



Anti-money laundering
and counter-terrorist
financing measures

Papua New Guinea

Mutual Evaluation Report
September 2024





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TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	4
Key Findings.....	4
Risks and General Situation	5
Overall Level of Effectiveness and Technical Compliance.....	7
Priority Actions.....	12
Effectiveness & Technical Compliance Ratings	14
MUTUAL EVALUATION REPORT OF PNG.....	15
Preface	15
CHAPTER 1. ML/TF RISKS AND CONTEXT.....	17
ML/TF Risks and Scoping of Higher-Risk Issues.....	18
Materiality	23
Structural Elements	25
Background and other Contextual Factors	27
CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION	40
Key Findings and Recommended Actions.....	40
Immediate Outcome 1 (Risk, Policy and Coordination)	42
CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES	49
Key Findings and Recommended Actions.....	49
Immediate Outcome 6 (Financial intelligence ML/TF)	54
Immediate Outcome 7 (ML investigation and prosecution)	65
Immediate Outcome 8 (Confiscation)	70
CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION.....	76
Key Findings and Recommended Actions.....	76
Immediate Outcome 9 (TF investigation and prosecution)	79
Immediate Outcome 10 (TF preventive measures and financial sanctions)	81
Immediate Outcome 11 (PF financial sanctions)	85
CHAPTER 5. PREVENTIVE MEASURES	89
Key Findings and Recommended Actions.....	89
Immediate Outcome 4 (Preventive Measures).....	90
CHAPTER 6. SUPERVISION	101
Key Findings and Recommended Actions.....	101
Immediate Outcome 3 (Supervision)	102
CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS.....	116
Key Findings and Recommended Actions.....	116
Immediate Outcome 5 (Legal Persons and Arrangements)	118
CHAPTER 8. INTERNATIONAL COOPERATION	124
Key Findings and Recommended Actions.....	124
Immediate Outcome 2 (International Cooperation)	125

TECHNICAL COMPLIANCE ANNEX.....	133
Recommendation 1 - Assessing Risks and applying a Risk-Based Approach.....	133
Recommendation 2 - National Cooperation and Coordination.....	136
Recommendation 3 - Money laundering offence.....	138
Recommendation 4 - Confiscation and provisional measures.....	140
Recommendation 5 - Terrorist financing offence.....	143
Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing.....	144
Recommendation 7 – Targeted Financial sanctions related to proliferation.....	149
Recommendation 8 – Non-profit organisations.....	152
Recommendation 9 – Financial institution secrecy laws.....	154
Recommendation 10 – Customer due diligence.....	155
Recommendation 11 – Record-keeping.....	160
Recommendation 12 – Politically exposed persons.....	160
Recommendation 13 – Correspondent banking.....	161
Recommendation 14 – Money or value transfer services.....	162
Recommendation 15 – New technologies.....	164
Recommendation 16 – Wire transfers.....	165
Recommendation 17 – Reliance on third parties.....	167
Recommendation 18 – Internal controls and foreign branches and subsidiaries.....	168
Recommendation 19 – Higher-risk countries.....	170
Recommendation 20 – Reporting of suspicious transaction.....	170
Recommendation 21 – Tipping-off and confidentiality.....	171
Recommendation 22 – DNFBPs: Customer due diligence.....	172
Recommendation 23 – DNFBPs: Other measures.....	173
Recommendation 24 – Transparency and beneficial ownership of legal persons.....	174
Recommendation 25 – Transparency and beneficial ownership of legal arrangements.....	181
Recommendation 26 – Regulation and supervision of financial institutions.....	182
Recommendation 27 – Powers of supervisors.....	186
Recommendation 28 – Regulation and supervision of DNFBPs.....	187
Recommendation 29 - Financial intelligence units.....	190
Recommendation 30 – Responsibilities of law enforcement and investigative authorities.....	192
Recommendation 31 - Powers of law enforcement and investigative authorities.....	194
Recommendation 32 – Cash Couriers.....	197
Recommendation 33 – Statistics.....	199
Recommendation 34 – Guidance and feedback.....	200
Recommendation 35 – Sanctions.....	201
Recommendation 36 – International instruments.....	202
Recommendation 37 - Mutual legal assistance.....	203
Recommendation 38 – Mutual legal assistance: freezing and confiscation.....	205
Recommendation 39 – Extradition.....	206
Recommendation 40 – Other forms of international cooperation.....	207
Summary of Technical Compliance – Key Deficiencies.....	213
GLOSSARY.....	222

EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Papua New Guinea as at the date of the on-site visit 2-13 October 2023. It analyses the level of compliance with the FATF 40 Recommendations, the level of effectiveness of Papua New Guinea's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- A. Key ML threats related to PNG's significant ML risk are: (i) corruption and bribery, (ii) fraud against government programs and activities, (iii) illegal logging and fishing, and (iv) tax offending. Except for the Financial Analysis and Supervision Unit, prioritisation of agencies' limited skilled capacity and institutional resources to AML/CFT activities targeting these threats is a key challenge. Resource constraints are most acute for Royal Papua New Guinea Constabulary and other agencies in the law and justice sector.
- B. PNG has undertaken one ML/TF NRA, three sectoral assessments and an update to the NRA is ongoing. The Financial Analysis and Supervision Unit is the only competent authority with a reasonable understanding of PNG's ML risks and a developing understanding of PNG's TF risk. Mechanisms are in place for AML/CFT policy and operational cooperation with policy-level coordination on PNG's risk-based AML/CFT national strategy at a reasonable level. Operational cooperation and coordination on ML and asset confiscation is limited.
- C. The Financial Analysis and Supervision Unit is a well-established FIU with its operational financial intelligence of good quality and securely disseminated, and it has conducted strategic analysis. However, the overall use of financial intelligence by relevant competent authorities to develop evidence and trace criminal proceeds related to ML and high-risk predicate offences is very limited. Also, FI and DNFBP reporting is not fully consistent with PNG's risks.
- D. PNG is not prioritising or pursuing ML and asset recovery in line with its ML risks. The Royal Papua New Guinea Constabulary, the Office of the Public Prosecutor, and other relevant competent authorities all lack skilled capacity and institutional resources for, and prioritisation of, their ML and asset confiscation functions. Due to this, PNG is not achieving operational outcomes commensurate with its significant ML risk.
- E. The Independent Commission Against Corruption was formed in July 2023 and at the time of the ME onsite visit had not commenced operational activities and was not fully integrated into PNG's AML regime and PNG's national AML/CFT policy.

- F. PNG is not a high-risk jurisdiction for terrorism or TF. In line with this, there have been no investigations, prosecutions or convictions for TF in PNG. PNG's ability to identify TF is limited to the Financial Analysis and Supervision Unit's intelligence. Relevant competent authorities lack skilled capacity and formal CFT policies and manuals to identify, investigate, and/or prosecute potential TF activities should they arise.
- G. PNG's legal framework to implement targeted financial sanctions for TF and PF has minor and moderate shortcomings, respectively. Authorities do not have a strong understanding of targeted financial sanctions and there has been minimal cooperation between the relevant competent authorities. Screening practices vary widely across FIs and DNFBPs. While commercial banks conduct automated screening, other FIs and DNFBPs' screening is not systematic where it is occurring. No funds have been frozen for TF or PF, which is consistent with PNG's risk profile.
- H. The Financial Analysis and Supervision Unit is the sole AML/CFT supervisor with its supervisory actions focused on the commercial banking sector, which is PNG's most vulnerable sector. FI and DNFBP regulators need to prioritise implementation of fit and proper controls. Onsite and/or offsite inspections of all commercial banks has occurred since 2018 with longer-term remedial proceedings. These supervision activities have had a significant positive impact on PNG's two domestic commercial banks' implementation of AML/CFT preventive measures including PEP obligations. Implementation of AML/CFT preventive measures by PNG's two foreign commercial banks leverage well-established group-level AML/CFT policies, procedures and controls. Supervision of non-commercial bank FIs and DNFBPs is more limited and is not fully risk based. Implementation of preventive measures (including PEP obligations) varies across other non-commercial bank FIs and DNFBPs and they are not submitting suspicious matter reports.
- I. The Registrar of Companies is focusing its resources on a re-registration process for all companies. The registrar is empowered to obtain BO information held by companies; however, at the time of the onsite visit, relevant authorities primarily relied upon BO information collected by FIs and DNFBPs. Except for commercial banks and large DNFBPs with foreign parents, BO information is unlikely to be adequate, accurate and available in a timely manner. All relevant competent authorities are making limited use of basic and BO information. Trusts can be formed under common law in PNG with relevant competent authorities relying upon BO information collected by FIs and DNFBPs.
- J. PNG is not seeking formal international cooperation at a level fully consistent with its significant ML and predicate crime risks and prevalence of laundering abroad. Except for the Financial Analysis and Supervision Unit, all relevant competent authorities mainly use their established cooperation mechanisms to respond to requests, rather than to pursue criminals and their assets abroad.

Risks and General Situation

2. Papua New Guinea (PNG) is situated in the western edge of the Pacific region, occupying the eastern half of the West Pacific Island of New Guinea together with the main islands of New Britain, New Ireland, the Autonomous Region of Bougainville and 600 smaller islands and atolls.¹ The

¹ World bank, 2023, PNG Overview, <https://www.worldbank.org/en/country/png/overview#1>, accessed July 2023.

population of PNG is above 9 million people, with over 85% of Papua New Guinean's living in rural areas with traditional village-based lives.²

3. PNG is classified as a lower-middle income economy.³ The GDP is approximately USD 31.69 billion (in 2023)⁴ with the extractive sector being PNG's largest sector.^{5,6} GDP per capita is approximately USD 2.6 thousand (in 2023).⁷ PNG is a cash-based economy with approx. 80% of the adult population lacking access to the formal banking sector. The formal financial sector is concentrated in four commercial banks, particularly two domestic commercial banks. While PNG is not an international financial centre, its largest domestic commercial bank operates in other Pacific Islands and has subsidiaries in Southeast Asia. PNG does not have any locally incorporated VASPs.

4. PNG's 2017 NRA identifies that the overall threat of ML in PNG is significant.⁸ Corruption and bribery, tax-related offences, fraud (particularly against government programs and activities), and environmental crimes (particularly crimes in the logging and fishing sectors) are the highest ML threats with the greatest potential to generate proceeds. There does not appear to be a significant domestic market for illicit drugs in PNG, due to the porous nature of PNG's land and sea borders; however, PNG is a trans-shipment point for illicit drugs mainly destined for Australia. Domestically generated proceeds are largely laundered abroad in regional jurisdictions. There are frequent claims that property has been purchased in Australia (and elsewhere) by PEPs using corrupt earnings including through the use of gatekeepers in PNG such as lawyers and accountants. Domestic laundering is not highly sophisticated.

5. PNG's TF risk assessment and the AT did not identify open-source information suggesting international terrorist groups or groups with links to international terrorist networks are operating in PNG or raising, moving and using funds in connection to PNG.

² World bank, 2023, Data, Population total – PNG, World Bank Group,

<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PG>, accessed July 2023.

³ World bank, 2024, Data, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>, accessed 24 February 2024.

⁴ International Monetary Fund, 2023 GDP Data,

<https://www.imf.org/external/datamapper/NGDPD@WEO/PNG?zoom=PNG&highlight=PNG>, accessed 24 February 2024.

⁵ World Bank, 2022, Papua New Guinea Economic Update: benefiting from high commodity prices, p3, World Bank Group, <https://thedocs.worldbank.org/en/doc/da003a91ea70b0e8ef324a1435d66636-0070062022/original/220913-World-Bank-Papua-New-Guinea-Economic-Update-Benefiting-From-High-Commodity-Prices.pdf>, accessed July 2023.

⁶Transparency International New Zealand, https://assets-global.website-files.com/5f3c5d2bb263505e25811876/6543fb950f9ce062efebad65_PNG%20Country%20Case%20Summary%20TINZ%20report.pdf, accessed January 2024.

⁷ World Bank, 2022, Papua New Guinea Economic Update: benefiting from high commodity prices, p3, World Bank Group, <https://thedocs.worldbank.org/en/doc/da003a91ea70b0e8ef324a1435d66636-0070062022/original/220913-World-Bank-Papua-New-Guinea-Economic-Update-Benefiting-From-High-Commodity-Prices.pdf>, accessed July 2023.

⁸ PNG NRA 2017, p.17

Overall Level of Effectiveness and Technical Compliance

Assessment of Risk, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33 & 34)

6. PNG has undertaken four ML/TF risk assessments, and two risk assessments were under development at the time of the ME onsite visit. PNG completed its first NRA in September 2017, published in March of 2019. The NRA reasonably identifies PNG's overall ML risk as significant, PNG's major ML threat categories, and key vulnerable FIs and DNFBPs. The report reasonably identifies PNG's TF risk as low but lacks detailed analysis. Less weight has been placed on this gap due to PNG's risk and context. All FIs and some DNFBPs are aware of the NRA. Two NPO and a VASP risk assessments have been completed.

7. FASU has a reasonable understanding of PNG's ML risks and a developing understanding of PNG's TF risks. All other competent authorities lack the same level of understanding. Although these agencies know of, and agree with, the high-level findings of the NRA, their understanding does not extend to a reasonable understanding of PNG's ML risks. All competent authorities (except for FASU) have a limited understanding of PNG's TF risk. Less weight has been placed on this gap due to PNG's risk and context.

8. At the time of the onsite visit, PNG was in a transition phase between the NSP 2017-2022 and 2023-2027. PNG's NSP 2023-2027 is informed by PNG's ML/TF risks and builds on PNG's previous national AML/CFT policies. Individual agencies are not prioritising resources to AML/CFT activities consistent with PNG's AML/CFT national policies and PNG's significant ML risk. PNG's law and justice sector suffers from the most acute lack of skilled capacity and institutional resources for, and prioritisation of, AML/CFT activities. FASU is the key exception to this, with adequate resources to conduct its functions targeting PNG's highest ML threats and vulnerabilities.

9. ICAC was formed in July 2023 and at the time of the ME onsite visit had not commenced operational activities and was not fully integrated into PNG's AML/CFT regime (including the NCC) and the NSP 2023-2027.

10. The NCC is PNG's national AML/CFT cooperation and coordination body. In the last few years, leading into the ME, policy-level coordination has increased to a reasonable level although inter-agency cooperation is challenging due to competing reform agendas and resource constraints. Operational AML/CFT supervision cooperation and coordination is reasonable given PNG's financial sector and supervision arrangements. While PNG has mechanisms, operational ML and asset confiscation cooperation and coordination is only occurring in the most high-profile cases or where international partners are involved.

11. TF and PF cooperation and coordination is not occurring in PNG. The AT has placed less weight on this TF gap due to PNG's low TF risk.

12. PNG has included MV dealers in its AML/CFT regime due to their higher ML risk. FASU has conducted four onsite supervision visits of MV dealers in 2019 and continues to support implementation of AML/CFT obligations in the sector through outreach. While implementation is recent, MV dealers have submitted seven SMRs and there is a general push in the sector to phaseout cash transactions.

Financial Intelligence, ML Investigations, Prosecutions and Confiscation (Chapter 3 – 10.6, 7-8; R.1, R.3, R.4, R.29-32)

13. FASU is established within the BPNG with strong operational independence and autonomy, policies, and procedures to carry out its functions. Resourcing of FASU is adequate given the demand for its intelligence products. R.29 is rated compliant.

14. Since disseminating its first financial intelligence product in June 2018, FASU has made 160 operational analysis disseminations, disseminated 13 strategic analysis reports, and responded to 77 requests for information. Operational analysis is of good quality and FASU focuses significant resources on ensuring capability balance in the provision and use of financial intelligence including that FASU is central to the development and use of financial intelligence in all higher profile and complex ML and predicate crime cases and those involving international and regional partners.

15. Despite the above, there is very limited use of financial intelligence by RPNGC and other relevant competent authorities to develop evidence and trace criminal proceeds related to ML and high-risk predicate offences. Financial intelligence is being used to drive AML/CFT supervision activities.

16. SMR and TTR reporting is predominantly from commercial banks with no SMRs from NBFIs and DNFbps, which is not consistent with PNG's risk profile.

17. PNG has convicted two individuals of self-laundering and the Wartoto confiscation case is significant in the context of PNG. RPNGC, OPP, and other relevant competent authorities all lack skilled capacity and institutional resources for, and prioritisation of, their ML and asset confiscation functions. Due to this, PNG is not achieving operational outcomes commensurate with their significant ML risk. Furthermore, PNG has moderate shortcomings in R.3, R.30 and R.31.

18. ICAC is an independent constitutional office recently formed in July 2023 to address corrupt conduct, predominantly in the public sector. ICAC can investigate ML, but at the time of the ME onsite visit, it had not commenced operational activities. Furthermore, the ICAC is unable to utilize confiscation provisions under the POCA without referral or assistance from RPNGC. ICAC has no powers to initiate freezing and seizing of assets under its primary legislation.

19. PNGCS is in the process of implementing PNG's currency declaration system across PNG with implementation most advanced (but not systematic) at Jackson's International Airport. FASU is receiving very few cash declarations from PNGCS.

Terrorist and Proliferation Financing (Chapter 4 – 10.9, 10, 11; R.1, R.4, R.5-8, R.30, R31 & R.39)

20. There have been no TF investigations, prosecutions, convictions, or confiscations in PNG, which is consistent with PNG's TF risk profile. PNG relies exclusively on FASU to identify TF with PNG not demonstrating other relevant competent authorities have mechanisms to proactively identify TF. The RPNGC and OPP lack skilled capacity to undertake their TF functions should potential TF activities arise. If a TF case was identified, PNG could leverage its strong regional partnerships to seek international assistance. PNG has moderate shortcomings in R.5, R.30 and R.31.

21. PNG has a legal framework to implement TFS (for both TF and PF) with minor shortcomings for TFS-TF and moderate shortcomings for TFS-PF. The authorities have limited understanding of TFS and there has been minimal cooperation between the relevant competent authorities. International

commercial banks and the money remitter have adopted their parent organisations' TFS processes. Domestic commercial banks are also conducting automated screening of transactions. Whilst screening practices vary widely amongst NBFIs and DNFBPs, screening is not systematic where it is occurring. These practices are not tested by AML/CFT supervision, and outreach and guidance to FI and DNFBPs on TFS has recently started.

22. PNG has undertaken some recent reforms to its NPO sector, including updating the legal framework of all NPOs and the assessment of TF risks, but has not yet implemented focussed and proportionate measures for at-risk NPOs. R.8 is rated partially compliant.

23. PNG's exposure to WMD-related sanctions evasion of PF is relatively moderate.⁹ PNG has limited links or trade with DPRK in the last five years. No designated persons or entities or persons acting on their behalf have been identified as operating in PNG or moving funds/assets in or through PNG.

Preventive Measures (Chapter 5 - IO4; R.9-23)

24. Banks play a critical role in PNG's financial sector with implementation issues weighed most heavily for commercial banks. PNG has moderate shortcomings in preventive measures for FIs and DNFBPs including R.12, R.14, R.16, R.19, R.20, R.22, and R.23. R.19 is rated non compliant. PNG's recent SRA on VA/VASPs demonstrated zero or minimal presence of VA and VASPs in PNG.¹⁰ PNG has no legal mechanism for the regulation of VA/VASPs with R.15 rated non compliant.

25. Understanding of AML/CFT obligations and implementation of mitigating measures are generally at a satisfactory level for the commercial banking sector. Commercial banks have devoted a high level of resources towards compliance to assist with the implementation of mitigating measures in recent years. NBFIs and DNFBPs understanding of ML/TF risks and AML/CFT obligations varies across the sectors with most entities in the very early stages of introducing effective mitigating measures.

26. Commercial banks have demonstrated awareness and have in place, risk-based CDD and record keeping measures. R.10 and R.11 are rated largely compliant and compliant, respectively. The level of application for CDD and record keeping varies significantly for NBFIs and DNFBPs. Larger NBFIs and DNFBPs with international connections leverage parent company internal controls to support CDD, which are adapted for PNG's risk and context to some extent. Smaller NBFIs and DNFBPs place a heavy reliance on the commercial banks' CDD processes as a risk mitigating means.

27. Application of enhanced or specific measures by FIs (including commercial banks) varies within the sectors. Some commercial banks have strengthened policies, procedures and controls for EDD. Regarding PEPs, commercial banks generally, have a good understanding of the risks associated with PEPs. Based on FASU's targeted supervision, domestic commercial banks have undertaken recent reforms to enhance implementation of PEP obligations. Foreign commercial banks align their policy and procedures with global policy that includes addendums specifically for PNG. Implementation of PEP obligations across NBFIs and DNFBPs varies.

⁹ On 18 October 2023, the TFS elements of UNSCR 2231 expired. However, the onsite for PNG occurred before this date, hence TFS elements of UNSCR 2231 are included in the analysis.

¹⁰ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012_PNG-VASP-Risk-Assessment-v.10.pdf, accessed November 2023.

28. Through improvements to AML/CFT systems, commercial banks' reporting has increased year-on-year since 2018 with 2022 SMR reporting more in line with the risks of the sector. Commercial banks have measures to prevent tipping off with R.21 rated compliant. NBFIs and DNFBPs have very limited systems and processes for reporting obligations. There has been no SMR submitted by NBFIs and DNFBPs, which is not consistent with the ML/TF risks of these sectors, particularly lawyers.

29. Application of internal AML/CFT controls and procedures are demonstrated by the commercial banking sector for all AML/CFT functions including controls at the financial group level. R.18 is related largely compliant. The application of internal AML/CFT controls is limited in NBFIs and DNFBPs.

Supervision (Chapter 6 - IO3; R.14, R.26-28, R.34, R.35)

30. FASU is the sole AML/CFT supervisor in PNG with adequate powers of supervisors (R.27 is rated largely compliant) including to impose sanctions (R.35 is rated largely compliant). FASU has a good understanding of ML risks in the commercial banking sector and higher-risk DNFBPs. FASU's risk understanding is less advanced for TF, NBFIs and for other DNFBPs.

31. FASU is implementing a high-level risk-based approach to supervision (R.27 is rated largely compliant) with its supervisory actions focused on the commercial banking sector, which represents over two-thirds of PNG's financial system and is PNG's most vulnerable sector. This includes onsite and/or offsite inspections of all commercial banks since 2018 and longer-term remedial proceedings with PNG's two domestic commercial banks. The completed enforcement action with PNG's largest domestic commercial bank resulted in changes to senior and executive management and significant AML/CFT-related improvements. This enforcement action also impacted the general AML/CFT compliance culture in PNG's commercial banking sector.

32. Resourcing and prioritisation of commercial banks has meant that FASU's supervision of NBFIs and DNFBPs is more limited and is not fully risk based. R.28 is rated partially compliant. FASU has only issued recommendations for compliance breaches to these NBFIs and DNFBPs. Critically, there has been very limited supervision of lawyers, which are rated highly vulnerable to ML in PNG's NRA.

33. FASU is focusing significant resources on outreach, which appears to be effective in promoting an understanding and general awareness of AML/CFT obligations and ML/TF risks amongst commercial banks and some higher-risk DNFBPs. R.34 is rated largely compliant.

34. PNG is not actively preventing criminals from holding or controlling all FIs and DNFBPs. Commercial banks and NBFIs are required to be licensed, but regulators have limited resources to ensure full implementation on ongoing fit and proper controls. For DNFBPs, fit and proper controls and their application are limited.

Transparency and Beneficial Ownership (Chapter 7 - IO5; R.24-25)

35. PNG has not identified and assessed ML/TF risks associated with legal persons, with only FASU and ROC understanding the associated risks. Information on the creation and types of PNG's legal persons is publicly available through legislation and on ROC's website. Companies are the primary form of legal person in PNG with basic information available from the ROC website. Trusts can be formed under common law in PNG. R.24 and R.25 are both rated partially compliant.

36. In the period under review, PNG focused its resources on amending the Companies Act and other relevant legislation, and at the time of the onsite visit, a re-registration process of basic information for all ROC registered entities was underway. However, ROC lacks the resources to ensure the accuracy and/or verification of re-registration information for specific sub-sets of legal persons vulnerable to ML.

37. PNG primarily relies upon BO information of legal persons and arrangements collected by FIs and DNFBPs in the course of CDD. Except for commercial banks and large DNFBPs with international connections, this information is unlikely to be adequate, accurate and available in a timely manner. PNG did not demonstrate RPNGC and other competent authorities are actively using CDD BO information held on legal persons or arrangements in ML/TF or predicate crime investigations or to trace proceeds of crime.

38. The amended Companies Act in 2022 introduced requirements for companies to maintain BO information and provide this information to ROC upon request. At the time of the ME onsite visit, PNG was in the transition period (until the end 30 November 2023) of this new requirement with implementation by companies being unclear, and the ROC had not requested BO information from any companies.

International Cooperation (Chapter 8 - IO2; R. 36-40)

39. PNG legal framework for MLA is sound with R.37 and R.38 rated largely compliant and R.36 rated partially compliant. PNG has made four outgoing MLA requests and one extradition request, most of which were to Australia. The cases demonstrate positive elements of PNG's ability to engage in international cooperation; however, PNG is not seeking formal international cooperation at a level consistent with its significant ML and predicate crime risks and prevalence of laundering abroad. This is primarily attributable to a lack of prioritisation, skilled capacity and institutional resources to pursue ML and asset confiscation abroad.

40. During the period under review, PNG received six incoming MLA requests. Recent requests have been responded to in a timely manner with assistance seeming to be adequate. The requirement for an extradition treaty and regulation means PNG cannot execute extradition with non-PIF jurisdictions in a timely manner. R.39 is rated partially compliant. PNG has not received an incoming extradition request.

41. PNG has a range of non-MLA international cooperation mechanisms; however, R.40 is rated partially compliant. FASU is the most engaged in using other forms of international cooperation, primarily via ESW. Law enforcement focused non-MLA international cooperation mechanisms are available; however, relevant competent authorities do not maintain comprehensive information and statistics on their use, which limits PNG's ability to demonstrate its effectiveness. From the examples provided, competent authorities mainly respond to requests, rather than using their established mechanisms to pursue criminals and their assets abroad.

42. FASU has shared some basic and BO information with foreign counterparts through ESW requests.

43. PNG has not sought MLA or extradition in relation to TF, which is in line with its low risk.

Priority Actions

- A. PNG should ensure the agencies responsible for ML investigation and prosecution and tracing, restraining and confiscating proceeds of crime (mainly RPNGC and OPP) are prioritised by PNG to be adequately resourced with skilled staff who are appropriately trained, have adequate institutional resources (including policies, manuals and books) to undertake their functions. Due to the resource constraints of PNG, these actions should be undertaken in a way that is tightly aligned to PNG's highest ML risks.
- B. The effectiveness of the NCC as the primary mechanism for coordinated and cooperative implementation of the NSP 2023-2027 needs to be enhanced and prioritised by NCC agencies through expedited implementation of NSP action items. The prioritisation and utilisation of adequate skilled capacity and institutional resources to AML/CFT (as per Priority Action A) will prioritise and enhance the AML/CFT capabilities of NCC agencies. PNG should urgently focus on supporting NCC members achieve legal, institutional and operational reforms and outcomes as outlined in the NSP 2023-2027.
- C. PNG should continue to prioritise ICAC becoming fully operational. This includes resourcing for, and cooperation with RPNGC and other relevant agencies on, reforms (legal, institutional, and operational) across the law and justice sector to enable ICAC to combat ML and confiscate assets related to PNG's highest predicate crime risk of corruption and bribery. ICAC should be fully integrated into PNG's AML/CFT regime including as a member of the NCC and inclusion in the NSP 2023-2027.
- D. PNG should enhance the use of financial intelligence, by RPNGC, ICAC and other relevant competent authorities, in ML investigations and for tracing assets related to PNG's highest ML threats, including tracing assets moved offshore. As demand for financial intelligence grows, FASU should continue to enhance its analytical capability through actions outlined in its Strategic Plan 2023-2027.
- E. PNG should enhance public and private sectors' understanding of PNG's ML and TF risks by expediting the update to the NRA; endorsing and publishing the forestry risk assessment; and conducting more focused ML risk assessments on PNG's highest risk predicate offences.
- F. Due to the prevalence of laundering domestic proceeds abroad, PNG should address the deficiencies in its international cooperation frameworks and significantly enhance RPNGC, ICAC, OPP and other competent authorities' use of formal and informal international cooperation on PNG's highest risk predicate crimes.
- G. PNG should improve the effectiveness of TFS implementation, including by increasing awareness and understanding by FIs and DNFBPs of specific TFS obligations and amend the deficiencies in PNG's legal framework for TFS-PF. TFS should also be covered in the supervisory programs to ensure TFS implementation by all FIs and DNFBPs.
- H. PNG should expedite ROC's implementation of current reforms and the re-registration process of companies and associations. Based on a reasonable understanding of risks associated with legal persons and arrangements, RPNGC, ICAC and other relevant competent authorities should enhance their use of basic and BO information in their ML and predicate crime investigations.

- I. PNG should expedite its ongoing remedial actions against one domestic commercial bank and continue to refine its risk-based supervision (including enforcement) and outreach approach to enhance preventive measures implementation for highest-risk FIs and DNFBPs. In the immediate term, this should include a strong focus on implementation of PEP obligations.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Moderate	Moderate	Moderate	Moderate	Low	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Low	Low	Low	Moderate	Low	

Technical Compliance Ratings (*C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant*)

R.1 - Assessing risk & applying risk-based approach	R.2 - National cooperation and coordination	R.3 - Money laundering offence	R.4 - Confiscation & provisional measures	R.5 - Terrorist financing offence	R.6 - Targeted financial sanctions – terrorism & terrorist financing
PC	LC	PC	LC	PC	LC
R.7 - Targeted financial sanctions – proliferation	R.8 - Non-profit organisations	R.9 - Financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping	R.12 - Politically exposed persons
PC	PC	C	LC	C	PC
R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries
LC	PC	NC	PC	LC	LC
R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 - Transparency & BO of legal persons
NC	PC	C	PC	PC	PC
R.25 - Transparency & BO of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervision	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities
PC	LC	LC	PC	C	PC
R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments
PC	PC	PC	LC	LC	PC
R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation		
LC	LC	PC	PC		

MUTUAL EVALUATION REPORT OF PNG

Preface

This report summarises the AML/CFT measures in place in Papua New Guinea (PNG) as at the date of the on-site visit from 2-13 October 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of PNG's AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by PNG, and information obtained by the evaluation team during its on-site visit to PNG.

The evaluation was conducted by an assessment team (AT) consisting of:

- Mr Arnold G Frane, Anti Money Laundering Council, Philippines (legal and law enforcement assessor)
- Mr Carlos Acosta, International Monetary Fund¹¹, (legal assessor)
- Ms Olivina Aholelei, National Reserve Bank of Tonga, Kingdom of Tonga (financial and FIU assessor)
- Mr Paul Silvester, HM Treasury, United Kingdom (law enforcement assessor)
- Mr Rocky Yuen, Department of Internal Affairs, New Zealand (financial assessor)
- Ms Vidyata Annisa Anafiah, Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Indonesia (FIU assessor)
- Mr Yohei Sakakibara, Ministry of Justice, Japan (legal assessor)

The assessment process was supported by Mr Shannon Rutherford, Ms Joëlle Woods and Mr Daniel Qualischefski of the APG Secretariat, with additional support from other Secretariat members.

The report was reviewed by the FATF Secretariat; Ms Mazlin Haznee, Securities Commission Malaysia; and Ms Ama Gavidi, Reserve Bank of Fiji.

Statistical tables: Information shown in tables throughout this report has been sourced directly from PNG government authorities, unless otherwise stated.

Exchange rates: The exchange rate used throughout this report is 1 PNG Kina = USD0.2553 based on the exchange rate at the end of the onsite.

Previous MER: PNG previously underwent a APG Mutual Evaluation in 2011, conducted according to the 2004 FATF Methodology. The 2011 Mutual Evaluation Report (MER) is published and available at www.apgml.org.

¹¹ The views expressed in the report are those of the assessor and do not necessarily represent the views of Fund staff, its Executive Board, or IMF Management.

PNG's 2011 MER concluded that the country was compliant with two Recommendations; largely compliant with six Recommendations; partially compliant with 19 recommendations; and non-compliant with 22 Recommendations. PNG was rated largely compliant with two of the 16 Core and Key Recommendations.

PNG was in the FATF's ICRG process from February 2014 until removal from the process in June 2016. Significant progress was made by PNG while under the ICRG process including passing the AMLCTF Act 2015.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1

1. PNG is situated in the western edge of the Pacific region, occupying the eastern half of the West Pacific Island of New Guinea together with the main islands of New Britain, New Ireland, the Autonomous Region of Bougainville and 600 smaller islands and atolls.¹² PNG is the 3rd largest island jurisdiction in the world with a total land area of 452.8 thousand km² and 9.98 thousand km² of territorial waters. The population of PNG is above 9 million people, with more than 85% of Papua New Guinean's living in rural areas with traditional village-based lives (dependent on farming).¹³ PNG is one of the most culturally diverse countries in the world with over 860 distinct indigenous languages and traditional tribal societies with strong connections to the land. PNG's official languages are English, Tok Pisin (Pidgin) and Hiri Motu.

2. PNG is classified as a lower-middle income economy.¹⁴ The GDP is approx. USD 31.69 billion (in 2023)¹⁵ with the extractive sector being PNG's largest sector.¹⁶¹⁷ The non-extractive sector, largely agriculture, was PNG's strongest performing sector in 2021 and has contributed to economic recovery post a contraction in 2020.¹⁸ GDP per capita is approx. USD 2.6 thousand (in 2023).¹⁹ PNG's economy is not reliant on foreign remittance.

3. PNG is a cash-based economy with approx. 80% of the adult population lacking access to the formal banking sector. The formal financial sector is concentrated in four commercial banks, particularly the two domestic commercial banks. While PNG is not an international financial centre, its largest domestic commercial bank operates in other Pacific Islands and has subsidiaries in Southeast Asia. There are strong financial sector (and trade) links with Australia.

4. PNG became independent from Australia in 1975 and is a constitutional monarchy style of Government with a Head of State as a Governor General and Prime Minister as Head of Government. Three levels of government exist – national, provincial and local – with national elections held every

¹² World bank, 2023, PNG Overview, <https://www.worldbank.org/en/country/png/overview#1>, accessed July 2023.

¹³ World bank, 2023, Data, Population total – PNG, World Bank Group, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PG>, accessed July 2023.

¹⁴ World bank, 2024 Data, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>, accessed 24 Feb 2024.

¹⁵ International Monetary Fund, 2023 GDP Data, <https://www.imf.org/external/datamapper/NGDPD@WEO/PNG?zoom=PNG&highlight=PNG>, accessed 24 Feb 2024.

¹⁶ World Bank, 2022, Papua New Guinea Economic Update: benefiting from high commodity prices, p3, World Bank Group, <https://thedocs.worldbank.org/en/doc/da003a91ea70b0e8ef324a1435d66636-0070062022/original/220913-World-Bank-Papua-New-Guinea-Economic-Update-Benefiting-From-High-Commodity-Prices.pdf>, accessed July 2023.

¹⁷ Transparency International New Zealand, https://assets-global.website-files.com/5f3c5d2bb263505e25811876/6543fb950f9ce062efebad65_PNG%20Country%20Case%20Summary%20TINZ%20report.pdf, accessed January 2024.

¹⁸ Ibid.

¹⁹ International Monetary Fund, 2023 GDP Data, <https://www.imf.org/external/datamapper/NGDPD@WEO/PNG?zoom=PNG&highlight=PNG>, accessed 24 Feb 2024.

five years. The most recent national election was in 2022.²⁰ PNG has 20 provinces, plus the Autonomous Region of Bougainville and the National Capital District, which is the area of Port Moresby.²¹

5. The legal system in PNG is a mix of common and customary laws with the Constitution for the Independent State of Papua New Guinea as the pinnacle law. PNG has a four-tier judicial system consisting of the Supreme Court of Justice, National Court of Justice, District Courts (urban centres) and Village Courts. The National Court deals with the majority of civil and criminal cases including ML and TF.

6. The structural elements required for an AML/CFT system are in place in PNG; however, these are impacted by systemic and systematic corruption, and human and institutional resource constraints.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

7. PNG faces significant ML risks. PNG's 2017 NRA found "Both money laundering itself, and the underlying criminality (predicate offences) which drives it, present a significant risk to PNG"²². In discussions with competent authorities throughout the ME process, many stated that PNG's ML risk is high. Corruption and bribery, fraud (particularly in relation to government programmes and activities), environmental crimes, and tax/revenue related offences are the highest ML threats with the greatest potential to generate proceeds. Furthermore, PNG is a known trans-shipment point for drugs destined for other more profitable markets in the region. Corruption and bribery have strong nexus with most financially motivated criminal offending in PNG, and proceeds of crime are laundered in PNG and abroad commonly in neighbouring jurisdictions. PNG is not a destination jurisdiction for foreign proceeds.

8. The threat of corruption and bribery in PNG is pervasive, deep-rooted and entrenched in politics and business.²³ PNG's 2017 NRA identifies corruption as the highest ML threat. Transparency International's Corruption Perception Index score for PNG is 30/100 and PNG ranks 130/180 in the world.²⁴ There are numerous open-source reports²⁵ and media articles²⁶ highlighting corruption (including misuse of Government funds and 'kickbacks') and bribery are widespread.

²⁰ Department of Foreign Affairs and Trade, 2023, Papua New Guinea country brief, <https://www.dfat.gov.au/geo/papua-new-guinea/papua-new-guinea-country-brief>, accessed November 2023.

²¹ Idib.

²² PNG NRA 2017, p.14

²³ Transparency International New Zealand, https://assets-global.website-files.com/5f3c5d2bb263505e25811876/6543fb950f9ce062efebad65_PNG%20Country%20Case%20Summary%20TINZ%20report.pdf, accessed January 2024.

²⁴ The corruption perception index scores PNG at 30/100, ranks 130/180 in the world (Transparency International, 202, Corruption Perception Index 2022, <https://www.transparency.org/en/cpi/2022/index/png>, accessed 03 July 2023.

²⁵ Walton, 2019, SSRN, Governance and Corruption in PNG's Public Service: Insights form four Subnational Administrations, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3365319, accessed November 2023.

²⁶ Winn, 2021, DevPolicy Blog: Everyday Corruption in PNG – a way of life?, <https://devpolicy.org/everyday-corruption-in-png-a-way-of-life-20211123/>, accessed November 2023; Robertson, 2023, ABC News, Former A-League club owner Don Matheson becomes centre of international police investigation, <https://www.abc.net.au/news/2023-05-18/don-matheson-investigation-png-port-officials-bribery/102329282>, accessed November 2023.

9. The 2017 NRA estimates the annual value of corruption and bribery offences at K130 million²⁷ (~USD 34 million), suggesting a much higher quantum of undetected offending. Estimates in 2012 made during a debate in Parliament on the National Anti-Corruption Strategy 2010-2030, put the figure of Government funds lost through corruption as high as K1 billion (~USD 270 million) annually.²⁸ Corrupt practices are also acknowledged as facilitating many other predicate offences in PNG, particularly in the logging sector.²⁹

10. The 2017 NRA identifies taxation and revenue fraud as a major ML threat category. This is supported by open-source materials demonstrating financial misreporting and tax evasion in the logging industry,³⁰ and a recent tax assessment by Internal Revenue Commission (IRC) identifying tax evasion by a logging operator of K140 million (~ USD 57 million).³¹ While open-source reports and statistics on other tax-related offences in PNG are not as readily available, the NRA highlights that income tax fraud; GST evasion; avoidance of import and export duties and excise; and avoidance of stamp duties on real estate are common in PNG. One report found that in 2018, around 95% of registered taxpayers did not file the required declarations with the tax authority.³² Recent actions by IRC to enhance tax compliance are discussed in IO.1.

11. The NRA identifies the major areas of fraud in PNG as fraud against government programmes and activities; embezzlement; fraudulent purchasing and contract administration; and to a lesser extent, fraud against private sector bodies of similar kinds. Fraud is significantly under-reported making the level and value of offending difficult to quantify. In cases where corruption is involved, there is often related fraud (such as false documentation to facilitate the activity).³³ The cross-over with corruption and fraud is significant with fraud and the mismanagement of funds found to be common among public officials.³⁴

12. The highest threat environmental crimes are in the logging and fishing sectors, but PNG is also susceptible to other environmental crimes including wildlife trafficking. PNG authorities lack the resources to effectively monitor and enforce logging sector regulation as it has the third largest rainforest in the world with a significant forestry exporting sector including that PNG is the world's

²⁷ PNG NRA 2017, p.78

²⁸ The National, 2012, Missing billions-State funds stolen through corruption, <https://www.thenational.com.pg/missing-billions-state-funds-stolen-through-corruption/>, accessed November 2023.

²⁹ For example, PNG's NRA 2017 highlights that other predicate offences are facilitated through corrupt practices – see p.68 and p.17.

³⁰ Oakland Institute, 2018, The Great Timber Heist – Continued: Tax Evasion and Illegal logging in Papua New Guinea, <https://www.oaklandinstitute.org/great-timber-heist-continued-papua-new-guinea>, accessed November 2023.

³¹ Internal Revenue Commission of Papua New Guinea, 2023, Media Release: Major logging operator charges K140M for tax evasion, <https://irc.gov.pg/news/media-releases/major-logging-operator-charged-k140m-for-tax-evasion>, accessed November 2023.

³² Hoy, C., McKenzie, L., Sinning, M., 2020, Improving tax compliance without increasing revenue: Evidence from population-wide randomized controlled trials in Papua New Guinea, Tax and Transfer Policy Institute, Australian National University, https://crawford.anu.edu.au/sites/default/files/publication/taxstudies_crawford_anu_edu_au/2020-06/complete_png_trials_june_2020_0.pdf, accessed November 2023.

³³ PNG NRA 2017, p.82

³⁴ Global Organized Crime Index: Profile – Papua New Guinea, p.4 <https://ocindex.net/country/papua-new-guinea>, accessed November 2023.

largest exporter of tropical round logs.³⁵ Over 40 private ports for export exist with a general value of illegal logging in PNG estimated between 70-90% of the total forestry products exported.³⁶ Corruption and significant involvement of foreign companies operating around regulatory standards makes this sector extremely vulnerable to ML and other predicate offences occurring in private ports and logging camps such as smuggling and human trafficking – including links with organised crime groups.³⁷ Illegal logging meets the threshold for a predicate offence of ML and is subject to confiscation of proceeds and assets under the POCA; however, in practice this crime type is predominantly dealt with as a regulatory matter.

13. As an island nation, PNG's fishing sector also contributes to the economy through exports and management of significant fish stocks. For example, the approximate annual value of exports to the Philippines is in excess of USD 1.7 billion. The industry faces significant risks from illegal, unreported, and unregulated fishing due to the limited resources for authorities to monitor and enforce PNG's Exclusive Economic Zone, particularly in the North Pacific Ocean, Bismarck Sea, Solomons Sea and South Pacific Ocean. Overall, the fishing industry is susceptible to corruption, and acts of illegal fishing are hard to detect due to the nature of the crime, making this sector also vulnerable to ML.

14. While there does not appear to be a significant domestic market for illicit drugs in PNG, PNG is a known trans-shipment point for cocaine, methamphetamine and other drugs destined for other more profitable markets in the region, most notably Australia.³⁸ The porous nature of PNG's land and sea borders coupled with limited human and institutional resource of relevant competent authorities, contributes to the vulnerability. Organised crime groups exploit these weaknesses to smuggle drugs through PNG often involving local networks to facilitate the transit³⁹.

15. In addition, PNG's porous land border and resource constraints of border authorities is a vulnerability in the movement of people and/or material support for the escalating armed violence with links to the West Papua independence movement.

16. Domestically generated proceeds of crime are laundered within PNG and abroad in regional jurisdictions.⁴⁰ Domestic laundering is not highly sophisticated occurring via cash including through cash intensive businesses, real estate, lifestyle goods (such as vehicles), and the formal financial sector. Laundering abroad is significant with estimates of the level of PNG proceeds of crime laundered in

³⁵ World Wide Fund for Nature, 2020, Taking down the giants, https://wwf.panda.org/discover/knowledge_hub/where_we_work/new_guinea_forests/problems_forests_new_guinea/deforestation_forests_new_guinea/logging_forests_new_guinea/, accessed November 2023.

³⁶ PNG National Risk Assessment, September 2017, p.93

³⁷ PNG National Risk Assessment, September 2017, p.89-95.

³⁸ Global Organized Crime Index: Profile – Papua New Guinea, p.4

https://ocindex.net/country/papua_new_guinea, accessed November 2023; Sousa-Santos, 2022, Lowy Institute, Drug trafficking in the Pacific Islands: The impact of transnational crime, <https://www.lowyinstitute.org/publications/drug-trafficking-pacific-islands-impact-transnational-crime>, accessed November 2023.

³⁹ Wall, 2020, ASPI The Strategist, Helping PNG improve border security is in Australia's national interest, <https://www.aspistrategist.org.au/helping-png-improve-border-security-is-in-australias-national-interest>, accessed November 2023; Nangoi, 2023, Papua New Guinea Post-Courier, PNG a transit point for drugs into Australia, <https://www.postcourier.com.pg/png-a-transit-point-for-drugs-into-australia/>, accessed November 2023.

⁴⁰ PNG NRA 2017, p.81.

Australia alone as high as AUD 200,000,00 (~USD 134,000,000) annually.⁴¹ There are frequent claims that property has been purchased in Australia (and elsewhere) by PEPs using corrupt earnings including through the use of gatekeepers in PNG such as lawyers and accountants.⁴² Laundering abroad is occurring through the formal financial sector, legal persons with facilitation by gatekeeper DNFBPs, trade-based ML, and cash and gold smuggling. Laundering via VA/VASPs does not appear to be occurring in PNG.

17. *TF*: PNG is a low-risk jurisdiction for terrorism or TF. The AT did not identify open-source information, covering the period under review, that suggests international terrorist groups or groups with links to international terrorist networks (including UN listed persons or entities) are operating in PNG or raising, moving and using funds in connection to PNG including in relation to NPOs or through VASPs.⁴³ PNG does not have nationals or persons/entities located in PNG designated under UNSCR 1267 or 1989. PNG is not identified as a major source or route jurisdiction for foreign terrorist fighters.

18. PNG shares an 824 km porous border with Indonesia. Indonesia faces high TF risk⁴⁴ due to the existence of domestic terrorist organisations, with links to international terrorist networks, such as Darul Islam, Jemaah Islamiyah, and Jamaah Ansharut Daulah. The West Papua region of Indonesia that borders PNG is considered medium risk by Indonesia as these terrorist organisations are not active in the region. Furthermore, PNG is not identified as a high-risk source, transit or destination jurisdictions for funding of these organisations.⁴⁵

19. Political violence (mainly election-related) occurs in PNG particularly in the Highlands region, which impacts peoples' livelihoods, access to healthcare and education, and displaces persons.⁴⁶ This violence is not characterised as terrorism by the Government of PNG.

⁴¹ Garrett, 2014, ABC News, Australian authorities making progress in crackdown on Papua New Guinea money laundering in Australia, <https://www.abc.net.au/news/2014-05-27/png-aus-corruption-crackdown/5481466>, accessed November 2023.

⁴² Global Witness, 2015, The days of banging a million bucks into a secret account in Singapore are over, <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/png-lawyers/#:~:text=In%20Australia%20alone%2C%20Federal%20Police,up%20dictatorships%20and%20fuels%20conflicts>, accessed 4 August 2023.

⁴³ United Nations Security Council – Counter-Terrorism Committee, 2021, Counter-Terrorism Committee Executive Directorate, <https://www.un.org/securitycouncil/ctc/search/node/Pacific%20Islands>, accessed November 2023; Institute for Economics and Peace, 2023, Global Terrorism Index, <https://www.visionofhumanity.org/wp-content/uploads/2023/03/GTI-2023-web-170423.pdf>, p.44, accessed November 2023.

⁴⁴FATF, 2023, Mutual Evaluation Report of Indonesia, <https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/Mutual-Evaluation-Report-Indonesia-2023.pdf.coredownload.inline.pdf>, p.18, accessed November 2023.

⁴⁵ Indonesian Financial Transaction Reports and Analysis Center (PPATK), 2021, Indonesia Risk Assessment, <https://www.ppatk.go.id/backend/assets/uploads/20220412140054.pdf>, p.47, 51, accessed November 2023.

⁴⁶ United Nations News, 2022, UN condemns election-related violence across Papua New Guinea Highlands, <https://news.un.org/en/story/2022/07/1123002>, accessed November 2023; United Nations News, 2022, Papua New Guinea: Conflict and election-related violence trigger wave of displacement, <https://news.un.org/en/story/2022/09/1126051>, accessed November 2023; Kuku, 2022, The Guardian, PNG election violence: 90,000 displaced since May, 25,000 children unable to attend school, <https://www.theguardian.com/world/2022/sep/28/png-election-violence-90000-displaced-since-may-25000-children-unable-to-attend-school>, accessed November 2023.

Jurisdiction's Risk Assessments & Scoping of Higher Risk Issues

PNG's Risk Assessments

20. PNG has undertaken four risk assessments in the period under review and two risk assessments were under development at the time of the ME onsite visit.

21. PNG completed its first NRA in September 2017 (endorsed by the National Executive Council (NEC) in November 2018 and published in March of 2019). The NRA process was led by FASU with input and involvement of representatives from relevant Government agencies as well as the private sector and supported by ADB. The NRA broadly follows common practice of APG members identifying PNG's ML/TF risks through threats, vulnerabilities and consequences, but is explicit in highlighting data collection deficiencies. The NRA reasonably identifies PNG's overall ML risk as significant and PNG's major ML threat categories: (i) corruption and bribery, (ii) fraud against government programs and activities, (iii) illegal logging and fishing and other environmental offences, (iv) taxation and revenue fraud, and (v) illicit drug importation and distribution.

22. The NRA reasonably identifies key FIs and DNFBPs overall level of vulnerability; however, the analysis lacks depth in identifying some sector-specific vulnerabilities, particularly for foreign banks, superannuation funds, and DNFBPs. For FIs, domestic banks, and currency transfer and exchange businesses are identified as very highly vulnerable to ML. For DNFBPs, real estate agents, lawyers and accountants, particularly those engaged in commercial activities and company/trust formation and management, and MV dealers are identified as highly vulnerable to ML/TF. Vulnerability of other FIs is discussed in IO.1 and R.1.

23. The NRA identifies and assesses other high-level ML vulnerabilities including capacity and resources of the PNG Government, environment and resource protections in PNG, PNG's cash economy, porous borders, trade-based crimes, laundering businesses, and legislative and regulatory weaknesses in PNG.

24. The NRA identifies PNG's TF risk as low. While the AT does not view PNG as a high-risk jurisdiction for TF (see above discussion), the assessment of PNG's TF risks is limited even considering the lower risk context of PNG and the Pacific region in general. Specific TF vulnerabilities are not assessed in the NRA.

25. In 2023 FASU commenced a process to continually update the NRA, and PNG has completed two NPO Sector Risk Assessments and a VA/VASP Sectoral Risk Assessment. At the time of the ME onsite visit, a forestry sectoral risk assessment had been under a lengthy development process. These risk assessments are discussed in detail under IO.1 and R.1.

Scoping of Higher Risk Issues

26. During the mutual evaluation process and in this report, significant focus is placed on corruption including the role of PEPs. This is due to the level of corruption and bribery in PNG, the potential to generate proceeds, the nexus with other predicate crime offending,⁴⁷ international links, and the significance of economic and social impact. Other ML threats under focus throughout the ME

⁴⁷ PNG National Risk Assessment, September 2017, p.17 & p.68

process include tax-related offences, fraud (primarily against government programs and activities), and in the private sector, environmental crime (primarily illegal logging and fishing). These are considered major threats by PNG. Drug trafficking received some focus particularly in relation to international cooperation and border vulnerabilities due to the nexus with organised crime.

27. The AT placed significant focus on the commercial banking sector, particularly the two domestic commercial banks, and laundering via legal structures facilitated by gatekeeper DNFBPs such as lawyers and accountants. The AT also placed significant focus on laundering domestic proceeds of crime abroad (for the reasons discussed above). This includes laundering in regional jurisdictions and/or tax havens through, but not limited to, gatekeeper DNFBPs, trade-based ML, remittance, and cross-border vulnerabilities facilitating cash and/or gold smuggling. Furthermore, the NRA also highlights illegal profits from the logging and fishing sector accrue offshore.

28. For domestic laundering, the focus is mainly on cash, cash intensive businesses (e.g., MV dealers), real estate, domestic formal and informal value transfer options, and in gold.

29. The AT focused on the geographical areas of Port Moresby and Lae due to the economic activity concentration in these areas. Rural areas were given more limited focus due to the more limited prevalence of financial crime. It is acknowledged that corruption (including other related predicate offending) at the provincial and local Government level, logging sector offending and land related predicate offending commonly occurs in rural areas.

30. The AT did not place significant focus on TF as the team did not identify open-source information suggesting international terrorist groups or groups with links to international terrorist networks are operating in PNG or raising, moving and using funds in connection to PNG.

31. The AT did not place significant focus on VA/VASPs as the AT agrees with PNG's recent risk assessment demonstrating zero or minimal presence of VA and VASPs in PNG.⁴⁸

Materiality

32. PNG is classified as a lower-middle income economy. PNG's GDP is approx. USD 31.69 billion (in 2023)⁴⁹ with the extractive sector being PNG's largest sector; however, mining disruptions contribute to the sectors weak performance and the wealth from extractive industries is transferred offshore with limited benefit to the PNG economy.^{50,51} The non-extractive sector, largely agriculture, was PNG's strongest performing sector in 2021 and has contributed to economic recovery post an

⁴⁸ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, <https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012-PNG-VASP-Risk-Assessment-v.10.pdf>, accessed November 2023.

⁴⁹ International Monetary Fund, 2023 GDP Data, <https://www.imf.org/external/datamapper/NGDPD@WEO/PNG?zoom=PNG&highlight=PNG>, accessed 24 February 2024.

⁵⁰ World Bank, 2022, Papua New Guinea Economic Update: benefiting from high commodity prices, p3, World Bank Group, <https://thedocs.worldbank.org/en/doc/da003a91ea70b0e8ef324a1435d66636-0070062022/original/220913-World-Bank-Papua-New-Guinea-Economic-Update-Benefiting-From-High-Commodity-Prices.pdf>, accessed July 2023.

⁵¹Transparency International New Zealand, <https://assets-global.website-files.com/5f3c5d2bb263505e25811876/6543fb950f9ce062efebad65-PNG%20Country%20Case%20Summary%20TINZ%20report.pdf>, accessed January 2024.

economic contraction in 2020.⁵² GDP per capita is approx. USD 2.6 thousand (in 2023)⁵³ with a widening income gap between PNG and its peer countries.⁵⁴ PNG's economy is not reliant on foreign remittance with incoming remittance approx. USD 1 million per year and outgoing remittance approx. USD 137.3 million per year.⁵⁵

33. PNG is a cash-based economy with approx. 80% of the adult population lacking access to the formal banking sector. More than 85% of Papua New Guinean's live in rural areas with traditional village-based lives dependent on farming. A national audit of the informal economy in 2018 assessed the value of informal production at around 20% of GDP or K12 billion (~USD 3 billion)⁵⁶ The formal financial sector is concentrated in Port Moresby and Lae and in PNG's commercial banking sector. PNG is not an international or regional financial centre.

34. Over two thirds of financial sector assets (approx. USD 13.1 billion) and around 90% of deposits⁵⁷ are held by four licenced and locally incorporated commercial banks. Two are Australian owned and two are locally owned. The largest domestic commercial bank accounts for approximately half the banking sector's assets.⁵⁸ It has approx. 2.6 million retail bank accounts,⁵⁹ operates in other Pacific Islands, and has subsidiaries in Southeast Asia. Furthermore, only commercial banks provide outgoing remittance. Due to these factors, the commercial banking sector is considered the most important sector, and within the sector, most importance is given to PNG's two domestic commercial banks given their customer base and market exposure within PNG.

35. Financial services are also provided by NBFIs including finance companies, microfinance institutions, foreign exchange dealers, money remitters, money changers and savings and loan societies. Together these FIs make up approx. 4% of total financial sector assets. Money changers and remitters along with large NBFIs are given moderate weight.

⁵² Ibid.

⁵³ International Monetary Fund, 2023 GDP Data, <https://www.imf.org/external/datamapper/NGDPD@WEOPNG?zoom=PNG&highlight=PNG>, accessed 24 February 2024.

⁵⁴ World Bank, 2022, Papua New Guinea Economic Update: benefiting from high commodity prices, p3, World Bank Group, <https://thedocs.worldbank.org/en/doc/da003a91ea70b0e8ef324a1435d66636-0070062022/original/220913-World-Bank-Papua-New-Guinea-Economic-Update-Benefiting-From-High-Commodity-Prices.pdf>, accessed July 2023.

⁵⁵ World Bank, 2023, Data, Personal remittances, received (% of GDP) – Papua New Guinea, World Bank Group, <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?end=2021&locations=PG&start=2010>, accessed November 2023.

⁵⁶ May, R.J., 2022, DevPolicy Blog: The informal economy in development, or a history of thought in PNG, <https://devpolicy.org/informal-economy-in-development-or-history-of-thought-in-png-20220328/>, accessed November 2023.

⁵⁷ Bank of PNG, 2020, Annual Report and Financial Statements, <https://www.bankpng.gov.pg/wp-content/uploads/2022/08/BPNG-AR-2020-Web.pdf>, accessed November 2023.

⁵⁸ Asian Development Bank, 2019, Pacific Finance Sector Briefs, <https://www.adb.org/sites/default/files/publication/530256/pacific-finance-sector-papua-new-guinea.pdf>, p.2, accessed November 2023.

⁵⁹ BSP Financial Group Limited, 2022, Annual Report 2022, <https://www.bsp.com.pg/media/zfbavkne/bsp-annual-report-2022.pdf>, p.26, accessed November 2023.

36. PNG's superannuation sector represents the next largest share of financial sector assets accounting for approx. 24% (approx. USD 4.3 billion). PNG does not identify the sector as highly vulnerable to ML with less importance given to this sector.

37. PNG's insurance sector is small but developing. Non-life insurance companies and brokers account for 2.3% of the total financial sector assets (approx. USD 500 million). The five life insurance companies and four brokers⁶⁰ account for approx. .43% of the total financial sector assets (approx. USD 81.8 million) but the sector is growing rapidly. PNG does not identify the sector as highly vulnerable to ML with less importance given to this sector.

38. PNG is only one of two Pacific Island countries with a stock exchange, which has 17 listed companies and total capitalisation amounts to approx. USD 17 billion. PNG does not identify the sector as highly vulnerable to ML with less importance given to this sector.

39. *DNFBPs*: With the exception of lawyers, PNG's DNFBP sectors are small and not highly developed. PNG has no casinos. An overview of DNFBPs is included below along with a discussion on relative importance.

40. *VASP Sector*: PNG does not have any locally incorporated VASPs operating during the period assessed and there is no evidence of material foreign VASPs operating within PNG. PNG's recently developed Sectoral Risk Assessment (SRA) on VA/VASPs has demonstrated zero or minimal presence of virtual assets and VASPs in PNG.⁶¹

41. *Exposure to trade and finance with the DPRK or Iran*⁶²: PNG provided information on trade and investment with DPRK (but not for Iran) (e.g., volume, types of goods), and based on the information provided, the risk of sanctions evasion under the relevant UNSCR regimes is moderate.

Structural Elements

42. Systemic corruption, political instability, and skilled capacity and institutional resource constraints of the public sector are structural challenges impacting the effectiveness of PNG's AML/CFT regime. PNG's high-level commitment to address AML/CFT obligations is evidenced by legal framework reforms leading to PNG exiting the FATF Grey list in 2016 and ongoing legal framework reforms. However, as discussed throughout the report there is significant need for skilled capacity and institutional resources for, and prioritisation of, operational AML/CFT activities across the law and justice sector. The World Bank's Governance Indicators demonstrate some improvement across indicators since PNG's last MER in 2011 (see Table 1.1).

⁶⁰ Bank of PNG, 2023, List of Licensed Life Insurance Companies and Life Insurance Brokers, <https://www.bankpng.gov.pg/list-of-licensed-life-insurance-companies-life-insurance-brokers/?preview=true>, accessed November 2023.

⁶¹ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, <https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012-PNG-VASP-Risk-Assessment-v.10.pdf>, accessed November 2023.

⁶² On 18 October 2023, the TFS elements of UNSCR 2231 expired. However, the onsite for PNG occurred before this date, hence it is included in the analysis.

Table 1.1 PNG Governance Indicators 2011 and 2022⁶³

Indicator	2011 Percentile Rank (0-100)	2022 Percentile Rank (0-100)
Voice and accountability	47.9	46.9
Political stability and absence of violence/terrorism	22.3	23.6
Governance effectiveness	27.0	21.7
Regulatory quality	33.2	26.4
Rule of law	24.4	27.4
Control of corruption	16.1	25.5

43. *Systemic corruption*: PNG's corruption Perception Index score is 30/100 and ranks 130/180 in the world.⁶⁴ Open-source reports^{65,66} and media articles⁶⁷ highlight corruption (largely misappropriation of funds) and bribery is widespread. Corruption is systemic in PNG largely due to the prevalence of traditional practices, such as gift giving, in the modern political structure; impunity created by weaknesses and inefficiency of law enforcement and the judiciary; and exploitation of natural resource wealth which has not resulted in social or human development.⁶⁸ While successive Governments have voiced ambitions to fight-corruption, resourcing for required legal, institutional and operations reforms has not consistently been provided. PNG Government recently formed the ICAC in July 2023.

44. *Political instability*: The diverse physical and human geography of PNG makes the functions of a central government uniquely difficult.⁶⁹ The World Bank global index ranks the Government effectiveness at 25.5% in 2022 (0 represents the lowest ranked jurisdiction).⁷⁰ Government influence and control is limited to the urban areas and resource rich areas; however, the effectiveness of governance in these areas is also subject to corruption and bribery. The constitutional protection to

⁶³ World Bank, 2023, Databank: Worldwide Governance Indicators, WGI Table PNG, https://databank.worldbank.org/reports.aspx?Report_Name=WGI-Table&Id=ceea4d8b, accessed November 2023.

⁶⁴ Transparency International, 2023, Corruption Perception Index – PNG 2022, <https://www.transparency.org/en/cpi/2022/index/png>, accessed November 2023.

⁶⁵ Walton, Grant, 2019, Governance and Corruption in PNG's Public Service: insights from four subnational administrations, Development Policy Centre Discussion Paper No. 81, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3365319, accessed November 2023.

⁶⁶ Winn, 2021, DevPolicy Blog: Everyday Corruption in PNG – a way of life?, <https://devpolicy.org/everyday-corruption-in-png-a-way-of-life-20211123/>, accessed November 2023.

⁶⁷ Robertson, J., 2023, ABC Investigations, Former A-League club owner Don Matheson becomes centre of international police investigation, <https://www.abc.net.au/news/2023-05-18/don-matheson-investigation-png-port-officials-bribery/102329282>, accessed November 2023.

⁶⁸ Wickberg, S., 2013, U4 Expert Answer: PNG overview of corruption and anti-corruption, <https://www.u4.no/publications/papua-new-guinea-overview-of-corruption-and-anti-corruption.pdf>, accessed November 2023.

⁶⁹ Yayboke, E., Rice, B., Nzuki, C., Strouboulis, A., 2022, Addressing Fragility in PNG, Centre for Strategic and International Studies Brief, <https://www.csis.org/analysis/addressing-fragility-papua-new-guinea>, accessed November 2023.

⁷⁰ World Bank, 2023, Databank: Worldwide Governance Indicators, WGI Table PNG, https://databank.worldbank.org/reports.aspx?Report_Name=WGI-Table&Id=ceea4d8b, accessed November 2023.

new governments from motions of no-confidence for the first 18 months of a 5-year term does afford stability; however, this does not prevent mid-term changes occurring. PNG's parliamentary 5-year cycle is distinguishable in three periods: (i) 18-month period of protection from votes of no-confidence for newly elected government; (ii) 30 month period of votes of non-confidence allowed; and (iii) 12 month grace period before the next election.⁷¹ Consistency of government and ministerial stability are paramount to implementing policy and supporting reform.⁷²

45. PNG's judiciary is made up of the Supreme Court of Justice, National Court of Justice and various courts established under the Constitution.⁷³ In 2022, PNG's global index score for rule of law was 27.4.⁷⁴ This is largely due to political instability, effectiveness of LEAs and high rates of crime.

Background and other Contextual Factors

46. *Skill capacity and resource constraints of the government:* The Government of PNG faces significant skilled capacity and institutional resource constraints across most of its institutions and agencies including those with AML/CFT functions. In terms of key AML/CFT-related agencies, skilled capacity and resource challenges are most acute in the RPNGC, PNGCS and other similar agencies. For example, the RPNGC Annual Management Report 2022 highlights the following:⁷⁵

- “The latest such target was to increase police to population ratio to 1:900 by 2022 (GoPNG, 2018). This goal has not been reached and the National Government's ambitions to increase police numbers has not been backed by political will and support”.
- “There are currently 5600 police in PNG and the low number of uniform police prevents the RPNGC from carrying out its constitutionally mandated functions. More often, the focus on numbers ignores the requirement for a better quality of trained competent police personnel who are dedicated to their duties. The level from recruit to in-service training faces many challenges to ensure those who conduct training are aptly qualified and those being trained are better skilled once they complete their respective training”.
- “Most of the infrastructure and assets owned by RPNGC are old and in a state of disrepair. Unfortunately, RPNGC lacks the resources to maintain or upgrade them.”

47. *Special Economic Zone:* PNG established a Special Economic Zones in 2019 with two licences provided at the time of the onsite for manufacturing/construction business. PNG is not considering ML/TF risks in the promoting and development of SEZs including that a casino licensing process has commenced as part of a resort development in an SEZ.

⁷¹ Laveil, M., 2022, Party Politics in PNG, Lowy Institute, <https://www.lowyinstitute.org/the-interpreter/party-politics-papua-new-guinea>, accessed November 2023.

⁷² Ivarature, H., 2022, DevPolicy Blog: Political Instability in PNG – it's not just about the top job, <https://devpolicy.org/political-instability-in-png-its-not-just-about-the-top-job-20220713/>, accessed November 2023.

⁷³ Supreme and National Courts of Papua New Guinea, 2017, About the Courts, <https://www.pnjudiciary.gov.pg/index.php/about-the-courts>, accessed November 2023.

⁷⁴ World Bank, 2023, Databank: Worldwide Governance Indicators, WGI Table PNG, <https://databank.worldbank.org/source/worldwide-governance-indicators>, accessed November 2023.

⁷⁵ RPNGC, 2022, Royal Papua New Guinea Constabulary, Annual Management Report 2022, <https://www.rpngc.gov.pg/wp-content/uploads/2023/03/RPNGC-AMR-2022-Compressed.pdf>, p.69, accessed November 2023.

48. *Porous Border:* PNG shares an 824 km porous border with Indonesia. There is one official border crossing in Vanimo, PNG with multiple unofficial and/or traditional crossings. PNG and Indonesia have an established border cooperation mechanism (see IO.2 for discussion). PNG has 9.98 thousand km² of territorial waters. The extensive sea border means that it is not possible for PNG agencies to patrol the sea borders to prevent the unauthorised movement of goods and people. There is extensive naval and airborne surveillance of the seas between Indonesia and PNG and Australia, but the northern sea border is far less patrolled.

49. *Autonomous Region of Bougainville:* Although the Autonomous Bougainville Government (ABG) governs Bougainville as an autonomous region of Papua New Guinea, it must be noted that it is "autonomous within" rather than "independent from" Papua New Guinea. Meaning that the ABG cannot make laws that contradict the national PNG system of law. GDP per capita in Bougainville is less than USD2,000 with an economy dominated by agriculture, forestry and fisheries.⁷⁶ Although Bougainville's significant mineral resources remain untapped since the end of the conflict in 2001, reports suggest that Bougainville aims to restart mining operations in the future.⁷⁷

50. *Customary Land Ownership:* With the widely accepted figure of 97% of the PNG landmass being held under customary or traditional ownership⁷⁸, the issue of customary land title of land held for communal benefit, as distinct from freehold and leasehold titles, is a significant one in PNG. Customary owners are able to use an Incorporated Land Group (ILG) incorporated under the ILG Act, in order to do business, hold, dispose, manage and deal with land in their customary name. And ILG is a corporate vehicle recognised as a corporation, which enables landowners to economically develop and run their business affairs on their customary land. An ILG may sue and be sued in its corporate name and function as a corporation.⁷⁹ The 2011 PNG MER noted frequent abuse of ILGs where a few individual members of an ethnic group claim funds in return for use of their customary held land on behalf of the entire group, but not distribute those funds amongst all members- designating themselves "primary owners"- a legally non-existent term.⁸⁰ As incorporation as an ILG and registration of customary land is a voluntary process, the ownership of land in PNG is governed by both PNG common law or legislation and at least to some extent by customary or traditional law.

51. *Wantok system:* A particular characteristic of the traditional culture of PNG is the Wantok system. It is a system of relationships/obligations between individuals connected by common origin,

⁷⁶ Chand, Duncan, Levantis, 2021, Research Report – Increasing Revenues for the Bougainville Government, No. 9 January 2021, The National Research Institute Papua New Guinea, https://www.pngnri.org/images/Publications/Research_Report_09_Increasing_Revenues_for_the_Bougainville_Government2.pdf, p.20, accessed November 2023.

⁷⁷Wilson, 2022, Aljazeera News: Environment – Bougainville starts the process to reopen controversial Panguna mine, <https://www.aljazeera.com/news/2022/5/6/holdbougainvillestartsprocessto-reopen-controversial-panguna-mine>, accessed November 2023; Clark, 2023, Bloomberg News: Pacific Island Bougainville seeks to tap riches of closed copper mine, <https://www.mining.com/web/pacific-island-bougainville-seeks-to-tap-riches-of-closed-copper-mine/>, accessed November 2023; Radio New Zealand, 2023, Progress in Bougainville push to develop economy, <https://www.rnz.co.nz/international/pacific-news/500004/progress-in-bougainville-push-to-develop-economy>, accessed November 2023.

⁷⁸ Stanley, 2018, Asian Development Blog, Governance and Management: Managing resettlement in PNG – 3 best practices, <https://blogs.adb.org/blog/managing-resettlement-png-3-best-practices>, accessed November 2023; Hausples.com.pg, 2022, PNG Land Titles in PNG explained: How freehold, Leasehold and Customary Land works, <https://www.hausples.com.pg/guides/PNG-Land-Titles-in-PNG-Explained/>, accessed November 2023.

⁷⁹ The Department of Lands and Physical Planning of Papua New Guinea, 2023, Frequently Asked Questions, <https://dlpp.gov.pg/faqs>, accessed November 2023.

⁸⁰ 2011 PNG MER, p.10

hailing from common geographic area, sharing common kinship and common language. The Wantok refers to an extended family or clan ranging from just a few people to several hundreds. In political and public affairs, the Wantok system can provide a strong incentive for nepotistic and corrupt practices. Upon being elected, many leaders tend to infuse the rules governing public office and resources with this traditional culture practice, bestowing favour on their Wantok to the detriment of their proper political constituency.

AML/CFT strategy

52. At the time of the ME onsite visit, PNG was in a transition phase between the National Strategic Plan 2017-2022 and 2023-2027. PNG's NSP 2023-2027 is informed by PNG's ML/TF risks and builds on PNG's NSP 2017-2022 and PNG's first AML/CFT National Strategic Plan endorsed in 2014 to govern PNG's reforms in response to grey listing by FATF.

53. NSP 2023-2027 includes the following seven strategic objectives with implementation support by deliverables and a detailed implementation plan outlining actions required by individual agencies under thematic groups of National Coordination, Regulatory Sector, Law Enforcement Agency Sector, and Policy Sector.

54. NSP 2023-2027 strategic objectives:

- Execute a nationally coordinated risk assessment approach to detect and disrupt financially motivated crime in Papua New Guinea.
- Ensure all AML/CFT National Coordinating Committee (NCC) agencies adopt this approach to detection and disruption, cooperatively and in a coordinated manner.
- Meet FATF requirements and other international obligations.
- Implement a monitoring and evaluation process to measure the effectiveness of PNG's AML/CFT system.
- Stop offenders from accessing illicit assets held offshore, through international assistance and cooperation.
- Develop processes to stay up to date with evolving offender behaviour and new methods of financially motivated crime; and
- Expand the operations of the Financial Analysis and Supervision Unit (FASU).

55. PNG has a number of other national policies which complement, to varying degrees, the NSP 2023-2027 including:

- National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.
- National Anti-Corruption Plan of Action 2020-2025.
- National Financial Inclusion Strategy launched on 25 April 2023.
- Three strategic policy documents by the PNG Forest Authority.

Legal & institutional framework

56. The following ministries, agencies, and authorities in PNG are responsible for formulating and implementing the government's AML/CFT and PF policies as NCC members:

- **Department of Prime Minister and National Executive Council (PM&NEC)**, provides national policy oversight and support to the Prime Minister and the National Executive Council. The Office of Security Coordination and Assessment (OSCA) at PM&NEC accommodates and operationalises the Sanctions Secretariat in line with the Procedural Guide and the United Nations Financial Sanctions Act 2015 (UNFS Act) on TFS-TF and TFS-PF.
- **Department of Foreign Affairs (DFA)** is responsible for areas such as implementation of UNSCRs, PNG's relationships with other countries and domestic implementation of international obligations.
- **Department of Finance (DOF)** is responsible for providing direction and support in financial policy formulation, financial systems development and maintenance, financial and accounting information processing, financial management and accounting procedures, monitoring of financial performance against the budget and legislative compliance and financial reporting requirements for the whole of Government.
- **Department of Justice and Attorney General (DJAG)** is responsible for the administration of legal services to the Government of PNG and its instrumentalities, and the provision of law and justice services to the people. DJAG is also responsible for facilitating incoming and outgoing requests for Mutual Legal Assistance and Extradition.
- **Department of Treasury (DOT)** undertakes research and provides advice to the Government on economic issues and prepares and monitors the National Budget.
- **Internal Revenue Commission (IRC)** collects income, withholding and goods and services tax revenue. The IRC has wide-ranging powers to obtain information and access places, books and documents (including electronically stored records).
- **PNG Customs Service (PNGCS)** has border protection, including cross-border movement of goods, cash, BNIs, precious metals and stones, as well as trade facilitation roles through 22 ports, airports, and along a largely unpatrolled coastline and a porous land border. PNGCS collects both import duty and GST on goods at each entry point.
- **PNG Immigration & Citizenship Service Authority (ICSA)** is responsible for managing PNG's borders by authorising the movement of persons into and out of the country. This work includes visa processing, integrity checking and compliance and enforcement activities.
- **Financial Analysis and Supervision Unit (FASU)**, established in 2015 at the BPNG, is the financial intelligence unit (FIU) for PNG. It is responsible for enforcement of the AMLCTF Act and receives reports submitted by reporting entities under the AMLCTF Act.
- **Papua New Guinea Forest Authority (PNGFA)** manages PNG's forests. The PNGFA comprises the National Forestry Board (NFB) and the National Forest Service (NFS). It implements the Forestry Act 1991 and the Forest Policy 1991. It is responsible for the development and implementation of policies to ensure the forest resources are developed in a sustainable way.
- **National Fisheries Authority (NFA)** regulates and manages PNG's fisheries.
- **Bank of PNG (BPNG)** is the primary regulator of the financial sector with responsibility for banking, credit and other financial services, superannuation and life insurance industries.
- **Office of Insurance Commissioner (OIC)** has responsibility for regulation of general insurance.

- **Securities Commission of PNG (SCPNG)** has responsibility for regulation of capital markets, both equity and debt securities including options, unit trusts industry and non-superannuation aspects of the fund management industry.
- **National Gaming Control Board (NGCB)** regulates gambling activities in PNG.
- **Investment Promotion Authority (IPA)** houses the Registrar of Companies (ROC), which maintains a publicly available national registry of most legal persons, including all companies, associations, business groups and business names in Papua New Guinea. The Registrar is also responsible for the collection of beneficial ownership information of companies and business groups, with other legal persons to follow in future.
- **Royal Papua New Guinea Constabulary (RPNGC)** is the main investigative agency and has jurisdiction to investigate ML and TF offences, asset confiscation cases, and all serious offences which are, for the purposes of the AMLCTF Act, predicate offences for ML.
- **National Maritime & Safety Authority (NMSA)** is responsible for matters concerning maritime safety, coordination of search and rescue and marine pollution prevention.
- **Office of the Ombudsman Commission of PNG (OC)** is an independent institution established directly by the Constitution. It forms an integral part of the system of checks and balances that have been put in place by the Constitution to regulate the governance of PNG.
- **National Narcotics Bureau (NNB)** administers the Controlled Substance Act 2021 and regulates controlled substances to protect individuals and society from their illicit and harmful effects and establish criminal offences related to the use and abuse of illicit drugs and precursors.
- **Office of the Public Prosecutor (OPP)** is established by The Constitution and is the principal prosecuting authority of PNG, acting independently in criminal cases.
- **National Intelligence Organisation (NIO)** roles and functions are established by the National Intelligence Organisation Act 1984. The NIO collects, collate, analyse and provide accurate intelligence to the National Government on matters affecting the national security of the country.

57. While not a member of the NCC, ICAC was formed in July 2023 and at the time of the ME onsite visit had not commenced operational activities. ICAC has the power to investigate 'corrupt conduct' (s.34 and s.5 OLICAC) and other offence in the Criminal Code and any other laws that fall within corrupt conduct (s.34(2) OLICAC) including ML.

58. *PNG's legal system and international arrangements:* PNG's legal system has a common law background, and its higher courts follow procedures similar to those of other common-law countries. Customary law is incorporated as part of the underlying law. PNG's hierarchy of laws is reflected in the Constitution (Article 9, Part II, Division 1 Constitution of PNG) as outlined in Table 1.2.

Table 1.2: Hierarchy of legal instruments in order of enforceability

Legal instruments
(a) Constitution
(b) Organic Laws
(c) Acts of the Parliament
(d) Emergency Regulations
(e) Provincial Laws
(f) laws made under or adopted by or under the Constitution or any of those laws, including subordinate legislative enactments made under the Constitution or any of those laws
(g) underlying law

59. PNG's national judicial system consists of the Supreme Court of Justice, the highest court in the country, and the National Court of Justice. The Supreme Court hears appeals from the National Court; reviews decisions made by the National Court; gives opinions or advice on the constitutionality of laws; develops rules of the underlying law; and enforces human rights pursuant to the Constitution. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. It sits as a bench of three or five judges in Supreme Court proceedings. PNG's lower courts include the District Courts (in urban centres) and Village Courts presided over by stipendiary magistrates and village court magistrates.

60. The National Court has unlimited jurisdiction, which is exercised by a single judge. National courts have power to hear any case unless the Constitution gives the power to hear a particular case to another court. It deals with most civil and criminal cases and hears appeals from lower courts. There are Tribunals that may be established outside the national judicial system, as well as arbitral or conciliatory tribunals. Their powers to impose penalties are limited. The Constitution also provides for courts that may deal with matters primarily by reference to custom or in accordance with customary procedures or both. Village Courts consist of at least three lay magistrates appointed from the local village or community by the Minister for Justice. One of their objectives is to mediate disputes applying customary dispute resolution methods. Their jurisdiction is limited to minor offences and customary law cases. They may impose fines or community service but not imprisonment. Appeal is to the local or District Court Magistrate and there is a supervising magistrate in each province.

61. The PNG Constitution provides for the independence of the national judicial system. The Chief Justice is appointed by the Head of State on the advice of the National Executive Council. Other judges and magistrates are appointed by the Judicial and Legal Services Commission, which consists of the Minister for Justice, the Chief Justice, the Deputy Chief Justice, the Chief Ombudsman and a Member of Parliament. The Commission has adopted "Judges' Appointment Criteria and Guiding Principles" to enhance the independence of the appointment processes. The only grounds upon which a judge, the Public Prosecutor, the Public Solicitor or Chief Magistrate may be removed from office are their inability to perform the functions and duties of their office, misbehaviour or misconduct in office.

62. PNG is bound by resolutions of the UN Security Council (UNSCR) several of which are directly relevant to national obligations to combat ML/TF/PF. PNG ratified the UN Convention Against Corruption (UNCAC) in 2007 but has not yet ratified other relevant UN Conventions.

63. *Key legislation which establishes PNG's AML/CFT system consists of the following laws:*

- Anti-Money Laundering and Counter Terrorist Financing Act 2015 (AMLCTF Act).
- Criminal Code 1974 including amendments, particularly the Criminal Code (Money Laundering and Terrorist Financing) (Amendment) 2015.
- Mutual Legal Assistance in Criminal Matters Act 2005 as amended by the Mutual Assistance in Criminal Matters (Amendment) Act 2015.
- Proceeds of Crime Act 2005 (POCA) as amended by Proceeds of Crime (Amendment) Act 2015.
- United Nations Financial Sanctions Act 2015.

64. *Significant changes to the institutional framework:* Since the 2011 PNG MER, the most significant change to the institutional framework has been the removal of the FIU function from the RPNGC and its establishment as an independent unit (FASU) within the Bank of PNG (BPNG). FASU was established under s.61 of the AMLCTF Act 2015 coming into operation in September 2016 and assuming all of the FIU functions previously undertaken by the RPNGC.

65. Another major development was the establishment of the NCC in 2012 (see discussion immediately below).

66. The recent formation of the ICAC, although not yet fully operational, is a significant development in PNG's AML/CFT framework. Once operational, ICAC will investigate ML associated with corruption.

67. *Cooperation and coordination mechanism:* The NCC, co-chaired by the Governor BPNG and Secretary of DJAG, was established in 2012 and is the authority responsible for coordination and approval of PNG's national AML/CFT strategic plans. The NCC is comprised of heads of 21 departments/agencies including DJAG; BPNG, PM&NEC, DFA, DOF, DOT, IRC, PNGCS, ICASA, FASU, PNGFA, NFA, OIC, SCPNG, NGCB, IPA, RPNGC, NMSA, OC, NNB, OPP and NIO. The Technical Working Group (TWG) comprising of technical officers supports the NCC. There are LEA-related bodies focused on operational coordination, cooperation including the Joint Agency Group, Joint Intelligence Group, and Joint Operations Group.

Financial sector, DNFBPs and VASPs

68. PNG is a lower-middle-income Economy. PNG is not a global or regional financial centre with its financial sector dominated by commercial banks.

Overview of Financial Sector

69. PNG's financial sector is made up of commercial banks, holding over two thirds of financial sector assets (and around 90% of deposits), FIs also include NBFIs (including finance companies, microfinance institutions, foreign exchange dealers, money remitters, money changers and savings and loan societies), Authorized Superannuation Funds, insurance FIs and FIs in the Capital Market.

70. *Commercial banks:* commercial banks are regulated by BPNG. Over two thirds of financial sector assets (and around 90% of deposits) are held by four licenced banks and locally incorporated banks in PNG. Two are Australian owned and two are domestic. The largest domestic commercial bank

accounts for approximately half the banking sector's assets, approx. 2.6 million retail bank accounts, operates in other Pacific Islands and has subsidiaries in Southeast Asia.

71. *Non-commercial bank FIs:* NBFIs regulated by BPNG include finance companies, savings and loans institutions, microfinance institutions, authorised foreign exchange dealers, money remitters (only commercial banks provide outgoing remittance), money changers, and PNG's single e-wallet service provider. Together these NBFIs make up approx. 4% of total financial sector assets.

72. *Authorized Superannuation Funds:* BPNG regulates entities engaged in superannuation pursuant to section 7 of the Superannuation (General Provision) Act 2000. The sector hold more than 75% of total non-commercial bank financial assets. Among the four licensed ASFs, Nasfund and Nambawan Super stand out with almost 40% and 54% of assets, respectively.

73. *Insurance Sector:* PNG's insurance sector is small but developing. Non-life insurance companies and brokers account for 2.3% of the total financial sector assets (approx. USD 500 million). The five life insurance companies and four brokers accounted for less than 1% of the total financial sector assets in 2019 but the sector is growing rapidly. BPNG regulates and licenses the life insurance sector under the terms of the Life Insurance Act 2000.

74. General insurance companies are regulated by the Insurance Commissioner's Office under the terms of the Insurance Act 1995. The scope of products offered in the general insurance sector indicates that the sector is not generally vulnerable to use in ML schemes.

75. *Capital Market:* PNG is only one of two Pacific Island countries with a stock exchange, which has 17 listed companies and total capitalisation amounts to approx. USD 17 billion. The Securities Commission has licensed one stock exchange, PNG National Stock Exchange (PNGX) which operates as a self-regulatory organisation (SRO) for stock broking firms. The securities market in PNG includes listed securities (regulated by PNGX), SCPNG oversees key market participants, including the PNG National Stock Exchange (PNGX), Securities brokers & dealers, investment advisors, unit trusts, fund managers, property trusts, and financial advisors.

Table 1.3: PNG's financial sector on 13 October 2023

Financial Institution	No.	Total Assets	Licensing Authority	General or prudential supervisor	AML/CFT supervisor
Commercial Banks	4	~51.6 billion Kina (~13.1 billion USD) ~69.5% of total assets	BPNG	BPNG	FASU
Licensed Financial Institutions (finance companies, microfinance institutions and foreign exchange dealers)	14	~3 billion Kina (~766.3 million USD) (~4% of total assets)	BPNG	BPNG	FASU

Licensed Financial Institutions (e-wallet service providers of domestic remittance and licensed for inward remittance)	1	No information	BPNG	BPNG	FASU
Licensed Financial Institutions (Money Remitters incoming only)	2	No information	BPNG	BPNG	FASU
Licensed Financial Institutions (Money Changer)	8	No information	BPNG	BPNG	FASU
Savings & Loan Societies (accept deposits and conduct lending to members)	16	~1.4 billion Kina (~362.3 million USD) (~1.9 % of total assets)	BPNG	BPNG	FASU
<i>Life Insurance Business</i>					
Life Insurance Companies	5	~320 million kina (~81 million USD) (~0.43% of total assets)	BPNG	BPNG	FASU
Life Insurance Brokers	5		BPNG	BPNG	FASU
<i>General Insurance Business</i>					
Insurance Companies	18	~ 1.4 billion Kina (~370 million USD)*	OIC	OIC	FASU
Insurance Brokers	11	~244 million kina (~62.5 million USD)*	OIC	OIC	FASU
<i>Superannuation Business</i>					
Authorised Superannuation Funds	4	~17.9 billion Kina (~4.5 billion USD) (~24% of total assets)	BPNG	BPNG	FASU
Licensed Trustees	4	No information	BPNG	BPNG	FASU
Licensed Fund Administrators	2	No information	BPNG	BPNG	FASU
Licensed Investment Managers	4	No information	BPNG	BPNG	FASU
<i>Capital Market*</i>					
Broker	2	No information	SCPNG	SCPNG	FASU

Note: * information on capital market entities is inconsistent with information on licensing included in IO.3

Overview of DNFBBPs

76. *Casino sector:* PNG has a licensing regime under the Gaming Control Act 2007. The authority responsible for administering this sector is the NGCB. At the time of the ME onsite visit there were no casinos in PNG, but a casino license process had commenced as part of a resort development in an SEZ. The Gaming Control Act 2007 provides for and there are gaming machines within PNG; however, these operators are not DNFBBPs.

77. *Real estate sector:* The real estate sector in PNG, especially in Port Moresby, is growing with the increasing demand for accommodation and the rapidly rising value of real estate in PNG. Real estate

agents are incorporated as companies under the ROC. However, there is no registration or licensing regime. Real estate agents may voluntarily join the PNG Real Estate Industry Association.

78. *Dealers in precious metals and precious stones:* Gold dealing activities in PNG were de-regulated in 1987, enabling all residents to buy and sell gold within the country. For export purposes, a license must be obtained from the BPNG before gold of any form can be exported overseas. A gold export license is valid for only one year and may be renewed through a renewal application to BPNG. Other entities involved in the purchase or sale of precious metals and stones are captured under the AMLCFT Act for AML/CFT purposes and are required to register with FASU, but this has not occurred in practice.

79. *Trust and company service providers (TCSPs):* The regulatory framework for trusts and company service providers includes the Trustees Companies Act 1966, the Trust Accounts Act 1951 and the Companies Act. It is not clear that independent TCSPs are operating in PNG under these statutes – these services are assumed by the AT to be undertaken by lawyers and/or accountants.

80. *Lawyers:* The PNG Law Society is responsible for regulating and promoting the legal profession in PNG. There are approx. 600 lawyers and 63 law firms in PNG. The 2017 NRA, PNG's previous MER, and open-source information all highlight the strong nexus between this sector and criminal offending in PNG.

81. *Accountants:* are regulated by the Accountants Registration Board of PNG in accordance with the Accountants Act 1996 and the Accountants Registration and Practice Regulation 1998.

Table 1.4: PNG's DNFBPs on 13 October 2023

DNFBP	No. of licenced reporting entities	Licencing/Registration Authority*	General or prudential supervisor	AML/CFT Supervisor
Casinos	Nil	NGCB	NGCB	FASU
Real estate agents	Approx. 19	Nil	Nil	FASU
Lawyers	Approx. 600 lawyers; 63 law firms	PNG Law Society	PNG Law Society	FASU
Notaries (service provided by lawyers)	N/A	N/A	N/A	FASU
Accountants	28 accounting firms; 251 accountants	Accountants Registration Board of PNG	Accountants Registration Board of PNG	FASU
Gold Exporters	4	BPNG	BPNG	FASU
Company Service Providers (service generally provided by lawyers)	unknown	-	-	FASU

Note: *excluding FASU as required under s.57 AMLCTF Act.

VASP Sector

82. PNG does not have any locally incorporated VASPs operating during the period assessed and there is no evidence of material foreign VASPs operating within PNG. PNG's recent risk assessment demonstrated zero or minimal presence of virtual assets and VASPs in PNG.⁸¹

Relative importance

83. The commercial banking sector is considered the most important sector. This sector represents over two thirds of financial sector assets (and around 90% of deposits) and in PNG's 2017 NRA the sector is rated highly vulnerable to ML/TF. Within the sector, most importance is given to PNG's two domestic commercial banks given their customer base and market exposure within PNG.

84. The next level of importance is lawyers given the vulnerability of the sector as outlined in the 2017 NRA and publicly available information linking the sector with financially motivated criminal offending in PNG. This level of relative importance was supported by the interviews conducted during the ME onsite with both the private sector and public agencies.

85. The AT weighted the remittance sector as moderately important given risks associated with laundering abroad and noting the vulnerability is somewhat mitigated by commercial bank products and services offerings. Money changers due to the high use of cash in PNG, and larger NBFIs were also moderately weighted. Other sectors weighted moderately important include accountants, gold exporters and real estate agents based on the associated vulnerabilities in the sectors as outlined in the 2017 NRA. Less importance has been given to small NBFIs due to the nature of the products and services offered, insurance (as life insurance is mainly restricted to products and services for employees of large international companies), securities dealers/brokers (PNG's capital market is very small), superannuation (products and services allow limited avenues to launder money) and savings and loans societies (the sector is relatively small, strongly connected to the commercial banking sector and offering simple products and services).

86. PNG does not have any locally incorporated VASPs operating during the period assessed and there is no evidence of material foreign VASPs operating within PNG. PNG's recently developed SRA on VA/VASPs has demonstrated zero or minimal presence of virtual assets and VASPs in PNG.⁸² PNG was in the process of making legislative changes to take into account the risks associated to VA/VASPs. Therefore, VASPs are not included in the following analysis.

Preventive measures

87. Preventive measures are primarily set out in the AMLCTF Act with detailed obligations around AML/CFT programs in the AML/CFT Compliance (AML/CFT Program) Rule (No.1 of 2019). These requirements apply to all FI and DNFBPs under the FATF Standards with the addition of MV dealers. While MV dealers were included as DNFBPs before PNG's first formal ML/TF risk assessment, their inclusion was on the basis of high prevalence of cash in the industry, global ML typologies, and strong

⁸¹ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, <https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012-PNG-VASP-Risk-Assessment-v.10.pdf>, accessed November 2023.

⁸² BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, <https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012-PNG-VASP-Risk-Assessment-v.10.pdf>, accessed November 2023.

links to predicate offending. VASPs are not included in the AMLCTF Act. FASU has also issued detailed guidance for FIs and DNFBPs available from its website.⁸³

88. The legal basis for PNG's TFS-TF and TFS-PF regimes are the UNFS Act.

Legal persons and arrangements

89. The IPA through the ROC is responsible for the administration of the Companies Act, the Business Names Act, the Business Incorporation Act, and the Associations Incorporation Act. The primary form of legal persons in PNG is a limited or unlimited company with ownership via shares. At the time of the onsite, IPA was in a re-registration process for all companies and other legal entities. Other legal entities that can be formed in PNG under the jurisdiction of IPA include Incorporated Associations, Business Groups, and Business Names. Incorporated Associations and Business Groups have separate legal personality with perpetual succession and can form business relationships with FIs and DNFBPs. Business Names are not a separate legal entity.

90. In addition, the LGI Act provides for legal recognition of the corporate status of certain customary and similar groups, and the conferring on them, as corporations, the power to acquire, hold, dispose of and manage land. The Registrar for Incorporated Land Groups is the Department of Lands and Physical Planning (<https://dlpp.gov.pg/>).

91. As of the 9 of October 2023, the following number of legal persons were registered in PNG.

Table 1.5: Number of Legal Persons Registered in PNG

Entity Type	Total Registered Business Entities	Re-registration and Updated Records
Local Companies	71,717	15,904
Overseas Companies	1,099	194
Business Names	205,230	12,982
Business Groups	9,791	391
Associations	10,810	590
Incorporated Land Groups	not provided	NA
Total	298,647	30,061

92. Trusts can be formed under common law in PNG. There is no registration requirement for domestic trusts, nor a legislative framework governing how they are to be set up, nor obligations on trustees. Information on the creation and types of trusts is not publicly available, nor is there information about the presence of foreign trusts in PNG.

Supervisory arrangements

93. FASU is the sole AML/CFT supervisor for all FIs and DNFBPs with the addition of MV dealers. Regulatory authority and prudential supervisory units are listed in Table 1.3 and 1.4. FASU's AML/CFT

⁸³ Bank of PNG, 2023, Financial Analysis and Supervision Unit, Guidelines, <https://www.bankpng.gov.pg/financial-analysis-and-supervision/>, accessed November 2023.

Supervision & Compliance Division has a manager and eight operational staff and one support staff member. Prudential supervisory units generally have a maximum of 5 staff each. There is no AML/CFT supervisor for VASPs and no VASPs operating in PNG.

International Cooperation

94. PNG is not a regional financial centre⁸⁴, which in turn means it does not attract significant foreign illicit inflows.⁸⁵ Domestically generated proceeds of crime are laundered abroad in neighbouring jurisdictions. PNG's porous land and sea borders are more vulnerable to ML threats.

95. PNG has a legal framework in place to provide a range of constructive MLA and extradition in criminal matters under the MACMA and the Extradition Act. PNG provides MLA on the basis of reciprocity. A treaty and regulation are required for extradition with all non-Pacific Island Forum jurisdictions with PNG only having an extradition treaty with Indonesia. The Legal Policy and Governance Branch of DJAG is the Central Authority (CA) for MLA and Extradition.

96. PNG has a range of non-MLA international cooperation mechanisms common to all APG Pacific members (e.g., Transnational Crime Unit, Pacific Islands Chief of Police, and Pacific Financial Intelligence Community). The Government's efforts to conduct international cooperation outside of capacity building is limited and slow largely due to insufficient allocation of funding and resources to relevant government departments.⁸⁶

⁸⁴ Asian Development Bank, 2019, Pacific Finance Sector Briefs, <https://www.adb.org/sites/default/files/publication/530256/pacific-finance-sector-papua-new-guinea.pdf>, p.2, accessed November 2023.

⁸⁵ Global Organised Crime Index, 2023, Papua New Guinea, https://ocindex.net/assets/downloads/2023/english/ocindex_profile_papua_new_guinea_2023.pdf, accessed January 2024.

⁸⁶ Idib, p.5.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

- A. PNG has undertaken four ML/TF risk assessments, and two risk assessments are under development. PNG completed its first NRA in September 2017, which was published in March 2019. The NRA reasonably identifies PNG's overall ML risk as significant, PNG's major ML threat categories, and key vulnerable FI sectors and DNFBPs. The report reasonably identifies PNG's TF risk as low, but lacks detailed analysis. All FIs and some DNFBPs are aware of the 2017 NRA.
- B. PNG's other completed risk assessments are on NPOs and VA/VASPs. In 2023 FASU commenced a process to update the 2017 NRA, but at the time of the ME onsite visit, involvement in the process was mainly restricted to FASU and there had been very limited discussion of the findings at the NCC level. A forestry sectoral risk assessment is being finalized pending a lengthy review of the findings.
- C. FASU has a reasonable understanding of PNG's ML risks. However, all other competent authorities do not have the same level of understanding. Although they know of, and agree with, the high-level findings of the NRA, this does not extend to a reasonable understanding of PNG's ML risks.
- D. Except for FASU, which has a developing understanding of PNG's TF risk, all competent authorities do not have a reasonable understanding of PNG's TF risk. The AT has placed less weight on this gap due to PNG's low TF risk.
- E. PNG is in a transition phase between its NSP 2017-2022 and 2023-2027. PNG's national strategies are informed by ML/TF risks and build on previous national strategies/policies. However, prioritisation of agencies' limited skilled capacity and institutional resources for AML/CFT activities is a challenge, particularly in relation to ML and asset confiscation at a level consistent with PNG's ML risk. FASU is the key exception, with adequate resources to conduct its FIU and AML/CFT supervision functions targeting PNG's highest ML threats and vulnerabilities, including supervising MV dealers for AML/CFT compliance.
- F. The NCC is PNG's national AML/CFT cooperation and coordination body. In the last few years, leading into the ME, policy-level coordination has increased to a reasonable level although inter-agency cooperation is challenging due to competing reform agendas and resource constraints. Operational AML/CFT supervision cooperation and coordination is reasonable given PNG's financial sector and supervision arrangements. While PNG has mechanisms, operational ML and asset confiscation cooperation and coordination is only occurring in the most high-profile cases or where international partners are involved.
- G. TF and PF cooperation and coordination is not occurring in PNG.
- H. The anti-corruption body, ICAC, was formed in July 2023 and at the time of the ME onsite visit had not commenced operational activities and was not fully integrated into PNG's risk-based approach to AML/CFT.

Recommended Actions

- A. The NEC should endorse the NSP 2023-2027, and ensure that all agencies allocate human and institutional resources to implement their action items under the NSP 2023-2027. Focus should be given to the law and justice sector including immediate actions by PNG to ensure skilled capacity and institutional resources for, and prioritisation of, ML and asset confiscation activities.
- B. Complete the ongoing NRA update (including by increasing the involvement of all relevant public and private sector stakeholders) and finalise and publish the forestry sectoral risk assessment.
- C. Update and enhance all competent authorities' understanding of PNG's ML risk focusing first on higher risk issues identified in the 2017 NRA (and NRA update). For example, PNG's major ML threats, most vulnerable FI and DNFBP sectors, methods and risks associated with laundering offshore, and emerging risks. Depending on the NRA update, this may involve completion of sectoral and thematic risk assessments.
- D. Fully integrate ICAC into PNG's AML/CFT regime, including as a member of the NCC⁸⁷, as part of NSP 2023-2027, and in law enforcement operational cooperation and coordination mechanisms for ML and asset confiscation.
- E. Enhance operational cooperation and coordination on ML and asset confiscation through the JAG, JIG, and/or JOG to support operational outcomes in line with PNG's significant ML risk.
- F. Enhance TF risk understanding, specific to PNG's context, by RPNGC and other relevant agencies that would respond to a TF event if an event were to occur and ensure that operational cooperation and coordination mechanisms are in place and prepared to respond effectively (see also RAs in IO.9).
- G. Establish PF related cooperation and coordination at the policy and operational level through the NCC.
- H. As PNG's AML/CFT system continues to mature, PNG should consider implementing exemptions or simplified AML/CFT measures in proven low risk sectors.
- I. All relevant competent authorities should enhance collection of data and statistics on their AML/CFT activities to facilitate progress monitoring of NSP 2023-2027 implementation and for input into PNG's going and future risk assessments.
- J. PNG should enhance its outreach to FI and DNFBPs on PNG's ML/TF risks.

97. The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1,2, 33 and 34 and elements of R.15.

⁸⁷ Post the ME onsite visit in March 2024, ICAC was formally included in the NCC

Immediate Outcome 1 (Risk, Policy and Coordination)*Country's understanding of its ML/TF risks*

98. PNG has undertaken four ML/TF risk assessments, and two risk assessments were under development at the time of the ME onsite visit. Using these assessments as the basis, all competent authorities have a high-level understanding of PNG's major ML threats, and FASU has a reasonable understanding of PNG's ML risks. Except for FASU, which has a developing understanding of PNG's TF risk, all competent authorities understanding of TF risk is limited.

Risk assessments

99. As detailed in R.1, PNG has minor shortcomings in the identification and assessment of its ML/TF risks. PNG completed its first NRA in September 2017, which was endorsed by the NEC in November 2018, and published in March 2019. The NRA was developed by FASU, supported by relevant Government agencies, and assisted by the Asian Development Bank. The assessment broadly follows common practice of APG members identifying PNG's ML/TF risks through assessment of threats, vulnerabilities and consequences. The NRA is explicit in highlighting quantitative data limitations (R.33 is rated PC) resulting in many of the NRA's conclusions being based on the views and experiences of key agencies and on anecdotal materials. Given the maturity of PNG's AML/CFT regime at the time, FIs' involvement in the NRA was reasonable, but involvement of DNFBPs was limited.

100. The NRA reasonably identifies PNG's overall ML risk as significant and PNG's major ML threat categories: (i) corruption and bribery, (ii) fraud against Government programs and activities, (iii) illegal logging and fishing, and other environmental crimes, (iv) taxation and revenue fraud, and (v) importation and distribution of illicit drugs. The NRA also provides the level of threat associated with all other predicate offences. The NRA estimates, based on global good practice, the quantum of proceeds of crime to be between K1.8 billion (~USD560 million) to K4.4 billion (~USD1.4 billion⁸⁸) per year. The NRA reasonably concludes that domestic proceeds of crime are laundered in PNG and abroad with high-level offending and major proceeds being laundered in regional jurisdictions and tax havens. It also concludes foreign proceeds of crime are less likely to be laundered in PNG. The NRA also highlights illegal profits from the logging and fishing sector accrue offshore.

101. The NRA identifies and assesses high-level ML vulnerabilities in PNG including capacity and resources of the PNG Government, environment and resource protections, the cash economy, porous borders, trade-based crimes, laundering businesses, and legislative and regulatory weaknesses.

102. The NRA reasonably identifies overall level of vulnerability of key FIs and DNFBPs; however, the analysis lacks depth in identifying some sector-specific vulnerabilities, particularly for foreign banks, superannuation funds, and DNFBPs. For FIs: (i) domestic banks, and currency transfer and exchange businesses are identified as very highly vulnerable to ML; (ii) savings and loans societies are identified as moderate vulnerability, (iii) securities dealers and insurance companies as low to moderate vulnerability, and (iv) micro-finance institutions and non-bank lenders are considered low vulnerability. For DNFBPs, real estate agents, lawyers and accountants, particularly those engaged in commercial activities and company/trust formation and management, and MV dealers are identified as highly vulnerable to ML/TF.

⁸⁸ USD amount is the amount included in the NRA and not the exchange rate used throughout the report.

103. The NRA identifies PNG's TF risk as low. As discussed in detail in R.1, this is reasonable given the AT did not identify open-source information suggesting international terrorist groups, particularly those related to PNG's neighboring higher-risk TF jurisdictions, are operating in PNG or raising, moving and using funds in connection to PNG. Notwithstanding, the NRA includes a more limited focus on TF with no detailed discussion of TF risk associated with neighboring higher-risk TF jurisdictions or specific TF vulnerabilities in PNG. FASU's recent strategic analysis reports partly mitigate these limitations as they include some analysis of electronic transactions to and from some high-risk TF jurisdictions.

104. In 2023 FASU commenced a process to update the NRA. At the time of the ME onsite visit, the initial data collection and analysis was complete. The data sources are restricted to RPNGC crime statistics, SMRs, and TTRs. This reflects some focus, by PNG, to overcome some of the quantitative data limitations of the 2017 NRA. Involvement in the process was mainly restricted to FASU and at the time of the ME onsite visit there had been very limited discussion of the findings at the NCC level. Initial analysis shows a strong correlation with the threat and vulnerability findings of the 2017 NRA. At the time of the ME onsite visit, there was no timeline for development of the full report or its approval.

105. PNG conducted a NPO risk assessment in 2022, which was updated in 2023 (finalized during the onsite visit) to supplement the assessment in the 2017 NRA. The recent assessments focus on R.8 compliance. The findings of the 2022 assessment are public, but at the time of the ME onsite, the 2023 assessment had not been shared with the NPO sector. The assessments identify NPOs as low risk for TF abuse, which the AT agrees with. See detailed discussion of NPO risk assessments in R.8 and IO.10.

106. A forestry sectoral risk assessment is under development with support from UNODC. At the time of the onsite visit, the draft report was under a lengthy review process by some competent authorities, but not all NCC members. The draft report was not shared with the AT nor was a timeline for publication.

107. PNG completed a sector risk assessment of VASPs in 2023 with the assessment focused on whether or not VA and VASPs have a presence or establishment in PNG. Data collection occurred via a survey of industries with high probability of being involved in, or exposed to, VA transactions or VASPs. PNG determined that it does not have existing or active domiciled VASPs and merchants that are operating or providing accessibility or trading platforms for users of VA, and that exposure to VA activities is low. These findings are consistent with open-source information on PNG.

Understanding of ML/TF risk.

108. All competent authorities agree that PNG's ML risk level is significant and have a high-level understanding of PNG's major threat categories as identified in the NRA. All competent authorities met by the AT agreed that corruption and bribery, and fraud against the Government are PNG's highest proceeds generating crimes. All competent authorities also agreed that illegal logging and illegal fishing and tax related offences generate significant proceeds in PNG. However, except for FASU, this does not extend to a reasonable understanding of PNG's ML risks. For example, RPNGC, OPP and other relevant competent authorities did not demonstrate a reasonable understanding of common ML typologies (including the use of cash) associated with PNG's major threat categories or in PNG's vulnerable sectors/entities, adequate knowledge of how funds are laundered offshore, and/or, critically (as the NRA data is from before late 2017), PNG's evolving and emerging ML risks.

109. Regarding understanding of evolving and emerging ML risks, competent authorities were of the view that PNG's ML risk level and major threat categories had not changed since the 2017 NRA with the exception that drug related criminality is increasing. This is reasonable, but relevant competent authorities did not demonstrate an understanding of how ML typologies may be evolving due to changes in; (i) PNG's context (e.g., the recent establishment of Special Economic Zones and PNG's new Gold Bullion Policy), (ii) legal and institutional frameworks (e.g., amendments to the Companies Act and company re-registration process and new BO requirements), and/or (iii) products, services and delivery channels of commercial banks or other FIs/DNFBPs (e.g., increase in use of EFTPOS).

110. FASU has a reasonable understanding of PNG's ML risks, which is built on its critical involvement in PNG's 2017 NRA, VA/VASP risk assessment, NPO risk assessments, the ongoing 2023 NRA update, and its financial intelligence products and AML/CFT supervision activities. FASU demonstrated a good understanding of ML risks (including common ML typologies, laundering offshore, the nexus between corruption and other predicate offending, cash economy, and the porous border) and between/within sector vulnerabilities, particularly in the commercial banking sector and lawyers and MV dealers. FASU's risk understanding is less advanced for the non-bank FI sectors and for other DNFBPs.

111. Regarding TF, all competent authorities understanding of TF risk is limited except FASU, which has a developing understanding. Except for FASU and the Sanction Secretariat's recent activities to implement TFS, there is very limited focus on TF across all relevant competent authorities in PNG. While PNG's TF risk is low, the very limited focus on TF (see also discussion IO.9 and Core Issue 1.4) underpins relevant competent authorities' reluctance to build a level of TF risk understanding appropriate to implement TF preparedness measures.

National policies to address identified ML/TF risks.

112. At the time of the ME onsite visit, PNG was in a transition phase between the NSP 2017-2022 and the NSP 2023-2027. The NSP 2023-2027 was endorsed by the NCC but pending NEC endorsement. The NSP 2023-2027 is designed to address the most significant financially motivated crimes affecting PNG and is informed by PNG's ML/TF risks and builds on PNG's NSP 2017-2022 and PNG's first NSP from 2014. It is also generally consistent with PNG's other relevant national plans including the *National Anti-Corruption Plan of Action 2020-2025*, the *National Plan of Action to Combat, Deter, and Eliminate Illegal, Unreported, and Unregulated (IUU) Fishing (NPOA-IUU)*, and the *National Financial Inclusion Strategic Plan 2023-2027*.

113. The NSP 2023-2027 includes seven strategic objectives⁸⁹ with implementation supported by deliverables and a detailed implementation plan outlining actions required by individual agencies under the thematic groupings of Regulatory Sector, Law Enforcement Agency Sector, and Policy Sector. Actions required under the implementation plan are generally consistent with PNG's ML/TF risks and context, and gaps/vulnerabilities in PNG's AML/CFT regime. However, the NSP 2023-2027 would benefit from a more integrated approach, under the action items, to PNG's major threats and

⁸⁹ 1. Execute a nationally-coordinated risk assessment approach to detect and disrupt financially-motivated crime in Papua New Guinea; 2. Ensure all NCC agencies adopt this approach to detection and disruption, cooperatively and in a coordinated manner; 3. Meet FATF requirements and other international obligations; 4. Implement a monitoring and evaluation process to measure the effectiveness of PNG's AML/CFT system; 5. Stop offenders from accessing illicit assets held offshore, through international assistance and cooperation; 6. Develop processes to stay up-to-date with evolving offender behaviour and new methods of financially motivated crime; 7. Expand the operations of the Financial Analysis and Supervision Unit (FASU).

vulnerabilities, and the inclusion of implementation timeframes for all actions. Furthermore, while ICAC was not operational at the time of the ME onsite visit, ICAC should be fully integrated into the NSP 2023-2027.

114. The NSP 2017-2022 is constructed in a similar way and is generally consistent with PNG's ML/TF risks and context, and gaps/vulnerabilities in PNG's AML/CFT regime. The implementation of agencies' action items is discussed below.

Exemptions, enhanced and simplified measures

115. PNG has included MV dealers in its AML/CFT regime due to their use of cash, high ML vulnerability, and the prevalence of Government vehicle frauds. The AMLCTF Act goes beyond the AML/CFT requirements specified in the FATF Standards including MV dealers as a DNFBP thereby subjecting them to preventative measures obligations and AML/CFT supervision by FASU. FASU has conducted four onsite supervision visits of MV dealers in 2019 and continues to support implementation of AML/CFT obligations in the sector through outreach (see IO.4 discussion). MV dealers have submitted seven SMRs and there is a general push in the sector to phaseout cash transactions driven to some extent by ML concerns with the use of cash.

116. There are no exemptions given to FIs or DNFBPs in PNG, and no simplified measures have been implemented where risks are lower, noting that the AMLCTF Act allows FIs and DNFBPs to apply simplified CDD for low-risk customers. PNG acknowledged that it was taking a cautious approach to simplified measures / reduced AML/CFT requirements due to PNG's significant ML risks and level of FIs and DNFBPs AML/CFT implementation. Notwithstanding, FASU and BPNG are committed to greater harmonization of AML/CFT and prudential requirements and implementing exemptions and simplified measures as PNG's AML/CFT system continues to mature.

Objectives and activities of competent authorities

117. Except in relation to FASU, IPA and IRC (to varying degrees), PNG and relevant competent authorities are not prioritising resources to AML/CFT activities fully consistent with PNG's AML/CFT national policies and PNG's significant ML risk. PNG's law and justice sector suffers from the most acute lack of skilled capacity and institutional resources for, and prioritisation of, AML/CFT activities.

118. As the NSP 2023-2027 was endorsed by the NCC just before the ME onsite visit, for the period under review the objectives and activities of competent authorities have been guided by the NSP 2017-2022 through the NCC. In March 2023 in relation to the NSP 2017-2022, the NCC noted that 42% of action items were complete and ongoing, 10% were complete, 19% were on track and ongoing, 14% work had started, and nil progress had been made on 15%. These statistics are somewhat consistent with observations and discussions of the AT primarily during the onsite visit.

119. PNG is not prioritising adequate human and institutional resources within the law and justice sector to ML and asset confiscation. For example: (i) RPNGC, OPP and other relevant competent authorities lack skilled capacity to undertake their ML-related functions (across the vast majority of government agencies recruitment, development, and retention of staff is a significant challenge); (ii) ML and asset confiscation operational outcomes are limited and are not commensurate with PNG's significant ML risk; (iii) agencies lack adequate and up-to-date policies, manuals and books for their ML and confiscation-related functions; (iv) PNG has not established the Trust Account and Confiscated

Assets Fund pursuant to the POCA (see detailed discussion in IO.8); and, (v) PNG is still in the process of implementing its cash declaration system in all its air, sea and land ports.

120. Notwithstanding the above, there has been positive broader AML/CFT related reforms in the law and justice sector. For example, (i) IRC's ongoing institutional reorganisation, including the establishment of Tax Crimes and Tax Intelligence divisions, to facilitate tax reforms in PNG and increase tax compliance, and (ii) the formation of the ICAC in July 2023 and the human and institutional resources devoted to building this key institution including expedited activities between July 2023 and the ME onsite visit. Furthermore, resources are prioritised to legislative reforms to modernise and meet global good practice across the law and justice sector.

121. PNG is not a high-risk jurisdiction for TF, but besides some activities of FASU (see detailed discussion in IO.6 and IO.9) and the establishment of the Sanction Secretariat (see detailed discussion in IO.10), PNG is not allocating adequate human and institutional resources to ensure it can identify and investigate potential TF (if a case was to occur) and effectively implement PNG's TFS regime.

122. FASU as the FIU and sole AML/CFT supervisor is significantly better resourced than other relevant agencies but would require additional skilled capacity when other agencies adequately focus on AML/CFT (see detailed discussion on this in IO.6). FASU's activities are focused around the eight strategies in its Strategic Plan 2023-2027 (see box in IO.6), which are generally consistent with PNG's NSPs and ML/TF risks. In practice, FASU's FIU activities have focused on enhancing and building the capacity of analysts and its ICT systems, enhancing reporting by commercial banks, and building supply of, and demand for, its financial intelligence products. FASU's supervision activities have focused on commercial banks, which is consistent with PNG's ML risks. However, the resources required for longer-term enforcement proceedings with two commercial banks has meant there has been more limited focus on other higher-risk FIs and DNFBPs. Greater focus is needed on fit and proper controls by BPNG and other relevant regulators.

123. Recent and ongoing activities to mitigate ML/TF risks associated with legal persons have focused on legislative reforms (including amendments to the Companies Act in 2022 to include BO requirements on companies), upgrades to the ROC's website and online registration process, and the ongoing re-registration process for companies, business groups and associations. This demonstrates IPA's activities are generally in line with PNG's ML vulnerabilities. PNG is not allocating human and institutional resources to mitigate ML risks associated with legal arrangements or other types of legal persons (e.g., Incorporated Land Groups).

National coordination and cooperation

124. While NCC policy-level coordination has increased to a reasonable level in the last few years leading up the ME, operational cooperation and coordination on ML and asset confiscation, through all mechanisms available to law enforcement is limited.

125. The NCC is the main coordination body responsible for AML/CFT national policy coordination and driving PNG's whole of government national-level AML/CFT efforts. The NCC has overall responsibility for the development of PNG's NRAs and recently endorsed the NSP 2023-2027. The Governor of BPNG and the Secretary of DJAG are Co-chairs, and FASU and DJAG's-Legal Policy and Governance Branch act as the Secretariat to the Co-Chairs and NCC. NCC decisions and initiatives are

implemented by the TWG. The NCC is comprised of 10 relevant competent authorities. With the formation of the ICAC in July 2023, ICAC should be formally included in the NCC⁹⁰.

2

126. Over the last few years, the NCC and the TWG have been meeting quarterly with attendance by relevant competent authorities increasing to a reasonable level leading up the ME process. Information provided to the AT shows reasonable NCC policy-level coordination focused on implementing NSP action items (noting that progress against action items in PNG is slow due to resource constraints and lack of prioritization). However, inter-agency policy cooperation is challenging due to competing reform agendas and limited human and institutional resources. PF policy-level cooperation and coordination is not occurring through the NCC or TWG.

127. To support law enforcement operational activities, PNG has the JAG, JIG, and JOG for operational level coordination and cooperation. However, operational level cooperation and coordination related to ML and asset confiscation through these mechanisms is only translating into very limited operational outcomes (see IO.7 and IO.8). Cooperation is only occurring on the most high-profile cases or where international partners are involved (e.g., Cutmore case in IO.7, Wartoto case in IO.8, and Haus of Bribes and INTERPOL cases in IO.2). The reasons for this are multifaceted but include differing operational priorities, limited human and institutional resources, and a lack of trust between agencies. Cooperation is more likely to occur on a bilateral and informal basis with most agencies having MOUs to support information sharing and cooperation. There is no operational cooperation and coordination on TF or PF through these mechanisms or the NSAC.

128. FASU is the sole AML/CFT supervisor. Operational cooperation and coordination on the AML/CFT supervision of FIs is primarily on an as required basis, with BPNG and focused on fit and proper for licencing and regulation of commercial banks and other FIs. Notwithstanding, over the period under review, FASU and the BPNG Banking Supervision Department have conducted three joint onsite inspections. DNFBP fit and proper related cooperation and coordination between FASU and the Law Society is limited and non-existent for other DNFBPs.

Private sector's awareness of risks

129. The 2017 NRA, 2022 NPO risk assessment and the 2023 VA risk assessment are publicly available from FASU's website.⁹¹ FASU has undertaken NRA awareness raising sessions with most FI sectors and some DNFBPs (see detailed discussion in IO.4), and the NRA publication was advertised in the PNG Post-Courier. Generally, FIs and larger DNFBPs are aware of the NRA and PNG's key ML threats; however, some smaller DNFBPs, such as real estate agents and DPMS, were unaware of the NRA and its findings. TF awareness by all FIs and DNFBPs is less advanced than ML.

Overall conclusion on Immediate Outcome 1

130. PNG has undertaken four ML/TF risk assessments, and the 2017 NRA was being updated at the time of the onsite visit. While publication of the 2017 NRA was delayed and the report outlines quantitative data challenges, the NRA reasonably identifies PNG's overall ML risk as significant, PNG's major ML threat categories, and key vulnerable FI sectors and DNFBPs. FASU has a reasonable

⁹⁰ Since the ME onsite visit, the number of agencies formally included in the NCC has included to 22 including the ICAC in March 2024

⁹¹ Bank of PNG, 2023, Financial Analysis and Supervision Unit, Guidelines, <https://www.bankpng.gov.pg/financial-analysis-and-supervision/>, accessed November 2023.

understanding of PNG's ML risks. All other competent authorities' ML risk understanding is restricted to a high-level understanding of PNG's major ML threats. Except for FASU, which has a developing understanding, all competent authorities do not have a reasonable understanding of PNG's TF risk. the AT has placed less weighting on this gap due to PNG's low TF risk.

131. NCC policy-level coordination on PNG's risk-based NSPs has increased to a reasonable level in the last few years leading up the ME. However, prioritisation of agencies' limited skilled capacity and institutional resources to AML/CFT activities is a challenge, particularly in relation to coordinated ML and asset confiscation activities at a level consistent with PNG's ML risk. FASU is the key exception to this with adequate resources to conduct its FIU and AML/CFT supervision functions targeting PNG's highest ML threats and vulnerabilities, including that it is supervising MV dealers for AML/CFT compliance. PNG's is also devoting significant resources to expedite the operation of ICAC. TF and PF cooperation and coordination is also not occurring in PNG.

132. **PNG has a moderate level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

10.6

- A. Overall, there is very limited use of financial intelligence by RPNGC and other relevant competent authorities to develop evidence and trace criminal proceeds related to ML and high-risk predicate offences. Skilled capacity and institutional resource constraints means RPNGC relies almost exclusively on financial intelligence from FASU. IRC and PNGCS have some ability to develop their own financial intelligence. All other relevant competent authorities have very limited skilled capacity around financial intelligence development and use.
- B. Since coming into operation in September 2016,⁹² FASU has developed adequate human resources, strong operational independence, and adequate ICT capability, policies and procedures for all its functions. R.29 is rated compliant.
- C. Since disseminating its first financial intelligence product in June 2018, FASU has made 160 operational analysis disseminations, disseminated 13 strategic analysis reports, and responded to 77 requests for information from other relevant competent authorities.
- D. Whilst the use of operational and strategic analysis is more limited, operational analysis is of good quality and mainly relates to corruption. The following factors undermined FASU's financial intelligence: SMR reporting is only by commercial banks, there is limited cash transaction reporting by NBFIs and none from DNFBPs, and timeliness of responses from other relevant authorities when sourcing additional information. IEFTRs reporting by commercial banks is a key strength of PNG's system due to the risks of laundering abroad.
- E. FASU is receiving very few cash declarations from PNGCS.
- F. FASU focuses significant resources on ensuring capability balance in the provision and use of financial intelligence by supporting relevant competent authorities to use its products. From discussions and case examples provided, it is clear FASU is central to the development and use of financial intelligence in all higher profile and complex ML and predicate crime cases, and cases involving international and regional partners.
- G. FASU's Strategic Plan 2023-2027 outlines FASU's future actions to continue enhancing its analysis capability through IMD staff development, updates to ICT systems and refinements to its processes and products, with consideration for a balance between supply and demand/use of financial intelligence in PNG.
- H. ICAC was formed in July 2023 and at the time of the ME onsite visit had not commenced operational activities and therefore was not receiving disseminations from FASU.

⁹² The AMLCTF Act came into effect in February 2016, with FASU coming into operation upon the appointment of the first Director in September 2016.

- I. FASU has MOUs arrangements with all key competent authorities. These MOUs in combination with other means are used to securely disseminate financial intelligence. At the time of the ME onsite visit, the cooperation and information exchanges were generally one-sided from FASU to other competent authorities.

10.7

- A. In the period under review, PNG has approx. 39 ML investigations, three ML prosecutions, and has successfully convicted two individuals of self-laundering with offenders receiving dissuasive sanctions. As PNG's ML risk is significant, the number of ML investigations, prosecutions and convictions is too low to dissuade potential criminals from carrying out proceeds generating crimes and ML in PNG.
- B. There is a very limited culture whereby relevant competent authorities identify ML in predicate offence cases or other activities, refer cases to RPNGC (as the primary ML investigator), and/or cooperate and coordinate on ML investigations. Except for FASU, relevant competent authorities all lack policies, manuals, books and training on how to identify potential ML and refer potential cases to RPNGC. ML and predicate crime investigation jurisdiction requires clarification and formalising (see R.30).
- C. ICAC is designated to investigate ML arising from, or related to 'corrupt conduct', but at the time of the ME onsite visit due to its formation in July 2023, ICAC had not commenced operational activities.
- D. Overall RPNGC lacks skilled capacity and institutional resources for, and prioritisation of, its ML investigative function. Limited information was provided to the AT; however, RPNGC has undertaken approx. 39 ML cases since 2015 with approx. eight cases ongoing. These cases seem to be focused on corruption and bribery, and fraud against the government, but not on other major ML threats. RPNGC is working towards the development of policies, manuals and books to support its ML functions. As outlined in R.31, RPNGC has moderate shortcomings in its investigation powers and techniques.
- E. OPP, as the ML prosecutor, lacks skilled capacity and institutional resources for, and prioritisation of, its ML prosecution function.
- F. There have been no prosecutions against legal persons for ML.
- G. PNG does not use other criminal justice measures in cases where a ML investigation has been pursued but it was not possible, for justifiable reasons, to secure a ML conviction.

10.8

- A. Although PNG's confiscation regime (including non-conviction based confiscation) has minor shortcomings, and confiscation is included in PNG's NSPs, confiscation of criminal proceeds and property of equivalent value is not being prioritised as a policy objective. Relevant authorities do not have adequate skilled capacity and institutional resources to achieve operational outcomes commensurate with PNG's significant ML risk.

- B. PNG's confiscation outcomes are very limited and are not in keeping with PNG's significant ML risks. RPNGC does not pursue POCA cases due to limitations in its and other relevant competent authorities' (including the Judiciary) understanding of the legislation. RPNGC does not have the skilled capacity and institutional resources to initiate POCA cases in cooperation with and on behalf of other relevant competent authorities as required under the Act. ICAC has no powers to initiate freezing and seizing of assets under the OLICAC as required by c.30.5.
- C. The Wartoto case is a significant POCA case in the context PNG. The case involves MLA requests to a foreign jurisdiction where assets, valued at approx. USD 960,000, are restrained and preserved.
- D. Other relevant competent authorities are undertaking some confiscation under their respective legislation. They do not maintain comprehensive information and statistics, which limits these competent authorities' ability to demonstrate their effectiveness.
- E. At the time of the ME onsite visit, PNGCS was in the process of implementing PNG's CMCV declaration system across PNG. Implementation was most advanced at Jackson's International Airport; however, was not systematic, and implementation at PNG's other ports and for mail/cargo was in the initial stages.
- F. Consistent with PNG's TF low risk and context, PNG has no TF-related confiscations.

Recommended Actions

10.6

- A. RPNGC and other relevant competent authorities (responsible for the investigation of high-risk predicate offences) should enhance prioritisation and use of financial intelligence to investigate ML, high-risk predicate crimes and trace the proceeds. This should include ensuring adequate skilled capacity and institutional resources, providing training, improving ICT systems, and/or developing and implementing relevant policies, manuals and books.
- B. ICAC and FASU should enhance and formalise cooperation and coordination on financial intelligence with disseminations and requests for information occurring once ICAC is operational.⁹³
- C. PNGCS should prioritise systematic implementation of the CMCV declaration system at all ports and share cash declarations with the FIU in a timely manner in accordance with the AMLCTF Act.
- D. PNG should continue to strengthen operational cooperation between FASU and RPNGC and other relevant competent authorities. At a minimum, this should include prioritising secondment arrangements of RPNGC staff, with relevant investigative background and experience, within FASU. ICAC and FASU should consider a similar arrangement.

⁹³ Since October 2023, ICAC and FASU have established a working relationship where ICAC can visit FASU offices and sit with FASU analysts to discuss relevant investigations and financial intelligence.

- E. FASU should expedite full implementation of the case management system and upgrades to the Taipan database, in line with its Strategic Plan 2023-2027, to support enhanced and timely operational financial intelligence.
- F. PNG should enhance FIU reporting by commercial banks, NBFIs and DNFBPs. This should prioritise SMR and TTR reporting by higher-risk NBFIs and DNFBPs. To achieve this FASU should continue and enhance its outreach and written materials on reporting obligations, PNG's ML risks and common ML typologies.
- G. FASU should enhance and focus its strategic intelligence analysis reports to further support RPNGC, ICAC and other relevant competent authorities in targeting PNG's high and emerging ML risks and predicate crimes; PNG's TF preparedness measures; and enhanced understanding of ML typologies in PNG by all relevant competent authorities.
- H. All competent authorities that receive FASU's financial intelligence products should provide regular feedback on the products to enable FASU to refine and increase the quality of its disseminations.

10.7

- A. PNG should address technical deficiencies in the ML offence (R.3), ML investigation responsibilities of RPNGC and other relevant competent authorities (R.30), and powers and investigative techniques (R.31).
- B. PNG should prioritise and pursue ML investigations and prosecutions related to corruption commensurate with level of offending in PNG. This should include establishing formal cooperation and coordination mechanism/s between RPNGC, ICAC and OPP on ML related to corruption.
- C. PNG should ensure ongoing training to all relevant competent authorities to identify potential ML, and ensure policies, manuals and books are developed for referring potential ML cases to RPNGC or ICAC for investigation. These actions should be tightly focussed on PNG's major ML threats.
- D. PNG should prioritise and pursue ML investigations and prosecutions related to PNG's highest-risk ML threats and laundering abroad. To achieve this:
 - Prioritise AML and adequately resource RPNGC to undertake its ML function. RPNGC should ensure the ARU is adequately resourced with dedicated investigators and professional staff who are appropriately trained with ongoing professional development and have policies, manuals and books to undertake their functions.
 - Adopting prioritisation measures to ensure that ARU's operational taskings are tightly focussed on PNG's major ML threats.
 - Adequately resource OPP to undertake its AML functions. OPP should enhance its ML-related training for prosecutors and implement policies, manuals and books to support them undertake their ML functions

- E. PNG should prioritise ICAC becoming fully operational including resourcing and inter-agency cooperation for legal, institutional, and operational reforms (across the law and justice sector) that enable ICAC to effectively combat ML related to PNG's highest predicate crime risk of corruption.
- F. RPNGC and relevant other competent authorities should be encouraged to form joint investigations or taskforces to combine specialist capabilities and share knowledge to increase both ML and predicate offence prosecutions, particularly complex investigations.
- G. For cases relating to fraud, misappropriation and other serious predicate offences, competent authorities should incorporate the 'follow the money' approach to develop evidence and trace proceeds of crime.
- H. PNG's Centre for Judicial Excellence should provide ongoing ML related training to Judges and develop ML guidance materials where appropriate.

10.8

- A. PNG should prioritise and pursue domestic and offshore (in applicable cases) asset tracing, restraint and confiscation in ML and all high-risk predicate crime cases, including confiscation of proceeds, instrumentalities, and property of equivalent value.
- B. To enable efficient and effective corruption and ML related confiscation by ICAC once operational, PNG should enable ICAC to initiate freezing and seizing of assets (as required by c.30.5) and either (i) amend the POCA to allow ICAC to utilise its freezing, seizing, and confiscation provisions directly, or establish another legal framework for ICAC to confiscate assets on its own; or (ii) establish a robust cooperation and coordination mechanism between RPNGC and ICAC that ensures ICAC's corruption and ML cases are not impacted by capacity/resourcing constraints of RPNGC.
- C. To support greater understanding and use of the POCA, PNG should consolidate the most recent amendments, and provide ongoing and systematic training to RPNGC, OPP and the Judiciary on their effective use.
- D. RPNGC, OPP and other competent authorities should be adequately resourced (skilled capacity and institutional resources) and further trained in asset tracing, confiscation and asset management to operationalise the Confiscated Asset Fund under the POCA and address other deficiencies in PNG's asset management mechanisms.
- E. PNGCS should effectively implement CMCV declaration system in all of PNG's designated sea, air and land ports and report declarations to FASU. PNGCS should receive additional skilled capacity and/or institutional resources to effectively identify non-compliance.

133. The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.1, R.3, R4 & R29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

Immediate Outcome 6 (Financial intelligence ML/TF)

134. FASU is established under s.61 of the AMLCTF Act 2015, coming into operation in September 2016 as an operationally independent and autonomous unit within the BPNG. FASU's first financial intelligence dissemination was made in June 2018.⁹⁴ At the time of the ME onsite visit, FASU had 37 staff, with 12 dedicated staff in the IMD. FASU resides in a separate building from BPNG with restricted access. The IMD office is in the FASU building, behind a secure door with access restricted to IMD staff. The Director of FASU has the autonomy and power to receive, analyse and disseminate financial intelligence with relevant competent authorities and foreign counterparts. PNG is rated C with R.29.

Use of financial intelligence and other information

135. FASU is disseminating financial intelligence on ML and higher-risk predicate crimes. Key competent authorities have some capability to develop their own financial intelligence and other information for higher-risk predicate investigations. Consistent with IO.7 and IO.8, due to limitations in maintained statistics RPNGC and other competent authorities were not able to fully demonstrate effective use of financial intelligence. Overall, RPNGC and other relevant competent authorities' use of financial intelligence is limited, and they are yet to fully adopt a "follow the money" approach to develop evidence and trace proceeds of crime in ML and predicate crime cases.

136. Consistent with PNG's TF risk profile and context, FASU has not disseminated financial intelligence related to TF or terrorism but has a mechanism for TF-related SMRs detailed in the Terrorist Financing Monitoring and Dissemination SOP (see IO.9 for additional detail). RPNGC has not used its own financial intelligence or other information to develop evidence or trace funds related to TF or terrorism, which is in line with PNG's low TF risk. All discussion in this core issue relate to ML and predicate crimes and not TF or terrorism.

137. In the period under review, FASU has disseminated 160 operational analysis reports to relevant authorities (see Table IO.6-5), 91 Bulk disseminations (see Table IO.6-6), and responded to 77 requests for information (RFIs) (see Table IO.6-7). Individual agencies' use of this financial intelligence and their ability to develop their own financial intelligence is detailed below.

138. The majority of FASU's intelligence reports are disseminated to RPNGC (see Table IO.6-5 and Table IO.6-6), as the primary law enforcement agency in PNG responsible for investigating ML, TF, most predicate offences, and tracing proceeds of crime under the POCA. As discussed in detail in IO.7, IO.8, and IO.9, RPNGC has very limited skilled capacity and institutional resources to carry out its functions. Until recently, RPNGC was not prioritising the use of FASU's financial intelligence and has very limited skilled capacity and institutional resources to develop its own financial intelligence.

139. As discussed in more detail in IO.7, RPNGC's eight on-going ML investigations were all initiated by FASU's operational analysis and PNG's two ML convictions also involved cooperation with FASU regarding the provision of financial intelligence (see Case IO.6-2: Financial Intelligence use in CUTMORE). The recent increase in use of FASU's intelligence to trigger ML cases is a result of disseminations being made directly to the Office of the Commissioner of Police and the recent increase in focus on AML/CFT in PNG in the lead-up to the ME. In all eight cases, RPNGC enquiries are continuing,

⁹⁴ Previously, PNG's FIU was established within the RPNGC in 2007.

but at the time of the ME onsite visit, there had been no asset freezing or seizing. Besides triggering the cases, it is unclear if or how financial intelligence is being used in all eight ongoing investigations.

140. RPNGC reports that approx. nine predicate offence cases have been initiated and/or used FIU financial intelligence including a case involving potential tax-related offences (see case IO.6-1), PNG's outgoing extradition case (see Case IO.2-4), Haus of Bribes case (see Case IO.2-5), responding to an INTERPOL Request case (see Case IO.2-6) and Wartoto case (see Case IO.8-5 and IO.2-3).

141. It is clear from the onsite discussions and information provided, that RPNGC relies heavily on financial intelligence from FASU and has very limited ability to develop and use its own financial intelligence. Skilled capacity and institutional resource constraints (see IO.7, significant institutional resource constraints of ARU) are a key factor to this along with gaps in RPNGC's investigative powers (see R.31, which is rated PC). Critically, RPNGC relies on "traditional" investigative powers and techniques and is not actively using powers and techniques in "newer" or specific legislation such as the POCA. This is due to lacking adequate policies, procedures (manuals and books) and training. RPNGC relies on FASU for financial intelligence and has not prioritised human and institutional resources to internal development of this capability.

Case IO.6-1: FIU Spontaneous Dissemination to RPNGC

In 2020, FASU disseminated an intelligence product to RPNGC based on suspicious structured remittances to offshore tax haven bank accounts. Company A had been remitting significant volume of funds to its offshore accounts totalling K3.11 billion (~USD 797 million) between July 2017 and May 2022. RPNGC's investigation is still ongoing. Company A's foreign exchange suspicious activities were also a supervisory concern for BPNG as the regulator of foreign exchange. In 2022, FASU made a referral to BPNG to inform and initiate supervisory activity of Company A's foreign exchange activity. The case is still ongoing.

Case IO.6-2: Financial Intelligence Use in CUTMORE Case

In July 2020, Cutmore flew an aircraft from Australia to PNG illegally for the purposes of collecting drugs (cocaine) and transporting it to Australia. After receiving the drugs in Lealea village from two locals, the aircraft failed to take off and crashed into trees at the end of the runway. Cutmore intended to transport 28 bags of cocaine weighing 611.1 kilograms, worth K340 million (~USD 94 million) to Australia.

At the time of the offence (2020), the Controlled Substances Act 2021 was not in effect. Initial charges were laid under the Customs Act (smuggling) and Migration Act (illegal entry). Cutmore pleaded guilty and surrendered to PNG authorities and the Australian High Commission two days after the incident for one charge of unlawful entry into PNG in breach of immigration laws.

PNG authorities continued to conduct further investigations resulting in the establishment of an inter-agency (RPNGC, PNGCS, PNGICSA and Water Police) special intelligence operation team. In November 2021, FASU joined the inter-agency team and began providing financial intelligence support to the team's investigations. FASU would conduct Taipan database searches for associates of Cutmore, to identify suspicious transactions sharing intelligence leads with RPNGC to support

their search warrants. FASU exercised powers to request account information and bank statements from relevant reporting entities, including Western Union, and disseminated this financial intelligence to the inter-agency team.

In October 2022, Cutmore was sentenced to 18 years in prison without hard labour after pleading guilty to charges of ML. The court exercised discretion and deducted 2 years and 3 months off the time spent in custody. Cutmore is currently serving a total of 15 years and 9 months in prison.

142. IRC has received 55 operational (see Table IO.6-5) and 36 Bulk (see Table IO.6-6) disseminations from FASU. IRC's Case Selection & Intelligence Department receives FASU's operational disseminations using it to enrich IRC data and inform possible tax audits. In 2022 IRC recovered K9,164,678 (~USD 2.3 million) of tax revenue. There has been no use of FASU's disseminations in criminal tax investigations. IRC has compulsory measures to obtain financial information (see R.31) and IRC's ongoing institutional reorganisation, including the establishment of Tax Crimes and Tax Intelligence divisions, are positive steps towards use of FASU's disseminations in criminal tax investigations.

143. The PNGCS received nine operational disseminations (see Table IO.6-5) from FASU. All FASU disseminations have been reviewed and cross referenced with customs databases; however, none have resulted in an investigation. An intelligence database to detect breaches such as smuggling, undervaluation and misclassification of tariff codes, non-declaration of goods, evasion of duty, and importation and exportation of restricted goods and contraband is maintained by PNGCS to inform their investigations. PNGCS is not legislated to access financial information. Financial information and intelligence can be collected through their intelligence database and has been used in a case concerning an undervaluation of MV.

144. ICAC, formed in July 2023, had not commenced operations at the time of the ME onsite visit and has not received any disseminations from FASU. ICAC has some powers and functions that enable the development of financial intelligence.

145. All other relevant competent authorities (e.g., NFA, PNGICSA and PNGFA) are making very limited, if any, use of financial intelligence. These agencies primarily rely on human sources to initiate cases and develop evidence.

STRs received and requested by competent authorities

146. Reporting obligations are primarily being implemented by commercial banks. While commercial banks represent 66.7% of the financial services sector's assets, reporting by all other FIs and DNFBPs is not consistent with their ML risks. FASU is receiving very few cash declarations from PNGCS.

147. FASU is empowered to receive reports from FIs and DNFBPs as required by the AMLCTF Act. These reports consist of SMRs (R.20 is rated PC), TTRs above K20,000 (~USD 5,500), and IEFTRs above K20,000 (~USD 5,500). SMRs are directly received through the Taipan database, while TTRs and IEFTRs are received through encrypted e-mails and inputted manually into the Taipan database weekly. This is a manually intensive process and is identified as an area for future improvement in FASU's Strategic Plan 2023-2027.

148. In the period under review, FASU received a total of 11,445 SMRs with 99% of all SMRs reported by commercial banks (see Table IO.6-1). Through recent and ongoing improvements to commercial banks' AML/CFT systems (see IO.4 for details); outreach and supervision by FASU (see below core issue and IO.3 for details); and automated SMR filing through Taipan, domestic commercial banks' reporting has been increasing since 2018 with 2022 SMR reporting more in line with the risks of the sector.

149. Data provided shows 61% of recent SMRs relate to corruption and misappropriation of government funds, which is in line with the top ML risks identified in the NRA. There is limited reporting for all other major ML threats, but there is a strong nexus between corruption / bribery and other predicate crime offending in PNG and proceeds from the logging and fishing sector also accrue offshore. To increase the quantity and quality of reporting, FASU has provided ML red flag guidance for FIs; conducted six awareness sessions (three specific to one commercial bank) on enhancing quality of SMRs; and applied a formal warning on late SMR reporting as a result of targeted onsite inspections. FASU's SARs in 2023 identified some issues in the quality of reporting of SMRs such as late filing of reports in comparison to the date of suspicion and incomplete mandatory information. Overall, quality and quantity of SMR reporting by commercial banks is increasing, but additional guidance/feedback is needed from FASU to reduce selective and defensive reporting by commercial banks.

Table IO.6-1: SMRs Received by FASU

Reporting entities	2018	2019	2020	2021	2022	Total
Commercial Banks	987	2,951	1,913	1,850	3,737	11,438
NBFIs	0	0	0	0	0	0
DNFBPs	0	0	0	0	0	0
MV Dealers	0	0	6	0	1	7
Total	987	2,951	1,919	1,850	3,738	11,445

150. There are no SMRs from NBFIs and DNFBPs. There are seven SMRs filed by MV Dealers. This is not consistent with PNG's significant level of ML risk and sector vulnerabilities identified in the 2017 NRA.

151. Since 2018, a total of 5,877,966 TTRs have been received (see Table IO.6-2), with 99% of the TTRs received from commercial banks and only 1% received from NBFIs. There has been no TTRs received from DNFBPs. During the on-site visit, some FIs and DNFBPs reported they have gone cashless and/or turned away customers using physical cash above the reporting threshold. Considering the prevalence of cash in PNG, TTRs reporting by NBFIs and DNFBPs is not fully in line with PNG's risks, particularly before 2021.

Table IO.6-2: TTRs Received by FASU

Reporting entities	2018	2019	2020	2021	2022	Total
Commercial Banks	317,371	877,170	1,327,755	1,724,334	1,617,893	5,864,523
NBFIs	756	858	1,948	3,635	6,246	13,443
DNFBPs	0	0	0	0	0	0
Total	318,127	878,028	1,329,703	1,727,969	1,624,139	5,877,966

152. In recognition of the risk of domestic proceeds being laundered offshore, PNG requires the filing of IEFTRs. FASU has received a total of 1,500,311 IEFTRs between 2018 and 2022 with 99% of the reporting received from commercial banks (see Table IO.6-3). This is generally consistent with PNG's risk profile as most international transfers are made through commercial banks and PNG does not have a high reliance on remittance (non-bank remittance is provided through two operators). Reporting by commercial banks since 2021 is more in line with the fund flows of the sector. The information in these reports has been improving in quality over time and allows FASU to conduct strategic analysis on fund flows to and from overseas.

Table IO.6-3: IEFTRs Received by FASU

Reporting entities	2018	2019	2020	2021	2022	Total
Commercial Banks	157,482	156,592	877,170	163,001	137,363	1,491,608
NBFIs	0	4,900	828	1,199	1,776	8,703
Total	157,482	161,492	877,998	164,200	139,139	1,500,311

153. As discussed in detail in IO.8, at the time of the ME onsite visit, PNGCS was in the process of implementing PNG's CMCV declaration system across PNG. Implementation was most advanced at Jackson's International Airport, but was not systematic, and implementation at all PNG's other seas and land ports was in the initial stages. PNGCS is responsible for reporting CMCVs to FASU with only five reports submitted in total since 2023.

Operational needs supported by FIU analysis and dissemination

154. FASU is supporting the operational needs of competent authorities through the provision of adequate operational analysis, some strategic analysis, and Bulk SMR disseminations. FASU focuses significant resources on ensuring capability balance in the provision and use of financial intelligence by supporting relevant competent authorities to use its products. FASU prioritises responding to competent authorities' requests as a means to promote the use of financial intelligence because of the limited ability of RPNGC and other relevant competent authorities to access financial information from

FI and DNFBPs. From discussions and case studies provided, it is clear FASU is central to the development and use of financial intelligence in all higher profile and complex ML and predicate crime cases, including those involving international and regional partners. Since FASU's first financial intelligence dissemination in June 2018, FASU has made 160 operational analysis disseminations, disseminated 13 Strategic analysis reports, and responded to 77 RFIs.

155. Given the current demand for financial intelligence and FASU's SMR triaging,⁹⁵ FASU has adequate staffing within the IMD, adequate ICT systems, and policies and procedures for all its financial intelligence functions. FASU's Strategic Plan 2023-2027 outlines FASU's future actions to continue enhancing the analysis capability through IMD staff development, updates to ICT systems and refinements to processes and products (see below box). For example, at the time of the ME onsite visit, FASU was in the process of implementing a new case management system and upgrades to the Taipan database, which will support shortened timeframes to analyse SMRs. Additional human and institutional resources would enable FASU to expedite its reform agenda, adjust its SMR triaging and increase its operational disseminations including supporting use to ensure balance between the supply and demand for financial intelligence in PNG.

156. ICAC was not operational at the time of the ME onsite visit (ICAC formed in July 2023); however, supporting ICAC's operational needs should be a key priority for FASU going forward.⁹⁶ Additional skilled capacity within IMD could expedite this.

FASU's Strategic Plan 2023-2027

FASU's Strategic Plan 2023-2027 was adopted in 2023. The strategic plan includes the following eight strategies with corresponding actions:

- **Strategy 1:** Coordination of the National Coordination Committee (NCC) on AML/CFT.
- **Strategy 2:** Building the capacity of the BPNG FASU Officers.
- **Strategy 3:** Expansion of BPNG-FASU operations in a pro-active, intelligence-led, evidence-based manner to detect, disrupt and deter financially motivated crime in PNG.
- **Strategy 4:** Raising awareness on AML/CFT and the consequences of non-compliance to international AML/CFT Standards.
- **Strategy 5:** Regulation and Supervision.
- **Strategy 6:** Assist peer regulators efforts in ensuring the shared supervision objectives are pursued and met.
- **Strategy 7:** Development of adequate policies, procedures, compliance rules and guidelines for reporting entities; and assist other peer supervisors and counterpart agencies domestic or international to develop and implement.

⁹⁵ SMR triaging is a value-based prioritisation threshold matched against the National Procurement Act (Amendment) 2021 Standard Procurement Threshold. SMRs with transaction value between K50,000 (~USD 13,000) and K1,000,000 (~USD 266,000) and clear suspicious activity are grouped by predicate offence into Bulk SMRs. SMRs with transaction values of K1,000,000 (~USD 266,000) or more are categorized as potential intelligence product and require further analysis. The number of times a particular customer is reported is also checked to cover SMRs with transactions less than K50,000 indicating structuring, as well as other patterns and trends used by the customer(s) to commit financial crimes.

⁹⁶ Since October 2023, ICAC and FASU has established a working relationship where ICAC can visit FASU offices and sit with FASU analysts to discuss relevant investigations and financial intelligence.

- **Strategy 8:** Expansion of BPNG-FASU operations through legislative amendments to include the prosecution of offences committed against the AMLCTF Act; restraint of proceeds of crime and other disruption activities targeting the most significant offences, offenders and facilitators.

IMD is responsible for actions under Strategy 2 which include:

- enhancing intelligence collection and management (through automating link diagrams, ingesting and analysis of IPA and tax data, workflow processes and investigation case management module).
- reduce selective and defensive reporting of SMRs and improve rejection of transactions; enhance use of financial intelligence.
- expand the collection of data and intelligence.
- facilitate the confiscation of illicit assets located in foreign jurisdictions, facilitate the detection and confiscation of smuggled cash.

157. *Operational analysis:* FASU demonstrated good quality analysis through its use of a wide variety of information, which is comprehensive and clearly articulated to the relevant competent authority. SMRs and other transaction reports (IEFTRs and TTRs); incoming correspondence from domestic and foreign agencies; adverse media; and ad hoc information from the public are analysed and incorporated. Operational analysis clearly breakdowns the type of information and source to support competent authorities' understanding and use. Timely responses from other competent authorities when sourcing additional information impacts the quality of FASU's intelligence products. Generally, analysis of SMRs takes between two to four weeks with analysis time impacted by FASU's operating environment (e.g. frequent blackouts and disruption to internet connectivity in Port Moresby).

158. FASU operational analysis disseminations are generally in line with PNG's higher-risks (focusing on ML, corruption and bribery and tax fraud) and are mainly disseminated to RPNGC (as the primary ML and predicate crime investigator in PNG) and IRC (see Table IO.6-4 and IO.6-5). While there is a lack of disseminations in relation to some high-risk predicates (e.g. illegal logging and illegal fishing), there is a strong nexus between corruption/bribery and other predicate crime offending in PNG and proceeds from the logging and fishing sector accrue offshore. Overall, the quantity of operational analysis disseminations is "low" with a sharp decrease in 2021 and 2022 (see Table IO.6-4 and IO.6-5). This reflects the challenge of building IMD staff capability while also producing financial intelligence products and supporting relevant competent authorities to use it, whom in most cases are not prioritising their limited skilled capacity and institutional resources for AML/CFT activities. All of this was made more challenging over the COVID-19 Pandemic.

159. In addition to the use of financial intelligence to develop evidence and trace criminal proceeds related to ML and associated predicate offences (see core issue 6.1), FASU disseminates operational analysis internally to the Supervision and Compliance Division (SCD) and other relevant authorities. For example, (i) IMD's financial intelligence was used by SCD to target enhanced CDD supervision of PNG's two domestic commercial banks, which resulted in enforcement actions (see detailed discussion in IO.3), (ii) FASU's dissemination to NGCB resulted in a joint domestic operation targeting an illegal online gaming platform (see case IO.6-3), and (iii) OC is making some use of FASU financial intelligence

(see Table IO.6-7) in its activities and investigations to promote good governance and quality leadership in PNG.

160. For TF, FASU has a daily TF SMR monitoring process and expedited TF operational analysis and dissemination process. This is discussed in detail in IO.9.

Case IO.6-3: Illegal Online Gaming Platform Investigation

In 2020, an illegal online gaming platform emerged during the pandemic, in contravention of s.244 Gaming Control Act 2007. The online gambling platform continued to operate despite NGCB issuing several warnings to the public through media publications. Based on adverse media reporting, FASU requested financial transactions and data on the entity of interest and shared their financial intelligence with NGCB. NGCB placed a formal complaint with the RPNGC, which initiated a joint investigation. The NGCB collaborated with RPNGC to conduct searches of several companies (telecom company, bank and another gaming platform) and the ROC for the purpose of retrieving information on the platform. In February 2021, a suspect was arrested and charged with organizing and facilitating unlawful online games. The court deferred the case to June 2022, and the case is still ongoing as the suspect fled. A bench warrant has been granted.

Table IO.6-4: Operational Disseminations by Crime Type

High-risk predicate offence	2018	2019	2020	2021	2022	Total
Money Laundering	5	5	11	1	2	24
Corruption	6	1	11	3	2	23
Bribery	6	5	11	1	2	25
Tax fraud	10	9	30	1	4	54
Fraud	5	4	11	1	2	23
Environmental Crimes	-	0	-	1	-	1
Total	32	25	74	7*	12*	150

Note: * The decrease in 2021 was related to the pandemic and the correlated enforcement of the Business Continuity Plan for only necessary functions during the pandemic period. In 2022, the National General Elections resulted in LEA resources being diverted to respond to related election incidents. Due to this known change in RPNGC’s resources, FASU prioritised producing intelligence products as opposed to disseminations.

Table IO.6-5: Operational Disseminations

Agency	2018	2019	2020	2021	2022	TOTAL
RPNGC	14	14	31	2	6	70
IRC	10	9	30	1	4	55
PNGCS	6	1	-	1	1	9

OC	2	1	13	3	1	20
PNGICSA	-	-	1	1	-	2*
NGCB	-	-	1	-	-	1*
IPA	5	1	1	-	-	7*
Totals	37	26	77	8	12	160

Note: *These 10 disseminations are related to non-high-risk predicate offences and are not included in Table E.

161. *Strategic analysis:* FASU has disseminated 10 SARs and three targeted SARs between March 2022 and October 2023. SARs combine information from SMRs, TTRs, IEFTRs and relevant open-source intelligence, and are exclusively focused on trend analysis of quarterly reporting to FASU. SARs are disseminated quarterly to RPNGC, other relevant competent authorities and BPNG internal stakeholders. The three targeted SARs are sanitized and tailor-made for the respective commercial bank and relate to key trends and analysis from their reporting to FASU. Currently, there are no SARs on DNFBPs and NBFIs because of the lack of reporting in those sectors. Due to resources, FASU plan to resume development of SARs after the ME process is complete.

162. *Bulk SMR disseminations:* SMRs with transactions between K50,000 (~USD13,000) and K1,000,000 (~USD266,000)⁹⁷ that clearly identify suspicious illegal activity by an entity (based on review by IMD) are consolidated by crime type (normally in groups of 50 to 60 SMRs) and disseminated. Bulk SMR disseminations relate to corruption, misappropriation and tax evasion and are sent to RPNGC, IRC and OC (see Table IO.6-6). This approach enables FASU to focus its resources on high-value operational disseminations while also giving relevant authorities the widest possible access to its financial intelligence to use in support of their ongoing activities or to trigger new cases. Due to inconsistent access to ICT systems across relevant authorities in PNG, secure electronic access to raw SMRs is not possible. For the SMRs of value, authorities refer to FASU for further analysis and development of an intelligence product for ease of use in investigations.

Table IO.6-6: Bulk SMR Disseminations

Agency	2018	2019	2020	2021	2022	TOTAL
RPNGC	1	9	19	0	3	32
IRC	1	7	22	0	6	36
OC	1	9	10	0	3	23
Totals	3	25	51	0	12	91

163. *RFIs:* FASU's MOUs with domestic agencies facilitates the RFI process. In the period under review FASU received and responded to approx. 77 RFIs, with the most received from RPNGC and OC (see Table IO.6-7). FASU's RFI responses are timely. Consistent with RPNGC and relevant competent authorities skilled capacity, these RFIs primarily focus on enabling the collection of evidence with limited requests for tracing assets and network analysis (identification of associates). RPNGC remarked

⁹⁷ See SMR triaging footnote for details on the threshold.

that FASU's disseminations are of good quality; however, it has institutional limitations to develop and use the financial intelligence disseminations in ML investigations.

Table IO.6-7: RFIs by Competent Authority and Crime Type

LEAs	Crime type	2018	2019	2020	2021	2022	Total
RPNGC	Corruption & bribery or fraud against government programs	7	12	14	6	4	43
	ML	-	-	1	-	-	1
NIO	Fraud	-	-	-	-	1	1
IRC	Tax Fraud	2	1	-	-	-	3
PNGCS	Fraud/Scam	-	-	-	-	1	1
OC	Government body or officer misconduct	-	5	14	3	1	23
IPA	Fraud	-	1	1	-	-	2
DoT	Fraud	-	1	-	-	-	1
BPNG	Fraud	1	-	-	-	-	1
	Breaches of AMLCTF Act 2015		1				1
Total							77

164. FASU focuses significant resources on ensuring capability balance in the provision and use of financial intelligence by supporting relevant competent authorities to use its products. For example, (i) IMD staff described their ongoing use of informal channels (phone conversations and face to face meetings) and other measures (facilitating intelligence training) to encourage use of financial intelligence products, (ii) FASU organises tripartite meetings between FASU, OPP and RPNGC to encourage financial intelligence use which have evolved into more direct engagement with RPNGC investigators to facilitate case progression, and (iii) FASU provides workstations and other essential resources in the IMD office for RPNGC officers to use in their investigations. Furthermore, a NFACD officer was seconded to FASU in July 2020 for one year; however, due to RPNGC's resource constraints, the secondee returned to NFACD early and a similar arrangement has not occurred since.

165. FASU indicated that regular feedback from RPNGC and other relevant competent authorities on the results of disseminations would be valuable for the FIU to enhance the quality of its intelligence products.

Cooperation and exchange of information/financial intelligence

166. FASU is devoting significant human and institutional resources to general AML/CFT cooperation/coordination and awareness raising as a basis for strong cooperation and exchange of information and financial intelligence in the future. At the time of the ME onsite visit, the sharing was generally one-sided from FASU to other competent authorities. FASU ensures confidentiality of the information it shares.

167. As discussed in IO.1, NCC attendance by relevant competent authorities and policy-level coordination over the last few years leading into the ME process has increased to a reasonable level.

FASU as the NCC secretary has played a critical role in this coordination including organising and funding NCC meetings outside of Port Moresby to enhance participation and AML/CFT awareness beyond relevant competent authorities in the capital. In 2018, FASU presented at the Transparency International PNG workshop held in the Eastern Highlands and distributed AML/CFT awareness posters and pamphlets to local competent authorities. In 2022 and 2023, AML/CFT awareness sessions and presentations on FASU's functions were held in Milne Bay Province and the Autonomous Region of Bougainville with provincial NCC agencies, relevant competent authorities, and FIs and DNFBPs.

168. FASU participates in the Joint Agency Group, Joint Intelligence Group, and Joint Operations Group meetings where it shares financial intelligence to inform decisions relating to the selection of cases and targets; and informs the development of disruption strategies. As highlighted in IO.1, IO.7 and IO.8 cooperation and coordination related to ML and asset confiscation through these mechanisms is very limited and only translating into very limited operational outcomes.

169. FASU has 15 MOUs with relevant domestic competent authorities and 14 MOUs with foreign counterparts (see Table I). The MOUs provide for confidential sharing information spontaneously and upon request. Due to the high level of corruption in PNG and other contextual factors, FASU places significant focus on confidentiality. FASU ensures confidentiality of shared financial intelligence through confidentiality caveats on disseminations, and sharing relevant information electronically through passwords protections or through password protected CD or USB. Where electronic sharing is not possible, FASU delivers the disseminations directly to the investigator with a signed delivery receipt.

Table IO.6-8: List of domestic and foreign MOUs of FASU

Domestic	Foreign
1. PNGCS	1. Chinese Taipei
2. RPNGC	2. Fiji
3. PNG Forestry Authority	3. Peru
4. IRC	4. Lao PDR
5. National Gaming Control Board	5. Chile
6. Office of Insurance Commission	6. Japan
7. Securities Commission of PNG	7. Bangladesh
8. Office of Public Prosecutor	8. Philippines
9. PNG Immigration and Citizenship Authority	9. Australia
10. National Intelligence Office	10. Solomon Islands
11. Ombudsman Commission of PNG	11. Malaysia
12. National Maritime Safety Authority	12. Sri Lanka
13. National Fisheries Authority	13. Cook Islands
14. Investment Promotion Authority	14. Samoa
15. National Narcotics Bureau	

Overall conclusion on Immediate Outcome 6

170. Since coming into operation in September 2016 and disseminating its first financial intelligence product in June 2018, FASU has developed adequate human resources, strong operational independence, and adequate ICT capability and policies and procedures for all its functions. FASU's operational financial intelligence is of good quality and securely disseminated, it has conducted strategic analysis and is prioritising responding to relevant competent authorities' RFIs. Notwithstanding, the overall use of financial intelligence by RPNGC and other relevant competent

authorities to develop evidence and trace criminal proceeds related to ML and high-risk predicate offences is very limited. FASU is undertaking efforts to enhance the use of financial intelligence in PNG. While commercial banks are submitting SMRs, TTRs, and IEFTRs, the quantity of reporting has only recently become more in line with the risks of the sector and continued outreach by FASU is required to improve the quality of reporting. There has been no SMR reporting by other FIs and DNFBPs, and FASU is receiving very few cash declarations.

171. **PNG has a moderate level of effectiveness for IO.6.**

Immediate Outcome 7 (ML investigation and prosecution)

Overview of PNG's legal and institutional framework for ML

172. PNG is developing and refining its ML legal, institutional and operational frameworks to detect, deter, investigate, and prosecute ML. The ML offence has moderate shortcomings with predicate offence gaps (see R.3). R.31 highlights that PNG has moderate shortcomings in RPNGC's and other competent authorities' investigation powers and techniques. RPNGC, OPP and other competent authorities lack adequate policies, manuals and books for their ML functions and have significant skilled capacity and institutional resource constraints. Additionally, limited collection of information and statistics by relevant competent authorities means PNG is unable to fully demonstrate effectiveness.

173. ML is an indictable offence and in practice primarily falls within the jurisdiction of the RPNGC to investigate, where the ARU (established in 2015) of the NFACD undertakes the investigations. ICAC is designated to investigate ML arising from, or related to 'corrupt conduct'; however, at the time of the ME onsite visit, ICAC had not commenced operational activities. RPNGC prosecutors lay ML charges upon indictment and are responsible for the committal proceedings, with OPP responsible for the subsequent prosecution once a matter is referred for trial. ML cases are tried in the National Court. Once operational, ICAC will investigate and prosecute ML cases with cases tried in the National Court.

ML identification and investigation

ML identification and referrals to RPNGC

174. ML cases can be identified by complaints from the public, referrals from other agencies (e.g. FASU) or internally by other investigation units of RPNGC. Despite these various channels for initiating ML cases, they are not generally used. The mechanisms or requirements for referral of cases from other competent authorities, besides FASU, are not well understood or utilised. PNG did not provide information or statistics on the number of ML referrals to RPNGC except for disseminations from FASU (see IO.6).

175. There is very limited practice of relevant competent authorities identifying ML in their predicate offence cases or other activities; referring cases to RPNGC for an ML investigation; and/or cooperating and coordinating on ML investigations. All relevant competent authorities: (i) lack policies, manuals and books and training on how to identify potential ML, (ii) have significant skilled capacity and institutional resource constraints, particularly in relation to operational staff, and (iii) there no general willingness for ML-related cooperation and coordination between agencies including through PNG's law enforcement-related operational cooperation mechanisms (see discussion in IO.1). Any ML case referrals to RPNGC are made as a complaint with very limited follow-up or cooperation to support case progression.

176. While ICAC was not operational at the time of the ME onsite visit, investigation responsibility between ICAC and RPNGC on corruption and bribery offences in the Criminal Code requires clarification and formal mechanisms for cooperation and coordination in ML cases.

ML Investigation by RPNGC and ICAC

177. The ARU investigates ML as well as proceeds of crime cases. It has a broad remit, which also includes TF; however, during the period under review ARU averaged five or less warranted police officers to carry out its functions. This clearly shows PNG is not prioritising adequate human resources to RPNGC's ML functions. Furthermore, PNG is not prioritising adequate institutional resources (e.g., ICT systems) to support ARU operational activities. As briefly discussed in IO.6, FASU provides a space within its office where ARU officers can come and review financial intelligence and/or make use of computers, printers, and Wi-Fi to progress cases.

178. PNG reports the ARU has undertaken approx. 39 ML cases since its establishment in 2015.⁹⁸ While very limited information was provided on these cases, the AT understands that most cases were not pursued due to insufficient evidence, human and institutional resource constraints, or other considerations.

179. At the time of the ME onsite, RPNGC had eight on-going⁹⁹ ML investigations all of which were initiated by FASU's operational analysis. The recent increase in the use of FASU's intelligence to trigger ML cases is a result of disseminations being made directly to the Office of the Commissioner of Police and the recent increase in focus on AML/CFT in PNG. These ongoing cases relate to corruption, misappropriation, and abuse of office. In all eight cases, RPNGC enquiries are continuing; however, at the time of the ME onsite visit, there had been no asset freezing or seizing. In one case the offender had been charged and in one corruption case from 2020, enquiries appear to be held up due to "funding issues".

180. Funding, adequate operational resources, and skilled capacity is a significant challenge for RPNGC. Specifically for ML, RPNGC is working towards the development of policies, manuals and books to support RPNGC's governance associated with ML and other investigations. While ARU staff have received ad hoc training on ML and financial crime, systematic training and staff development programs are not in place.

181. RPNGC does not have the full range of investigative powers and techniques as required under R.31. RPNGC relies on "traditional" investigative powers and techniques and is not actively using powers and techniques in "newer" or specific legislation such as the POCA. This is due to lacking adequate policies, procedures (manuals and books), and training.

182. ICAC was not operational at the time of the ME onsite visit; however, it had commenced initial work to develop governance and operational frameworks, and policies, manuals and books for its activities.

ML Prosecutions by OPP

183. In the period under review, OPP had successfully prosecuted two self-laundering ML cases (see Case IO.7-1 and IO.7-2) with the two defendants pleading guilty to ML. OPP also obtained a ML

⁹⁸ PNG was unable to provide statistics on the number of cases within the period of review.

⁹⁹ Two cases were initiated in 2019, two in 2020, one in 2021, two in 2022 and one in 2023.

guilty plea in a third case, but the plea was not recorded by the Judge (see Case IO.7-3). OPP has several ongoing ML cases and in 2022 OPP received several cases committed at the District Court with ML charges. Limited information was provided to the AT on these cases with all cases ongoing at the time of the ME onsite visit.

3

184. Like RPNGC, skilled capacity and institutional resourcing of OPP is a significant challenge. OPP does not have the capacity and resources to recruit and retain lawyers to adequately prosecute ML offences, in line with PNG's significant ML risk. While OPP is reliant on cases being committed by RPNGC, it does not have adequate policies, manuals and books for its ML prosecution function. During the period under review OPP had limited experience in prosecuting ML cases. While OPP staff have received ad hoc training on ML, ML specific systematic training and staff development programs are not in place.

185. ML cases are tried in the National Court. PNG's judiciary has human and institutional resource constraints with the Supreme Court and National Court's current corporate plan¹⁰⁰ highlighting foundational reforms are needed to achieve efficient case clearance and other internationally recognised Court best practices. PNG's Centre for Judicial Excellence is key to meeting Judges' ongoing need for ML related training and guidance.

Case IO.7-1: 2019 ML Conviction BAE

Bae was an employee of a commercial bank and transferred a total of K72,380.30 (~USD18,700) from two of the bank's income accounts to his brother in-laws account without approval. He then withdrew the monies and/or spent it via EFTPOS using his brother in-laws' card without his knowledge. The defendant pleaded guilty to one standalone count of ML at indictment.

The Sentencing Judgement noted that; (i) the case was ostensibly a misappropriation fraud, a serious crime for which the defendant was personally responsible, and (ii) it was a highly technical breach of the ML offence in that the defendant was merely spending the money obtained by the misappropriation rather than concealing it or changing its nature in some way. After careful consideration, the sentencing Judge imposed a sentence of four years hard labour.

Case IO.7-2: 2022 ML Conviction of CUTMORE

In July 2020, Cutmore flew an aircraft from Australia to PNG illegally for the purposes of collecting drugs (cocaine) and transporting it to Australia. After receiving the drugs in Lealea village from two locals, the aircraft failed to take off and crashed into trees at the end of the runway. Cutmore intended to transport 28 bags of cocaine weighing 611.1 kilograms, worth K340 million (~USD 94 million) to Australia. PNG authorities conducted further investigations resulting in the establishment of an inter-agency special intelligence operation team, which included FASU, PNGCS, PNGICSA and different branches of RRPNGC.

¹⁰⁰ PNG Judiciary, 2018, Supreme court and National Court - Corporate Plan 2018-2022, https://www.pngjudiciary.gov.pg/images/Supreme--National-Courts-Corporate-Plan-2018_2022_Final.pdf, accessed July 2024.

At the time of the offence (2020), the Controlled Substances Act 2021 was not in effect. Initial charges were laid under the Customs Act (smuggling) and Migration Act (illegal entry). Cutmore pleaded guilty and surrendered to PNG authorities and the Australian High Commission two days after the incident for one charge of unlawful entry into PNG in breach of immigration laws.

In October 2022, Cutmore was sentenced to 18 years in prison without hard labour after pleading guilty to charges of ML. The court exercised discretion and deducted 2 years and 3 months of the time spent in custody. Cutmore is currently serving a total of 15 years and 9 months in prison.

Case IO.7-3: 2019 ML Case TOMANDE

The accused was employed as a home loan officer with a commercial bank. Between April 2017 and January 2018, the accused used declined loan application information and inflated salary figures to re-apply for loans using the banks automated systems. Once approved and the moneys paid in the customers' accounts, the accused transferred the monies to accounts of relatives.

The original indictment contained 14 counts of obtaining monies by false pretence, one count of ML and one count of misappropriation. At trial the accused pleaded guilty.

The Judge ultimately ruled that he could not accept the guilty pleas relating to obtaining monies by false pretence and ML. The Judge ruled the facts giving rise to the ML charge and the misappropriation charge were essentially the same and did not enter a conviction for ML. The Judge confirmed the conviction for misappropriation.

Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

186. PNG's ML investigations and prosecutions are not in line with PNG's ML risk and national AML policies. The 2017 NRA identifies PNG's overall ML risk as significant with PNG's major ML threat categories being corruption and bribery; fraud against government programs and activities; environmental crimes (illegal logging and fishing); taxation and revenue fraud; and illicit importation and distribution of drugs. Furthermore, laundering abroad is a key risk in PNG.

187. RPNGC's ongoing ML-related actions (eight investigations) seem to be focused on corruption and bribery, and fraud against the government, which is generally consistent with PNG's major ML threats. Critically, there have been no investigations or prosecutions of ML associated with environmental crimes or tax evasion, and the overall number of ML investigations (approx. 39 since 2015¹⁰¹) is not consistent with the significant risk of ML in PNG. To illustrate this point, NFACD statistics for reported predicate offences show 483 registered cases between January 2022 and December 2023 with most of the reported cases being misappropriation followed by false pretence, corruption, abuse of office and property fraud. The monetary value of the allegations is estimated at over K741 million (~USD 189 million).

¹⁰¹ PNG was unable to provide statistics on the number of cases within the period of review.

188. Only three ML cases have been fully prosecuted, which is not consistent with PNG's significant ML risk level. In the Cutmore case (see Case IO.7-2), ML was charged instead of drug trafficking offences, to achieve a dissuasive sentence when drug trafficking charges were not available. Any ML aspects to the case appear not to have been pursued to a conclusion. The other two cases relate to misappropriation.

189. The overall level of ML investigation, prosecution and conviction is too low to have a significant impact on PNG's ML threat landscape and to dissuade potential criminals from carrying out proceeds generating crimes and ML.

Types of ML cases pursued

190. PNG is primarily pursuing self-laundering cases with domestic predicate offences. From the information that was provided on ongoing cases (investigations and prosecutions), none appear to be against third-party money launderers or for stand-alone ML, and all the successful prosecutions are examples of self-laundering. Predicate crimes in these cases are mostly misappropriation.

Effectiveness, proportionality and dissuasiveness of sanctions

191. PNG's two ML convictions have resulted in dissuasive prison sentences despite, an apparent lack of proceeds of crime action. Cutmore (see Case IO.7-2) received an 18-year incarceration sentence, which is dissuasive. There were some mitigating factors in this case and Cutmore pleaded guilty at the first opportunity and expressed remorse. The sentencing judge also noted that the criminal property in this case was very valuable, it was a sophisticated crime, which involved a degree of planning and Cutmore breached international borders in order to carry out his part.

192. In PNG's other ML conviction (see Case IO.7-1) the defendant received sentences of four years hard labour, which is again dissuasive for ML. Judges in PNG tend to use precedent to determine sentencing, so it is reasonable to expect future sentences to also be dissuasive and proportionate, and these three cases are likely to be instructive in future cases given how rare convictions for ML are in PNG.

193. There have been no successful prosecutions against legal persons for ML.

Use of alternative measures

194. PNG does not use other criminal justice measures in cases where a ML investigation has been pursued but it was not possible, for justifiable reasons, to secure a ML conviction.

Overall conclusion on Immediate Outcome 7

195. In the period under review PNG has convicted two individuals of ML with offenders receiving dissuasive sanctions. RPNGC has some ongoing ML investigations and OPP has some ongoing ML prosecutions; however, limited detailed information was provided to the AT. Notwithstanding this, PNG is not investigating and prosecuting ML at a level consistent with its national AML policies and PNG's significant ML risk as identified in the 2017 NRA. The legal, institutional, and operational elements of PNG's anti-ML system (investigations, prosecutions, convictions, and sanctions) require significant improvements to enable PNG to detect, deter, investigate, and prosecute ML at a level to dissuade potential criminals from carrying out proceeds generating crimes and ML.

196. PNG has a low level of effectiveness for IO.7.

*Immediate Outcome 8 (Confiscation)**Overview of legal and institutional framework for confiscation*

197. PNG's primary confiscation regime is under the POCA with RPNGC as the competent authority to initiate proceedings. Some other relevant competent authorities have some powers to seize, confiscate and/or forfeit property for violation of their respective mandates. Despite this formal policies, manuals and books and training for cooperation between RPNGC and relevant competent authorities on POCA cases are not in place; and for corruption, while the ICAC was not operational at the time of the ME onsite visit, it has no powers to initiate freezing and seizing of assets under the OLICAC (see c.30.5). It is not able to directly utilize provisions under the POCA without referral or assistance from RPNGC.

198. In general, the POCA confiscation process involves RPNGC investigating all proceeds of crime matters and files the required brief with the OPP, which then pursues the civil litigation before the District Courts by seeking a restraining order, and subsequently a forfeiture order. In practice the OPP ordinarily seeks a non-conviction based restraining order and awaits the outcome of associated criminal proceedings before seeking a conviction-based forfeiture order. This practice has been adopted for several reasons largely to avoid seeking such an order if the criminal prosecution is unsuccessful and for a non-conviction based forfeiture order civil trial to be quickly pursued (as opposed to seeking an original restraining order on a conviction/ charge basis).

199. The POCA allows OPP to rely on a criminal conviction even if a case proceeded under a non-conviction based restraining order. The OPP can restrain property in this way without proceeding to a civil non-conviction based forfeiture trial and can await the outcome of the criminal trial and conviction to seek final forfeiture orders under civil litigation. In case of acquittal or dismissal of the criminal charge, OPP can quickly pursue a civil non-conviction based forfeiture trial to prove the offender has committed a serious offence to the lesser standard of proof on the balance of probabilities as opposed to proof beyond reasonable doubt necessary for a conviction. If the commission of a serious offence is proven, the OPP will apply for a final confiscation order based on the conviction over the property subject to a non-conviction based restraining order without the need for a new conviction based restraining order. An acquittal in a criminal trial does not affect a finding to the civil standard that a suspect has committed a 'serious offence' (offence attracting 3 years sentence or more) and does not affect the court's ability to make final confiscation orders under the POCA.

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

200. Confiscation of criminal proceeds, instrumentalities and property of equivalent value is not pursued as a policy objective. As discussed in IO.1, at the time of the ME onsite visit, PNG was in a transition phase between the NSP 2017-2022 and 2023-2027. While confiscation is included in both plans as a policy objective, adequate human and institutional resources are not being prioritized to asset confiscation at a level consistent with PNG's significant ML and predicate crime risk. For example:

- Both RPNGC and the OPP are under-resourced in terms of funding, personnel and technical knowledge to effectively implement the confiscations provisions of the POCA (see below discussion for further detail).

- Adequate organisational level policies, manuals and books to enable and prioritise asset confiscation are not in place for RPNGC, OPP and other relevant competent authorities.
- The proceeds of crime and property of equivalent value (including those located abroad) are not being pursued as a priority in PNG, with restraint and forfeiture action taken to date being very limited and not commensurate with PNG's significant ML risk (see below discussion for further detail).
- The lack or limited understanding of POCA provisions affects not just PNG's ability to seize and confiscate proceeds of crime but also their ability to preserve and manage these assets in the event of seizure and confiscation. For example, RPNGC reports that it does not pursue POCA cases due to limitations in its and other relevant competent authorities (including in the judiciary) understanding of the legislation.
- PNG has not established the Trust Account and Confiscated Assets Fund pursuant to POCA in order to preserve funds and manage confiscated liquidated assets. This has been an action item in multiple NSPs since the POCA was amended in 2015.

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

201. Due to significant limitations in maintained information and statistics, PNG was not able to demonstrate its effectiveness with this core issue.

Provisional measures and confiscation under the POCA

202. PNG did not demonstrate regular or systematic tracing of proceeds of crime either in the context of predicate offence investigations or ML cases. Besides the five case studies below, PNG did not provide information or statistics on provisional measures (Restraint Orders) by RPNGC for ML, TF and predicate crimes. Within RPNGC, the ARU is responsible for all POCA related activities in ML, TF and predicate crime cases. As discussed in IO.7, the ARU averaged five or less warranted police offices during the period under review. Across RPNGC, funding, adequate operational resources and skilled capacity is a significant challenge. Specifically regarding confiscation, RPNGC lacks policies manuals and books for all POCA related functions and activities, and while ARU staff have received some ad hoc training on proceeds of crime, systematic training and staff development programs are not in place.

203. As discussed above, RPNGC investigates all proceeds of crime matters and then files a brief with the OPP. The identified issues on resources and capacity across law enforcement have hampered the filing of the required briefs before the OPP. OPP is equally challenged with skilled capacity and institutional resource constraints. This means that RPNGC and OPP cooperation and coordination to prioritise confiscation cases is only occurring in the most high-profile cases and those involving international partners.

204. Covering the period under review,¹⁰² PNG has only pursued five POCA cases for confiscation of criminal assets (see Case IO.8-1 to IO.8-5). This is not consistent with PNG's significant ML and predicate crime risk profile. Assets in three of the cases were the subject of restraining orders; however, it is unclear if any assets were restrained in one case provided (see Case IO.8-3). These cases highlight significant challenges across all stages of the confiscation process in PNG.

¹⁰² Detailed information on dates for all elements of the five cases was not provided to the AT. It seems that for all five cases some elements of the criminal justice process occurred in the period under assessment.

205. Furthermore, freezing and seizing is not being pursued in RPNGC's ongoing ML cases (see also IO.7 discussion). Between 2019 to 2023, there were four convictions for misappropriation and one for ML (see Case IO.7-1) that did not include restraint and confiscation actions. From data and discussions during the onsite, there appears to be a practice of awaiting conviction to seek forfeiture (including non-conviction based forfeiture) with restraining orders not being sought to preserve the property, and the potential for asset flight. This is due to resourcing constraints in RPNGC and OPP, but also the lack of institutional resources to support asset management, which impacts on RPNGC's appetite to pursue provisional measures.

206. One case was of significant (Wartoto) and is still the subject of a MLA request to a foreign jurisdiction where assets, valued at approx. USD 960,000, are restrained and preserved. While significant resources have been devoted to the Wartoto case and this is a significant case in the context of PNG. This case alone does not demonstrate PNG is prioritising asset confiscation or achieving operational outcomes consistent with its significant ML and predicate crime risks.

Case IO.8-1: MAGARI

Between 2001 and 2008 Magari was involved in fraudulent land compensation claim resulting in payment of approx. K3,000,000 (~USD 780,000), which was used to purchase a property for K550,000 (~141,000). The property was restrained in 2010, although the total misappropriated amount of approx. K3,000,000 (~USD 780,000) was dissipated with the exception of the real estate. Proceedings were discontinued in 2020 after it was discovered that the criminal prosecution indicted on the funds belonging to Ganai Clan and not the State.

Case IO.8-2: TARUR

Tarur was employed by the Department of Health and conspired with others to forge the signature of the Secretary of the Department of Health. The forged signature directed the purchase of pharmaceutical drugs from a private pharmaceutical company in exchange for a kick back of K100,000 (~USD 26,000), of which K80,000 (~21,000) was used to pay off Tarur's mortgage. The property was restrained and Tarur is serving a sentence for corruption and misappropriation of property for three and five years, respectively.

Note: Dates associated with this case are unclear, but it seems some elements of the criminal justice process occurred in the period under assessment.

Case IO.8-3: KASI

Kasi was a self-employed businessman who orchestrated the misappropriation of approx. K5,000,00 (~USD1,300,000) belonging to the State between 2005 and 2006, which was used to purchase 2 properties under the business. In December 2012, the State obtained restraining orders over both

properties. In May 2013, the defendant pleaded guilty to three counts of misappropriation and one count of conspiracy. The case is ongoing with the property pending valuation and final forfeiture.

3

Case IO.8-4: TIENSTEN

Former Government Minister Tiensten fraudulently transferred funds (between 2010 and 2011) to his personal company to carry out rehabilitation works on a coconut plantation in his electorate that never occurred. It is unclear what property, if any, was restrained. Tiensten was convicted of official corruption, false pretense and misappropriation of property. He was sentenced to four years' imprisonment for the first two counts, respectively, and 5 years' imprisonment for misappropriation, to be served concurrently. On 5 June 2012 a restraining order was issued against Tiensten's real property and bank account. The case is ongoing with the property pending valuation and final forfeiture.

Case IO.8-5: POCA - Wartoto

In 2008, a sum of approx. K8,000,00 (~USD 2 million) were awarded to Wartoto's company Srakoklok West Transport Ltd (SWT) to conduct renovations on Kerevat National High School. In 2011, Wartoto was charged with two counts of misappropriation under s.383A Criminal Code Act 1974, for dishonestly taking State funds. It was determined the funds were used for purchasing vehicles, to service personal loans of property in Australia and transfers to international accounts. Wartoto was sentenced to stand trial in the National Court late in 2011. An appeal was lodged and found to be unsuccessful in the Supreme Court in August 2013. During this time Wartoto was in Australia.

In 2012 a non-conviction based restraining order was made to the National Court for property in PNG owned by Wartoto. In 2014, assets were successfully restrained in Australia through an MLA request.

In 2017 Wartoto was found guilty of misappropriating state funds and was sentenced to 10 years of imprisonment with hard labour. Assets valued at ~USD 960,000 were traced to Australia and was preserved pursuant to a MLA request from PNG, sent in 2022. The additional MLA request sent through to Australia in 2022, sought further information on the restrained properties and valuation documentation to submit a final forfeiture order. At the time of the onsite visit all Australian properties remain under the custody and control of Australian authorities, with the final forfeiture application still with PNG authorities.

Provisional measures and confiscation by other relevant competent authorities

207. Very limited information and statistics was provided by other relevant competent authorities on their confiscation-related activities. These agencies do not prioritise confiscation, lack skilled capacity and institutional resources, and do not have adequate policies, manuals and books to support confiscation related functions. Other relevant competent authorities have not made referrals to RPNGC with the intent that the case be taken forward for confiscation under the POCA.

208. NFA officers can seize and confiscate items used in the commission of an offence under the Fisheries Management Act. Very limited data was provided on NFA's confiscation actions; however, NFA did report from 2019, for various violations of Fisheries Management Act, it has seized ten fishing vessels (estimated value of K 6,300,00; ~USD 1,600,000) with over 30 tons of fish. A 2020 case, against a foreign national who pleaded guilty to violations of the Fisheries Act, resulted in confiscation of approx. 192 kilograms of dried brehe de mar.

209. PNGFA officers can seize and confiscate a range of items used in the commission of an offence under the Forestry Act. Very limited data was provided on PNGFA's confiscation actions. In April 2022, the PNGFA seized a total of 1866 pieces of logs with a total volume of 5,600 cubic metres for violation of the Forestry Act.

210. RPNGCS can seize and confiscate a range of items used in the commission of an offence under the Customs Act. Limited data was provided on RPNGCS' confiscation actions. In at least seventy-five smuggling cases from 2019, the PNGCS was able to recoup more than K2,700,000 (~USD 690,000) in customs duties and penalties.

211. IRC has made no criminal tax related confiscations.

212. ICAC was not operational at the time of the ME onsite visit, but ICAC is unable to utilize provisions under the POCA without referral or assistance from RPNGC. ICAC has no powers to initiate freezing and seizing of assets under the OLICAC as required by c.30.5.

Confiscation of falsely or undeclared cross-border transaction of currency/BNI

213. At the time of the ME onsite visit, PNGCS was in the process of implementing PNG's CMCV declaration system across PNG. Implementation was most advanced at Jackson's International Airport, guided by PNGCS' standard operating procedure. Implementation at PNG's other sea and land ports and for mail/cargo was in the initial stages. PNGCS lacks the skilled capacity, institutional resources for, and prioritisation of, its CMCV function.

214. During the period under review there was approx. 12 declarations made and four incidents of undeclared currency and/or gold. The undeclared funds and/or gold was temporarily detained and the cases were referred to RPNGC. These cases do not appear to have progressed further. The limited identification of undeclared cash and/or non-compliance with CMCV declaration requirements at Jackson's International Airport demonstrates PNGCS has limited capability to detect and identify false and/or non-declared cash and implementation of the CMCV declaration system is not systematic.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

215. While the Wartoto case demonstrates positive elements of PNG's ability to confiscate assets, overall confiscation results are not consistent with PNG's significant ML and predicate crime risk. PNG

has no POCA cases for corruption and bribery; environmental crimes; taxation and revenue fraud; and narcotics-related cases, which are identified in the 2017 NRA as major ML threats.

216. Given PNG's identified vulnerabilities of a cash-based economy and porous borders, limited identification of undeclared cash and/or non-compliance with CMCV declaration requirements indicates that PNG's confiscation measures and implementation of its CMCV declaration system are not in line with PNG's risk profile.

217. There are no TF confiscations in PNG, which is in line with PNG's identified low TF risk. Freezing regarding TFS-TF is discussed in IO.10.

Overall conclusion on Immediate Outcome 8

218. PNG has an existing legal framework for confiscation. Confiscation is a policy objective in PNG's NSPs and the resources devoted to the Wartoto case is acknowledged, noting it is a significant case in the context of PNG. Despite this, the confiscation outcomes are very limited and are not in keeping with PNG's significant ML risks. Policy settings and adequate skilled capacity and institutional resources are lacking for tracing, freezing, seizing and confiscating proceeds and instruments of crime and undeclared cash/BNI.

219. **PNG has a low level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

10.9

- A. There have been no investigations, prosecutions or convictions for TF in PNG, which is consistent with PNG's low TF risk profile. PNG's TF risk assessment and the AT did not identify open-source information suggesting international terrorist groups or groups with links to international terrorist networks are operating in PNG or raising, moving and using funds in connection to PNG.
- B. If a TF case was identified, RPNGC would conduct the investigation. RPNGC lacks the full range of powers and investigation techniques (see R.31) and PNG has moderate shortcomings in its TF offence (see R.5).
- C. RPNGC and OPP lack a specific plan, skilled capacity and institutional resources to efficiently undertake their CTF functions should a TF case arise. PNG would leverage its strong relationships with regional partners for assistance should a TF case arise; however, this is not formalised. RPNGC and OPP have no policies, manuals or books for their CTF functions.
- D. PNG relies exclusively on FASU to identify potential TF. FASU has a formal daily TF SMR monitoring process that allows for expedited TF operational analysis and dissemination.
- E. While all key CTF related agencies are involved in PNG's national security framework, it is unclear the degree to which CTF is formally integrated into PNG's national counter-terrorism strategy or RPNGC's counter-terrorism policies or preparedness activities.

10.10

- A. PNG's legal framework to implement TFS-TF has minor shortcomings. Authorities do not have a strong understanding of TFS-TF and there has been minimal cooperation between the relevant competent authorities to support implementation. Recent efforts that have been undertaken by the Sanctions Secretariat, including the continued development of the Secretariat's website, are expected to improve such understanding.
- B. Screening practices vary widely across FIs and DNFBPs. While commercial banks and MVTs conduct automated screening, other FIs and DNFBPs screening is not systematic where it is occurring. These practices are not tested by the competent authorities.
- C. Given the low TF risk of PNG, no positive matches against the UN consolidated lists have been recorded.
- D. There has not been supervisory oversight to provide assurance that reporting entities are effectively implementing TFS-TF. Outreach and guidance to REs on TFS-TF has recently started; however, FIs and DNFBPs are not aware of the requirements under PNG legislation.

- E. PNG has undertaken some recent reforms to its NPO sector, including updating the legal framework of all NPOs and the assessment of the TF risks, but has not yet implemented focussed and proportionate measures for at-risk NPOs.

10.11

- A. PNG's exposure to WMD-related sanctions evasion of PF is relatively moderate. PNG has limited links or trade with DPRK in the last five years. No designated entities have been identified operating in PNG, or moving funds/assets in or through PNG.
- B. As discussed in R.7, PNG has moderate shortcomings in its framework to implement TFS relating to PF.
- C. International commercial banks and the money remitter have adopted their parent organisations' CPF processes, and domestic commercial banks are also screening transactions. All other FIs and DNFBPs are not consistently conducting screening, and some are not conducting screening at all. There is an overall lack of knowledge by all FIs and DNFBPs of their obligations under the domestic legislation. No funds or assets have been identified or frozen in PNG.
- D. Understanding of TFS obligations varies among competent authorities, with most exhibiting an overall understanding of the sanctions regime but lacking in-depth understanding of the specifics of the applicable legal framework.
- E. Outreach and guidance to FIs and DNFBPs on the issue of TFS relating to PF has recently started, and PNG is not monitoring and ensuring compliance with TFS for PF.

Recommended Actions

10.9

- A. PNG should address the deficiencies in the TF offence (see R.5), RPNGC's powers and investigation techniques (see R.31), and formally designate RPNGC to investigate TF (see R.30).
- B. PNG should enhance its capacity for potential TF identification and implement a CFT response plan in case a TF matter is identified. At a minimum this should include: (i) continued monitoring of the TF threats (both domestically and globally) and PNG's TF vulnerabilities, and (ii) continuing outreach and guidance to FIs and DNFBPs on TF issues to enhance their ability to identify TF and by extension the effectiveness of FASU daily TF SMR monitoring process.
- C. PNG should enhance its capacity for potential TF investigation and prosecution. At a minimum this should include: (i) enhancing RPNGC and OPP's skilled capacity to conduct their CTF functions through ongoing training and development policies, manuals and books, and (ii) strengthening cooperation and coordination with regional partners.
- D. PNG should integrate CTF into its national counter-terrorism strategy and any counter-terrorism policies and preparedness activities of RPNGC or other relevant authorities.

10.10

- A. Competent authorities should provide more practical guidance for FIs, DNFBPs, and the general public to improve their understanding and implementation of TFS-TF obligations and taking withholding/freezing action.
- B. PNG should continue implementing the recently started mechanism for communicating updates to the UNSCR sanctions list to all FIs, DNFBPs, and the general public for better enforcement. This could include publishing updates to sanctions lists on the Sanctions Secretariat website (and indicate where there has been an update) or developing email subscription updates or a real-time up-to-date online database with further instructions.
- C. PNG should raise awareness on TFS-TF obligations for TF among AML/CFT supervisors, LEAs, FIs and DNFBPs, and share enhanced risk information on transnational TF risks that may be relevant to identify designated persons and entities. This includes those acting on their behalf or at their direction. The Sanctions Secretariat should have adequate resources to fulfil its mandate.
- D. Supervisory authorities should collect and review the details of preliminary false positives identified by REs for effective enforcement of the TFS regime.
- E. PNG should continue making progress with the Association re-registration process (and take necessary enforcement actions against those NPOs operating without renewing their registration) without disrupting the implementation of a risk-based approach to protecting NPOs from TF abuse including by completing the recommendations in the 2023 Update to the NPO risk assessment, which are: (i) a further update to the NPO risk assessment, once the current re-registration process is complete, (ii) development of educational materials and best practice guide focusing on TF, and (iii) development (and also the implementation) of policies and procedures for monitoring the sub-set of at-risk NPOs.

10.11

- A. PNG should strengthen its TFS-PF framework in compliance with R.7. Particularly, PNG should amend its legal framework to include the legal power to supervise FIs and DNFBPs for compliance with TFS for PF obligations.
- B. PNG should implement TFS sanctions without delay relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing through enhanced legal, policy, coordination and cooperation frameworks.
- C. PNG should increase its outreach and awareness raising activities to competent authorities and FIs and DNFBPs to improve their understanding of potential domestic and transnational PF exposure, TFS obligations for PF, and TFS-PF implementation best practices.
- D. PNG should implement a clear and prompt mechanism for communicating updates to the UNSCR sanctions list to all FIs and DNFBPs and the general public.
- E. Once the legal power has been granted, competent authorities should include in their supervision practices the enforcement of TFS-PF, including issuing supervisory manuals and guidelines for the supervisor. PNG should support TFS implementation by FIs and DNFBPs including by

conducting outreach on obligations to apply TFS-PF including indicators of sanctions evasion, and PNG should effectively supervise all FIs and DNFBPs for compliance with their obligations.

Immediate Outcome 9 (TF investigation and prosecution)

220. As noted in IO.1, the NRA reasonably identifies PNG's TF risk as low. The AT did not identify open-source information suggesting international terrorist groups or groups with links to international terrorist networks are operating in PNG or raising, moving and using funds in connection to PNG.

Prosecution/conviction of types of TF activity consistent with PNG's risk-profile

221. There have been no TF investigations, prosecutions or convictions in PNG, which is consistent with PNG's TF risk profile as described in Chapter 1. Notwithstanding, OPP (as the TF prosecuting authority of PNG) has very limited skill capacity and no formal policies, manuals and books or training to prosecute potential TF should a case arise. Where a TF case may be identified, OPP could rely on its strong relationships with regional partners for prompt international assistance.

222. The Criminal Code provides the legal framework for prosecuting TF offences. There are moderate shortcomings in TF offence (see R.5) due to the inclusion of "without lawful justification" if the property is intended to be used or in the knowledge that it is to be used in whole or in part by a terrorist. As discussed in R.5, this raises a concern that the criminalisation of TF is narrowed regarding funds intended to be used by terrorists. There is an absence of any provision covering the financing of travel.

TF identification and investigation

223. While the NRA 2017 reasonably identifies PNG's TF risk as low, there is a more limited focus on TF in the NRA including that there is no detailed discussion of TF risks associated with neighbouring higher-risk TF jurisdictions or specific TF vulnerabilities in PNG. Competent authorities indicated that the TF risk level has not changed since the NRA. The knowledge of TF risks is limited across all FI, DNFBPs and competent authorities except for FASU. FASU's TF risk understanding is developing mainly due to its TF monitoring process (see below discussion).

224. PNG has not identified any instance of TF in the period under review and therefore RPNGC has not conducted any TF investigations. Limited understanding of, and focus on, specific TF threats and vulnerabilities (including evolving vulnerabilities) by all competent authorities (except for FASU) means PNG relies exclusively on FASU to identify TF. For example, PNG did not demonstrate it uses its international cooperation mechanisms to support potential TF identification.

225. FASU has a formal daily TF SMR monitoring process that allows for expedited TF operational analysis and dissemination. FASU has not submitted operational TF financial intelligence, and no TF SMRs have been filed by FIs or DNFBPs. While this is consistent with PNG's TF risk profile, besides commercial banks, all other reporting entities have limited ability to identify transactions suspected of TF. Through improvements to AML/CFT systems, domestic commercial banks' SMR reporting is improving year-on-year since 2018 and they have implemented automated systems to identify possible transactions or funds that might be suspected of TF. Foreign banks have group level policies, procedures and processes for TF SMR reporting. Were a TF SMR to be submitted, FASU's process would allow for prompt analysis and dissemination. To support TF reporting, FASU has conducted outreach

to FIs on the issue of TF including that the AML/CFT Guidelines provide some red flag indicators of TF (see also discussion in IO.3).

226. In addition, FASU's quarterly strategic analysis reports include analysis of the value of transactions to/from some foreign jurisdictions with high TF risk. PNG did not demonstrate use of this product by relevant competent authorities for TF-related policy or operational preparedness activities.

227. RPNGC would conduct the TF investigation (no formal designation – see R.30) should a case be identified but lacks sufficient skilled capacity and institutional resources to do so. The ARU has five members responsible for ML and TF investigations and asset recovery activities. There are no current personnel in the ARU with TF specific expertise or systematic TF training. RPNGC does receive some financial investigation training, primarily from regional partners, which includes components related to TF financial investigation. In line with PNG's TF risk profile, RPNGC has not investigated any TF cases. If a TF case were to be identified, RPNGC would most likely leverage its strong regional partnerships to seek international assistance with investigating the case. RPNGC has no formal policies, manuals and books for TF investigations; has significant challenges in recruiting, training, and retraining officers; and has moderate shortcomings in its investigation powers and techniques as required under R.31.

TF investigation integrated with -and supportive of- national strategies.

228. The NCC is responsible for overseeing PNG's AML/CFT regime, and at the time of the ME onsite visit, PNG was in a transition phase between the NSP 2017-2022 and 2023-2027. Both NSPs include CTF actions (adjusted to PNG's TF risk and context) assigned to relevant agencies; however, progression against actions directly relevant to CFT is not systematic and not prioritized by relevant agencies.

229. PNG indicated that its national counter-terrorism strategy is included in its National Security Policy and framework. At the time of the ME onsite visit, PNG's National Security Policy was under review. While the degree to which CTF is integrated into PNG's counter-terrorism strategy in the National Security Policy is unclear, NCC members and key CTF-related competent authorities are involved in PNG's national security framework. For example, the Sanctions Secretariat (responsible for TFS implementation) is the secretariat to the NSAC, which reports to the NSC, and RPNGC is a member of the NSAC and NSC.

230. Critically, however, RPNGC did not demonstrate integration of CTF into any agency level counter-terrorism policies or preparedness trainings or other activities. There are no manuals or books to incorporate CTF with broader terrorism investigations (if a case was to arise), or counter-terrorism actions, policies or preparedness activities.

Effectiveness, proportionality and dissuasiveness of sanctions

231. PNG's TF offence includes proportionate and dissuasive sanctions for natural and legal persons, which, consistent with PNG's TF risk profile, have not been applied in practice. The sanction for natural persons is a prison term up to 25 years imprisonment and/or a fine up to K500,000 (~USD139,000). The sanction for legal persons is a fine up to K1,000,000 (~USD 2780,000), which is considered proportionate and dissuasive in the context of PNG. These sanctions provide a high degree of discretion to judges, who would rely on precedent from other common law jurisdictions for sentencing, given the lack of local jurisprudence.

Alternative measures used where TF conviction is not possible (e.g. disruption)

232. PNG has not identified an instance of TF. Therefore has not taken steps to achieve the objectives of IO.9 by employing other criminal justice, regulatory or other measures to disrupt TF activities where it was not practicable to secure a TF conviction.

Overall conclusion on Immediate Outcome 9

233. There have been no TF investigations, prosecutions or convictions in PNG, which is consistent with PNG's low TF risk profile. PNG relies exclusively on FASU to identify potential TF with PNG not demonstrating that other relevant competent authorities would use their established mechanisms to support potential TF identification. The RPNGC and OPP lack skilled capacity and institutional resources to efficiently undertake their CTF functions should a TF case arise in PNG. Furthermore, RPNGC has moderate shortcomings in its powers and investigation techniques, and the TF offence has moderate shortcomings. Were a TF case to be identified, PNG could leverage its strong regional partnerships to seek international assistance. While all key CTF related agencies are involved in PNG's national security framework, it is unclear the degree to which CTF is formally integrated into PNG's national counter-terrorism strategy or RPNGC's counter-terrorism policies or preparedness activities.

234. **PNG has a low level of effectiveness for IO.9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

235. The Sanctions Secretariat, responsible for TFS implementation in PNG, is established under s.25 UNFS Act 2015 as the Secretariat to the NSAC established within the PM&NEC under the OSCA. The Sanctions Secretariat under the Department of PM&NEC is a member of the NCC. The resources allocated to the Sanctions Secretariat is one Sanctions Officer supported by the OSCA, a Division in the PM&NEC.

Implementation of targeted financial sanctions for TF without delay

236. PNG has a legal framework for UNSCR1267/1989 and 1988 and UNSCR1373 with minor shortcomings as noted in R.6. PNG, through the Sanctions Secretariat, has also developed the Sanctions Secretariat Procedural Guide - Operation of the United Nations Financial Sanctions Act 2015 (Procedural Guide) issued in 2021. This guide supports the general framework set out in the legislation; however, PNG has only recently started implementing it.

237. As discussed in detail in R.6, PNG has a streamlined mechanism in place to implement TFS-TF where any designation made by the UN Security Council or its Committees takes immediate effect in PNG through prohibitions on dealing and making assets or financial services available to designated persons and entities, which is functionally equivalent to a freeze. There is a provision allowing for publication of the sanctions lists in the National Gazette; however, the established mandate of publishing notices in the National Gazette is not being implemented since no notifications have been published. The consolidated UN listings have been circulated to reporting entities on one occasion recently before the onsite by the Sanctions Secretariat; however, no notifications have been made regarding updates to the list.

238. Through its domestic designation mechanism, PNG can designate individuals and entities as terrorists pursuant to UNSCR1373 with immediate application of the above mentioned prohibitions.

The Procedural Guide provides a procedure for making designation nominations at the UN and domestically in PNG. PNG has not made any proposal to either UNSCR 1267/1989 or domestically, which is in line with PNG's risk profile. During the onsite, the AT confirmed that the relevant authorities involved are unaware of the process that would be necessary to implement the procedures. PNG has not received any request for taking freezing actions from foreign counterparts through the UNSCR 1373 mechanism. Thus, the effectiveness of the domestic mechanisms in place has not been tested in practice. The authorities should now have clear knowledge on how to proceed if needed, since some competent authorities were previously completely unaware of the legal framework and mechanisms in place.

239. Outreach on TFS has been recent and at the time of the ME onsite visit it was yet to result in all relevant competent authorities, FIs and DNFBPs being aware of the Sanctions Secretariat and their TFS obligations. The Sanctions Secretariat's website (<https://pngsanctionssecretariat.gov.pg/>) including its continued development is a key tool in PNG's ongoing and future outreach on TFS-TF. The Sanctions Secretariat circulated to FI and DNFBPs an email which contained relevant data on the functions of the Sanctions Secretariat, Consolidated List and TFS guidance (days before the onsite) and the two newspaper publications (issued during the onsite). While this is a positive step towards conducting outreach, there is an overall lack of awareness on TFS obligations, which was confirmed during the interviews with both the reporting entities and competent authorities. This may be because TFS-TF specific outreach only commenced in May 2023, while the UNFS Act came into effect in 2016 (see Table IO.10-1).

240. According to the Procedural Guide, the Sanction Secretariat should issue email notifications to FIs and DNFBPs for any changes to the sanctions list of the relevant UNSCRs, but this has not taken place to date. The Sanctions Secretariat recently launched its website with the relevant links to the UNSCRs and Consolidated lists, which also includes a general guidance on TFS related obligations. Despite this, FIs or DNFBPs are not aware of the website or specific requirements PNG's legal framework for TFS.

Table IO.10-1. Outreach conducted by the authorities on TFS (for both TF and PF) obligations.

Date	Outreach Activity	Objective
May 17, 2023	FASU's Circular to REs	Indicate the Sanctions Secretariat function and reporting requirements
September 27, 2023	Email issued to Reporting Entities	Highlight the Sanctions Secretariat website and guidance on TFS requirements
October 5, 2023	Newspaper publication	Highlight the Sanctions Secretariat website and reporting and freezing requirements

241. PNG did not prioritise resources to the supervision of TFS obligation and deficiencies identified in IO.3 undermine the effective supervision and enforcement of TFS obligations. As discussed in IO.3, FASU's supervision of FIs and DNFBPs has focused on general AML/CFT obligations, and EDD in the case of commercial banks (which did not include coverage of TFS related obligations), with no TFS-TF specific supervision taking place in the period under review.

242. Commercial banks (international and domestic) have commercial screening systems and can easily identify designated individuals and entities. For the international commercial banks, there is also backup support from the parent companies for screening. The major MVTS (remittance company) also indicated that it has screening systems in place supported by the parent company. Generally,

commercial banks indicated a clear understanding of the need to screen transactions and client bases against the UN lists. All other FIs and all DNFBPs did not demonstrate screening procedures and are not screening all transactions against relevant UNSCRs. Some entities indicated they conduct some screening of customers at on boarding using third party software, but this screening is not conducted systematically since sometimes it is done only during the on boarding process.

4

243. Overall, in all FIs and DNFBPs, there was a lack of knowledge of freezing procedures based on domestic legislation and a lack of understanding of their obligations to freeze, should funds be identified in PNG (e.g. a commercial bank indicated that in the case of a match against a list, they would file an SMR but the transaction would take place). FIs and DNFBPs that are screening have focused their policies and procedures on foreign parents' requirements and/or global good practices rather than specifically on domestic requirements.

244. In terms of domestic cooperation, while the NCC has met during the period under review (see IO.1 for detail), discussion of TFS (for both TF and PF) has been limited to the mutual evaluation process, the establishment of the Sanctions Secretariat and its website, and the adoption of the Procedural Guide. Greater focus on the coordinated implementation of the requirements and increasing the understanding of the framework is needed at the NCC level and by all relevant competent authorities.

Targeted approach, outreach and oversight of at-risk non-profit organisations

245. While PNG has undertaken some recent reforms to its NPO sector, where PNG has implemented a one-size-fits all approach and not a targeted approach for at-risk NPOs. Actions to date have focused on updating the legal framework to support good governance of all NPOs (where several NPOs attended consultation sessions prior to the enactment of the AIA 2023) and the recent identification of NPOs at-risk of TF abuse in PNG.

246. In PNG all NPOs are associations and classified as two subtypes, namely member benefit association and public benefit association. During the period under review, the work of the ROC has progressed in terms of the new law, namely the AIA 2023, and a re-registration process to update the association registry is underway. NPOs have an obligation to register with the ROC under the new Act, and they must apply to register or re-register by 30 November 2023. The process is still ongoing.¹⁰³ The AIA 2023 has policies promoting accountability, integrity and public confidence in the administration and management of all NPOs in PNG (See c.8.2).

247. PNG has conducted two NPO risk assessments in 2022 and 2023 (finalized during the onsite visit) to supplement the assessment in the 2017 NRA. The 2023 NPO risk assessment concludes that the sub-set of NPOs at risk for abuse of TF totals 1,012 associations, which comprises public benefit associations (i.e. foundations or charities) and larger foreign NPOs. While the update used the information provided by the ROC, there was no engagement with the NPO sector in the process. The authorities have a dissemination plan, which they are encouraged to implement, since as of the last day

¹⁰³ In addition, the ROC has a mandate to maintain financial and programmatic information on registered associations and has powers under section 154 of the AIA 2023 to require the production of further documents or information reasonably necessary to ROC carrying out its functions. The information held by the ROC can be made available to the Police for any criminal investigation of TF. Whilst LEAs can access information, in practice the ROC does not hold all of the requisite information due to an absence of supervision and sanctioning over the filing of required information.

of the onsite visit, the risk assessment had not been shared with the sector. Together these risk assessments provide for a risk-based approach; however, due to the recent completion of the 2023 risk assessment, PNG is yet to implement proportionate measures for identified at-risk NPOs. It is important to highlight that the implementation of the general requirements undertaken to date will be useful to this effect. From discussion with various NPOs, the AT did not receive any concerns that would impact their activity with the implementation of the AIA 2023.

248. The AT and PNG (through the 2017 NRA and 2022 and 2023 NPO risk assessments) agree that the risk of TF abuse of NPOs in PNG is low. Therefore, implementation of proportionate measures for the identified sub-set of at-risk NPOs is critical to not disrupting the important role NPOs play in PNG. The 2023 risk assessments update include recommendations that PNG should implement, including: (i) a further update to the NPO risk assessment, once the current re-registration process is complete, (ii) development of educational materials and best practice guide focusing on TF, and (iii) development of policies and procedures for monitoring the sub-set of at-risk NPOs.

Deprivation of TF assets and instrumentalities

249. PNG has not identified terrorism-related sanction hits and has therefore not had an opportunity to apply in practice the mechanisms for freezing assets related to the UNSCRs. FIs, DNFBPs and competent authorities have at their disposal legal mechanisms and instruments for applying freezing measures under the UNFS Act 2015 as described under R.6. Therefore, there has been no criminal freezing or confiscation orders in relation to terrorists, terrorist organizations or terrorist financiers.

250. The effectiveness of freezing and confiscation in the context of terrorism and TF investigations and prosecutions is considered at IO.8.

Consistency of measures with overall TF risk profile

251. PNG's legal framework for TF has minor shortcomings and as discussed above commercial banks and MVTS are conducting screening using commercial screening systems with compliance systems and processes available from those with foreign parents. Screening by these FIs is consistent with PNG's TF risk profile with these FIs considered the most important sectors regarding TFS-TF implementation in PNG. As discussed above, where screening is occurring in other FIs and DNFBPs it is not systematic. There have been no assets frozen, which is not inconsistent with PNG's TF risk profile.

252. There is a limited understanding among FI and DNFBPs of their domestic obligations to take freezing/withholding actions (although international commercial banks have a solid understanding based on the parent financial institutions' requirements on this matter). The outreach and awareness raising activities have been the creation of the Sanctions Secretariat website (which was recently launched); two recent emails to FIs and DNFBPs with attached guidance on TFS; and the issuance of two newspaper publications (during the onsite visit). These publications highlighted the requirements under the UNFS Act 2015 and the role of the Sanctions Secretariat, links to the Consolidated Lists, procedures for delisting/unfreezing, SMR reporting and how to deal with false positives. Whilst this is a positive step towards improving compliance, the efforts have recently started and should continue. Outreach and awareness raising should be organized for not only FIs, DNFBPs and competent authorities, but also the general public.

253. Regarding NPOs and as discussed above in detail, actions to date have focused on updating the legal framework to support good governance of all NPOs and the recent identification of NPOs at-risk of TF abuse in PNG. As risk of TF abuse of NPOs in PNG is low, the current regime requires refinement and focusing of proportionate measures for the sub-set of at-risk NPOs to be fully consistent with PNG's overall TF risk profile.

Overall conclusion on Immediate Outcome 10

254. PNG has minor shortcomings in its TFS-TF regime with designations having immediate effect in PNG including imposing the prohibitions on dealing and making assets or financial services available to designated persons and entities (which is functionally equivalent to a freeze). Commercial banks and MVTS are conducting screening using commercial screening systems with compliance systems and processes available from those with foreign parents. These FIs have not had positive matches against the UN consolidated list or frozen any funds, consistent with PNG's TF risk profile. Where screening is occurring in other FIs and DNFBPs it is not systematic. The efforts on communication of the sanctions, guidance and outreach have recently started and include establishing the Sanctions Secretariat website and publishing the procedures for delisting, unfreezing and communication mechanisms. While there is an overall lack of knowledge of the domestic requirements by reporting entities of their TFS obligations, most commercial banks are guided by stricter regulations of the parent banks. PNG has undertaken some recent reforms to its NPO sector and has increased its awareness of the TF risk. To some extent, PNG has implemented measures on all NPOs (including those at risk) which will assist them in addressing the identified TF risks. While there has been no targeted approach for at-risk NPOs, the are plans to do so.

255. **PNG has a moderate level of effectiveness for IO.10.**

Immediate Outcome 11 (PF financial sanctions)

256. PNG has established its legal and regulatory framework for TFS-PF which applies to all FIs and DNFBPs, postal enterprises, and natural and legal persons. The moderate technical deficiencies identified in R.7 need to be addressed for the effective implementation of TFS obligations related to PF.

257. PNG has some exposure to specific risks of sanctions evasion by persons and entities associated with DPRK since PNG has a diplomatic relationship with the DPRK; however, there is no embassy located in PNG. During the period under review, there have been three visas issued to DPRK nationals and 226 to nationals from Iran¹⁰⁴ (including 113 refugee permits).

258. PNG provided information on trade and investment with DPRK (e.g. volume, types of goods) and indicated that there has not been any imports/exports to/from Iran. Based on the information provided, the AT considers that the extent of the risk of sanctions evasion under the relevant UNSCR regimes is moderate.

259. Domestic cooperation of the implementation of TFS requirements is covered under IO.10 (which covers both TF and PF).

¹⁰⁴ On 18 October 2023, the TFS elements of UNSCR 2231 expired; however, the onsite for PNG occurred before this date, hence it is included in the analysis.

Implementation of targeted financial sanctions related to proliferation financing without delay

260. In line with the analysis in IO.10, TFS-PF obligations enter into force and effect in PNG immediately. The Sanctions Secretariat has only undertaken minimal recent actions to support implementation by FIs and DNFBPs consistent with the Procedural Guide. They have also recently sent an email notifying all FI and DNFBPs of PNG's TFS-PF requirements, including a link to the Sanctions List. Given the recent issuance of the email, no updates to the UNSCR list were subsequently shared (since there were no updates); FI and DNFBPs do not seem to have taken action based on the communication; and there has not been a publication in the National Gazette of sanctioned entities as required by the UNFS Act 2015. Since the Consolidated List has recently been uploaded in the Sanctions Secretariat website, there is no notification published when the UNSCR list is updated.

261. As discussed in IO.10, commercial banks and MVTS use screening systems to implement TFS-PF. For the international commercial banks, there is also backup support from the parent companies for screening. The major MVTS (remittance company) also indicated that it has screening systems in place supported by the parent company. All other FIs and all DNFBPs did not demonstrate screening procedures and are not screening all transactions against relevant UNSCRs. Some entities indicated they conduct basic name match checks as part of their CDD procedures.

Identification of assets and funds held by designated persons/entities and prohibitions

262. During the period under review, PNG has not identified any funds or other assets of designated individuals and entities designated by the UNSC in relation to PF.

263. As with the TFS-TF regime, while some screening systems for detecting bilaterally sanctioned individuals or assets are in place, the effectiveness of such systems is uncertain. Competent authorities do not appear to be sufficiently proactive in investigating the role of PNG entities or related persons in sanctions evasion. FASU is responsible to receiving and channelling financial intelligence on potential instances of sanctions evasion; however, no evidence of analysis of false/positives SMRs was provided to the AT. FASU has monitored IEFTR transactions in the database to ascertain transactions related to Iran and DPRK and indicated that there were no transactions to or from those jurisdictions during the period under review.

264. The Sanctions Secretariat has recently issued guidance on PF-related sanctions in its website. Written guidance via email (see Table IO.10-1) on the requirement to identify assets and funds held by designated persons and entities has been shared with the FIs and DNFBPs. In practice, many of the commercial banks would be able to identify a sanctioned person if they sought financial services through their sanctions screening software. In the event this occurred, the relevant authorities are not aware of the process that should follow and in practice, this has not taken place. For those without sanctions screening software, it was not evident that any screening was taking place. Additionally, commercial banks limit their understanding of their action in this scenario, to filing an SMR.

265. Competent authorities rely on the Sanctions Secretariat regarding the communication of sanctions under the relevant UNSCRs. Since the actions undertaken by the Sanctions Secretariat under the period under review have been limited, this creates a fundamental deficiency in the implementation of the requirements. For example, PNGCS relies on the Sanctions Secretariat to notify them of a country that has been sanctioned (which would only limit the coverage of all the requirements since this wouldn't cover individuals). There is no evidence that this has happened in practice. PNGCS would use the 'Cargo Accounting System' which would include a review of a particular natural or legal person that

may have been flagged; however, there is no legal requirement or guideline in order to coordinate and implement screening by the authorities.

266. PNGICSA is responsible for managing PNG's borders in relation to the movement of persons in and out of the country. They do not have the systems to conduct screening and would only work with the Sanctions Secretariat and FASU for a specific individual. There has been no engagement as it relates to the relevant UNSCR lists.

267. NMSA is responsible for monitoring the movement of vessels through PNG. NMSA relies on the APCIS which monitors all the ships within this Asia Pacific region (including PNG). The database is part of the system that keep the record of all ships that inspectors of all members states use to identify the ships and to conduct inspection, and while it is not used to track sanctioned vessels, it may assist in detaining them. In practice, this has not been used to detect potential PF related activities. The NMSA can refer to the MDA department within NMSA to identify passage of sanctioned vessels through PNG waters, but this has not happened in practice. The MDA can use the MIRS to verify identity of vessels using the sanctions compliance screening; however, no activity has been detected for the period under review.

268. Discussions are underway for a potential MOU between the Sanctions Secretariat, FASU, IPA and NMSA. Through this MOU, it would be expected that this would strengthen the cooperation between those agencies to implement TFS requirements.

FIs and DNFBPs' understanding of and compliance with obligations

269. While PNG has the legislative regime for TFS-PF and FIs and DNFBPs are subject to comply with obligations, there is an inconsistent application of the requirements. There is a fundamental gap in FIs (except for commercial banks' sanctions screening mechanisms to some extent) and DNFBPs in their understanding and compliance with obligations to implement UN TFS for PF.

270. There has not been outreach on PF beyond the creation of the Sanctions Secretariat website, the written guidance via email and the two public notices noted above. Training and capacity development for FIs and DNFBPs has been limited to an e-learning course on CPF and competent authorities' attendance at a regional workshop. The course and regional workshop both had a focus on the international requirements and framework¹⁰⁵ and no coverage of domestic requirements. The limited action of PNG regarding CPF for the period under review is a concern, given that the UNFS Act 2015 was adopted almost 8 years ago. The fact that outreach has recently started and there is a lack of knowledge on the domestic framework is concerning; however, the recent positive efforts should continue. The authorities should continue raising awareness on the potential implications for non-implementation TF-PF and further educate the entities on the associated obligations, given the lack of understanding and knowledge of the obligations by FIs, DNFBPs and competent authorities.

271. Accordingly, commercial banks indicated the use of automated software to screen customers and transactions against the prescribed UN lists. Further, one domestic bank indicated staff have been trained regarding PF risks and the capabilities of the automated monitoring systems used to screen transactions also incorporate PF lists to mitigate such risks.

¹⁰⁵ 11 representatives from 4 FIs (including 3 commercial banks) completed an e-learning course on CPF. The authorities (1 officer from BPNG and 1 from FASU) attended the 3-day Counter proliferation Finance Workshop for the Pacific Island Region in June 2023.

272. In practice, FIs (commercial banks and MVTS) and some DNFBPs (accounting firm) undertook sanction screening, as part of their CDD processes to some extent. The AT concluded that FIs have a limited understanding, while DNFBPs have a low level of awareness in combatting PF. None of the reporting entities are aware of the legislation in PNG and how to proceed if a match were to happen for those who have a screening mechanism.

Competent authorities ensuring and monitoring compliance

273. There is no competent authority in PNG to monitor and ensure compliance by FI and DNFBPs with their obligations regarding TFS-PF. In general, the obligation to supervise compliance with TFS-PF obligations appears to reside with FASU (the AML/CFT Supervisor) with the authorities indicating that this could be done under s.17 of the AMLCTF Act (compliance with CDD obligations). There is a lack of monitoring and supervision of TFS-PF, and specific PF supervision manuals or guidance.

274. Sanctions are available for violations of TFS-PF as outlined in c.7.3 but have not been enforced in practice.

Overall conclusion on Immediate Outcome 11

275. PNG established its legal and regulatory framework for TFS-PF in 2015, which as highlighted in R.7, has moderate shortcomings. There is no competent authority in PNG to monitor and ensure compliance by FI and DNFBPs; therefore, PNG is not monitoring and ensuring compliance with TFS-PF. The conclusion under IO.10 also apply since there is minimal implementation of TFS requirements for PF by most FIs (except for commercial banks) and DNFBPs. Communication of the sanctions, guidance and outreach have recently started. There is an overall lack of knowledge of the domestic requirements by reporting entities of their TFS obligations. Moreover, reporting entities are not able to differentiate TF from PF. No assets were identified or frozen in relation to the relevant UNSCRs.

276. **PNG has a low level of effectiveness for IO.11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

- A. Understanding of AML/CFT obligations and implementation of mitigating measures are generally at a satisfactory level for the commercial banking sector. Commercial banks have devoted a high level of resources towards compliance to assist with the implementation of mitigating measures in recent years. NBFIs and DNFBPs understanding of ML/TF risks and AML/CFT obligations varies with these entities in the very early stages of introducing effective mitigating measures.
- B. Commercial banks have demonstrated awareness and have in place, risk-based CDD and record keeping measures. The level of application for CDD and record keeping varies significantly for NBFIs and DNFBPs. Larger NBFIs and DNFBPs with international connections leverage parent company internal controls to support CDD, which are adapted for PNG's risk and context to some extent. Smaller NBFIs and DNFBPs place a heavy reliance on the banks' CDD process as a risk mitigating means.
- C. Application of enhanced or specific measures by FIs (including commercial banks) varies within the sectors. Some commercial banks have strengthened policies, procedures and controls which specifically addresses the application of EDD. In respect of PEPs, commercial banks generally, have a good understanding of the risks associated with PEPs. Based on FASU's targeted supervision, domestic commercial banks have undertaken recent reforms to enhance implementation of PEP obligations. Foreign commercial banks align their policy and procedures with global policy that includes addendums specifically for PNG. Implementation of PEP obligations across NBFIs and DNFBPs varies.
- D. Through improvements to AML/CFT systems, commercial banks' reporting has increased year-on-year since 2018 with 2022 SMR reporting more in line with the risks of the sector. Commercial banks have measures to prevent tipping off. Non-bank and DNFBPs have very limited systems and processes for reporting obligations. There has been no SMR submitted by NBFIs and DNFBPs. This is not consistent with the ML/TF risks of these sectors, particularly lawyers.
- E. Application of internal AML/CFT controls and procedures are demonstrated by the commercial banking sector for all AML/CFT functions including controls at the financial group level. The application of internal AML/CFT controls is limited in NBFIs and DNFBPs.
- F. PNG does not have any locally incorporated VASPs operating during the period assessed and there is no evidence of material foreign VASPs operating within PNG.

Recommended Actions

- A. PNG should address all preventive measures technical compliance gaps, chiefly those with moderate and major shortcomings (R.12, R.14, R.16, R.19, R.20, R.22, and R.23). This should also include harmonization between prudential requirements and AML/CFT requirements in PNG.

- B. PNG should dedicate resources to develop sector specific guidance to assist FIs and DNFBPs' understanding of their respective ML/TF risks and AML/CFT obligations particularly in the NBFIs and high-risk DNFBPs sectors. Key focus is needed on fundamental AML/CFT obligations including risk assessments, CDD, record-keeping, on-going monitoring (including transaction monitoring), enhanced and specific measures and SMRs.
- C. PNG should work with reporting entities to enhance their sectoral and entity-wide risk assessment and ML/TF risk understanding with the aim to support FIs and DNFBPs to set internal controls and procedures appropriately, and implement effective mitigating measures for PNG's ML/TF risks.
- D. PNG should take practical steps to support all reporting entities to apply all EDD measures (including TFS for TF - see IO.10). Priority should be given to identifying PEPs (domestic and foreign), their family members and close associates. This should include specific guidance for reporting entities to identify PEPs and practical steps on applying enhanced or specific measures.
- E. PNG should enhance higher risk FIs and DNFBPs ability to identify suspicious matters and report SMRs to the FIU. This should include the development of sector specific guidance for high-risk sectors outlining potential red flags relevant to the sectors that may trigger suspicious matters.
- F. PNG should take practical steps to support all reporting entities apply internal controls and procedures. This should focus on higher-risk sectors first, but also include providing guidance and outreach to assist entities implement programmes against ML/TF based on their risks and business size.

277. The relevant Immediate Outcome considered and assessed in this chapter is IO.4.¹⁰⁶ The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

Immediate Outcome 4 (Preventive Measures)

278. The findings below are based on interviews with representatives from the private sector; case files; documentation from some banks and a few NBFIs and DNFBPs; examples of sanction related matters; and other information provided by the supervisor relevant to the materiality and risks of each sector. The AT met with all commercial banks operating in PNG and a sample of NBFIs and DNFBPs.

Relative importance

279. The commercial banking sector is considered the most important sector. This sector represents over two thirds of financial sector assets (and around 90% of deposits) and in PNG's 2017 NRA the sector is rated highly vulnerable to ML/TF. Within the sector, the most importance has been

¹⁰⁶ When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

given to PNG's two domestic commercial banks given their customer base and market exposure within PNG.

280. The next level of importance is lawyers given the vulnerability of the sector as outlined in the 2017 NRA and publicly available information linking the sector with financially motivated criminal offending in PNG. This level of relative importance was supported by the interviews conducted during the ME onsite from both the private sector and public agencies.

281. The AT weighted moderately important the remittance sector given risks associated with laundering abroad and noting the vulnerability is somewhat mitigated by commercial bank for products and services offerings. Money changers due to the high use of cash in PNG, and larger NBFIs were also moderately weighted. Other sectors weighted moderately important include accountants, gold exporters and real estate agents based on the associated vulnerabilities in the sectors as outlined in the 2017 NRA.

282. Less importance has been given to small NBFIs due to the nature of the products and services offered, insurance (as life insurance is mainly restricted to products and services for employees of large international companies), securities dealers/brokers (PNG's capital market is very small), superannuation (products and services allow limited avenues to launder money) and savings and loans societies (the sector is relatively small, strongly connected to the commercial banking sector and offering simple products and services).

283. PNG does not have any locally incorporated VASPs operating during the period under review and there is no evidence of material foreign VASPs operating within PNG. PNG's recently developed SRA on VA/VASPs has demonstrated zero or minimal presence of virtual assets and VASPs in PNG.¹⁰⁷ PNG was in the process of making legislative changes to consider the risks associated to VA/VASPs. Therefore, VASPs are not included in the following analysis.

284. PNG has included MV dealers in its AML/CFT regime due to their use of cash and high ML vulnerability, and prevalence of government vehicle frauds. As MV dealers are not DNFBPs under the FATF Standards, they have not been formally included in the relative importance and are primarily included in the analysis and discussion of IO.1.

Understanding of ML/TF risks and AML/CFT obligations

285. Overall, understanding of PNG's ML risks and AML/CFT obligations varies significantly between commercial banks, NBFIs and DNFBPs. Consistent with PNG's low TF risk profile, TF risk understanding is less advanced across all FIs and DNFBPs. FASU has taken steps to promote FIs and DNFBPs understanding of their AML/CFT obligations and ML/TF risks including delivering outreach sessions across the sectors and in key locations throughout PNG (see also IO.3). The private sector was involved in the 2017 NRA through the questionnaires and interviews, and given the maturity of PNG's AML/CFT system at that time, FIs involvement in the NRA seems reasonable, but involvement of DNFBPs was limited.

286. Commercial banks demonstrated a high-level understanding of their AML/CFT obligations and PNG's ML risks. Their understanding was less advanced for TF risk and based more on international TF risk and TFS-TF compliance. Commercial banks have identified corruption, tax fraud, and illegal

¹⁰⁷ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012_PNG-VASP-Risk-Assessment-v.10.pdf, accessed November 2023.

logging as some of the highest generating offences in PNG. This generally aligns with the risk and context of PNG as identified in the 2017 NRA. As a result of FASU's AML/CFT supervision, significant resources have been devoted by commercial banks in the development of ML/TF risk understanding and AML/CFT obligations over the last few years. As an example, one commercial bank recently implemented a new core banking system including a tiered approach for monitoring to specifically address the relevant ML risks of PEPs. Another bank has taken steps to close specific accounts of entities in the logging industry (see Case IO.4-1).

Case IO.4-1: Closure of accounts linked to illegal logging

In June 2022, FASU conducted an intelligence-led on-site inspection of a bank. Part of this inspection included an examination of the accounts of certain companies involved in logging in PNG. During that inspection the bank advised that they had closed all but two accounts of companies involved in logging due to the public formal warning that FASU issued to another bank.

287. PNG's two foreign commercial banks have lesser ML exposure given the market segment they serve, nonetheless, they demonstrated a matured understanding of PNG's ML/TF risks and AML/CFT obligations alongside being able to leverage parent frameworks to mitigate ML/TF risks and implement AML/CFT obligations.

288. The understanding of ML risks and AML/CFT obligations varies amongst NBFIs with TF risk understanding being limited. Though some NBFIs have displayed ML awareness generally, particularly in relation to PEPs, it was unclear whether NBFIs' have considered the associated risks specific to their sector. Understanding of AML/CFT obligations is negligible in most NBFIs. Most NBFIs have formed a view that CDD is conducted by the commercial banks and therefore the AML/CFT obligations application to NBFIs is limited. Equally, NBFIs demonstrated some level of understanding on AML/CFT obligations such as carrying out CDD, but this appears to be limited to standard CDD. However, a good understanding of both ML/TF risks and AML/CFT obligations was observed in the payment sector. Fundamental gaps in the implementation of an effective risk assessment and programmes are still in progress across all the NBFIs sectors.

289. Non-commercial bank remittance within PNG is provided through an agency relationship with local agents conducting remittance through international remittance providers. Agents demonstrated some understanding of ML/TF risks and AML/CFT obligations. However, there are major gaps identified specifically in relation to its understanding of AML/CFT obligations particularly associated to reliance on third parties.

290. The understanding of ML risks varies amongst DNFBPs. TF risk understanding is limited. Law and accounting firms, that are part of an international group, demonstrated to have conducted risk assessments as normal part of business. Local law and accounting firms, real estate agents, and gold exporters do not conduct risk assessments of their customers.

291. Lawyers and accountants are high-risk, as indicated by the NRA, due to their provision of TCSPs services and the operation of their trust accounts. While these sectors have a fair understanding of ML risks, the international firms have more robust AML/CFT programs than others. These controls are a result of their global policy, and it is unclear how these controls are tailored to fit the PNG context.

292. Real estate agents have very little to no understanding of their ML/TF risks and AML/CFT obligations. Gold exporters have only recently been covered under FASU's supervisory activities, and although the NRA makes very little assessment of DPMS, it considers environmental crimes including illegal gold mining sector and gold smuggling as higher risk issues. Gold exporters have some understanding of these risks.

293. Supervisory activities from FASU are more targeted towards AML/CFT related obligations, which results in the increased awareness and understanding of all DNFBPs except for real estate agents.

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Application of risk mitigating measures

294. Commercial banks have established AML/CFT policies and procedures in place and have implemented a risk-based approach. This includes risk rating individual customers and conducting transaction monitoring reflective of the risks. Effectiveness of the policies and procedures could only be assessed based on recent developments to which, domestic banks are still in the process of developing. Banks with foreign parents have much more established AML/CFT policies and procedures in place, with transaction monitoring being conducted through a well-developed system in place along with dedicated resources focusing on this mitigation. Overall, while the NRA is available and with the supervisors' recent increase in compliance engagement activities, the commercial bank sector is still in the process of fully embedding effective AML/CFT policies and procedures to effectively mitigate the ML/TF risks reflected in PNG.

295. Most NBFIs interviewed are still in the very early stages of implementing effective mitigating measures commensurate with their risks, which reflects the lower level of understanding of risk generally across the sectors. The NBFIs sectors have placed a heavy reliance on the commercial banks' CDD processes as risk mitigating measure. The current level of implementation evidenced includes some smaller NBFIs either not having a transaction monitoring system or a system in place that does not reflect the risks faced by the entity. Others are still using a manual process to carry out transaction monitoring. Some NBFIs have only recently developed or are in the process of updating their AML/CFT risk assessments and AML/CFT programmes to an effective level following the compliance engagement from the supervisor. Some practical steps were demonstrated by the sectors to prevent and mitigate ML/TF risks, which includes not accepting cash, strict restrictions prior to the transfer of funds both inwards and outwards and transaction limitations on customers.

296. Application of mitigating measures varies between different DNFBP sectors, according to their understanding of ML/TF risks. Some DNFBPs, such as lawyers and accountants, have very robust policies and procedures in place to comply with regulatory requirements. Dealing in cash is identified as a key risk in this sector and it appears that these DNFBPs do not accept payments in cash and place a heavy reliance on the banks CDD processes as risk mitigating means for their transactions. Lawyers and accountants often exercise careful selection of clients before entering into engagements. Due to the risks associated with PEPs and the logging sector, some of them opt not to accept such individuals or entities as customers. This is a direct correlation to the narrow understanding of ML/TF risks present in this sector.

Application of enhanced or specific CDD and record keeping requirements

297. Commercial banks have demonstrated awareness and have in place, risk-based CDD and record keeping measures. Consistent with FASU's longer-term remedial proceedings stemming from its full-scope AML/CFT supervision of domestic banks in 2018 (see IO.3), strong focus has been placed by

these banks on the fundamental requirement to have CDD completed, and records held at the time of on boarding. A targeted enhanced CDD onsite inspection (in 2019) and related enforcement of PNG's largest bank (see IO.3), has resulted in significant enhancement to the banks' implementation of enhanced CDD and ongoing monitoring. Further developments are also planned in accordance with ongoing projects to enhance the banks' core banking and AML/CFT systems. Similarly, the ongoing targeted supervision proceedings with PNG's other domestic commercial bank has resulted in a strong commitment by the bank to improve its processes around enhanced CDD and ongoing monitoring - these reforms were ongoing at the time of the ME onsite visit.

298. Foreign commercial banks can leverage off well-established policies, procedures and controls for implementation of risk-based CDD, and these entities are not providing retail financial services and have taken steps to reduce their exposure to some of PNG's key ML risks. At the time of the ME onsite visit, targeted enhanced CDD onsite reports were not complete (see IO.3). The AT understands that these entities could further refine their enhanced CDD policies and procedures for PNG's context taking into consideration their more limited exposure to PNG's ML/TF risks.

299. NBFIs have demonstrated a high level of awareness with regards to the need to obtain and verify CDD information. Despite the level of awareness, there are fundamental gaps in having specific AML/CFT policies and procedures in place (see below) and the NBFIs sectors have not demonstrated systematic application of risk-based CDD and record-keeping. These deficiencies are most common in smaller entities that rely on a manual process for both CDD and record keeping. Larger NBFIs and DNFBPs with international connections leverage parent company internal CDD controls, some of which are adapted for PNG's risk and context.

300. There are inconsistencies between prudential standards and AML/CFT requirements regarding the level of CDD required for prudential standards purposes in comparison to the level of CDD required to be compliant with the AML/CFT Act. This has created possible confusion in reporting entities' (particularly smaller NBFIs) understanding of the requirements given the contradicting position taken. Notwithstanding, FASU and BPNG are committed to greater harmonization of AML/CFT and prudential requirements.

301. At a national level, the lack of formal identification system has somewhat contributed to the challenge for FIs to obtain the necessary information or verify such information obtained. This includes the inability to both verify an individuals' identity or an individual's address. Nonetheless, FIs have demonstrated some level of understanding to address such challenges and have taken pragmatic steps to meet their AML/CFT obligations. Practical steps taken by FIs include obtaining letters or conducting interviews of others to verify the identity of individuals being onboarded. This practice is more common for smaller NBFIs operating in rural areas and is important to support and promote financial inclusion.

302. Regarding CDD on BOs and companies, all FIs in PNG demonstrated a high level of awareness of their AML/CFT obligation specifically in relation to the need to obtain and verify CDD information. However, only commercial banks have policies and procedures for the collection of BO information (including those that can leverage off established foreign/global policies, procedures and controls). In respect of verification of companies, a heavy reliance was placed on the IPA; however, entities flagged challenges regarding the reliability of information held. At the time of the onsite visit the IPA was undertaking significant steps in re-registration to improve the information it holds (see IO.5).

303. Except for larger DNFBPs with foreign parent companies, DNFBPs do not undertake risk based CDD measures including on BOs or ongoing monitoring (where applicable). Larger DNFBPs with foreign

parent companies rely on CDD policies and procedures of parent companies with these policies and procedures requiring refinement for the specific context of PNG (e.g., challenges in reliability of information held on companies by ROC). Some DNFBPs do undertake standard CDD at on boarding or on the basis of standard business, and record keeping requirements is generally applied across all DNFBPs. DNFBPs with customers in the rural areas, especially gold exporters, highlighted a significant challenge in obtaining and verifying identity. As a result, the purchase of alluvial gold is applied at a lower gram level for local miners with CDD process only applied on regional aggregators for purchases over 200 grams. This approach is well below the threshold set in Recommendation 22 and in line with lower risk transactions as such.

Application of EDD measures

304. Commercial banks have policies, procedures and systematic processes covering EDD measures. NBFIs and DNFBPs with international connections or parents leverage these relationships for implementation of EDD, where applicable, but these processes are not fully adapted to PNG. Where EDD is undertaken by NBFIs and DNFBPs it is not systematic or supported by comprehensive policies and procedures. Given PNG's risk and context, most weight is placed on implementation of PEPs and wire transfer controls.

Politically exposed persons

305. Implementation of EDD for PEPs is most advanced in commercial banks. All FIs identify PEPs as high-risk, but the identification and maintenance of up-to-date domestic PEPs lists within all NBFIs and DNFBPs is a key challenge (specifically for local government officials). There are moderate shortcomings in PNG's PEP requirements as there is no requirement for FIs to obtain source of funds and source of wealth of beneficial owners who have been identified as PEPs. Guidance has been published by FASU for the sectors to conduct EDD on beneficial owners who are PEPs despite this technical deficiency.

306. Commercial banks generally, have a good understanding of the ML/TF risks associated with PEPs and demonstrated an understanding of the requirements to identify and to apply enhanced measures on PEPs. This is driven by FASU's targeted AML/CFT supervision of all commercial banks ¹⁰⁸ focusing on enhanced CDD including PEPs (see IO.3). In response to FASU targeted supervision in 2019 and enforcement activities, one domestic commercial bank has significantly enhanced its implementation of PEP requirements, which now includes a tiered approach to rating PEPs and implementing requirements. In response to FASU's targeted supervision in 2021 (identifying fundamental gaps in the bank's implementation of PEPs requirements), a second domestic commercial bank is in the process of enhancing its policies, processes and procedures to implement PEP requirements. Foreign commercial banks align their policy and procedures with global policy that includes addendums specifically for PNG. Though small regulatory teams are based in country, there is group level support from a regulatory compliance perspective.

307. All NBFIs have demonstrated a good level of understanding of the risks associated with PEPs; however, they do not apply mitigating measures commensurate with these risks. This includes an inability to identify close associates of PEPs, PEPs that are BOs, or persons acting on behalf of a PEP. Although there was a strong focus on source of wealth and source of funds, there was a lower level of

¹⁰⁸ At the time on the ME onsite visit, targeted onsite inspections of two foreign commercial banks were complete but the reports were not finalised.

attention given to the need to take enhanced measures to verify the information obtained. Some NBFIs have sought to develop internal PEP lists, but it is not clear if policies, procedures and processes are in place to accurately and reliably identify PEPs and keep lists up to date. Other NBFIs rely on identification through subscription-based screening solutions; however, these subscription-based screening solutions do not include all domestic PEPs.

308. DNFBPs have varying levels of understanding of risks associated with PEPs. While PEPs are generally considered as high-risk customers across all DNFBPs, it is unclear whether enhanced measures are applied across all DNFBPs. Some DNFBPs do not accept PEPs as clients, as a mitigating measure. Of those DNFBPs dealing with PEP clients, some require management approval before onboarding them as a client and PEPs are identified through subscription-based screening solutions and open-source information. As above, subscription-based screening solutions do not include domestic PEPs, and DNFBPs do not have policies and procedures that provide for systematic identification of domestic PEPs. It is also unclear how checking is performed for associates of PEPs, PEPs that are BOs, or persons acting on behalf of a PEP.

Correspondent Banking

309. Domestic commercial banks have implemented adequate correspondent banking requirements in line with the FATF standards and global good practice. This includes assessing the compliance level of AML/CFT controls of correspondent banks. There are minor shortcomings in the requirement to clearly understand the respective AML/CFT responsibilities of each institution (see R.13). Foreign commercial banks within PNG leverage international parents for correspondent banking and implement their correspondent banking policies and procedures. Commercial banks have policies and procedures in place to prohibit relationships with shell banks.

New Technology

310. As discussed in R.15 and c.22.4, FIs and DNFBPs are required to undertake a risk assessment for new technologies and mitigate risks identified, but there is no explicit requirement to undertake the risk assessments prior to the launch or use of such products, practices and technologies.

311. Commercial banks assess some new technical risk but new technology adoption for products and services offered by commercial banks in PNG appears to be limited.

312. With the exception of mobile wallet payment (discussed below), new technology adoption for products and services offered by NBFIs is limited and restricted to larger entities with international connections. Any risk assessment undertaken by the parent company is unlikely to be adapted to the specific risk and context of PNG.

313. Since the 2011 MER, PNG has made significant efforts in promoting an efficient national and international payments system. PNG has introduced a national payment system which includes the Kina Automated Transfer Systems (KATS) and the PNG National Switch. The PNG National Switch was developed more specifically for card payments and mobile payments. It is unclear whether FIs have undertaken steps to identify and assess the ML/TF risks that may arise in relation to any new development of new products and new business practices as a result of PNG's national payment system.

314. PNG has one e-wallet service provider with biometric onboarding being adopted. It is unclear if risks specific to PNG were assessed; however, this risk is mitigated to some extent by a registered sim card requirement, with sim card registration including some customer due diligence. Threshold

limitations have also been introduced to mitigate ML/TF risks associated with this product. Though some mitigation processes have been put in practice, the formal development of AML/CFT risk assessments and programme specific for PNG is still in progress.

315. As referred to previously, PNG's exposure to VA/VASPs in PNG is negligible.

316. While DNFBPs have little to no understanding of ML/TF risks associated with new technologies and DNFBPs AML/CFT programs do not cover requirements for new technologies, exposure of DNFBPs without international connections is very limited. Lawyers and accountants that are part of international groups would rely on international parents for new technologies risk assessments, which are unlikely to be specifically adapted to PNG.

Wire transfers

317. Commercial banks understand wire transfer requirements and appear to have functional policies and procedures in place for conducting wire transfers. Dedicated resources have been devoted to ensuring that wire transfer obligations are met. Supervisory engagements with all commercial banks conducted have not identified any material deficiencies in implementation of wire transfer obligations. Despite this, PNG has moderate shortcomings in its compliance with R.16.

318. Though MVTs can leverage international partnerships to assist with the wire transfer obligations, they are still in the early stages of developing formal local policies, procedures and controls. It is unclear if there are sufficient applications to ensure that measures for wire transfers are undertaken. Furthermore, the technical deficiencies identified in the lack of clarity on principal and agency relationships has contributed to the lower level of effectiveness in the sector to mitigate ML/TF risks. This is particularly evident in international MVTs not having a clear capture point in PNG (see R.14).

Targeted financial sanctions for TF

319. Commercial banks have commercial screening systems and can identify designated individuals and entities. For the foreign commercial banks, there is also backup support from the parent companies for screening. The major MVTs also indicated that it has screening systems in place supported by the parent company. Generally, the commercial banks indicated a clear understanding of the need to screen transactions and client bases against the UN lists consistent with the fact that the PNG banking system does most cross-border payments and where other FIs and all DNFBPs rely on the commercial banks to screen. Some entities indicated they conduct some screening of customers at on boarding using third party software, but this screening is not systematic.

320. Overall, in all FIs and DNFBPs, there was a lack of knowledge of freezing procedures in the domestic legislation and a lack of understanding of their obligations to freeze, should funds be identified in PNG (e.g. a commercial bank indicated that in the case of a match against a list, they would file an SMR, but the transaction would take place). FIs and DNFBPs that are screening have focused their policies and procedures on foreign parents' requirements and/or global good practices rather than specifically on domestic requirements.

Higher risk countries identified by FATF

321. PNG has major shortcomings in its compliance with R.19 and c.23.3. While FIs and DNFBPs are required to apply enhanced due diligence for customers who are a resident from high-risk countries, a

high-risk country is not defined, and it is unclear if it would include all countries called for by the FATF. There are major shortcomings with regards to countermeasures and it is unclear if or how PNG ensures FIs and DNFBPs are advised of concerns about weaknesses in countries' AML/CFT systems.

322. Commercial banks are aware of the risks associated with jurisdictions identified by the FATF as high-risk. Restrictions or prohibitions of business relationships have been undertaken by some commercial banks. For entities that do establish business relationships with customers from high-risk countries, an awareness of EDD requirement was demonstrated.

323. NBFIs have demonstrated a lower level of awareness of the ML/TF risks associated with high-risk countries. This is reflective of the nature of the businesses being carried out in the sectors which are primarily domestically based. The exposure to ML/TF risks associated with high-risk countries is limited given the customer the sector deals with and the products and services offered. The major MVTS has parent company screening systems in place.

324. Lawyers and accountants that are part of international groups demonstrated a good level of understanding of ML/TF risks associated with high-risk countries and stated to have no dealings with those jurisdictions. All other DNFBPs described that their clients are primarily local and therefore are not exposed to risks associated with higher risk jurisdictions.

Reporting obligations and tipping off

325. Reporting obligations are primarily being implemented in commercial banks with reporting by all NBFIs and DNFBPs not consistent with their ML/TF risks. Furthermore, PNG has moderate shortcomings in its SMR obligation (see R.20).

326. Through improvements to AML/CFT systems, domestic commercial banks' SMR reporting has increased year-on-year since 2018 with 2022 SMR reporting more in line with the risks of the sector. TTRs and IEFTRS reporting has also been increasing year-on-year. Commercial banks have implemented automated systems to identify possible transactions or funds that might be suspected of ML/TF. Alerts generated are reviewed manually. Systematic case management for the alerts raised are available for commercial banks. Specific scenarios have been implemented across commercial banks to identify potential suspicious matters. Compliance resources have been increasing for some commercial banks to ensure that alerts are reviewed and that SMRs are reported.

327. While foreign banks have group level policies, procedures and processes for SMRs these should be adapted further to PNG's risks and context to enable SMR reporting consistent with their risks in PNG.

328. As discussed in IO.6, FASU has disseminated three targeted SARs between March 2022 and October 2023. SARs combine information from SMRs, TTRs, IEFTRS, relevant open-source intelligence and are exclusively focused on trend analysis of quarterly reporting to FASU. The three targeted SARs are tailor-made for the respective commercial bank and relate to key trends and analysis from their reporting to FASU. The reports provide insights into the areas of suspected crimes, which promote awareness of the potential ML/TF risks and aim to improve SMR reporting.

329. While NBFIs displayed some knowledge of SMR obligations and the need to prevent tipping-off, they lack policies and procedures and red flags to ensure reporting obligations are applied. No SMRs have been submitted by NBFIs, which is not consistent with PNG's ML/TF risks, particularly for money

exchangers and remittance providers. Regarding TTRs and IEFTRs (see Table IO.6-2 and IO.6-3) the general trend of reporting is increasing although TTR reporting has only increased to a more appropriate level in 2022.

330. DNFBPs have some knowledge of SMRs and other reporting obligations and the need to keep reports confidential. However, they lack policies and procedures and red flags to ensure reporting obligations are applied. No DNFBPs have submitted SMRs and there has been no TTR reporting by any DNFBPs. This is not consistent with PNG's ML/TF risks, particularly for lawyers.

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331. Seven SMRs has been submitted by MV dealers.

Internal controls and legal/regulatory requirements impending implementation

332. The quality of internal controls varies significantly across FIs and DNFBPs with commercial banks, followed by larger NBFIs and DNFBPs with international parents, having the most advanced implementation.

333. Commercial banks have demonstrated higher levels of internal controls particularly the two foreign banks with parents in other jurisdictions given the ability to leverage off well-established policies, procedures and controls. Domestic commercial banks also look to leverage international best practice and Australian banking standards due to strong ties between the financial sectors of PNG and Australia. As a result of FASU's supervision activities of domestic commercial banks, they have significantly enhanced their AML/CFT internal controls and training programmes with these policies and procedures undergoing further development in accordance with ongoing projects to enhance core banking and AML/CFT systems.

334. Larger NBFIs and DNFBPs with international connections leverage parent company internal controls, some of which are adapted for PNG's risk and context. Meetings with other NBFIs and DNFBPs and information provided by PNG on AML/CFT supervision, suggests that all other NBFIs and DNFBPs are in the initial stages of developing internal controls or yet to commence the process.

335. Secrecy provisions do not impede implementation of AML/CFT measures with R.9 rated Compliant.

Overall conclusion on Immediate Outcome 4

336. Overall, commercial banks have a satisfactory level of understanding of PNG's ML risks (TF risk understanding is less developed) and implementation of risk-based CDD and record keeping requirements. For foreign banks, while PNG operations are supported by group wide AML/CFT controls these should be further refined to PNG's risk and context, noting their limited customer base and operations in PNG. The most weight is placed on domestic commercial banks. Because of FASU's supervision activities, the domestic commercial banks have undertaken significant work in recent years to enhance measures on high-risk customers and improve many other elements of their AML/CFT systems, policies and procedures (which is ongoing). For example, SMR reporting has increased year-on-year since 2018 with 2022 SMR reporting more in line with the risks of the sector.

337. For NBFIs and DNFBPs, understanding of ML/TF risks varies significantly between sectors and overall implementation of mitigating measures is limited. Larger NBFIs and DNFBPs with international connections leverage parent company internal controls to support CDD, which are adapted for PNG's

risk and context to some extent. However, (i) no NFBIs or DNFBPs have submitted any SMRs, which is not consistent with the ML/TF risks of these sectors, and (ii) while these entities have a high-level understanding of risks associated with PEPs, they do not have in place adequate policies and procedures to ensure PEP obligations are systematically implemented. Weight has been placed on these two gaps, particularly in relation to lawyers.

338. **PNG has a moderate level of effectiveness for IO.4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

- A. FASU is the sole AML/CFT supervisor in PNG and has a good understanding of ML/TF risks in the commercial banking sector and high-risk DNFBPs. FASU's risk understanding is less advanced for TF, the NBFIs and for other DNFBPs.
- B. FASU is implementing a high-level risk-based approach to supervision with its supervisory actions focused on the commercial banking sector. This includes onsite and/or offsite inspections of all commercial banks since 2018 and longer-term remedial proceeding with PNG's two domestic commercial banks. Resourcing of FASU and other factors means FASU's supervision of NBFIs and DNFBPs has been limited and is not risk based. Critically, there has been very limited supervision of lawyers, which are rated highly vulnerable to ML.
- C. FASU's application of remedial actions has focused on the commercial banking sector with FASU issuing a formal warning and an enforceable undertaking on one domestic commercial bank. This action resulted in changes to senior and executive management of the bank and significant AML/CFT-related improvements. This enforcement action also impacted the general AML/CFT compliance of commercial banks.
- D. PNG is not actively preventing criminals from holding or controlling all FIs and DNFBPs. Commercial banks and NBFIs are required to be licensed but regulators have limited resources to ensure all relevant persons are fit and proper. For DNFBPs, fit and proper controls and their application are limited.
- E. No enforcement measures have been applied to NBFIs or DNFBPs. For these entities, FASU has issued recommendations for all supervision activities, which are followed up to ensure remedial actions are completed. While these have had some impact on AML/CFT compliance, for higher-risk sectors, entities and issues, these remedial actions are not always effective, proportionate, and dissuasive.
- F. FASU is focusing significant resources on outreach, which appears to be effective in promoting an understanding and awareness of general AML/CFT obligations and ML/TF risks amongst commercial banks and some higher-risk DNFBPs, namely lawyers.

Recommended Actions

- A. PNG should rectify technical gaps in market entry fit and proper, and actively prevent criminals from holding or controlling all FIs and DNFBPs. This should prioritise higher risk sectors and include adequate human skilled capacity for relevant departments/agencies and the development of policies and procedures to undertake fit and proper functions on a systematic basis.

- B. PNG should proactively identify and sanction where appropriate unlicensed or unregistered entities operating in PNG and take enforcement. Particularly illegal lending, money changes and remitters operating within PNG.
- C. Risk-based AML/CFT supervision should be implemented across all FIs and DNFBPs including by enhancing FASU's policies and procedures (including updating or developing a new risk-rating tool) and ensuring the selection of entities and scope of off-site and onsite inspections is fully risk-based.
- D. Implement a clear enforcement strategy to strengthen the level of effectiveness of reporting entities' AML/CFT controls whilst imposing effective, proportionate and dissuasive sanctions to address non-compliance across all reporting entities.
- E. Enhance supervisory staffing resource and capability to further improve risk-based AML/CFT supervision activities of all FIs and DNFBPs.
- F. FASU should issue sector specific guidance to assist reporting entities with meeting their AML/CFT obligations. This should focus first on higher-risk sectors.
- G. All competent authorities (particularly authorities with a licensing role) should continue to enhance their understanding of sector and cross-sector ML/TF risks and vulnerabilities.
- H. PNG should continue to monitor risks associated with VASPs and expedite rectifying technical gaps in compliance with R.15.

339. The relevant Immediate Outcome considered and assessed in this chapter is IO.3.¹⁰⁹ The recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28 & R.34 & 35 and elements of R.1 and 40.

Immediate Outcome 3 (Supervision)

Relative importance

340. The commercial banking sector is considered the most important sector. This sector represents over two thirds of financial sector assets (and around 90% of deposits) and in PNG's 2017 NRA the sector is rated highly vulnerable to ML/TF. Within the sector, most importance is given to PNG's two domestic commercial banks given their customer base and market exposure within PNG.

341. The next level of importance is lawyers given the vulnerability of the sector as outlined in the 2017 NRA and publicly available information linking the sector with financially motivated criminal offending in PNG. This level of relative importance was supported by the interviews conducted during the ME onsite from both the private sector and public agencies.

¹⁰⁹ When assessing effectiveness under Immediate Outcome 3, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter 1 of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

342. The AT weighted moderately important the remittance sector given risks associated with laundering abroad and noting the vulnerability is somewhat mitigated by commercial bank for products and services offerings. Money changers due to the high use of cash in PNG, and larger NBFIs were also moderately weighted. Other sectors weighted moderately important include accountants, gold exporters and real estate agents based on the associated vulnerabilities in the sectors as outlined in the 2017 NRA.

343. Less importance has been given to small NBFIs due to the nature of the products and services offered, insurance (as life insurance is mainly restricted to products and services for employees of large international companies), securities dealers/brokers (PNG's capital market is very small), superannuation (products and services allow limited avenues to launder money) and savings and loans societies (the sector is relatively small, strongly connected to the commercial banking sector and offering simple products and services).

344. PNG does not have any locally incorporated VASPs operating during the period under review and there is no evidence of material foreign VASPs operating within PNG. PNG's recently developed SRA on VA/VASPs has demonstrated zero or minimal presence of virtual assets and VASPs in PNG.¹¹⁰ PNG was in the process of making legislative changes to consider the risks associated to VA/VASPs. Therefore, VASPs are not included in the following analysis.

345. PNG has included MV dealers in its AML/CFT regime due to their use of cash and high ML vulnerability, and prevalence of government vehicle frauds. As MV dealers are not DNFBPs under the FATF Standards, they have not been formally included in the relative importance and are primarily included in the analysis and discussion of IO.1.

Overview of AML/CFT supervision arrangements in PNG

346. FASU, housed within the BPNG, is PNG's sole AML/CFT supervisor. It is established under s.61 of the AMLCTF Act 2015, coming into operation in September 2016 and conducting its first on-site inspection in March 2018. At the time of the ME onsite visit, FASU had 37 staff with 10 staff dedicated to AML/CFT supervision in the SCD. Prudential regulators authorise and licence FIs and some DNFBPs.

Licensing, registration and controls preventing criminals and associates from entering the market

347. Commercial banks and NBFIs are required to be licensed albeit with some technical shortcomings in fit and proper measures, and regulators have limited resources to ensure all relevant persons are fit and proper. For DNFBPs, fit and proper controls and their application are limited.

Financial Institutions

348. Commercial banks and all other FIs are required to be licensed. BPNG is the primary regulator with OIC and SCPNG regulating the general insurance sector and the securities sector, respectively. BPNG is the prudential supervisor/regulator of PNG's financial system and licenses or authorises Authorised Deposit-taking Institutions (ADIs) (under the Banks & Financial Institutions Act 2000), Saving and Loan Societies (under the Savings and Loan Societies Act 2015), Payment Service Providers

¹¹⁰ BPNG, 2023, Sector Risk Assessment: ML and TF through VA/VASPs, https://www.bankpng.gov.pg/wp-content/uploads/2023/09/202309012_PNG-VASP-Risk-Assessment-v.10.pdf, accessed November 2023.

(under the National Payments System Act 2013), Superannuation Institutions (under the Superannuation (General Provisions) Amendment Act 2000) and Life Insurance Institutions (under the Life Insurance Act 2000). ADIs include commercial banks and licensed financial institutions (finance companies, microfinance institutions, Authorised FX Dealers, Money Remitters and Money Changers). In addition, BPNG authorises Representative Offices.

349. BPNG has a dedicated function within the bank that focuses on licensing. The Financial System Stability Group (FSSG) of BPNG has a total of 85 staff. The FSSG is made up of three departments namely Banking Supervision Department, Superannuation and Life Insurance Supervision Department, and Financial System Development Department. The Financial System Development Department consists of three units and has a total of 22 staff, the Financial System Policy Unit (8 staff), Licensing & Compliance Unit (8 staff) and Macro-prudential Supervision Unit (8 staff).

350. *Commercial banks and all other FIs regulated by BPNG:* These FIs are required to be licensed with fit and proper assessments forming part of the licensing process by BPNG. Relevant licensing application forms are available from BPNG's website¹¹¹ with regulations issued to support the licensing process and/or application for fit and proper for all BPNG licenced Fis, except Savings and Loan Societies. Fit and proper assessments carried out at licensing includes the assessment of shareholders, directors, CEO and direct reports to the CEO albeit with technical minor shortcomings identified (see R.26). In the period under review, there were six licence application objections (out of a total of 29 applications) for NBFIs including one money changer and two money remitters. The reasons for the objections relate to the nature/type of business not matching to the application and non-submission or lack of supporting information. Fit and proper checks for new entrants since 2017 resulted in 51 approvals and three objections (two money changers and one insurance).

351. FIs are required to ensure shareholders, directors, CEO and/or senior managers are fit and proper and provide information to BPNG as part of ongoing licence requirements. The BPNG will review the submission of the records for completeness. A total of 443 checks (the majority of which are for commercial banks) undertaken between 2017 to 2023 were completed on documentation filed by FIs with 10 objections. All objections were made because of non-submission of information. There have been no rejections following a fit and proper assessment that were completed. Relevant units within BPNG do not have adequate policies, manuals and books on fit and proper assessment processes. BPNG demonstrated that some police clearances are sought to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in the banks for some instances. It is unclear if this is standard for all individuals who require fit and proper checks to be carried out. There has been no specific case where an application has been declined due to the element of preventing criminals from owning or controlling FIs.

352. There are no requirements for AML/CFT related matters to be considered as part of the licensing process. Operationally, evidence has been provided demonstrating that licences have been granted against FASU's view of the AML/CFT risks linked to the granting of such licences. The licence was for a low-risk entity and the AT appreciates that a range of factors are also considered by BPNG in

¹¹¹ BPNG, 2024, Authorized Deposit-Taking Institutions, <https://www.bankpng.gov.pg/financial-system/authorized-deposit-taking-institutions/> accessed July 2024; BPNG, 2024, Authorized Superannuation Funds, <https://www.bankpng.gov.pg/financial-system/superannuation-funds/> accessed July 2024; BPNG, 2024, Licensed Life Insurance Companies, <https://www.bankpng.gov.pg/financial-system/life-insurance/>, accessed July 2024; BPNG, 2024, Exchange Control, <https://www.bankpng.gov.pg/monetary-policy/exchange-control/>, accessed July 2024.

granting the license; however, it is unclear how the views expressed by FASU were weighted in this case or in BPNG's licensing process of MVTs more generally.

353. Regarding non-compliance with licensing requirements, it is acknowledged relevant authorities may identify breaches through prudential supervision activities. Despite this, relevant authorities were unable to provide evidence on any proactive detection of breaches such as steps taken to identify potential unlicensed or unregistered entities, which is attributed to limited resources available in the relevant authorities.

354. *General Insurance Sector:* The OIC is responsible for regulating general insurance with industry participants required to apply annually for a license renewal. At the time of the ME onsite, OIC had an organizational structure of 25 staff with 11 positions filled permanently and three officers undertaking license renewal as well as other functions. The OIC has not issued enforceable criteria for fit and proper requirements and has no policies or procedures for its fit and proper functions. OIC commented that police checks are requested during licensing, but no further details were provided including that it is unclear how many new licences have been granted over the period under review or ongoing checks undertaken.

355. *Securities Sector:* The SCPNG is responsible for regulating and licensing capital market participants. At the time of the ME onsite, SCPNG has a staffing of 26 with the licensing and supervision division having three staff. The SCPNG is mandated to ensure that fit and proper assessments are undertaken under the Capital Market Act; however, the assessment does not extend to BO in practice. The SCPNG commented that police checks are requested during licensing; however, it is unclear if this extended to BO in practice. Since 2017, SCPNG has issued 67 capital market licenses with one license declined (due to a criminal conviction) and there is an ongoing license renewal breach case (breaches of the Capital Markets Act and the Securities Commission Act). No further details were provided on these cases including the number of issued licenses which is inconsistent with Table 1.3 (PNG's financial sector on 13 October 2023).

DNFBPs

356. NGCB is responsible for regulating casinos in PNG under the Gaming Control Act. The licensing application process consists of measures to ensure that applicants and close associates are "being of good repute, having regard to character, honesty and integrity". These requirements are yet to be interpreted by NGCB in practice as PNG has no casinos. At the time of the ME onsite visit, the licensing process had commenced for PNG's first Casino.

357. The PNG Law Society is responsible for regulating and promoting the legal profession in PNG. In 2021 the fit and proper requirements for lawyers were significantly strengthened with lawyers subject to the fit & proper at market entry (s.25B Lawyers Act) and every fifth year of practice (s.44A Lawyers Act). The PNG Law Society has one case (see Case IO.3-1) where four trainee lawyers failed to pass the new fit and proper requirements. In the period under review, the Lawyers Statutory Committee has dealt with 175 complaints and penalised 20 lawyers including one suspension, and one lawyer was de-registered. These cases did not relate to criminal conduct or association and fit and proper requirements for lawyers were not being implemented before the 2021 amendments.

Case IO.3 – 1: Fit and proper process for Lawyers, 2022

The case was between four trainee lawyers and the PNG Law Society and related to the admission requirements to practise as a Lawyer in PNG. According to the facts of the case, the four trainee lawyers had failed to pass the fit and proper test that is administered by the Attorney-General. All four trainee lawyers were not issued the Certificate of qualification for admission which, declares them to be ‘fit and proper’ persons to be admitted as a practising lawyer in PNG. The four trainee lawyers sought to disregard the decision of the Attorney-General and took the matter to court for the court to admit them to practise as lawyers.

The Courts determined that the refined assessment system introduced by the Attorney-General under the amended Act, for the ‘fit and proper’ process for persons to be admitted as practising lawyers, was comprehensive for the purpose of ensuring that PNG retained a standard of high quality of lawyers. The court further upheld that the power to determine whether a person is fit and proper to practise law is vested with the Attorney-General by virtue of s.25(3)(d) of the amended Act and highlighted the circumstances in which the Courts would intervene to waive the decision of the Attorney-General in determining a fit and proper person. The four trainees failed to demonstrate such circumstances that would require the courts intervention, and the court affirmed the Attorney-General’s decision based on the comprehensive fit and proper assessment process undertaken by the Attorney-General.

358. Under the Accountants Act 1996, the Accountants Registration Board of PNG is responsible for registration of qualified and suitable persons to practice as an Accountant in PNG. The Registrar requires, for the registration process, a declaration whether the applicant has been convicted of an offence punishable by imprisonment for one year or longer or any offence of fraud or dishonesty. Implementation of these requirements is unclear.

359. Licensing requirements are in place for gold exporters as per BPNG’s Operational Requirements for a Gold Export License.¹¹² Licences are required to be annually renewed by BPNG and although fit and proper tests are being performed, it is unclear if steps have been taken to prevent criminals and their associates from holding a controlling interest. Furthermore, there are no registration or licensing for other entities involved in the purchase or sale of precious metals in PNG’s alluvial mining sector or for jewellers.

360. There is a fundamental gap in that all other DNFBPs are not being subjected to licensing requirements and fit and proper controls. Real estate agents may voluntarily join the PNG Real Estate Industry Association, but it plays no formal role in ensuring agents are ‘fit & proper’ and in compliance with AML/CFT requirements.

FI and DNFBPs registration for AML/CFT purposes

361. FASU is the sole AML/CFT supervisor in PNG. While FASU does not perform a licensing role, it registers entities for AML/CFT purposes under s.57 of the AMLCTF Act. At the time of the ME onsite,

¹¹²BPNG, 2024, Exchange Control, <https://www.bankpng.gov.pg/monetary-policy/exchange-control/>, accessed July 2024.

244 FI and DNFBPs were registered with FASU. As part of FASU's registration process it engages with relevant authorities to ensure entities it registers for AML/CFT purposes are licenced.

Supervisors' understanding and identification of ML/TF risks

362. FASU is prioritising its resources to PNG's highest ML threats and vulnerabilities. FASU demonstrated a good understanding of ML risks between sectors and in the commercial banking sector and highest-risk DNFBPs. FASU's risk understanding is less advanced for TF and NBFIs and DNFBPs. BPNG staff involved in the licensing of FIs and DNFBPs have a developing understanding of their sectors' ML risk, but their focus remains on prudential compliance and risks. While conducting prudential supervision, AML/CFT related compliance and other legislative compliance requirements are covered at a high level from a governance perspective. All other FI and DNFBP regulators have a very limited understanding of ML/TF risks.

363. FASU's ML/TF risk understanding is built on its key involvement in: (i) the 2017 NRA and the ongoing 2023 update; (ii) several recent sector specific risk assessments including two on NPOs, VA/VASPs and forestry (still under development); (iii) issuing typology reports to raise awareness of ML and obligations for FIs and DNFBPs; and (iv) strategic analysis reports focused on reporting from the commercial banking sector.

364. FASU's understanding of ML risks has been further enhanced by its AML/CFT supervisory activities that have been focused on the commercial banking sector, which is PNG's most vulnerable sector. This includes onsite and offsite inspections since 2018 and longer-term remedial proceedings with PNG's two domestic commercial banks. Through AML/CFT onsite inspections of commercial banks, FASU has undertaken steps to address the ML/TF risks outlined in the NRA by conducting EDD sample testing on high-risk customers such as PEPs, lawyers, and logging companies.

365. While FASU's understanding of ML/TF risks associated with non-commercial bank FIs and other DNFBPs is not as advanced, this reflects the overall risk profile of FIs and DNFBPs in PNG and FASU's prioritisation of its resources to PNG's highest ML threats and vulnerabilities.

366. FASU has undertaken a proactive approach to emerging risks as demonstrated in its completion of the recent VA/VASP risk assessment. This assessment concluded there are no VASPs incorporated in PNG or a material presence (if any) of foreign VASPs operating in PNG.

Risk-based supervision of compliance with AML/CFT requirements

Overview of PNG's supervision approach

367. PNG's AML/CFT supervision activities are focused on the commercial banking sector, which is consistent with PNG's ML/TF risk and context. This includes full-scope and targeted onsite inspections of PNG's four commercial banks since 2018 including longer-term remedial actions with PNG's two domestic commercial banks. Prioritisation of available resources to the commercial banking sector does mean that the level of supervision of other sectors, including some high-risk DNFBPs such as lawyers, is more limited.

368. FASU is the sole AML/CFT supervisor in PNG with its supervision function conducted by 10 staff. FASU's AML/CFT supervision activities commenced in earnest in March 2018 with its first onsite inspection of a microbank. Since 2023, FASU's overarching supervision activities have been driven by

its Strategic Plan 2023-2027 (see box in IO.6) along with an annual supervision plan. Prior to 2023, FASU's supervision activities were based on annual work plans in accordance with the NSP 2017 to 2022.

369. FASU's risk-based supervision framework uses the 2017 NRA, a risk-rating tool and its supervision SOP. The NRA adequately differentiates, and reasonably identifies ML/TF risks and vulnerabilities between FI sectors and DNFBPs. FASU uses a single risk-rating tool to establish entity level-risk for all FIs and DNFBPs, which has not been updated since 2020. While the ML/TF risks in PNG's commercial banking sector are clear due to differences in customer base, size, and foreign supervision and AML/CFT compliance functions, the risk-rating tool is not sufficiently sensitive to identify differing levels of risk between or within NBFIs and DNFBPs.

370. FASU's supervision SOP is adequate outlining the procedures for conducting onsite and offsite inspections including selection methodology (through the risk-rating tool), preparation, conduct during the engagement (including targeted or a full-scope inspection), and report completion. In practice, it is not clear that frequency and intensity of onsite and offsite supervision of NBFIs and DNFBPs is fully driven by ML/TF risks with supervision activities heavily influenced by available resources of FASU (see also R.26).

371. Since its first on-site inspection in March 2018, FASU has conducted 24 onsite and 17 offsite inspections of FIs and DNFBPs (see Table IO.3-1 and IO.3-2) with its activities and supervision resources focused on the commercial banking sector including longer-term remedial actions with PNG's two domestic commercial banks (see Case IO.3-2 and IO.3-3). While FASU's focus on the commercial banking sector is consistent with PNG's ML/TF risk and context, supervision of some higher-risk sectors has been limited, particularly lawyers. The reasons for this are multifaceted including prioritisation of available resources, challenges in building supervision expertise while producing operational outcomes, resources dedicated to the longer-term remedial actions, and the COVID-19 Pandemic.

372. FASU has conducted three joint onsite inspections with BPNG, and as discussed above, while conducting prudential commercial bank supervision, BPNG covers some AML/CFT related compliance at a high level from a governance perspective. There are some inconsistencies between the prudential standard and AML/CFT requirements on CDD, which creates some challenges in collaborative efforts between FASU and BPNG. It is unclear if there has been any other collaboration between FASU and the other prudential regulators on AML/CFT issues.

Table IO.3-1: Onsite Inspections

Reporting entity	2018	2019	2020	2021	2022	2023	Total
<i>FIs</i>							
Commercial banks	3 (full scope)	2 (1x full scope and 1x targeted inspection)	-	1 (targeted inspection)	1 (targeted inspection)	1 (targeted inspection)	8
NBFIs – microfinance	1 (joint with prudential supervision)			-		-	1

NBFIs – Finance Companies	1 (joint with prudential supervision)	2 (1x full scope and 1x joint with prudential supervision)	1 (targeted inspection)					4
Money changers	-	4 (full scope)	-	-	-	-	-	4
<i>DNFBPs</i>								
Law firm	-	1 (full scope)	-	-	-	-	-	1
Gold Exporters	-	-	-	-	-	-	2*	2
<i>Other Reporting Entities</i>								
MV dealers	-	4 (full scope)	-	-	-	-	-	4
Total	5	13	1	1	1	3		24

Note: * it is unclear if these supervisory activities were full scope or targeted as details on these inspections were not included in summary information of PNG's of AML/CFT onsite inspections.

Table IO.3-2: Offsite Inspections

Reporting entity	2018	2019	2020	2021	2022	2023	Total
<i>FIs</i>							
Commercial Banks	1	-	-	-	-	-	1
NBFIs	-	-	-	1	1	2	4
Life Insurance	1	-	-	-	-	2	3
Superannuation	-	1	-	-	-	1	2
<i>DNFBPs</i>							
Law firms	-	-	-	1	-	-	1
Accounting firms	-	-	-	-	-	2	2
Gold Exporters	-	-	1	-	-	-	1
Real estate agents	-	-	-	-	-	3	3
Total	2	1	1	2	1	10	17

Note: Supervision was mainly focused on AML/CFT programs and AML/CFT risk assessments.

Commercial Banks

373. FASU focuses on, and has devoted significant resources to, its supervision of the commercial banking sector, which is consistent with PNG's ML/TF risk and context. For all four commercial banks, full-scope AML/CFT onsite inspections were completed in 2018 or 2019, and targeted onsite inspections focused on enhanced CDD were conducted between 2019 and 2023.¹¹³ Full-scope onsite inspections of PNG's two domestic banks in 2018 were conducted with AUSTRAC providing technical assistance.

¹¹³ At the time on the ME onsite visit, targeted onsite inspections of two foreign commercial banks were complete but the reports were not finalised.

374. Supervision of AML/CFT requirements in the commercial banking sector is comprehensive except for TFS, which has been limited to reviewing SWIFT reports on the number of false positives and rejected transactions. The three full-scope onsite inspections in 2018 and 2019 included four branches for each bank, and the one targeted inspection in 2021 included two branches. A risk-based approach to PNG's supervisory engagements within the sector was demonstrated; however, supervision does span a lengthy period with one case taking close to five months for supervisory findings to be formally communicated. Onsite inspections carried out primarily showed a strong domestic focus even though a group level approach may be appropriate in some instances where commercial banks have exposure to group level risks.

375. With the aim of addressing PNG's high-risk issues, FASU has undertaken targeted inspections focused on enhanced CDD of high-risk customers namely law firms, PEPs and logging companies. The data sample for these enhanced CDD inspections were based on FASU intelligence. Based on enhanced CDD compliance failings, FASU has pursued enforcement actions in one case and the other case was ongoing at the time of the ME onsite visit (see Case IO.3-2 and IO.3-3).

Case IO.3-2: AML/CFT Supervision of a Domestic Commercial Bank 1

In 2018, FASU conducted a full-scope onsite inspection (including four branches in Lae) of PNG's key domestic commercial bank. The inspection identified non-compliance across a range of AML/CFT requirements for which FASU issued recommendations to improve compliance. Implementation of these recommendations was monitored by FASU.

In 2019, FASU conducted an intelligence-led targeted on-site inspection of the bank selecting eight highest-risk (including law firm trust accounts, PEPs and logging companies) customers based on FASU intelligence. FASU requested and examined all available account statements and documentation for the previous five years for these customers. FASU determined that the bank had never conducted EDD on any of its high-risk customers; had failed to identify legitimate sources of payments related to PEPs; had not conducted any enhanced CDD on a customer who was the subject of ML charges related to transactions conducted through the bank's accounts; and had not conducted any examination of SMRs (issued by the bank) relating to high-risk customers, as part of their enhanced CDD process.

When the bank rejected all findings of the on-site inspection report, FASU issued a public Formal Warning; imposed an External Auditor; and issued an Enforceable Undertaking to remove and replace the CEO and other senior staff (CEO was replaced in November 2022 and the Chairman in March 2023).

In 2021, the bank publicly acknowledged FASU identified failings and has since implemented improvements to its AML/CFT Program including a revision of governance structures to give Directors enhanced oversight over the Compliance and AML functions; increased AML staffing resources; updated risk assessments and policies; implementation and enhancements to transaction monitoring systems; improved customer documentation and identification procedures; and increased AML/CFT training for its staff.

Case IO.3-3: AML/CFT of Domestic Commercial Bank 2

In 2018, FASU conducted a full-scope onsite inspection of PNG's other domestic commercial bank. The inspection identified non-compliance across a range of AML/CFT requirements for which FASU issued recommendations to improve compliance. Implementation of these recommendations was monitored by FASU.

In November 2021, FASU conducted an intelligence-led targeted on-site inspection (including two branches in Port Moresby) of the bank targeting 12 of the bank's highest-risk customers (including law firm trust accounts, PEPs and logging companies) based on FASU intelligence. FASU determined the bank had never conducted ongoing and enhanced CDD on any of its high-risk customers. Failings include, among others, failure to conduct a risk assessment; to report SMRs; to identify legitimate sources or reasons for several million Kina in payments related to PEPs; to conduct any form of enhanced CDD on a customer who is a director and shareholder of companies having been convicted of crimes in foreign jurisdictions; to conduct an examination on structured transactions made below the threshold amount; and failure to conduct an examination on funds withdrawn from several overseas high-risk jurisdictions on the same day deposits were made in PNG using visa debit cards.

FASU issued the bank an On-site Inspection Report in April 2023 detailing the findings of the inspection along with a 'show cause' notice seeking reasons as to why regulatory action should not be taken. FASU received a response from the bank that included acceptance of all findings of the on-site inspection report in their entirety. At the time of the ME onsite visit, FASU had not completed a detailed response to the bank.

All other FIs

376. In the period under review, FASU has conducted 11 onsite inspections and 11 offsite inspections of NBFIs. Onsite inspections are somewhat risk-sensitive noting FASU's risk-rating tool is not up-to-date and is not sufficiently sensitive to identify differing levels of risk between or within NBFIs. Three onsite inspections in 2018 and 2019 were joint AML/CFT and prudential inspections with a more limited focus on AML/CFT. The selection of these entities was driven by prudential priorities. All other onsite inspections were full scope, but with no TFS-TF specific supervision. Four full-scope assessments in 2019 were on money changers which are considered very highly vulnerable to ML in the NRA.

377. The full scope onsite inspection conducted provided a wide-ranging coverage of the entities' ML/TF obligations. Onsite inspection reports provided are reasonable and adequate including details of the potential breaches identified and recommendation for reporting entity to be compliant. Potential penalty should the reporting entity fail to comply are also discussed.

378. Offsite supervision has included a wider range of entities, but selection of entities is seemingly not based on risk. Coverage of offsite supervision are fundamental assessments of the AML/CFT program and AML/CFT risk assessments. Supervisory actions after offsite reviews have demonstrated different ways to encourage compliance in the sectors. This includes educational meetings to increase awareness and escalation of more intensive supervisory actions such as an onsite inspection for some reporting entities.

379. Regarding non-commercial bank MVTs, no AML/CFT supervision has occurred and as outlined in R.14 there is no explicit differentiation on the use of agents under the AMLCTF Act, NPSA 2013 or BFIA.

DNFBPs

380. While FASU has conducted three onsite inspections and seven offsite inspections of DNFBPs, FASU's oversight of DNFBPs is not fully risk-based (see Table IO.3-1 and IO.3-2). A significant challenge stems from resource constraints, hindering effective supervision of DNFBPs, particularly those deemed highly vulnerable in the NRA (such as real estate agents, lawyers, and accountants engaged in commercial activities). Additionally, FASU's risk rating tool fails to adequately differentiate entity risk levels within sectors, resulting in all real estate companies and most law firms being assigned the same risk rating.

381. PNG's one onsite inspections of a law firm¹¹⁴ covered all components of an AML/CFT system (but with no TFS-TF specific supervision) with a detailed onsite report from FASU outlining findings, particularly focusing on areas of non-compliance. The report also provided recommendations for achieving compliance and underscoring associated penalties in case of continued non-compliance. Offsite supervision has included a wider range of entities¹¹⁵ and were conducted in a targeted manner, primarily consisting of reviews of AML/CFT programs and risk assessments, with a few DNFBPs assessed using a questionnaire. Findings were communicated using a comparable approach to the onsite inspection process.

382. Notwithstanding the above limited AML/CFT supervision of high-risk DNFBPs, FASU is targeting law firms and real estate agent's accounts in its targeted enhanced CDD supervision activities of commercial banks. Real estate agents, lawyers and accountants engaged in commercial activities on behalf of clients and involved in company/trust formation are identified in the NRA as highly vulnerable.

Remedial actions and effective, proportionate, and dissuasive sanctions

383. During the period under review, FASU has primarily issued recommendations to address compliance deficiencies identified in onsite and offsite supervision. The key exception to this is the enforceable undertaking against one domestic bank. For all NBFIs and DNFBPs, a standardized and systemic approach to specific breaches and a formal procedure for an escalating response is not clear from information provided. FASU has issued guidance to FIs and DNFBPs on its supervision and enforcement powers. The implementation of supervisory resources to cover both the FIs and DNFBPs sectors has occurred at a notable pace.

384. FASU's approach focuses on supporting FIs and DNFBPs understanding and implementation of their obligations through guidance and recommendations. FASU would benefit from incorporating

¹¹⁴ Detailed information on the onsite inspections of two gold exporters in 2023 were not included in summary information of PNG's of AML/CFT onsite inspections including that it is unclear if the final report had been provided to the entity at the time of the ME onsite visit.

¹¹⁵ Detailed information on the offsite inspections of two accounting firms and three real estate agents in 2023 were not included in summary information of PNG's of AML/CFT onsite inspections including that it is unclear if the final report had been provided to the entity at the time of the ME onsite visit.

additional elements on sanction escalation into its AML/CFT supervision SOP that allow it to respond proportionately with dissuasive sanctions to severe breaches by entities in high-risk sectors. Despite this, clear, and decisive enforcement actions was taken against the largest domestic commercial bank operating in PNG.

Commercial banks

385. Remediation actions from the onsite and offsite engagements have predominately been recommendations to address deficiencies. Information provided shows a generally consistent approach to engagements with commercial banks to ensure recommendations are complied with.

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386. Enforcement actions against one domestic bank show a progressive escalation of response to AML/CFT breaches with FASU issuing a formal warning (under s.100 of the AMLCTF Act) and an enforceable undertaking (to s.102 of the AMLCTF Act) to this entity in July 2021 (see Case IO.3-2). In addition, an external auditor was appointed (under s.10 of the AMLCTF Act) for a period of 6 months where costs associated with this appointment was borne by the bank. The enforcement actions against the largest domestic bank operating in PNG was effective, proportionate and dissuasive considering the risks in the sector. This is demonstrated by an overhaul of the governance structure at senior management level and implementation of a new core banking system, which incorporates specific AML/CFT mitigating measures.

All other FIs and DNFBPs

387. No sanctions have been applied on any non-commercial bank FIs or DNFBPs although there has been clear non-compliance with fundamental elements of AML/CFT obligations such as not having adequate AML/CFT risk assessments or not having an AML/CFT programme. While the lower focus on non-commercial bank FIs is somewhat reflective of the risks in the sectors, FASU should ensure that effective remediation steps are taken by these entities. Similarly, FASU should take an approach to sanction escalation that ensures proportionate and dissuasive sanctions are applied for severe breaches by high-risk DNFBPs.

Impact of supervisory actions on compliance

388. FASU's enforcement action against one commercial bank generated significant ongoing public and political attention. At the time of the ME onsite, there was a general awareness of the resulting action from FASU's supervision of PNG's second domestic commercial bank. In a small and concentrated financial sector like PNG, most FIs and DNFBPs (and the general public) are aware of these supervision activities and resulting actions taken by the commercial banks. It is clear commercial bank supervision activities and outreach (see below) have had a significant positive impact on public perception of FASU as an AML/CFT supervisor and the AML/CFT compliance culture in PNG's commercial banks and other FIs and DNFBPs to some extent.

389. At a macro-level, it was observed that significant resources have been devoted by FIs and DNFBPs into compliance functions to ensure that effective mitigating measures are implemented. This is particularly evident in the commercial banking sector. In the commercial banking sector, supervision activities have resulted in: (i) greater engagement at a governance level on AML/CFT related matters; (ii) steps to mitigate risks associated with ML/TF and exiting of some high-risk customers that have an exposure to the illegal logging sector specifically; and (iii) systems implementation including moving away from manual processes. Effectiveness of the system implementation is limited given that banks

are still in the early stages of implementation. Furthermore, there has been a consistent increase in commercial banks reporting to FASU (SMRs, TTRs and IEFTRs) over the last five years, and at least two commercial banks have started to self-report AML/CFT breaches.

390. No enforcement measures have been applied to non-commercial bank FIs and DNFBPs. For these entities, FASU has issued recommendations for all supervision activities, which are followed up to ensure remedial actions are completed. While these have had some impact on AML/CFT compliance, for higher-risk sectors, entities and issues, these remedial actions are not always effective, proportionate, and dissuasive. The AT notes that AML/CFT supervision has resulted in an increase in TTR and IEFTRs reporting; however, there has been no SMRs filed by all non-commercial bank FIs and DNFBPs.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

391. In the last few years, FASU is focusing significant resources on promoting a clear understanding of AML/CFT obligations and ML/TF risks with outreach activities adequately covering the range of AML/CFT issues and obligations and stakeholders. Overall, FASU efforts have been largely successful in fostering an understanding and awareness of general AML/CFT obligations and ML/TF risks among commercial banks, and to a lesser extent larger NBFIs and certain DNFBPs, including lawyers.

392. Since 2019, FASU has conducted around 70 awareness activities (including talk back radio) around the country focused on PNG's ML/TF risks and AML/CFT obligations targeting the general public, associations and business groups, FIs, DNFBPs; and one-on-one meetings with various industries in the DNFBP and FI sectors. FASU's outreach approach includes both reporting entities and the public as public understanding of, and support for, AML/CFT requirements is critical to enhancing AML/CFT implementation in FIs and DNFBPs.

393. FASU has published separate guidance for FIs and DNFBPs to assist them complying with their AML/CFT obligations.¹¹⁶ FASU has also developed quarterly analysis reports and typologies reports that were sent to reporting entities as part of information sharing on the trends and methods related to ML/TF risks. The publications of risk assessments were communicated to FIs and DNFBPs to improve their understanding around ML/TF risks and their AML/CFT obligations.

FASU registration for AML/CFT purposes

394. FASU has taken steps to raise awareness of the need for FIs and DNFBPs to register for AML/CFT purposes; however, resource constraints mean FASU has taken limited proactive measures to identify non-registered FIs or DNFBPs operating within PNG.

Overall conclusion on Immediate Outcome 3

395. FASU is implementing a high-level risk-based approach to AML/CFT supervision with its supervisory actions and resources focused on the commercial banking sector. FASU has a good understanding of ML risks in the commercial banking sector and has conducted onsite and/or offsite inspections of all commercial banks including longer-term remedial proceedings with PNG's two

¹¹⁶ Bank of PNG, 2023, Financial Analysis and Supervision Unit, Guidelines, <https://www.bankpng.gov.pg/financial-analysis-and-supervision/>, accessed November 2023.

domestic commercial banks. Refinement to FASU's risk rating tool in combination with available human resources are needed for FASU's AML/CFT supervision of NBFIs and DNFBPs to be fully risk-based. Critically, there has been limited supervision of lawyers and other higher-risk DNFBPs; however, FASU is targeting law firms and real estate agent's accounts in its targeted enhanced CDD supervision activities of domestic commercial banks. FASU's enforcement have demonstrated a clear impact to the commercial banking sector. No sanctions have been imposed on NBFIs or DNFBPs with the impact of FASU's more limited supervision activities not fully demonstrated. FASU is focusing significant resources on AML/CFT outreach and education to FIs and DNFBPs. PNG is not actively preventing criminals from holding or controlling all FIs or DNFBPs. Of particular concern is the legal sector, which is weighted most heavily after the commercial banking sector.

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396. **Papua New Guinea has a moderate level of effectiveness for IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

- A. Companies are the primary form of legal person in PNG with ILGs, Business Groups and Associations being PNG's other forms of legal persons. Information on the creation and management of these entities is available through legislation and on the registrars' websites. ROC for Companies, Business Groups and Associations, and DLPP for ILGs. The AT has placed most weight on companies throughout the analysis of IO.5.
- B. Trusts can be formed under common law in PNG.
- C. PNG has not reasonably assessed the ML/TF risks and vulnerabilities associated with all types of legal persons created in PNG. Except for FASU and ROC, all competent authorities did not demonstrate a reasonable understanding of ML risks associated with legal persons.
- D. In the period under review, PNG focused its resources on amending the Companies Act and relevant legislation of other legal entities, and at the time of the onsite visit, a re-registration process of basic information for all ROC registered entities (including foreign enterprises required to obtain a Foreign Investor Certification) was underway. Basic information is publicly available from the ROC website with the re-registration process aiming to improve the accuracy of this information and to ensure it is up to date. However, ROC lacks the resources to ensure the accuracy and/or verification of re-registration information for specific sub-sets of legal persons vulnerable to ML. PNG did not demonstrate RPNGC and other competent authorities are actively using basic information held by ROC.
- E. The amended Companies Act in 2022 introduced requirements for companies to maintain BO information and provide this information to ROC upon request. At the time of the ME onsite visit, PNG was in a transition period of this new requirement (until the end 30 November 2023) with implementation by companies being unclear, and the ROC having not requested BO information from any companies.
- F. PNG primarily relies upon CDD BO information of legal persons and arrangements collected by FIs and DNFBPs. Commercial banks and large DNFBPs (with foreign parents) have policies and procedures for basic and BO information collection, but highlighted challenges with verifying this information. For all other FI and DNFBPs information is unlikely to be adequate, accurate and available in a timely manner. PNG did not demonstrate RPNGC and/or other competent authorities are actively using CDD BO information in ML or high-risk predicate crime investigations or to trace proceeds of crime - given PNG's significant ML risk, weight has been placed on this.
- G. ROC can impose sanctions and has some ongoing cases of non-compliance, sanctions are not fully proportionate or dissuasive and due to limitations in maintained statistics ROC was not able to demonstrate their effectiveness.

- H. PNG has no mitigating measures for nominee shares, nominee directors and bearer shares warrants. Bearer shares cannot be formed in PNG.
- I. PNG primarily relies upon information collected by FIs and DNFBPs while implementing CDD requirements for basic and BO information on legal arrangements. Collection of adequate, accurate, and up-to-date information is as described above for legal persons with the additional challenge that PNG has no measures to ensure trustees disclose their status to FIs and DNFBPs or other measures to prevent their misuse for ML/TF. PNG did not demonstrate RPNGC and/or other competent authorities are actively using information held on trusts in ML or high-risk predicate crime investigations or to trace proceeds of crime.

Recommended Actions

- A. PNG should identify and assess the vulnerabilities, and the extent to which legal persons created in PNG can be, or are, being misused for ML/TF, and enhance competent authorities' understanding of these risks. This could be done in the current NRA update process or in separate assessment/s.
- B. Based on an accurate understanding of ML/TF risks of all legal persons, PNG should implement measures to prevent their misuse for ML/TF purposes including measures to prevent the misuse of nominee shareholders and director arrangements, and bearer share warrants.
- C. ROC should finalise its re-registration process and prioritise resources to ensure information held by ROC is accurate and up to date. This should include an appropriate level of verification of information in relation to PNG highest-risk legal persons including foreign enterprises.
- D. ROC should enhance its outreach and public awareness of the new BO requirements on companies and formalise process for BO information collection to ensure BO information can be provided into ROC in a timely manner.
- E. Rectify gaps in PNG's compliance with R.25 and implement measures to prevent the misuse of legal arrangements for ML/TF including measures to ensure trustees disclose their status to FIs and DNFBPs when forming a business relationship.
- F. PNG should enhance the availability of accurate and up-to-date BO information from all FIs and DNFBPs by providing targeted guidance and outreach, enhancing supervision of BO CDD requirements across all FIs and DNFBP sectors (focusing on higher-risk sectors and entities first), and imposing proportionate and dissuasive sanctions for non-compliance (see also RAs in IO.3 and IO.4).
- G. PNG should provide further training to RPNGC and other competent authorities and prioritise the development of adequate policies, manuals and books to assist them enhance their use of basic and BO information in ML and high-risk predicate crime investigations and to trace proceeds of crime.

397. The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25, and elements of R.1, 10, 37 and 40.¹¹⁷

Immediate Outcome 5 (Legal Persons and Arrangements)

398. The ROC is responsible for the administration of the Companies Act, Business Names Act, Business Incorporation Act, and Associations Incorporation Act. The primary form of legal persons in PNG is a limited or unlimited company with ownership via shares. Other legal entities that can be formed in PNG include Incorporated Associations, Business Groups, and Business Names. Incorporated Associations and Business Groups have separate legal personality with perpetual succession and can form business relationships with FIs and DNFBPs. Business Names are not a separate legal entity. At the time of the onsite, ROC was conducting a re-registration process for all companies and other legal entities under its jurisdiction.

399. In addition, the Land Groups Incorporation Act provides for legal recognition of the corporate status of certain customary and similar groups, and the conferring on them, as corporations, the power to acquire, hold, dispose of and manage land. The Registrar for ILGs is the DLPP.

400. As of 9 October 2023, the following number of legal entities were registered in PNG (see Table IO.5-1).

Table IO.5-1: Number of Legal Entities Registered in PNG

Entity Type	Total Registered Business Entities	Re-registration and Updated Records
Local Companies	71,717	15,904
Overseas Companies	1,099	194
Business Names	205,230	12,982
Business Groups	9,791	391
Associations	10,810	590
Incorporated Land Groups	not provided	NA
Total	298,647	30,061

Public availability of information on the creation and types of legal persons and arrangements

401. Information on the creation and types of legal persons such as associations, business groups, private local companies, and overseas (international) companies is publicly available through legislation and the ROC's website (<https://www.ipa.gov.pg/>). For ILGs some information is available from DLPP's website (<https://dlpp.gov.pg/>).

¹¹⁷ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

402. Trusts can be formed under common law in PNG. There is no registration requirement for domestic trusts, nor a legislative framework governing how they are to be set up or setting out the obligations on trustees. Information on the creation and types of trusts is not publicly available, nor is there information about the presence of foreign trusts in PNG.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

403. PNG has not reasonably assessed the ML/TF risks associated with all types of legal persons created in PNG. PNG's 2017 NRA assesses ML/TF risks associated with legal persons created in PNG to a limited extent, with the NRA heavily focused on domestic companies. The discussion on vulnerability is focused almost exclusively on the online creation of companies without verification of supporting documents, and there is no explicit assessment of TF risks. The AT placed limited weight on the lack of a TF assessment as there is no publicly available information suggesting legal persons in PNG are being misused for TF. PNG recently completed two NPO risk assessments (see IO.10).

404. PNG is in the process of updating its 2017 NRA (see IO.1). At the time of the ME onsite visit, this process was mainly restricted to FASU, but the AT understands that going forward ROC will be more involved in the process and the assessment will analyse recent changes to PNG's legal framework and registration process for companies and other legal persons.

405. Except for FASU and ROC, all competent authorities did not demonstrate a reasonable understanding of ML risks associated with legal persons and the extent to which legal persons created in PNG can be, or are, misused for ML. FASU demonstrate a developing understanding of ML risks and vulnerabilities associated with companies, particularly in relation to high-risk predicate crimes of corruption and illegal logging. ROC's understanding of ML risk associated with companies is developing, particularly in relation to transparency vulnerabilities as it implements PNG's new BO requirements and re-registration process. ROC and FASU's understanding of ML risks associated with other legal persons in PNG is less advanced; however, companies are the primary legal person in PNG.

406. All competent authorities did not demonstrate a reasonable understanding of TF risks associated with legal persons and the extent to which legal persons created in PNG can be, or are, misused for TF. The AT placed limited weight on this as there is no publicly available information suggesting legal persons in PNG are being misused for TF.

Mitigating measures to prevent the misuse of legal persons and arrangements

407. PNG's measures to prevent the misuse of legal persons focus on formation and registration requirements and collection of BO information (collection of BO information is discussed in detail in the next core issues).

408. During the period under review, PNG has focused its resources on new and amending legislation, including amendments to the Companies Act in 2022, the Land Groups Incorporation Act in 2022, Business Groups Incorporation Act in 2022, Investment Promotion Act 2023, and a new Association Incorporations Act in 2023. These legislative reforms strengthen general legal person formation and registration requirements and governance, and in the case of the companies and associations provide BO information obligations on the entity.

409. In combination with its legislative reforms, ROC resources have been focused on implementation of a new Online Registry System, which went live on 1 December 2022. At the time of

the ME onsite visit, a re-registration process for all companies (including foreign enterprises required to obtain a Foreign Investor Certification), associations, and business groups was underway until 30 November 2023. These are key measures to prevent the misuse of companies and other legal persons in PNG. However, ROC lacks the skilled capacity and policies/processes required to ensure the accuracy and/or verification of re-registration information for specific sub-sets of legal persons vulnerable to ML. Legal persons not re-registered by 30 November 2023 will be struck from the registrar and lose their legal personality.

410. IPA includes guidance on its website for registering a foreign company in PNG. In addition to the standard company registration requirements, a company wholly owned or above 50% owned or controlled by non-PNG citizens requires certification from the IPA as a Foreign Entity Carrying on Business in PNG. This certification process is not focused on preventing foreign criminals or their associates from misusing of legal persons in PNG.

411. PNG provided no information on other or specific measures to prevent the misuse of legal persons for ML or TF including that PNG has no mitigating measures to prevent the misuse of nominee shares and directors, and bearer share warrants (see R.24).

412. PNG has moderate shortcomings in its compliance with R.25 and has not demonstrated implementing mitigating measures to prevent the misuse of legal arrangements for ML or TF including the there are no specific measures to ensure that trustees disclose their status to FIs and DNFBPs (see c.25.3).

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Basic information

413. Companies are required to be registered with ROC and provide basic information. Publicly available online information includes entity name; registered and postal address; registration number; registration date; entity type; status (registered/removed); whether the company has its own constitution or is a foreign enterprise; and contact email or phone number. ROC filing history is shown, with these records publicly available to registered website users for a fee.

414. Since 1 December 2022, ROC was in a re-registration process to ensure all legal persons under its jurisdiction were registered and any outstanding reporting requirements were resolved. The number of re-registered legal persons, at the time of the ME onsite visit, is set out in Table IO.5 – 1. Legal persons not re-registered by 30 November 2023 will be removed from the registrar. The re-registration process is a key measure to improve the accuracy of basic information and ensure it is up to date; however, ROC lacks the skilled capacity and no policies/processes to ensure the accuracy and/or verification of re-registration information.

415. Discussions with competent authorities, FIs and DNFBPs throughout the ME process confirmed legacy legal person basic information held by ROC is not accurate or up to date. This presents challenges for FIs and DNFBPs to verify basic information provided in the CDD process. ROC's new online system has automated processes for annual filing, so post 30 November 2023, legal person information should be up to date. Also, legal persons that do not re-register by 30 November 2023 will be removed from the register.

416. During the onsite, PNG confirmed that RPNGC primarily accesses ROC records through the online registry system. RPNGC uses search warrants if search results are needed including as affidavits for evidence in court proceedings. PNG does not maintain detailed statistics on competent authorities searches of ROC's website, but ROC has responded to an annual average (last four years) of approx. 16 search warrants and two letters from RPNGC NFACD. No information was provided to the AT on other relevant competent authorities' access to basic information held by ROC.

417. No information was provided to the AT on RPNGC or other relevant competent authorities access to ILG basic information held by DLPP.

BO information

418. PNG relies on information collected by FIs and DNFBPs while implementing CDD requirements for BO information. However, the amended Companies Act in 2022 introduced requirements for companies to maintain BO information and provide this information to ROC upon request. At the time of the ME onsite visit, PNG was in the transition period of the Companies (Amendment) Act 2022 until the end 30 November 2023. Therefore, implementation by companies was unclear, and ROC, on its own volition or at the request of other competent authorities, had not sought BO information from a company.

419. Regarding BO information held by FIs and DNFBPs, except for commercial banks and large DNFBPs with foreign parents, information sought and obtained by all other FIs and DNFBPs is unlikely to be adequate, accurate and available in a timely manner. Commercial banks and large DNFBPs have policies and procedures for the collection of BO information (including those that can leverage off established foreign/global policies, procedures and controls), but commented to the AT during the onsite visit that verifying BO information presents a key challenge. Commercial banks and large DNFBPs were well aware of the ROC's company re-registration process and had adjusted their ongoing CDD obligations.

420. Where BO information is available from commercial banks and large DNFBPs, FASU can obtain this information in a timely manner. RPNGC and other relevant competent authorities would most likely access the information through FASU as they have no mechanisms to obtain the information in a timely manner including that RPNGC would require a search warrant to access the information. Due to limitations in maintained statistics, PNG was not able to demonstrate effective access and use of BO information by all relevant competent authorities.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

421. Legal arrangements can be formed under common law in PNG and foreign trusts can operate in PNG. PNG primarily relies upon CDD information collected by FIs and DNFBPs for information on legal arrangements, which is limited to trusts with FI/DNFBP business relationships. Furthermore: (i) the number and scope of legal arrangements in PNG is unclear as PNG has not assessed its ML risks associated with legal arrangements; (ii) there is no requirement for trustees to disclose their status of FIs and DNFBPs; and (iii) PNG is a cash-based economy.

422. Some legislation provides some general guidance on the rights and obligations of parties to the trust, but do not include obligations for maintaining information on parties to the trust. If a trust has taxable income, registration requirements with IRC include the trust deed identifying the settlor,

trustees, and beneficiaries, but not the class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. This information is not available to relevant competent authorities in a timely manner and based on discussions throughout the ME process it is clear RPNGC (and other competent authorities) make no use of this information. PNG provided no statistics on competent authorities access to trust information held by IRC.

423. PNG relies upon information collected by FIs and DNFBPs while implementing CDD requirements for information on legal arrangements. Except for commercial banks and large DNFBPs with foreign parents, information, where obtained, is unlikely to be adequate, accurate and current. Furthermore, as discussed in R.25, PNG has no measures to ensure trustees disclose their status to FIs and DNFBPs when forming a business relationship. Where CDD information on trusts is available from commercial banks and large DNFBPs, FASU could obtain the information in a timely manner. RPNGC and other relevant competent authorities would most likely access the information through FASU as they have no mechanisms to obtain the information in a timely manner including that RPNGC would require a search warrant to access the information. Due to limitations in maintained statistics, PNG was not able to demonstrate effective access and use of legal arrangement BO information by all relevant competent authorities.

Effectiveness, proportionality and dissuasiveness of sanctions

424. While ROC can impose proportionate and dissuasive sanctions on companies and some sanctions on other legal persons under other relevant acts (See R.24), due to limitations in maintained statistics ROC was not able to fully demonstrate their effectiveness.

425. The ROC has several cases against domestic and foreign companies at various stages of completion for non-compliance with the Companies Act and Investment Promotion Act. Violations under investigation or prosecution are outlined in Table IO.5 – 2. Most of the enforcement actions are pending or in progress. It is unclear whether all matters have, or will, result in effective sanctions, or whether the matters occurred within the period under review.

426. At the time of the ME onsite visit, PNG was in the transition period of the Companies (Amendment) Act 2022 until the end of November 2023 and had not monitored or enforced any new obligations on companies including new BO requirements.

Table IO.5 – 2: IPA Enforcement Actions

Sanction	No. of enforcement actions (status is unclear)
Carrying on business without a certificate (foreign) s41(1)(a) IP Act	1
False statements (foreign) s43 IP Act	1
Non-compliance with annual return s215 Companies Act	29
Registrar's power of inspection s400 Companies Act	12
False statements (domestic) s420 Companies Act	8
Fraudulent use or destruction of property s421 Companies Act	8
Falsification of records s422 Companies Act	8

Overall conclusion on Immediate Outcome 5

427. Information on the creation and types of legal persons in PNG is publicly available through legislation and online. PNG has not reasonably assessed its ML/TF risks associated with legal persons and all competent authorities, except for FASU and ROC, demonstrated a limited understanding of legal person ML/TF risks. At the time of the ME onsite visit, implementation of the new BO requirements on companies was ongoing with no monitoring of compliance. Therefore, PNG primarily relies upon information collected by FIs and DNFBPs while implementing CDD for BO information. Commercial banks and large DNFBPs (with foreign parents) have policies and procedures for basic and BO information collection, but highlighted challenges with verifying this information. For all other FI and DNFBPs information is unlikely to be adequate, accurate and available in a timely manner. PNG did not demonstrate RPNGC and other relevant competent authorities are actively using basic or BO information in ML or high-risk predicate crime investigations or to trace proceeds of crime - given PNG's significant ML risk, weight has been placed on this. PNG has no mitigating measures for nominee arrangements.

428. Trusts can be formed under common law in PNG. PNG primarily relies upon information collected by FIs and DNFBPs while implementing CDD requirements for basic and BO information on trusts. Collection of adequate, accurate, and up-to-date information is as described above for legal persons with the additional challenge that PNG has no measures to ensure trustees disclose their status to FIs and DNFBPs or other measures to prevent their misuse for ML/TF. PNG did not demonstrate RPNGC and/or other competent authorities are actively using information held on trusts in ML/TF or high-risk predicate crime investigations or to trace proceeds of crime.

429. **PNG has a low level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

- A. DJAG is the central authority for MLA and extradition. It has adequate policies, procedures and systems; however, its skilled capacity level does not allow it to proactively support and promote the use of formal international cooperation by relevant competent authorities in PNG.
- B. PNG has received six incoming MLA requests. Recent requests have been responded to in a timely manner with assistance seeming to be adequate. The requirement for an extradition treaty and regulation means PNG cannot execute extradition with non-PIF jurisdictions in a timely manner. PNG has not received an incoming extradition request (in the period under review) and has one extradition treaty with Indonesia.
- C. PNG has made four outgoing MLA requests and one extradition request, most of which were to Australia. The cases demonstrate positive elements of PNG's ability to engage in international cooperation; however, PNG is not seeking formal international cooperation at a level consistent with its significant ML and predicate crime risks and prevalence of laundering abroad. This is primarily attributable to legal framework shortcomings; and a lack of prioritisation, skilled capacity and institutional resources to pursue ML and asset confiscation abroad.
- D. PNG has not sought MLA or extradition in relation to TF, which is in line with its low risk.
- E. PNG has a range of non-MLA international cooperation mechanisms. FASU is the most engaged in using other forms of international cooperation, primarily via ESW. Law enforcement focused non-MLA international cooperation mechanisms are available; however, RPNGC and other relevant competent authorities do not maintain comprehensive information and statistics on their use. Relevant competent authorities mainly respond to requests, rather than using their established mechanisms to pursue criminals and their assets abroad.
- F. FASU has shared some basic and BO information with foreign counterparts through ESW requests. While ROC have not yet engaged in international cooperation, BO requirements on companies are new and ROC's website allows online access to basic information.

Recommended Actions

- A. DJAG should prioritise providing outreach and training to relevant competent authorities on formal international cooperation in accordance with the updated Handbook.
- B. PNG should significantly enhance RPNGC and other relevant competent authorities' use of MLA in applicable ML and higher-risk predicate crime investigations (including for asset confiscation). This should include implementation of policies, manual and books, the provision of ongoing training, and enhanced cooperation and coordination with the central authority.
- C. To enable efficient and effective corruption and ML related confiscation by ICAC once operational, ICAC should develop institutional and operational frameworks to effectively use informal international cooperation in its ML and corruption related matters. PNG should

establish a robust cooperation mechanism between ICAC and DJAG that ensures the appropriate level of prioritization for ICAC's corruption and ML cases.

- D. PNG should consider increasing the CA's human resources to enable it to better support and promote use of formal international cooperation, particularly as other relevant competent authorities enhance their use of MLA and extradition.
- E. To increase efficiency of extradition, PNG should either amend the Extradition Act or enter into more treaties with non-PIF jurisdictions in line with its ML/TF risk and context. Post this, PNG should refine policies, manual and books.
- F. RPNGC and other relevant competent authorities should strengthen and significantly increase the use of their individual mechanisms for international cooperation with important regional counterparts and other jurisdictions with shared ML risks and a criminal nexus. This should include formalising processes and keeping adequate records.
- G. PNG should increase international cooperation on BO including by coordinating with jurisdictions with shared ML and predicate crime risks.

430. The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

Immediate Outcome 2 (International Cooperation)

431. PNG's legal framework for MLA and extradition is under the MACMA Act 2005 (Amendment Act 2015) and the Extradition Act 2005 for criminal matters with PNG having moderate shortcomings in R.36, R.39 and R.40. PNG has minor shortcomings in R.37 and R.38. The Legal Policy and Governance Branch of DJAG is the central authority for MLA and extradition with two designated staff for incoming and outgoing MLA and extradition.¹¹⁸ PNG has a handbook (updated in September 2023) for administering its international cooperation regimes on criminal and civil matters. This handbook is a resource tool for central authority actioning officers and is used to prioritise and execute incoming and outgoing MLA and extradition requests. It is also available to other relevant competent authorities. The central authority maintains a Data Tracking System (DTS) for registering and tracking all MLA and extradition requests.

432. ICAC was not operational at the time of the ME onsite visit and therefore had not engaged in international cooperation. Detailed discussion of ICAC is not included in this IO.

Providing constructive and timely MLA and extradition

433. PNG is not receiving a high number of MLA requests and has not received any incoming extradition requests.¹¹⁹ For incoming MLA, PNG's ability to respond in a timely manner is impacted by the resources of the CA and the human and institutional resources of all other relevant authorities involved. During the period under review, there has been an increasing trend with more recent

¹¹⁸ Since the onsite (October 2023), a new staff member, lawyer, has commenced, giving a total of 3 staff in the central authority from April 2024.

¹¹⁹ PNG had received one extradition request in 2013 (outside the period under review).

requests being executed in a timely manner; however, the lack of detailed policies, manuals and books for relevant authorities and responsible officers impacts a coordinated response. Where assistance is provided, responses seem adequate with one jurisdiction¹²⁰ describing the engagement from PNG on MLA matters as constructive.

434. From 2018 to 2022, PNG received six incoming MLA requests from four jurisdictions mainly New Zealand and Australia. Most requests are related to narcotics (see Case IO.2-1) with one case each relating to child exploitation material and another related to abduction. In response to these requests, PNG competent authorities provided evidentiary materials such as witness statements, seized items, and facilitated custody and control of illegal substances for the requesting jurisdiction's investigations. The response time to these MLA requests varies significantly from approx. 4 years to 12 days, with the response time to recent requests in 2020 to 2022 taking roughly a month each. Recent requests are timely. The delays in responding are varied and are attributable to competing priorities for the competent authorities, a lack of domestic cooperation between relevant agencies and experience in responding to MLA requests.

435. PNG does not seek, nor has received feedback from foreign jurisdictions regarding processing time and quality of the information and/or assistance provided.

436. PNG has not received an MLA request for execution of a foreign restraining or confiscation order. The MLA handbook provides high-level guidance, in line with the MACMA and POCA, on the provision of such assistance should it be requested. The timeliness and quality of the assistance would be dependent on the individuals and agencies involved due to a lack of detailed policies, manuals and books for all relevant authorities.

437. In line with PNG's TF risk and context, PNG has not received an incoming TF-related MLA request.

Case IO.2-1: Incoming MLA related narcotics

In 2019, Jurisdiction X requested MLA from PNG on a case related to the conspiracy of importing a commercial quantity of cocaine and dealing with the proceeds of crime. These crimes were alleged to have been committed by members of an organized transnational drug syndicate of which a PNG national was facilitating the importation of drugs to Jurisdiction X via PNG. The request sought assistance in obtaining witness statements, evidence and interviews. The central authority engaged with RPNGC directly to lead the response to Jurisdiction X's request who obtained the evidentiary materials requested. PNG's domestic cooperation included coordination between the CA, RPNGC and PNGCS on matters related to the importation.

The PNG national was arrested when they voluntarily travelled to Jurisdiction X, subsequently charged, convicted and is now serving 11.5 years imprisonment in Jurisdiction X.

438. As discussed in R.39, PNG's ability to execute timely extradition is impacted by the requirement for a treaty and implementing regulation for all non-PIF jurisdictions. PNG offers a more flexible regime to fellow PIF jurisdictions; however, in practice most cases are dealt with via

¹²⁰ International Cooperation and Risk Information Request submission.

deportation. PNG has one bilateral treaty with Indonesia, which is yet to be exercised for extradition. PNG has not received an incoming extradition request in the period under review.

Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

439. The Cutmore and Wartoto cases demonstrate positive elements of PNG's ability to engage in international cooperation (see Case IO.2-2 and IO.2-3). Overall, PNG is not seeking formal international cooperation at a level consistent with its significant ML and predicate crime risks and prevalence of laundering abroad. PNG has not sought MLA or extradition in relation to TF, which is in line with its low risk.

440. In the period under review, PNG made four outgoing MLA requests, all of which were to Australia. These outgoing requests related to narcotics, homicide, misappropriating state funds and ML.¹²¹ In the Wartoto case, PNG sent restraining orders to Australia (in 2014) through an MLA request. This request was successfully enforced in Australia and PNG followed up in 2022 with an MLA request for valuation documentation for a final forfeiture order. As of October 2023, these forfeiture orders are yet to be issued by the PNG Court. The Wartoto case is a complex MLA and asset confiscation matter that requires significant focus from PNG's limited expert human resources across all relevant competent authorities.

441. There are multiple reasons for PNG's limited number of outgoing MLA: (i) shortcomings in the PNG legal framework (see R.37 and R.38); (ii) no prioritisation of adequate human and institutional law and justice sector resources to pursue ML and asset confiscation abroad; (iii) competent authorities' lack of skilled capacity to undertake complex ML and asset confiscation related functions; (iv) lack of adequate and up-to-date policies, manuals and books for ML and asset confiscation related functions; and (v) limited central authority human resources available to support and promote the execution of MLA.

Case IO.2-2: Cutmore

In January 2021, PNG sent an MLA request to Australia in relation to the high-profile case of Cutmore. In July 2020, Cutmore illegally flew an aircraft from Australia to PNG for the purposes of collecting drugs (cocaine) and transporting it to Australia. After receiving the drugs in Lealea village from two locals, the aircraft failed to take off and crashed into trees at the end of the runway. Cutmore intended to transport 28 bags of cocaine weighing 611.1 kilograms, worth K340 million (~USD 94 million) to Australia.

The MLA sought laboratory test results for illicit substances and Australia was able to respond in June 2021. This evidence was used to lay charges under the Customs Act (smuggling) and Migration Act (illegal entry) as the Controlled Substances Act 2021 was not in effect at the time of the offence. In October 2022, ML charges were laid under the Criminal Code and Cutmore pleaded guilty, sentenced to 18 years in prison without hard labour. As of October 2023, Cutmore is seeking to appeal the rest of his sentence (15 years and 9 months).

Case also included in IO.7

¹²¹ One potential MLA case related to homicide was later withdrawn by PNG.

Case IO.2-3: Wartoto

In August 2022, PNG sent an additional MLA request to Australia in relation to the high-profile case of Wartoto. In 2008, a sum approx. K7,989,892 (~USD 2 million) were awarded to Wartoto's company Srakoklok West Transport Ltd (SWT) to conduct renovations on Kerevat National High School. In 2011, Wartoto was charged with two counts of misappropriation under s.383A Criminal Code Act 1974, for dishonestly taking state funds.

In 2012 a non-conviction based restraining order was made to the National Court for property in PNG owned by Wartoto. In 2014, assets were successfully restrained in Australia through an MLA request to Australia.

In 2017, Wartoto was found guilty of misappropriating state funds, ~K 7,989,892 (~USD 2 million), and was sentenced to 10 years imprisonment.

In 2017 Wartoto was found guilty of misappropriating state funds and was sentenced to 10 years of imprisonment with hard labour. Assets valued at ~USD 960,000 were traced to Australia and preserved pursuant to a MLA request from PNG sent in 2022. The additional MLA request sent through to Australia in 2022, sought further information on the restrained properties and valuation documentation in order to submit a final forfeiture order. At the time of the onsite visit all Australian properties remain under the custody and control of Australian authorities, with the final forfeiture application still with PNG authorities.

442. PNG has one current outgoing extradition request with Australia (See Case IO.2-4) and three potential cases under development. The three potential cases relate to fraud, stealing from employees and ML. At the time of the ME onsite, the CA had made informal contact with the CA of the foreign jurisdictions, but the timeline for sending the requests is unclear as the formal documentation from RPNGC to the CA was pending.

443. PNG's extradition request with Australia relates to fraud and ML of approximately K200 million (~USD51.4 million) (see Case IO.2-4). PNG has undertaken several follow-up activities to expedite the process. This case demonstrates positive elements of PNG's ability to engage in extradition; however, the overall level of outgoing extradition is not consistent with PNG's ML risks. The requirement for an extradition treaty and regulation with non-PIF jurisdictions is a significant barrier to PNG effectively using extradition. The reasons for PNG's limited number of outgoing MLA (discussed above) are applicable for outgoing extradition.

Case IO.2-4: Outgoing Extradition

In 2021, RPNGC issued a warrant for the arrest of a Chief Executive Officer of Western Province Community Mine Continuation Agreement for alleged misappropriation of K200 million (~USD 51.4 million). Later that year, PNG sent an extradition request to Australia in support of their investigation. The allegations stem from a complaint lodged by a member of parliament, with RPNGC continuing investigations into associates of the CEO. A further six people (employees and directors) were charged by police for their involvement and are now facing court (case is ongoing). This is the single biggest crime that has ever been investigated by RPNGC.

Seeking and providing other forms of international cooperation for AML/CFT purposes

444. PNG has a range of non-MLA international cooperation mechanisms. Limited detailed information was provided to demonstrate the use of such mechanisms to pursue criminals and their assets abroad at a level consistent with PNG's significant ML and predicate crime risks, and prevalence of laundering abroad. The key exception to this is FASU's active engagement in international cooperation related to its FIU functions and the key role it plays in supporting broader Pacific AML/CFT initiatives.

445. FASU is a founding member of the PFIC and is actively supporting the continued development of this Pacific financial intelligence cooperation mechanism (see below box). FASU is actively seeking and providing other forms of international cooperation for AML/CFT purposes through ESW and the use of its 14 MOUs with foreign counterparts. FASU is able to seek international cooperation for its own AML/CFT purposes and on behalf of other domestic agencies. PNG and Australia's FIU bilateral relationship (through MOUs) has been exercised regularly through 54 spontaneous disseminations relevant to ML and predicate offences since September 2018.

446. A total of 13 incoming requests from ESW have been received by FASU since 2020. No requests have been refused, but a few requests were pending at the time of the ME onsite visit. Majority of these requests came from Australia with the remaining incoming requests from a range of foreign jurisdictions. All requests are related to predicate offences of ML. The response time varies, anywhere from three to six weeks, depending on the type of information requested. Challenges in responding can arise when engagement is required from other domestic agencies who need to manage competing priorities and institutional resourcing limitations. The quality of the responses is impacted by timeliness of information from other relevant competent authorities.

447. FASU has sent a total of 27 outgoing requests to eight jurisdictions via ESW since 2020. Majority of requests were sent to Australia and other regional jurisdictions with strong financial links to PNG. Two requests were associated with suspicions of illegal activity of a logging company conducting operations in PNG with links to national directors and shareholders. FASU's requests mainly relate to predicate offences and no requests have been made for ML itself. This is not fully consistent with PNG's risk profile.

448. FASU can exercise its MOUs with foreign counterparts for AML/CFT supervision purposes including that FASU has offered to conduct joint supervision activities with foreign supervisors of branches of PNG's domestic commercial bank. FASU and Australia have also cooperated in support of FASU's two full-scope onsite inspections of its domestic banks.

Pacific Financial Intelligence Community (PFIC)

FASU is a founding member of the PFIC, which has a total membership of 15 FIUs within the Pacific region. PNG is the current co-chair, and this regional FIU forum promotes greater collaboration between Pacific FIUs through joint operational engagement, research activities, capacity building, training, technical enhancement and an avenue for intelligence sharing.

In 2023, FASU provided a presentation to PFIC members, summarising the findings on different trends and patterns identified through FASU's strategic analysis reports. The sharing of key findings

on trends and patterns in the Pacific promotes further intelligence sharing and enhances the quality of engagement on relevant high risks in the region.

In the first PFIC meeting in 2022, PNG suggested sharing PEP lists between members to further strengthen collaboration and cooperation and assist each FIU's corruption related financial intelligence reporting and analysis. As a result, PNG and others shared their PEP lists which are contributing to operational intelligence. The research working group within the PFIC network supports research on certain topics relevant to the region. This group completed a research project on the use of Mobile Money services in the Pacific region, which used FASU's data and information.

RPNGC's and other relevant competent authorities use of other forms of international cooperation:

449. PNG has a range of law enforcement focused non-MLA international cooperation mechanisms. This includes the TCU, PTCCC, Australian Federal Police partnership, MOUs with key Australian agencies, INTERPOL, PICP, PIDC and FFA. Furthermore, PNG and Indonesia have an established border cooperation mechanism with annual meetings at the ministerial and operational level on border-related issues. Relevant agencies do not maintain detailed information and statistics on the use of these mechanisms so PNG's ability to demonstrate effectiveness is limited.

450. RPNGC is engaged and participates with regional and international mechanisms such as INTERPOL, TCU, PICP and the Australian Federal Police partnership. These mechanisms afford RPNGC access to requests for information and intelligence sharing for their investigations and operations (see case IO.2-5 and IO.2-6). RPNGC provided limited information on the number, frequency and timelines of information exchanged through these mechanisms.

Case IO.2-5: Haus of Bribes

RPNGC received a FASU spontaneous dissemination in 2021, relating to unexplained funds of K100,000 (~USD25,700) sent to a personal bank account of a PNGFA Officer. Funds were being sent via internet banking to the Officer from a personal bank account of a foreign national. The foreign national acted as an intermediary between the PNGFA Officer and a logging company.

The RPNGC liaised and sought intelligence from INTERPOL on the foreign national and associated accounts, and from PNGFA concerning the Officer. PNGFA also conducted a compliance audit into all logging activities occurring in the province that the PNGFA Officer had supervision of. This information was shared with RPNGC as well to inform their investigation. At the time of the ME onsite visit, the investigation was ongoing.¹²²

¹²² In February 2024, the PNGFA Officer (an ex-forestry officer) was sentenced to stand trial in the National court on ML charges. This case is still pending, and INTERPOL are issuing a "Blue Notice" on the foreign national.

Case IO.2-6: Responding to an INTERPOL request

In 2022, RPNGC received an INTERPOL Provisional Arrest Warrant request from China. RPNGC initiated interagency coordination between FASU, DJAG, PNGCS and PNGICSA for support to the investigation. Upon investigation, it was identified there was a breach in PNG immigration laws by the person of interest. The person of interest voluntarily surrendered to the requesting jurisdiction and was deported 21 days after the INTERPOL request.

8

451. The TCU within RPNGC uses the PTCCC network to seek and provide timely law enforcement information and intelligence with other TCUs in 13 Pacific Island jurisdictions; however, information and statistical details on its use was not provided. Similarly, RPNGC is a member PICP with all Pacific Police Forces committed to the sharing and coordinating of law enforcement information and activities across the Pacific; however, detailed information and statistics to demonstrate PNG's effectiveness was not provided. Due to the lack of statistical data on information exchanges between the RPNGC and foreign counterparts, it is not clear whether PNG is effectively using other forms of international cooperation to pursue criminals and their assets abroad.

452. PNGCS, IRC, NMSA, NFA, PNGFA, OPP and PNGICSA have MOUs with regional partners, which seem to be exercised and used predominantly for training and capacity building. PNGCS and PNGICSA have experience in using their MOUs for customs and immigration joint activities, but the operational outcomes from these activities remain limited. Most competent authorities will leverage the relationship of FASU and its foreign counterparts for international cooperation on AML/CFT matters. Overall, these competent authorities are making very limited use of other forms of international cooperation to pursue criminals and their assets abroad.

453. No other information or evidence was provided on the extent of international cooperation to exchange financial intelligence, supervisory, law enforcement or other information in an appropriate and timely manner for AML/CFT purposes.

International exchange of basic and beneficial ownership information of legal persons and arrangements

454. FASU has shared basic and BO information with foreign counterparts through ESW requests. FASU has received only one request in 2021, pertaining to basic and BO information where company registration information was sought. In July and September 2021, FASU requested two jurisdictions share beneficial ownership information of bank accounts relating to cases of a logging company and law firm respectively. All other competent authorities including ROC have not yet engaged in international cooperation requests concerning basic and BO information. BO requirements on companies are new and ROC's website allows online access to basic information (see IO.5).

Overall conclusion on Immediate Outcome 2

455. PNG has received six incoming MLA requests with recent requests responded to in a timely manner and assistance seeming to be adequate. PNG has not received an incoming extradition request.

456. In line with PNG's ML risk and context, weight is placed on outgoing international cooperation. PNG has sought MLA on four occasions and has one ongoing extradition matter. The Cutmore, Wartoto and outgoing extradition case demonstrate positive elements of PNG's ability to

engage in international cooperation; however, PNG is not seeking formal international cooperation at a level fully consistent with its significant ML and predicate crime risks and prevalence of laundering abroad. FASU is actively involved in other forms of international cooperation including sharing of BO information, but all other relevant competent authorities mainly use their established mechanisms to respond to requests, rather than to pursue criminals and their assets abroad. PNG has not engaged in international cooperation on TF, which is in line with its low risk.

457. **PNG has a moderate level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis concerning the level of technical compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the member's situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2011. This report is available from www.apgml.org.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

3. This is a new Recommendation, which was not assessed in the 2nd round MER.

4. *Criterion 1.1.* To identify and assess its ML/TF risk, PNG has undertaken four ML/TF risk assessments in the period under review and two risk assessments were under development at the time of the ME onsite visit.

5. PNG completed its first NRA in 2017, endorsed by the NEC in October 2018 and published in March of 2019. The assessment broadly follows common practice of APG members identifying PNG's ML/TF risks through assessment of threats, vulnerabilities and consequences. The NRA is explicit in highlighting data collection deficiencies "The development of the NRA has been complicated by the lack of data collected by key agencies such as the BPNG, RPNGC, Customs, IRC and IPA and within the reporting entities." The NRA process was led by FASU with input and involvement of representatives from relevant Government agencies as well as the private sector, and supported by Asian Development Bank. Given the maturity of PNG's AML/CFT regime at that time and the range of private sector stakeholders' participation, FIS' involvement in the NRA seems reasonable, but involvement of DNFBPs was limited.

6. The NRA identifies the following major areas of criminal activity considered to provide significant ML threats to PNG: (i) corruption and bribery, (ii) fraud against government programs and activities, (iii) illegal logging and fishing and other environmental offences, (iv) taxation and revenue fraud, and (v) illicit drug importation and distribution.

7. The conclusion that PNG's overall ML risk is significant and the identification of above major threats is reasonable including that most of these crime types are likely to have both domestic and offshore components (e.g., illegal logging and fishing) and/or laundering offshore. The NRA distinguishes the differing level of threat, but not risk, between these five major threat categories and provides the level of threat associated with all other predicate offences. The NRA provided an estimation as estimation of the laundering in PNG between of PNGK1.8 billion (USD 560 million) to PNGK4.4 billion (USD 1.4 billion) annually. The NRA also highlights illegal profits from the logging and fishing sector accrue offshore.

8. The NRA notes that PNG is less likely to attract foreign proceeds of crime because of the relatively small size of its financial sector; however, domestic proceeds of crimes are laundered both within the country and to other foreign jurisdictions.

9. The NRA identifies and assess at some high-level ML vulnerabilities including capacity and resources of the Government, environment and resource protection, cash economy, porous borders, trade based crimes, laundering businesses, and legislative and regulatory weaknesses.

10. Regarding vulnerable sectors, domestic banks, and currency transfer and exchange businesses are identified as very highly vulnerable to ML. Savings and loans societies are identified as moderate vulnerability and securities dealers and insurance companies as low to moderate vulnerability. Micro-finance institutions and non-bank lenders are considered low vulnerability. Real estate agents, lawyers and accountants engaged in commercial activities on behalf of clients and involved in company/ trust formation, and MV dealers are identified as highly vulnerable to ML/TF. The conclusion regarding key vulnerable sectors is generally reasonable, but the assessment lacks depth in identifying sector-specific vulnerabilities particularly for foreign banks, superannuation funds, and DNFBPs.

11. The NRA identifies PNG's TF risk as low. This is reasonable given the AT did not identify open-source information, covering the period under review, that suggests international terrorist groups (including UN listed persons or entities) are operating in PNG or raising, moving and using funds in connection to PNG.¹²³ While PNG shares an 824 km porous border with the Papua province of Indonesia, this region is considered medium risk by Indonesia with key Indonesian domestic terrorist organisations such as Darul Islam (DI), Jemaah Islamiyah (JI), and Jamaah Ansharut Daulah not active in this region and Papua New Guinea not identified as a high-risk source, transit or destination jurisdictions for funding of these organisations.¹²⁴ Indonesia recently designated the West Papua National Army-Free Papua Organisation (OPM) as a terrorist organisation, but it is not designated by PNG or other jurisdiction in the region. Notwithstanding, NRA includes a more limited focus on TF including that there is no detailed discussion of TF risk associated with neighbouring higher-risk TF jurisdictions or specific TF vulnerabilities in PNG.

12. In 2023 FASU commenced a process to update the NRA. At the time of the ME onsite visit the initial data collection and analysis was complete. While data sources are restricted to RPNGC crime statistics, SMRs, and TTRs, in part, this reflects a focus by PNG to overcome some of the quantitative data limitations of the 2017 NRA. Involvement in the process was mainly restricted to FASU and there had been very limited discussion of the findings at the NCC leave. Initial analysis shared with the AT shows a strong correlation with the threats and vulnerabilities findings of the 2017 NRA. At the time of the ME onsite visit, there was no timeline for development of the full report or its approval.

13. In addition to the NRA, PNG has undertaken two NPO risk assessments (see R.8 for details of this assessment) and has completed a risk assessment of VA/VASPs (see R.15 for details of this assessment).

14. A forestry sectoral risk assessment is under development with support from UNDOC. At the time of the onsite visit, the draft report was under a lengthy review process by some competent

¹²³ United Nations Security Council – Counter-Terrorism Committee, 2021, Counter-Terrorism Committee Executive Directorate, <https://www.un.org/securitycouncil/ctc/search/node/Pacific%20Islands>, accessed November 2023; Institute for Economics and Peace, 2023, Global Terrorism Index, <https://www.visionofhumanity.org/wp-content/uploads/2023/03/GTI-2023-web-170423.pdf>, p.44, accessed November 2023.

¹²⁴ Indonesian Financial Transaction Reports and Analysis Center (PPATK), 2021, Indonesia Risk Assessment, <https://www.ppatk.go.id/backend/assets/uploads/20220412140054.pdf>, p.47, 51, accessed November 2023.

authorities, but not all NCC members. The draft report was not shared with the AT nor was a timeline for publication.

15. *Criterion 1.2.* FASU is designated under s.72(2)(b) of the AMLCTF Act as the responsible agency to develop risk assessments in relation to ML/TF risks.

16. *Criterion 1.3.* There are no explicit requirements for FASU to keep risk assessments up to date. FASU is updating the NRA and the 2017 NRA stated that an update or new assessment should be completed every 3 years. In addition, PNG has undertaken two NPO risk assessments, a VA/VASP sectoral risk assessment, and the forestry sectoral risk assessment is under development.

17. *Criterion 1.4.* The 2017 NRA is published on FASU's website (<https://www.bankpng.gov.pg/financial-analysis-and-supervision/>) and has been provided to all relevant AML/CFT stakeholders including FIs and DNFBPs – some DNFBPs met by the AT were unaware of the NRA. Additionally, FASU conducted outreach programs open to all FI and DNFBPs following the publication of the NRA in 2017. It is unclear how the results of sectoral risk assessments were made available to all competent authorities, FIs and DNFBPs.

18. *Criterion 1.5.* PNG's framework for the application of a risk-based approach to allocating resources and implementing measures to prevent or mitigate ML/TF is via the National AML/CFT Strategic Plan implemented by the NCC. At the time of the ME onsite visit, PNG was in a transition phase between the National AML/CFT Strategic Plan 2017-2022 and 2023-2027. The NSPs are designed with an intention to address PNG's most significant financially motivated crimes affecting PNG and are generally consistent with PNG's ML/TF risks and context and gaps and vulnerabilities in PNG's AML/CFT regime and builds on previous NSPs. While NSPs set out at a high-level where and for what resources should be allocated, resources are not being applied consistent with NSPs, particularly in the law and justice sector. FASU has its only Strategic Plan to allocate its resources and implement measures to prevent and mitigate ML and TF.

19. *Criterion 1.6.* PNG does not exempt FIs or DNFBPs from compliance requirements on the basis of risk.

20. *Criterion 1.7.* FIs are required to take EDD measures for identified high-risks (s. 26(1) AMLCTF Act) with FIs risk assessments requiring that FIs "must have regard" for country-level risks and guidance produced by FASU or the regulatory authority (s. 6(3) AMLCTF Act). These requirements are applicable to DNFBPs (s.52 AMLCTF Act).

21. *Criterion 1.8.* FIs can undertake simplified CDD in circumstances where standard or enhanced CDD is not required, and low risk are identified (s.21 (1)(e) of the AMLCTF Act). As above, FIs risk assessments requiring that FIs "must have regard" for country-level risks and guidance produced by FASU or the regulatory authority (s. 6(3) AMLCTF Act). These requirements are applicable to DNFBPs (s.52 AMLCTF Act).

22. *Criterion 1.9.* The AMLCTF Act gives FASU the power to conduct offsite and on-site inspections for the purpose of determining whether FIs or DNFBP are complying with AML/CFT obligations under the Act (s.81 & 85 AMLCTF Act). FASU is conducting AML/CFT supervision; however, both R.26 and R.28 have moderate shortcomings and there are minor shortcomings in c.1.10 to c.1.12 obligations on FI and DNFBPs (see below analysis).

23. *Criterion 1.10.* FIs are required to identify and assess their ML /TF risks (s.6(1) and (2) AMLCTF Act) including for customers, countries and geographic areas, products, services, and delivery

channels (s.6(3) AMLCTF Act). These requirements are also applicable to DNFBPs (s.52 AMLCTF Act). This includes:

24. (a) Document the risk assessment (s.6(2)(a) AMLCTF Act).
25. (b) FIs and DNFBPs are required to consider an adequate but not extensive list of factors in determining risk (s.6(3)(a)-(h) AMLCTF Act).
26. (c) FIs (s.9(1) AMLCTF Act) and DNFBPs (s.52 AMLCTF Act) must review its risk assessment and AML/CFT program on a regular basis ensuring it remains current.
27. (d) FASU has the power to request FIs and DNFBPs to provide information for the purpose of monitoring and enforcing compliance with the AMLCTF Act (s.81 AMLCTF Act).
28. *Criterion 1.11.* FIs and DNFBPs (through s.52 AMLCTF Act) are required to:
 29. (a) have policies, controls and procedures to manage and mitigate risks identified by the FI/DNFBP (s.7(3) AMLCTF Act).
 30. (b) Monitor implementation on controls to ensure it remains current and to identify and address any deficiencies (s.9 AMLCTF Act).
 31. (c) There is no explicit requirement to take enhance measures (besides enhanced CDD under s.27 and s.28 AMLCTF Act) where higher risks are identified.
 32. *Criterion 1.12.* As outlined in R.1.8, FI and DNFBPs can take simplified measures to manage and mitigate risks, if lower risks have been identified and where there is no suspicion of ML/TF (s.21(1)(d) AMLCTF Act). However, criteria 1.9 to 1.11 are not all met.

Weighting and Conclusion

33. PNG has undertaken four ML/TF risk assessments in the period under review and two risk assessments were under development at the time of the ME onsite visit. While the 2017 NRA was delayed and has limitations in quantitative data, its overarching conclusions are reasonable. PNG's framework for the application of a risk-based approach is via its AML/CFT NSPs. However, resources are not being applied consistent with NSPs, particularly in the law and justice sector. The AT has placed significant weight on this issue due to the resource constraints across the Government sector in PNG. FASU has its only strategic plan to allocate its resources and implement measures to prevent and mitigate ML and TF. There are minor shortcomings in obligations for FIs and DNFBPs.

34. **Recommendation 1 is rated partially compliant.**

Recommendation 2 - National Cooperation and Coordination

35. In the 2011 its MER, PNG received a partially compliant rating for the former R.31 due to no formally established AML/CFT coordinating committee, a lack of effective mechanisms for coordinating activities between regulatory agencies, and lack of inter-agency coordination of competent authorities involved in AML/CFT has undermined effectiveness.

36. *Criterion 2.1.* At the time of the ME onsite visit, PNG was in a transition phase between the NSP 2017-2022 (endorsed by the NEC in 2018) and 2023-2027. PNG's NSP 2023-2027 was adopted by the NCC just before the onsite; however, was not approved by the NEC. The NSP 2023-2027 and 2017-2022 are designed with an intention to address the most significant financially motivated crimes

affecting PNG and generally consistent with PNG’s ML/TF risks and context and gaps and vulnerabilities in PNG’s AML/CFT regime and builds on previous NSPs. An overview of the NSP 2023-2027 is included in Chapter 1. The NCC monitors implementation of NSPs on an ongoing basis.

37. At the time of the ME onsite, ICAC was not operational and therefore not included in the NSP 2023-2027.

38. *Criterion 2.2.* The NCC, co-chaired by the Governor BPNG and Secretary DJAG, was established in 2012 by NEC Decision NG 150/2012. The NCC was established to respond to PNG’s MER 2011. While the NCC TORs have not been updated since 2012, the NCC was the authority responsible for co-ordination PNG’s AML/CFT national policies in response to its ICRG listing (in 2014) and now is the authority responsible for development and implementation of PNG’s NSPs.

39. In addition to BPNG and DJAG, the NCC is comprised heads of departments/agencies listed in paragraph 58. At the time of the ME onsite, ICAC was not operational and not a member of the NCC.

40. *Criterion 2.3.* The NCC is PNG’s primary policy and operational coordination and cooperation mechanism for AML/CFT purposes. The Technical Working Group (TWG) comprising of technical officers supports the NCC on policy related matters. Information provided to the AT shows reasonable policy-level coordination over the last few years, leading into the ME, focused on implementation of NSP action items.

41. There are several other LEA-related bodies focused on operational co-ordination, co-operation (e.g., Joint Agency Group, Joint Intelligence Group, Joint Operations Group), but the mandate and use of these mechanisms for operational AML/CFT cooperation and coordination is very limited.

42. As the Secretary to the NCC and in practice, FASU is central to policy and operational coordination and cooperation mechanism for AML/CFT purposes. FASU has MOUs with 11 members of the NCC concerning the cooperation on the exchange of information and intelligence related to ML/TF, proceeds of crimes and other related offences. Additional to intelligence, the MOUs also covers exchange of information for the purpose of supervising and enforcing compliance with the AMLCTF Act.

43. *Criterion 2.4.* While PNG reports that the NCC is responsible for CPF cooperation and coordination, the exact mandate is unclear, and in practice, policy and operational level cooperation/coordination on CPF is absent. However, the Sanctions Secretariat responsible for implementation of TFS-PF in PNG is a member of the NCC and can share information to support enforcing and implementing TFS-PF requirements in the UNFS Act 2015.

44. *Criterion 2.5.* In practice, the NCC is the mechanism for cooperation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with any Data Protection and Privacy Rules in PNG. However, as discussed above in c.2.1, the terms of reference of the NCC are unclear.

Weighting and Conclusion

45. At the time of the ME onsite visit, PNG was in a transition phase between the NSP 2017-2022 and 2023-2027 with both plans informed by PNG’s ML/TF risks and regularly reviewed. The NCC (supported by the TWG) is the primary mechanism for AML/CFT policy and operational cooperation and coordination and data protection and privacy. There are several other law enforcement related bodies focused on operational coordination and cooperation, but the level and use of these

mechanisms for operational AML/CFT cooperation and coordination is limited. Policy and operational level cooperation/coordination on PF is not occurring through the NCC or other bodies, but the Sanctions Secretariat is a member of the NCC and is empowered to share information to support enforcing and implementing TFS-PF requirements.

46. **Recommendation 2 is rated largely compliant.**

Recommendation 3 - Money laundering offence

47. In the 2011 its MER, PNG received a partially compliant rating for the former R.1 and R2 due to uncertainty as to the applicability of the ML offence to certain categories of offences not defined as crimes and to foreign crimes, not all categories of offences- arms trafficking and human trafficking are criminalized under PNG law, and fines are not proportionate or dissuasive.

48. *Criterion 3.1.* ML is criminalised under the Criminal Code (s.508B Criminal Code) and is consistent with the Vienna and Palermo Conventions. Under the Criminal Code, ML is committed by a person who deals with property which the offender knows or reasonably ought to know to be “criminal property” (s.508A and s.508B Criminal Code), which includes the concealment, disguise, conversion, transfer, removal, bringing into PNG, receipt, acquisition, use or possession of property (s.508B(3)(a)–(j) Criminal Code). Concealment and disguise of property includes that of concealing and disguising the property’s nature, source, location, disposition, movement, ownership or any right thereto (s.508B(4) Criminal Code).

49. s.515 of the Criminal Code provides for criminal liability to any person who conspires with another to commit a crime or to do any act in any part of the world that: (a) if done in PNG would be a crime; and (b) is an offence under the laws in force in the place where it is proposed to be done. Criminal liability also extends to those who attempt to commit indictable offences (s.509 Criminal Code).

50. Furthermore, every person who aids another person in committing an offence; every person who counsels or procures any other person to commit the offence shall be deemed to have taken part in and be charged the commission of an offence (s7 Criminal Code).

51. *Criterion 3.2.* PNG uses a threshold approach, predicate offences for ML include any offence within the definition of “criminal conduct” which would either: (a) constitute an offence in PNG for which the maximum penalty is death or a term of imprisonment for at least six months; or, (b) constitute an offence in PNG if it occurred in PNG and for which the maximum penalty is death or a term of imprisonment for at least six months (s.508A(a) and (b) Criminal Code).

52. PNG’s predicate offences do not cover all the designated list of predicate offences and there are gaps in some sanctions for natural or legal persons. Illicit arms trafficking is yet to be criminalized. Illicit trafficking in stolen goods is limited to those brought into PNG (s.380, Criminal Code). There are gaps with environmental offences as violations of the Fauna Act of 1966 do not qualify as serious offences as the penalties only involve fines where the maximum amount is K1,000 (~USD255.00). Some corruption offences do not extend to conduct by legal persons, and there are no sanction for corrupt conduct under the OLICAC.

53. *Criterion 3.3.* PNG applies a threshold approach in relation to predicate offences. In relation to ML, predicates comprise all offences that are punished by a maximum penalty of death or a term of imprisonment for at least six months (s.508A Criminal Code).

54. *Criterion 3.4.* ML is committed by a person who deals with property which the offender knows or reasonably out to know to be criminal property (s.508A Criminal Code) which is property that is, in whole or in part and whether directly or indirectly, derived from, obtained or used in connection with criminal conduct and includes any interest, dividends or other income on or value accruing from or generated by such property, regardless of who carried out the criminal conduct or who benefited from it” (s.508B Criminal Code).

55. Property includes assets whether tangible or intangible, corporeal or incorporeal, moveable or immovable, however acquired, including an enforceable right of action, and legal documents in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to, currency, bank credits, deposits and other financial resources, travellers cheques, bank cheques, money orders, shares, securities, bonds, draft and letters of credit, whether situated in PNG or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such asset (s.508A Criminal Code). PNG does not impose a value threshold on what constitutes property or criminal property for the purposes of the ML offence.

56. *Criterion 3.5.* When proving that property is criminal property for ML purposes under s3508B of the Criminal Code, it is not necessary to establish: (a) who committed the criminal conduct in relation to the property; or (b) that there is a charge or a conviction relating to the criminal conduct. Moreover, the prosecution need not prove that property was derived from particular criminal conduct but must prove either the general type or types of criminal conduct from which the property derived or can even rely on evidence that the circumstances in which the property is handled are such as to give rise to an inference that it can only be derived from criminal conduct (s.508F Criminal Code).

57. *Criterion 3.6.* Predicate offences for ML are not just limited to offences committed within PNG but also include offences which, although committed outside PNG, would nevertheless be an offence if committed within PNG (s.508A Criminal Code).

58. *Criterion 3.7.* Section 508G of the Criminal Code provides that nothing in [the law] precludes a person from being charged with or convicted of any criminal conduct, in addition to being charged with or convicted of a crime of ML under s.508B of the Criminal Code or dealing with property reasonably suspected to be criminal property under s.508C of the Criminal Code.

59. *Criterion 3.8.* Section 508B(2) of the Criminal Code specifically provides that “knowledge”, within the meaning of ML under s.508B(1) may be inferred from factual objective circumstances, but no information has been provided with regard to inferring “intent”. Based on s.508B, however, intent is not an element of the offence and therefore not necessary in a charge for ML.

60. *Criterion 3.9.* ML committed by natural persons is penalised with a fine not exceeding K500,000 (~USD137,000) or imprisonment for a term not exceeding 25 years, or both. The amount of fine is higher compared to selected predicate offences such as insider trading under s.102, Securities Act of 1997 (K200,000 ~USD51,000.00), and causing environmental harm (K125,000 ~USD32,000.00) under s.11 of the Environmental Act of 2000. The prison term for money laundering is longer compared to kidnapping (seven years) under s.353 of the Criminal Code, insider trading (five years) and causing environmental harm (five years). The fines and term of imprisonment are dissuasive and proportionate.

61. *Criterion 3.10.* Pursuant to s.508B of the Criminal Code, if the offender is a body corporate, the sanction is a fine not exceeding K1,000,000 (~USD274,000). In addition, Part III of POCA 2005 (as amended) provides for civil recovery by the State of property obtained through unlawful activity. The

amount of fine is double than the amount imposed on a natural person and is higher than the K250,000 (~USD64,000.00) fine imposed on a corporation liable under s.11 of the Environmental Act of 2000.

62. PNG authorities explained that the provision will apply where it is shown that the corporate entity was used for money laundering purposes. However, it has not been shown that legal persons can be subject to parallel criminal, civil or administrative proceedings.

63. *Criterion 3.11.* Section 515 of the Criminal Code provides criminal liability to any person who conspires with another to commit a crime or to do any act in any part of the world that: (a) if done in PNG would be a crime; and (b) is an offence under the laws in force in the place where it is proposed to be done. Criminal liability also extends to those who attempt to commit indictable offences (s.509 Criminal Code). Every person who aids another person in committing an offence; every person who counsels or procures any other person to commit the offence shall be deemed to have taken part in and be charged the commission of an offence (s.7 Criminal Code).

Weighting and Conclusion

64. Although ML has been criminalised in line with the relevant conventions and sanctions appear to be largely dissuasive and proportionate in the context of PNG, authorities were not able to demonstrate that parallel criminal, civil and administrative proceedings can be had with respect to legal persons, and PNG does not criminalise all predicate offence and criminal liability of legal persons is not clear for all offences. Gaps in predicate offences are given particular weight, considering PNG's risk and context, in particular environmental, corruption, and illicit arms trafficking and offences.

65. **Recommendation 3 is rated partially compliant.**

Recommendation 4 - Confiscation and provisional measures

66. In the 2011 its MER, PNG received a partially compliant rating for the former R.3 due to deficiencies in tracing powers that could only be used where authorised by a magistrate, and a lack of demonstrated effectiveness and use of the confiscation provisions. In the 2013 PNG FUR, the issues with investigative or tracing powers were found to relate primarily to R.1, and that PNG demonstrated some effectiveness in restraining and confiscating assets which reflected that the deficiencies in tracing powers are not significant issue for this recommendation. This resulted in PNG being re-rated as largely compliant for former R.3 (now R.4). In 2015, PNG amended the POCA to fully implement former R.3 (now R.4).

67. *Criterion 4.1.* PNG's primary confiscation regime is under the POCA. Some other specific legislation provides for confiscation for specific offences or by specific LEAs.

68. (a) PNG's confiscation measures are found under the POCA 2005 and its 2015 amendment. s.59A POCA governs the forfeiture of property suspected of being proceeds of indictable offences and the subject of a prior restraining order (s.39 POCA). s.58 is the forfeiture provision for property found to be proceeds of an offence and previously restrained (s.38 POCA) or is an instrument of an offence (s.58 (d)). Forfeiture orders under s.58 are issued upon conviction for indictable offences while forfeiture under s.59 only requires proof of conduct constituting a serious offence Properties restrained under s.38 and s.39 are automatically forfeited (s.71 POCA) based on the grounds provided under ss71 POCA which includes, conviction of a serious offense (s.49 POCA).

69. (b) Under s.58 POCA conviction-based forfeiture covers property that is specified as “proceeds of an offence” while s.59A covers property classified either as proceeds or instruments of an indictable offence. A serious offence is defined as an indictable offence or a foreign indictable offence for which the maximum penalty is death or imprisonment for at least three years (s.3 POCA).

70. Property is proceeds of an offence if it is: (i) wholly derived or realised, whether directly or indirectly, from the commission of the offence; or (ii) partly derived or realised, whether directly or indirectly, from the commission of the offence (s.10(1) POCA). Proceeds also include property converted, transformed or intermingled and any income capital or other economic gains derived from that property (s.10(2) POCA). Property is considered an “instrument” of an offence if it is: (i) used in, or in connection with, wholly or in part, the commission of an offence; or (ii) used in, or in connection with, wholly or in part, the commission of an offence (s.10(4) POCA). With the respect to the requirement of c.4.1 (b) and (c), the definition of property as “proceeds or instrumentality of an offence, as described above, extends to serious offences where the penalty of imprisonment is at least three years. This means that ML predicate offences with a penalty of at least six months to less than three years may not be covered.

71. (c) Property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations is subject to confiscation (see c.4.1(b)).

72. (d) Mechanisms for the confiscation of property of corresponding value are available pursuant to s.84 POCA as amended a court may order a pecuniary penalty order which is enforceable as a civil judgment debt against legitimately acquired property of the person subject to the order (s.103 POCA). Pursuant to s.81 of POCA, if the court is satisfied that a forfeiture order should be made against property of a person, but that the property, or any part or interest therein, cannot be made subject of such forfeiture order upon grounds provided by law, the court may instead order the person to pay the State an amount equal to the value of the property, part or interest. This power while enabling PNG to require payment to the State, does allow for the confiscation of property of corresponding value.

73. *Criterion 4.2.* Measures in the POCA, primarily enable RPNGC to:

74. (a) The POCA authorizes competent authorities (either RPNGC or the Ombudsman in specific cases) to apply for a warrant to search land for tainted property (s.113-127 POCA), apply ex parte, for production orders before a magistrate (s.153 POCA), issue notices to financial institutions to provide relevant information or document (s.160A POCA), make an ex parte application before a magistrate for monitoring orders directed at financial institutions (s.161 POCA). s.164 also authorizes the Commissioner of the Police to direct the person in charge of a state body to give or disclose information which may be used for purposes of identifying tainted properties.

75. (b) The POCA authorizes the issuance by the Court of restraining orders either for those convicted or charged with indictable offences (s.38 POCA), or those merely suspected of committing serious offences (s.39 POCA). Restraining orders are issued to prevent property being disposed of or dealt with by any person except in the manner specified in such orders. The application must be heard *ex parte* if the Public Prosecutor requests the Court to do so (s.40 POCA). The Commissioner of Police, in specific circumstances, is authorized under s.26 to direct financial institutions to freeze property in an account to prevent it from being disposed of or dealt with by any person. The directive is effective for ten days from date of service on the financial institution. s.122 authorizes a police officer, under a warrant issued under s.113, to seize tainted property to prevent it from being concealed, lost or destroyed, used to commit, continue or repeat the offence or another offence.

76. (c) Section 170 of the POCA, an authorised officer may apply with the court to declare void, the whole or part of a transaction if the purpose of the transaction is to defeat, among others, the objectives of the POCA.

77. (d) PNG has moderate shortcomings across RPNGCs, and other competent authorities' powers and special investigative techniques see analysis of R.31.

78. *Criterion 4.3.* A notice is required to the owner of the property, or any person having an interest in the property who may be affected by a restraining order (s.41 POCA). A person with interest in property who was not notified of an application for a restraining order may file an application to revoke the restraining order (s.41A POCA). A person whose property is covered by a restraining order is allowed to apply for the exclusion of the property under grounds specified by the POCA (s.42, s.43 POCA).

79. s.77 of the POCA provides that a person who claims an interest in a property subject of an application for a forfeiture order may apply with the court, prior to the order of forfeiture, for an order: (a) to declare the nature, extent and value of such person's interest in the property; and (b) declare that the forfeiture order does not apply to the latter's interest. This remedy is available even after a forfeiture order is made provided that the application is filed within six (6) months from the day the forfeiture order was made. The law even extends the remedy to a party who failed to file an application before the forfeiture order is made or even after six (6) months from date of forfeiture order if the court is satisfied that the party's failure was for good reason and not because of neglect.

80. Any person who claims an interest in a seized property may ask the court for its return based on specified grounds (s.123, s.130 and s.131 POCA). In addition, the Commissioner of Police is also authorized to return seized properties under specific circumstances (s.123 to s.125 POCA).

81. *Criterion 4.4.* The Commissioner of Police is authorized to do anything that is reasonably necessary to preserve the value of a property subject to a Court's custody and control order (s.168 POCA). Such authority includes the payment of taxes and other statutory charges (s.169B POCA). The Commissioner is also authorized to appoint agents to manage restrained or confiscated property (s.169S POCA). The Commissioner may propose the disposal of such property under certain conditions: (a) depreciation of the value beyond what the Commissioner considers reasonable; (b) high cost of storage and management, or a combination of (a) and (b). (s.169C POCA). PNG is authorised to establish a trust account for property held on an interim basis. Funds of the trust account include, among others, proceeds from sale of property subject to a custody and control order (s.169U POCA). The costs of preservation of the property, e.g. recovery of costs, charges and expenses of management may be charged to the Confiscated Asset Fund created under s.169W of the POCA, into which the proceeds of disposed confiscated assets are deposited (s.169W POCA). The Confiscated Asset Fund will be administered by the Department of Justice and Attorney General and Department of Finance in consultation with the RPNGC and OPP. The Confiscated Asset Fund has yet to be established. Upon final confiscation, disposal of particular property and related instruments can occur.

Weighting and Conclusion

82. PNG's primary confiscation regime is under the POCA which includes measures to trace, identify, restrain, and confiscate proceeds of crime, and to manage and dispose of property frozen, seized and confiscated. However, PNG has not established a trust account to manage confiscations.

Additionally, PNG has gaps in the range of predicate offences where confiscation can occur and moderate shortcomings across LEAs powers and special investigative techniques.

83. **Recommendation 4 is rated largely compliant.**

Recommendation 5 - Terrorist financing offence

84. In its 2011 MER, PNG was rated PC for SR.II, as the definition of support was unclear as collection of funds for terrorism was not explicitly included, the coverage of ‘terrorist act’ was not sufficiently wide as all acts in the treaties listed in the annex to the Convention on the Suppression of the Financing of Terrorism (TF Convention) were not included, and the financing of individual terrorists was not criminalised.

85. *Criterion 5.1.* PNG’s TF offence is contained in s.508J of the Criminal Code. It is prohibited to provide or collect property by any means, directly or indirectly, with the intention that the property should be used, or in the knowledge that it is to be used, in whole or in part: (a) in order to carry out a terrorist act; or (b) by a terrorist organisation (s.508J(1) Criminal Code). s.508J(2) of the Criminal Code includes that A person who, *without lawful justification* (emphasis added), by any means, directly or indirectly, provides or collects property, with the intention that the property should be used, or in the knowledge that it is to be used, in whole or in part by a terrorist is guilty of an offence. This has raised concerns for the AT about the criminalisation of TF being narrow if the funds are intended to be used or in the knowledge that the funds are to be used for a terrorist because of the “without lawful justification” exception clause. The definition of the term ‘property’ in the Criminal Code is consistent with the TF Convention and the FATF Standards. Intention and knowledge for a TF offence may be inferred from objective factual circumstances (s.508J(5) Criminal Code).

86. *Criterion 5.2.*

87. (a) As mentioned in c.5.1, due to the potential impact of s.508J(2) narrowing the scope of the TF offence, it is unclear if the TF offence in PNG extends to any person who wilfully provides or collects funds or other assets within the meaning of this criterion.

88. (b) The TF offence extends to the situations where the property was not actually used to commit or attempt to commit a terrorist act or linked to a specific terrorist act (s.508J(4)(b) Criminal Code).

89. *Criterion 5.2^{bis}.* The financing of travel for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training is not covered by the Criminal Code.

90. *Criterion 5.3.* The TF offence extends to property, which is defined under PNG law to include all types of assets within the FATF definition of funds or other assets (s.508A Criminal Code), from legitimate and illegitimate sources (s.508J(4)(c) Criminal Code).

91. *Criterion 5.4.* The TF offence does not require property, which is defined under PNG law to include all types of assets within the FATF definition of funds or other assets (s.508A Criminal Code), to be: (a) actually used to commit or attempt a terrorist act; nor (b) linked to a specific terrorist act (s.508J(4)(b) Criminal Code).

92. *Criterion 5.5.* The intention and knowledge elements of the TF offence may be inferred from objective factual circumstances (s.508J(5) Criminal Code).

93. *Criterion 5.6.* Penalties for the support of a terrorist, terrorist act or terrorist organisation amount to a fine of up to K500,000 (~USD\$139,000) and/or a prison term of up to 25 years if the offender is a natural person. Based on the variety of sanctions and the length of the prison terms, the sanctions framework under PNG law for the TF offence is considered to provide for proportionate and dissuasive criminal sanctions.
94. *Criterion 5.7.* Criminal liability for the TF offence applies to legal persons (s.508J(1)(2) Criminal Code) with a fine not exceeding K1,000,000 (~USD 255,000).
95. *Criterion 5.8.* The Criminal Code criminalises ancillary offences:
96. (a) Attempts to commit the TF offence (s.4, s.508(J)(4)(a)(b) and s.509(1) Criminal Code).
97. (b) Participate as an accomplice in a TF offence or attempted offence (s.515-s.517, s.7(1)(b)(c)(d) and s.509 Criminal Code).
98. (c) Organise or direct others to commit a TF offence or attempted offence (s.7(4) Criminal Code). The wordings used in the Criminal Code (procures to do or omit to do) are very specific and while it covers some aspects of organizing or directing.
99. (d) Contribute to the commission of one or more TF offence(s) or attempted offence(s), by a group of persons acting with a common purpose (s.4, s.7(1)(b), s.8 and s.509 Criminal Code).
100. *Criterion 5.9.* As per the definitions of “criminal conduct” (s.508A Criminal Code) any offence that is punishable by death or at least six months imprisonment, which includes TF (c.5.6) is a predicate offence for ML (s.508B Criminal Code).
101. *Criterion 5.10.* The jurisdiction in which the terrorist or the terrorist organisation that receives funds is located is irrelevant, and a person is said to commit TF regardless of the country in which the terrorist act has occurred or is intended to occur (s.508J(4)(d)(e) Criminal Code).

Weighting and Conclusion

102. The Criminal Code criminalises TF and ancillary offences generally in keeping with the TF convention. The TF offence does not cover c.5.2bis, which is a moderate shortcoming. The clause “without lawful justification” raises a concern that the criminalisation of TF is narrowed in regard to funds intended to be used by terrorists.

103. **Recommendation 5 is rated partially compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

104. PNG was rated non-compliant with Special Recommendation III in the 2011 MER. There was no system in place allowing for the freezing of UNSC designated persons and entities and the domestic system for designation did not provide for the freezing of assets of entities so designated. Also, the rating reflected no directions were given to financial institutions to check for matches with the 1267 consolidated list. Since then, in order to implement the targeted financial sanctions (TFS) related to terrorism and TF, PNG has enacted the United Nations Financial Sanctions Act 2015 (UNFS Act 2015).

105. *Criterion 6.1.*

106. (a) There is no provision identifying a competent authority or a court as having responsibility for proposing persons or entities for designation under UNSCRs 1267, 1989 and 1988 sanctions regimes. While the Procedural Guidelines indicate that the Prime Minister may at any time submit listing requests to the 1267 or 1988 Committees of individuals or entities on the ISIL (Da'esh) & Al Qaida Sanctions Lists of the 1988 Sanctions List where he/she has reasonable grounds to believe that the relevant criteria for listing have been met and that there is sufficient evidence to support the listing criteria being met, the UNFS Act does not explicitly provide this power to the Prime Minister/Sanctions Secretariat.

107. (b) There is no mechanism for identifying targets for designation (see sub criterion 6.1 (a)).

108. (c) PNG does not have a provision that requires the application of an evidentiary standard of proof or "reasonable grounds" or "reasonable basis" when deciding whether or not to make a proposal for designation. There is no provision establishing that proposals would have to be conditional upon the existence of a criminal proceeding.

109. (d) Not applicable since to date, PNG has proposed no names and has not had to put into practice the procedures and standard forms for listing adopted by the relevant UN committees.

110. (e) Not applicable since to date, PNG has proposed no names. PNG has not provided information relating to proposals including submission of statement of case and specifying its status as a designating state may be made known.

111. *Criterion 6.2.*

112. (a) Pursuant to s.7 (1) of the UNFS Act, the Prime Minister is responsible for making interim designation under UNSCR 1373 when the National Security Advisory Committee advises to do so where there are reasonable grounds. The National Court makes the final designation upon application by the Prime Minister to the Court (s.9(3) UNFS Act) if there are reasonable grounds.

113. (b) The UNFS Act specifies the ground on which the Prime Minister must make an interim designation of a person or entity. s.7 sets out the criteria for designation on reasonable grounds to believe a range of terrorist activities or behaviours exist.

114. (c) The NSAC must take into consideration any relevant communication from a foreign government or the UNSC or its Committees when advising the Prime Minister where a person or entity should be designated (s.7(4) UNFS Act).

115. (d) See sub-criterion 6.1 (a). There is no provision establishing that proposals would have to be conditional upon the existence of a criminal proceeding.

116. (e) The UNFS Act (s.22 and s.23) enables the Prime Minister to disclose to the appropriate authority of a foreign country any information relating to a designation. The process is developed in the Procedural Guide (page 25-26). As no names have been proposed by PNG to date, it is unclear what information would accompany a request.

117. *Criterion 6.3.*

118. (a) For a final designation or a proposal to the UN, the UNFS Act allows the Prime Minister to collect or solicit information to identify entities that meet the stipulated criteria (s.19, s20 UNFS Act). The same process for making an interim designation would be applicable (s.2.2.1 of the Procedural Guide)).

119. (b) Where the Prime Minister intends to designate (interim designation) a person or entity (s.7 UNFS Act), the person or entity concerned will not be advised until after the interim designation and pursuant s.12 (g), the Prime Minister is required to notify the designated person or entity within a reasonable time of the interim designation (s.12 (g) UNFS Act). The Prime Minister must, as soon as reasonably practical, make an application to the National Court to seek final designation on the interim designation (s.9(1) UNFS Act). This application is made *ex parte*; however, the designated person or entity has the right to appear before the Court to contest the application at the National Court (s.9(2) UNFS Act).

120. *Criterion 6.4.* With respect to UNSCRs 1267/1988/1989 sanctions regimes, any designation made by the UNSC or its Committees takes immediate effect in PNG (s.6(a) UNFS Act 2015) including imposing the prohibitions on dealing and making assets or financial services available to designated persons and entities (which is functionally equivalent to a freeze) (s.6(b) UNFS Act). Prohibitions on dealing and making assets or financial services available as discussed in detail at c.6.5(a).

121. Designations by the Prime Minister (interim) under UNSCR 1373 (s.7(5) UNFS Act) and final designations made by the Court (s.9(7) UNFS Act) have immediate application in PNG including imposing the prohibition on dealing with or making available assets of designated persons and entities (s.9(8), s10 and s11 UNFS Act). PNG has not designated persons or entities pursuant to UNSCR 1373.

122. Despite establishing procedures and mechanisms, PNG is not notifying FIs and DNFBPs once a designation is made. Once a designation under UNSCRs 1267/1989, 1988 and 1373 has been made, the Prime Minister must without delay notify of the designation, re-designation, revocation or expiry and no specific procedure or timeframe is prescribed (s.12 UNFS Act), but this is provided for in the Procedural Guide. This notification should occur in the National Gazette (the UNFS Act is not explicit that this should only be for designations under UNSCR 1373), and additionally the Prime Minister may use 'any necessary means'. The requirement for the Prime Minister to without delay notify FIs, DNFBPs and other persons considered 'necessary' when a designation is made (and not 'all' natural and legal persons) (s.12 UNFS Act) has been delegated to the Sanctions Secretariat and developed in the Procedural Guide (Part 2.5) (for reporting entities) where PNG has not implemented the requirement 'without delay'. The Procedural Guide (Part 2.5, Diagram 8) indicates that when a designation, re-designation, revocation or expiry occurs, the Sanctions Secretariat would email FIs, DNFBPs, FASU and any other relevant person or entity within '24 hours', however, the implementation of the communication mechanism started in September/early October 2023, where the Sanctions Secretariat circulated two emails to reporting entities with attached TFS guidance and advised them of the Consolidated list on the Sanctions Secretariat's website. No updates have been communicated (i.e., within 24 hours) within the period under review.

123. *Criterion 6.5.*

124. (a) The UNFS Act contains prohibitions against knowingly or recklessly dealing with assets and making assets and financial services available to a designated person (which is functionally equivalent to a freeze) (s.14, s15 UNFS Act). Given the *mens rea* of knowingly and recklessly, the prohibition is narrower than that required by the standard since the requirement should be unconditional (negligence is not covered and a legal interpretation was not provided to determine if all elements are covered, in particular since no implementation has taken place).

125. (b) Whilst 'asset' and 'frozen asset' are defined (s.5 UNFS Act), a deficiency remains as the prohibition is narrower than that required by the standard due to the *mens rea* of knowingly and recklessly (s.14 UNFS Act). The scope of asset that is prohibited from being dealt with under the provisions is an 'asset that is owned, controlled or held directly or indirectly, wholly or jointly, by or on behalf of or at the direction of a designated person' and the definition of assets (s.5 UNFS Act) also includes "... income or value accruing from, generated by or derived from such asset". This extends the

de facto freezing to cover (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

126. (c) A person (including a FIs, DNFBP, natural person and body corporate) is prohibited from making an asset or financial services available to a designated person or entity (s.15 UNFS Act). It is an offence for a person who knowingly makes an asset and/or financial service available to a designated person (s.15(1) UNFS Act) and an offence for a person to recklessly make an asset/financial service available to a designated person (s.15(3) UNFS Act). The deficiencies highlighted for the *mens rea* of knowingly and recklessly applies (see c.6.5(a) and c.6.5(b)).

127. (d) The Prime Minister is mandated to without delay notify financial institutions and DNFBPs and other persons concerned of a designation or re-designation (s.12 UNFS Act). Under paragraphs (f) and (g), the Prime Minister is also required to publish in the National Gazette a designation or re-designation as well as notify the designated person/entity of the same, respectively. While the Procedural Guide (Part 2.5, Diagram 8) indicates that the Sanctions Secretariat should email financial institutions and DNFBPs when a designation, re-designation, revocation or expiry occurs, (although in practice, this has not taken place, see IOs 10 and 11). The Sanctions Secretariat's website also includes guidance which includes the general requirements for those who maybe holding targeted funds or assets on freeze obligations. The Consolidated List has been uploaded to the Sanctions Secretariat's website, however, since it has been recently uploaded, there are no notifications when the relevant lists have been updated. Outreach on TFS has been via the Sanctions Secretariat's website, two emails to reporting entities and two public notices.

128. (e) Where the Prime Minister believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Act (s.19 UNFS Act), the Prime Minister 'may' request information or produce documents. FIs and DNFBPs are required to report to FASU any assets of a designated person or entity that it holds.. The definition of transaction in the AMLCFT Act includes attempted transaction and does not specify a threshold.

129. (f) Protection of the rights of bona fide third parties is very limited and only in those circumstances where authorisations are obtained in relation to payment to meet a contractual obligation; (s.14(4) and s.15(5) UNFS Act). However, this only applies to assets frozen pursuant to UN designations, but the legislation is not clear to determine if the process for final designations made by the National Court is also applicable (for the UNSCR 1373 regime).

130. *Criterion 6.6.*

131. (a) The [Sanctions Secretariat's website](#) provides publicly available procedures for delisting, either directly to the UNSC Ombudsperson or Focal Point or to the domestic contact point – the latter covers both UNSC and domestic designations. The procedures apply to any person or entity located in PNG that wants to submit a proposal. Moreover, reporting entities have been advised of publicly available procedures in the TFS guidance emailed to them in September 2023 and the public in the public notices in two national newspapers in the first week of October 2023.

132. (b) For persons and entities designated under UNSCR 1373, a revocation of a domestic designation is permitted (s.11 UNFS Act). Subsection (2) requires the Prime Minister to revoke an interim designation where the view is that the grounds for designation are no longer satisfied (s.11(2) UNFS Act). In the case of a final designation, the Prime Minister is to make an application to the National Court for it to revoke the designation, where the Prime Minister is of the view that the

grounds for designation are no longer satisfied (s.11(3) UNFS Act). If the Court is of the view that the grounds for designation are no longer satisfied, the Court is required to revoke the designation. The procedures for a designated person to submit a delisting to the Prime Minister in the [Sanctions Secretariat's website](#).

133. (c) The Prime Minister is required to periodically review all designations (both designations and re-designations) to determine whether the grounds for designation continue to be satisfied (s.11(1) UNFS Act). The procedure to submit a petition for de-listing to the Prime Minister has been published in the [Sanctions Secretariat website](#).

134. (d) – (e) PNG has published in the Sanctions Secretariat website procedures to facilitate review by the 1988 Committee and for informing designated persons and entities of the availability of the United Nations Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions.

135. (f) Where a person suspects that the asset he/she holds may be owned/controlled by a designated person/entity, the person is authorized to make a request in writing to the Commissioner of Police to verify the suspicion (s.16(1) UNFS Act). Additionally, the Procedural Guide (Diagram 12) outlines the false positive process, and this has been published in the [Sanctions Secretariat website](#), which includes the procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism, upon verification that the person or entity involved is not a designated person or entity (for both UNSC and domestic designations).

136. (g) Once a revocation is made, the Prime Minister is required to notify financial institutions and DNFBPs including persons considered necessary of the revocation (s.12 UNFS Act). Upon revocation of a designation, the prohibitions under s.14 and s.15 of the UNFS Act do not apply. In effect, the FIs and DNFBPs as well as persons considered necessary can deal with assets of and make available assets and financial services to the person/entity whose designation has been revoked, upon receiving notification of the same. Guidance has been provided to financial institutions and other persons or entities, including DNFBPs, that may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action via two newspaper notices and general information of the process in the Sanctions Secretariat's website.

137. *Criterion 6.7.* The legislation provides for exception for a person to deal with an asset of or make available an asset or financial service available to a designated person or entity (s.14(4) and s.15(5) UNFS Act). The exception is where the person obtains authorization under section 17 to deal with or make an asset or financial service available to a designated person or entity. The Prime Minister is allowed to grant a person to deal with or make an asset or financial service available to a designated person given that the asset is required to meet: (i) a basic expense; (ii) a contractual obligation; or (iii) an extra-ordinary expense. Under section 17 (6), the Prime Minister must seek any approvals and notifications required to the UNSC or its Committees and consider any communications from a foreign government relevant to the authorization.

Weighting and Conclusion

138. PNG has a streamlined mechanism in place to implement R.6. Legislation allows for the immediate transposition of UN designations into domestic designations. PNG has some measures for the local designation of terrorists and terrorist groups and requirements for persons to implement targeted financial sanctions for UN designated persons and entities. Under the UNFS Act, the obligation to freeze assets in respect of UNSC designations arises immediately upon designation by the UNSC Committees as the definition of a designated entity automatically incorporates the UNSC 1267/1989

list into PNG's domestic law. There are very few measures in place to protect bona fide third parties in the implementation of TFS. PNG has not implemented related procedures to deal with the UN Security Council, the mechanisms for communicating designations and conducting outreach to FI and DNFBPs has recently started. The procedures for dealing with false positives is applicable to designations made by the UNSC and not domestically. The measures for delisting and unfreezing are publicly known.

139. **Recommendation 6 is rated largely compliant.**

Recommendation 7 – Targeted Financial sanctions related to proliferation

140. TFS related to the PF is a new requirement that was not addressed in the previous assessment.

141. *Criterion 7.1.* The relevant UNSCRs for TFS related to PF¹²⁵ have immediate application in PNG (s.6 UNFS Act). However, implementation of TFS obligations related to PF has similar challenges to those identified under R.6. Namely, PNG has not provided procedures or mechanisms for the implementation of measures following a designation. Once a designation under the relevant UNSCRs has been made, the Prime Minister must without delay notify of the designation, re-designation, revocation or expiry and no specific procedure or timeframe is prescribed (s.12 UNFS Act). There is no oversight for TFS for PF. While the Sanctions Secretariat has a mechanism to communicate FIs and DNFBPs of a designation within 24 hours (via email), there is no evidence that this has taken place. During the period under review, the Consolidated List has only been recently shared three times and this was not following a designation or updates to the relevant lists.

142. *Criterion 7.2.*

143. (a) The UNFS Act contains prohibitions against knowingly or recklessly dealing with assets and making assets and financial services available to a designated person (which is functionally equivalent to a freeze) (s.14 and s.15 UNFS Act). Given the *mens rea* of knowingly and recklessly, the prohibition is narrower than that required by the standard since the requirement should be unconditional (negligence is not covered and a legal interpretation was not provided to determine if all elements are covered, since no implementation has taken place).

144. (b) Whilst 'asset' and 'frozen asset' are defined (s.5 UNFS Act), a deficiency remains as the prohibition is narrower than that required by the standard due to the *mens rea* of knowingly and recklessly (s.14 UNFS Act). The scope of asset that is prohibited from being dealt with under the provisions is an 'asset that is owned, controlled or held directly or indirectly, wholly or jointly, by or on behalf of or at the direction of a designated person' and the definition of assets (s.5 UNFS Act) also includes "... income or value accruing from, generated by or derived from such asset". This extends the de facto freezing to cover (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as

¹²⁵ On 18 October 2023, the TFS elements of UNSCR 2231 expired. However, the onsite for PNG occurred before this date, hence it is included in the analysis.

(iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

145. (c) All natural and legal persons in PNG are prohibited from making funds and other assets, economic resources, or financial services available to an individual, legal person or entity (s.15 UNFS Act). However, PNG only does criminalise any person and entity knowingly and recklessly making assets and financial services available to designated persons and entities, therefore, given the *mens rea* of knowingly and recklessly, the prohibition is narrower than that required by the standard.

146. (d) – (e) PNG has published in the Sanctions Secretariat website procedures to facilitate review by the 1988 Committee and for informing designated persons and entities of the availability of the United Nations Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions.

147. (f) Protection of the rights of bona fide third parties is very limited and only in circumstances where authorisations are obtained in relation to payment to meet a contractual obligation; (s.14(4) and s.15(5) UNFS Act).

148. *Criterion 7.3.* There are no measures for empowering competent authorities to monitor and ensure compliance by FIs and DNFBPs with the relevant laws or enforceable means governing the obligations under R.7. Criminal sanctions are available (s.14 UNFS Act) to sanction non-compliance with implementing TFS by all persons, including FIs and DNFBPs. These sanctions are:

- Prohibition against dealing with assets (s.14(1) UNFS Act) and Prohibition against making assets or financial services available (s.15(1) and (3) UNFS Act). For a natural person a fine of K100,000 (~USD25,000) and/or imprisonment term not exceeding 9 years. For a body cooperate a fine of K450,000 (~USD115,000) or an amount equivalent to the value of the asset, whichever is greater.
- Failure to comply with a request for information (s.21 UNFS Act). For a natural person a fine of K50,000 (~USD13,000) and/or imprisonment term not exceeding five years. For a body cooperate a fine of K250,000 (~USD64,000).

149. *Criterion 7.4.* While PNG has developed the Procedural Guide for the Operation of the UNFS Act 2015, the document is not publicly known, however, the Sanctions Secretariat's website includes basic information on how to submit delisting requests of those who do not or no longer meet the criteria of designation, including a procedure to unfreeze funds or assets in the case of false positives or a procedure to authorize access to funds or assets in accordance with the relevant procedures in the UNSCRs.

150. (a) PNG has developed publicly known procedures to enable listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730 in the Sanctions Secretariat's website.

151. (b) Where a person suspects that the asset he/she holds may be owned/controlled by a designated person/entity, the person is authorized to make a request in writing to the Commissioner of Police to verify the suspicion (s.16(1) UNFS Act). Additionally, the Procedural Guide (Diagram 12) outlines the false positive process, and this has been published in the [Sanctions Secretariat website](#), which includes the procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing

mechanism, upon verification that the person or entity involved is not a designated person or entity (for both UNSC and domestic designations)..

152. (c) Section 17 UNFS Act authorises the Prime Minister to allow a person to deal with or make an asset or financial service available to a designated person given that the asset is required to meet: i) a basic expense; ii) a contractual obligation; or iii) an extra-ordinary expense. The Prime Minister may authorise a person to deal with or make available an asset/financial service to a designated person either on his own accord or upon application of the applicant. Under s.17 (6) UNFS Act, the Prime Minister must seek any approvals and notifications required to the UNSC or its Committees and consider any communications from a foreign government relevant to the authorization.

153. (d) Once a revocation is made, the Prime Minister is required to notify financial institutions and DNFBPs including persons considered necessary of the revocation (s.12 UNFS Act). Upon revocation of a designation, the prohibitions under s.14 and s.15 of the Act do not apply. In effect, the FIs and DNFBPs as well as persons considered necessary can deal with assets of and make available assets and financial services to the person/entity whose designation has been revoked, upon receiving notification of the same. Guidance has been provided to financial institutions and other persons or entities, including DNFBPs, that may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action via two newspaper notices and general information of the process in the Sanctions Secretariat's website.

154. *Criterion 7.5.* The legislation provides for exception for a person to deal with an asset of or make available an asset or financial service available to a designated person or entity (s.14(4) and s.15(5) UNFS Act). The exception is where the person obtains authorization under s.17 UNFS Act to deal with or make an asset or financial service available to a designated person or entity. The Prime Minister is allowed to grant a person to deal with or make an asset or financial service available to a designated person given that the asset is required to meet: (i) a basic expense; (ii) a contractual obligation; or (iii) an extra-ordinary expense. Under s.17 (6) UNFS Act, the Prime Minister must seek any approvals and notifications required to the UNSC or its Committees and consider any communications from a foreign government relevant to the authorization. However, it is not clear if PNG is required to notify the UN Sanctions Committee of its intention to authorise payments due under prior contracts 10 working days before issuing an authorization as required under c.7.5 (b)(iii).

Weighting and Conclusion

155. PNG has a streamlined mechanism in place to implement R.7. Legislation allows for the immediate transposition of UN designations into domestic designations and requirements for persons to implement targeted financial sanctions for UN designated persons and entities. Under the UNFS Act, the obligation to freeze assets in respect of UNSC designations arises immediately upon designation by the UNSC Committees. There are very limited measures to protect *bona fide* third parties in the implementation of TFS. PNG has not implemented procedures to deal with the UN Security Council, the mechanisms for communicating with and conducting outreach to reporting entities has only recently started. The measures for delisting and unfreezing are publicly known. There are no measures for monitoring and ensuring compliance by reporting entities.

156. **Recommendation 7 is rated partially compliant.**

Recommendation 8 – Non-profit organisations

157. In the 2011 MER, PNG was rated partially compliant with the former Special Recommendation VIII. The main deficiencies identified were; (i) there was no effective registration of NPOs; (ii) no review of the adequacy of existing laws and regulations that relate to non-profit organizations that can be abused for FT; (iii) No effective monitoring mechanism for NPOs including the registration of NPOs and the ability to monitor sources of funds for NPOs; (iv) no measures in place to sanction violations of oversight rules by NPOs monitoring was limited due to staffing constraints; and (v) no outreach or awareness raising was conducted.

158. *Criterion 8.1.*

159. (a) PNG has undertaken a very limited assessment of its NPO sector through the '[Assessment of the Risk of Terrorist Financing through Non-Profit Organisations in Papua New Guinea](#)' (NPO risk Assessment) led by the FASU and finalized in 2022. FASU made efforts to identify whether any TF intelligence, information, investigations, MLA requests, ESW requests or informal communications might have indicated that any person or entity in PNG had been involved in TF. The agencies and authorities that participated in the survey by FASU were the IPA DJAG; NIO; PM&NEC; OPP; and RPNCG.¹²⁶

160. Subsequently, the authorities updated the NPO risk Assessment in October 2023 and determined that the subset of NPOs meeting the FATF definition totalled 7,584 from the registered population of 10,256. Out of those, 1,012 are considered at risk and this sub-group comprises those primarily engaged in charitable activities, particularly foundations, large associations and larger foreign NPOs.

161. (b) Overall, the 2023 update to the NPO risk assessment (in line with the NRA and the 2023 NPO Risk assessment), assessed the TF risk in PNG to be low. The assessment indicates the nature of potential threats posed to the NPO subset considered at risk, however it is not clear how this is applicable to each category of those NPOs identified at risk.

162. (c) While the subset of NPOs that may be abused for TF has been identified (see sub-criterion 8.1(a)), the measures in place are not targeted nor risk-based. There are laws, and regulations applicable to NPOs in PNG including the AIA. Since all NPOs are associations, this Act is applicable by virtue of their legal form and provides the legal framework and regulation of incorporated associations in PNG, classifying them into two subtypes, namely member benefit association and public benefit association. A review into their adequacy for all NPOs took place prior to the completion of the 2023 NPO risk assessment, but there have been limited proportionate or effective actions been taken to address the risks identified (since all requirements apply to all types of NPOs).

163. (d) A periodical reassessment of the sector has taken place with the 2022 and 2023 NPO risk assessments.

¹²⁶ As the data collected for the process was from 2016 to 2018, it can be inferred that the information used was not up-to-date and the process was lengthy. In addition, the process did not involve the NPO sector itself (or information from them). The total number of NPOs highlighted in the NPO risk assessment (as at October 2019) was 8,117, where PNG indicates that the number of FATF defined NPOs is 8,109. In addition, features and types of NPOs likely to be at risk of TF abuse are not expressly identified.

164. *Criterion 8.2.*

165. (a) The AIA has policies promoting accountability, integrity and public confidence in the administration and management of NPOs in PNG. Such measures include: the keeping of accounting records (s.72 & s.73 AIA); the obligation to prepare annual reports (s.74 AIA) and a requirement to produce financial statements only under certain conditions (s.78 AIA), such as when the incorporated association (NPO) received donations from the public that exceed the annual donations threshold established by the regulations.

166. (b) While the IPA conducted consultations on the new AIA from 2018-2019 as part of its outreach as well to raise awareness to the associations and to the donor agencies and other Government stakeholders on the vulnerabilities and risk of TF in Port Moresby, Lae, Kokopo and Goroka, the scope of these consultations were not specifically related to TF. No additional outreach and educational programmes to raise awareness among NPOs have taken place and there are no plans nor actions to educate the donor community to raise awareness of vulnerabilities faced by NPOs to TF abuse and TF risks (although the NPO Risk Assessment 2023 included recommendations for this).

167. (c) It is not clear if best practices have been developed and refined. While the authorities expect that the re-registration process will assist to capture updated information of all associations and enable the ROC to implement the new provisions of the AIA, it is unclear if this will be aimed at NPOs to develop and refine best practices to address TF risk and vulnerabilities and thus protect them from TF abuse.

168. (d) While the authorities indicate that Associations will have bank accounts to receive funds, there was no evidence that targeted outreach or guidance had been given to the sector on this issue. However, all NPOs have the power to open and operate bank accounts (s.14 (2)(d) AIA).

169. *Criterion 8.3.* At the time of the ME onsite visit, PNG had not applied risk-based measures as at-risk NPOs had only recently been identified in the 2023 assessment. Measures in the AIA apply to all NPOs.

170. *Criterion 8.4.*

171. (a) PNG indicates that the ROC will supervise and monitor registered NPOs through the annual report (s.76(1) AIA), other reporting obligations set out above under c.8.2(c) and the ROC's power to inspect and obtain documents (s.154 AIA). At the time of the ME onsite visit, there is no action plan to conduct supervision or monitoring of at-risk NPOs as they had recently been identified in the 2023 assessment.

172. (b) The sanctions provisions in the AIA for violations by associations (NPOs) are as follows: formal letters of warnings by the ROC, removal of committee members (s.27), committee members by Court and public officer (s.57), failure to submit annual reports (s.74), disqualification of committee members or public officer (s.32), and prosecution for offences (s.164). There are no fines for persons acting on behalf of associations and some of the available sanctions may not be effective, proportionate, and dissuasive. This is reinforced by the fact that there are NPOs operating without renewing their registration certificates and not submitting their annual reports. No sanctions have been imposed to date.

173. *Criterion 8.5.*

174. (a) The ROC is the point of contact for all registered association registry and is able to share with other NCC members that it has domestic MoU's with. In addition, the ROC is able to exchange information with LEAs, FASU and other any person authorized (s.154 (6) AIA).

175. (b) While the ROC has prosecution powers to prosecute offenses under the AIA (s.162), it does not have investigative powers. The authorities indicate that it will fall within the mandate of the RPNGC to investigate with the assistance of FASU for TF related offences and the Prime Minister for designated terrorist persons or entities under the UNFS Act. As outlined in R.31, the PNGC does not have sufficiently adequate powers and training to conduct investigations of this nature.

176. (c) The ROC maintains financial and programmatic information on registered associations and has powers under s.154 of the AIA to require the production of further documents or information reasonably necessary to ROC carrying out its functions. Information held by the ROC can be made available to RPNGC for any criminal investigation of TF.

177.

178. (d) IPA has MOUs with other NCC members for purposes of information sharing. Additionally, s.96 of the AMLCTF Act gives FASU the broad power (subject to privacy protections) to share information to any other agency or regulator for law enforcement purposes.

179. *Criterion 8.6.* The ROC is the point of contact for all registered association registry, but it is not clear if the powers to respond to international requests have been established.

Weighting and Conclusion

180. PNG has developed an initial understanding of the sub-set of identified NPOs that may be at risk of abuse for TF. PNG has not undertaken targeted outreach and controls on this subsector of NPOs and currently has a 'one size fits all' approach to NPOs. While the ROC manages the registration of NPOs, it does not undertake risk-based supervision or monitoring of NPOs for compliance with the legislation nor do they oversee the filing of annual financial statements/other changes in information. Sanctions can be applied in most instances. While outreach has been undertaken to NPOs, it has not, to date, encompassed TF risks.

181. **Recommendation 8 is rated partially compliant.**

Recommendation 9 – Financial institution secrecy laws

182. In its last MER, PNG was rated largely compliant with former R.4 as it was unclear legal framework for disclosure and sharing of information.

183. *Criterion 9.1.* There are secrecy and confidentiality provisions for banks and other Licensed Financial Institutions (s.52 of the BFIA), superannuation businesses (s.104 Superannuation (General Provisions) Act 2000) life Insurance companies and brokers (s.137 of Life Insurance Act 2000) Savings & Loan Societies (s.42 of Savings and Loan Societies Act 2015) and securities companies and brokers (s.81 Capital Markets Act 2015).

184. The above legislation also includes secrecy and confidentiality overriding provisions that supports the ability for competent authorities to access the information. These are contained in sub-sections to the above listed sections and provide a general overriding provisions for; (i) the

disclosure or production of protected information or documents 'under compulsion or obligation of other laws', and (ii) BPNG (responsible for licensing all FIs except securities companies and brokers) SCPNG (responsible for licensing all Securities companies and brokers) to disclose or produce document protected information to carry out their functions.

185. 'Under the compulsion or obligation of other laws' would include a warrant and other compulsory measures available to FASU and RPNGC and other competent authorities under their respective legislation as discussed in R.27 and R.31.

186. 'Under the compulsion or obligation of other laws' would also include requirements set out in AMLCTF Act to give effect to R.13, R.16 and c.17.3. Regarding c.17.1, the FI relying on the third party must ensure the third parties' secrecy and confidentiality do not inhibit the provision of CDD information (s.18(c) AMLCTF Act).

Weighting and Conclusion

187. **Recommendation 9 is rated compliant.**

Recommendation 10 – Customer due diligence

222. In its last MER, PNG was rated partially compliant with former R.5 with deficiencies in many requirements of the Recommendation.

188. *Criterion 10.1.* Natural persons and body corporates (this would include all FIs) commit an offence under s.37 AMLCTF Act if they intentionally or recklessly opens or operates an anonymous account or when an account is in a false name.

When CDD is required

189. *Criterion 10.2.* FIs are required by the s.20(1) AMLCTF Act to undertake CDD when:

190. (a) Establishing business relation (s.23(1)(a) AMLCTF Act). The scope of business relationship is broad and is defined to mean "..... an on-going business, professional or commercial relationship between a financial institution....and a customer" (s.5(1) AMLCTF Act). The definition of customer relates to a person (natural or body corporate (legal person)) or unincorporated entity for whom the financial institution carries out or attempts to carry out a transaction or business relationship (s.5(1) AMLCTF Act). The definition of transaction is broad and includes activities that align to the nature of activities provided by a financial institution (s.5(1) AMLCTF Act).

191. (b) When carrying out occasional transactions (including situations where the transaction is carried out in a single operation or in several operations that appear to be linked) above the applicable designated threshold K20,000 (~USD5,600) (s.23(1)(b) AMLCTF Act).

192. (c) When carrying out occasional transactions that are wire transfers above the applicable designated threshold K2,500 (~USD683) in the circumstances covered by R.16 and its Interpretive Note

193. (d) Section 23(1)(d) AMLCTF Act requires FIs to undertake CDD measures when there is a suspicion of ML/TF during the establishment, or course of business relationship or when conducting an occasional transaction.

194. (e) Section 23(1)(c) AMLCTF Act requires financial institutions to undertake CDD measures when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. However, this requirement is applicable “in respect to existing customers and according to the level of risks involved”. The interpretation of “level of risks involved” is unclear and appears to narrow the application of s.23(1)(C).

Required CDD measures for all customers

195. *Criterion 10.3.* FIs are required to identify the customer whether permanent or occasional, and whether natural or legal person or legal arrangement (s.24 AMLCTF Act), and verify that customer’s identity using reliable, independent source documents, data or information (identification data) (s.16 AMLCTF Act).

196. The definition of customer relates to natural person, body corporate (legal person) or unincorporated entity. Unincorporated body is defined as “unincorporated group, undertaking, organisation or legal arrangement such as a trust or an unincorporated partnership”, which covers the FATF definition of a legal arrangement.

197. *Criterion 10.4.* Section 20(1)(c) AMLCTF Act requires FIs to conduct CDD on any person purporting to act on behalf of the customer. s.25(1)(c) AMLCTF Act requires FIs to identify and verify the person acting on behalf of the customer and ensure that are authorised to do so. However, this requirement is applicable “according to the nature and level of risk involved”. The interpretation of “nature and level of risks involved” is unclear and appears to narrow the application of s.25(1)(c) AMLCTF Act. Also, verification requires a FI to “take reasonable steps to verify the person’s identity” The interpretation of “reasonable steps” is unclear and appears to narrow the application of s.25(1)(c).

198. *Criterion 10.5.* FI are required to conduct CDD on the BOs of customers (s.20(1)(b) AMLCTF Act) and identify (s.24(1) AMLCTF Act) and verify the BO identity using reliable, independent source documents, data or information (identification data) (s.16 AMLCTF Act) Specific requirements to verify the beneficial owners are set out in s.25(1)(b) AMLCTF Act, which states “according to the nature and level of risk involved, take reasonable steps to verify any beneficial owner’s identity so that the financial institution is satisfied that it knows who the beneficial owner is” The interpretation of “nature and level of risks involved” narrows the application of s.25(1)(6) AMLCTF Act.

199. Beneficial owner is defined under s.5(2) AMLCTF Act mean a “natural person who; (a) has ultimate control, directly or indirectly, of a customer, or (b) ultimately owns, directly or indirectly, the customer. Further, s.5(3) defines the terms “control” which includes control as a result of, or by means of, trusts, agreements, arrangements, understanding and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, and includes exercising control through the capacity to make decisions about financial and operating policies. “Owns” means ownership, either directly or indirectly, of 25% or more of a person or unincorporated entity.

200. *Criterion 10.6.* FIs are required to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship (s.24(2) AMLCTF Act).

201. *Criterion 10.7.* FIs are required to conduct on-going due diligence on all business relationship (s.17(1) AMLCTF Act) including:

202. (a) To ensure that the transactions being conducted are consistent with the financial institution’s knowledge of the customer, their business and risk profile, including where necessary, the source of funds (s.17(2)(b) AMLCTF Act).

203. (b) To maintain current and up to date information and records relating to its customer and their beneficial owners (s.17(2)(a) AMLCTF Act). However, s.17(2)(c) explicitly applies ongoing due diligence to PEPs but not to all higher risk customers that require enhanced due diligence (as outlined in s.26). The interpretation by the AT on c.10.7(b), is for additional emphasis on the higher risk categories of customers as per s.17(2)(c) but with a minor gap of not all high-risk categories being included as identified under s.26(1).

Specific CDD measures required for legal persons and legal arrangements

204. *Criterion 10.8.* For customers that are body corporates (legal person) or unincorporated entities (legal arrangements) FIs must identify body corporate or unincorporated entity (s.24(1) AMLCTF Act) and obtain sufficient information that would allow it is understand the nature of the business (s.24(2)(b) AMLCTF Act).

205. *Criterion 10.9.* For customers that are body corporates or unincorporated entities, FIs must identify (s.24(1) AMLCTF Act) and verify (s.25(1) AMLCTF Act) the body corporate or unincorporated entity.

However, there are no enforceable requirements for FIs to obtain information set out in c.10.9(a) – (c). The information outlined in s.24(1)(b) and (c) (included in the AMLCTF Act to cover c.10.9(a) – (c)) are optional for FIs to obtain as the requirement uses ‘may’.

206. *Criterion 10.10.* PNG has no specific requirements covering BO of legal persons (this is not a deficiency rather a note for the reader). FI are required to conduct CDD on customers that are body corporates (legal persons) (s.20(1)(a) AMLCTF Act) and the BOs of a customers (s.20(1)(b) AMLCTF Act) and identify (s.24(1) AMLCTF Act) and verify the BO identity using reliable, independent source documents, data or information (identification data) (s.16 AMLCTF Act).

207. Specific requirements to verify the beneficial owners are set out in s.25(1)(b) AMLCTF Act, which states “according to the nature and level of risk involved, take reasonable steps to verify any beneficial owner’s identity so that the financial institution is satisfied that it knows who the beneficial owner is” (s.25(1)(b) AMLCTF Act). “according to the nature and level of risk involved” narrows the reasonable steps required to be taken.

208. Through the definition of BO (s.5(2) AMLCTF Act) (see c.10.5), FI are required to identify and verify of the natural person(s) with owning (25% or more) or controlling of the legal person. This provides for c.10(a), but PNG has no obligations on FIs covering circumstance outlined in c.10.10(b) and (c).

209. *Criterion 10.11.* PNG has no specific requirements covering BO of legal arrangements (this is not a deficiency rather a note for the reader). FI are required to conduct CDD on customers that are unincorporated entities (legal arrangement) (s.20(1)(a) AMLCTF Act) and the BOs of a customer (s.20(1)(b) AMLCTF Act) and identify (s.24(1) AMLCTF Act) and verify the BO identity using reliable, independent source documents, data or information (identification data) (s.16 AMLCTF Act).

210. Specific requirements to verify the beneficial owners are set out in s.25(1)(b) AMLCTF Act, which states “according to the nature and level of risk involved, take reasonable steps to verify any beneficial owner’s identity so that the financial institution is satisfied that it knows who the beneficial owner is” (s.25(1)(b) AMLCTF Act). “According to the nature and level of risk involved” narrows the reasonable steps required to be taken.

211. The definition of BO (s.5(2) AMLCTF Act) (see c.10.5) does not provide coverage of the requirements under c.10.11(a) and (b). Furthermore, the information outlined in s.24(1) (c) (included in the AMLCTF Act to cover c.10.11) are optional for FIs to obtain as the requirement uses 'may'.

CDD for Beneficiaries of Life Insurance Policies

212. *Criterion 10.12.* In addition to CDD on the customer, FIs must conduct customer due diligence on beneficiaries of an insurance policy (s.20(1)(d) AMLCTF Act), but not other investment related insurance policies. Pursuant to s.25(2)(c) AMLCTF Act, FIs must verify the identity of a person or unincorporated entity including the beneficiary of an insurance policy under s.20(1)(d) before making a payment to a beneficiary pursuant to an insurance policy. FIs must pursuant to s.27(c) where it identifies that a beneficiary of an insurance policy is a body corporate or unincorporated entity to take steps to identify the beneficial owner of the beneficiary. Verification is required pursuant to s.25(2)(c) for information obtained under s.24.

213. *Criterion 10.13.* Beneficiary of an insurance policy is included as a risk factor in determining whether ECDD is required and ECDD must be applied when high-risks are identified (s.26(1)(d) AMLCTF Act). FIs are required to take enhanced measures which includes reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of payout (s.28(1)(c) and s.28(2)(c) AMLCTF Act).

Timing of verification

214. *Criterion 10.14.* FIs may verify the identity of a person or unincorporated entity as soon as reasonably practicable after the establishment of the business relationship where it is essential not to interrupt the normal conduct of business and ML/TF risk is managed the FIs (s.25(3) AMLCTF Act).

215. *Criterion 10.15.* There is no explicit requirement for FIs to adopt a risk management procedure concerning the conditions under which a customer may utilise the business relationship prior to verification, but rather an obligation for FIs to only effectively manage the risks as required under c.10.14(c) (s.18(3)(a) AMLCTF Act). The AT's view is that effectively managed as required under s18(3)(a), s25(3)(a) and s28(3)(a) AMLCTF Act is not defined and therefore is interpreted differently by reporting entities whereas, the requirement under the criterion is for reporting entities to adopt a risk management procedure instead of merely managing the risks. Despite this interpretation, to effectively manage the risk, an FI must have procedures, policies and controls.

Existing customers

216. *Criterion 10.16.* FIs are required to undertake ongoing due diligence on all business relationships (s.17(1) AMLCTF Act) taking into account customers risk profile (s.17(2)(b) AMLCTF Act). Furthermore, ongoing due diligence must be completed in all business relationships. Business relationships means an on-going business, professional or commercial relationship between a FI or DNFBP and a customer. Customer is defined to include an "existing customer". When conducting due diligence, s.23(1)(c) AMLCTF Act requires reporting entity to give consideration to the level of risk involved and the veracity or adequacy of previously obtained information. This is functionally equal to conducting due diligence on existing customers.

Risk-based approach

217. *Criterion 10.17.* Pursuant to s.26(1)(e) AMLCTF Act, a FI must conduct enhanced CDD in circumstances where ML/TF risks are higher.

218. Requirements covering enhanced CDD are outlined in s.27 and s.28 AMLCTF Act. However, enhanced CDD requirements only cover identification and verification of source of assets and wealth, with no other obligation covering additional identification and verification of the customer or BO information such as undertaking steps to verify the identities of the persons in accordance to the level of risks involved as reflected that enhanced due diligence is undertaken. Where a FI has taken the view where the ML/TF risks are higher, it would appear that this is only applicable for the customer instead of all those that are listed under s.20(1) AMLCTF Act.

219. Though the AT acknowledge s.26(1)(e) as a catch all provision which will apply where a FI has taken the view that the ML/TF risks are higher enhanced CDD would be undertaken, it would appear that this is only applicable for the customer instead of all those that are listed under s.20(1) of the Act. As an example, enhanced customer due diligence is not explicitly required if a BO of a customer is a PEP or where a BO is a resident in a high-risk country pursuant to s.26(1) of the AMLCTF Act. The AT's view is that s.26(1)(e) is triggered when the reporting entity has formed a view rather than the explicitly requiring the reporting entity to undertake enhanced DD for higher risk situations without the reporting entity forming a view. It is unclear to the AT whether enhanced DD will be triggered explicitly in PNG without the reporting entity forming a view pursuant to s.26(1)(e)). The AT's view is that s.26(1) does not cover all the situations where PNG has determined that ML/TF risk is higher as outlined.

220. *Criterion 10.18.* FIs may only conduct simplified CDD if standard CDD and CDD is not required. In addition to this, it may only be conducted if a FI takes the view that the customer is not a resident in a high-risk country, the FI does not suspect ML/TF and that the FI takes the view that the customer is low risk.

Failure to satisfactorily complete CDD

221. *Criterion 10.19. (a) is met* Pursuant to s.19 AMLCTF Act, FIs must not establish or terminate an existing business relationship with a new customer or perform the transaction.

222. (b) Pursuant to s.19(g) AMLCTF Act, FIs must consider whether to make a suspicious matter report under s.41(4).

223. *Criterion 10.20.* FIs are require to report a suspicious matter report and to cease to conduct CDD when it has reasonable grounds to believe that conducting CDD will tip-off the customer pursuant to s.19(2) AMLCTF Act.

Weighting and Conclusion

224. The AMLCTF Act requires FI to implement robust CDD requirements with key shortcomings related to specific information required to be identify and for verify legal persons and arrangements.

225. **Recommendation 10 is rated largely compliant.**

Recommendation 11 – Record-keeping

226. In its last MER, PNG was rated partially compliant with former R.6 deficiencies were business correspondence is not clearly covered in POCA obligations, ambiguity in the law on the distinction between what constitutes 'transaction records' and what constitutes 'other client file documentation will lead to ineffective implementation and uneven enforcement of records maintenance requirements, and a lack of supervision across the financial sector means that effective implementation cannot be confirmed.

227. *Criterion 11.1.* FIs are required to keep all necessary records on transactions (s.47(1) AMLCTF Act). The transactions are required to be kept for a period of seven years after the completion of that transaction (s.47(3) AMLCTF Act). Definition of transaction (s.5 AMLCTF Act) does not differentiate between domestic and international transactions.

228. *Criterion 11.2.* FIs under s.48 AMLCTF Act is required to keep all necessary records collected through the CDD process, account files, business correspondence (s.49(1)(c) AMLCTF Act) and the results of any analysis undertaken for seven years.

229. *Criterion 11.3.* FIs must keep records to enable that transaction to be readily reconstructed any at time for seven years. (s.47(1) AMLCTF Act).

230. *Criterion 11.4.* CDD records obtained by FIs must be “readily available at any time” (s.48(1) AMLCTF Act) and transaction records must be kept in a way that enables the transaction to be readily reconstructed at any time (s.47(1) AMLCTF Act)).

Weighting and Conclusion

231. **Recommendation 11 is rated compliant.**

Recommendation 12 – Politically exposed persons

232. In its last MER, PNG was rated non-compliant with former R.6 deficiencies were no requirement to identify foreign PEPs, no requirement for senior management approval to establish a business relationship with a foreign PEP, no requirement to take reasonable measures to establish the source and wealth of foreign PEPs, and no provisions require ongoing monitoring of transactions of foreign PEPs.

233. *Criterion 12.1.* PEP is defined under s.5 AMLCTF Act in full accordance with the FATF definition international PEP. In relation to PEP, FIs have obligations in addition to performing standard CDD (s.24 and s.25 AMLCTF Act) as set out below.

234. (a) FIs are required to take all reasonable steps to identify whether a customer or a beneficial owner is a PEP (s.29(1) AMLCTF Act). FIs must also undertake enhanced CDD when a customer is a PEP under s.26(1)(c) AMLCTF Act. The requirement to take “reasonable steps to identify whether a customer or a beneficial owner is a PEP” is functionally equivalent to putting in place a risk management system to determine whether a customer or a beneficial owner is a PEP.

235. (b) FIs are required to obtain senior management approval before establishing (or continuing) a relationship with the customer or the beneficial owner that is a PEP (s.29(3)(a) AMLCTF Act).

236. (c) Requirements relating to source of funds and source of wealth of a PEP are under the general enhanced CDD requirement (s.27(b) AMLCTF Act), which is only applicable to the customer and not their beneficial owner.

237. For clarity, CDD is required on a beneficial owner of a customer (s.20(1)(b) AMLCTF Act). As above, FIs must undertake enhanced CDD when a customer is a PEP (s.26(1)(c) AMLCTF Act). However; (i) s.26(1) does not include a requirement to conduct enhanced CDD on the beneficial owner of a customer, and (ii) the source of funds and source of wealth enhanced CDD requirement (s.27(b) AMLCTF Act) are only applicable to the customer and not their beneficial owner. Therefore, there is no requirement to establish source of wealth and source of funds where the beneficial owner of a customer is a PEP.

238. Guidance has been published by FASU advising reporting entities that enhanced CDD is required for beneficial owners of a customer that is a PEP.

239. (d) FIs are required to conduct ongoing enhanced monitoring of the business relationship under s.29(3)(b) and s.17(2)(c) AMLCTF Act.

240. *Criterion 12.2.* PEP is defined under s.5 AMLCTF Act in full accordance with the FATF definition of domestic and international organisation PEP. All requirements under c.12.1 are applicable to domestic and international organisation PEPs. However, as discussed above, requirement to establish source of wealth and source of funds does not extend to the beneficial owners of a customer that is a PEP.

241. *Criterion 12.3.* Pursuant to the definition of PEPs under section 5 of the Act, the obligations discussed above at c.12.2 apply to family members or close associates PEPs. However, as discussed above, requirement to establish source of wealth and source of funds does not extend to the beneficial owners of a customer that is a PEP.

242. *Criterion 12.4.* Under s.29(4) AMLCTF Act, a FI is required to take all reasonable steps to determine whether beneficiaries and/or where required, the beneficial owner of the beneficiary is a PEP. FIs are required to inform senior management to make the payment, conduct enhanced CDD on the business relationship with the insurance policy, and to consider making a suspicious transaction report (s.29(6) AMLCTF Act).

Weighting and Conclusion

243. PNG defines foreign, domestic and international organisation PEPs consistent with the FATF Standards. Requirements on FIs are consistent with the FATF Standards with the exception of a lack of requirement for FIs to take reasonable measures to establish source of funds and source of wealth of beneficial owners identified as PEPs. Given the significant risks associated to corruption, greater weight has been placed on this deficiency.

244. **Recommendation 12 is rated partially compliant.**

Recommendation 13 – Correspondent banking

245. In its last MER, PNG was rated non-compliant with former R.7 deficiencies were no laws, regulation or other enforceable means which require financial institutions to: implement risk control measures for correspondent relationships, nor gather information on respondent relationships or to obtain a copy of any respondent institution's internal AML/CFT controls or assess them for

effectiveness, and there is no requirement in law, regulation or other enforceable means to document the respective AML/CFT responsibilities of correspondent relations.

246. *Criterion 13.1.* FIs entering into a correspondent banking relationships (defined in s.5 AMLCTF Act) or considering such a relationship have a number of obligations.

247. (a). FIs are required to identify and verify the identity of the respondent, determine from publicly available information the reputation of the respondent and determine whether the respondent has been subject to ML or TF investigations or regulatory action (s.34(1)(a)-(c) AMLCTF Act). There is however no explicit requirement to determine the quality of supervision.

248. (b) FIs are required to assess the respondents AML/CFT controls to ascertain the adequacy and effectiveness of the controls (s.34(1)(d) AMLCTF Act).

249. (c) FIs are required to obtain senior management approval before establishing the new correspondent relationship (s.34(1)(e) AMLCTF Act).

250. (d) FIs are required to establish an agreement to set out the respective responsibilities of each party under the correspondent banking relationship (s.34(1)(f) AMLCTF Act). However, there is no specific requirement for the agreement to specifically address the respective AML/CFT responsibilities of each institution.

251. *Criterion 13.2.*

252. (a) With respect to payable-through-accounts s.34(1)(g) AMLCTF Act outlines the requirement for FIs to satisfy itself that the respondent has verified its customers identity and have mechanisms for ongoing CDD with respect to its customers.

253. (b) With respect to payable-through-accounts, FIs are also required to ensure that the respondent bank is capable of providing relevant identification information on request (s.34(1)(g) AMLCTF Act).

254. *Criterion 13.3.* Under s.38 AMLCTF Act, FIs commits an offence when it intentionally: (a) establishes or takes steps to establish a shell bank in Papua New Guinea; (b) enters into or continues a business relationship with a shell bank or a correspondent financial institution in a foreign country that permits its accounts to be used by a shell bank; or (c) allows an occasional transaction to be conducted through it by a shell bank or a correspondent financial institution in a foreign country that permits its accounts to be used by a shell bank is guilty of a crime.

Weighting and Conclusion

255. Minor deficiencies are a lack of explicit requirements to gather sufficient information about a respondent institution and clearly understand the respective AML/CFT responsibilities of each institution.

256. **Recommendation 13 is rated largely compliant.**

Recommendation 14 – Money or value transfer services

257. In its last MER, PNG was rated partially compliant with former SR.VI deficiencies were POCA record keeping requirement does not cover retention of wire transfer transaction data received by an intermediary bank that does not contain full originator information, obligations concerning a risk-

based approach for how financial institutions should deal with wire transfer transactions lacking full originator information when received by beneficiary banks is lacking, and lack of supervision across the financial sector means that effective implementation cannot be confirmed.

258. *Criterion 14.1.* Person or entities providing MVTs (defined as payment services provider under s.2 NPSA) are required to be licenced by the BPNG (s.4 and s.5 of the NPSA). FIs licenced under the BFIA providing MVTS are exempt from NPSA 2013 licencing. In addition, natural or legal persons providing MVTS (defined as FIs under s.5 AMLCTF Act) must register with FASU for AML/CFT purposes (s.57 AMLCTF Act).

259. Under both the NPSA and the BFIA, it is unclear if the person or entities providing MVTS services includes both principal and the agent of MVTS, which is discussed further under c.14.4 and c14.5.

260. *Criterion 14.2.* Proportionate and dissuasive sanctions apply to persons operating an MVTS without a licence is K100,000 (~USD28,400) and/or a maximum of two years imprisonment (s.4(7) NPSA). A person who fails to register with FASU could be fined up to K25,000 (~USD7,100) for a natural person or a fine of up to K50,000 (~USD14,200) for a body corporate (s.58 AMLCTF Act).

261. Besides some actions by FASU to ensure registration with FASU, PNG did not demonstrate further actions taken to identify of natural or legal persons that carry out MVTS without licence or registration.

262. *Criterion 14.3.* The definition of FI under the AMLCTF Act includes activities that aligns with the FATF definition for MVTS (s.5 AMLCTF Act) with all FIs supervised and subject to monitoring for AML/CFT compliance by FASU (s.72(1)(b) AMLCTF Act).

263. *Criterion 14.4.* There is no explicit differentiation on the use of agents under the AMLCTF Act, NPSA or BFIA, and it is unclear if agents of MVTS providers are required to be registered or licensed. Nor is there any explicit obligation placed on MVTS providers to maintain a current list of its agents that is assessable by competent authority in the countries in which the MVTS provider and its agents operate.

264. *Criterion 14.5.* As above there is no explicit differentiation on the use of agents under the AMLCTF Act. There is no legal requirement for MVTS providers that use agents to include them in their AML/CFT programmes and monitor them for compliance with these programmes.

Weighting and Conclusion

265. Natural and legal persons providing MVTS are required to be licenced by the BPNG with proportionate and dissuasive sanctions for non-compliance and MVTS providers subject to AML/CFT compliance monitoring. Licencing or registration requirements for MVTS providers with agents are unclear and there is no legal requirement for MVTS providers that use agents to maintain a current list of its agents accessible by competent authorities in the countries in which the MVTS provider and its agents operate. There is also no legal requirement for MVTS providers that use agents to include them in their AML/CFT programmes and monitor them for compliance. Further, there is little evidence that actions have been taken to identify unregistered MVTS providers.

266. **Recommendation 14 is rated partially compliant.**

Recommendation 15 – New technologies

267. In its last MER, PNG was rated non-compliant with former R.8 deficiencies as there was no laws, regulations or other enforceable means to require financial institutions to have policies or procedures in place to mitigate risks of ML/TF through misuse of technologies.

268. *Criterion 15.1.* As discussed in c.1.2 FASU is mandated under s.72(2)(b) AMLCTF Act as the responsible agency to develop risk assessments in relation to ML/TF risks. There are no explicit requirements covering new technologies. FIs are required to undertake the risk assessments with regards to new and developing technologies and products and new business practices used by FIs and its customers (s.6(3)(f) of AMLCTF Act)

269. *Criterion 15.2.* FIs are required to undertake the risk assessments with regards to new and developing technologies and products and new business practices used by FIs and its customers (s.6(3)(f) of AMLCTF Act). However, FIs are not required to undertake the risk assessments prior to the launch or use of such products, practices and technologies. FIs are required to manage and mitigate risk identified in risk assessment including in relation to new technologies (s.6(3)(a) of AMLCTF Act).

270. *Criterion 15.3.*

271. (a). PNG has completed a sector risk assessment of VASP in 2023. PNG have focused its risk assessment primarily on whether or not VA and VASPs have a presence or establishment in PNG. PNG conducted a survey to obtain quantitative and qualitative data with respect of the sector. The survey population focused on industries with high probability of being involved in, or exposed to, virtual asset transactions or VASPs.

272. Analysis of the response from the survey was undertaken with the prima facie view that the response suggest that is a low risk of ML/TF relating to VASPs in PNG. This is on the bases that the exposure of customers being VASPs or transactions involving a VASPs is very limited. Though that is the case, PNG also recognises the risks associated with being victims of online scam and fraud along with the borderless nature of VASPs.

273. PNG have determined that it does not have existing or active domiciled VASPs and merchants that are operating or providing accessibility or trading platform for users of VA. Though PNG do acknowledge that it is not immune to ML/TF or PF posed by VASPs.

274. (b). Based on PNG's understanding of the risk and the recent development of the sector risk assessment, recommendations have been made in respect of the sector risk assessment undertaken. This includes forming a committee at the national level to develop legal and regulatory framework to govern the trading of virtual assets in PNG. No legal and regulatory framework exists, although steps are being recommended to apply these measures.

275. (c). PNG was in the process of making legislative changes that take into account the risks associated with VASPs including controls that are required to mitigate that risk. VASPs are not a FI or DNFBP under the AMLCTF Act.

276. *Criterion 15.4.* There is no licensing or registration regime for VASPs.

277. *Criterion 15.5.* PNG does not have a clear definition of VASPs or how VASPs would be captured under the current legislative framework which would trigger the need for registration or license.

278. *Criterion 15.6.* There are no measures or requirements imposed by PNG in relation to supervision of VASPs.

279. *Criterion 15.7.* There are no measures or requirements imposed by PNG in relation to this criterion for VASPs.

280. *Criterion 15.8.* There are no measures or requirements imposed by PNG in relation to this criterion for VASPs.

281. *Criterion 15.9.* There are no measures or requirements imposed by PNG in relation to this criterion for VASPs.

282. *Criterion 15.10.* PNG measures for communication regarding TFS for PF are established in accordance with the UNFS Act with some minor shortcomings. Regarding TFS for PF communication is also accordance with the UNFS Act, but minoring measures are not in place.

283. *Criterion 15.11.* FASU could provide rapid international cooperation on VAs. All other competent authorities have limitation in their powers to provide international cooperation and where powers exist, they would not be able to provide rapid cooperation.

Weighting and Conclusion

284. FIs are required to assess ML/TF risk relating to new technologies, but not before launch, and apply measures to manage and mitigate identified risks. PNG has undertaken a risk assessment of VA/VASPs although it has not taken any other steps to give effect to the VA/VASP requirements of R.15.

285. **Recommendation 15 is rated non-compliant.**

Recommendation 16 – Wire transfers

286. In its last MER, PNG was rated partially compliant with SR.VII deficiencies were POCA recordkeeping requirement does not cover retention of wire transfer transaction data received by an intermediary bank that does not contain full originator information, obligations concerning a risk-based approach for how financial institutions should deal with wire transfer transactions lacking full originator information when received by beneficiary banks is lacking, and lack of supervision across the financial sector means that effective implementation cannot be confirmed.

287. *Criteria 16.1.* Ordering FIs are required to ensure that all cross-border electronic funds transfers equal or greater than K2,500 (~USD640) (s.31 AMLCTF Act) (which is lower than the FATF requirement of USD\$1,000) are always accompanied by the following:

288. (a). Accurate (s.31(3) AMLCTF Act) originator information including full name (s.31(2)(a)(i) AMLCTF Act); sender's account number or such other identifying information that would allow for trace back (s.31(2)(a)(ii) AMLCTF Act); and any one of: (i) originator address; or (ii) originator customer ID; or (iii) originator date of birth (s.31(2)(a)(iii) AMLCTF Act)

289. (b). Receiver information including full name (s.31(2)(b)(i) AMLCTF Act); and the receiver's account number or such other identifying information that would allow for trace back (s.31(2)(b)(ii) AMLCTF Act).

290. *Criterion 16.2.* There are no explicit legislative requirements concerning several individual cross-border wire transfers from a single originator bundled in a batch file for transaction to beneficiaries.

291. *Criterion 16.3.* For wire transfers with a value of less than K\$2,500 (~USD640), PNG does not mandate that they are accompanied by the required originator and beneficiary information.
292. *Criterion 16.4.* As there is no legislative requirement to identify the information in c.16.3, there is no requirement to verify this information when there is a suspicion of ML/TF.
293. *Criterion 16.5.* The originator information required to be obtained by a FI in its capacity as an ordering institution is the same for both international and domestic wire transfers.
294. *Criterion 16.6.* Ordering information accompanying domestic wire transfers is not made available by other means.
295. *Criterion 16.7.* FIs are required to retain the identity and verification records for seven years after carrying out an electronic funds transfer of an amount in currency equal to or greater than K2,500 (~USD63.00)(s.48(3)(2) AMLCTF Act). Taking this into consideration and the specific requirements for ordering FIs to obtain identity information, FIs are required to maintain all originated and beneficiary information (s.31(2)(a) and (b) AMLCTF Act).
296. *Criterion 16.8.* Pursuant to s.19(1)(d) AMLCTF Act, FIs must not carrying out an electronic funds transfer if it is not transmitting the required information under s.31(5) AMLCTF Act.
297. *Criterion 16.9.* FIs that are an intermediary FI is required to ensure that all information it receives are transmitted (s.32(2) AMLCTF Act). This information must include all information referred to under s.31(5) AMLCTF Act, which includes specific information for both the originator and beneficiary.
298. *Criterion 16.10.* There are no explicit requirements for intermediary institutions to retain records for at least five years where technical limitations prevent the required originator and beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer. There is however a general legal obligation under s.48(3) AMLCTF Act for FIs to keep information for a wire transfer equal to or greater than K2,500 (~USD640) for seven years.
299. *Criterion 16.11.* There are no requirements for intermediary FIs to be required to take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information.
300. *Criterion 16.12.* FIs must based on the nature and level of risk involved assess when to carry out, reject or suspend an electronic funds transfer if it does not receive all of the identity information (s.32(3) and s.19(1)(e) AMLCTF Act). The requirements do not explicitly cover taking appropriate follow-up action.
301. *Criterion 16.13.* There is no explicit requirement for FI that is a beneficiary institution to identify wire transfers that lack required originator information.
302. *Criterion 16.14.* Pursuant to s.33(2) AMLCTF Act FIs are that are beneficiary institutions must verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information for wire transfer of USD/EUR 1000 or more.
303. *Criterion 16.15.* FIs who are beneficiary that do not receive all originator or intermediary information must base on the nature and level of risk, assess whether to carry out, reject or suspend that electronic funds transfer pursuant to s.33(3) AMLCTF Act. The requirements do not explicitly cover taking appropriate follow-up action.

304. *Criterion 16.16.* The definition of FI in the AMLCTF Act includes MVTS and the act does not differentiate between principal and the agent of MVTS.

305. *Criterion 16.17.* There is no explicit requirement for MVTS provider that controls both the ordering and the beneficiary side of a wire transfer to take into account all the information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed or file an STR in any country affected by suspicious wire transfer and make relevant transaction information available to the FIU. There is however a general requirement on all FIs to file a SMR when s41 of the Act applies.

306. *Criterion 16.18.* FIs conducting wire transfers are required to comply with prohibition (freezing) obligations discussed in R.6 when executing payment through wire transfer or when acting as an intermediary. There are minor shortcomings in R.6.

Weighting and Conclusion

307. PNG has a range of moderate shortcomings in requirements covering ordering, intermediary and beneficiary FIs. There are no requirements on MVTS which control both sides of the transaction, and minor shortcomings in relation to TFS.

308. **Recommendation 16 is rated partially compliant.**

Recommendation 17 – Reliance on third parties

309. In its last MER, PNG was rated non-compliant with former R.9, deficiencies were lack of clear obligation which holds reporting entities solely responsible for full compliance with all elements of CDD with respect to each customer, and lack of AML/CFT regulatory controls on the operation of third parties.

310. *Criterion 17.1.* FIs are permitted to rely on third-party FIs and DNFBPs to conduct CDD on a person or unincorporated entity (s.18(1) AMLCTF Act). Where a FI relies on a third-party FI or DNFBP, it must obtain information concerning elements (a)-(c) of the CDD measures set out in Recommendation 10 (s.18(2) AMLCTF Act). s.18(4) AMLCTF Act states “A financial institution has the ultimate responsibility for compliance with this Act”; however, this is not explicit that the FI relying on the third party has ultimate responsibility.

311. (a) and (b). The FI must ensure that the third-party FIs and DNFBPs is able to provide, without delay, copies of information regarding the identity and verification of identity of the person or unincorporated, information on the nature and purpose of the business relationship, and any other information relating to CDD upon request (s.18(1)(b)(i) AMLCTF Act).

312. (c). FI must also ensure that the entity being relied on is subject to the jurisdiction of a State which is not considered a high-risk jurisdiction and where the third-party FI or DNFBP is subject to AML/CFT requirements at least equivalent to those specified the AMLCTF Act, and is supervised for compliance with those requirements in a manner at least equivalent to AMLCTF Act in PNG (s.18(1)(b)(ii) AMLCTF Act). This section however provides a narrower application than that of FATF, in that it only applies where the third-party FI or DNFBP is subject to AML/CFT requirements. This does not cover situations where a FI relies on a third-party FI or DNFBP that is not subject to AML/CFT requirements, but the FI must still satisfy itself that the third party is regulated and supervised or monitored for the related CDD and record-keeping requirements.

313. *Criterion 17.2.* FIs are required to be satisfied that the third-party is subject to the “jurisdiction of a State which is not considered a high-risk jurisdiction” (s.18(1)(b)(ii) AMLCTF Act). It is unclear the basis on which a jurisdiction would be considered high-risk and there is no explicit requirement to consider information available on the level of country risk.

314. *Criterion 17.3.*

315. (a) Section 13 AMLCTF Act requires a financial group to implement a group-wide AML/CFT programme which must include policies and procedures for sharing information required for CDD and AML/CFT risk assessment (s.13(1)(c) AMLCTF Act).

316. (b) Section 13(2) AMLCTF Act provides that a financial group must implement a group-wide AML/CFT programme. Given this to be the case, a competent authority would have the ability to seek information at a group-wide level on the implementation of the AML/CFT Programme for the financial group.

317. (c) Section 13(1)(b) AMLCTF Act requires the group-wide AML/CFT program to be based on the risk assessment indirectly through the inclusion of s.7 AMLCTF Act which in turn must be based on the risk assessment under s.6. The risk assessment must have regard to the countries it deals with (s.6(3)(e) AMLCTF Act).

Weighting and Conclusion

318. FIs are permitted to rely on third-party FIs and DNFBPs; however, there is ambiguity in ultimate responsibility. Other minor shortcomings relate to the reliance on entities that may not be regulated or supervised for AML/CFT purposes, it is unclear as to the basis on which a jurisdiction would be considered high-risk, and there is no explicit requirement to consider information available on the level of country risk. These shortcomings are considered minor by the AT as the FI must still satisfy itself that the third party is regulated and supervised or monitored for the related CDD and record-keeping requirements.

319. **Recommendation 17 is rated largely compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

320. In its last MER, PNG was rated partially compliant with former R.15 and non-compliant with former R.22. Regarding R.15, deficiencies were implementation of internal controls has occurred beyond the banking sector and post office, no requirement to establish and maintain comprehensive AML/CFT procedures, policies and controls, develop appropriate compliance management arrangements, including the designation of an AML/CFT compliance officer at the management level, no requirement for well resourced and independent audit function to test AML/CFT compliance, no requirement for screening new employees to ensure high standards when hiring employees, and limited supervision has not been undertaken to test effectiveness of implementation and this is only in the banking sector. Regarding R.22, deficiencies were no obligations on foreign branches or subsidiaries of PNG financial institutions to apply AML/CFT measures consistent with PNG’s requirements, and no obligations to apply the higher standards of AML/CFT obligations in cases where the home and host country differ.

321. *Criterion 18.1.* FIs are required to implement programmes against ML/TF having regards to ML/TF risk and size of the business (s7 AMLCTF Act), which includes the following:

322. (a) FIs must appoint a person as its AML/CFT compliance officer and the AML/CFT compliance officer must have direct access to senior management of the FI (s.7(3)(d)(i) and s.8 AMLCTF Act). However, the AML/CFT compliance officer is not required to be at management level, but instead s.8 provides a requirement for the compliance officer to have direct access to senior management.

323. (b) Section 7(3)(e) AMLCTF Act requires FIs' AML/CFT programme to have effective procedures, policies and controls for vetting an employee to ensure the employee is fit and proper. Non-enforceable guidance on vetting/it and proper of employee are set out in AML/CFT Compliance (AML/CFT program) Rule (No. 1 of 2019).

324. (c) FIs AML/CFT programme must have effective procedures, policies and controls for training to an employee (s.7(3)(f) AMLCTF Act). Non-enforceable guidance on training are set out in AML/CFT Compliance (AML/CFT program) Rule (No. 1 of 2019). However, the AMLCTF Act does not explicitly state that it is an ongoing training programme.

325. (d) FIs are required to engage an external auditor periodically to provide an independent review of its risk assessment and AML/CFT programme (s.9(2) AMLCTF Act). FASU also has the ability to require an FI to appoint an auditor to conduct an independent review pursuant to s.10 AMLCTF Act.

326. *Criterion 18.2.* Financial groups are required to implement a group-wide AML/CFT programme (s.13(1) AMLCTF Act) applicable and appropriate to all benches and majority own subsidiaries (s.13(1)(a) AMLCTF Act) covering all elements of c.18.1 (s.13(1)(b) AMLCTF Act).

327. (a) Financial groups are required to implement a group-wide policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management (s.13(1)(d) AMLCTF Act).

328. (b) Financial groups are required to implement a group-wide policies and procedures for branches and majority-owned subsidiaries to provide customer account and transaction information to the financial group when necessary (s.13(1)(d) AMLCTF Act). However, there is no explicit requirement for the information and analysis of transactions or activities which appear unusual. In addition, there is no explicit requirement for branches and subsidiaries to receive such information from group-level functions when relevant and appropriate.

329. (c) Financial groups are required to implement a group-wide adequate safeguards on the confidentiality and use of information exchanged, but there is no explicit requirement for safeguards to prevent tipping-off (s.13(1)(e) AMLCTF Act). PNG has requirements covering tipping-off with R.21 rated compliant.

330. *Criterion 18.3.* FIs are required to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit (s.54(1) AMLCTF Act).

331. If the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, FIs are required to inform FASU accordingly and take additional measures to manage the ML/TF risks (s.54(2) AMLCTF Act).

Weighting and Conclusion

332. FIs are required to implement programmes against ML/TF, but compliance officers are only required to have direct access to senior management. Requirements covering foreign branches are in keeping with the FATF standards and there are minor shortcomings for requirements covering group-wide programmes against ML/TF. This is considered minor as there is a requirement for the customer information and transaction information to be provided, but not the analysis.

333. **Recommendation 18 is rated largely compliant.**

Recommendation 19 – Higher-risk countries

334. In its last MER, PNG was rated non-compliant with former R.21 due to no requirement to give special attention to transactions with persons in countries that do not sufficiently apply FATF Recommendations, no obligation to examine transactions with no apparent or visible lawful purpose from non-compliant jurisdictions, and no effective means to inform financial institutions or establish countermeasures.

335. *Criterion 19.1.* s26(1)(a) AMLCTF Act requires FIs to apply enhanced due diligence for customer who is a resident from ‘high-risk countries’. High-risk country is not defined and it is unclear if it would include countries called for by the FATF.

336. *Criterion 19.2.* PNG does not have a legal framework to applying countermeasures when called for by the FATF and the legal framework for applying countermeasures independently of the FATF is unclear.

337. *Criterion 19.3.* The measures by which PNG ensures FIs are advised of concerns about weakness in jurisdictions’ AML/CFT systems is unclear.

Weighting and Conclusion

338. While FIs are required to apply enhanced due diligence for customer who are a resident of a ‘high-risk countries’. However, ‘High-risk country’ is not defined and it is unclear if it would include countries called for by the FATF. There are major shortcomings with regards to countermeasures and it is unclear if/how PNG ensures FIs are advised of concerns about weakness in jurisdictions’ AML/CFT systems.

339. **Recommendation 19 is rated non-compliant.**

Recommendation 20 – Reporting of suspicious transaction

340. In its 2011 MER PNG was rated partially compliant for former R.13 and SR.IV as the scope of predicate offences covered by the STR reporting obligation did not fully cover human trafficking and arms trafficking; scope of implementation of STR obligation was only directed to banking sector; lack of effective implementation among institutions other than banks; the rate of STR reporting not being reflective of the extreme levels of profit driven crime in PNG; supervision of obligations could not be confirmed gaps existed in the definition of TF; and there was a monetary threshold on the reporting of suspicion of TF involving legitimate funds.

341. *Criterion 20.1.* s.41(1) and (4) AMLCTF Act sets out the requirement of a FI to submit a SMR to FASU where it has “reasonable grounds to suspect information that is known to it may:

- be relevant to the detection investigation or prosecution of a person for ML/TF, an offence under UN Financial Sanctions Act 2014 or any other indictable offence; and
- be relevant to the detection investigation or prosecution of a foreign indictable offence; and
- concern criminal property.”

342. Indictable offences are punishable by imprisonment for a term exceeding 12 months (s.21(b) Interpretations Act 1975). A foreign indictable offence is defined as an offence against the law of another country that if the act or omission had occurred in PNG would be an indictable offence (s.2 AMLCTF Act 2015). Criminal property is defined by s.508(A) of the Criminal Code Act. This together with the requirement laid out in s.41(1) is broad enough to cover funds that are the proceeds of criminal activity or are related to TF.

343. The use of ‘and’ under s.41(1) and (4) AMLCTF Act makes these requirements conjunctive. Therefore, this limits the circumstances under which suspicion is formed and a report submitted, to only those matters that relate to foreign indictable offences that also concern criminal property.

344. An SMR is to be submitted “as soon as reasonably practicable and in any event, within 5 working days from the date the suspicion first arose” (s.41(4) AMLCTF Act 2015). Taking into account interpretation by the FATF, this is considered ‘promptly’.¹²⁷ The penalty for failing to make a report is set out at s.41(8) AMLCTF Act.

345. Gaps with the scope of coverage of predicate offences for ML (see c.3.2) have an effect on the scope of the SMR obligation.

346. *Criterion 20.2.* SMR requirements in s.41 (1)(2)(4) of AMLCTF Act refer to reporting an SMR once suspicion is formed on information. The term “information” is broad enough that it can include a record in any form (s.5 and s43 AMLCTF Act), which includes the concept of reporting a suspicious transaction (s.41(3) AMLCTF Act). The definition of transaction in the AMLCTF Act includes attempted transaction and does not specify a threshold.

Weighting and Conclusion

347. FIs are required to submit SMRs; however, the use of ‘and’ makes these SMR requirements conjunctive and limits the circumstances under which suspicion is formed. Gaps with the scope of coverage of predicate offences for ML also have an effect on the scope of the SMR obligation.

348. **Recommendation 20 is rated partially compliant.**

Recommendation 21 – Tipping-off and confidentiality

349. In its 2011 MER PNG was rated largely compliant for former R.14 as supervision of obligations could not be confirmed.

350. *Criterion 21.1.* Section 56 AMLCTF Act protects FIs and their directors, officers and employees from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU. The AMLCTF Act does not explicitly mention that this protection is available if they did not know precisely what the underlying criminal activity was, or whether illegal activity

¹²⁷ Since 2017 a number of MERs and FURs have been adopted to help to suggest what is not acceptable (e.g. Czech Republic and South Africa).

actually occurred, but it does cover “anything done or omitted to be done in good faith in the discharge of their obligations under this Act.”

351. *Criterion 21.2.* Section 43(1) and s.44(1) AMLCTF Act prohibits FIs and their directors, officers and employees from disclosing the fact that a SMR or related information is being filed with FASU, or from disclosing the report or any information and suspicion.

352. Section 43(2) and s.44(2) AMLCTF Act exempts from this requirement any disclosure made to FASU in accordance with the Act, to a policeman for law enforcement purposes, to an officer/employee/agent of the FI for AML/CFT duties or to a lawyer to obtain legal advice or representation. Any intentional or reckless breach of the non-disclosure requirement is punishable under s.43(4), s.43(6), s.44(4), and s.44(6) AMLCTF Act.

Weighting and Conclusion

353. **Recommendation 21 is rated compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

354. In its 2011 MER PNG was rated non-compliant for former R.12 - although DNFBPs are subject to POCA obligations, no AML obligations have yet been implemented in any DNFBP sectors.

355. The definition of DNFBP in the AMLCTF Act (s.5 AMLCTF Act) includes all sectors required by the FATF standards with the addition of MV dealers.

356. *Criterion 22.1.* Section 52 (1) AMLCTF Act requires DNFBPs to comply with the same preventative measures requirements as FIs set out in Part II of the Act, which includes CDD obligations.

357. (a) Section 52(1)(a) AMLCTF Act sets out the circumstances where a casino is required to comply with CDD requirements when a customer of the casino engages in a transaction that is equal to or greater than K10,000 (~USD2,790). The minor deficiencies identified in R.10 apply. Although, no casino licences have been granted in PNG.

358. (b) Real estate agents are defined as a DNFBP under s.5 AMLCTF Act and captured for CDD obligations under s.52(1)(b) AMLCTF Act where it is involved in a transaction for a client concerning the buying and selling of real estate. The minor deficiencies identified in R.10 apply.

359. (c) Dealers in precious metals and stones are defined as DNFBP under s.5 AMLCTF Act and are captured for CDD obligations under s.52(1)(c) & (d) AMLCTF Act in circumstance when it engages in transactions with customer in currency equal to or greater than K40,000 (~USD11,163). The minor deficiencies identified in R.10 apply.

360. (d) Lawyer, notary public, other independent legal professions and accountants are defined as DNFBPs under s.5 AMLCTF Act and are captured for CDD obligations under s.52(1)(e) AMLCTF Act where it is involved in activities fully consistent with all dot points of c.22.1(d). The minor deficiencies identified in R.10 apply.

361. (e) TCSPs are defined as DNFBP under s.5 AMLCTF Act and captured for CDD obligations under section 52(1)(f) AMLCTF Act where it is involved in activities fully consistent with all dot points of c.22.1(e). The minor deficiencies identified in R.10 apply.

362. *Criterion 22.2.* DNFBPs are subject to the record keeping requirements set out in s.47 to s.49 AMLCTF Act. Record keeping requirements are compliant with R.11.

363. *Criterion 22.3.* DNFBPs are subject to the PEP requirements set out in sections s.26 and s.29 AMLCTF Act and have the same moderate deficiencies as set out in R.12.

364. *Criterion 22.4.* DNFBPs are subject to the new technologies requirements as set out in s.6(3)(e) AMLCTF Act and have the same minor deficiencies as set out in the relevant criteria of R.15.

365. *Criterion 22.5.* DNFBPs are subject to the third parties' requirements as set out in s.18 AMLCTF Act and have the same minor deficiencies as set out in R.17.

Weighting and Conclusion

366. The definition of DNFBPs in the AMLCTF Act includes all sectors required by the FATF standards (with the addition of MV dealers). DNFBPs are subject to the same preventive measures requirements as FIs thereby the minor deficiencies as set out in R.10, R.15 (criterion relevant to DNFBPs) and R.17 are applicable. R.12 has moderate deficiencies, which are applicable to DNFBPs. Given the significant risks associated with corruption, greater weight has been placed on deficiencies related to PEPs for DNFBPs.

367. **Recommendation 22 is rated partially compliant.**

Recommendation 23 – DNFBPs: Other measures

368. In its 2011 MER PNG was rated non-compliant for former R.16 - While all DNFBPs present in PNG are covered by legal obligations in the *POCA*, they do not appear to be aware of the reporting or internal control requirements and are not taking steps to implement their obligations, and there is no effective implementation in any DNFBP sector.

369. *Criterion 23.1.* DNFBPs are subject to SMR requirements as set out in s.41 AMLCTF Act and have the same moderate deficiencies as set out in R.20.

370. *Criterion 23.2.* DNFBPs are subject to internal controls requirements as set out in s.7, s.9, s.13 and s.54 AMLCTF Act and have the same minor shortcomings as set out in R.18.

371. *Criterion 23.3.* DNFBPs are subject to higher-risk countries requirements as set out in s.6 and s.26 AMLCTF Act and have the same major shortcomings as set out in R.19.

372. *Criterion 23.4.* DNFBPs are subject to the tipping-off and confidentiality requirements set out in s.43 and s.44 AMLCTF Act. Tipping-off and confidentiality requirements are compliant with R.21.

Weighting and Conclusion

373. The definition of DNFBPs in the AMLCTF Act includes all sectors required by the FATF standards (with the addition of MV dealers). The deficiencies as set out in R.18, R.19, and R.20 are applicable to DNFBPs including that the shortcomings in R.20 are moderate and major for R.19.

374. **Recommendation 23 is rated partially compliant.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

375. In its 2011 MER PNG was rated partially compliant for former R.33. The report identified that the deficiencies included cumbersome access to the information held by the registry, unreliable information in the registry, the limited effectiveness of the Companies Act and Association Act, and beneficial ownership information not being available for foreign corporate shareholdings.

376. PNG's primary form of legal person is a company incorporated in accordance with the Companies Act 1997 and its amending acts in 2014 and 2022 with perpetual succession and separate legal personality. Liability by shares may be limited or unlimited.

377. In addition, Incorporated Land Groups incorporated under the LGI Act 1974 and its amending acts in 2009 and 2022 provides for legal recognition of the corporate status of certain customary and similar groups, and the conferring on them as corporations, separate legal personality with perpetual succession and the power to acquire, hold, dispose of, and manage land.

378. Other legal entities able to be formed in PNG include; (i) Associations once registered with the IPA under the AIA are incorporated with separate legal personality with perpetual succession that is able to acquire, hold, dispose of, and manage land and open and operate a bank account, (ii) Business Groups are required to be incorporated under the BGI Act 1974 and its amending act in 2022, which establishes a separate legal personality with perpetual succession and able to undertake for-profit related business activities including to open and operate a bank account, and (iii) Business Names required to be registered for with IPA under the Business Names Act 2014 with registration not creating a separate legal entity – Business Names are not considered a legal persons for the purposes of R.24.

379. The number of these entities at the time of the onsite visit is included in Table IO.5-1.

380. *Criterion 24.1.* Companies are identified and described with their basic features in the statute (the Companies Act 1997). The ROC under the IPA website¹²⁸ contains various guides covering the process for creation, registration of companies and how to search for a company and view company details and documents.¹²⁹ The website also includes all relevant forms for download.¹³⁰ The Companies Act 1997 (Part II and Part XXI) and its Amendment Act 2022 (s.72(2)) describes the processes for obtaining and recording of basic and beneficial ownership information. They are publicly available. However, beyond the requirement for obtaining and recording BO information in the Companies Act 1997, its Amendment Act 2022 and other laws, there is no mechanism to identify or describe the process for obtaining or recording BO information.

381. ILGs are administered by the DLPP. Information on the processes for creation of ILGs, and their purpose is available on the department's website¹³¹ and in the relevant legislation (LGI Act), both of which are publicly available. Information on the mechanisms for obtaining and recording basic

¹²⁸ Investment Promotion Authority, 2023, Registry Services, <https://www.ipa.gov.pg/Index.aspx>, accessed November 2023.

¹²⁹ Ibid

¹³⁰ Investment Promotion Authority, 2023, Forms to Download, <https://www.ipa.gov.pg/public/help.aspx?cn=FormsForDownload>, accessed November 2023.

¹³¹ Department of Lands and Physical Planning of Papua New Guinea, 2024, Frequently Asked Questions, <https://dlpp.gov.pg/faqs/ilg-s>, accessed July 2024.

and/or beneficial ownership information is limited to that in statute and ILG registration forms and contact details on the DLPP's website.

382. Information on the other type of legal entities (Associations and Business Groups), process for creation and to a more limited extent obtaining and recording basis and/or beneficial information is available in the legislation governing other IPA regulated legal entities and on the ROC website.

383. It is not clear whether any other types of legal persons may exist in PNG because PNG does not list all possible types of legal persons in the country including legal entities outside the jurisdiction of IPA.

384. *Criterion 24.2.* The NRA 2017 does not include a reasonable assessment of the ML/TF risks associated with all types of legal person created in PNG. The NRA is heavily focused on domestic companies, the vulnerability discussion focused almost exclusively of the online creation of companies without verification of supporting documents, and there is no explicit assessment of TF risks. The AT placed limited weight on the lack of a TF assessment as there is no publicly available evidence suggesting legal persons in PNG are being misused for TF. PNG has not updated the risk assessment associated with legal persons since 2017. At the time of the ME onsite visit, PNG was in the process of updating the NRA with IPA's involvement in the update process and the analysis related to legal persons being in the initial stages.

385. *Criterion 24.3.*

386. *Companies:* are required to be registered with ROC. An application for registration of a company must be submitted to the ROC (s.13(1) Companies Act 1997). Upon registration with the ROC a company is issued with a certificate of incorporation, which is evidence that the requirements of the Act are complied with, and the company is incorporated (s.14 and s.15 Companies Act 1997).

387. The ROC is required to register and maintain all document provided under the act (s.396 Companies Act 1997) including company name, proof of incorporation, legal form and status, address of registered office, basic regulating powers, and list of directors (s.13 Companies Act 1997). This information is publicly available (s.398(1)(2) Companies Act 1997).

388. *ILG:* are required to be registered with DLPP (s.34D LGI Act). s.5 LGI Act requires an application to be in the prescribed form and functionally equivalent to information set out in c.24.3. a. 7 LGI Act requires the DLPP as Registrar to keep a register of ILGs including copies of all applications, and certificates of recognition amongst other information relevant to the ILGs. This information does not seem to be publicly available.

389. *Associations:* The process of incorporation of associations is governed by sections 6-12 AIA. s.12 requires the ROC to enter and incorporated association in the register, and issue a certificate of incorporation of the association once the requirements of incorporation are met. ROC receives (s.6 AIA) and is required to maintain (s.144 and s.145 AIA) information functionally equivalent to information set out in c.24.3. This information is publicly available (s.149 AIA).

390. *Business Groups:* are incorporated pursuant to s.11 to s.13 of the BGI Act. s.13 BGI Act requires the ROC to maintain a register information functionally equivalent to information set out in c.24.3. Its information is not publicly available.

391. *Criterion 24.4.*

392. *Companies:* companies are required to maintain company records including all information on directors, company formation/incorporation information and regulating powers information at the registered office (s.164 Companies Act 1997).

393. s.67 of the Company Act 1997 requires a company to maintain a share register. The share register contains information including the names and last known address of the shareholder, number of shares and class of shares (s.67(2) Company Act 1997). s.68 stipulates “The principal register of a company shall be kept in the country”, and the share register must be kept at the registered office (s.164(1)(i) Company Act 1997). A company is required to notify the ROC of the address of the registered office (s.161 and s.162 Company Act 1997). The share register is not required to contain information about the nature of associated voting rights. Pursuant to s.37 of the Companies Act, shareholders have the right to one vote per share unless negated, altered, or added to by the constitution of a company.

394. *Associations:* Associations are required to maintain their records of documentation required for registration provided to the ROC at the registered office (s.84 AIA).

395. *Business Groups:* while Business Groups are required to file an annual return with ROC (s.23A BGI Act), which would necessitate maintaining records of the information filed. However, the details of what is required to be filed is unclear (see below discussion at c.24.5) and there is no required ROC to be notified of the location.

396. Requirements related to ILGs are unclear.

397. *Criterion 24.5.*

398. *Companies:* Domestic companies are required to file an annual return with the ROC, at least once in each calendar year within 14 days of the companies’ annual meeting, containing information required under c.24.3 and c.24.4 (s.215 and Schedule 6 Companies Act 1997). The following additional filing requirements are included in the Act and must be provided to the ROC within one month (s.7 Companies Regulation 2015); (i) notice of transfer of shares is required once made (s.65(6) Companies Act 1997); (ii) change of directors (s.137(1) Companies Act 1997); (iii) change of registered office (s.162(2) Companies Act 1997); (iv) change of address for service (s.168(2) Companies Act 1997). The transfer of shares must be provided to the company and recorded in the share register (s.65(4) Companies Act 1997). These requirements ensure information referred to in c.24.3 and c.24.4 is updated on a timely basis, but do not ensure it is accurate.

399. For overseas companies, confirming or updating the information on the register is required on an annual basis within six months of the end of financial year or 15 months of its previous annual return (s.391 Companies Act 1997). This is not timely.

400. *Business Groups:* s.23A of the BGI Act requires the filing of an annual return with the ROC containing up to date information on the prescribed form, however, the prescribed form is yet in force and there is no deadline for filing. While there are other obligations to file changes to committee members and committee member addresses (s.15A BGI Act) and change of postal address for service (s.15B BGI Act), there are no deadlines for filing. Therefore, information referred to in c.24.3 and c.24.4 is unlikely to be accurate and updated on a timely basis.

401. *Associations:* s.77 of the AIA requires the filing of an annual return with the ROC containing up to date information, however, the regulations with the prescribed form have not yet been

implemented. Additional filing requirements include change of committee members or details of committee members filled within one month of change (s.28 AIA).

402. Overseas associations are required to notify the ROC of changes to committee members, registered office and postal address within 20 days (s.127 and s.130 AIA); however, the prescribed form has not been implemented.

403. Requirements related to ILGs are unclear.

404. *Criterion 24.6.* All the three sub-criteria are assessed (bearing in mind they are in the alternative). At the time of the ME onsite, BO requirements in the Company Act were new with ROC yet to request any BO information from a company and no demonstration that companies had fully implemented the new requirement. Therefore, at the time of the ME onsite visit, PNG primarily relies upon existing BO information collected by FIs and DNFBPs as part of the CDD procedures. Thus, the AT places weight on the following (c).

405. (a) and (b)

406. *Companies:* s.72 (2)(a) of the Companies Act 1997 (as amended in 2022) requires a company to obtain and maintain sufficient information to identify the beneficial owner of a share issued by the company and to disclose that information to the ROC upon its written request (s.72(2)(b) Companies Act 1997 as amended in 2022). Beneficial owner is defined under s.72(3) as *a natural person who: (a) owns or controls a share or other membership interest in a company; or (b) exercises ultimate effective control directly or indirectly over a legal person or arrangement affecting shares or membership interests or decisions in a company.* ROC can request a company to disclose BO information in a written notice (s.72 (2)(b) Companies Act 1997 as amended in 2022), however the Act is silent on the time within which a company is required to respond to this notice. In practice ROC would set a maximum deadline of 14 days. At the time of the ME onsite visit, ROC had not requested BO information from a company and it was not demonstrated that ROC had monitored the new obligations on companies to obtain and maintain BO information.

407. *Associations:* associations to maintain sufficient information to identify the beneficial owner of a member, if the committee becomes aware that there is a member with a BO and disclose that information to the ROC upon written request (s.89 AIA). BO is defined as “the person who ultimately owns or controls the membership without their name appearing on the member register”. The trigger of an Associations committee becoming aware that there is a member with a BO would seem to limit the circumstance under which BO information is required to be maintained. Furthermore, the Act is silent on the time period within which a company is required to respond to this notice. In practice IPA would set a maximum deadline of 14 days. At the time of the ME onsite visit, authorities had not requested BO information from an association and it was not demonstrated that ROC had monitored the new obligations on companies to obtain and maintain BO information.

408. There are no BO obligations for ILGs or Business Groups.

409. (c)(i) Mechanisms to ensure that information on the BO of a legal person is obtained, or can otherwise be determined in a timely manner, rely on FIs and DNFBPs CDD of legal persons. While PNG’s general BO obligation under c.10.5 has a minor shortcoming, the specific requirements for BO of legal persons under c.10.10 have moderate shortcomings. Requirements on FIs are applicable to DNFBPs (see R.22). FIs and DNFBPs are required to perform CDD when commencing a business relationship with a legal person and the CDD obligations to update the information on file is only triggered when the transactions by the entity no longer matches the FI/DNFBP’s understanding of its

profile. This is done on a risk-sensitive basis. The accuracy and up-to-date of BO information collected under CDD is discussed below at c.24.7

410. (c)(ii) PNG does not rely on other competent authorities that hold BO information on legal persons in PNG, beyond a limited amount of information being available through tax returns from the IRC to the extent that a company has reportable transactions, and legal information held on Business Groups by IPA.

411. (c)(iii) PNG can access information as required by c.24.3 held by the Company, Associations and to a lesser extent Business Groups and ILGs using LEA powers. However, PNG is rated PC with R.31 with it being unlikely that the use of LEA powers would ensure this information could be determined in a timely manner through LEAs warrant process.

412. (c)(iv) Authorised depository agents (of which none were established in PNG) that deals with securities are required to open accounts with the central depository in the name of the BO of the securities (s.30 Central Depositories Act 2015). The definition of BO under s.2(1) in the Central Depositories Act 2015 is restricted to ultimate owner, which is not required to be a natural person, and the definition does not cover control.

413. *Criterion 24.7.* PNG primarily relies upon BO information collected by FIs and DNFBPs as part of the CDD procedures. PNG has minor shortcoming in requirements for FIs and DNFBPs to conduct on-going due diligence on the business relationship (c.10.7). Requirements on FIs are applicable to DNFBPs (see R.22).

414. Companies are required to 'obtain and maintain' BO information under s.72(2)(a) Companies Act 1997 as amended in 2022. If a company fails to comply with this obligation, the company including directors is guilty of an offence and is liable on conviction to the penalty (s72(4)(a)(b) Companies Act 1997). There are requirements covering the transfer of share, which may trigger a review of BO information, with the share transfer required to be submitted to the ROC within one month (s.7 Companies Regulation 2015). For associations, the requirement is 'maintain' with no further requirements to ensure accuracy or up-to-date. There are no BO requirements for Business Groups or ILG.

415. As discussed in R.10 and R.22, PNG has minor shortcoming in requirements for FIs and DNFBPs to conduct on-going due diligence on the business relationship, overall comprehensive requirements covering verification of CDD information, and moderate shortcomings in specific CDD measures for legal persons. The CDD regime for BO information has limitations as it might result in the FIs and DNFBPs taking years to update the BO information in the absence of a risk event to trigger an update, as opposed to the BO being updated whenever a change in beneficial ownership happens.

416. *Criterion 24.8.* PNG uses the mechanisms outlined in sub-criteria (a) or (b) to a limited extent to ensure legal persons cooperate with competent authorities in determining beneficial ownership. Competent authorities have general powers to access basic and BO information from legal persons as part of investigative powers, but there are no specific mechanisms in place as required under sub-criteria 24.8 (a) and (b), beyond a limited requirement for overseas companies that is not specific to natural persons.

417. (a) PNG requires at least one director of a domestic company to be resident in the country (s.128 Companies Act). Overseas companies are required to have one or more persons resident or incorporated in PNG authorised to accept service in the country of documents on behalf of the overseas company and who are responsible for submitting to the Registrar the documents required

by this Act to be submitted in respect of the overseas company (s.386(2)(e) Companies Act). Although associations must have a registered office and postal address in the country, the appointment of a person or persons as an agent in PNG is optional (s.128, s.129 AIA). The position with regard to other legal persons is unclear, although business groups and ILGs are domestically focused entities.

418. (b) While PNG places AML/CFT obligations on DNFBPs, there is no explicit requirement that a DNFBP is authorized by a company and accountable to competent authorities for providing basic information and available beneficial ownership information and giving further assistance to the authorities.

419. (c) The ROC may require a company to provide BO information upon written request, however, this does not yet extend to business groups and ILGs (as outlined in c.24.6).

420. *Criterion 24.9.* BO information obtained by FIs and DNFBPs through CDD is required to be maintained for seven years (s.47(3) AMLCFT Act). Companies must keep some company records for seven years, but there is no timeframe for retention of share register or BO information (s.164 Companies Act 1997) and accounting records for 10 years (s.188 Companies Act 1997). Requirements on Associations, Business Groups and ILGs are unclear.

421. It is unclear if there are record keeping requirements on ROC.

422. *Criterion 24.10.* s.81 and s.93 AMLCTF Act allows FASU to request, in writing, that a FI or a DNFBP provide information or produce records in its possession or subject to its control. In addition, FASU may specify a reasonable period within which information or records are to be provided (s.81(2) AMLCTF Act). These provisions support the requirement of “timely” access to the basic and BO information held by FIs and DNFBPs. FASU can request additional information from regulatory authorities, law enforcement agencies, and any other government department, agency or authority of PNG in order to carry out its functions (s.80(1) AMLCTF Act). FASU has an MOU with IPA which supports its access to ROC information.

423. PNG is rated PC with R.31 with access to basic and BO information held by relevant parties through LEAs’ warrant process; however, this process is unlikely to ensure timely access.

424. *Criterion 24.11.* The Company Act does not allow for bearer shares as all shares are required to be registered in the share register in the name of the persons. There is no explicit prohibition on shares warrants in bearer form in PNG and PNG has not taken measures consistent with c.24.11(a) to (e) to ensure they are not misused.

425. *Criterion 24.12.* PNG law permits nominee shares but is silent on nominee directors. Authorities acknowledged an ongoing practice in PNG of foreigners using local nominees to establish and maintain companies. There are no mechanisms applied to ensure that nominee shares and directors are not misused as contemplated by c.24.12(a)-(b), beyond an obligation for directors to disclose BO of shares (s.124 and s.126, Companies Act). On the other hand, as other mechanisms identified by the country, PNG introduced new BO requirements under s.72(2)(a) of the Companies (Amendment) Act 2022, although the new requirements do not focus on the misuse of nominee shares and nominee directors.

426. Nominee arrangements are not prohibited for Associations, Business Groups and ILG with no mechanisms applied to ensure that nominee shares and directors are misused as contemplated by c.24.12(a)-(b).

427. *Criterion 24.13.*

428. *Companies:* The Companies Act (s.416) has a catch-all sanction for non-compliance of a fine not exceeding K5,000 (~USD1,300). Furthermore, there are specific sanctions on natural and legal persons for obligations covered in this Recommendation ranging from fine of K5,000 to a fine up to K200,000 (~USD51,500) or/and imprisonment for five years depending on the requirements. Regarding the BO obligation, companies are liable for fine of K50,000 (~USD12,800) for non-compliance and director is liable for a fine of K100,000 (~USD25,750). Overall sanction for non-compliance with the Companies Act are considered proportionate and dissuasive expect in the context of large international companies.

429. *Associations:* The AIA include a range of sanctions for specific obligations under this recommendation with penalties ranging from a fine of K 1,000 (~USD 257) to a K5,000 (~USD 1,300) and imprisonment up to 6 months. The BO obligation attracts the maximum sanction under s.89(3) AIA. There is no sanction for the requirement to notify a change of registered office and postal address and for overseas associations to have a registered office and postal address attracts no penalty. Overall, available sanctions are considered proportionate and dissuasive.

430. *Business Groups:* BGI Act include a limited sanctions up to K2000 (~USD 515). Sanctions are not proportionate and dissuasive.

431. It is unclear what sanctions apply with regard to ILGs, if any.

432. As discussed in R.35, PNG has proportionate and dissuasive sanctions for FI and DNFBPs that do not comply with CDD requirements in the AMLCTF Act.

433. *Criterion 24.14.* PNG can provide international cooperation and BO information on legal persons the basis set out in Recommendation 37 and 40. PNG is rated LC with R.37 and PC for R.40.

434. (a) ROC facilitates access by foreign competent authorities to basic information held on the companies' and associations via its Online Registry System. As basic information on Business Groups and ILGs is not public it would be required to be provide via MLA or through the FASU. FASU can share CDD BO information via MOU arrangements and its membership of Egmont with counterparts. BO information requested by ROC from companies under the new requirements in the Company Act could be shared via MLA, but PNG has minor shortcomings with R.37 – provision of information would not be rapid.

435. (b) If shareholder information was collected under CDD, FASU could share it via MOU arrangements and its membership of Egmont with counterparts. Otherwise, PNG exchanges information on shareholders via MLA with deficiencies as discussed above.

436. (c) PNG is rated PC with R.31 with LEAs able to access basic and BO information through the warrant process. Furthermore, there are the MACMA compulsory measures for the taking evidence (including witness statements) (s.13(1)(a) MACMA) and production of documents (s.13(2)(a) MACMA) by the Court for MLA. PNG has minor shortcomings with R.37 – provision of information would not be rapid.

437. *Criterion 24.15.* There is no formal mechanism in place to monitor the quality of assistance PNG receives in regard to basic and BO information.

Weighting and Conclusion

438. PNG has not assessed its risks associated with all legal persons. PNG's primary form of legal person is a company, which are required to provide (and hold) basic information to ROC upon registration and on an ongoing basis. While PNG has new BO requirement, at the time of the ME onsite, PNG relied upon existing BO information collected by FIs and DNFBPs as part of the CDD procedures, which had moderate shortcomings. Bearer shares are not allowed, but PNG has no measures to ensure bearer share warrants and nominee shares or directors are not misused. Sanctions under the Companies Act 1997 are generally proportionate and dissuasive. PNG has moderate shortcomings for international cooperation and major shortcomings for monitoring for international cooperation.

439. **Recommendation 24 is rated partially compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

440. In its 2011 MER PNG was rated partially compliant for former R.34. The report identified that there was no governing legislation for private trusts, no obligation to register private trusts, and no procedure for gathering information on settlors, trustees and beneficiaries of private trusts.

441. In PNG it is possible to establish a trust under common law with no specific provisions that govern them. There seems to be several public trusts established for public statutory purposes and governed by enabling statutes. PNG law does not prohibit the operation or settlement of foreign express trusts, or other foreign legal arrangements, in the PNG. As PNG has not fully assessed the risk associated with trusts, it is unclear how many private or foreign trusts are operating in PNG.

442. *Criterion 25.1.*

443. (a) There is no requirement for trustees of express trusts to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust in PNG. PNG explains that domestic trusts are governed by the common law and there is no registration requirement for domestic trusts under the common law.

444. (b) There are no specific requirements for trustees to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

445. (c) Trustee is acting in a professional capacity as a business is required to implement specific CDD measures for legal arrangements as a DNFBP. While PNG's general BO obligation under c.10.5 has a minor shortcoming, the specific requirements for BO of legal arrangements under c.10.10 have moderate shortcomings. Requirements on FIs are applicable to DNFBPs (see R.22). Sections 48 (3)(a), 49 (2) and 52 (1) AMLCTF Act require a DNFBP, if acting as a professional trustee, to keep identity, verification and other necessary records of its customers for seven years after the end of the business relationship.

446. *Criterion 25.2.* As discussed in R.10 and R.22, PNG has minor shortcoming in requirements for DNFBPs, if acting as a professional trustee, to conduct on-going due diligence on the business relationship, overall comprehensive requirements covering verification of CDD information, and moderate shortcomings in specific CDD measures for legal arrangements.

447. *Criterion 25.3.* There are no specific measures to ensure that trustees disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transactions above the threshold.

448. *Criterion 25.4.* PNG authorities advise that there is no law which prohibits trustees of domestic trusts from providing information to competent authorities or FIs and DNFBPs.

449. *Criterion 25.5.* s.81 (1) AMLCTF Act allows FASU to request, in writing, that a DNFBP, acting as a professional trustee, provide information or produce records in its possession or subject to its control. In addition, FASU may specify a reasonable period within which information or records are to be provided (s.81(2) AMLCTF Act). These provisions support the requirement of “timely” access to the information held by the trustees and other parties.

450. PNG is rated PC with R.31 with access to basic and BO information held by relevant parties through LEAs’ warrant process; however, this process is unlikely to ensure timely access.

451. *Criterion 25.6.* PNG can provide international cooperation and BO information on trusts the basis set out in Recommendation 37 and 40. PNG is rated LC with R.37 and PC with R.40. FASU can share CDD BO information on legal arrangements from DNFBPs via its MOU arrangements and its membership of Egmont with counterparts (see R.40).

452. PNG is rated PC with R.31 with LEAs able to access BO information on the legal arrangement held by DNFBPs or other legal or natural persons (if held) through the warrant process. Furthermore, there are the MACMA has compulsory measures for the taking evidence (including witness statements) (s.13(1)(a) MACMA) and production of documents (s.13(2)(a) MACMA) by the Court for MLA. PNG has minor shortcomings with R.37 – provision of information would not be rapid.

453. *Criterion 25.7.* There are sanctions for DNFBP acting as a professional trustee as outlined in R.35, which are proportionate and dissuasive. There are no other sanctions on other trustees with obligations under R.25.

454. *Criterion 25.8.* For a DNFBP acting as a professional trustee, there proportionate and dissuasive sanctions for failure to grant FASU timely access to information and records under s.81(1) AMLCTF Act (s.84 AMLCTF Act). There is a general provision for prohibiting obstructing an investigation or the warranted process.

Weighting and Conclusion

455. In PNG it is possible to establish a trust under common law with no specific provisions that govern them and PNG law does not prohibit the operation or settlement of foreign express trusts, or other foreign legal arrangements, in PNG. DNFBPs, if acting as a professional trustee, are required to apply CDD obligations, but there are moderate shortcomings with specific requirements covering legal arrangements. Trustees are not obliged to disclose their status to FI’s and DNFBP’s. There are shortcomings in relations to LEA powers to obtain information, and international cooperation.

456. **Recommendation 25 is rated partially compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

457. In its last MER, PNG was rated non-compliant with former R.23 due to deficiencies in most requirements of the Recommendation.

458. *Criterion 26.1.* FASU is the designed authority that has responsibility for supervising (and monitor) and enforcing FIs compliance with the AMLCTF Act (s.72(1)(b) and s.72(2)(e) AMLCTF Act).

459. *Criterion 26.2.* Core Principles FIs required to be licensed by BPNG include commercial banks (s.10 BFIA), and Life Insurance companies and brokers (s.13 Life Insurance Act 2000). General Insurance companies and brokers are required to be licensed by OIC (s.17 to s.19 Insurance Act 1995). Securities companies and brokers are required to be licensed by the SCPNG (s.37 Capital Market Act 2015).

460. Other FIs that operates in PNG are required to be licensed by BPNG including Licensed Financial Institutions (s.10 BFIA), Superannuation Providers (s.11 to s.14 Superannuation (General Provisions) Act 2000), Saving and Loans Societies (s.7 Saving and Loans Act 2015) and MVTS and money exchangers (s.80 Central Banking Act 2000; s.10 of the BFIA or s.5 of the NPSA).

461. All financial institutions are required to register with the FIU for AML/CFT purposes (s.57 AMLCTF Act).

462. Pursuant to s.38 AMLCTF Act, PNG does not approve the establishment, or continued operation, of shell banks.

463. *Criterion 26.3.* Pursuant to s.60(2) AMLCTF Act FASU, BPNG, Insurance Commissioner, and Securities Commission (as regulating authorities) must ensure that Directors, Chief Executives, Senior Managers or persons in other equivalent positions FI and beneficial owners of FIs must meet fit and proper criteria on an initial and ongoing basis. The 'fit and proper' criteria is to be set out by FASU or other regulatory authorities in rules or other means (s.60(3) AMLCTF Act); however, besides the below this has not occurred.

464. For commercial banks and Licensed Financial Institutions, s.13 of the BFIA requires these FIs to ensure fit and proper requirements are complied with and allows the BPNG to request information from the FI regarding fit and proper (of directors, chief executives or managers) and based on this information determine the appropriate actions to be taken for persons deemed not fit or proper. There are some criteria for 'fit and proper' outline in Schedule 2 including "regard may be had to the previous conduct and activities in business or financial matters of the person in question and, in particular, to any evidence that he has... committed an offence involving fraud or other dishonesty or violence". BPS310 outlines the requirements for FIs to ensure fit and proper requirements are complied with¹³². BPNG has power to object to a director, chief executive, or manager of a commercial bank or Licensed Financial Institutions and specify an action to be undertaken (s.13(3)(4) BFIA), which may include imposing conditions on the licence (s.14 BFIA) such as requiring the FI not to appoint the person and revocation of the licence (s.14 BFIA).

465. While the NPSA provides for BPNG to specify the detailed licensing criteria and procedure for licensing entities (s.5 NPSA), this has not occurred as only one e-wallet service providers has been licensed solely under the NPSA.

¹³² BPNG, 2024, Authorized Deposit-Taking Institutions, <https://www.bankpng.gov.pg/financial-system/authorized-deposit-taking-institutions/> accessed July 2024; BPNG, 2024, Exchange Control, <https://www.bankpng.gov.pg/monetary-policy/exchange-control/>, accessed July 2024.

466. Money changers are required to be licenced (s.80 Central Banking Act 2000) with requirements for licence¹³³ including a copy of a police clearance for company directors and senior managers. Other fit and proper requirements are unclear.

467. For Life Insurance Companies and Brokers, the BPNG can remove an officer (chief executive officer, director, manager of a licence holder) who doesn't meet fit and proper criteria set out in Schedule 2 (s.20 LIA). The Schedule 2 LIA only includes a general clause (same as the BFIA) relating to previous offence involving fraud or other dishonesty or violence. Life Insurance Companies are required to ensure they met the fit and proper criteria (s.20(1)(a) LFA) with Life Insurance Prudential Standard 1/2005 outlining requirements for FIs to ensure fit and proper requirements are complied with.¹³⁴

468. For General Insurance Companies and Brokers, the OIC can impose conditions on the license (s.19 Insurance Act 1995), but it has not issued enforceable criteria for fit and proper requirements. Some fit and proper requirements are undertaken in practice.

469. For the Securities Sector, SCPNG can refuse to grant a license if the applicant or any of its directors, chief executive, chief financial officer or a senior manager has been convicted of a range of offences, contravened any provisions of PNG law or has engaged in or been associated with practices appearing to the Commission to be deceitful or oppressive or otherwise improper (s.40 Capital Market Act 2015). This doesn't extend to BOs.

470. For Superannuation Providers, BPNG can remove an officer (chief executive officer, director, manager of a licence holder) who doesn't meet fit and proper criteria set out in Schedule 2 (s.16 Superannuation (General Provisions) Act 2000). The Schedule 2 of the Superannuation (General Provisions) Act 2000 only includes a general clause (same as the BFIA2000) relating to previous offence involving fraud or other dishonesty or violence. Superannuation Providers are required to ensure they met the fit and proper criteria (s.16(1) Superannuation (General Provisions) Act 2000) with Superannuation Prudential Standard 6/2008 outlining requirements for FIs to ensure fit and proper requirements are complied with¹³⁵.

471. For Saving and Loans Societies entities, s.9 of the Saving and Loans Act 2015 requires these FIs to ensure fit and proper (of the directors, chief executives or managers) requirements with and allows the BPNG to request information from the FI regarding fit and proper and based on this information determine the appropriate actions to be taken for persons deemed not fit or proper. Fit and proper requirements are set out in Schedule 1 of the Saving and Loans Act 2015, which only includes a general clause (same as the BFIA2000) relating to previous offence involving fraud or other dishonesty or violence. BPNG has power to object to a director, chief executive, or manager of the FI and specify an action to be undertaken (s.9(3)(4) Saving and Loans Act 2015), which may include imposing conditions on the licence (s.11 Saving and Loans Act 2015) such as requiring the FI not to appoint the person and revocation of the licence (s.12 Saving and Loans Act 2015).

¹³³ BPNG, 2024, Exchange Control, <https://www.bankpng.gov.pg/monetary-policy/exchange-control/>, accessed July 2024

¹³⁴BPNG, 2024, Licensed Life Insurance Companies, <https://www.bankpng.gov.pg/financial-system/life-insurance/>, accessed July 2024

¹³⁵ Authorized Superannuation Funds, <https://www.bankpng.gov.pg/financial-system/superannuation-funds/> accessed July 2024

472. *Criterion 26.4.* FI are subject to:

473. (a) PNG has not had an external assessment of compliance with BCPs, IAIS and IOSCO conducted. FASU has functions and powers under the AMLCTF Act to implement risk-based supervision across all core principles FIs (s.72 AMLCTF Act). FASU has developed a risk-based AML/CFT supervision framework including internal SOP and guidance for FI (Guidance on Supervision and Enforcement Powers of the Financial Analysis and Supervision Unit under the Anti Money Laundering and Counter Terrorist Financing Act 2015 (No.3 of 2019). The insurance section is only subject to offsite AML/CFT supervision that is focused on AML/CFT programs and AML/CFT risk assessments and there has been no AML/CFT supervision of securities sector. Consolidated group supervision is not occurring and specific for AML/CFT purposes.

474. (b) For all other FIs, FASU has the functions and powers under the AMLCTF Act to supervise or monitor the other FIs including both offsite and onsite supervisory engagements. However, (i) as mentioned, R.14, there appears to be a gap with regards to FASU's supervisory function for MVTS who engages through the use of an agent and there has been no supervision of remitters, (ii) there has been no AML/CFT supervision on PNG's e-wallet service provider, and (iii) the superannuation sector and saving and loan societies sector has only been subject to offsite supervision focused on AML/CFT programs and AML/CFT risk assessments.

475. *Criterion 26.5.* FASU's risk-based supervision is based the 2017 NRA findings, its risk rating tool along with its SOP. In practice, FASU AML/CFT supervision is focused on the commercial banking sector, which is consistent with the 2017 NRA and PNG's ML/TF risks. However, PNG uses a single risk-rating tool for all FIs (and DNFBPs and MV dealers) and frequency and intensity of onsite-site and off-site AML/CFT supervision of other FIs is not fully determined by ML/TF risks due to resource constraints.

476. (a) The risk rating tool includes a rating system for AML/CFT which considers internal controls and procedures.

477. (b) In practice, FASU AML/CFT supervision is focused on the commercial banking sector, which is consistent with the 2017 NRA and PNG's ML/TF risks. However, for other FI sectors, it is unclear how FASU determines the frequency and intensity of on-site and off-site AML/CFT supervision of FIs or groups based on the ML/TF risks present in the country with the risk rating tool only including importance of importance of the entity based on; (i) annual turn over, (ii) importance of a financial institution in the sector, (iii) Reputation of the financial institution, and (iv) Impact of possible economic and competitive distortions manifesting in the industry sector.

478. (c) The risk rating tool includes a rating system for characteristics of the FIs including; (i) Business Structure, (ii) Business Ownership, (iii) Regulation, (iv) Customer Type, (v) Jurisdiction's funds transferred to/ from, (vi) Channel (How is business conducted?), (vii) the majority of payments for products/ services, and (viii) Products known/suspected to be abused.

479. *Criterion 26.6.* The risk rating tool is intended to be reviewed annually by the Assessment Committee which includes Director, Deputy Director and senior offices from the SCD and IMD of FASU (SOP AMLCFT Onsite Offsite final approved 4 April 2023 page 4). However, reviews are not required to be conducted when there are major events or developments in the management and operations of the FI or group, and the risk rating tool has not been updated since 2020.

Weighting and Conclusion

480. PNG has clear requirements that cover licensing of all core principle and other FIs. There are minor shortcomings in market entry, specifically in regard to the prevention of criminals or their associates from holding controlling interests or holding management functions in FIs. FASU is the sole AML/CFT supervisor but has shortcomings in its risk-based AML/CFT supervision of non-commercial bank core principle and other NBFIs, and a review of FASU risk rating tool is not required to be conducted when there are major events or developments in the management and operations of the FIU or group. Less weight has been placed on shortcomings related to supervision of NBFIs.

481. **Recommendation 26 is rated largely compliant.**

Recommendation 27 – Powers of supervisors

482. In its last MER, PNG was rated non-compliant with former R.29 due to supervisory authorities lack adequate powers to monitor and ensure compliance by financial institutions, and there are no provisions in law, regulation or other enforceable means giving supervisors adequate powers to supervise, regulate, monitor compliance or impose penalties for non-compliance with AML obligations.

483. *Criterion 27.1.* FASU responsibility and powers for supervising (and monitor) and enforcing FIs compliance with the AMLCTF Act (s.72(1)(b) and s.72(2)(d) AMLCTF Act) including powers to (i) prepare, amend and revoke AML/CFT compliance rules (s.73 AMLCTF Act), (ii) co-operate with domestic agencies including regulatory authorities and foreign counterpart agencies to monitor and assess the risk of ML and TF and ensure the effective implementation AMLCTF Act (s.72(2)(c) AMLCTF Act) and (iii) co-ordinate with other regulatory authorities for the purpose of supervising financial institutions and enforcing compliance with their obligations under the AMLCTF Act (s.72(2)(e) AMLCTF Act).

484. *Criterion 27.2.* FASU have the authority to conduct onsite and off-site inspections of FIs of the premises of, or used by, a FI, for the purpose of determining whether the FI has complied with, or is complying with the AMLCTF Act (s.85 and s86 AMLCTF Act).

485. *Criterion 27.3.* FASU has the power to request for information from FIs for the purpose of monitoring and enforcing compliance (s.81(1) AMLCTF Act). Pursuant to s.83 AMLCTF Act, FASU's request must be complied with regardless of any grounds of confidentiality based on any other Acts or contractual obligations. There is no requirement for a court order for this request to be made. FASU has the authority to make a request on reasonable grounds that FIs has obligations under the AMLCTF Act (s.82(1) AMLCTF Act).

486. *Criterion 27.4.* FASU is authorised (s.99 AMLCTF Act) to impose sanction as set out in R.35 for failure to comply with AML/CFT requirements including: issue a formal warning (s.100 AMLCTF Act); issue an infringement notice (s.101 AMLCTF Act); enforceable undertaking (s.102 AMLCTF Act) and seek an order from the Court for breach of that undertaking (s.103 AMLCTF Act); a performance injunction from the Court (s.104 AMLCTF Act); a restraining injunction from the Court (s.105 AMLCTF Act); and publish a notice of non-compliance (s.106 AMLCTF Act). FASU can request the assistance of a police office (s.85(1) AMLCTF Act) for a warranted inspection of a FI or DNFBP for the collection on evidence in proceedings for criminal offences set out in R.35.

487. There is no power under the AMLCTF Act for FASU to withdraw, restrict or suspend FI's licences. The power to withdraw, restrict or suspend the FI's licence is found in the various Acts administered by the licensing/regulating authorities including the Central Bank, Securities Commission, and Office of Insurance Commission (refer to c.26.2). The licensing conditions include the obligations to comply with the AMLCTF Act and directives issued by FASU. FASU makes recommendations to the licensing bodies to withdraw, restrict or suspend a financial institution's license if there are significant AML/CFT non-compliance.

Weighting and Conclusion

488. FASU is the designated AML/CFT supervisors with powers and functions to ensure FIs implement their AML/CFT obligations. The minor shortcomings is FASU does not have the power to withdraw, restrict or suspend an FIs' licence for failure to comply with AML/CFT requirements. This would be done by the licencing/regulating authority if there was significant AML/CFT non-compliance.

489. **Recommendation 27 is rated largely compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

490. In its last MER, PNG was rated non-compliant with former R.24 with deficiencies being DNFBPs are subject to POCA obligations, but no AML obligations have been implemented in any DNFBP sectors, and no DNFBPs are subject to any supervision, regulation or compliance monitoring for AML obligations.

491. *Criterion 28.1.* PNG has a licensing regime for Casinos, but at the time of the ME onsite visit the National Gaming Board has not licensed any Casinos and there are none operating in PNG.

492. (a) Part III of the Gaming Control Act 2007 and its amending Act of 2021 require casinos to be licensed to operate in PNG.

493. (b) Criteria for determining suitability of applicant and close associates are set out in s.47 of the Gaming Act 2007. This includes the applicants and each close associate "being of good repute, having regard to character, honesty and integrity". Meaning of close associate is defined (s.48) in such a way to provide some coverage of BO of the applicant. The Gaming Board under s.49 of the Gaming Act 2007, can carry out investigations and inquiries for the proper assessment of the application. This includes referral to the Police Commissioner. However, it is unclear how "being of good repute, having regard to character, honesty and integrity" would be interpreted and there is no explicit prohibition on criminal or their associates from holding (or being the BO) a significant or controlling interest in a casino.

494. (c) Casinos are defined as a DNFBP under the AMLCTF Act and are subject to AML/CFT supervision by FASU (s.72(1)(b) and s.7(d) AMLCTF Act). Although, the National Gaming Board has not licensed any Casinos and there are none operating in PNG.

495. *Criterion 28.2.* FASU is the designated authority for monitoring and ensuring compliance of DNFBPs with AML/CFT preventative measures requirements (s.72(1)(b) and s.52 AMLCTF Act). The definition of DNFBP (s.5 AML/CFT Act) includes all sectors required by the FATF standards (with the addition of MV dealers).

496. The PNG Law Society is responsible for market entry and regulating legal professionals (Lawyers Act 1986, Professional Conduct Rules 1989), the Accountants Registration Board is responsible for market entry and regulating accountants (Accountants Act 1996 and Accountants Regulation and Practice Regulation 1998), the BPNG is responsible for licensing of DPMS (gold exporters only) under Part III of the Central Banking (Foreign Exchange and Gold) Regulations. Real estate agents may voluntarily join the PNG Real Estate Industry Association. There is no SRB or market entry controls for an TSPS that are not lawyers or accountants.

497. *Criterion 28.3.* DNFBPs are required under s.52 AMLCTF Act to comply with the necessary AML/CFT preventative measures requirements set out in Part II of the Act. FASU is empowered by s.72 AMLCTF Act to supervise DNFBPs for the purpose of the Act including enforcing of compliance with the Act. FASU has developed a risk-based AML/CFT supervision framework for DNFBPs, DNFBPs are subject to onsite and offsite AML/CFT supervision.

498. *Criterion 28.4.* FASU as the designated competent authority for enforcing of compliance with the AMLCTF Act, and the PNG Law Society, Accountants Registration Board and BPNG as the competent authorities for market entry of their respective sectors, have:

499. (a) FASU the necessary powers under the AMLCTF Act to monitor and enforce compliance of DNFBPs (s.72(1)(b) AMLCTF Act). Supervise DNFBPs for the purpose of the AML/CT Act (s.7(d) AMLCTF Act), produce rules to assist DNFBPs comply with their obligations under the Act (s.7(f) AMLCTF Act), and to co-ordinate with other regulatory authorities and to co-operate with domestic and foreign agencies to monitor and assess ML/TF risk and to ensure effective implementation of the Act (s.7(c) and (d) AMLCTF Act).

500. The PNG Law Society has the power to “to oppose an application for admission as a lawyer of a person who, in the opinion of the Society, ought not to be admitted as a lawyer” (s.8(c) Lawyer Act 1986), but it is unclear what other powers the PNG Law Society has with regarding to practicing without a license and/or fit and proper requirements.

501. The BPNG is responsible to administer when “a person who, without consent of the Central Bank, takes or sends any gold out of PNG, or brings any gold into PNG is guilty of an offence” (Regulation 24, Central Banking (Foreign Exchange and Gold) Regulations) and subject to compliance with requirements of Regulation 28, the BPNG “may revoke or vary any authority granted by it” under the Regulations.

502. Powers of the Accountants Registration Board to perform their functions around market entry are unclear.

503. (b) Pursuant to s.60(2) AMLCTF Act FASU, PNG Law Society, Accountants Registration Board, and BPNG (as regulating authorities) must ensure that Directors, Chief Executives, Senior Managers, BO or persons in other equivalent positions in DNFBPs, is subjected to a ‘fit and proper’ process on an initial and ongoing basis. The ‘fit and proper’ criteria are to be set out by FASU and regulating authorities in rules or other means (s.60(3) AMLCTF Act). However, FASU or regulating authorities have yet set out ‘fit and proper’ criteria for DNFBPs.

504. For lawyers, the Lawyers Act 1986 has fit and proper requirements lawyers’ license and practicing in PNG for market entry (s.25B Lawyers Act 1986) and every fifth year of practice (s.44A Lawyers Act 1986). However, there are no measures to prevent associates of criminals from being professionally accredited or holding (or being the BO) a significant or controlling interest in a DNFBP.

505. Gold exporters, the BPNG have set out conditions for market entry pursuant to s.28 of the Central Banking (Foreign Exchange and Gold) Regulations. While these conditions do cover requirements relating to ownership of the DPMS, it does not extend to cover relevant measures to ensure the ownership are fit and proper.

506. Subject to the Accountants Act 1996, the Accountants Registration Board of PNG is responsible for registrations of persons qualified to practise accountancy in PNG. s.40 Accountants Act 1996 for registration application, makes reference to evidence of “competence and character” however, it is unclear how this meets the fit and proper requirements for accountants.

507. There are no market entry requirements for real estate agents or TCSPs (that are not lawyers or accountants) or non-gold exporting DPMS.

508. (c) FASU is empowered to enforce compliance and apply sanctions on all DNFBPs for non-compliance with preventative measures requirements through sanction outlined in R.35 (Division 4 AMLCTF Act). As no fit and proper requirements have been set by FASU, FASU can not impose sanction for non-compliance.

509. The Accountants Act 1996 gives power to the Board to set out Rules (s.68) for the regulation of accountancy practice and provides sanctions (s.69) for failure to comply with the rules and (s.70) for illegal practice. The Act also provides sanctions for fraudulent registration, however, sanctions for non-compliance with fit and proper requirements are unclear.

510. Sanctions are available under the Lawyers Act 1986 (s.60A) for practicing without proper authorisation but does not cover non-compliance with market entry requirements for lawyers.

511. Gold exporters are subject to sanctions (s.33) under the Central Banking (Foreign Exchange and Gold) Regulations; however, it is unclear how this is extended to market entry as conditions are set out separately by the BPNG.

512. *Criterion 28.5.* While there are no explicit requirements for AML/CFT supervision to be risk based, FASU has a risk rating tool and SOPs for risk-based supervision. However, FASU’s risk rating tool is not sensitive enough to differentiate levels of entity risk within sectors (e.g., all real estate companies are rated the same risk level as are all lawyers except for one firm). Based on supervision activities undertaken, it is unclear how the intensity of the supervisory activity is driven by the underlying risk or the tool, and how ratings in the risk rating tool fully correlate to the findings of the 2017 NRA.

Weighting and Conclusion

513. While PNG does not have any Casinos, there is a licensing regime in place and casinos are defined as a DNFBP under the AMLCTF Act. FASU is the AML/CFT supervisor for all DNFBPs and there are some measures to prevent criminals being lawyers. There are no fit and proper controls for all other DNFBPs. While FASU has developed a risk-based AML/CFT supervision framework, its risk rating tool is not sensitive enough to differentiate levels of entity risk within sectors. DNFBPs are subject to limited onsite and off-site AML/CFT supervision.

514. **Recommendation 28 is rated partially compliant.**

Recommendation 29 - Financial intelligence units

In its last MER, PNG was rated non-compliant with former R.26 as the FIU (i) had insufficient resources for an FIU to fulfil its statutory function, (ii) lacked dissemination of financial intelligence for ML and financial investigations, (iii) had inadequate statutory controls on storage, use and dissemination of financial information, (v) had inadequate access to wider government agency information, (vi) did not have industry knowledge, capacity or sector expertise for an AML/CFT supervisory role, (vii) had potential for undue influence of FIU staff, (viii) had inadequate statistical information concerning AML/CFT activities, and (ix) had insufficient public reports on AML/CFT statistics, typologies or trends. PNG has since implemented the recommendations through new legislation. The introduction AMLCTF Act 2015 authorises the establishment of the FIU within BPNG, replacing the previous establishment of the FIU under the RPNGC (POCA 2005).

515. *Criterion 29.1.* PNG established its FIU, FASU in 2015 (s.61 AMLCTF Act) replacing (via 2015 amendment to the POCA 2005) the previous FIU established under s.13 of the POCA 2005.

516. FASU is an operationally independent unit within the BPNG (s.61 AMLCTF Act) authorised with functions (s.72(1)(a) AMLCTF Act) and powers (s.79 AMLCTF Act) to act as the national centre for receipt and analysis of suspicious transaction reports and other information relevant to ML, associated predicate offences and TF; and for the dissemination of the results of that analysis (s.79(a) AMLCTF Act).

517. *Criterion 29.2.* FASU serves as the central agency for the receipt of disclosures filed from FIs and DNFBPs:

518. (a) The FIU receives SMRs from FIs and DNFBPs as required by R.20 and R.23 (s.41 AMLCTF Act).

519. (b) FIs and DNFBPs are also obliged to report cash transaction reports equal to or greater than K20,000 (~USD 5,500) (s.39(1) AMLCTF Act) and international electronic funds transfer of an amount in currency equal to or greater than K20,000 (~USD 5,500) (s.39(2) AMLCTF Act).

520. *Criterion 29.3.*

521. (a) FASU is authorised to obtain and use additional information from FIs and DNFBPs as needed to perform its analysis properly (s.72(2) and s.81(1) AMLCTF Act).

522. (b) FASU can request additional information from regulatory authorities, law enforcement agencies, and any other government department, agency or authority of PNG in order to carry out its functions (s.80(1) AMLCTF Act). Access and use of information from open or public sources is exercised under Intelligence Analysis Process SOP and MOUs. FASU has 15 MOUs with LEAs, regulatory authorities and other key government agencies (see table of MOUs in IO.6), which enables access to the widest possible range of financial, administrative and law enforcement information for it to perform its functions (s.80(2) AMLCTF Act).

523. *Criterion 29.4.* FASU is empowered to conduct analysis from reports and information reported by REs or other relevant information, such as information from regulatory authorities, LEAs and other government agencies in PNG (s.72(2)(a), s.80(1) and s.80(2) AMLCTF Act). The AMLCTF Act does not distinguish between different types of analysis; however, FASU's SOPs for intelligence products and strategic analysis reports (SARs) do so.

524. (a) FASU is conducting and disseminating operational analysis that uses available and obtainable information to identify specific targets, to follow the trail of particular activities or transactions, and to determine links between those targets and possible proceeds of crime, ML and TF.

525. (b) FASU produces quarterly SARs focused on general and targeted analysis of ML and TF patterns in SMRs, TTRs, IEFTRs and open-source reporting. Ten SARs (five for Banks and five for LEAs) have been disseminated since 2022¹³⁶, available to the members of NCC and the general public. FASU also disseminates targeted SARs to the commercial banks to give them a picture of risks based on their respective SMRs TTRs and IEFTRs combined with FASU's intelligence. Since 2022, FASU has disseminated three targeted SARs.

526. *Criterion 29.5.* In carrying out its functions FASU can disseminate reports and other relevant information concerning ML/TF, predicate offences, and proceeds of crime (s.72(2)(a) AMLCTF Act) including confidential information to relevant competent authorities and foreign counterparts (s.96 and s.97 AMLCTF Act). MOUs between FASU and relevant competent authorities allows FASU officers, authorised at the Director level (s.68 AMLCTF Act) in line with Division 3 AMLCTF Act, to disseminate information and intelligence spontaneously and upon request (s.80(2) AMLCTF Act).

527. In accordance with its MOUs, FASU takes into consideration contextual factors and the capability of the competent authorities and applies a pragmatic approach to dissemination via secure and dedicated channels. For electronic disseminations, emails are password protected. For hard copy disseminations, a compact disk is used with password protections. Cover letters are attached to all disseminations and safeguards are in place for competent authorities to collect disseminations from FASU directly using a sign-in sheet. FASU also provides a designated workstation in their office for LEAs to directly access financial intelligence reporting.

528. *Criterion 29.6.* FASU relies on BPNG policies and business practices documents for protection of information as follows:

529. (a) It is an offence for FASU staff to disclose confidential information (s.95 AMLCFT Act). In line with the BPNG Information Security Policy, FASU managers are responsible to ensure the approach to information security is in line with the greater information security management system. BPNG's information security management system scope document and Information Securities Breach policy provide reference to security of disseminations and access of information. Intelligence Product Disseminations SOPs and Domestic MOUs provide coverage of information security measures such as use and disclosure requirements, confidentiality controls and data protection processes.

530. (b) The BPNG Employee Handbook and Code of Conduct details the responsibility of handling and disseminating sensitive and confidential information by all staff. The BPNG Information and Security Policy and recruitment and selection policy support vetting of all BPNG staff to ensure staff have the necessary security clearance levels and understanding of responsibilities for handling and disseminating information. Only officials of FASU have access to FASU information and databases, with IT employees accessing confidential information only as required.

531. (c) FASU has physical security measures in place to limit access to its facility, which is guided by the BPNG Information Security Policy and information security management system. For the IMD

¹³⁶ The most recent SAR was disseminated for Jan-March quarter in 2023. SARs were not disseminated between March 2023 and the October 2023 on-site due to resource commitments to the Mutual Evaluation process.

restricted area, IMD managers coordinate and implement physical security measures, in line with BPNG's overarching guidance, for their separate office space through swipe card access. This restricts access to the office to only FASU IMD staff.

532. *Criterion 29.7.* The AMLCTF Act explicitly provides for FASU to be an operationally independent unit within BPNG (s.61(2) AMLCTF Act) with the powers and functions of the FIU vested in the FASU Director (s.69 AMLCTF Act). The FIU is located within the BPNG as a department with the Director appointed by the Governor of BPNG in consultation with Commissioner of Police and the Commissioner of Policy and Secretary for DJAG (s.63(1)(a-b) AMLCTF Act).

533. (a) The Director is responsible, and operationally independent, for implementing the functions and powers of FASU (s.69 AMLCTF Act). In line with FASU SOPs, review and approvals of information and intelligence product is coordinated by managers of IMD, with the Director having the autonomous decision to disseminate,

534. (b) FASU can engage in MOUs with domestic agencies (s.80(2) AMLCTF Act) and enter into an agreement or arrangement to share information with foreign counterparts (s.97 AMLCTF Act). FASU has entered into 15 MOUs with domestic counterparts and 14 MOUs with foreign counterpart agencies (see table of MOUs in IO.6). All MOUs are executed and signed by the Director of FASU.

535. (c) FASU is functionally autonomous despite establishment within the BPNG. The core functions of FASU (s.72 AMLCTF Act) are distinctly different from the BPNG (s.8 CBA 2000).

536. (d) As per the BPNG Budget Policy, cost centre managers (including FASU) are responsible for developing budget for every fiscal year. Once funds are allocated from BPNG to FASU, it has the authority to administer the use of its allocated budget and resources independently. FASU administratively reports to the Governor of BPNG. The BPNG provides the overarching HR structure and FASU engages with the HR processes for recruitment and dismissals.

537. *Criterion 29.8.* FASU is a member of the Egmont Group of FIUs since 3rd of July 2019.

Weighting and Conclusion

538. **Recommendation 29 is rated compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

539. In its 2011 MER PNG was rated partially compliant with former R.27. The report identified remaining deficiencies, such as the uncertainty over responsibility for investigating ML, very limited ML investigations or prosecutions and systemic corruption undermining the ability of the police to investigate ML/TF. Some progress towards compliance was noted in PNG's 2013 FUR.

540. *Criterion 30.1.* RPNGC as the primary law enforcement agency in PNG with authority to preserve peace and good order, maintain and enforce the law (s.197 PNG Constitution). It is a function of the Police Force to "lay, prosecute or withdraw charges in respect of offences" (s.197(2) PNG Constitution). In practice, this includes ML and TF and the vast majority of predicate crimes offences in the Criminal Code although there is no explicit designation of RPNGC to investigate ML, TF or predicate offences.

541. ICAC has the power to investigate 'corrupt conduct' (s.34 and s.5 OLICAC) and other offence in the Criminal Code and any other laws that fall within corrupt conduct (s.34(2) OLICAC) including

ML. With the recent establishment of ICAC, ML investigation responsibility between ICAC and RPNGC in corruption and bribery cases in the Criminal Code require clarification.

542. IRC investigates tax offences under the Income Tax Act 1959, Goods and Services Tax Act 2003, Stamp Duty Act 1984 and Tax Administration Act 2017 (administrative tax offences). Customs investigates offences under the Customs Act. National Forest Authority (PNGFA) and National Fisheries Authority investigate environmental offences under their respective legislation.

543. *Criterion 30.2.* As above, RPNGC and ICAC investigate ML with no legislative barriers to other competent authorities responsible for the predicate crime investigations referring ML cases to RPNGC or ICAC. However, the mechanism for referral are not formalised (besides MOUs between RPNGC and some other competent authorities) or well understood. The mechanism by which RPNGC refers ML and TF cases between investigative units is also unclear. A mechanism for referral of ML cases between RPNGC and ICAC was not established at the time of the ME onsite visit – noting that ICAC was not operational.

544. *Criterion 30.3.* RPNGC is the competent authority designated identify, trace and initiate freezing and seizing in accordance with the POCA. As outlined in R.4, RPNGC has powers to identify and trace property (s.113-127 and s.160A POCA) and in specific circumstances, is authorized under s.2.6 POCA to direct FIs to freeze property in an account to prevent it from being disposed of or dealt with by any person. The directive is effective for ten days from date of service on the financial institution. The POCA also allows for the issuance by the Court of restraining orders either for those suspected of committing serious offences (s.39 POCA 2015), which can be done *ex parte* if the Public Prosecutor requests the Court to do so (s.40 POCA 2015). However, the application of these is unlikely to be not expeditious.

545. *Criterion 30.4.* As above, the law enforcement agencies or government authorities responsible for investigation of all predicates offences is unclear and it is also unclear whether there other competent authorities (which are not law enforcement authorities *per se*) responsible for pursuing the financial investigation of predicate offences.

546. *Criterion 30.5.* PNG's position is that ICAC is designated to investigate ML arising from, or related to 'corrupt conduct' (s.34(2) OLICAC). ICAC can identify and trace assets via its power to require a public body or a public official to produce a statement of information (s.54 OLICAC), enter and inspect any premises (other than residential premises) occupied or used by a public body or public official (s.57 OLICAC), require a person (whether or not a public official or public body) to produce a document (record of information stored in hard copy or electronically) and take possession of it (s.58 and s.62 OLICAC), use of search warrants including interception warrant and seizure of documents related to the search (s.77, s.83 and s.85 OLICAC). ICAC has no powers to initiate freezing and seizing of assets.

Weighting and Conclusion

547. The PNG Constitution provides RPNGC, as the primary law enforcement agency, with the function to 'lay, prosecute or withdraw charges in respect of offences'. In practice, RPNGC investigates ML and TF and the majority of predicate offences. The recently formed ICAC is also designated to investigate ML; however, lacks adequate powers to initiate freezing and seizing of assets. While there are no legislative barriers to referring ML cases to RPNGC or ICAC, mechanisms for referral are not

formalised or well understood. RPNGC is the competent authority designated to identify, trace and initiate freezing; however, the application of this is not expeditious.

548. **Recommendation 30 is rated partially compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

549. In its 2011 MER PNG was rated partially compliant with former R.28. The report identified that the powers under the Search Act were outdated and limited to entry, search and seizure, and has no obligation upon the person searched in terms of providing information or assistance (e.g. access to computers, disclosure of documents, etc) and that that police did not have electronic surveillance or undercover policing capabilities. The report also noted that the production order and search warrant powers under POCA were unduly restricted to property tracking documents and not available for the criminal investigation of ML, TF or predicate offences. However, the 2014 PNG FUR acknowledged this safeguard for production orders was necessary to protect a fundamental right against self-incrimination under the PNG constitution, given the coercive nature of powers used solely for asset confiscation.

550. *Criterion 31.1.* RPNGC, for ML/TF or predicate crime investigations, has compulsory measures mainly under the POCA, AMLCTF Act and Search Act 1977 (and amendments in 2015). Compulsory measures under the POCA, AMLCTF Act, and Search Act are not available to ICAC or other relevant competent authorities with ML and predicate crime investigation jurisdiction, respectively. These authorities use powers under their respective legalisation.

551. (a) RPNGC for its ML/TF or predicate crime investigations has the powers to compel production of records under the POCA, AMLCTF Act and Search Act 1977. RPNGC can issue compulsory Production Orders (s.160A POCA) and Monitoring Orders (s.162 POCA) to FIs, but not DNFBPs or other natural or legal persons. RPNGC can inspect the premises of a FI and DNFBP, with a warrant, including accessing records (hard copy and electronic) with occupier of the premise required to provide assistance reasonably required to execute the warrant (s.87 to s.93 AMLCTF Act). However, the power to search for records only applies to record that relate to the FIs or DNFBPs obligations under the AMLCTF Act (s.89(2)(a) and (b) AMLCTF Act). For assessing records held by other natural or legal persons, RPNGC would use its search and obtaining evidence powers, discussed in c.31.1(b) and (d), respectively. However, there is no legal obligation on any person to assist RPNGC to produce information or documents.

552. ICAC has compulsory measures to require all natural or legal persons (whether or not a public official or public body) to produce a document (record of information stored in hard copy or electronically) and take possession of it (s.5.8 and s.62 OLICAC) and could also use search and obtaining evidence powers, discussed in c.31.1(b) and (d), respectively.

553. IRC has compulsory measures to require all natural or legal persons to furnish information, books, documents and other papers relating to income or an assessment (s.366 Income Tax Act 1959).

554. PNG Customs Service has compulsory measures to require production of records by the offender, but not FIs, DNFBPs and other natural and legal persons (s.131 Customs Act 1951).

555. All other competent authorities lack compulsory measures for production of records held by FIs, DNFBPs and other natural and legal persons and would reply on search and obtaining evidence powers discussed in c.31.1(b) and (d), respectively.

556. (b) RPNGC is authorised to conduct a search of a person who is believed to be in the possession of anything stolen, unlawfully obtained, used or intended to be used item in the commission of an indictable offence (s.3 Search Act 1977). RPNGC can conduct a search of vehicle, container, premise or building upon reasonable grounds an offence (s.5 Search Act 1977). Warranted search of persons and premises are under s.6 and s.9 Search Act 1977. However, there is no legal obligation on any person to assist RPNGC.

557. In addition, RPNGC can use compulsory measures under; (i) warranted searches of the premises of or used by a FI or DNFBP (s.87 AMLCTF Act 2015); (ii) Warranted search of land for tainted property (s.113 POCA) and persons (s.121 POCA); and (iii) search of persons and premises in relation to narcotics offences (s.53 and s.72 Control Substance Act 2021).

558. ICAC can search a persons and premises (s.77, s.83 and s.85 OLICAC).

559. IRC has the powers to search a person and premises (s.365 of the Income Tax Act 1959).

560. PNG Customs Service has the powers to search of person and premises (s16B Customs Act 1951). Customs also have the power to stop, board and search any conveyance and premises without a search warrant specified (s.124 and s.131C(1) Customs Act 1951). Customs would use its General Search Warrant (s.116 of the Customs Act 1951) and Writs of Assistance (s.115 of the Customs Act 1951) powers.

561. Fishery Officers have powers to board and search PNG vessels, or vessels in PNG waters, including persons (s.49(2) Fisheries Management Act 1998) in respect of fisheries matters.

562. Forest Authority would use power for entry and inspection any land where activities are being carried out under a timber permit, timber authority or licence (s.126 Forestry Act 1991), and conducted a warranted search for forest produce (s.131 Forestry Act 1991).

563. (c) RPNGC can take witness statements in accordance with the Search Act 1977 and Evidence Act 1975 although the range and scope of this power and who is authorised to specifically take witness statements in ML/TF investigations is unclear. It is unclear what the arrangements are in place for coordination between RPNGC and other competent authorities for the taking of witness statements where they lack sufficient powers to do so. Furthermore, relevant competent authorities rely on the usual court processes for criminal matters where compellable witnesses may be subpoenaed to give evidence.

564. ICAC has the power to require a statement by a public body or public official (s.54 OLICAC) and has other available methods to collect information from witnesses.

565. IRC, a by notice in writing, can require a person to give evidence to the IRC about a persons income or assessment (s.366(1)(b) Income Tax Act 1959).

566. Powers for Customs, Fishery Officers, and Forest Authority to take witness statements are unclear.

567. (d) While carrying out a warranted search for an ML/TF or predicate crime investigation RPNGC may seize items that has been stolen or otherwise unlawfully obtained or has been used or to be used in an indictable offense; or will provide evidence of an offense (s.1 Search Act 1977). However, there is no legal obligation on any person to assist RPNGC.

568. In addition, RPNGC warranted inspections of FIs and DNFBPs under the AMLCTF Act, allow for seizing of items for the purpose of an investigation or prosecution of an offence under the AMLCTF

Act (s.89(3) AMLCTF Act) with items seized able to be used as evidence for ML/TF, and offences under the AMLCTF Act and UNFS Act.

569. While carrying out a warranted search ICAC and seizure of documents and things as evidence (s.77 and s.78 OLICAC).

570. While carrying out search of a person and premises, IRC can seize computer, book, documentary or paper records (s.365(1) Income Tax Act 1959), which can be used as evidence.

571. PNG Forest Authority has seize powers (s.123 of the Forestry Act 1991).

572. PNG Customs can seize and obtain evidence (s.131(1)(b) and (c)(i)(ii) Customs Act 1951)

573. Powers for Fishery Authority are unclear.

574. *Criterion 31.2.* RPNGC and other competent authorities' special investigate techniques are set out in a range of legislation as follows.

575. (a) RPNGC and other competent authorities' are not able to undertake undercover operations. s.86(b) of the Controlled Substances Act 2021 provides for the issuance of a regulation prescribing specific powers and procedures for "undercover investigations", but the regulations have not been issued.

576. (b) Under the Cybercrime Code Act 2016, upon application of RPNGC or OPP, the court can order the intercept of communications by an ICT Service Provider or authorised RPNGC to collect or record data through technical means (s.39 and s.41 Cybercrime Code Act 2016). This is available for all RPNGC's ML/TF and predicate crime investigations and all other predicate crimes investigations upon OPP application. ICAC has interception warrant powers (s.85 OLICAC).

577. (c) RPNGC, with a warrant, is able to access computer systems for the purposes of investigating ML/TF and any other offence (s.32-s.34 Cybercrime Code Act 2016). ICAC and other competent authorities are not able to access computer systems during ML or predicate offence investigations.

578. (d) RPNGC and other competent authorities' are not able to undertake controlled deliveries. Section s.86(b) of the Controlled Substances Act 2021 provides for the issuance of regulation prescribing specific powers and procedures for "controlled deliveries" but the regulations have not been issued.

579. *Criterion 31.3.* PNG has established a mechanism under the POCA for RPNGC to identify natural or legal persons holding or controlling accounts as follows. While RPNGC is the investigator for ML/TF and the majority of predicate offence, there is no clear mechanism for utilization of this mechanism by ICAC, as the other ML investigator, or other relevant competent authorities with predicate crime jurisdiction.

580. (b) RPNGC has the power to issue notices to FIs, but not DNFBPS, to provide relevant information or document that would allow for the identification of natural or legal persons that holds or controls accounts for the purpose of determining whether to take any action under the POCA Act or in relations to proceeding under the POCA Act (s.160A POCA 2015). The information must be provided within 14 days (s.160B(e) POCA 2015). While RPNGC is the investigator for ML/TF and the majority of predicate offence, there is no clear mechanism for cooperation with other relevant authorities and use of this mechanism is unlikely to be timely for predicate crime investigations not led by RPNGC.

581. (b) Under s.160E POCA 2015 it is an offence to disclose the existence or nature of a notice issued under s.160A POCA 2015.

582. *Criterion 31.4.* RPNGC and other relevant competent authorities, except ICAC, are able to ask for all relevant information held by the FIU in accordance with MOUs. FASU has MOUs with RPNGC, PNGCS, OPP, PNGGICA, PNGFA, OC, NFA, and IRC. Due to the recent formation of ICAC, FASU and ICAC are yet to establish an MOU.

Weighting and Conclusion

583. RPNGC and ICAC as ML investigators generally have compulsory measures as required by c.31.1 (a) to (d), but some predicate crime investigators lack the full range of powers. RPNGC, ICAC, and relevant competent authorities only have limited special investigative techniques. PNG has established a mechanism for RPNGC to identify persons holding or controlling accounts, but there is no clear mechanism for utilization of this mechanism by ICAC or other relevant competent authorities. Except for ICAC, all relevant competent authorities can request FIU information.

584. **Recommendation 31 is rated partially compliant.**

Recommendation 32 – Cash Couriers

585. In the 2011 its MER, PNG received a non-compliant rating for the former SR.IX (now R.32). The report identified that there was no border currency reporting system, no information available to the FIU concerning cross-border currency movements, no statistics available on reports made under foreign currency controls and no training for border enforcement staff on SR.IX systems. In the June 2016 ICRG Report by the Asia/Pacific Regional Review Group Co-Chairs, PNG was found to have established a border currency reporting system, albeit with deficiencies, that applied at all air, sea and land ports. However, the new reporting form was not yet nationally implemented, training of customs and other staff was required and MOUs and practical information sharing mechanisms were not yet in place between FASU and all relevant government agencies.

586. *Criterion 32.1.* There is a declaration system in place under s.14 of the POCA. This covers the cross border transportation, both incoming and outgoing, of currency and bearer negotiable instruments with an equivalent value of K20,000 (~USD 5,000.) (s.13,(1) and (2) POCA). Cross border reporting includes those carried by an individual by any form of transport, including those through mail service, cargo or courier (s.13(1) and (b) POCA). At the time of the onsite, PNG was in the process of implementing the declaration system at all PNG's air, sea and land ports with implementation most advanced (but not systematic) at Jackson International Airport.

587. *Criterion 32.2.* Persons are required to make a report in writing or in electronic form (s.14 POCA) by filling out the Cross Border Movement of Currency and Valuables (CMCV) Report. Reporting is required if the value of the currency, monetary instrument precious metal or precious stone is equivalent to K20,000 or more (s.14 (5), POCA). Failure to make a report or the filing of a false or misleading report is a crime (s.16 and s.17, POCA). A person required to make a declaration may also be required by the relevant authority to declare, among others, whether or not the person has any currency, monetary instrument, precious metal or precious stone with him or her, and even determine the total value of the currency, monetary instrument, precious metal or precious stone (s.18(2), POCA).

588. *Criterion 32.3.* PNG is implementing a declaration system

589. *Criterion 32.4.* The failure to make a report, as well as the filing of a false or misleading report, are penalized under s.16 and s.17 of the POCA. Under the powers to question and search (s.18 POCA), an officer or relevant authority may require a person to declare: (a) whether or not he or she is in possession of any currency, monetary instrument, precious metal or precious stone including their value; (b) whether or not a person has imported or exported any of the items within the past twenty four hours; (c) or that the person is planning to import or export the mentioned items within the next twenty-four hours. The officer may also require a person to provide information or documentation concerning the importation or exportation and the circumstances surrounding the importation or exportation of the currency, monetary instrument, precious metal or precious stone including information on its origin and intended use (s.18 (2) POCA).

590. *Criterion 32.5.* Making false or misleading report is penalized under s.16 and s.17 POCA. For natural persons, the penalty is a fine not exceeding K50,000 (~USD13,851) or imprisonment for a term not exceeding 5 years or both. A fine not exceeding K250,000 (~USD 69,250) is imposed if the offender is a legal person.

591. Compared with ML and TF where the penalties of imprisonment and fines are pegged at 25 years and K500,000 (~USD130,851), the penalties for making false or misleading report does not appear to be fully dissuasive given PNG's 2017 NRA identifies vulnerabilities of having a cash-based economy, PNG's porous borders, and prevalence of laundering abroad.

592. *Criterion 32.6.* Section 79(b) of AMLCTF Act enables FASU to receive reports and information relating to the declarations process specifically under s.14(4) and (7), s.16 (3), s.17(3) and s.19(4) POCA. Reports required to be submitted under to the appropriate receiving entities under s.14(3) POCA may nevertheless be submitted directly to FASU (s.14(4) POCA). At any rate, the receiving entity is required, within a period of not more than two working days, to provide a report and any relevant information to FASU (s.14(7) POCA).

593. *Criterion 32.7.* For implementation purposes of Cross Border Transportations, the term "relevant authority" includes the PNGCS, PNGICSA, the RPNGC and such other authority as may be prescribed by regulations. FASU has existing MOUs with these agencies (s.13 POCA).

594. PNGCS has an SOP to implementation POCA and CMCV reporting. The SOPs provide for a step-by-step procedure to be observed from traveller control and observance of declaration procedures up to referral of information in instances of non-declaration. Coordination mechanisms are in place with processes and flow charts showing the roles of the PNGCS, FASU and the RPNGC.

595. *Criterion 32.8.* s.19 POCA authorises an officer (of a relevant authority) to detain currency or BNIs that is being imported or exported from PNG where the officer suspects on reasonable grounds that it is a tainted property (definition includes proceeds or instrumentalities of any offence) as defined under s.3 POCA. A reasonable suspicion by an officer that an exportation or attempted exportation of currency does not have the requisite authorisation from the Bank of PNG or from any lawfully authorised dealer, is sufficient to give rise to a reasonable suspicion that such currency is tainted property. The property subject of detention will be turned over to the RPNGC for safekeeping for a period of not more than three working days. The detention may be extended to five working days based on reasonable suspicion that the property is tainted, or that the origin or derivation of the property is being investigated (s.20 POCA). A magistrate may make an order to extend the period of

retention by not more than three months, such orders can be renewed for further periods of three months but not exceeding a period of two years from the date of the original order (s.20(3)-(4) POCA).

596. Where a false declaration is made, the same process outlined in c.32.8(a) applies.

597. *Criterion 32.9.* The POCA SOP requires that manual and electronic statistics, registries, relevant records, proof and back up should be maintained for five years. Under FASU's information and records management policy, it is required to keep records for a period of seven years. For suspicious matters reports, including suspicious CMCV activities received from Customs, these reports are retained for 10 years from receipt before they are destroyed under s.78 AMLCTF Act. Records maintained by FASU, including other records it has direct or indirect access to, may be shared by FASU, in confidence, with foreign counterparts (s.97 AMLCTF) subject to certain restrictions (s.98 AMLCTF).

598. *Criterion 32.10.* Under the POCA SOP, information handling for both declared and undeclared currency and items is governed by an Internal Information Reporting (page 16) and an External Information Reporting where the Intelligence Liaison Units must ensure to register the information to FASU within two working days as well as the monthly submission of consolidated statistics report to FASU. There is no showing, however, that the implementation of the SOP and information handling restricts either the freedom of capital movement or trade payments.

599. *Criterion 32.11.* Making a false or misleading report is penalized with a fine and imprisonment of not more than 5 years. This makes the violation an indictable or serious offense which may be the subject of a restraining order under s.39A and forfeiture under s.58 POCA. As stated under c.32.5, however, these sanctions are neither dissuasive nor proportionate in view of PNG's vulnerabilities of being a cash-based economy, existing porous borders and trade-based crimes.

Weighting and Conclusion

600. PNG is in the process of implementing its declaration system (covering currency and bearer negotiable instruments with an equivalent value of ~USD 5,000) throughout PNG's air, sea and land ports with implementation most advanced (but not systematic) at Jackson International Airport. Sanctions for cross-border related violations are not fully proportionate nor dissuasive in the light of PNG's vulnerabilities. PNG has minor shortcomings in c.32.10 and major shortcomings with c.32.11.

601. **Recommendation 32 is rated partially compliant.**

Recommendation 33 – Statistics

602. In its last MER, PNG was rated non-compliant with former R.32 as there is an overall lack of meaningful statistics to support operational or policy related AML/CFT activities in PNG.

603. *Criterion 33.1.*

604. (a) FASU is required to maintain an up-to-date database containing reports received in accordance with the requirements of the AMLCTF Act and other information, statistics, and records relating to ML and TF (s.77 AMLCTF Act). FASU's annual reports contains statistics on the SMRs it received and disseminated since its establishment in 2017.

605. (b) – (d) Limited statistics were maintained and provided to the AT in the assessment process. Statistics up to 2016 on fraud, robbery & theft and other serious offences were included in

PNG's 2017 NRA, but the NRA noted a lack of statistics available from the relevant AML/CFT agencies to inform the assessment of PNG's ML/TF risks.

Weighting and Conclusion

606. FASU is required to and maintains comprehensive statistics. Relevant competent authorities are not required to maintain statistics on relevant AML/CFT matters.

607. **Recommendation 33 is rated partially compliant.**

Recommendation 34 – Guidance and feedback

608. In its last MER, PNG was rated partially compliant with former R.25 due to limit guidelines being issued by authorities in respect of AML/CFT requirements and these had not been extended to NBFIs.

609. *Criterion 34.1.* FASU has issued:

- Guidance for Financial Institutions on their Obligations under the Anti-Money Laundering and Counter Terrorist Financing Act 2015 (<https://www.bankpng.gov.pg/wp-content/uploads/2019/06/1.-Guidance-for-Financial-Institutions-on-their-Obligations-under-the-Anti-Money-Laundering-and-Counter-Terrorist-Financing-Act-2015-No.-1-of-2019-2.pdf>); and
- Guidance for Designated Non-Financial Businesses or Professions on their Obligations under the Anti-Money Laundering and Counter Terrorist Financing Act 2015 (No. 2 of 2019) (<https://www.bankpng.gov.pg/wp-content/uploads/2022/09/2.-Guidance-for-Designated-Non-Financial-Businesses-or-Professions-on-their-Obligations-under-the-Anti-Money-Laundering-and-Counter-Terrorist-Financing-Act-2015-No.-2-of-2019.pdf>).

610. This guidance provides high-level direction on how all FIs and DNFBPs comply with the AMLCTF Act but appears to be designed for larger FIs and DNFBPs. To assist reporting entities especially the smaller entities in the market who would not necessarily have the resources to compile policies and procedures around AML/CFT, FASU developed two sets of Advisory Notes related to: (i) Risk Based CDD, and (ii) Other Preventative Measures other than CDD for the reporting entities. These advisory notes were tailored to the different sectors under the FI and DNFBP categories. There is however a lack of sector specific guidance around detection and reporting of SMRs and specific risks relevant to those sectors, particularly high-risk sectors. In addition, awareness raising workshops and outreach with various sectors on ML/TF risks, risk assessments requirements, and other AML/CFT obligations are undertaken by FASU (these are discussed in IO.3).

Weighting and Conclusion

611. While FASU has issued guidance, a minor shortcoming is that specific sector guidance is lacking. The AT has placed weight on feedback provided by FASU in its awareness raising workshops and outreach.

612. **Recommendation 34 is rated largely compliant.**

Recommendation 35 – Sanctions

613. In its last MER, PNG was rated non-compliant with former R.17 due to effective, proportionate and dissuasive criminal and administrative sanctions are not available, and it was not clear that the FIU, BPNG or Securities Commission are designated to implement administrative sanctions for AML breaches, sanctions were applicable to directors and senior management of financial institutions.

614. *Criterion 35.1. Sanctions for TFS (R6):* criminal sanctions are available to enforce compliance R.6 obligation under the UNFS Act including:

- Prohibition against dealing with assets (s.14(1) UNFS Act) and prohibition against making assets or financial services available (s.15(1) and (3) UNFS Act). For a natural person a fine of K100,000 (~USD28,400) and/or imprisonment term not exceeding 9 years. For a body cooperate, a fine of K450,000 (~USD127,800) or an amount equivalent to the value of the asset, whichever is greater.
- Failure to comply with a request for information (s.21 UNFS Act). For a natural person a fine of K50,000 (~USD13,000) and/or imprisonment term not exceeding five years. For a body cooperate, a fine of K250,000 (~USD69,520).

615. FASU is authorised to impose a range of civil sanctions for FIs and DNFBPs that fail to comply with their obligations under the AMLCTF Act including:

- Formal warning (s.100 AMLCTF Act).
- Infringement notice under (s.101 AMLCTF Act), which includes a fine of K1,000 (~USD280.00) for a natural person or K5,000 (~USD1,403) for a legal person.
- Enforceable undertaking (s.102 AMLCTF Act) and seek an order from the Court for breach of that undertaking (s.103 AMLCTF Act).
- Performance injunction from the Court (s.104 AMLCTF Act) or seek a restraining injunction from the Court (s.105 AMLCTF Act). FASU may also publish a notice of non-compliance (s.106 AMLCTF Act).

616. The AMLCTF Act includes criminal sanctions for the following AML/CFT obligations in the AMLCTF Act:

- Offence of failure to comply with risk assessment, AML/CFT program
- Offence of failure to comply with appointment of external auditor obligations.
- Failure to comply with due diligence requirements.
- Offence of opening or operating anonymous accounts and accounts in false names
- Offence of establishing or continuing a business relationship involving a shell bank.
- Threshold reporting obligations.
- Obligation to report assets of a designated person or entity.
- Suspicious matter reporting obligations.
- Providing false or misleading report or information.
- Obligation not to disclose a report etc.
- Obligation not to disclose information or suspicion.
- Protection of identity in relation to suspicious matter reports.
- Structuring offence.

- Failure to comply with record keeping requirements.
- Failure to comply with requirements relating to foreign branches and majority-owned foreign subsidiaries.
- Failure to register with FASU.
- Obligations on financial institutions and DNFBPS to disclose beneficial ownership information.
- Failure to comply with a request for documents or information.

617. The sanction for a person who intentionally commit one of the offences listed above is: (i) a fine of K500,000 (~USD140,000) or imprisonment for a term not exceeding five years or both for a natural person, and (ii) a fine of K1,000,000 (~USD280,000) for a body corporate.

618. The sanction for a person who recklessly commit one of the offences listed above is: (i) a fine of K250,000 (~USD70,000) or imprisonment for a term not exceeding three years or both for a natural person, or (ii) a fine of K500,000 (~USD140,000) for a body corporate.

619. The sanctions provisions in the AIA for violations by associations (NPOs) are as follows: formal letters of warnings by the ROC, removal of committee members (s.27 AIA), committee members by Court and public officer (s.57 AIA), failure to submit annual reports (s.74 AIA), disqualification of committee members or public officer (s.32 AIA), and prosecution for offences (s.164 AIA). There are no fines for persons acting on behalf of associations and some of the available sanctions may not be effective, proportionate, and dissuasive.

620. *Criterion 35.2.* Sanctions are applicable to ‘persons’, which is defined as natural and legal persons would include FIs, DNFBPS and directors and senior management.

Weighting and Conclusion

621. There are minor shortcomings in sanctions related to NPOs, which are given less weight due PNG’s risk and context.

622. **Recommendation 35 is rated largely compliant.**

Recommendation 36 – International instruments

623. In its last MER, PNG was rated partially compliant with former R.35 and non-compliant with SRI due to PNG (i) not having ratified nor fully implemented Vienna and Palermo conventions, and (ii) weaknesses in implementing TF convention, a deficient domestic designation process and no procedures for distribution of 1267 lists.

624. *Criterion 36.1.* PNG ratified the United Nations Convention against Corruption in 2007. PNG has been party to and acceded to the TF Convention since September 30, 2003. PNG is not party to the Vienna or the Palermo Conventions.

625. *Criterion 36.2.* Consideration of PNG’s implementation of the conventions is determined by consideration of PNG’s compliance with the relevant FATF Recommendations that cover the various convention articles. There are moderate shortcomings in R.3, R.5, R.14, R.20, R.28, R.31, R.39 and R.40.

626. PNG gives international legal instruments (Vienna, Palermo, Merida and Terrorist Financing Conventions), status of municipal law under respective Acts of Parliament as part of implementation (s.117(7) PNG Constitution).

627. PNG primarily implements the Vienna Convention through the Controlled Substance Act 2021, National Narcotics Control Board Act 1992, and Criminal Code Act 1974. Noting that PNG is not party to the Vienna Convention.

628. PNG primarily implements the Palermo Convention through the Criminal Code. Limited information was provided to the AT on other Acts that may support implementation noting that PNG is not party to the Palermo Convention.

629. PNG's UNCAC Review Cycle 1 report notes significant deficiency to implement the Merida Convention. The term "a person employed in the Public Service" (s.97B(1) Criminal Code Act 1974), defined under s.83A Criminal Code, only applies to a PNG Public Official. It does not apply to a foreign public official who is employed under a foreign law. As a result, s.97B does not extend to bribing of a foreign public official and fails to satisfy the requirements of Article 16(1) of the Merida Convention. However, this report is out of date as PNG passed the OLICAC in 2020. PNG's Review Cycle 2 report process commenced in 2019 and is under development. Minor weight in relation to c.36.2 has been given noting that R.3 is moderate shortcoming including in relation to corruption-related predicate offences and sanctions.

630. PNG primarily implements the TF Convention through the criminal code.

Weighting and Conclusion

631. While PNG is party to the Merida and TF conventions, PNG is not party to the Vienna and Palermo conventions. PNG's implementation of the conventions is determined by consideration of PNG's compliance with the relevant FATF Recommendations that cover the various convention articles. There are moderate shortcomings in R.3, R.5, R.14, R.20, R.28, R.31, R.39 and R.40.

632. **Recommendation 36 is rated partially compliant.**

Recommendation 37 - Mutual legal assistance

633. In its last MER PNG was rated partially compliant with former R.36 and SRV due to (i) deficiencies in the scope of the ML and FT offence, (ii) limited investigative measures, (iii) no consideration for devising a mechanism for determining the most appropriate venue, and (iv) limited demonstrated effectiveness for ML and none for TF.

634. *Criterion 37.1.* PNG's legal basis for MLA is under the MACMA 2005 and its Amendment Act 2015. MLA can be provided to, and requested from foreign jurisdictions in relation to a "criminal matter" (s.6 and s.7 MACMA). There are no specific provisions to rapidly providing MLA; however, it is common practice that the Central Authority (CA) acknowledge requests upon receipt, prioritising all requests given the nature and urgency of the assistance requested. PNG reports that the list of types of "criminal matter" in the MACMA are not exhaustive and includes matters that are criminal in nature under the Criminal Code Act and other PNG laws. This is not officially recorded in legislation; however, noting the materiality and structural elements of PNG, it is widely understood that a "criminal matter" would cover ML, associated predicate offences and TF. Some predicate crime gaps (see c.3.2) hinders the widest possible range of MLA.

635. The types of legal assistance that may be provided under MACMA include:

- Taking evidence (s.13 and s.14 MACMA).

- The production of documents and articles (s.13 and s.15 MACMA).
- Requesting search warrants (s.21 and s.47 MACMA).
- Requesting restraining orders (s.48 MACMA).
- Transferring persons in custody for testimony or other purposes or arranging for the travel of any person to the requesting country for the purpose of giving evidence voluntarily (s.33 MACMA).
- Enforcing foreign forfeiture or foreign pecuniary penalty orders (s.41 MACMA).

636. Incoming or outgoing requests for MLA must be made to or by the Minister of Justice or a person authorised by the Minister of Justice (s.6 and s.7 MACMA). The PNG CA Handbook, updated in September 2023, does provide guidance on general timeframes from acknowledging receipt of the request (approx. 1 week), collating information for the request (approx. 2 weeks or more), and sending a response to the request (approx. 1 week).

637. *Criterion 37.2.* The Legal Policy & Governance Branch of DJAG is the CA for the transmission and execution of requests. The designation of the CA was authorised on 5 March 2014 by the Government of PNG through NEC Decision No. 76/2014.

638. The Data Tracking System (DTS) for case management is in place to track and monitor the progress of all MLA requests. This system can track case progress through a tracking number, providing progressive updates and can give an estimated turnaround time. System administrators and personnel have access to a user guide for DTS, which corresponds to MLA flowcharts and requirements document for requests. There are no formal criteria outside of the handbook for managing requests urgently or for establishing priorities and prompt execution of requests for MLA. The handbook is comprehensive and clear so as to allow PNG to manage and execute requests.

639. *Criterion 37.3.* Reasons and circumstances for refusal are under s.9 and s.10 of MACMA including those at the discretion of the Minister are not unreasonable or unduly restrictive.

640. *Criterion 37.4.*

641. (a) Fiscal matters are not one of the grounds to refuse MLA (s.9 and s.10 MACMA) with “criminal matter” including “a criminal matter relating to revenue (including taxation and customs duties) (s.3 (1)(a) MACMA).

642. (b) The grounds of secrecy or confidentiality requirements on FIs or DNFBPs are not grounds to refuse an MLA request (s.9 and s.10 MACMA).

643. *Criterion 37.5.* Confidentiality is maintained through the provision of prohibiting a person from disclosing not only the contents of an MLA request but also the fact that such a request has been made by a foreign jurisdiction (s.64 MACMA).

644. *Criterion 37.6.* Dual criminality is a discretionary and not a compulsory ground for refusal. The condition of dual criminality is at the Minister’s discretion for MLA refusal (s.10(a) MACMA).

645. *Criterion 37.7.* Dual criminality is discretionary and not a compulsory ground for refusal (see c.37.6). If the Minister decides on dual criminality, the CA Handbook (page 20) gives guidance that the action officer would assess the materials to determine if dual criminality has been satisfied and advise the Minister. There is no further detail or prohibition concerning whether or not both jurisdictions place the offence within the different category or do not denominate it by the same terminology (s.10(a) MACMA).

646. *Criterion 37.8.* Upon request by the foreign jurisdiction, the Minister may authorise compulsory measures for taking evidence (including witness statements) (s.13(1)(a) MACMA) and production of documents (s.13(2)(a) MACMA) by the Court. For foreign indictable offences (sentence of imprisonment for 1 year or greater if the offence were to occur in PNG), the Minister may authorise RPNGC to apply for a search warrant for search and seizure (s.20 and s.21 MACMA), which could include information, documents, and evidence including (financial records) from FIs and DNFBPs. Powers and investigative techniques available to RPNGC and other competent authorities are available to be used for MLA; however, PNG has moderate shortcomings in R.31.

Weighting and Conclusion

647. PNG can provide widest possible range of MLA is under the MACMA but not rapidly. PNG has designated a CA for MLA and has in place basic systems to monitor and manage requests. The systems do not include formal criteria outside of the handbook for timely prioritisation and execution of requests. Some powers and investigative techniques available to RPNGC and other LEAs are available to be used for MLA; however, PNG has moderate shortcomings in R.31.

648. **Recommendation 37 is rated largely compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

649. In its last MER PNG was rated largely compliant with R.38 as a range of provisional measures upon foreign request were not complete and there was no demonstrated effectiveness.

650. *Criterion 38.1.* PNG is authorised to enforce foreign forfeiture order against property that is suspected to be in PNG (s.41(1)(a)(i) MACMA) and foreign pecuniary penalty order (s.41(1)(a)(ii) MACMA), which together cover c.38.1(a) to (e) in relation to ML, TF and predicate crimes. s.20 and s.47 MACMA provide for execution of search and seizure in response to requests by foreign jurisdictions covering c.38.1(a) to (e). Furthermore, s.48 MACMA provides for an expeditious interim restraining order covering c.38.1(a) to (e) for ML, TF and predicate crimes.

651. *Criterion 38.2.* Under the MACMA, there is no provision or prohibition for PNG to provide assistance on non-conviction based confiscation proceedings. The CA Handbook provides guidance on non-conviction based restraint and forfeiture in line with the POCA in support of MLA (p.54 CA Handbook). PNG has not provided MLA in relation to non-conviction based orders. There is no provision to deal with a situation when the perpetrator is unknown or has died.

652. *Criterion 38.3.* Part VI POCA provides a mechanism for managing restrained and confiscated property where the Court may direct the Commissioner of the Police. There are no specified arrangements for coordinating seizure and confiscation actions with other jurisdictions: however, part 7 of the MACMA broadly provides coverage, which is complimented by guidance in the CA Handbook (p.28 CA Handbook 2023). PNG has minor shortcomings in its mechanisms for managing frozen and seized property (see c.4.4).

653. *Criterion 38.4.* The Minister is allowed to enter an arrangement with a foreign jurisdiction to share the property or amount forfeited or paid under a foreign forfeiture order or a foreign pecuniary penalty order (s.44(3) MACMA).

Weighting and Conclusion

654. PNG is authorised to enforce foreign forfeiture orders and execute search and seizure in response to requests covering c.38.1(a) to (e) in relation to ML, TF and predicate crimes and take expeditious action. PNG can provide assistance on non-conviction based confiscation proceedings but has no specific provision to deal with a situation when the perpetrator is unknown or has died. PNG has no specific arrangements, only broad guidance in the CA Handbook, for co-ordinating seizure and confiscation actions with other jurisdictions. PNG can share confiscated property.

655. **Recommendation 38 is rated largely compliant.**

Recommendation 39 – Extradition

656. In its last MER PNG was rated largely compliant in R.39 as there was no demonstrated effectiveness.

657. *Criterion 39.1.* Extradition in PNG is provided under the Extradition Act 2005. The Act distinguishes between requests made by PIF jurisdictions and non-PIF jurisdictions. An extradition offence (s.7(1)(a) Extradition Act 2005) for which the maximum penalty is death or imprisonment for a period of not less than 12 months; and the conduct that constitutes the offence, if committed in PNG would constitute an offence in PNG, for which the maximum penalty is death or imprisonment for a period of not less than 12 months.

658. An extradition treaty is required for non-PIF jurisdictions (s.23 Extradition Act 2005), including an extradition regulation (s.55 Extradition Act 2005). PNG has one extradition treaty with Indonesia. As a result, extradition from PNG is not possible with countries outside of PIF countries and Indonesia. PNG did not demonstrate it can negotiate an extradition treaty in a timely manner, thus cannot execute extradition “without undue delay” outside of the PIF jurisdictions and treaty jurisdictions.

659. (a) ML and TF are extraditable offences if the penalty in the requesting jurisdiction is imprisonment for a period of no less than 12 months (s.7(1) Extradition Act 2005).

660. (b) The Legal Policy & Governance Branch of DJAG is the CA for execution. The case management system, DTS, also applies to extradition requests (see c.37.2). The CA’s handbook details procedures and checklists for different types of assistance for both Extradition and MLA requests and provides guidance on general timeframes and prioritisation. However, there is no formal criteria for timely prioritisation and execution of extradition requests.

661. (c) PNG has prescribed a list of reasons why an extradition request may be refused (s.8 Extradition Act 2005). These are not unreasonable or unduly restrictive.

662. *Criterion 39.2.* The Minister may refuse to extradite PNG nationals (s.51(1) and (2) Extradition Act 2005) and may give consent to prosecute the person within PNG (s.51(4) Extradition Act 2005).

663. *Criterion 39.3.* Dual criminality is required for extradition as an extraditable offence requires maximum penalty of death or imprisonment for a period of no less than 12 months in PNG in the requesting jurisdiction (s.7 Extradition Act 2005). This requirement is satisfied regardless of whether both PNG and the requesting jurisdiction place the offence in the same category or use the same terminology. PNG has some missing predicate offences (see c.3.2) that apply to this criterion.

664. *Criterion 39.4.* PNG adopts a simple extradition process under a provisional Warrant of Arrest (s.10 and s.11 Extradition Act 2005). The Warrant is sent directly to the CA, which shares it with the OPP for the application to be made in court. The Warrant applies only to the PIF jurisdictions unless PNG and non-PIF jurisdictions conclude the treaty. The only jurisdiction PNG has an Extradition Treaty with is Indonesia.

Weighting and Conclusion

665. ML and TF are extraditable offences, and PNG may prosecute its own national where it does not extradite. The provisional Warrant of Arrest applies only to PIF jurisdictions unless PNG and non-PIF jurisdictions conclude a treaty. The only jurisdiction PNG has an extradition treaty with is Indonesia. The requirement of an extradition treaty and regulation impacts PNG's ability to execute extradition "without undue delay" outside of PIF jurisdictions and treaty jurisdictions.

666. **Recommendation 39 is rated partially compliant.**

Recommendation 40 – Other forms of international cooperation

In its last MER PNG was rated largely compliant with R.40 as effectiveness was not demonstrated.

667. *Criterion 40.1.* In addition to FASU sharing confidential information with foreign counterparts under the AMLCTF Act (s.97, s.98 AMLCTF Act 2015) both spontaneously and upon request, PNG has mechanisms for promoting international co-operation. This includes MOUs with foreign FIUs; the membership of the Egmont Group and PFIC; and collaboration with INTERPOL and the United Nations Office of Drugs and Crime. Other international mechanisms exist such as the Pacific Immigration Development Community (PIDC) represented by PNGICSA for international cooperation on predicate related offences; the ship rider agreement between LEAs of the United States and PNG on counter illicit maritime activities, enabling international cooperation on intelligence and information on financial proceeds emanating from illicit maritime activities; and the ongoing implementation of the treaty network of the Multilateral Convention on Mutual and Administrative Assistance in Tax Matters (MAAC) between IRC and foreign counterparts. FASU has 14 MOUs with foreign counterparts with some specifying exchange of information can occur spontaneously. PNG has not fully demonstrated the law or other enforceable means to ensure that competent authorities including FASU can provide such international co-operation "rapidly."

668. At the time of the onsite ICAC was not operational; however, they do have the legal authority to conduct international cooperation as appropriate (s.35 and s.36 OLICAC). There is no prohibition on being able to provide international cooperation rapidly. PNG's other competent authorities (RPNGC, IRC, Customs, PNGICSA, NMSA, PNGFA, NFA and Securities Commission of PNG (SCPNG)) are involved with various international counterparts for cooperation and information sharing on some predicates and ML/TF investigations. Without further evidence, PNG's competent authorities do not have specific cooperation mechanisms for their respective predicate offences to enable rapid and widest range of international cooperation outside of multilateral and bilateral agreements.

669. *Criterion 40.2.* While there appears to be no statutory restriction over other forms of international cooperation in relation to PNG's competent authorities, the lawful basis for all competent authorities is unclear and there are no clearly documented mechanisms and processes as required by this criterion with the exception of the below. Any information exchanged with ICAC's foreign counterparts is to be conducted in line with restrictions that apply to the Commission and as

appropriate (s.39 OLICAC). As ICAC was not operational at the time of the onsite, it is unclear what legal basis give effect to c.40.2(b) to (e).

670. (a) FASU is enabled to share confidential information with a foreign counterpart agency (s.97 AMLCTF Act 2015). It is unclear if there are any sufficient grounds for competent authorities other than FASU to cooperate internationally.

671. (b) There is no statutory restriction over efficient means used to cooperate with foreign counterparts. Various MOUs give broad coverage for both parties to jointly arrange acceptable procedures of communicating consistent with domestic legislation, policies and procedures. There are no specific provisions that provide coverage for the most efficient means to cooperate. It is not clear whether all other competent authorities are authorized to use the most efficient means to co-operate.

672. (c) Egmont Service Web, World Customs Organisation mechanism and INTERPOL network assist PNG, namely FASU, PNGCS and RPNGC, to respond and execute requests through secure channels. It is unclear what other secure gateways, mechanisms and channels exist for all other competent authorities as PNG has not provided sufficient information.

673. (d) PNG has not provided sufficient information on documented mechanisms and processes for prioritisation and “timely” execution of requests.

674. (e) FASU’s processes for safeguarding information with foreign counterparts are applied in line with domestic BPNG policies and SOPs (see c.29.6), and the AMLCTF Act requirements on sharing confidential information with foreign counterparts (s.97 and s.98 AMLCTF Act). There is no evidence of clear processes that safeguards information received by any PNG competent authority.

675. *Criterion 40.3.* The ship rider agreement is a bilateral arrangement to cooperate on countering illicit maritime activities between LEAs of the United States and PNG. Outside of this bilateral agreement, it is unclear what other bilateral or multilateral agreements or arrangements for cooperation exist for competent authorities. ICAC can establish and participate in multilateral committees and taskforces (s38 OLICAC); however, as ICAC was not operational at the time of the onsite it is unclear how agreements or arrangements can be negotiated or signed in a timely way.

676. *Criterion 40.4.* PNG prepares FASU Intelligence Product Feedback forms. It is not clear whether requesting competent authorities provide the Feedback forms in a “timely manner” because the forms do not appear to include timelines. As ICAC was not operational at the time of the onsite it is unclear how feedback would be provided in a timely manner.

677. *Criterion 40.5.* There are no specific prohibitions in legislation that place unreasonable or unduly restrictive conditions on the provision of exchange of information or assistance by PNG competent authorities, including ICAC.

678. (a) Fiscal matters are not one of the grounds to refuse MLA under the MACMA 2005 (s.9, s.10 MACMA 2005). PNG has not provided further information to allow the AT to conclude that all competent authorities should not refuse a request on the grounds of inclusion of fiscal matters.

679. (b) The grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs are not grounds to refuse a MLA request (s.9, s.10 MACMA 2005). PNG has not provided information to allow the AT to conclude that all competent authorities should not refuse a request on the grounds of FI or DNFBP secrecy or confidentiality requirements.

680. (c) PNG has not provided information to allow the AT to conclude that competent authorities should not refuse a request on the grounds of an inquiry, investigation or proceeding are underway in the requested country (unless impeding on the inquiry, investigation or proceeding).

681. (d) PNG has not provided information to allow the AT to conclude that competent authorities should not refuse a request on the grounds of the nature or status of the requesting counterpart authority.

682. *Criteria 40.6.* In general, controls and safeguards exist for FASU to apply when sharing information with foreign counterparts (s.98(2) AMLCTF Act), which is also reinforced in FASU's international MOUs. ICAC can exchange information if the information relates to the functions of the international agency or body and imposes the same restrictions that apply to the commission (s36 OLICAC). PNG has not provided other evidence to demonstrate that all other competent authorities have controls and safeguards in place that protect the use of the information for intended and authorised purposes.

683. *Criteria 40.7.* A FASU officer is not to disclose confidential information except as permitted under Division 3 and criminalizes the contravention (s.95 AMLCTF Act). In MLA related requests, PNG cannot disclose content of a request nor that such a request has been made by a foreign country (s.64 MACMA 2005). Confidentiality requirements apply when ICAC is to exchange information with foreign counterparts, in line with domestic requirements (s39 OLICAC). PNG has not provided other evidence to demonstrate that all other competent authorities can maintain appropriate confidentiality for requests for cooperation and information exchanged with foreign counterparts.

684. *Criterion 40.8.* FASU can search and provide requested information to foreign counterparts (s.97 AMLCTF Act). As ICAC was not operational at the time of the onsite, it is unclear if legal provisions 36,38 and 39 in OLICAC provide coverage for conducting inquiries on behalf of foreign counterparts and sharing such information. It is unclear what provisions exist that allows other competent authorities to conduct inquiries and exchange such information with foreign counterparts.

Exchange of Information Between FIUs

685. *Criterion 40.9.* FASU is mandated to exchange information, providing cooperation to foreign counterparts that perform similar functions (s.97 AMLCTF Act). There are measures in place for exchange of information and maintaining confidentiality (s.98 AMLCTF Act). Enforcement of confidentiality measures are also available under the AMLCTF Act 2015 (s.95 AMLCTF Act). The scope of the cooperation is wide ranging in light of no definition to the terms of cooperation in the AMLCTF Act.

686. *Criterion 40.10.* FASU has an intelligence product feedback form that is to accompany all disseminated intelligence products. In addition, feedback can be exchanged when exercising information exchange under international MOUs.

687. *Criterion 40.11.*

688. (a) FASU is able to share confidential information with foreign counterparts which includes requested information from other domestic bodies or financial institutions and DNFBPs (s.80, s.81, s.97 of AMLCTF Act). FASU only discloses information to foreign counterparts upon receipt of written agreement of the intended use of the information and conditional further disclosure requirements (s.98 of AMLCTF Act).

689. (b) FASU can exchange any other information which they have the power to obtain or access, directly or indirectly, at the domestic level, subject to the principle of reciprocity. See c.40.11(a).

Exchange of Information Between Financial Supervisors

690. *Criterion 40.12.* FASU is the sole AML/CFT supervisor with BPNG, Office of Insurance Commissioner, and Securities Commission the general/prudential supervisors and responsible for licencing. FASU's function includes co-operating with domestic agencies, regulatory authorities and foreign counterparts (s.72(2) AMLCTF Act). FASU is authorised to exchange supervisory information with foreign counterparts related to or relevant for AML/CFT purposes (s.97(1) AMLCTF Act). PNG is also a member of the Pacific Sector Supervisor Forum. This is an informal regional forum for Pacific Supervisors and meetings are held quarterly.

691. The Securities Commission is legislated under the Securities Commission Act 2015 to conduct international exchange with foreign regulatory bodies (s.42 Securities Commission Act 2015).

692. BPNG's legal basis for cooperation with foreign counterparts is provided for under the CBA (s.92 CBA).

693. *Criterion 40.13.* FASU has the legislative authority to obtain information from other regulatory authorities, LEAs or any other government department, agency or authority of PNG (s.80 AMLCTF Act 2015). FASU has the legislative authority to exchange information, including all domestically available information, with foreign counter-parts (s.97, s.98 AMLCTF Act 2015).

694. The Securities Commission can enter into agreements with foreign authorities to carry out its functions in line with the objectives of the Securities Commission Act (s.42 Securities Commission Act 2015).

695. BPNG's legal basis for cooperation with foreign counterparts is provided for under the CBA (s.92 CBA).

696. *Criterion 40.14.* FASU consults with financial supervisors on the development and the implementation of AML/CFT compliance rules, other enforceable instruments and guidance. The power to request (s.80 AMLCTF Act) and the power to disclose (s.96 AMLCTF Act) does not limit the scope of exchangeable information.

697. *Criterion 40.15.* The provisions described in c.40.12 and c.40.13 above do not explicitly allow financial supervisors to conduct inquiries on behalf of foreign counterparts; however, the AMLCTF Act is sufficiently broad to enable it for FASU. It is unclear if prudential supervisors can conduct inquiries on behalf of foreign counterparts.

698. *Criterion 40.16.* A general provision exists that authorises FASU to share information with a foreign counterpart on the conditions there is written agreement the information will be used for the purpose of conducting its supervision and FIU duties; and that it cannot be further disclosed without prior consent from FASU (s.98 AMLCTF Act). It is unclear if prudential authorities require prior authorisation before dissemination or exchange of information from the requested financial supervisor.

Exchange of Information Between Law Enforcement Authorities

699. *Criterion 40.17.* The PNGFA is broadly authorised to act as an agent for PNG in relation to any international agreement relating forestry matters (s.7(j) Forestry Act 1991). An MOU exists between

PNGFA and the Australian Department of Agriculture, Fisheries and Forestry, which provides broad coverage of information sharing.

700. The NFA is broadly authorised, under its functions to conduct liaison with foreign counterparts (s.6(c)(l) Fisheries Management Act 1998) which can cover exchange of information and international cooperation.

701. The RPNGC uses the MLA, MACMA and INTERPOL framework as mechanisms to share RPNGC information on ML/TF and predicate offences; however, it is unclear under what exact provisions in legislation can RPNGC share information with foreign counterparts.

702. PNGCS is broadly authorised to engage in customs activities with other organisations and international counterparts (s.6(3)(c)(d) Customs Service Act 2014). It shares intelligence under the regional intelligence liaison office of the Asia Pacific (RILO AP) through the World Customs Organisation mechanism.

703. The IRC can share information under the OECD model agreement for the exchange of information on tax matters. It is unclear whether all other competent authorities can exchange domestically available information with foreign counterparts for investigative purposes relating to ML, TF and predicate offences.

704. As a member of the PIDC, PNGICSA can exchange predicate offence information with fellow members. Despite this, there is no legal provision in the Immigration and Citizenship Service Act 2010 to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF.

705. In performing its domestic functions ICAC can exchange information with its foreign counterparts for investigative purposes relating to ML arising out of corrupt conduct as the Commission considers appropriate (s35 OLICAC).

706. *Criterion 40.18.* As per c.40.8 it is unclear if ICAC can conduct inquiries on behalf of foreign counterparts as ICAC was not operational at the time of the onsite. IRC, PNGCS, PNGICSA and PNGFA do not have powers to conduct inquiries and obtain information on behalf of foreign counterparts. It is still unclear if RPNGC can use powers to conduct inquiries and obtain information on behalf of foreign counterparts.

707. *Criterion 40.19.* NFA (s.37 Fisheries Management 1998) and PNGFA (s.7, s.8 Forestry Act 1991) can broadly establish joint investigations under international agreements. There is no specific restrictions or limitations on the cooperation under international agreements if they relate to fisheries management and forestry matters.

708. ICAC can establish and participate in multilateral committees and taskforces (s38 OLICAC). It is unclear whether all other LEAs can form joint investigation teams.

Exchange of Information Between Non-Counterparts

709. *Criterion 40.20.* PNG has not provided sufficient information with reference to legislative provisions relevant to this criterion. As ICAC was not operational at the time of the onsite, it is unclear what legal provisions provide coverage of this criterion. It is unclear if any competent authorities can share information with non-counterparts indirectly.

Weighting and Conclusion

710. FASU has powers and mechanisms for cooperation with foreign counterparts. ICAC can cooperate and exchange information under OLICAC in general; however, ICAC was not operational at the time of the onsite. While LEAs and other competent authorities have a range of cooperation mechanism, chiefly with regional counterparts, the legal basis and internal mechanisms to support their use is not clear for all competent authorities.

711. **Recommendation 40 is rated partially compliant**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> • Involvement of DNFBPS in the NRA was limited. The NRA distinguishes the differing level of threat, but not risk between these five major threat categories. Lack of depth in identifying sector-specific vulnerabilities particular to DNFBPs. The NRA includes a more limited focus on TF. (c.1.1) • Draft forestry sectoral risk assessment had been under lengthy review with no clear timeline for completion. (c.1.1) • There are no explicit requirements to keep risk assessments up to date; however, updates are occurring in practice (c.1.3). • It is unclear how the results of sectoral risk assessments were made available to all competent authorities, FIs and DNFBPs. (c.1.4) • The NSPs set out at a high-level where and for what resources should be allocated to. Resources are not being applied consistent with NSPs, particularly in the law and justice sector. (c.1.5) • FASU is conducting AML/CFT supervision; however, both R.26 and R.28 have moderate shortcomings and there are minor shortcomings in c.1.10 to c.1.12 obligations on FI and DNFBPs. (c.1.9) • FIs and DNFBPs are required to consider an adequate, but not extensive list of factors in determining risk (c.1.10(b)). • There is no explicit requirement to take enhanced measures (besides enhanced CDD) where higher risks are identified. (c.1.11(c)). • FI and DNFBPs can take simplified measures to manage and mitigate risks if lower risks have been identified and where there is no suspicion of ML/TF (s.21(1)(d) AMLCTF Act). However, criteria 1.9 to 1.11 are not all met. (c.1.12)
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> • PNG is in a transition phase between NSP 2017-2022 and 2023-2027 with the NEC yet to endorse the NSP 2023-2027. As ICAC was not operational, it was not included in the NSP 2023-2027 (c.2.1). • While the mandate of the NCC has continued to evolve, the original terms of reference have not been updated. As ICAC was not operational, it was not included in NCC. (c.2.2). • Operational AML/CFT cooperation and coordination through the NCC or Joint Agency Group, Joint Intelligence Group, Joint Operations Group is very limited. (c.2.3). • CPF cooperation and coordination through the NCC is absent (c.2.4). • In practice, the NCC is the mechanism for cooperation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with any Data Protection and Privacy Rules in PNG. As discussed above in c.2.1, the terms of reference of the NCC are unclear (c.2.5).
3. Money laundering offence	PC	<ul style="list-style-type: none"> • PNG does not criminalise all predicate offence and criminal liability of legal persons is not clear for all offences. (c.3.2) • Parallel criminal, civil and administrative proceedings cannot be had with respect to legal persons. (c.3.10)
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • Shortcomings exist across RPNGC and other competent authorities' powers and special investigative techniques (c.4.2(d)).

		<ul style="list-style-type: none"> Confiscated Asset Fund has not been established (c.4.4).
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> “Without lawful justification” raises a concern that the criminalisation of TF is narrowed regarding funds intended to be used by terrorists (c.5.1 and c.5.2). The financing of travel for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training is not covered by the Criminal Code (c.5.2bis).
6. Targeted financial sanctions related to terrorism & TF	LC	<ul style="list-style-type: none"> UNFS Act does not explicitly provide for identifying a competent authority or a court as having responsibility for proposing persons or entities for designation under UNSCRs 1267, 1989 and 1988 sanctions regimes. (c.6.1(a) and (b)). PNG does not have a provision that requires the application of an evidentiary standard of proof or “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation (c.6.1(c)). PNG is not notifying FIs and DNFBPs once a designation is made at the UN (c.6.4, c.6.5(a) and (d)). Given the mens rea of knowingly and recklessly, the prohibition is narrower than that required by the standards (c.6.5(a) to (c)). The legislation is not clear to determine if the process for final designations made by the National Court is also applicable (c.6.5(f)).
7. Targeted financial sanctions related to proliferation	PC	<ul style="list-style-type: none"> PNG is not notifying FIs and DNFBPs once a designation is made at the UN (c.7.1). Given the mens rea of knowingly and recklessly, the prohibition is narrower than that required by the standard (c.7.2(a) and (c)) (7.2(a)). Limited protections for bona fide third parties (c.7.2(f)). No measures for monitoring or ensuring compliance by reporting entities (c.7.3). It is not clear if PNG is required to notify the UN Sanctions Committee of its intention to authorise payments due under prior contracts 10 working days before issuing an authorization (c7.5 (b)(iii)).
8. Non-profit organisations	PC	<ul style="list-style-type: none"> PNG’s NPO risk assessments have minor shortcomings (c.8.1) Outreach has not focused on at-risk NPOs and TF issues. (c.8.2(b)) No TF best practices have been developed and refined (c.8.2(c)). There was no evidence that targeted outreach or guidance had been given to the sector on the use of bank accounts (c.8.2(d)). PNG had not applied risk-based measures as at-risk NPOs had only recently been identified in the 2023 assessment (c.8.3). PNG had not applied risk-based measures to at-risk NPOs, as there was no monitoring and limited sanctions including that sanctions were not risk-based (c.8.4). RPNGC does not have sufficiently adequate powers and training to conduct investigations of NPOs for TF abuse (c.8.5(b)). It is not clear if the powers to respond to international requests related to associations have been established (c.8.6).
9. Financial institution secrecy laws	C	

TECHNICAL COMPLIANCE

10. Customer due diligence	LC	<ul style="list-style-type: none"> The interpretation of “level of risks involved” is unclear and appears to narrow the application of s.23(1)(C) (c.10.2(e), c.10.4, c.10.5, c.10.10, c.10.11). The interpretation of “reasonable steps” is unclear and appears to narrow the application of s.25(1)(c)(c.10.4). No requirements for ongoing due diligence to be applied to all high-risk customers (10.7(b)). There are no enforceable requirements for FIs to obtain information set out in c.10.9(a) – (c). No obligations on FIs covering circumstance outlined in c.10.10(b) and (c). No specific requirements covering c.10.11(a) and (b). Enhanced CDD requirements only cover identification and verification of source of assets and wealth (c.10.17).
11. Record keeping	C	
12. Politically exposed persons	PC	<ul style="list-style-type: none"> There is no requirement for FIs to take reasonable measures to establish source of funds and source of wealth of beneficial owners identified as PEPs (c.12.1(c) and c.12.2(b)).
13. Correspondent banking	LC	<ul style="list-style-type: none"> There is no explicit requirement to determine the quality of supervision (c.13.1(a)). While there is a requirement to establish an agreement to set out the respective responsibilities of each party under the correspondent banking relationship, there is no specific requirement for the agreement to specifically address the respective AML/CFT responsibilities (c.13.1(d)).
14. Money or value transfer services	PC	<ul style="list-style-type: none"> There is little evidence that action has been taken to identify unregistered MVTS providers (c.14.2). Licensing or registration requirements for MVTS providers with agents are unclear and there is no legal requirement for MVTS providers that use agents to maintain a current list of its agents accessible by competent authorities in the countries in which the MVTS provider and its agents operate (c.14.4). There is also no legal requirement for MVTS providers that use agents to include them in their AML/CFT programmes and monitor them for compliance (c.14.5).
15. New technologies	NC	<ul style="list-style-type: none"> While FASU is mandated to assess ML/TF risk assessments, there is no explicit requirements covering new technologies. (c.15.1). FIs are not required to undertake the risk assessments prior to the launch or use of such products, practices and technologies (c.15.2). PNG has undertaken a risk assessment of VA/VASPs although it has not taken any other steps to give effect to the VA/VASP requirements of R.15 (c.15.3(b) to c.15.9). There are moderate shortcomings regarding TFS for TF and PF communication (c.15.10). While FASU could provide rapid international cooperation on VAs, all other competent authorities have limitation in their powers to provide international cooperation and where powers exist, they would not be able to provide rapid cooperation (c.15.11).
16. Wire transfers	PC	<ul style="list-style-type: none"> There are no requirements covering batch files transmissions (c.16.2). Wire transfers less than K\$2,500 (~USD640), are not required to include originator and beneficiary information or to be verified on suspicion of ML/TF (c.16.3 and c.16.4). There are no explicit requirements for c.16.10.

		<ul style="list-style-type: none"> • There are no requirements for intermediary FIs to be required to take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information (c.16.11). • Requirements do not explicitly cover taking appropriate follow-up action (c.16.12 and c16.15). • There is no explicit requirement for FIs that are a beneficiary institution to identify wire transfers that lack required originator information (c.16.13). • There is no explicit requirement for MVTS provider that controls both the ordering and the beneficiary side of a wire transfer (c.16.17). • FIs conducting wire transfers are required to comply with R.6, which has minor shortcomings (c.16.18).
17. Reliance on third parties	LC	<ul style="list-style-type: none"> • FIs are permitted to rely on third-party FIs and DNFBPs; however, there is ambiguity in ultimate responsibility (c17.1). • It is unclear the basis on which a jurisdiction would be considered high-risk and there is no explicit requirement to consider information available on the level of country risk (c.17.2).
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> • The AML/CFT compliance officer is not required to be at management level (c.18.1(a)). • The AMLCTF Act does not explicitly state that it is an ongoing training programme (c.18.1(c)). • There is no explicit requirement for the information and analysis of transactions or activities which appear unusual. In addition, there is no explicit requirement for branches and subsidiaries to receive such information from group-level functions when relevant and appropriate (c.18.2(b)). • There is no explicit requirement for safeguards to prevent tipping-off (18.2(c)).
19. Higher-risk countries	NC	<ul style="list-style-type: none"> • High-risk country is not defined, and it is unclear if it would include countries called for by the FATF (c.19.1). • PNG does not have a legal framework to applying countermeasures (C.19.2). • The measures by which PNG ensures FI are advised of concerns about weakness in jurisdictions' AML/CFT systems is unclear (c19.3).
20. Reporting of suspicious transaction	PC	<ul style="list-style-type: none"> • The use of 'and' makes these SMR requirements conjunctive and limits the circumstances under which suspicion is formed. Gaps with the scope of coverage of predicate offences for ML also have an effect on the scope of the SMR obligation (c.20.1).
21. Tipping-off and confidentiality	C	
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> • The deficiencies identified in R.10 apply to DNFBPs. (c.22.1) • The deficiencies identified in R.12 apply to DNFBPs. (c.22.3) • The deficiencies identified in R.15 apply to DNFBPs. (c.22.4) • The deficiencies identified in R.17 apply to DNFBPs. (c.22.5)
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • The deficiencies identified in R.20 apply to DNFBPs. (c.23.1) • The deficiencies identified in R.18 apply to DNFBPs. (c.23.2) • The deficiencies identified in R.19 apply to DNFBPs. (c.23.3)
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> • It is not clear whether any other types of legal persons may exist in PNG because PNG does not list all possible types of legal persons in the country including legal entities outside the jurisdiction of IPA (c.24.1).

		<ul style="list-style-type: none"> • There is more limited information on the mechanisms for obtaining and recording basic and/or beneficial ownership information for ILGs, Associations and Business Groups (c.24.1). • NRA 2017 does not include a reasonable assessment of the ML/TF risks associated with all types of legal person created in PNG (c.24.2). • It is unclear if information maintained by the registrars under c.24.3 for ILGs and Business Groups are publicly available (c.24.3). • The share register maintained by companies is not required to contain information about the nature of associated voting rights (c.24.4). • For Business Groups and ILGs it is unclear if information required under c.24.3 is required to be maintained at a location notified to the registrars (c.24.4). • International companies updating information on the registrar is not timely (c.24.5). • For Business Groups and Associations, information referred to in c.24.3 and c.24.4 is unlikely to be accurate and updated on a timely basis. For ILGs, requirements are unclear (c.24.5). • BO requirements on companies are new and therefore PNG relies on BO information collected by FIs and DNFBPs, which have moderate shortcomings (c.24.6). • Minor shortcomings on measures in place to keep CDD BO information up to date (c.24.7). • Competent authorities have general powers to access basic and BO information from legal persons as part of investigative powers; however, there are no specific mechanisms in place as required under sub-criteria 24.8 (a) and (b) (c.24.8). • Record keeping requirements on ROC, Associations, Business Groups and ILGs are unclear (c.24.9). • PNG is rated PC with R.31 with access to basic and BO information held by relevant parties through LEAs' warrant process; however, this process is unlikely to ensure timely access (c.24.10). • There is no explicit prohibition on bearer shares warrants in PNG and PNG has not taken measures consistent with c.24.11(a) to (e) to ensure they are not misused (c.24.11). • There are no mechanisms applied to ensure that nominee shares and directors are not misused (c.24.12). • Sanction for non-compliance with the Companies Act are not proportionate and dissuasive for large international companies. The requirements on associations do not have sanctions. Sanctions for business groups are not proportionate and dissuasive. It is unclear what sanctions apply regarding ILGs, if any (c.24.13). • PNG has moderate shortcomings for international cooperation regarding basic and BO information (c.24.14). • There is no formal mechanism in place to monitor the quality of assistance PNG receives in regard to basic and BO information (c.24.15).
<p>25. Transparency and beneficial ownership of legal arrangements</p>	<p>PC</p>	<ul style="list-style-type: none"> • Moderate shortcomings with specific CDD requirements covering legal arrangements (c.25.1). • There are no specific measures to ensure that trustees disclose their status to FIs and DNFBPs (c.25.3). • Shortcomings in relations to LEA powers to obtain information exist (c.25.5). • Shortcomings in relations to international cooperation exist (c.25.6).

		<ul style="list-style-type: none"> • There are only sanctions for DNFBPs acting as a professional trustee as outlined in R.35 (c.25.7).
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> • PNG has minor shortcomings in fit and proper requirements (c.26.3). • PNG has minor shortcomings related to risk-based supervision on NBFIs (c.26.3). • The frequency and intensity of on-site and off-site AML/CFT supervision is not fully risk based (c.26.5). • FASU policies and procedures do not require review of FIs ML/TF risk profile when there are major events or developments in the management and operations of the FIU or group (c.26.6).
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • FASU does not have the power to withdraw, restrict or suspend an FIs' licence for failure to comply with AML/CFT requirements (c.27.4).
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> • It is unclear how "being of good repute, having regard to character, honesty and integrity" would be interpreted and there is no explicit prohibition on criminals or their associates from holding (or being the BO) a significant or controlling interest in a casino (c.28.1). • Except for FASU, relevant SRB have limited powers to monitor compliance with fit and proper requirements. (c.28.4(a)). • There are limited fit and proper requirements outside of lawyers, accountants and DPMS (gold exporters). Requirements for these sectors have shortcomings (c.28.4(b)). • SRB have limited sanctions for fit and proper requirements. (c.28.4(c)). • AML/CFT supervision of DNFBPs is not fully risk based (c.28.5).
29. Financial intelligence units	C	
30. Responsibilities of law enforcement and investigative authorities	PC	<ul style="list-style-type: none"> • In practice, RPNGC investigates ML/TF and the vast majority of predicate crimes. ICAC also investigates ML. There is a lack of clarity of predicate offence jurisdiction and investigation responsibility between ICAC and RPNGC require clarification (c.30.1). • While there are no legislative barriers to referring ML cases to RPNGC or ICAC, mechanisms for referral are not formalised or well understood (c.30.2). • RPNGC is unlikely to be able to identify trace and initiate freezing expeditiously (c.30.3). • ICAC is designated to investigate ML but has no power to initiate freezing and seizing of assets (c.30.5).
31. Powers of law enforcement and investigative authorities	PC	<ul style="list-style-type: none"> • RPNGC and ICAC as ML investigators generally have compulsory measures as required by c.31.1 (a) to (d), but some predicate crime investigations lack the full range of powers (c.31.1). • Only RPNGC and ICAC have limited special investigative techniques (c.31.2). • PNG has established a mechanism for RPNGC to identify persons holding or controlling accounts, but there is no clear mechanism for utilization of this mechanism by ICAC or other relevant competent authorities (c.31.3). • ICAC cannot request FIU information (c.31.4).
32. Cash couriers	PC	<ul style="list-style-type: none"> • At the time of the onsite, PNG was in the process of implementing the declaration system at all PNG's air, sea and land ports with implementation most advanced at Jackson International Airport. (c.32.1).

TECHNICAL COMPLIANCE

		<ul style="list-style-type: none"> Sanctions are not fully dissuasive (c.32.5) (c.32.11). PNG has minor shortcomings in c.32.10 and c.32.11.
33. Statistics	PC	<ul style="list-style-type: none"> Except for FASU, there are no requirements for relevant competent authorities to maintain statistics on relevant matters with limited statistics provided to the AT in the assessment process (c.33.1(b)-(d)).
34. Guidance and feedback	LC	<ul style="list-style-type: none"> Lack of sector specific guidance, particularly on SMR reporting (c.34.1).
35. Sanctions	LC	<ul style="list-style-type: none"> Minor shortcomings in sanctions related to NPOs (c.35.1).
36. International instruments	PC	<ul style="list-style-type: none"> PNG is not party to the Vienna and Palermo conventions (c.36.1). PNG has shortcomings in implementation of FATF Recommendations that cover the various convention articles (c.36.2).
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> PNG has no specific provisions to provide MLA rapidly and can only in practice provide the widest possible range of MLA due to definition of 'criminal matters' in the MACMA (c.37.1). Due to moderate shortcomings of RPNGC and competent authorities in Recommendation 31, not all powers and investigative techniques are available for MLA (c.37.8).
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> There are no specified arrangements, outside of CA Handbook guidance, for non-conviction based support. There is no provision to deal with a situation when the perpetrator is unknown or has died (c.38.2). For coordinating seizure and confiscation actions with other jurisdictions. Minor shortcomings in c.4.4 impact PNG's ability to manage frozen and seized property (c.38.3).
39. Extradition	PC	<ul style="list-style-type: none"> PNG cannot execute extradition "without undue delay" outside of PIF jurisdictions, which require an extradition regulation in addition to a treaty. There is no formal criteria for timely prioritisation and execution of extradition requests (c.39.1). PNG has some missing predicates (see c.3.2) which prevents the dual criminality requirement to be deemed satisfied with both jurisdictions criminalising the conduct underlying offence (c.39.3). The extradition process, under a provisional arrest warrant, only applies to PIF jurisdictions and treaty jurisdictions (c.39.4).
40. Other forms of international cooperation	PC	<ul style="list-style-type: none"> PNG's competent authorities do not have specific cooperation mechanisms for their respective predicate offences to enable rapid and widest range of international cooperation outside of multilateral (PFIC, Egmont Group, INTERPOL, PIDC, MAAC) and bilateral agreements (FIU foreign MOUs, UNODC, Ship rider US and PNG) (c.40.1). The lawful basis for all competent authorities to provide co-operation with foreign counterparts is unclear outside of FASU's functions within the AMLCTF Act (c.40.2(a)). There is no statutory restriction over efficient means used to cooperate with foreign counterparts, outside of an MOU that provides broad coverage for both parties to jointly arrange

		<p>acceptable procedures of communicating consistent with domestic requirements (c.40.2(b)).</p> <ul style="list-style-type: none"> • Outside of ESW, INTERPOL and World Customs Organisation mechanisms, used respectively by FASU, RPNGC, PNGCS, there is no gateways, mechanisms, or channels that exist to facilitate and allow for the transmission and execution of requests for all other competent authorities (c.40.2(c)). • PNG has not provided information that describes the processes for the prioritisation and timely execution of requests (c.40.2(d)). • There are no processes for safeguarding the information received by any PNG competent authority outside of the FASU's policies and legislated requirements (c.40.2(e)). • There is no evidence that PNG has provided timely feedback or has procedures (except for the FIU) in place to provide timely feedback (c.40.3). • There is no signed bilateral or multilateral agreements or arrangements to cooperate for any PNG competent authority, except for the ship rider agreement with the USA (c.40.4). • Outside of the grounds for refusal on fiscal matters regarding MLA, PNG did not provide evidence that all competent authorities should not refuse a request on the grounds of inclusion of fiscal matters (c.40.5(a)). • Outside the grounds of secrecy or confidentiality requirements on FIs or DNFBPs regarding MLA, PNG did not provide evidence that competent authorities should not refuse a request on the grounds of FIs or DNFBPs' maintaining secrecy or confidentiality (c.40.5(b)). • There is no evidence that competent authorities should not refuse a request on the grounds of an inquiry, investigation or proceeding underway in the requested country (unless impeding on the inquiry, investigation or proceeding) (c.40.5(c)). • There is no evidence that competent authorities should not refuse a request on the grounds of the nature or status of the requesting counterpart authority (c.40.5(d)). • No specific provisions exist, outside of the FIU, for safeguards and controls of information exchanged by all other competent authorities (c.40.6). • There is no evidence that demonstrates how confidentiality is maintained or covered in other competent authorities' respective legislation outside of FASU's functions (under the AMLCTF Act) and in instances of MLA. The AT has not observed conditions that allows PNG to refuse to provide information to a requesting competent authority where protection of information cannot be provided (c.40.7). • Outside of FASU's functions (under the AMLCTF Act), there is no evidence that competent authorities can conduct inquiries on behalf of foreign counterparts and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically (c.40.8). • There is no evidence that PNG's prudential supervisors can conduct enquiries on behalf of foreign counterparts (c.40.15).
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	<ul style="list-style-type: none"> • There is no evidence prudential authorities require prior authorisation before dissemination or exchange of information from the requested financial supervisor (c.40.16). • While broad provisions are available to PNGFA, NFA, PNGCS under their respective legislations, no provisions exist for competent authorities to exchange domestically available information relating to predicate offences with foreign counterparts based on reciprocity. Whilst RPNGC (MLA and INTERPOL mechanisms), PNGICSA (PIDC mechanism) and IRC (OECD mechanisms) do exchange information and intelligence through multilateral mechanisms, there is no evidence to provide legislative coverage of such exchanges (c.40.17). • IRC, PNGCS, PNGICSA and PNGFA are not empowered to use their respective powers to conduct inquiries and obtain information on behalf of foreign counterparts. In relevant legislation for RPNGC, it is unclear what provisions exist to allow them conduct inquiries and obtain information on behalf of foreign counterparts (c.40.18). • No provisions exist for competent authorities responsible for investigations into predicate offences to be able to form joint investigation teams to conduct cooperative investigations with foreign counterparts, outside of NFA and PNGFA (c.40.19). • There is no evidence of provisions that allow competent authorities to exchange information indirectly with non-counterparts. There is no evidence that competent authorities' requesting information indirectly always make it clear for what purpose and for who the requested information is for (c.40.20).
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GLOSSARY

AMLCTF Act	Anti-Money Laundering and Counter Terrorist Financing Act 2015
AIA	Association Incorporation Act 2023
APCIS	Asia Pacific Information System
ARU	Asset recovery unit
AT	Assessment Team
AUSTRAC	Australian Transaction Reports and Analysis Centre
BPNG	Bank of Papua New Guinea
BFIA	Banks and Financial Institution Act 2000
BPS310	Banking Prudential Standard BPS310: Corporate Governance – Fit and Proper Requirements
BGI Act	Business Groups Incorporations Act 1974
CA	Central Authority
CBA	Central Banking Act 2000 including amendments in 2021
CMCV	Cross border movement of currency and valuables
Criminal Code	Criminal Code Act 1974 as amended in 2013, 2015 and 2022
DJAG	Department of Justice and Attorney General
DLPP	Department of Lands and Physical Planning
DNFBP	Designated Non-Financial Businesses and Profession
ESW	Egmont Secure Web
FASU	Financial Analysis and Supervision Unit
FFA	Pacific Island Forum Fisheries Agency
FI	Financial Institution (under the FATF Standards)
GDP	Gross Domestic Product
ICAC	Independent Commission Against Corruption
IEFTR	International electronic funds transfer report
ILGs	Incorporated land groups
LGI Act	Land Group Incorporation Act 1974 and its amending acts in 2009 and 2022
IMD	Intelligence management division
IPA	Investment Promotion Authority
IRC	Internal Revenue Commission
JAG	Joint Agency Group
JIG	Joint Intelligence Group
JOG	Joint Operations Group
LIA	Life Insurance Act 2000 including amendments in 2002 and 2004.
MACMA	Mutual Assistance in Criminal Matters Act 2005 (as amended in 2015)
MDA	Maritime Domain Awareness
MIRS	Maritime Intelligence Risk Suite
ML	Money Laundering

MLA	Mutual legal assistance
MOU	Memorandum of Understanding
MV dealer	Motor Vehicle Dealer
MVTS	Money or value transfer services
NPO	Not for Profit Organisation
NPSA	National Payment System Act 2013
NBFI	Non-commercial Bank FIs
NCC	AML/CFT National Coordinating Committee
NEC	National Executive Council
NFA	National Fisheries Authority
NFACD	National Fraud and Anti-Corruption Directorate
NGCB	National Gaming Control Board
NIO	National Intelligence Office
NMSA	National Maritime Safety Authority
NNB	National Narcotics Bureau
NPA	National Procurement Act (Amendment) 2021
NRA	National Risk Assessment
NSAC	National Security Advisory Committee
NSC	National Security council
NSP	AML/CFT National Strategic Plan
OC	Ombudsman Commission of Papua New Guinea
OIC	Office of Insurance Commissioner
OLICAC	Organic Law on the Independent Commission Against Corruption 2020
OPP	Office of the Public Prosecutor
OSCA	Office of Security Coordination and Assessment
PFIC	Pacific Financial Intelligence Community
PICP	Pacific Islands Chief of Police
PIDC	Pacific Immigration Development Community
PIF	Pacific Island Forum
PM&NEC	Department of Prime Minister and National Executive Council
PNGCS	Papua New Guinea Customs Service
PNGFA	Papua New Guinea Forest Authority
PNGICSA	PNG Immigration and Citizenship Services Authority
POCA	Proceeds of Crime Act 2005 (as amended by the Proceeds of Crime (Amendment) Act 2005)
Procedural Guide	Sanctions Secretariat Procedural Guide - Operation of the United Nations Financial Sanctions Act 2015
PTCCC	Pacific Transnational Crime Coordination Centre
RE	Reporting entities (all FIs and DNFBPs required under the FATF standards)
RFI	Request for information
ROC	Registrar of Companies and other legal persons under the jurisdiction of IPA

RPNGC	Royal Papua New Guinea Constabulary
SAR	Strategic Analysis Report
SCD	Supervision and Compliance Division
SCPNG	Securities Commission PNG
SMR	PNG uses the suspicious matter reports to refer to suspicious transaction reports (STR)
SRA	Sectoral Risk Assessment
TCU	Transnational Crime Unit
TF	Terrorism Financing
TFS	Targeted financial sanctions
TFS-TF	Targeted financial sanctions for TF pursuant to UNSCR1267/1989 and 1988 and/or UNSCR1373
TFS-PF	Targeted financial sanctions related to proliferation financing pursuant to UNSCR1718 and its successor resolutions, and UNSCR 2231. <i>Note: On 18 October 2023, the TFS elements of UNSCR 2231 expired. However, the onsite for PNG occurred before this date, hence it is included in the analysis.</i>
TTR	Threshold Transaction Report
TWG	Technical Working Group
UNDOC	United Nations Office on Drugs and Crime
UNFS Act	United Nations Financial Sanctions Act 2015
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolutions
VA	Virtual Asset
VASP	Virtual Asset Service Provider



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Anti-money laundering and counter-terrorist financing measures – Papua New Guinea

3rd Round APG Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML)/countering the financing of terrorism (CFT) measures in place in Papua New Guinea as at October 2023. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Papua New Guinea's AML/CFT system and provides recommendations on how the system could be strengthened.