adopt legislative measures to include in laws or judicial cooperation agreements the following:
  - provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities used in those crimes.
  - provisions relevant to offering MLA when the request relates to property of corresponding value. The LD did not stipulate the establishment of asset forfeiture fund, where all or part of the confiscated properties would be deposited for purposes of law enforcement, health care, education, or other adequate purposes. Moreover, there is no legal text that allows the establishment of this fund. And Syria has not established this fund yet.

### 6.3.3 Compliance with R 36 to 38 and SR V

	Rating	Summary of factors underlying rating
<b>R 36</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of mutual assistance due to the secrecy condition with respect to the legal profession.</li> <li>▪ Non-verification of the efficiency due to the lack of statistics.</li> <li>▪ Lack of mechanisms for determining the best venue for prosecution of defendants in the interests of justice in case that are subject to prosecution in more than one country.</li> <li>▪ Factors used in defining R1 and SR2 affect the level of mutual legal assistance.</li> </ul>
<b>R 37</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ The non-criminalization of the entire designated predicate offences for ML crime would affect the effectiveness of this recommendation.</li> </ul>
<b>R 38</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ The agreements concluded by Syria in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds</li> </ul>

		resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or verdicts provisions that allow that.
<b>SR V</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Lack of evidence of effectiveness and lack of statistics.</li> <li>▪ Lack of mutual assistance due to the secrecy condition with respect to the legal profession.</li> <li>▪ Lack of mechanisms determining the best venue for prosecution of defendants in the interests of justice in case that are subject to prosecution in more than one country.</li> <li>▪ The agreements concluded by Syria in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from FT crimes or the instrumentalities used in those crimes, or provisions that allow that.</li> </ul>

## 6.4 Extradition (R 37, 39 & SR V)

### 6.4.1 Description and Analysis

452. **Recommendation 37, Recommendation 39 and Special Recommendation V:** The extradition provisions in Syria are regulated in the first place through international treaties, and then through internal laws. In case of no treaty or an internal law, then a custom would be adopted. If the crime, object of the request, is stipulated in the treaty, then extradition is obligatory. However, if the crime is not stipulated in the treaty, extradition is possible. All in all, it could be said that extradition requirements in Syria are subject to the Procedural Law of Extradition of ordinary criminals and those legally sued for ordinary crimes No 53/1955. Article 1 of the law stipulated that "*if there are no international treaties that have the power of law in Syria, then the requirements of the extradition of ordinary criminals and those legally sued for ordinary crimes, procedures and effects are subject to the provisions of this law and to articles 30 to 36 of the Penal Code. These provisions also apply to the cases not regulated by international treaties.*"

453. Article 30 PC stipulated that "*no one shall be extradited to a foreign country, except for the cases stipulated in the law, unless this would be an implementation of a treaty that has the power of law.*" Article 31 of the same code stated that "*extradition is allowed in:*  
1- *crimes perpetrated on the land of the country requesting extradition.*  
2- *crimes that tamper with its security or financial status.*  
3- *crimes perpetrated by one of its nationals.*"

Article 32 of the same code stipulated that "*extradition is not possible in cases of crimes falling under the competence of the regional, autonomous and personal powers of the Syrian Law, as defined in articles 15 to 17 and the end of the first paragraph of article 18, and articles 19 to 21.*"

454. Hence, Syria is not obliged to extradite criminals whose crimes fall under the regional, corporeal or personal powers of its procedural legislation. For instance, if Syria is asked to hand over a criminal who committed a crime on its territories to be trialed before the country requesting extradition, it does not hand him over, and it would trial him. Moreover, it does not extradite a criminal who committed a crime or an offence that tampers with its security or its financial status, even if the crime is perpetrated outside its territories since the crime would be targeting its entity and major interests. And thus, the competence of the Syrian judiciary comes before the competence of the country seeking extradition.

455. Article 33 of the same code stipulated that "*extradition is rejected:*

1- If the Syrian Law does not sanction for a crime with a criminal or offensive sanction, and it would be the opposite if the circumstances making up a crime are not available in Syria due to its geographical status.

2- If the sanction stipulated in the law of the country seeking extradition or the law of the country, where the act has been committed, does not reach one year of imprisonment for all the crimes mentioned in the request.

In case of a verdict, the sanction could not be less than two months of prison.

3- If the verdict is irrevocable in Syria or if the public right lawsuit or the sanction have been revoked according to the Syrian Law or the law of the country seeking extradition or the law of the country where the crime has been perpetrated.

Article 34 added that "extradition is rejected:

1- If extradition is established based on a crime of a political order, or it turned out that it is for a political purpose.

2- If the defendant was extradited in the land of the country seeking extradition.

Article 35 stipulated: 1- if the sanction stipulated in the law of the country seeking extradition is contradictory with the social system,

2- if the judge sees that the legal conditions are not available, or that the accusation is not sufficiently proved, the government shall reject extradition.

3- If the case is the opposite, or if the defendant approved in the presence of the judge to be handed over without sifting the legality of the request, the government has the choice to accept or reject the request.

456. Article 36 stated: "A defendant cannot be sued in presence nor could he be sanctioned or extradited to a third country for any crime preceding the extradition, other than the crime causing the extradition, unless the government of the country asked to extradite approves according to the conditions in the previous article. This approval is not conditioned by the provisions of paragraph 2 of article 33.

457. It is noticed that the previous provisions for extradition stipulated in the Procedural Law of Extradition and the PC apply only in case of an international treaty that regulates the extradition of criminals is lacking. However, in case of a treaty, its provisions shall be applied.

458. In addition to the previous provisions, there are the agreements on judicial assistance concluded by Syria, and which we have gone over, which enable us to deduce that Syria offers MLA of all forms in the absence of dual criminality, except for the issue of criminals' extradition. The Arab Extradition Agreement, which Syria joined, sets dual criminality as a condition in the laws of both countries- the one seeking extradition and the one required to extradite. If the act is unsanctioned in the laws of the country required to extradite, or if the sanction for the crime is in the country seeking extradition, then extradition shall not be obligatory, unless the wanted person is one of the nationals of the country seeking extradition, or one of the nationals of another country that sentences the same sanction. The judicial agreement concluded with Lebanon necessitates extradition in case the crime is committed on the territories of the country seeking extradition. However, it prohibits extradition if the act is committed on the territories of the country seeking extradition, the wanted person is not one of the nationals of the seeking country, and the acts attributed to him are not sanctioned in the law of the country required to extradite. Moreover, it does not allow extradition if the sanction stipulated in the legislations of the country seeking extradition is not decided by type in the law of the country required to extradite. The same provisions have been mentioned in the judicial agreement concluded with Jordan, Turkey, Germany, Greece and Cyprus, as well as Riyadh's Judicial Cooperation Agreement.

459. In conclusion, the legal system in Syria provides for objective extradition conditions. It does not extradite those appearing before its judiciary, does not extradite its nationals, and does not accept extradition for a political crime. And, the act, object of extradition, should be a crime or an offence in both countries, and the crime should be risky to a certain extent.

460. **Recommendation 39:** The mentioned LD does not include any provisions relevant to extradition of criminals in ML/FT crimes. However, the PC included some general provisions that allow or ban extradition in general. The general rule is that nobody shall be handed over to a foreign country, except in the cases stipulated by the prerequisites of this law, unless this implements a treaty that enjoys the power of law, pursuant to article 30 of the Pc. Article 31 of the same code allows extradition in the following cases: *1- crimes perpetrated on the land of the country requesting extradition. 2- crimes that tamper with its security or financial status. 3- crimes perpetrated by one of its nationals.*" Article 32 of the same code stipulated that *"extradition is not possible in cases of crimes falling under the territorial, personal, autonomous jurisdiction of the Syrian Law."*

461. Article 20 PC stipulates that the Syrian Law applies to every Syrian, whether a perpetrator, abettor, or a meddler who committed a crime or an offence punished by the Syrian Law outside the Syrian territories. Things remain as such even if the defendant loses his Syrian nationality or acquires it after the perpetration of the crime or the offence. Article 30 PC states that he shall not be handed over to any foreign country, except in the cases stipulated by the PC, unless this is regarded as an implementation of a treaty that enjoys the power of law. Article 32 of the same code states that extradition is not entitled in crimes perpetrated by Syrians inside or outside the country since they fall under the territorial, personal, autonomous jurisdiction of the Syrian Law. The Arab Extradition Agreement and the Riyadh Judicial Cooperation Agreement, as well as the judicial cooperation agreements concluded by Syria (See the analysis in R 36) include a special provision that enables countries to abstain from extradition if the wanted person is one of the nationals of the country required to extradite, provided that it be in charge of his trial and it seek the assistance of the investigations conducted by the country seeking extradition in this regard.

462. The mentioned LD did not mention any special provisions related to extradition in ML/FT crimes. As for the Procedural Law of Extradition, it stipulated in article 2 that "requests for extradition of criminals and those sued are sent to the Syrian government via the "diplomatic" political method; while agreements, which Syria concluded with a few countries (See analysis in R 36) regarding extradition, stated that the process should be directly between Ministries of Justice in both countries, and diplomacy could be sought when necessary. Syrian authorities did not provide us with any statistics to verify the efficiency of extradition requests and procedures.

463. **Additional Elements:** Some agreements Syria concluded allow the extradition of people who accept to overlook the formal extradition procedures, pursuant to the Procedural Law of Extradition No 53/1955. If the person to be extradited declared that he accepts extradition to the authorities of the country requesting extradition, the extradition committee is entitled to extradite him even if the extradition file has not been received. However, Syria is not bound to extradite if the felony has a political nature, pursuant to the provisions of the Procedural Law of Extradition No 53/1955. Meanwhile, there are no clear procedures regarding the transfer of extradition requests between the involved ministries or the possibility of handing people over based on arrest warrants or verdicts.

464. **Statistics:** Syrian authorities did not provide us with any statistics to verify the efficiency of extradition requests and procedures.

## 6.4.2 Recommendations and Comments

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

	Rating	Summary of factors underlying rating
<b>R 39</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ Factors on the basis of which R1 and SR2 were underlined affect the level of extradition.</li> </ul>
<b>R 37</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ The non-criminalization of the entire designated predicates offences for ML crime would affect the effectiveness of this recommendation.</li> </ul>
<b>SR V</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ No evidence of effectiveness and lack of statistics.</li> <li>▪ Factors, upon which it had already been relied, impact the rating.</li> </ul>

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

### 6-5-1 Description and Analysis

465. **Recommendation 40 and Special Recommendation V:** The mentioned LD enables many mechanisms and channels of international cooperation with counterpart authorities, among which are:

- The CMLTFC is entitled to join agreements or sign memorandum of understanding (MOU) with foreign counterparts to exchange information and assistance relevant to AML/CFT (Article 8, paragraph (g) of the mentioned LD).
- The CMLTFC signed two MOUs with the Cypriot Financial Intelligence Unit and the Special Investigation Commission in Lebanon (according to Egmont Group module). Moreover, a positive response from Poland, Egypt, Turkey, Qatar and Tunisia has been received in this regard. The CMLTFC requested to join Egmont, and it was invited to attend Egmont Group's 14<sup>th</sup> Plenary which was held in Cyprus last June.
- The CMLTFC is entitled to lift banking secrecy and conduct investigations, in the framework of its work, on behalf of the foreign counterpart authorities, pursuant to the laws and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with principle of reciprocity (Article 8/paragraph (h) of the mentioned LD).
- Resolution No 3, dated 27/10/2005, issued by the CMLTFC, stated in article 1, paragraph 16, that "in case a foreign counterpart requested to conduct investigation on its behalf, the file would be presented before the CMLTFC Directors Committee before initiating any investigation in order to decide its compatibility with the procedures in force. In case the investigation is conducted, this foreign counterpart shall be notified about the investigation findings.

466. It is worth-noting that cooperation between supervision authorities and their foreign counterparts is very limited since there is no cooperation and exchange of information system among the different national monitoring authorities (Syria Central Bank for financial institutions and Insurance Supervisory Commission for insurance activities) or between these authorities and foreign supervision authorities for financial institutions. Those authorities should have the potential to conclude exchange of information agreements in a context of confidentiality and for purposes of supervising institutions falling under their competent authority.

467. Judicial cooperation and administrative cooperation agreements concluded by Syria, as well as the principle of reciprocity, enable the conducting of investigations for foreign counterpart authorities. Such investigations are conducted by the Criminal Security, Anti-Drugs Directorate and the Customs.

468. The CMLTFC is entitled to join agreements or sign memorandum of understanding with foreign counterparts to exchange information and assistance relevant to AML/CFT (Article 8, paragraph (g) of the mentioned LD). The mentioned LD did not set any inadequate conditions or unjustified over-restrictive conditions.

469. The mentioned LD and the agreements concluded by Syria and which we have accessed enable us to deduce that Syria does not have what supports the rejection of fulfilling the request to receive information, based on the only fact that the request includes as well tax-related matters.

470. Based on the mentioned LD, we deduce that Syria does not reject the fulfillment of the request to receive information, based on the fact that laws force banking institutions to maintain discretion and secrecy, pursuant to Article 8, paragraph (h) of the mentioned decree. The article confirmed that the CMLTFC is entitled to lift banking secrecy and conduct investigations, in the framework of its work, on behalf of the foreign counterpart authorities, pursuant to the laws and procedures set by the Syrian laws and regulations in force, as well as international, regional or bilateral agreements which Syria is a party to, or in accordance with the reciprocity principle. However, the LD did not include the possibility of lifting the banking secrecy off other financial institutions or other non-financial businesses and professions to meet the demand of receiving information, among which is the profession of law. The law regulating the profession of law stipulated in Article 22 the necessity to preserve the profession's secrecy.

471. The judicial cooperation agreements concluded by Syria did not include any constraints or guarantees that assure the non-use of information received by competent authorities except in a responsible way. With respect to the LD Law No 33 of 2005, Articles 11 and 12 dealt with the secrecy of information that the CMLTFC receives during its work, among which is information obtained from foreign parties, as mentioned in paragraph 137 of this report. Moreover, MOU (according to Egmont Group module) which the CMLTFC signed included such constraints.

472. **Additional elements:** The mentioned LD did not include mechanisms that enable prompt and constructive exchange of information with non-counterpart authorities.

473. Among the total powers granted to the CMLTFC, the LD entitles the CMLTFC to obtain information requested by foreign counterpart FIUs from other competent authorities or from other people.

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

## 6.5.2 Recommendations and Comments

475. The following is recommended:

- Take the necessary legislative procedures to add special texts to the existing legislations which include constraints and guarantees that assure the non-use of information received by competent authorities except in a responsible way.
- Syria has to find a sort of cooperation between supervisory authorities and their foreign counterparts in order to promote cooperation on the international level.
- Take interest in providing statistics on international cooperation to verify the efficiency of cooperation with counterpart or non-counterpart authorities.

### 6.5.3 Compliance with R 40 & SR V

	Rating	Summary of factors underlying rating
<b>R 40</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>▪ Lack of cooperation between supervisory authorities over the financial sector and their foreign counterparts.</li> </ul>
<b>SR V</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Factors, upon which it had already been relied, impact the rating.</li> </ul>

## 7. OTHER ISSUES

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

### 7.1 Resources and Statistics

	Rating	Summary of factors underlying rating
<b>R 30</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>▪ Insufficiency of the human, financial, and technical resources of the CMLTFC.</li> <li>▪ Insufficiency of financial and human resources that enable the CMLTFC to undertake its duties in terms of supervising the compliance of all the mentioned parties with the LD.</li> <li>▪ The regulatory structures of the Banking Supervision department, the Insurance Supervisory Commission and Stocks and Financial Markets are not promoted, and they are not provided with the qualified human resources or with training continuous programs.</li> </ul>
<b>R 32</b>	<b>NC</b>	<ul style="list-style-type: none"> <li>▪ Lack of statistics</li> </ul>

**Tables**

**Table 1: Ratings of Compliance with FATF recommendations involved in money laundering**

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

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

**Table 1: Ratings of Compliance with FATF recommendations**

The rating of compliance with 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).

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>Legal systems</b>		
1. ML offence	PC	<ul style="list-style-type: none"> <li>▪ the definition of illicit funds does not state that they represent directly or indirectly the proceeds of a crime.</li> <li>▪ LD did not cover all the designated categories of offences.</li> </ul>
2. ML offence–mental element and corporate liability	LC	<ul style="list-style-type: none"> <li>▪ Lack of evidence of an effective regime and lack of statistics</li> </ul>
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>▪ lack of an explicit text that grants definite powers to identify and track properties that are subject or that might be subject to confiscation, or that are suspected are arising from crime proceeds.</li> <li>▪ lack of evidence of an effective regime related to confiscation and freezing and lack of statistics.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence (CDD)	PC	<ul style="list-style-type: none"> <li>▪ Lack of laws or regulations to oblige financial institutions to submit registers identifying the holders of numbered accounts, to the compliance office, to other competent officers and to competent authorities.</li> <li>▪ The obligations related to verification measures are applied when transactions are performed through agents, and the obligation of verifying the legal status of legal persons or arrangements is binding only on banks operating in Syria, according to the definition given in the Regulations on control. No similar control instructions are issued to insurance companies.</li> <li>▪ No legislative text obliging insurance companies,</li> </ul>

		<p>exchange institutions and financial institutions (other than banks) to take the following measures:</p> <ul style="list-style-type: none"> <li>- Verify the identity of the real beneficiary when starting a transaction with the institution.</li> <li>- Identify the physical persons who own the legal entity or have a complete or efficient control thereon.</li> <li>- Perform an ongoing monitoring of customers' transactions.</li> </ul> <ul style="list-style-type: none"> <li>▪ Lack of implementation of legislative obligations related to the ongoing monitoring of customers' transactions, in financial institutions. This is due to the lack of automated systems in many financial institutions to disclose some unusual transactions. Besides, the legislative text and the relevant instructions are considered as binding on banks only without the other financial institutions currently operating in Syria.</li> <li>▪ Lack of binding instructions to the insurance sector relative to the updating of documents, data or information received as per the CDD process, in addition to the fact that financial institutions hardly update the customers' data and link this process to customer-related risks.</li> <li>▪ There are no control instructions issued for insurance companies to apply enhanced CDD measures to some categories of high-risk customers or transactions. The on-site visit demonstrated that banks and insurance companies do not implement these measures in practice.</li> <li>▪ No control instructions obliging insurance companies to notify the CMLTFC when they are unable to meet all CDD requirements, or in the event of a contradiction between the information declared and the information received from other sources.</li> <li>▪ no control instructions for insurance companies have been issued in the field of implementing CDD measures with existing customers.</li> </ul>
6. Politically exposed persons (PEPs)	PC	<ul style="list-style-type: none"> <li>▪ Financial institutions do not implement risk-management procedures related to Politically Exposed Persons although a legal text is issued in this regard.</li> </ul>
7. Correspondent banking	C	
8. New technologies & non face-to-face business	C	
9. Third parties and introducers	NA	<ul style="list-style-type: none"> <li>▪ Legislations do not allow financial institutions to rely on third parties to implement some CDD measures.</li> </ul>
10. Record keeping	LC	<ul style="list-style-type: none"> <li>▪ Although all financial institutions are committed in practice to the requirements of record-keeping, pursuant to R. 10. Yet, there are no legislative texts or decisions promulgated by a legislative authority that bind financial</li> </ul>

		<p>institutions, other than banks, to keep records and documents of all the transactions performed by those institutions, without exception, and to keep the files of accounts and correspondence relevant to activity, and to provide all customer-related records, information and transactions in a timely manner to local competent authorities after obtaining the suitable authorization.</p> <ul style="list-style-type: none"> <li>▪ For banks, most of the requirements of R. 10 are part of the control instructions issued by the CMLTFC. Those instructions should have been issued by a legislative authority.</li> </ul>
11. Unusual transactions	PC	<ul style="list-style-type: none"> <li>▪ Legislative texts issued to all financial institutions, and control instructions issued to banks include all requirements provided for in the recommendation. However, the legislative texts do not oblige financial institutions to register the results of examination of the transactions, to define in writing the background and purpose thereof. Therefore, these institutions are not able to submit these results to competent authorities and account auditors.</li> <li>▪ Besides, financial institutions do not implement in practice the provisions of the legislative texts, and there are different practices in this regard among banks.</li> <li>▪ There are no control instructions in this regard for the insurance company operating in Syria. The assessment team also noticed that no related measures are applied by the Insurance Company.</li> </ul>
12. DNFBP–R.5, 6, 8-11	PC	<ul style="list-style-type: none"> <li>▪ No instructions or guiding rules to implement AML/CFT requirements</li> <li>▪ Lack of awareness of unions and associations organizing non-financial businesses and professions of the requirements of LD No 33</li> </ul>
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>▪ No legislative text obliging financial institutions to report attempts of suspicious transactions.</li> <li>▪ Inefficient implementation by financial institutions of the obligation related to Suspicious Transaction Reporting.</li> </ul>
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> <li>▪ No legislative text obliging all banking and financial institutions to keep STR confidential.</li> </ul>
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> <li>▪ -The existing instructions cover banks only. The banks` also establish internal policies and measures for the implementation of those instructions, without taking in consideration the type of their customers and the nature of their activities (commercial, specialized, etc)</li> <li>▪ Lack of internal controls for providing the Compliance Officer in a timely manner with the data of the identities of customers and other available information in addition to the lack of an independent audit function that might test such compliance.</li> <li>▪ - Lack of training programs.</li> </ul>

16. DNFBP–R.13-15 & 21	PC	<ul style="list-style-type: none"> <li>▪ lack of awareness of unions and associations organizing non-financial businesses and professions of the prerequisites of LD No 33.</li> <li>▪ lack of guiding rules by the CMLTFC or associations and unions regarding reporting mechanisms and patterns of suspicious transactions that should be reported.</li> <li>▪ Lack of legislative text or control instructions prohibiting disclosure of STRs or related information presented to the CMLTFC.</li> <li>▪ Lack of policies and measures that guarantee the compliance of non financial business and profession with AML/CFT standards, as well as the awareness of workers and their continuous training.</li> <li>▪ Lack of guiding rules on how to deal with clients from countries non-compliant with FATF recommendations.</li> </ul>
17. Sanctions	PC	<ul style="list-style-type: none"> <li>▪ No accurate determination of criminal, civil or administrative sanctions to deal with a legal person who fails to comply with AML/CFT conditions.</li> <li>▪ The LD on AML/CFT does not include the implementation of sanctions on directors of legal persons constituting financial institutions and business companies, as well as their senior management.</li> <li>▪ The mentioned LD does not include the expansion of the scope of sanctions in a way that is adequate to the gravity of the situation.</li> </ul>
18. Shell banks	LC	<ul style="list-style-type: none"> <li>▪ Prohibiting the dealings with shell banks covers banks only, without the other banking and financial institutions.</li> </ul>
19. Other forms of reporting	C	
20. Other DNFBP & secure transaction techniques	LC	<ul style="list-style-type: none"> <li>▪ Lack of measures to encourage the spreading of banking services and continuous reliance on cash.</li> </ul>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>▪ The legislative text only mentions transactions performed with physical or legal persons, including banking and financial institutions, residing in a country mentioned in the FATF list of non-cooperative countries in the AML/CFT field. Therefore, the scope of implementation of the recommendation is extremely limited.</li> <li>▪ No legislative text, control instructions, or practical implementation in financial institutions with regard to the registration of the results of examination of these transactions, to define in writing the background and purpose thereof. Thus, institutions are not able to submit these results to competent authorities and to account auditors.</li> <li>▪ No circulars or publications are issued by the CMLTFC or by the Insurance Supervisory Commission to inform banking and financial institutions of the points of</li> </ul>

		<p>weakness in the AML/CFT systems in other countries, or clarify adequate counter-measures to be taken when a country does not apply or insufficiently apply FATF recommendations.</p> <ul style="list-style-type: none"> <li>▪ No evidence of the implementation in practice of this recommendation in the financial institutions operating in the country.</li> </ul>
22. Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> <li>▪ There is no obligation on external branches and subsidiaries of the remaining banking and financial institutions except Banks to implement AML/CFT requirements.</li> <li>▪ There is no obligation to apply CDD in case activity is undertaken in countries that do not apply or insufficiently apply AML/CFT standards issued by FATF, while foreign branches and subsidiaries should implement the higher standards when there is a conflict in AML/CFT requirements in the host country.</li> <li>▪ Banking and financial institutions are not obliged to report to control authorities in the mother country when a branch or a subsidiary cannot undertake the AML/CFT adequate requirements due to the ban of laws, regulations or other measures valid in the host country.</li> </ul>
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>▪ No promotion of monitoring and inspection duties of the Insurance Supervisory Commission and the Syrian Commission on Financial Markets and Securities.</li> <li>▪ Lack of making the informal money changer sector in Syria subject to regulation and setting supervisory and monitoring standards for registration and practice of activity and taking in consideration preventive measures for parties that did not apply for registration.</li> <li>▪ The availability of elements of honesty and integrity for all major shareholders and members of board of directors for all banking and financial institutions and not banks only is not set as a condition.</li> <li>▪ Lack of promotion of banking and financial institutions' compliance with the core principles of efficient banking monitoring, implementation of the principle of well-defined periodical inspection of those institutions, which would enable different monitoring parties to verify their compliance with their Statutes and AML/CFT standards.</li> </ul>
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>▪ The CMLFTC did not issue regulatory rules to promote combating systems for non-financial businesses' and professions. Relevant government agencies, associations and unions have not issued supervisory regulations and best-practice standards and should look into imposing administrative sanctions on the non-compliant party.</li> </ul>
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> <li>▪ The scope of instructions mentioned in the module AML guide procedures does not cover financial institutions other than banks as well as terrorist financing operations. The CMLFTC does not provide instructions regarding how to complete the suspicion report form or the measures which should be taken by the reporting party when submitting the said report.</li> </ul>

		<ul style="list-style-type: none"> <li>▪ No feedback mechanism from the CMLTFC regarding STR and the types of suspicious transactions.</li> <li>▪ No integrated and new guide for patterns of suspicious transactions of ML/FT operations.</li> <li>▪ Lack of guidance and best practices for non-financial businesses and professions, or any guidelines and work procedures or patterns of suspicious transactions which would serve as an awareness source and guidance methodology to promote combating efforts, which could be issued by unions and associations.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	PC	<ul style="list-style-type: none"> <li>▪ No updating of circulars issued to the financial institutions and banks regarding reporting instructions.</li> <li>▪ Interfering with CMLTFC independence through the source from which its budget is derived.</li> <li>▪ The weakness of CMLTFC information protection.</li> <li>▪ - The CMLTFC is not efficient in fulfilling its functions.</li> </ul>
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> <li>▪ Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics.</li> </ul>
28. Powers of competent authorities	C	
29. Supervisors	PC	<ul style="list-style-type: none"> <li>▪ All monitoring parties– except the CMLTFC- are not entitled to access records and documents related to accounts and transactions with respect to institutions subject to the monitoring of every monitoring party, in a way that promotes the latter's capacity to monitor compliance on one hand and the implementation of administrative penalties in case of violations in addition to the sanctions stipulated in decree No.33 on the other hand.</li> </ul>
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> <li>▪ Insufficiency of the human, financial, and technical resources of the CMLTFC.</li> <li>▪ Insufficiency of financial and human resources that enable the CMLTFC to undertake its duties in terms of supervising the compliance of all the mentioned parties with the LD.</li> <li>▪ The regulatory structures of the Banking Supervision department, the Insurance Supervisory Commission and Syrian Commission on Financial Markets and Securities are not promoted, and they are not provided with the qualified human resources or with training continuous programs</li> </ul>
31. National cooperation	LC	<ul style="list-style-type: none"> <li>▪ Lack of evidence supporting the presence of this coordination or any trace of coordination in respect of setting and implementing AML/CFT policies and activities among different competent parties.</li> </ul>
32. Statistics	NC	<ul style="list-style-type: none"> <li>▪ Lack of statistics</li> </ul>
33. Legal (corporate) persons–beneficial	PC	<ul style="list-style-type: none"> <li>▪ Lack of mechanism of communication among different</li> </ul>

owners		<p>registers in governorates or adopt the centralization system to guarantee control of data and verification of information.</p> <ul style="list-style-type: none"> <li>▪ Lack of a mechanism or a specific party that is in charge of following up with and controlling the possible changes in data recorded in the trade register, whether the legal person's data, or the beneficiaries, and monitoring the updating of such data by the legal persons.</li> </ul>
34. Legal arrangements – beneficial owners	NA	
<b>International Cooperation</b>		
35. Conventions	PC	<ul style="list-style-type: none"> <li>▪ Lack of full implementation of the 1999 UN International Convention for the Suppression of the Financing of Terrorism.</li> <li>▪ Non-ratification of the 2000 UN Convention against Transnational Organized Crime (Palermo Convention)</li> </ul>
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> <li>▪ Lack of mutual assistance due to the secrecy condition with respect to the legal profession.</li> <li>▪ Non-verification of the efficiency due to the lack of statistics.</li> <li>▪ Lack of mechanisms for determining the best venue for prosecution of defendants in the interests of justice in case that are subject to prosecution in more than one country.</li> <li>▪ Factors used in defining R1 and SR2 affect the level of providing mutual legal assistance.</li> </ul>
37. Dual criminality	PC	<ul style="list-style-type: none"> <li>▪ The non-criminalization of the entire designated predicate offences for ML crime would affect the effectiveness of this recommendation.</li> </ul>
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> <li>▪ The agreements concluded by Syria in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds or the instrumentalities used in those crimes, or provisions that allow that.</li> </ul>
39. Extradition	LC	<ul style="list-style-type: none"> <li>▪ Factors reported in defining R1 and SR2 affect the level of extradition.</li> </ul>
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> <li>▪ Lack of cooperation between supervisory authorities over the financial sector and their foreign counterparts.</li> </ul>
<b>Nine Special Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating</b>
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> <li>▪ Lack of full implementation of the 1999 UN International Convention for the Suppression of the Financing of Terrorism and S/RES/1267 (1999) and S/RES/1373 (2001).</li> </ul>
SR.II Criminalize terrorist financing	PC	<ul style="list-style-type: none"> <li>▪ The text does not mention the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist.</li> <li>▪ FT offence is not considered as predicate offence for ML crime.</li> <li>▪ Lack of evidence of an effective regime and lack of statistics.</li> </ul>

<p>SR.III Freeze and confiscate terrorist assets</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>▪ No efficient laws and procedures to freeze the terrorists' funds or the assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001).</li> <li>▪ Lack of laws and special procedures to discuss and implement the acts undertaken pursuant to the freezing mechanisms in another country.</li> <li>▪ LD is limited to provisional measures including the temporary and final freezing of suspicious accounts only, without covering all properties that can be confiscated.</li> <li>▪ No effective communicating system to notify the financial sector of the actions taken under the freezing mechanisms. No clear instructions for financial institutions, persons or other entities which may possess the targeted funds or assets, regarding their obligations in taking measures as per the mechanisms of asset freezing. No effective and publicly-known measures to study requests to de-list names from the list and cancel the freezing of funds or assets of persons or entities whose names were de-listed, in compliance with international obligations.</li> <li>▪ No appropriate procedure for authorizing to use the frozen funds or other assets pursuant to S/RES/1267 (1999), which determine that it is necessary for basic expenses, the payment of certain types or fees, expenses and service charges or for extraordinary expenses.</li> <li>▪ No appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that with a view to having it reviewed by a court.</li> <li>▪ No appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.</li> </ul>
<p>SR.IV Suspicious transaction reporting</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>▪ Lack of any obligation requiring the financial institutions to report the funds that are related or connected to terrorism or that will be used by terrorist organizations or those who finance terrorism</li> <li>▪ There is no legislative text that binds financial institutions to report attempts of suspicious transactions.</li> <li>▪ Weak efficiency in terms of the financial institutions' implementation of the commitment relevant to STR.</li> </ul>
<p>SR.V International cooperation</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>▪ No evidence of effectiveness and the lack of statistics.</li> <li>▪ Lack of mutual assistance due to the secrecy condition with respect to the legal profession.</li> <li>▪ Lack of mechanisms determining the best venue for prosecution of defendants in the interests of justice in case that are subject to prosecution in more than one country.</li> </ul>

		<ul style="list-style-type: none"> <li>▪ The agreements concluded by Syria in terms of judicial cooperation did not include any provisions related to the acknowledgement of the criminal verdicts pronounced by competent foreign judicial authorities to confiscate the funds resulting from FT crimes or the instrumentalities used in those crimes, or provisions that allow that.</li> </ul>
SR.VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> <li>▪ No regulations for transfer activities, where those operations are practiced via unlicensed money changer offices. This is in addition to the incapacity to transfer money via banks unless pursuant to conditions and tight restrictions set by Foreign Exchange Office.</li> </ul>
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> <li>▪ No legislations or any other control instructions including details about the data that should be obtained from issuer of the transfer, such as the account number and the address.</li> <li>▪ The amount which requires the enclosure of the necessary documents establishing the nature of the transaction, subject of the transfer, and the identity of its parties, was set at a limit exceeding the amount mentioned in the SR. VII.</li> <li>▪ Legislations or control instructions do not define the procedures and data that need to be obtained when compiled transfers are performed, and they do not define the measures that should be taken by the benefiting financial institutions in the event of wire transfers that are not enclosed with complete information about the issuer of the transaction.</li> </ul>
SR.VIII Nonprofit organizations	PC	<ul style="list-style-type: none"> <li>▪ lack of legislation that deals with AML/CFT in an integrated manner with respect to NPOs and that force them to report suspicious transactions.</li> <li>▪ Lack of tangible measures to verify that money and others that are raised or transferred via NPOs are not embezzled to promote terrorist activities or organizations.</li> </ul>
SR.IX Cash Couriers Declaration/disclosure of cross border cash couriers	NC	<ul style="list-style-type: none"> <li>▪ No disclosure/declaration system related to currencies or bearer financial instruments for travelers coming to or leaving the Syrian territories</li> </ul>

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

AML/CFT System	Recommended Action (Listed in order of priority)
<b>1. General</b>	No text required
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalization of Money Laundering (R.1 & 2)	<p>Take the necessary legislative procedures for the following:</p> <ul style="list-style-type: none"> <li>▪ including in the definition of illicit funds that they represent directly or indirectly the proceeds of a crime.</li> <li>▪ including among the predicate offenses in article 1 of the LD, the following crimes:               <ol style="list-style-type: none"> <li>1. Financing of terrorism;</li> <li>2. Illicit trafficking in stolen and others goods;</li> <li>3. Environmental crimes;</li> <li>4. Murder, grievous bodily injury;</li> <li>5. Trading and market manipulation.</li> </ol> </li> </ul>
2.2 Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> <li>▪ Take the necessary legislative procedures to amend the LD in compliance with the international standard related to the definition of the FT, by providing the intention that the funds should be used or in the knowledge that they are to be used, in full or in part, by a terrorist organization or by an individual terrorist.</li> <li>▪ Include the FT offence among the predicate offenses for ML mentioned in LD.</li> <li>▪ Article 2, paragraph (b) of the LD should include FT crimes committed in Syria territories or abroad, with regard to the use of funds by a terrorist organization or by an individual terrorist, and not only regarding carrying out a terrorist act.</li> </ul>
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> <li>▪ Syria should take the necessary legislative procedures to amend the LD so that it includes an express text about giving a definite power to identify and track the properties that are or may be confiscated or that are suspected to arise from crime proceeds.</li> </ul>
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> <li>▪ Take the legislative procedures to promulgate the necessary laws and procedures to freeze the terrorists' funds or the assets of persons designated by the UN Al-Qaeda Sanctions Committee, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001). There is no legal basis in Syria with regard to the procedures and practices applied in the freezing of terrorists' funds or the assets of persons, in accordance with S/RES/1267 (1999) and S/RES/1373 (2001). Such</li> </ul>

	<p>measures are only practices taken by competent authorities to execute the instructions of the permanent delegation of Syria to the UN.</p> <ul style="list-style-type: none"> <li>▪ Take special legislative procedures to discuss and implement the acts that were undertaken pursuant to the freezing mechanisms in another country, in enforcement of S/RES/1373 (2001).</li> <li>▪ Take legislative procedures to amend the LD in order to take provisional or final procedures to freeze all assets according to the definition given in the LD, without limiting the temporary and final freezing measures to suspicious accounts only.</li> <li>▪ Set effective communicating systems to notify the financial sector of the actions taken as per the mechanisms of asset freezing.</li> <li>▪ Set clear instructions for financial institutions, persons or other entities that may possess the targeted funds or assets, regarding their obligations in taking measures as per the mechanisms of asset freezing.</li> <li>▪ Promulgate effective and publicly-known procedures to consider requests of de-listing names from the list, canceling the freezing of funds or other assets of persons or entities whose names were de-listed, in compliance with international obligations.</li> <li>▪ Promulgate appropriate procedure for authorizing to use the frozen funds or other assets pursuant to S/RES/1267 (1999), which determine that it is necessary for basic expenses, the payment of certain types or fees, expenses and service charges or for extraordinary expenses.</li> <li>▪ Promulgate appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that with a view to having it reviewed by a court.</li> <li>▪ Take appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.</li> </ul>
<p>2- 5 The Financial Intelligence Unit and its functions (R.26)</p>	<ul style="list-style-type: none"> <li>▪ Take the necessary procedures to update the instructions of financial institutions, banks and other authorities obliged to report, in accordance with the new amendment of the AML/CFT LD.</li> <li>▪ Take practical procedures in order not to interfere with CMLTFC independence through the independence of</li> </ul>

	<p>its budget.</p> <ul style="list-style-type: none"> <li>▪ Provide sufficient financial, human and technical resources for the CMLTFC to enable it to fulfill its duties as provided for in the AML/CFT LD. In fact, the remarks mentioned regarding on the financial, human and technical resources of the CMLTFC, have adversely affected its efficiency and its capacity to fulfill its functions properly.</li> <li>▪ Take necessary procedures to ensure safety of CMLTFC information.</li> <li>▪ Facilitate the issuance of periodical annual reports of the CMLTFC.</li> </ul>
<p>2-6 Law enforcement, prosecution and other competent authorities (R.27, 28)</p>	<ul style="list-style-type: none"> <li>▪ Should consider the possibility of drafting an accurate and clear text authorizing the Public Prosecution to defer or terminate the arrest of suspects, seizing their funds or both, for the purpose of identifying the persons involved in these activities or collecting evidence in ML/TF crimes, and allowing the use of secret agents as persons involved in the crime.</li> <li>▪ Maintain exhaustive statistics on ML/TF investigations, the number of prosecutions and the judgments of convictions to be sure about the effectiveness and competence of such systems in AML/CFT.</li> </ul>
<p>2-7 Declaration/disclosure of cross-border Cash couriers (SR IX)</p>	<ul style="list-style-type: none"> <li>▪ Implement a disclosure/declaration system in compliance with the SR IX, provided that this implementation is not limited to the restrictions imposed on the freedom of foreign exchange or on taking out local currencies outside the country only. It should, in fact, cover the combating of money laundering and the financing of terrorism.</li> <li>▪ Set up a system to keep the data of travelers carrying amounts that exceed the national limit (500 000 Syrian Pounds, or around 9500 USD).</li> <li>▪ Amend legislations to create sanctions for false disclosure/declaration of the currency or financial instruments that could be circulated and that are issued for their bearer, carried by travelers, and create special sanctions including the sanction of persons or confiscation, that apply to the ones who transfer, across borders, currencies in cash or negotiable financial instruments issued to bearer that are related to money laundering or terrorist financing.</li> <li>▪ Promote cooperation between the Customs General Directorate and the CMLTFC in terms of notifying the CMLTFC of the amounts transferred across borders in cash or in the form of negotiable financial instruments with a value exceeding the amount set by the CMLTFC and which were declared in a module prepared by the</li> </ul>

	<p>CMLTFC; and create a database at the CMLTFC, including all declared data related to currencies and bearer financial instruments.</p> <ul style="list-style-type: none"> <li>▪ Promote the role of the AML Department in Customs and provide it with sufficient human and technical resources; and offer AML/CFT training programs to the Department staff.</li> <li>▪ Create cooperation between the Customs, the immigration authorities and the other concerned authorities.</li> <li>▪ Set up and develop arrangements to cooperate with the concerned authorities in the other countries for the purpose of exchanging information on foreign currencies and the financial instruments seized at borders.</li> </ul>
<p><b>3. Preventive Measures–Financial Institutions</b></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>	<p><b>R 5.</b></p> <ul style="list-style-type: none"> <li>▪ Promulgate laws, regulations or resolutions that oblige financial institutions to make available the registers identifying the holders of numbered accounts, to the compliance officer, to other competent officers and to competent authorities.</li> <li>▪ Promulgate a legislative text that obliges insurance companies and any other financial institutions that are not registered with the Central Bank of Syria to take the following measures: <ul style="list-style-type: none"> <li>- Apply customer identity verification in the transactions performed through agents, and verify the legal status of the legal person or arrangement.</li> <li>- Verify the identity of the real beneficiary upon conducting a transaction with the institution.</li> <li>- Identify the physical persons who own the legal entity or have a complete or efficient control thereon.</li> </ul> </li> <li>▪ Amend the limit mentioned in the CMLTFC resolution No.2 relative to the implementation of verification measures in banks and other financial institutions, regarding the identity of walk-in customers (if the transaction crossed 500,000 SP, i.e. an equivalent of around \$9,500) to conform with the level of dealings in the Syrian financial sector.</li> <li>▪ Amend the definition of the beneficial owner in the Regulations on the control of financial and banking</li> </ul>

	<p>operations issued by the CMLTFC so that it conforms to the definition mentioned in the methodology in this regard.</p> <ul style="list-style-type: none"> <li>▪ Promulgate a legislative text and control instructions for insurance companies and exchange institutions regarding the ongoing control of customers' transactions. Supervisory authorities should also verify that these obligations are applied in banks and in the other financial institutions, to make sure that sound systems are in place to disclose some unusual transactions, including automated systems.</li> <li>▪ Promulgate instructions that oblige insurance companies and exchange institutions, when they are licensed, to update documents, data or information received through the CDD process. Supervisory authorities of financial institutions should verify the implementation in practice of that measure, while taking into consideration that this process should be linked to customer-related risks.</li> <li>▪ Promote the role of the Insurance Supervisory Commission in the promulgation of instructions and procedures to insurance institutions in all AML/CFT fields, notably CDD measures, whether for physical or legal persons.</li> <li>▪ Issue control instructions for insurance companies and any other financial institutions when these institutions are licensed to apply enhanced CDD measures to some categories of high-risk customers or transactions. The CMLTFC, the Banking Supervision Department and the other supervisory authorities should also verify the real implementation of these measures in banks and other financial institutions.</li> <li>▪ Issue control instructions obliging insurance companies to notify the CMLTFC when they are unable to perform all CDD measures, or if there is a contradiction between the information declared and the information received from other sources. Similar instructions should also be issued to the other financial institutions when they are licensed.</li> <li>▪ Issue monitoring instructions relative to the implementation of CDD measures with existing customers with respect to insurance institutions.</li> </ul> <p><b>R 6.</b></p> <ul style="list-style-type: none"> <li>▪ Recommendation 6 should be implemented through supervisory authorities, which should verify the implementation of the obligations provided for in LD 33 by banking and financial institutions. Besides, all institutions should be obliged, <u>expressly and not only implicitly</u>, to obtain the approval of the Senior</li> </ul>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>Management to continue the work relationship if they discover that the customer or the real beneficiary are Politically Exposed Persons.</p>
<p>3.3 Third parties and introduced business (R.9)</p>	<ul style="list-style-type: none"> <li>▪ In line with the openness that is coinciding with the liberalization of the Syrian banking and financial sector, the assessment team recommends that Syrian authorities set regulatory basics and rules in the event where financial institutions need to rely on third parties to apply CDD measures.</li> </ul>
<p>3-4 Financial institution secrecy or confidentiality (R.4)</p>	
<p>3.5 Record keeping and wire transfer rules (R.10 &amp; SR.VII)</p>	<p><b>R. 10.</b></p> <ul style="list-style-type: none"> <li>▪ the amendment of legislative texts or promulgation of binding decisions by a legislative authority to oblige all financial institutions, other than banks, to keep the records of all transactions they perform, and keep the files of accounts and correspondence related to business, and provide all customers’ records, information and transactions in a timely manner for the local competent authorities, after obtaining the adequate authorization.</li> <li>▪ For banks, we recommend the amendment of legislative texts or the promulgation of binding decisions by a legislative authority to include the provisions of Article 10 of the Regulations on the control of financial and banking operations, issued by the CMLTFC, and mentioned in the paragraph entitled “Description and analysis”.</li> </ul> <p><b>SR. VII.</b></p> <ul style="list-style-type: none"> <li>▪ the issuance of <u>clear</u> instructions from the competent supervisory authorities, including details of the data that financial institutions should receive from the issuer of the transfer such as the account number and the address, in compliance with the SR. VII.</li> <li>▪ the amendment of the limit amount mentioned in Article 22 of the Exchange Law, at which all supporting documents should be enclosed to establish the nature of the transaction, subject of the transfer, and the identity of its parties, to be consistent with the limit mentioned in the interpretative note of the SR. VII (1000 USD).</li> <li>▪ the issuance of control instructions that define the measures and data obtained when financial institutions perform compiled transfers, and the definition of measures that should be taken by the benefiting financial institutions when wire transfers are not enclosed with complete information about the issuer of the transaction.</li> </ul>

<p>3-6 Monitoring of transactions and relationships (R.11 &amp; 21)</p>	<p><b>R. 11.</b></p> <ul style="list-style-type: none"> <li>▪ Oblige financial institutions to register the results of examination of unusual transactions to identify the background and purpose thereof in writing, and make them available to competent authorities and account auditors for a minimum period of 5 years.</li> <li>▪ Verify that financial institutions implement the provisions of legislative texts.</li> <li>▪ Issue control instructions in this regard for the insurance sector and the other financial institutions when they are licensed.</li> </ul> <p><b>R. 21.</b></p> <ul style="list-style-type: none"> <li>▪ Verify the presence of efficient procedures for the implementation of the obligations mentioned in the LD and the control instructions issued to banks, with regard to giving particular attention to business relations and to transactions with persons belonging to the countries that do not apply or insufficiently apply FATF recommendations; issue similar instructions to insurance companies and to the other financial institutions which are being licensed.</li> <li>▪ promulgate instructions for financial institutions to bind them to record the results of their examination of those transactions to determine their background and purpose behind them in writing and provide competent authorities with them.</li> <li>▪ Promulgate circulars or bulletins that guarantee that financial institutions go over the weaknesses in AML/CFT systems in other countries.</li> <li>▪ Promulgate instructions for financial institutions that include adequate counter measures that would be taken in case a certain country that does not apply or that insufficiently applies the FATF recommendations.</li> </ul>
<p>3-7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 &amp; SR.IV)</p>	<p><b>R. 13</b></p> <ul style="list-style-type: none"> <li>▪ Promulgate a legislative text to oblige financial institutions to report attempts of suspicious transactions.</li> <li>▪ Supervisory authorities should take measures to promote the competence of financial institutions in the identification and reporting of suspicious transactions, such as for instance:             <ul style="list-style-type: none"> <li>- Provide assistance for financial institutions to organize training programs for staff in this field, notably with regard to the identification of unusual and suspicious</li> </ul> </li> </ul>

	<p>transactions.</p> <ul style="list-style-type: none"><li>- Oblige financial institutions to create sufficient automated systems to identify some unusual transactions.</li><li>- Issue control instructions in this field to financial institutions, other than banks, notably the insurance sector which is currently performing its activities.</li><li>- Verify the appointment of an AML officer at the insurance company currently operating in Syria, and provide the company with reporting forms about suspicious cases.</li></ul> <p><b>R. 14.</b></p> <ul style="list-style-type: none"><li>▪ It is recommended that the current legislation should be amended to oblige all financial institutions and their managers, officials and staff (permanent and provisional) not to disclose the Suspicious Transactions Reports or any other related information submitted to the Financial Intelligence Unit (FIU).</li></ul> <p><b>R. 25.</b></p> <ul style="list-style-type: none"><li>▪ The scope of instructions mentioned in the module AML guide procedures should be extended to cover financial institutions other than banks as well as terrorist financing operations. The CMLFTC should also provide instructions regarding how to complete the STR form or the measures which should be taken by the reporting party when submitting the said report.</li><li>▪ The CMLTFC should set a feedback mechanism for the notifier entities of the results of the reports submitted to it. The reporting mechanism should not be used to notify the suspected person when the suspicious report is referred to the General Attorney, as this may allude to the presence of doubts about his activities and may bring prejudice to investigations.</li><li>▪ The CMLTFC should immediately publish periodic statistical reports to the public about the number of suspicious reports submitted to the CMLTFC and for which conviction judgments were rendered and the number of those reports which were kept. The public should also be informed of the disclosed types of suspicious transactions and the techniques used therein.</li></ul> <p><b>SR. IV.</b></p> <ul style="list-style-type: none"><li>▪ The scope of reporting should be expanded to include the reporting of the funds that are related or connected to terrorism or that will be used by terrorist organizations or those who finance terrorism. It should also include the requirement to report attempts at carrying out suspicious operations.</li></ul>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>3-8 Internal controls, compliance, audit and foreign branches (R.15 &amp; 22)</p>	<p><b>R. 15.</b></p> <ul style="list-style-type: none"> <li>▪ AML/CFT policies and controls should cover all financial institutions and not only banks. Verification that financial institutions have established internal policies and controls that are convenient with the type of their activities.</li> <li>▪ Establishment of internal controls at the financial institutions for providing the Compliance Officer in a timely manner with the details of the identities of customers and other available information obtained as a result of applying CDD measures as well as the records of transactions and other relevant information. The assessment team did not identify the existence of an independent audit function that might test such compliance.</li> <li>▪ Attach a particular importance to the training and rehabilitation of employees, since training programs for the banks' staff are rare, and even absent for the staff of other banking and financial institutions.</li> </ul> <p>R. 22.</p> <ul style="list-style-type: none"> <li>▪ Expand the scope of implementing AML/CFT prerequisites to include external branches and subsidiaries of the remaining banking and financial institutions other than banks.</li> <li>▪ Promulgate a text that expressly provides for giving particular attention in case activity is practiced in countries not compliant with AML/CFT standards that are issued by FATF or that do not sufficiently apply them, while foreign branches and subsidiaries should apply the higher standards in case of a conflict in the AML/CFT requirements in the host country.</li> <li>▪ Bind banking and financial institutions to notify supervisory authorities in the mother country when a branch or a subsidiary could not implement the adequate AML/CFT measures, as a result of the ban of laws, regulations or other measures enforced in the host country.</li> </ul>
<p>3-9 Shell banks (R.18)</p>	<ul style="list-style-type: none"> <li>▪ Syrian authorities should expand the scope of prohibited transactions with shell banks through the relations of correspondents, to cover the other banking and financial institutions operating in Syria.</li> </ul>
<p>3.10 The supervisory and oversight system—competent authorities and SROs: Role, functions, duties and powers (including sanctions) (R. 17, 23, 29 &amp; 25).</p>	<ul style="list-style-type: none"> <li>▪ Set comprehensive monitoring procedures and measures for AML/CFT for all financial institutions addressed pursuant to decree No.33 in a way that guarantees consistent implementation according to the specializations of the three main sectors at least in the time being.</li> <li>▪ Regulate the money changers' activity in Syria quickly and register money changer institutions that desire to register,</li> </ul>

	<p>where they shall be subject to monitoring regulations and measures, in consistency with provisions of decree No.33, and taking the adequate legal measures against institutions which did not apply for registration.</p> <ul style="list-style-type: none"> <li>▪ Promote the monitoring and supervision duties of Insurance Supervisory Commission and Syrian Commission on Financial Markets and Securities through issuing regulatory rules for the activity of parties subject to their monitoring, in consistency with the duties assigned to each Commission.</li> <li>▪ Promote the regulatory structures of the Banking Supervision Department and the Insurance Supervisory and Syrian Commission on Financial Markets and Securities and provide them with qualified human resources and ensure continuous training programs to them.</li> <li>▪ Reinforce the duties of on-site inspection of the CMLTFC to encompass all banking and financial institutions.</li> <li>▪ Provide all monitoring parties, not the CMLTFC only, with the right to have access to records and documents related to accounts and transactions with respect to institutions subject to the monitoring of every monitoring party, in a way that promotes the latter's capacity to monitor compliance on one hand and to implement administrative penalties in case of violations in addition to the sanctions stipulated in decree No.33.</li> <li>▪ Verify the availability of honesty and integrity elements in all main shareholders and members of board of directors for all banking and financial institutions, and not for banks only. These standards should be exclusively issued by the involved monitoring party without including them only in Statutes. The monitoring party shall be given the right to assess those elements.</li> <li>▪ Promote the compliance of banking and financial institutions with core principles of efficient banking control and implement well-defined periodical inspection of those institutions, which enable different monitoring parties to verify their compliance with their Statutes and AML/CFT standards.</li> <li>▪ Draft an integrated guide for patterns of suspicious transactions of ML/FT operations which covers all banking and financial institutions, provided that it includes the locally and internationally discovered cases, and it be updated regularly.</li> </ul> <p><b>R 17</b></p> <ul style="list-style-type: none"> <li>▪ Accurately define the penal, civil or administrative sanctions in order to deal with physical or legal persons who fail to comply with AML/CFT conditions in a way that achieves efficiency and deterrence, as they are not accurately defined with respect to the legal person in particular.</li> <li>▪ The mentioned LD shall include the implementation of sanctions on directors of legal persons constituting financial institutions and business companies, as well as their senior management.</li> <li>▪ The mentioned LD shall include the expansion of the scope of sanctions properly according to the gravity of the situation, where they would include powers to impose</li> </ul>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	disciplinary and financial sanctions, as well as powers to withdraw, restrict or suspend the license of a financial institution, wherever found.
3-11 Money or Value Transfer Service (SR VI)	<ul style="list-style-type: none"> <li>▪ Syrian authorities have to expedite the setting of tangible action plans in order to organize the activity of money transfers. The team fears that current service providers, who are not subject to any regulations, would abstain from applying for registration voluntarily, and would resort to methods to hide their activity by practicing other different activities, such as the transport of goods for example. During the visit, the team looked into the fact that the transportation of goods is exploited to transfer money to areas where banking and financial services are not available. The team recommends quick encouragement of service providers to join the central bank monitoring and set deterring sanctions against unregistered service practitioners</li> </ul>
<b>4. Preventive Measures–Non-financial Businesses and Professions</b>	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> <li>▪ Set instructions and guidance rules to organize the mechanisms of record and book keeping in case DNFBPs establish business relations on behalf of clients according to the requirements of LD No.33, which would facilitate the restoration of those data at the request of competent authorities.</li> <li>▪ Set instructions and guiding rules on dealing with Politically Exposed Persons (PEP).</li> <li>▪ Set instructions and guiding rules on dealing with complicated and large transactions, which includes binding, examining and writing the background of those transactions and making them available to competent authorities.</li> <li>▪ Organize the profession of auditing in Syria and oblige auditing service providers to adopt stable and unified standards for auditing and revision.</li> </ul>
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> <li>▪ Set guiding rules issued by the CMLFTC or associations and unions regarding reporting mechanisms and patterns of suspicious transactions that should be reported, or any guidelines emanating from the specialty of non-financial professions.</li> <li>▪ Establishment of legislative text or regulatory instructions for DNFBPs prohibiting disclosure of STRs or related information presented to the CMLFTC</li> <li>▪ Set policies and work procedures that guarantee the compliance of non-financial businesses and professions with AML/CFT standards, promote the awareness of workers and train them continuously.</li> <li>▪ Set stable standards by associations and unions on how to deal with clients from non-compliant countries with FATF standards and set deterring measures in case those</li> </ul>

	countries continued not to abide.
4.3 Regulation, supervision and monitoring (R. 24-25)	<ul style="list-style-type: none"> <li>▪ The CMLTFC monitoring and supervisory role should be promoted to verify the compliance of non-financial businesses and professions with the provisions of decree No.33, provided that the CMLTFC be in charge of issuing regulatory rules to promote AML/CFT systems for that category of business. Relevant government agencies, associations and unions have to practice a vaster supervisory and monitoring role by issuing supervisory rules and best-practice standards and should look into imposing administrative sanctions on the non-compliant party.</li> <li>▪ The CMLTFC, relevant government agencies, associations and unions regulating the activities of non-financial businesses and professions should expedite the setting of guidelines and best-practices for that category of businesses. They should also set guidelines and work procedures and patterns for suspicious transactions that would serve as an awareness source and guidance methodology to promote combating efforts.</li> </ul>
4.4 Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> <li>▪ A strategy shall be drafted to reduce the public's reliance on cash. We recommend the importance of encouraging the opening of bank accounts and obliging the public and private sectors to pay the wages of workers and employees via direct deposit in bank accounts, taking into account the promotion of e-payment network and the use of plastic cards as an alternative to cash.</li> </ul>
<b>5. Legal Persons and Arrangements &amp; Nonprofit Organizations</b>	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>▪ Find a mechanism of communication among different registers in governorates or adopt the centralization system to guarantee control of data and verify them in a healthy manner.</li> <li>▪ Find a mechanism or a specific party that is in charge of following up with and controlling the possible changes in data recorded in the trade register, whether the legal person's data, or the beneficiaries', and monitoring the updating of such data by the legal persons.</li> </ul>
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"> <li>▪ Quickly draft a legislation that would deal with AML/CFT with respect to nonprofit organizations and that would force them to report suspicious transactions.</li> <li>▪ Should consider the implementation of measures</li> </ul>

	stipulated according to the best-practices relevant to Special Recommendation VIII issued by the MENA FATF.
<b>6. National and International Cooperation</b>	
6.1 National cooperation and coordination (R.31)	<ul style="list-style-type: none"> <li>▪ Syria should take necessary measures to coordinate efforts among different AML/CFT parties, and to implement appropriate methods in this regard.</li> </ul>
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> <li>▪ Adopt legislative and procedural measures to enforce the 1999 UN International Convention for the Suppression of the Financing of Terrorism, as it has not been fully implemented.</li> <li>▪ Adopt legislative and procedural measures to ratify the 2000 UN Convention against Transnational Organized Crime (Palermo Convention) and enforce it.</li> </ul>
6.3 Mutual Legal Assistance (R 36-38 & SR.V)	<ul style="list-style-type: none"> <li>▪ Take special care to keep statistics on mutual assistance requests to verify the efficiency of the mutual assistance frameworks.</li> <li>▪ Look into the necessary steps to provide the greatest mutual assistance possible to combat ML/T since the LD did not include the possibility of lifting the banking secrecy off other financial institutions or other non-financial businesses and professions to meet the demand of receiving MLA, among which is the legal profession. The law regulating the legal profession stipulated in article 22 the necessity to preserve the profession's secrecy.</li> <li>▪ Set mechanisms to identify the best place to establish a lawsuit.</li> <li>▪ Adopt legislative measures to include in laws or judicial cooperation agreements the following: <ul style="list-style-type: none"> <li>- provisions relevant to the acknowledgement of criminal verdicts issued by competent foreign judicial authorities to confiscate the funds resulting from ML crimes and their proceeds, as well as FT crimes, or the instrumentalities used in those crimes.</li> <li>- provisions relevant to offering MLA when the request relates to property of corresponding value. The LD did not stipulate the establishment of asset forfeiture fund, where all or part of the confiscated properties would be deposited for purposes of law enforcement, health care, education, or other adequate purposes. Moreover, there is no legal text that allows the establishment of this fund. And Syria has not established this fund yet.</li> </ul> </li> </ul>
6.4 Extradition (R 37 & 39, & SR.V)	<ul style="list-style-type: none"> <li>▪ Criminalization of all designated crimes</li> </ul>
6.5 Other Forms of Cooperation (R.40, & SR.V)	<ul style="list-style-type: none"> <li>▪ Take the necessary legislative procedures to add special texts to the existing legislations which include constraints and guarantees that assure the non-use of information received by competent authorities except in a responsible</li> </ul>

*Recommended Action Plan to Improve the AML/CFT System*

	<p>way.</p> <ul style="list-style-type: none"> <li>▪ Syria has to find a sort of cooperation between supervisory authorities and their foreign counterparts in order to promote cooperation on the international level.</li> <li>▪ Take interest in providing statistics on international cooperation to verify the efficiency of cooperation with counterpart or non-counterpart authorities</li> </ul>
7- Other issues	
7-1 Resources and Statistics (R.30,32)	<ul style="list-style-type: none"> <li>▪ Provide the required human and financial resources.</li> <li>▪ Promote the regulatory structures of the Banking Supervision department, the Insurance Supervisory Commission and Syrian Commission on Financial Markets and Securities and provide them with qualified human resources and with continuous training programs.</li> <li>▪ Maintain statistics.</li> </ul>
Other measures or issues relevant to AML/CFT	
General Framework- Structural matters	

## Annex (1)

### Parties and people interviewed:

- Minister of Finance
- Governor of Central Bank
- Combating ML/FT Commission- Central Bank
  - CMLFTC Secretary
  - Controller at the Commission
  - Secretary of Compliance Unit
  - Controller the Commission
  
- Government's Commission (Banking Supervision Department)- Central Bank
  - Second deputy governor- director supervising the director.
  - Head of On-Site Monitoring Department
  - Directorate Controller at the Government's Commission
  
- Foreign Exchange Office- Central Bank
  - Supervising manager- in charge of Foreign Relations Directorate
  - Legal expert
  - Directress of Legal Affairs/ Central Bank
  - Director of Foreign Affairs/ Central Bank
  
- Ministry of Finance
  - Fiscal Information Director
  - Director of Banks and Insurance Office
  - Director of Income at the Ministry of Finance
  - Legal Affairs Director
  - Director of Revenues
  
- Syrian Insurance Company
  - Chairman- General Manager
  
- Syrian Insurance Supervisory Commission
  - Director of Insurance Supervisory Commission
  
- Criminal Security
  - Director of Criminal Security Department
  - Head of Counterfeit and Smuggling of Money Section
  
- Anti-Drug Directorate
  - Customs Director-General
  - Director-General assistant
  - Directress of Legislation and Legal Affairs in Customs Department
  - Assistant Director of Cases
  - AML Department
  
- Saudi-French BEMO Bank
  - Compliance Monitor
  - Internal Controller
  
- Ministry of Justice: Legislation Department

- Advisors at the Legislation Department
- Judicial Palace: Attorney-General
  - Attorney-General of Appeals
  - Judge
- Ministry of Social Affairs
  - Minister's advisor- Ministry of Social Affairs
  - Associations Officer- Monitoring Director
- Ministry of Economy and Trade- Internal Trade Directorate
  - Internal Trade Director
- Syrian Chamber of Trade
  - Secretary of the federation of Syrian Chambers of Trade
  - Chambers Federation President
- Investment Office
  - Investment Office Director
  - Office Assistant Director
  - Legal Affairs Director
- Jewelry Association
  - President of Jewelry Association
  - Member of the association's board of directors
- Bar of Association
  - Member of the Central Bar of Association
  - Member of the Bar of Association
- Legal Accountants
  - Legal Accountant- Legal Accountants Association secretary
  - Legal Accountant
- Audi Bank
  - General Manager
  - Operations Manager
  - Deputy General Manager
  - Compliance Officer
- Central Monitoring and Inspection Authority
  - Banks Group President
  - Financial and Customs Group President
- Local Administration Ministry- Party responsible for the real-estate offices
  - Legal Administration Advisor
  - Assistant Director of Professions and Licenses in the Governorate of Damascus
  - President of the Licenses Department in the Governorate of Damascus
- Ministry of Endowment
  - Endowment Minister's assistant

- Financial Affairs Director
- Ministry of Economy and Trade
  - Minister's Assistant
  - Internal Trade Director
- Syrian Commercial Bank
  - Deputy General Manager
  - Foreign Relations Manager
  - Secretary of Compliance Unit- Branch Manager
- Foreign Ministry
  - Internal Organizations Department Director
  - Anti-Terrorism Bureau Director