



# Eight Follow-up Report

Venezuela  
26th June, 2014

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**MUTUAL EVALUATION OF VENEZUELA: EIGHTH FOLLOW-UP REPORT**  
**Request to move from regular follow-up to biennial updates**

**Key decision:** Would the Plenary agree that Venezuela has taken adequate measures to move from regular follow-up to biennial updates?

## I. INTRODUCTION

- Venezuela's MER was discussed at the May 2009 Plenary and approved in August of the same year. Ten (10) of the sixteen (16) FATF Core and Key Recommendations were rated as Partially Compliant (PC) or Non-Compliant (NC), three (3) were Largely Compliant (LC) and three (3) as Compliant (C), as shown in the following table:

Core and Key Recommendations:

Rec.	1	3	4	5	10	13	23	26	35	36	40	I	II	III	IV	V
Rating	LC	PC	C	PC	PC	PC	PC	PC	C	LC	C	PC	PC	NC	PC	LC

- In total, the country's rating was PC or NC in thirty-one (31) of the FATF Recommendations as reflected in the table below:

All of the ratings with the rating of partially compliant or non-compliant:

Partially Compliant (PC)	Non-Compliant (NC)
3. Confiscation and provisional measures	6. Politically Exposed Persons
<b>5. Customer Due Diligence</b>	7. Correspondent Banking
8. New Technologies and non-face to face business	9. Third parties and intermediary introducers
<b>10. Record Keeping</b>	12. DNFBP – R.5, 6, 8-11
<b>13. Suspicious Transaction Reports</b>	16. DNFBP – R.13-15 & 21
14. Protection and no tipping-off	20. Other NFBP and secure transactions
21. Attention for higher risk countries	24. DNFBP – regulation, supervision.
22. Branches and Overseas Subsidiaries	30. Resources, integrity and training
<b>23. Regulation, supervision and monitoring</b>	32. Statistics
<b>26. The FIU</b>	33. Legal Person – beneficial owners
27. Law Enforcement Authorities	<b>RE.III Freezing and confiscation of terrorist assets</b>
34. Legal structures – beneficial owners	RE VII Wire Transfers
38. LMA in confiscations and freezing	SR.VIII Non Profit Organizations
<b>SR.I International Conventions</b>	SR.IX – Cross border declaration and disclosure
<b>SR.II TF Sanctions</b>	
<b>SR.IV TF Suspicious Transaction Reports</b>	
RE VI Alternative transfer services	

3. For this reason and especially in view of the Core Recommendations being rated as NC/PC, Venezuela was placed in the regular follow-up process (reporting every six months), a status that it maintained during the seven follow-up reports that preceded this one. Venezuela was also included on the list of countries with strategic AML/CFT Deficiencies or on the so-called grey list emanating from the Financial Action Task Force (FATF) in 2010 and was being intensely monitored by said organization. It was removed from said list in February 2013, after having complied with the requirements of the Plan of Action prepared for that purpose. The Action Plan included Recommendations 5, 13, 23, 26 and Special Recommendations I, II, III and IV.
4. With said cycle having been completed, Venezuela expressed its interest in requesting its removal from the regular follow-up process during the Plenary in November 2013, in accordance with the provisions of paragraphs 67 and 68 of the CFATF Mutual Evaluation Procedures of 2007, amended in 2012 (through Communication dated August 30, 2013), for which it presented a Technical Report on April 8, 2014, outlining the actions undertaken to resolve the Deficiencies identified in the Mutual Evaluation Report (MER).
5. The Secretariat prepared a detailed analysis of the progress made in Recommendations 1, 3, 5, 10, 13, 23, 26, Special Recommendations I, II, III, and IV, as explained below, as well as other Recommendations. The draft of said analysis was forwarded to Venezuela and the pertinent comments received, which were taken into account in the final document. During the process, Venezuela was quite receptive and provided all information requested by the Secretariat.
6. The analysis of this Report is based on a documentary review, thus, the outcome, level and nature of the information provided and accepted in many cases, is inherently different from that of an on-site visit.

## **II. Scope of the Report**

7. The following report is limited to the Recommendations rated PC or NC, in accordance with the provisions of paragraphs 67 and 68 of the CFATF Mutual Evaluation Procedures of 2007, amended in 2012, and focuses on the technical compliance of the legislation with the FATF standards, especially with those Core and Key Recommendations that were rated as PC or NC and the analysis of other Recommendations rated as PC and NC. <sup>1</sup>According to the Procedures, in order for a country to be considered for removal from the regular follow-up process, the Plenary will consider that the country evaluated has taken significant measures, has an effective AML/CFT system in force, under which it has implemented the “Core and Key” Recommendations at a level that is equivalent essentially to a C or LC rating, taking into account that there is no re-rating. The effectiveness of the implementation is taken into account primarily through data provided by the country in question. In this regard, it is important to emphasize that the conclusions expressed in this Report are not binding to the results of future assessments, since they have not been verified through an on-site process and are not as detailed as a mutual evaluation.
8. Below is the information provided by Venezuela as a synopsis of the size of its financial system and its international links for context.

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<sup>1</sup> Recommendations: 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 16, 20, 21, 22, 23, 24, 26, 27, 30, 32, 33, 34, 38 and Special Recommendations I, II, III, IV, VI, VII, VIII and IX will be addressed. Recommendation 1 is also included, even though it was originally rated as LC, taking into account the significant improvements reported by the country, for the consideration of the Plenary.

Data as at March 30, 2014		Banks	Other Credit *	Stock Market	Insurance	TOTAL
Number of Reporting Entities		35	12	N/D	392	439
Assets	US\$	242,377,009,841.27		N/D	7,516,719,048.00	249,893,728,889.27
Deposits	Total: US\$	210,226,984,603.18	N/A	N/D	3,503,276,429.00	213,730,261,032.18
	Non-resident: US\$ %	15.85%	N/D	N/D	0	15.85%
International Links	Foreign property:	2,440,485,079.37	NO	N/D	0	2,440,485,079.37
	Overseas Subsidiaries	N/A	N/A	N/D	11,019,995,869.00	11,019,995,869.00

(\*) Exchange Houses.

### III. Main conclusions and Recommendations to the Plenary

9. **Core and Key Recommendations (classified as NC or PC):** Venezuela has substantially improved the level of compliance with Core and Key Recommendations 3, 5, 10, 13, 23, 26, and Special Recommendations I, II, III and IV, through the implementation of measures that effectively address all deficiencies identified in the Mutual Evaluation Report. In addition, it raised the level of compliance with Recommendation 1, previously rated as MC.
10. **Recommendation 3:** With respect to this Recommendation, the major challenge was “to improve the possible tracking and detection of assets to be seized” and towards that end, a project was implemented for the computerization of Notarial and Vehicular Records, in addition to which, the National Service for the Management and Transfer of Assets that have been Secured or Seized, Confiscated and Forfeited was created, through which an increase has been observed in the number and diversity of assets seized and which has also allowed statistical records of same to be kept. Therefore, there is compliance with this Recommendation at a level equivalent essentially to at least LC.
11. **Recommendations 5 and 10:** there were several Deficiencies regarding this Recommendation, but the major one was scarce regulation in the Securities Sector, which was resolved to a large extent by approaching the Sector and issuing Resolution No. 110 of 2011, which includes a wide range of obligations concerning AML/CFT risk profiles, manuals and procedures, among others. There is now compliance with these Recommendations at a level equivalent essentially to at least LC.
12. **Recommendation 13 and Special Recommendation IV:** With respect to these Recommendations, the principal Deficiency was related to the possibility of a duality in the Suspicious Activity Report (SAR), which was resolved through a clarification included in the Organic Law Against Organized Crime and Terrorist Financing (LOCDOFT), published in 2012, which establishes that said Reports are dispatched solely to the National Financial Intelligence Unit (NFIU) which, it should be clarified, was done in practice. There is compliance with these Recommendations at a level equivalent essentially to at least LC.
13. **Recommendation 23:** With respect to this Recommendation, the only Deficiency refers to the operating capacity to supervise all reporting entities supervised by the SUDEBAN, which was strengthened through several structural changes, such as the increase in staff, among other measures. There is now compliance with this Recommendation at a level equivalent essentially to LC.

14. **Recommendation 26:** As regards this Recommendation, there were various opportunities to improve the composition and functioning of the NFIU, such as the increase in the operating capacity, autonomy and independence of the NFIU. These aspects have been overcome through the amendment of the LOCDOFT and the strengthening of the NFIU, thus there is now compliance with this Recommendation at a level equivalent to at least LC.
15. **Special Recommendations I, II and III:** The Deficiencies in these Recommendations referred mainly to potential problems in defining the offence of terrorist financing and the absence of a mechanism to implement the Resolutions issued by the United Nations Security Council (UNSC), were resolved, and this was achieved through amendments to the LOCDOFT and the issuing of two regulatory Resolutions outlining both the provisional freezing of funds and the listing of persons who commit or seek to commit acts of terrorism and their financing. These Recommendations are met by at least an equivalent level of LC.
16. **Other Recommendations:** Virtually all the Deficiencies in the R.6, R. 7, R.8, R.9, R 14, R. 21, R. 22, R. 27, R.30, R. 32, R. 33, R.34 and R.38 were resolved, as well as Special Recommendations VI and VII. Moreover, advancements were made regarding compliance with R.12, R.16, R.20, R. 24, and Special Recommendations VIII and IX. It should be pointed out that although there are actions that remain outstanding, these are linked in many cases to the implementation of measures for those for which the foundation has been laid (for example: upon the commencement and/or improvement, as the case may be, of supervision for other DNFBP's apart from Notary Offices and Casinos, for which there have been work sessions, training, among others).
17. **Conclusion:** Venezuela received the rating of C in Recommendations 4, 40, 35 and Special Recommendation V, at the time of its Mutual Evaluation. It also obtained an LC rating in Recommendations 1 and 36. Subsequently, various regulatory, administrative measures, among others were implemented, which enabled Venezuela to achieve a satisfactory level of compliance, equivalent to C or LC in Core and Key Recommendations 3, 5, 10, 13, 23, 26, Special Recommendations I, II, III and IV. In addition, progress has been made in the implementation of other Recommendations rectifying deficiencies in virtually all Recommendations 6, 7, 8, 9, 14, 21, 22, 27, 30, 32, 33, 34 and 38 and Special Recommendations VI and VII. Therefore, it is recommended that the Plenary place Venezuela on biennial updates, with the first update being planned for the Plenary in May 2016.

#### **IV. Summary of the progress achieved by Venezuela (new regulations; measures taken) since the last Mutual Evaluation**

- 1) Since the Mutual Evaluation Report, Venezuela has submitted for review several of its AML/CFT laws, regulations and guidelines, incorporating most of the actions recommended in the Mutual Evaluation Report. The revisions included: the LOCDOFT, in the Official Gazette of the Bolivarian Republic of Venezuela No. 39.912 published on April 30, 2012.
- 2) The country has continued investigations, prosecution and convictions in cases of money laundering and the offence of terrorism (although not terrorist financing) and these have increased in number significantly, according to the statistics presented as an annex.
- 3) The Joint Resolution no. 122 published in the Official Gazette of the Bolivarian Republic of Venezuela (hereinafter Resolution 122), through which the standards and procedures to be taken by the reporting entities intended to identify and implement appropriate measures to the preventive blocking of funds and other assets in accordance with the provisions of the Resolutions of the UNSCR.
- 4) Resolution No. 158 published in the Official Gazette of the Bolivarian Republic of Venezuela No. 39.9986 of August 15, 2012 (hereinafter Resolution 158), through which the process of

implementation and application of the Resolution No. 1372 of the UNSC on the enlistment of persons that commit or attempt to commit terrorist acts and its financing is regulated.

- 5) The issuance of new regulations in the Banking, Stock Market and Insurance Sectors: Resolution No. 119.10, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 39,494 dated August 24, 2010; Resolution No. 110, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 39,691 as of June 8, 2011 and Ruling No. 514, published in Official Gazette of the Bolivarian Republic of Venezuela No. 39,694 of June 13, 2011 (hereinafter Resolution No.119, 110 and Providence No. 514).
- 6) Development of the Automation and Modernization of the Offices and Records Project attached to the Autonomous Service of Registry and Notaries (SAREN its acronym in Spanish). This project was created through Convention with the Alliance for the people of the Americas (ALBA for its acronym in Spanish) and is currently implemented by the General Directorate of the Autonomous Service of Records and Notaries (is advanced).
- 7) By Decree N° 8.013 of January 26, 2011, published in Official Gazette of the Bolivarian Republic of Venezuela No. 39,602, by which, the National Service of Administration and Disposal of Insured or Seized, Confiscated, Goods.

In relation to the Sector of Casinos, Bingo Halls and Slot Machines, Regulations were enacted for the Prevention, Monitoring and Control of the Crime of Money Laundering and the Financing of Terrorism in the Casinos, Bingo Halls and Slot Machines published in Official Gazette of the Bolivarian Republic of Venezuela No. 39,654 of April 12, 2011. Also, in order to regulate Registries and Notaries Offices, the Regulations for the Prevention, Control and Supervision of the operations of Money Laundering and the Financing of Terrorism applicable at the Registries and Notaries Office of the Bolivarian Republic of Venezuela contained in Resolution No. 150 of June 16, 2011, published in Official Gazette of the Bolivarian Republic of Venezuela No. 39,597.

## V. Progress in compliance with the Core and Key Recommendations

### Recommendation 1

18. Recommendation 1 was rated as LC; the evaluators pointed out two actions as necessary to remedy the deficiencies found in the MER.

- i. **Deficiency 1** –*It is necessary to cover all categories of precedent offences defined by the FATF.* According to paragraph 66 of the MER, the crime of piracy, insider trading and market manipulation and the piracy or counterfeiting of products were specifically missing. In this regard, article 35 of the LOCDOFT defines the offence of "money laundering" which refers to anyone who by itself or through another person, whether owner or holder of money, property, possessions or profits directly or indirectly derived from illicit activities and does not make any differentiation in terms of the application of the crime to which reference is made. The phrase "illegal activities" includes all the offences contained in such Law, the contents in the Criminal Code and others referred to in the special laws, when they are committed by an organized crime group and the act is executed or committed by only one person, covering in this way, all categories of precedent crimes as defined by the FATF. The following crimes, among others, are covered:

1. Organised Crime Offences (art. 27 LOCDOFT)
2. Financing of Terrorism and Terrorism (arts. 52 and 53 LOCDOFT)
3. Illicit traffic in metals, precious stones or strategic materials (art. 34 LOCDOFT)
4. Illicit Association (art. 37 LOCDOFT)
5. Weapons Trafficking (art. 38 LOCDOFT)
6. Illicit Genetic Manipulation (art. 40 LOCDOFT)

7. Illegal Trafficking of Organs (art. 43 LOCDOFT)
8. Hired Killings (Homicide) (art. 44 LOCDOFT)
9. Obstruction of the administration of Justice (art. 45 LOCDOFT)
10. Pornography (art. 46 LOCDOFT)
11. Obstruction to freedom of trade (art. 50 LOCDOFT)
12. Counterfeit currency and Public credit titles (art.51 LOCDOFT)
13. Human Trafficking and smuggling of migrants (art. 41 and 42 LOCDOFT)
14. The unlawful deprivation of individual freedom and kidnapping (The Criminal Code covers in article 174, the arbitrary deprivation of freedom committed by civilians and article 176 of the same Code establishes the unlawful deprivation committed by public officials (abuse of power). Kidnapping is covered in the Anti-kidnapping and Extortion Law of 2009, article 3 and following (up to article 9, are types of kidnapping).
15. Extortion (Extortion is covered in the Anti-kidnapping and Extortion Law, in articles 16, 17 and 18).
16. Illegal drug trafficking, corruption and foreign exchange violations (Illegal drug trafficking is established in the Organic Law on Drugs, in article 149. Corruption-related offences are established in the Anti-Corruption Law of 2003, which includes offences against public assets, from articles 46 to 51; other offences against public assets from articles 52 to 82 and offences against the administration of justice from articles 83 to 86. Foreign exchange violations are covered in the Law Governing the Foreign Exchange System and its Violations, of 2014, from articles 16 to 23). Trafficking or diversion of chemical precursors (Trafficking and diversion of chemical precursors is established under the Organic Law on Drugs of 2010, in article 154).
17. The importation, exportation, manufacture and illicit trade in weapons and explosives (manufacture of weapons is covered by articles 38 and 39 of the LOCDOFT). There is also a special Law entitled Law for the Disarmament and Control of Weapons and Ammunition, of 2013, which contains a section on offences from articles 108 to 124, making provisions for manufacture, illegal importation and illicit trafficking of arms.
18. Scams and other types of fraud (articles 462, 463 and 464 of the Criminal Code).
19. Robbery, theft and the theft, robbery or illicit trafficking in motor vehicles, ships, aircraft, boats and trains of any kind, their replacement parts or parts. Offences against property such as theft and robbery are outlined in the Criminal Code, articles 453 (simple, aggravated and qualified theft), articles 455, 456, 457 and 458, establish proper, improper robbery; types such as stealing or snatching of documents and aggravated robbery). There is also a special Law entitled Law on Vehicle Theft and Robbery of 2000, whose articles 1 to 9 establish the offences of theft, robbery, aggravating circumstances, attempted robbery, exploitation, illegal changing of number plates, among others.
20. Corruption and other offences against public property. (Offences associated with corruption are established in the abovementioned Anti-Corruption Law, which includes offences against public assets from articles 46 to 51; other offences against public assets from articles 52 to 82 and offences against the administration of justice from articles 83 to 86).
21. Environmental crimes. Environmental crimes are covered in the Criminal Law on the Environment of 2012, with a wide range of offences outlined from articles 33 to 109.
22. Smuggling and other types of customs and tax crimes. Smuggling is established in the Law on the Crime of Smuggling of 2000, establishing from articles 7 to 22, the crime of smuggling as well as related offences, also in the Organic Law on Customs of 2008, articles 104 to 113.

With regard to the missing crimes, the authorities said that these are now referred to in the Criminal Code (Piracy) and in the special laws of for the Banking, Securities and Insurance Sectors, as follows:

- Piracy (art. 153 Criminal Code)
- Insider Trading and market manipulation (arts. 38 and 52 of the Securities Market Act and 224 and 225 of the Banking Sector Institutions Act).
- Piracy or counterfeiting of products (arts. 338 and 339 of the Criminal Code).

Therefore, Rec. 1/ Deficiency 1 was corrected.

- ii. **Deficiency 2** –*The Venezuelan State has the legislation necessary to carry out the prevention and correction of the crimes of ML and FT, however it requires that the responsible institutions apply it properly in correspondence to the spirit for which it was created.* In this respect, on an ongoing basis through Follow-up Reports, the country has been reporting on the investigation, prosecution and sentencing in cases of money laundering and on the crime of terrorism (although not of the financing of terrorism) and where thirty (30) and one (1) sentences, respectively, to August of 2013 were obtained. This is far from the figures presented at the time of the Mutual Evaluation, where only one (1) conviction in 2006 for money laundering was presented, according to figures presented by the Public Prosecutor's Office for the period 2004-2008 (See statistics presented as an annex to the this Technical Report). Rec .1/Deficiency 2, has also been corrected.

19. **General Conclusion for the Recommendation:** The level of compliance with this Recommendation was raised to a level equivalent essentially to C, to cover all categories of precedent offences identified by the FATF, in accordance with the Methodology for Assessing Compliance with the FATF (40) Forty Recommendations and Nine (9) Special Recommendations of February 27, 2004 and on demonstrating the application of the standards in the spirit for which they were created.

### **Recommendation 5**

- i. **Deficiency 1** –*The regulation for the prevention of money laundering and the financing of terrorism in the Securities Sector is poorly developed.* In this regard, the country developed and published Resolution No. 110 containing the Standards relating to the Administration and Control of risks related to the Crimes of Money Laundering and the Financing of Terrorism applicable to the Institutions regulated by the National Superintendency of Securities, which strengthens existing compliance obligations as it relates to compliance with the standards and introduces the concept of integrated risk management. Among others, it concerns provisions with respect to the Compliance Officer; Policies and Procedures Manual for the prevention of money laundering and the financing of terrorism, and training. It must be underscored that the National Superintendency of Securities has among its powers, the issuing of various instruments with which there must be strict compliance by reporting entities, otherwise, they may run the risk of the National Superintendency of Securities (SNV) imposing an administrative penalty such as a fine and even closing the operations, since by Law, it has the power to authorize and supervise the actions of stock exchanges, public stock exchange brokers and other intermediary entities. The SNV can issue Resolutions, Decisions, etc., toward that end. R.5/ Deficiency 1 resolved.
- ii. **Deficiency 2** – *Need to improve certain aspects in customer identification and verification of the data provided by these as well as the update of the same.* With regard to this deficiency, in general terms, ninety (90) Inspection visits were performed in 2013, on different entities, which remain slightly above the average of visits carried out during the period 2004-2007 (and presented for the MER) which was seventy two (72), and in which aspects such as the correct identification of the client and the updating of the information supplied by them have been strengthened. (See table of updated statistics presented as part of the Technical Report). The On-Site Inspection Visits conducted in the



Banking Sector are carried out by the NFIU and the purpose of such visits is to review compliance with the existing legal framework, by evaluating various aspects related to the structure, plans and procedures pertaining to money laundering and terrorist financing, management of segments / high risk clients, PEP's, among others.

- iii. **Deficiency 3** – *Improper segmentation of clients including enhanced diligence for those types, activities, profiles or segment involving a higher risk.* With regard to this aspect in particular, it is worthwhile to note that the Financial Sector, including the Banking, Stock Market and Insurance Sectors developed regulations under a risk based approach, in order to implement proper segmentation of clients and apply enhanced diligence in the case of types, activities, profiles, or segment that involve a higher risk. Enhanced diligence measures include an increase in the monitoring of transactions; record update frequency; home visit; approval by higher level officials for the establishment of the relationship. Among the categories of higher risk clearly defined were Politically Exposed Persons, including close relatives, partners and close associates of such persons. Resolution No. 119 to the Banking Sector, Resolution No. 110 for the Securities Sector and Providence No. 514 for the Insurance Sector are relevant. R 5 / Deficiency 3 has been corrected.
- iv. **Deficiency 4** – *The evaluation team has not been able to verify the effective implementation of the existing regulations in the area of securities, having not held interviews with representatives of the private securities sector, or with any reporting entity, despite having been asked repeatedly.* In this regard, the authorities of the SNV indicated that interviews should be conducted at the same time while officials met with representatives of the regulated entities to undertake a reform legislation which was in force at that time (the reporting entities and the Representatives of the SNV). Additionally, it was explained how the sector was strengthened by the issuance of new regulations (Resolution No. 110) and various inspections in which they realized that there was compliance of regulations in the securities sector. In that respect, see statistics presented as an annex to the Technical Report. Finally, it is worth mentioning that within the authorities and enforcement officers who participated in the FATF in situ visit to Venezuela, to the exclusion of the grey list, were the National Superintendent of Securities and one (1) representative of a Brokerage Firm. R.5 / Deficiency 4 was corrected.
- v. **Deficiency 5** – *There is no certainty of proper identification and knowledge of the beneficiary or ultimate owner of the trust and final beneficiary, legal persons with complex shareholder structures.* On this point, the observation of the evaluator seems to refer to paragraph 233 of the MER and others related to this topic, that despite the existence of provisions to identify the final beneficiary, there are difficulties to do so in the case of Trusts and Beneficial owners, as in the case of legal persons with complex structures, because of the lack of a centralized and automated database for civil and notarial registration. In this regard, the country reported on the development of a project for the automation of the notaries, which is at an advanced stage (started in 2011; expanded to include notaries located in remote entities and currently at an advanced stage). The Autonomous Service of Registries and Notaries (SAREN its acronym in Spanish) developed a System which has brought improvements in the services of the registry service and implemented technological mechanisms that allow a control and centralized follow up of activities. By the fourth round, authorities should confirm and continue this progress. Taking into account the above, it is considered that the R.5 / Deficiency 5, was resolved.
- vi. **Deficiency 6** – *Has not developed a risk based approach (RBA).* In relation to this observation, as explained above in terms of customer segmentation, the Superintendencies of Banks and Securities, as well as the Insurance Sector have issued regulations on risk management. In addition, the authorities explained that the Annual Operating Plan of the NFIU establishes the annual activities to be carried out, including the reporting entities to be inspected, as well as the scope and frequency of

the inspections. This plan is prepared based on the inspection, control and follow-up needs of each Reporting Entity, determined according to risk, by analyzing: a) Results obtained from previous inspections conducted by the NFIU, b) External auditor reports, c) Evaluation of the risk matrix, d) Risk mitigation measures adopted. e) Warning signs determined by the NFIU in off-site activities, f) Notitia criminis and g) Size and volume of operations, among other elements, This R.5/ Deficiency 6 was resolved.

20. **General Conclusion for the Recommendation:** The level of compliance with this recommendation rated as PC, was raised to a level equivalent essentially to LC, having developed regulations specifically for the Securities Sector, which reinforce the measures for identification and verification of the identity of the client and introducing fundamental aspects in risk management. Also, through the issuance of regulations on banking and insurance, introducing a risk-based approach.

### **Recommendation 10**

- i. **Deficiency 1** – *Compliance with this Recommendation in the Securities Sector could not be verified, given that no private entities in this Financial Sector were visited.* In this regard, the authorities reported, as explained earlier for Recommendation 5, that the meeting could not be held, however, from the time of the Mutual Evaluation to date, the authorities have carried out several inspections in which they noticed compliance of the existing regulations as it relates to the securities sector, with respect to the obligation of record keeping. See also the statement for R.5 / Deficiency 4, which mainly explains that during the meetings on the FATF monitoring process, it was indeed possible to meet with the Supervisor and reporting entity of the Securities Sector. The R.10 / Deficiency 1 was corrected.
  - ii. **Deficiency 2** – *With respect to the obtaining of the information recorded in those records by the authorities, we understand that the information is useful if supplied in timely manner, by all the related reporting entities, but there is no administrative control that can give the assurance that this has been done.* Pursuant to paragraphs 343-346 of the MER, this deficiency is related to requirements or requests for information and in particular the relationship of the UNIF with the Public Prosecution Office during investigations. As for this deficiency, the country explained that internally, government institutions undertake managerial control to monitor the responses of public entities. Furthermore, it was noted that the FIU has a designated specifically for the relationship with the Public Ministry with daily meetings held with the entity, to ensure a good relationship. It is noteworthy that during 2013 and May 2014, there had been twenty (20) meetings. Rec.10 / Deficiency 2 was rectified.
  - iii. **Deficiency 3** – *Record keeping for wire transfers with a threshold of \$10,000.* In this respect, the obligation to keep documents or records evidencing the realization of operations and relations with clients and users, for at least five (5) years, are found both in the LOCDOFT as well as the specific regulations for the Banking, Securities and Insurance Sectors, **without limiting it** to certain threshold. In addition, the Commercial Code establishes an obligation to keep commercial documents for a period of ten (10) years. This Deficiency has been remedied.
21. **Conclusion for the Recommendation:** the level of compliance with this Recommendation has improved to a level equivalent to LC, since the deficiencies identified in the MER, especially those for the Securities Sector, have been addressed.

### **Recommendation 13**

- i. **Deficiency 1** – *The legislation establishes the obligation to report to the FIU along with other agency that has not been created, that which could affect their application if the legislation is not clear.* With

regard to this deficiency, the new LOCDOFT in article 13 specified that Suspicious Activity Reports should be sent only to the FIU and this principle is repeated in the specific provisions applicable to the different reporting entities. It is also important to note, that in practice, SARs have always been sent only to the FIU. La R.13 /Deficiency 1 was rectified.

- ii. **Deficiency 2** –*The regulation is clear and applicable in the sector supervised by the Superintendency of Banks and other financial institutions, but it does not cover the matters of Securities and Insurance, among others. There was a specific request both to reduce the deadline to present the suspicious transactions report as required by law as well as to demand by law that operations suspected to be destined to finance terrorism be reported (at that time, only reports of funds with illicit origin were required).* In this respect, the obligation to report suspicious transactions, that could give rise to the consideration that they are operations related to money laundering or the financing of terrorism is contained in article 13 of the LOCDOFT, both in the regulations applicable to the Banking Sector (Resolution No. 119.10); Stock Market Sector (Resolution No. 110); Insurance (Providence No. 514); Registries and Notaries (Regulations for the Prevention, Control and Supervision of money laundering and the financing of terrorism operations to the Registry and Notary Offices of the Bolivarian Republic of Venezuela); Casinos, Bingo halls and Slot machines (Regulations for the Prevention, Control and Supervision of money laundering and financing of terrorism offences in the Casinos, Bingo halls and Slot machines). Additionally, the deadlines for sending the Suspicious Activity Reports (SAR) were clarified and which should not exceed two (2) working days for banks; where before there was talk of ten (10) days and this, coupled with the alleged duality in sending SARs to both the FIU as well as the relevant Supervisory entity, formerly included in the Act, meant additional delays; five (5) weekdays for registries and notaries and thirty (30) days for the stock market and Insurance Sector. Finally, with regard to the reporting requirement it must be made clear, that in accordance with the new LOCDOFT, it covers operations that are suspected destined to finance terrorism and not only those related to money laundering even if the funds used were lawful. In this sense, R. 13/ Deficiency 2 has been rectified.

22. **Conclusion for the Recommendation:** considering that the diversity of regulations applicable as it relates to reporting was amended, especially eliminating the possible 'duality' of reporting and specifying that the reports cover activities related to the financing of terrorism and not only money laundering, it is felt that compliance with this recommendation has risen, to a level equivalent essentially to at least LC.

#### **Special Recommendation IV**

- i. **Deficiency 1 (only deficiency)** - *Just as in Recommendation 13, the financial institutions perform and base their reports on resolutions and circulars issued by the Superintendence of Banks and the UNIF.* In this regard, as was clarified for Recommendation 13, the obligation to report is found in the LOCDOFT and in the specific regulations for each sector and it indicates that SARs both relating to money laundering as well as the financing of terrorism, should be sent to the Financial Intelligence Unit (UNIF its acronym in Spanish). SR. IV /Deficiency 1, was corrected.

23. **Conclusion for the Recommendation:** considering that the diversity of the regulations applicable regarding reporting was renewed, especially eliminating the possible 'duality' of reporting and having specified that the reports cover activities related to the financing of terrorism and not only money laundering, it is felt that compliance of this Recommendation has been raised to a level equivalent essentially to at least LC.

#### **Special Recommendation III**

- i. **Deficiency 1 (only deficiency) - Lack of legislation with regard to the freezing and confiscation of terrorist assets.** With regard to this deficiency, the country developed and issued the following resolutions: Joint Resolution No. 122 of 2012, which establishes the rules and procedures to be taken by the reporting entities aimed at identifying and implementing appropriate measures for the pre-emptive blocking of funds and other assets in accordance with the provisions of the United Nations Security Council Resolutions (UNSCR) and Resolution No. 158 of 2012 which regulates the process of implementation and application of UNSCR No. 1372 about the listing of persons who commit or attempt to commit terrorist acts and its financing. Resolution 122 describes from article 7, the process for the implementation of UNSCR 1267. As such, the responsibility for distributing the list in accordance with Resolution 1267 to the supervisory Organs and Bodies is given to the Oficina Nacional Contra la Delincuencia Organizada y Financiamiento al Terrorismo (National Office Against Organized Crime and the Financing of Terrorism (ONDO its acronym in Spanish), which, in turn, will distribute these lists to their respective reporting entities or indicate where they can access it. The reporting entities shall review the list and in the case of a match, after analysis, the reporting entity shall proceed to pre-emptively block the funds of the persons indicated in the list and linked to the institution, and must immediately notify the UNIF, so that this body may proceed to effect an intensive review of the case and ratify such a measure. Once the measure is ratified, the UNIF will immediately notify the governing body and the Public Prosecutor's Office. Article 21 refers to cases of claim that may arise to effect exclusions in the list, which must be processed before the Public Prosecutor's Office, who will direct them to the Ministry of the Popular Power with competence in Foreign Affairs, with the aim of it being channelled to the UNSC. On the other hand article 22 refers to the cases of exceptions to the blocking of funds, which also should be done through the UNSC. Resolution 158 describes from article 4, the process for the implementation of UNSC Resolution 1267. Article 5 defines the criteria that the ONDO should have for listing of natural or legal persons. Articles 6 to 8 refer to the testing procedure for listing. Once listed, article 9 states that the ONDO shall immediately and without delay send a communication to the Supervisory Organs and Bodies, so that these can instruct the reporting entities about the freezing or preventive blocking of funds and other assets of this person. Likewise, it includes procedures for delisting and exceptions (articles 14-16), resources of reconsideration (articles 19-24) and attention to foreign requests (article 25). Finally, Resolutions 122 and 158 provide for the possibility of imposing sanctions in the event of breach of the obligations contained in the aforementioned Resolutions. The Authorities indicated that during the Inspection Visits conducted on reporting entities, no matches have been identified when comparing client information with the lists issued by the UNSC. However, the training offered to Financial Institutions includes the management of tools that would allow the verification of the relevant lists. Taking into account that the through the aforementioned Resolutions clear and public mechanisms for the blocking of funds and terrorist assets in accordance with the UNSC Resolutions, both for the dissemination of lists and for the process for listing, delisting and exceptions are established, SR. III / Deficiency 1 is considered to be corrected.

24. **Conclusion for the Recommendation:** as explained above, the legislation with respect to freezing and confiscation of terrorist assets are developed and implemented, therefore, compliance with this Recommendation has been raised to a level of at least LC.

### **Recommendation 3**

- i. **Deficiency 1** – *The lack of cases with the current law (at the time of the Mutual Evaluation in 2008) make it impossible to verify the effectiveness of the precautionary measures and of confiscation.* Since the third follow-up report and the date of this report, the country continues to provide data on cases in which precautionary measures have been applied and seizures made, as detailed in information presented as an annex to the Technical Report. R. 3 / deficiency 1, was corrected.
  - ii. **Deficiency 2** – *The data records are not computerized making it difficult to track goods* In this regard, the country reported on the development of a project for the automation of the notaries, which is at an advanced stage (begun in 2011; expanded to include notaries located in remote entities). The Autonomous Service of Registries and Notaries (SAREN its acronym in Spanish) developed a System which has brought improvements in the services of the Registry Services and implemented technological mechanisms that allow a control and centralized monitoring of activities performed. The National Institute of Ground Transportation, on the other hand, has a technological platform that allows you to determine the ownership of any public or private use vehicle immediately. This has in addition contributed to the possibility of tracking goods susceptible to be confiscated. The country continues to work on remedying this deficiency, through the identified projects. R. 3 / Deficiency 2, remains pending, although its implementation is or should be considered ongoing.
  - iii. **Deficiency 3** – *The lack of specific statistics on seizures and interim measures in cases of ML make it impossible to assess the effectiveness of the measures.* As explained for Deficiency 1, this scenario has been overcome as time has passed since the implementation of the new regulations and already there are cases. In addition, it is relevant to mention that through Decree N° 8.013 of 2011, the National Service of Administration and Disposal of Captured and Seized, Confiscated and Forfeited Goods was created. This body aims to ensure the efficient management, provision and disposal of property confiscated by the Venezuelan Courts. It is responsible for planning, organization, operation, administration, disposal, liquidation, disposal, custody, inspection, surveillance, procedures and internal supervision inside and outside the country, on personal property and real estate, cruise ships and aircrafts, motor vehicles, works of art and jewellery, livestock, assets and banking assets, shares and rights assigned by the Criminal Courts of the country. This Service has enabled the maintenance and presentation of up – to – date statistics and figures in relation to seized, secured and forfeited assets and as such this deficiency has been corrected. R. 3 / Deficiency 3, was corrected.
25. **General Conclusion for Recommendation 3:** This Recommendation was originally rated as PC. The evaluators noted that to correct the deficiencies identified for Recommendation 3, among others, the authorities had to "improve possible monitoring and detection of assets to be seized". As explained above, different actions have been taken to improve detection and tracking of assets to be seized, including the automation of records, as such this Recommendation is complied with at a level equivalent essentially to at least LC.

### **Recommendation 23**

- i. **Deficiency 1 (only deficiency)** –With regards to this deficiency, the evaluator recommended to improve the ability to carry out inspections and supervision of the reporting entities and in this regard, the country reported that the supervision of the Financial Sector in the area of ML/TF is now carried out by the NFIU, with the Inspection Management Department of the Superintendency of Banks (SUDEBAN) being replaced and the capacity of the supervisory authority being extended, with a total of thirty nine (39) employees, of which fourteen (14) belong to the Inspection Coordination Department. The NFIU as it relates to the Financial Sector, which represents a total of eighty six (86)

entities, including Banks; Representation Offices, Bureaux de Change and Cross-border Foreign Exchange Operators, carried out a total of ninety (90) visits in 2013, covering 100% of the reporting entities. Any non-compliance with the regulations is liable to administrative and other sanctions which may include the suspension of the license to operate. In this regard, it was reported that the operating license for three (3) Border Foreign Exchange Operators were revoked, one (1) Commercial Bank was sanctioned, and one (1) Universal Bank and that the sanctioning of another Universal Bank is underway. On the other hand, it was stated that currently, there is in process the possible revocation of the licenses of sixteen (16) Border Foreign Exchange Operators. Similarly, we have been informed on the restructuring of the SNV. The SNV has within its structure one (1) Prevention, Supervision and Control of Money Laundering and the Financing of Terrorism Directorate. This Directorate has one (1) Compliance Officer, one (1) Manager, Legal support and seven (7) Inspection and Supervision Analysts. At the time of the Mutual Evaluation, there was only one (1) compliance officer as it relates to the prevention of money laundering and the financing of terrorism. As for inspections planned and carried out by the aforementioned Directorate, fifteen (15) inspection visits were carried out in 2014, a number which, although relatively low, is explained by the increase in the reviews of records and documentary reviews of twenty-nine (29) to fifty-six (56) between 2012 and 2013, which represents an increase of 93.1%. For its part the Superintendence for Insurance Activity (SUDEASEG its acronym in Spanish) has within its structure the Prevention and Supervision of Money Laundering Unit. Said structure has a total of twenty-nine (29) officials, among them a Prevention and Supervision of Money Laundering Director coming from the Superintendence, a Deputy Director, three Coordinators and officials dedicated to the monitoring and control of the reporting entities. In terms of inspections carried out, growth in number of inspections during the period from 2009 to 2013 is noted, for brokerage and insurance companies and stable figures in the reinsurance and premium financing sector, significant sanctions were also imposed. R.23/ Deficiency 1, has been corrected.

26. **General Conclusion for the Recommendation:** This Recommendation was originally rated as PC. The evaluators noted that to correct the Deficiencies identified for Recommendation 23, the capacity to carry out inspections and controls of the reporting entities should be improved, which has been done by the structural strengthening of the UNIF, SNV and SUDEASEG, and the carrying out on site visits, among other revisions, as such this Recommendation is complied with at a level equivalent essentially to at least LC.

## **Recommendation 26**

- i. **Deficiency 1- *Lack of independence and autonomy of the UNIF, which is directly reflected in human factor and in the material resources.*** With respect to this Deficiency, the MER described different situations in which the UNIF seemed lacking independence and autonomy, by being a unit within the SUDEBAN. However, through the LOCDOFT issued subsequent to the Mutual Evaluation, article 24, established that the UNIF depends hierarchically and directly on, the Ministry of the Popular Power, in its role of finance and in article 25, it is established that its powers include as its main function, being the central body for receiving, analyzing and disseminating Suspicious Activity Reports (SARs). In practice, the necessary steps so that the UNIF isn't under the SUDEBAN in accordance with the regulations issued, are advanced, and although to the date of the present report, the UNIF is still within the structure of the SUDEBAN, only awaiting the Ministry of Popular Power of Economics, Finance and Public Banking conclusion of the process of adherence to the aforementioned Ministry. The UNIF has an Annual Operational Plan, where all activities are planned and projected to be carried out during the fiscal year and this Plan is an integral part of the SUDEBAN Institutional Annual Operational Plan. The UNIF budget for fiscal year 2013, amounted to approximately USD \$1.442.889 (referenced exchange rate 6, 30 Bs. per dollar). Includes two (2) items: a) personnel expenses (salaries and wages, training, travel allowances, among others) and b)

purchases and supplies. The budget for 2014 is USD\$1,587,177.90. The NFIU has staff consisting of thirty nine (39) persons, including its Manager, and this is divided into the areas of Inspection and Financial Intelligence, while at the time of the Mutual Evaluation, there were only twenty five (25) and different areas of SUDEBAN, on staff, which represents an increase of fourteen (14) persons. Therefore, this Deficiency (R.26 / Deficiency 1) is corrected.

- ii. **Deficiency 2-** *The vulnerability of the information as it is in the servers (computer equipment) which is not the exclusive property of the UNIF.* On this point, it was noted that the UNIF already has its own database server for the processing and receipt of information, with appropriate network security measures and exclusive access for personnel of the UNIF. This Deficiency (R. 26 / Deficiency 2 has been remedied).
- iii. **Deficiency 3-** *The little contribution that the UNIF makes, to the analysis and processing of inputs that the reporting entities generate, to serve as forensic expertise to law enforcement authorities.* This Deficiency is remedied in part with the correct allocation of resources and the renewal of the NFIU, in addition to an increase in money laundering investigations. See attachment on Statistics. R. 26 / Deficiency 3, was rectified.

27. **General Conclusion for the Recommendation:** This Recommendation was originally rated as PC. The evaluators noted that to correct the identified Deficiencies, the autonomy and independence of the UNIF should be improved. Similarly, it was noted that the information produced by the UNIF would stay on a server owned by the SUDEBAN and not the UNIF, this resulted in a vulnerability. Lastly, a need for further analysis by the UNIF was identified. All these aspects have been overcome by the modification of the LOCDOFT and the strengthening of the UNIF, as such this Recommendation is complied with to a level equivalent to at least LC.

### **Special Recommendation I**

- i. **Deficiency 1 (only deficiency) -** *A system to operationalize the implementation of the United Nations Resolutions on the Financing of Terrorism has not been established.* With regard to this deficiency, as already described for Special Recommendation III above, the country developed and issued Joint Resolution No. 122 of 2012 and Resolution No. 158 in 2012, which implement mechanisms to address the UNSC. Specific Authorities and time frame and steps to follow for each requirement are established, as such SR. I / Deficiency 1 is considered to be remedied.
28. **General Conclusion for the Recommendation:** As noted for the Special Recommendation III, Resolutions 122 and 158 implement mechanisms allowing to operationalize the implementation of the Resolutions of the UNSC, as such this Recommendation is complied with to at a level equivalent to at least LC.

### **Special Recommendation II**

- i. **Deficiency 1 -**Some problems in the criminalization which would call into question the autonomy of the FT offence. With regard to this point, the LOCDOFT issued in 2012 in its article 53, confirms the offence of Financing of Terrorism as an autonomous offence, distinct from the crime of terrorism. The law defines it as follows "Whosoever provides, facilitates, protects, manages, collects or seeks funds:<sup>2</sup> by any means, directly or indirectly, with the intention that these be used in whole or in part

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<sup>2</sup> Article 4.2 defines funds as: "any type of asset, tangible or intangible, movable or immovable, acquired by any means, including electronic or digital, that prove ownership of or participation in said assets, including among others: bank credits, travelers checks,

by an individual terrorist or by a terrorist organization, or to commit one or more terrorist acts, will be penalized or punished with imprisonment from fifteen to twenty-five years, even though the funds have not been effectively used or the Act or acts of terrorism have not been consummated. The designated penalty applies regardless of if the funds are to be used by an individual terrorist or a terrorist organization operating in foreign territory irrespective of the country where the Act or terrorist acts is committed. The offence of financing of terrorism cannot be justified under any circumstances, for political, philosophical, ideological, religious nature, racial discrimination or other similar considerations”. Therefore, SR. II / Deficiency 1 has been remedied.

- ii. **Deficiency 2-** *Despite the existence of terrorism cases, none have been reported for Financing.* As explained above, the offense of financing terrorism was criminalized in April 2012, after which convictions in terrorism cases existing in the country were obtained. Moreover, at the time, the country reported only in 2013, ten (10) cases were linked to terrorism, in various stages of research, which could lead to cases of terrorism financing. SR. II/ Deficiency 2 has been rectified.
  - iii. **Deficiency 3-** *The criminalization of the financing of individual terrorists is missing.* With respect to this Deficiency, the LOCDOFT issued in 2012 criminalizes the crime of financing of terrorism regardless of whether the subject funds are used by an *individual* terrorist or a terrorist organization operating abroad or irrespective of the country where the Act or acts of terrorism take place. SR. II / Deficiency 3 was resolved.
29. **General Conclusion for the Recommendation:** Given that the problems regarding the criminalization of the offence of financing of terrorism are corrected by the issuance of the new LOCDOFT, this Recommendation is complied with at a level equivalent to at least LC.

### Progress in other Recommendations

#### Recommendation 6

- i. **Deficiency 1 (only deficiency)-** *Referring to the PEPS, there is no legal obligation and no regulation in this respect has been developed, the Superintendency of Banks is in the process of reviewing Resolution 185-01 to adapt it to international standards.* In this regard, the new LOCDOFT in articles 4 and 18, introduces the concept of Politically Exposed Person (PEP) and requires the reporting entities to design, establish and apply due diligence procedures when they maintain business relationships with customers who are, have been or must be considered under the profile of politically exposed person. The concept of politically exposed person in the LOCDOFT, includes officials of the national Government, as foreigners and the obligations of due diligence include measures with respect to the need for approval at the managerial level of the relationship; reasonable steps to know the source of wealth and the origin of the funds and the continuous monitoring of the relationship and transactions. In this same sense, there were modifications in the regulations applicable to the Financial Sector, with the publication of Resolution No. 119, which supplements Resolution 185-01 and establishes in article 61, the obligation of the reporting entities to, take reasonable steps to mitigate the risk to participate deliberately or unintentionally, in the concealment or transfer of proceeds of corruption by high-level political figures and their circle of friends. In addition, establishing that there should be a system of identification, monitoring and design of controls for these customers and their transactions, based on the level of risk. The minimum requirements of due diligence which must be met are: a) identification of the owner of the account and the beneficiary; (b) obtaining information directly from the individual related to the PEP; (c) identification of the country



of residence of the holder of the account; (d) obtaining information concerning the origin of the funds; (e) verification of references to determine whether the individual is or was a PEP; (f) obtain the approval of senior management to establish trade relations with such customers; (g) obtain information from persons who are authorized to sign on the account, and h) make reasonable efforts to check public sources of information. In any event, the reporting entities must confirm the veracity and suitability (i.e. for example that it belongs to the risk level indicated) of the information presented on the file cards of each customer, at the initial moment when the information is obtained, and also when it is updated. Also, similar provisions for the stock market and insurance sectors are included. Understanding that the Deficiency noted by the Evaluator, referred to the lack of regulation with regard to PEPS, R.6 / Deficiency 1, was corrected.

30. **General Conclusion for the Recommendation:** Given that by issuing the new LOCDOFT and the regulations applicable to the Banking, Securities and Insurance Sectors, due diligence measures were introduced and enhanced diligence for Politically Exposed Persons (PEPS), it is felt that this Recommendation, rated as NC, now meets a level equivalent to at least LC. It should be noted that by the Fourth Round of Mutual Evaluations, the definition of PEPS in the specific regulations applicable to the Banking, Securities and Insurance sectors, must be adjusted and reviewed as the case may be, according to the FATF Recommendations of 2012 (to differentiate clearly for example the concept of foreign and domestic PEPS).

#### **Recommendation 7**

- i. **Deficiency 1 (unique deficiency)-** *Referring to correspondent banking, regulations in this regard have not been developed, with the Superintendency of Banks being in a process of review of Resolution 185-01 in order to adapt it to international standards* As regards this point, subsequent to the Mutual Evaluation, new regulations were issued to regulate correspondent banking (article 32, Resolution 119). This establishes that the products and/or services of correspondent bank or correspondent relationships are considered high risk, therefore, in accordance with articles 34 and 62 of the same regulations, the application of enhanced Due Diligence Client Measures corresponds, which includes gathering sufficient information about the receiving institution that allows them to fully understand the nature of business of the receiver and determine from the information available publicly the reputation of the institution and the quality of supervision, including whether it has been subject or not to a money laundering or terrorist financing investigation or regulatory action; assess the AML/CFT controls that the receiving institution may have; obtaining management approval of the relationship and measures for payments that are made through third parties. In light of the aforementioned, R.7 / Deficiency 7, was corrected.

31. **General Conclusion for the Recommendation:** Through the new regulation applicable to the Banking Sector, intensified and specific due diligence measures for correspondent banking relationships or correspondent relationships are introduced, therefore, this Recommendation, rated as NC, complies now to a level essentially equivalent to at least an LC.

#### **Recommendation 8**

- i. **Deficiency 1 (only)** –*As for remote banking, no regulation has been developed in this regard, with the Superintendency of Banks being in the process of review of Resolution 185-01 in order to adapt it to international standards.* In terms of this Deficiency, as explained for other Recommendations, Resolution No. 119-10 renewed the AML/CFT regulations for Banks, establishing among other things, measures to prevent the offences of money laundering and financing of terrorism in Virtual Banking. Especially it sets out that reporting entities should pay special attention to the use of new technologies, or developing that hinder the verification of the identity of the client and take measures

to prevent themselves being used for illicit purposes. In the same way it included measures for new technologies and businesses that are not face to face in the Law on Banking Sector Institutions. Resolution 119 speaks of considering risks of development of new products and services and include products or services as high-risk business to electronic banking and non-face to face (see specifically Articles 15 and 32). R.8/ Deficiency 1 was rectified.

- ii. **Deficiency 2-** *Neither does it exist for the other the financial sectors.* With respect to this deficiency, no progress was reported. On this point, the deficiency is remedied in large part to the inclusion similar to those established for the banking measures, regarding the evaluation of new products and services prior to launch, in Resolution No. 110 for the Brokerage Sector, as in Ruling No. 514 for the Insurance Sector. For these allow novel forms used to provide traditional services, will be under the proper risk management. By the fourth round Testimonials country might consider include examples of transactions that are considered high risk in the Insurance Sector which are not explicit. R.8 / Deficiency 2 was rectified.

- 32. **General Conclusion for the Recommendation:** Through the new regulation applicable to the Banking Sector, Brokerage and Insurance, where measures were introduced to address potential risks emanating in general, and new products and services and from new technologies or businesses that are not face to face in Banking within the main sector where they can be used, therefore, this Recommendation, rated as PC, is now complied with at a level equivalent to at least LC. Similar provisions would need to be included, as the case may be, for the Stock Market and Insurance Sectors.

### **Recommendation 9**

- i. **Deficiency 1(only deficiency)** – *There is no specific prohibition in the Law in this regard (intermediary presenters), but there is also no regulatory development that meets international standards.* In terms of this Deficiency, as explained for other Recommendations, Resolution No. 119 renewed AML/CFT regulations for Banks, establishing among others, measures for the reporting entities, according to the risk level of their potential or new clients, employ various methods to verify the identity and data provided by the customers. R.9/Deficiency 1 was corrected.

- 33. **General Conclusion for the Recommendation:** Through the new regulation applicable to the Banking Sector, measures to address the potential risks arising from potential or new customers, who are referred by intermediaries or presenters, are introduced, therefore, this Recommendation, rated as PC, is now complied to a level equivalent to at least LC.

### **Recommendations 12, 16 and 24**

#### **Recommendation12**

- i. **Deficiency 1-** *An effective AML/CFT control system implemented in the casinos sector could not be verified, as the scheduled interviews were not affected, neither with the supervisor nor with a representative of the sector.* With respect to the deficiencies relative to Recommendation 12, and as we will see below, those related to Recommendations 16 and 24, the evaluator's recommendation was, in general, to regulate the obligations for the DNFBP Sector, and ensure compliance. In this sense, the Bolivarian Republic of Venezuela issued new regulations in 2011, after the Mutual Evaluation, as it relates to the prevention, supervision and control of offences of money laundering and financing of terrorism in Casinos and Bingo Halls and Notaries: Providence No. 011 and Resolution 150, respectively. Casinos and bingo halls are supervised by the National Commission for Bingos, Casinos and Slot Machines. Notarial records for the Autonomous System of Registries and Notaries. In addition, it was explained that at the time of the evaluation, a meeting with the sector

could not have been convened due to time constraints. In terms of regulation in other sectors, the LOCDOFT issued in 2012, defines the AML/CFT reporting entities, in article 9, including all categories of DNFBP contained in the glossary of the Methodology, extending its application to persons such as Lawyers, Economists and Administrators who perform certain activities clearly identified by the FATF glossary. The LOCDOFT includes various measures relating to the customer due diligence, PEPS, Record keeping, among others, with which they must comply. The only thing pending was that the preventive measures that are not included in the LOCDOFT, are incorporated in the various regulations for the DNFBPs (except casinos and notaries and registries, which already have said legislation by their respective control and supervisory bodies), in order to overcome the deficiencies identified in the MER regarding these Recommendations in their entirety. These regulations are still pending, as such full compliance with these Recommendations is also pending. R. 12 / Deficiency 1, remains pending.

- ii. **Deficiency 2-** *For the remainder of DNFBPs there aren't any regulations being developed of the obligations as it relates to the prevention of money laundering.* On this point, as in the previous Deficiency, development of the regulations applicable specifically to the other subjects covered by article 9 of the LOCDOFT is still pending, a job that is in process. R. 12 / Deficiency 2, remains pending.

#### **Recommendation 16**

- i. **Deficiency 1 (only deficiency)** - *An effective AML/CFT control system implemented in the casinos sector could not be verified as the scheduled interviews were not carried out, neither with the supervisor, nor any representative of the sector.* For this Deficiency, the explanation given for Recommendation 12 is applicable, as it relates to the controls for the casinos sector. R. 16 / Deficiency 1, would be rectified. The Bolivarian Republic of Venezuela issued new regulations in 2011, after the MER, in the prevention, control and investigation of crimes of money laundering and terrorist financing in the Casinos and Bingo Halls Registries and Notaries: Ruling No. Resolution 011 and 150, respectively. Additionally, it was explained that at the time of evaluation, the meeting could not be conducted with the sector due to lack of time, only with respect to the Sector of Bingos and Casinos. Finally, it was explained that to date there are only nine (9) regulated entities in this sector because there have been cases of license revocation for breach of regulations and inquiries. See also figures submitted as an annex to this report.

#### **Recommendation 24**

- i. **Deficiency 1 (only)** - *There is no authority that carries out regulation and supervision of the sector.* With respect to this Deficiency, it is also applicable, that which was presented for Recommendation 12, in respect that the regulatory development for DNFBPs, other than bingos, casinos, slot machines, records and notaries who are already regulated and are supervised by their natural body, is underway, (with work sessions and training being developed), although it should be clarified, that the DNFBP's whose regulation is in force, casinos, bingo halls, notaries and registries, are reporting directly (RAS) to the NFIU. R. 24 / Deficiency 1, remains pending.

- 34. **General Conclusion for Recommendations 12, 16 and 24:** Through the new regulation applicable to the DNFBPs, coverage of the ALA/CFT regulation is broadened, despite the fact that the implementation and development of regulations for other sectors continues. Therefore, these Recommendations rated as NC show substantial progress, although their full compliance remains pending; their level of compliance is equivalent essentially to PC.

**Recommendation 14**

- i. **Deficiency 1** - *It is not clear that provisions exist for the protection of financial institutions, their directors, officers and employees against civil and criminal liability for suspicious transaction reports.* In terms of this Deficiency, at the time of the Mutual Evaluation there were provisions relating to the legal protection of the reporting entities against his customer or a third party, for filing a SAR, however, subsequent to the evaluation, it is included explicitly at the level of the Law, in the new LOCDOFT (article 13). that the reporting of suspicious activities (RAS) is not a criminal complaint and does not require the formalities and requirements of this way of proceeding, neither does it entail criminal, civil or administrative liability against the reporting entity and its employees, or for whomsoever endorses it. Additionally, there is a penalty for any failure to comply with this provision. R.14/ Deficiency 1, was rectified.
  - ii. **Deficiency 2-** *There is no express regulation that prohibits directors, officers and employees, whether temporary or permanent, of a financial institution that will make it known that a Suspicious Activity Report of suspicious has been filed.* With respect to this Deficiency, article 13 of the Law mentioned above is also relevant, which refers to the reporting entities and employees of these, will not disclose the customer, user, or third parties, that information has been reported to the UNIF or other competent authorities, as well as neither that a suspicious transaction related to such information is being examined. They also may not reveal that they have provided it to other competent authorities. In case of breach, they will incur sanctions. R. 14 / Deficiency 2, was rectified.
35. **General Conclusion for the Recommendation:** Through the new LOCDOFT legal protection is given to the reporting entities with respect to compliance of the obligation to report, as recommended by the Evaluator. Similarly, prohibition for reporting entities to share file SAR or information related to UNIF investigations with other parties, was raised to the level of law, and will provide for sanctions (administrative although not criminal) in the case of non-compliance with said prohibition. This largely remedied the Deficiencies identified by the Evaluator and addresses his recommendations and for this reason this Recommendations meets a level equivalent to at least LC. The requirement to keep safe the names and personal details of those who file SAR either legally or by the regulations is the only matter pending in particular, as is not expressly included at the regulatory level. Despite the foregoing, the Authorities explained that the NFIU keeps information on anyone who submits a report and this, for example, is not part of the Intelligence Reports forwarded to the Office of the Attorney General.

**Recommendation 20**

- i. **Deficiency 1 (only)** - *A study for the application of controls in other sectors could not be verified.* This Deficiency is closely related to those indicated for Recommendations 12, 16 and 24, for which it has been explained that the development of regulations and supervision for other DNFBPs (other than casinos, bingo halls and notaries and registries, already regulated and supervised from 2011), is underway. Likewise it is relevant to point out that the LOCDOFT in article 9 in addition to broadening the list of DNFPB's, to other sectors that may represent some ML/FT risk, such as Lawyers, Managers and Economists as explained above, leaves open the possibility of including other reporting entities, in accordance with their economic activity and this partly remedies the Deficiency pointed out by the Evaluator. However, in paragraph 543 and 544 of the MER, it was indicated that no evidence was presented of having considered the application of the measures contained in Recommendations 5, 6, 8-11, among others, to sectors other than the DNFPB's, which is still pending. This Deficiency (R. 20 / Deficiency 1) was not rectified.
36. **General Conclusion for the Recommendation:** This Recommendation rated as NC, continues unchanged, although it is worthwhile to acknowledge that the list of subjects covered by the AML/CFT

Regime has been expanding and the provisions of the LOCDOFT leave open the possibility of covering other sectors, which need to be included, according to the risk they represent.

### **Recommendation 21**

- i. **Deficiency 1 (only deficiency)** - *Procedures and policies for the prevention and control, inside the monitored institutions that ensure compliance with this obligation provided for in the Venezuelan regulations could not be verified.* As for this deficiency, there was significant improvement in coverage in terms of monitoring processes explained under Recommendation 23, whose performance is reviewed in this issue. On the other hand, Article 19 of the LOCDOFT and not only the specific legislation for each sector (Resolutions and Rulings) is referring to the need to pay attention, create procedures and internal regulations to meet certain business transactions carried out in countries or territories that facilitate banking secrecy and commercial registration, which do not apply regulations against money laundering and financing of terrorism similar to those in the Bolivarian Republic of Venezuela or that they are insufficient, among other risk factors. Thus R.21 / Deficiency 1, is rectified.

37. **General Conclusion for the Recommendation:** This Recommendation rated as PC, has now been complied at a level equivalent to at least LC. The relevant section of the MER indicates that despite the provisions that require reporting entities to, among other things, focus greater attention on transactions originating in high risk jurisdictions, there needed to be greater communication and information for reporting entities regarding said jurisdictions and controls on compliance with said obligation, which has been strengthened through policy change and increased inspections, which include this topic in the subjects evaluated.

### **Recommendation 22**

- i. **Deficiency 1** - *The legislation is very general, it demands the maintenance of control and communication systems that allow to monitor the movement of cash, but does not specifically mention the obligation to apply the higher standard, nor the obligation of implementing coherent CDD measures at the group level.* As for this deficiency, it is clear that the new LOCDOFT includes Article 20, reference to which the provisions relating to the prevention and money laundering and terrorist financing as referred to in the Act are applicable to branches and subsidiaries outside, requiring the application of the highest standard. This R.22 / Deficiency 1, is rectified.
- ii. **Deficiency 2** - *Effective and efficient measures put in place by the entities for the purposes of complying with the regulations established should be developed.* As for this deficiency, the authorities indicated that policy development has been through the manuals and supervisory framework for example, combined financial statements are presented, including information from the branches and subsidiaries abroad. This R.22 / Deficiency 2, is rectified.
- iii. **Deficiency 3** - *Little development of the legislation for the securities sector.* This R.22 / Deficiency 3, was rectified as explained to Recommendation 5 and others, by issuing Resolution 110.

38. **General Conclusion for Recommendation 22:** This Recommendation rated as PC, has now been complied at a level equivalent to at least LC. The relevant sections of the MER indicate the need for greater controls over subsidiaries abroad and measures and procedures at the group level, despite having identified for example, Compliance Officers at the group level, which have been achieved through changes in legislation (essentially new LOCDOFT) and increased inspections. Towards the next round of assessments, the country could consider reviewing legislation, particularly in light of current Recommendation 18.

**Recommendation 27**

- i. **Deficiency 1** - *Police officer responsible for the investigation of these crimes are within the scope of the Anti-drug crimes Office.* With respect to this Deficiency, the panorama of the authorities specifically dedicated to the prosecution of the crime of money laundering has changed. The Public Prosecutor's Office through Resolution No. 1699, established the General Directorate against Organized Crime, which is attached to the Deputy Prosecutor's Office and the Anti-Money Laundering, Financial Crimes and Economics Directorate attached to the Organized Anti-crime General Directorate to which Drug Directorate was also attached. In addition, it has created new specialized prosecutor's offices (as it relates to money laundering and the financing of terrorism and the Bolivarian Intelligence Service, which includes a Unit specializing in dealing with Money Laundering, Financial Crimes and Economic Crimes. Although related by common interests, the Money Laundering, Financial Crimes and Economic Directorate, is different from the Drug Directorate and in that sense R. 27 / Deficiency 1, was corrected. This is shown also in the allocation of resources.
  - ii. **Deficiency 2** - *In addition to the lack of resources, the investigation of these crimes would continue related to illicit drug trafficking.* This Deficiency is resolved to a large extent because the cases presented for this report and in previous follow-up reports, regarding money laundering, stem from other offences and not from illegal drug trafficking alone. R.27 / Deficiency 2 was resolved.
39. **General Conclusion for the Recommendation:** This Recommendation rated as PC, is now complied with at a level equivalent to at least LC, considering the improvements in the capacity and expertise of the Public Prosecutor's Office, regarding the Crime of Money Laundering and against the Financing of Terrorism.

**Recommendation 30**

- i. **Deficiency 1-** *With regards to the supervision of the reporting entities, Deficiencies in the number of staff, specialization of staff and knowledge in patterns of behaviour were verified.* To remedy this Deficiency, all agencies with responsibilities of supervision as it relates to reporting entities were subject to renewal and greater allocation of staff and technological resources. This was particularly the case of the UNIF, just as was stated in the framework of Recommendations 23 and 26, therefore, Rec. 30 / Deficiency 1, was corrected.
- ii. **Deficiency 2-** *In the three financial sectors, banking, securities and insurance, the minimal resources to carry out the functions of inspection and supervision of the reporting entities is not available, the technological tools, equipment, Software that will facilitate the work are missing.* This Deficiency (R.30 / Deficiency 2) was rectified, as explained above, given the turnover of staff and technological resources, particularly in the UNIF.
- iii. **Deficiency 3** -*There is a lack of personnel in the inspection, supervision, monitoring, regulation and control of the banks units. For example the offices of the border bureaux de change has not been supervised since 2004 and the CNMV has a single supervisor specialized in prevention.* In terms of this Deficiency, in addition to being relevant that which was explained for deficiency 1, the statistics presented for this report and in the various Follow up Reports, demonstrates the inspection ability, renewed, of the UNIF, institution which in this case is responsible for overseeing the banks in terms of AML/CFT. Additionally, among the progress indicated in the framework of Recommendation 23, subsequent to the effecting of inspections as it relates to bureaux de change, Border Exchange Operators in particular, the closure of seven (7) Operators was ordered and the closure of sixteen (16) more was requested. R.30 / Deficiency 3, was rectified.

40. **General Conclusion for the Recommendation:** This Recommendation rated as PC, and is now at a level equivalent to at least LC, considering the increase in the number and quality of the resources available to the supervisory authorities. However, given the size of the sectors involved, the growth and adjustments, should continue.

### **Recommendation 32**

- i. **Deficiency 1-** *An evaluation of the efficiency of the system has not been carried out.* R.32 / Deficiency 1, remains pending, since such an evaluation has not been performed, however, the submission of statistics has improved significantly, not only for previous follow-up reports, but for this report as well.
  - ii. **Deficiency 2-** *There are only complete statistics for the UNIF.* With respect to this Deficiency, it should be pointed out that the Office of the Attorney General, Superintendent of Insurance Activity, National Superintendency of Securities, The National Commission for Bingos, Casinos and Slot Machines, among others, has also been providing data throughout the various follow-up reports and FATF monitoring process despite the fact that the primary source of information continues to be the NFIU. R.32 / Deficiency resolved.
  - iii. **Deficiency 3-** *Regarding the information on investigations, convictions, seizures, etc., the information is partial or not available.* This Deficiency has been addressed through the information presented in previous follow-up reports and this report. R.32/ Deficiency 3 was resolved.
  - iv. **Deficiency 4-** *As it relates to International cooperation the statistics were insufficient to assess the effectiveness of same.* As explained earlier, according to the information presented through the various follow-up reports, this aspect has been resolved to a large extent. R.32/ Deficiency 4 was resolved.
41. **Conclusion for Recommendation 32:** As for Recommendation 32, in the MER it was stated that the country must generate comprehensive statistics in all the bodies in the AML/CFT system, this was the main Deficiency. In particular, it was explained that there were no complete statistics from sources other than the NFIU; that information about investigations, convictions, etc., was not complete and that as it relates to international cooperation, statistical information was scarce or non-existent. According to information presented in prior reports and for this report, the generation of statistics has improved substantially, with complete information being presented on investigations and convictions, international cooperation, mutual legal assistance, among others, thus, compliance with this Recommendation is at a level equivalent to at least LC. See attached statistics presented as an annex to the Technical Report.

### **Recommendation 33**

- i. **Deficiency 1 (only deficiency) -** *The project for the Automation of the Registry and Notaries still has not been completed, as such there is no National Registry that reflects the details required on the property and the control of established companies.* This Deficiency, as explained above for Recommendations 3 and 5, the process of automation of the Registry and Notaries is practically completed, as such it is felt that this Deficiency (Rec. 33/ Deficiency 1) has been substantially remedied.
42. **Conclusion for Recommendation 33:** Considering that this was the only identified Deficiency and that the project was practically completed, with the consequent ease of identification and supervision of legal persons, Recommendation 33 is complied with at a level equivalent essentially to C.

### **Recommendation 34**

- i. **Deficiency 1-** *There is no central registry that covers the trusts consisting of banks and insurance companies.* R.34 / Deficiency 1 was substantially rectified as, while there is no central registry for trusts, it should be pointed out that the SUDEBAN and the SUDEASEG maintain strict control over these operations. These are also kept, as the case may be, in the Public Registry or Business Registry now automated under project to computerize Notary Offices and that is practically completed, referred to in Recommendations 5, 3 and 33, is relevant for compliance with this Recommendation as well. Additionally, it is important to mention that according to section 558 of the MER, seemed to be interpreted as a derivative of the Banking Law of the time, preceding the current Resolution 119, a need to have a centralized record of the Trusts created by Banks and Insurers that not exist and this was not necessarily so. Authorities explained that registration for entities and SUDEBAN is certified or licensed accountants to audit under section 66 of the standard. On the other hand, which was itself established since the time of the mutual evaluation, is that the institutions authorized to act as Trustee, have duties such as filing audited financial statements before the SUDEBAN, according to Article 65 of the same Act.<sup>3</sup>
  - ii. **Deficiency 2-** *The efficacy of the regulations, nor the information available from the registries of the competent authorities could not be contrasted.* This deficiency has been remedied in part by the number of reviews and inspections performed by the FIU, as outlined under Recommendation 23. R.34/ Deficiency 2 has been rectified.
  - iii. **Deficiency 3-** *It is not clear to the evaluation team the level of access that the authorities have to information about the constituents and beneficiaries of trusts constituted overseas and that are clients of a branch/subsidiary of a Venezuelan financial institution located in countries other than Venezuela, when in that country the legislation in this regard is different or there is excessive bank secrecy.* R.34/ Deficiency 3 remains pending.
43. **Conclusion for Recommendation 34:** The status of compliance with this Recommendation, originally rated as PC, has not changed. Despite the fact that the regulations governing Banks and Insurance companies were updated, in the sense that the risks of money laundering or the financing of terrorism were taken into account and that strict control is exercised by the SUDEBAN and SUDEASEG over these Trust operations and as indicated in the MER and for this report, the authorities can access information on members and beneficiaries of trusts in the framework of the inspections carried out on said entities. Furthermore, the review is pending can obtain information on client cases of branches and subsidiaries in countries other than Venezuela.

### **Recommendation 38**

- i. **Deficiency 1-** *Problems for the identification of goods.* This Deficiency, as indicated for Recommendations 3, 5, and 33, the process of automation of Registries and Notaries was practically

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<sup>3</sup> Article 66. *Institutions authorized to act as trustee, must submit to the Superintendency of Banks and Other Financial Institutions in accordance with the established rules, the financial statements of the trust department, audited by independent public accountants in professional practice, enrolled in the register kept by the Superintendency of Banks and Other Financial Institutions (emphasis added).*

Artículo 65. *The Superintendence of Banks and Other Financial Institutions can require of financial institutions the periodic submission of a list of assets received under a trust. Submission of Financial Statements to the Superintendent.*



completed which facilitates the identification of goods for their recovery and confiscation. Similarly, it boasts a Vehicle Registry. This has remedied the situation indicated by the Evaluator in the MER, paragraph 594, as it relates to "(...) *possible problems for the authorities to identify assets of suspected criminals because of the non-automation of records (...)*". This was also demonstrated using the figures of seized items presented in various follow up reports and updated in the Statistics attached to the Technical Report, presented for this report. R.38 / Deficiency 1 was resolved.

- ii. **Deficiency 2-** *Lack of agreements to share assets. This Deficiency still awaits addressing.* The Authorities indicated that the current regulation allows the concern to be examined in various international forums and is expected to be addressed in the future.
  - iii. **Deficiency 3-** *The effectiveness of possible cooperation measures referred to in the LOCDO was unable to be confirmed.* This Deficiency, as explained for Rec. 38 / Deficiency 1, was remedied, because the same paragraph 594 of the MER, referenced above, referred to the possibility of problems in requests from foreign countries, having as its purpose the identification of the assets of a certain person in the country, which have been avoided through the automation of records.
44. **Conclusion for Recommendation 38:** The evaluation identified that for full compliance with this recommendation, it was still necessary to automate some processes and records, in order to identify assets that can be seized. As indicated in Recommendation 3, the National Service Administration and Disposal of Seized Property or Seized, Confiscated and Forfeited was created, in order to ensure efficient administration, disposition and disposition of assets assigned by the courts of first instance, which contributes to the control and management of assets to seize. On the other hand, to facilitate the identification of the goods, as explained above for this recommendation, the process of automation of registries and notaries has been practically completed and there is a Vehicle Registry, related to goods that are commonly seized. As such, this Recommendation is complied with at a level equivalent to at least LC.

#### **Special Recommendation VI**

- i. **Deficiency 1-** *Deficiencies in the information on the customers for transfer and remittance of funds services, especially those below the threshold of \$10,000.* As it relates to this Deficiency, it should be noted that the transfer and remittance of funds services are carried out only by a limited number of eight (8) transmitters, given the foreign exchange control regime, effective since 2003<sup>4</sup>, and these operations are subject to the regulations contained in Resolution No. 119 applicable to Banks and Foreign Exchange Houses and which are required to apply customer due diligence requirements without subjecting them to thresholds. To ensure that the information is complete, and remedy among others, the lack of monitoring with respect to transfer services, the SUDEBAN has carried out inspection visits as explained in the context of Recommendation 23, of transfer and remittance services, which included verifying the collection of correct and complete originator information. SR. VI / Deficiency 1 was rectified.

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<sup>4</sup> It is important to mention that in accordance with Presidential Decree No. 903, dated April 15, 2014, the institution responsible for regulating, among other things, all aspects pertaining to Foreign Trade, the management of foreign currency and remittances or transfers of funds, is the National Foreign Trade Center (CencoEx), a body that replaces the Foreign Currency Management Commission (CADIVI). However, restrictions are in force for fund transfer services (for example, the need to request authorization; remittances are limited to family remittances, for studies or students, for retirees and pensioners, mainly).

- ii. **Deficiency 2-** *No SOR's have been received from the remittance companies.* With respect to this Deficiency, it was reported that Bureaux de Change, the principal remittance entities, though not the only ones, have been presenting SAR's as outlined in the statistics attached to the Technical Report. They increased from one hundred and forty three (143) in 2010 to four hundred and ninety five (495) in 2011, four hundred and ninety four (494) in 2012 and five hundred and twenty five (525) in 2013. One hundred and seventy eight (178) SAR's were submitted in 2014 thus far. It is important to bear in mind that remittance entities in themselves number just eight (8), therefore the figures presented above are positive. SR. VI / Deficiency 2, was addressed.
45. **Conclusion for Special Recommendation VI:** To comply fully with this Recommendation, the country should revise the existing regulations to ensure adequate control of transfer and remittances services, which was met in part by the expansion of the Banking regulations, an action which is not completely new to these services. Also, improving controls to ensure information on the payer is obtained, which has been covered by inspection visits. Therefore, this Recommendation is complied with at a level equivalent to at least LC.

### **Special Recommendation VII**

- i. **Deficiency 1-** *The identification threshold is 10,000US\$, far from the US \$1000, recommended by the FATF.* This Deficiency comes from the interpretation of the Evaluator, contained in paragraph 357 of the MER, with respect to the limits laid down by the then effective Resolution 185 for Banks, to report transactions. This regulation, as explained in various sections of this report, was replaced by Resolution No. 119, which now clearly states that all transactions must include adequate and meaningful originator information (name, address and account number (having an account is a fundamental requirement). Additionally, it is noted that they must be accompanied by messages relating to same and this information should remain with the transfer or message relating to it, throughout the payment chain. The foregoing, without distinguishing thresholds, as all transfers require identification of the parties. R. VII / Deficiency 1 was rectified.
  - ii. **Deficiency 2-** *There is no legislation for domestic transfers.* This Deficiency (SR. VII / Deficiency 2) was corrected accordingly as explained above.
  - iii. **Deficiency 3-** *Procedures, have not been developed, to be adopted by entities, based on the risk to identify and treat the wire transfers that are not accompanied by complete originator information.* This aspect has been superseded by the change in regulations and issuance of Resolution No. 119 (article 32), which contains among the aspects to consider higher risk or product and/or service of high risk, wire transfers, even though the case of incomplete information is not specified. SR. VII / Deficiency 3 was resolved.
  - iv. **Deficiency 4-** *There is no specific reference about payer information that must be incorporated into a cross-border wire transfer.* This Deficiency was addressed through the abovementioned change in regulations, also considering that any payer, in order to be able to send information must inevitably be an account holder or have an account either at a Bank or Bureau de Change.
46. **Conclusion for Special Recommendation VII:** To comply fully with this Recommendation, the country had to, among other things, adjust the rules for the identification of the payer to suit the FATF standard and establish a procedure that demands the record of originator information on all wire transfers, an action that was taken. Therefore, this Recommendation achieved a compliance level equivalent essentially to at least LC.

### **Special Recommendation VIII**

- i. **Deficiency 1-** *The evaluation team could not have evidence that there is a national central registry of these organizations, its scope of operations and their owners or founders.* With respect to this Deficiency, the authorities explained that obligations for the registration of non-profit organizations, the foundations and civil associations were established. These must be registered with the respective Sub alternate Registry (attached to the Autonomous Service for Registries and Notaries) as well as before the Customs and Tax Administration Services (SENIAT its acronym in Spanish); These last two Supervisory Entities or Bodies, are thus in terms of prevention and control of money laundering and against the financing of terrorism in accordance with the provisions of the LOCDOFT. It was noted additionally, that, for fiscal control purposes and otherwise, they must register with the General Directorate of Religious Institutions, Justice and Cults, attached to the Ministry of Popular Power of the Interior, Justice and Peace, also considered by the Organic Law before mentioned as a Supervisory Entity or Body in this area. All of the above, assists in the supervision of this type of subjects, although there is no single central registry. SR. VIII / Deficiency 1 was rectified.
- ii. **Deficiency 2-** *The evaluation team could not get evidence that there is public control over projects that these organizations carry out, or on funds that they handle.* This Deficiency (SR. VIII / Deficiency 2) remains to be addressed although meetings have been held for the purpose of supervising such organizations.

47. **Conclusion for Special Recommendation VIII:** To comply fully with this Recommendation, the country should establish a registry that allows the maintenance of information on the Non-Profit Organizations (NPOs) as it relates to the prevention of misuse by money launderers or by those who finance terrorism. This Recommendation by the evaluator is met in part by the obligation to register such organizations both in the corresponding Sub alternate Registry (incorporated in the Central Registry of Notaries) as well as in the SENIAT. Additionally, the authorities reported that the LOCDOFT regards these organizations, foundations and civil associations as vulnerable to terrorism and its financing, and that the Banking, Stock Market and Insurance Sectors, consider these foundations, civil associations and other non-profit organizations, as high-risk customers, and that they take the necessary due diligence steps for that segment of customers. Therefore, this Recommendation, previously rated as NC, now has compliance at a level equivalent essentially to PC.

### **Special Recommendation IX**

- i. **Deficiency 1 (only) -** *An effective compliance declaration system with clear powers and sanctioning power has not been established.* As it pertains to compliance with Special Recommendation IX, there has been advancement, although there are elements missing to be incorporated, to increase compliance. At the time of the Mutual Evaluation, there were restrictions on the purchase and management of foreign currency, and the Law on Illicit Exchange clearly pointed out the obligation to Declare before the competent administrative authority the import or export of currency, into or from the territory of Venezuela, for amounts exceeding USD 10,000.00. However, this obligation was limited to residents and excluded, for example, persons who were in transit or tourists. Therefore, the authorities determined it suitable, through the Circular No. SNAT/INA/2010-000830, issued by the SENIAT, extend the scope of application of the form "Registration and Customs Declaration for Baggage (Customs Declaration Form 82)", all persons entering the country by ports and airports, where there is international traffic by ships and aircrafts, both as a private or public service. This form, to date, is found in all Sea and Land Customs areas of the country. The SENIAT, has identified forms presented that surpass the designated threshold and in such cases, the money was held and an investigation launched. Additionally, the authorities undertook a process of innovation and modernization of customs and the customs service, where the aforementioned form was redesigned in

order to capture data through a scanner using the technology of recognition of characters (ICR/OCR), which will allow the obtaining of the information through internal dictionaries that include this type of high resolution. On the other hand, it was noted that the competent authorities which have the legal attribution to retain money that is suspected to be allegedly related to the offences of money laundering and the financing terrorism, in that sense the SENIAT can call on the Guardia Nacional Bolivariana (Bolivarian National Guard) (GNB its acronym in Spanish) and the Comision de Administracion de Divisas (CADIVI) (Commission of Foreign Exchange Administration), proceeding to retain money derived from ML/FT In cases where the origin of the money is related to ML/FT crimes, the procedures set out in Resolutions 122 and 158, apply immediately, these have been widely discussed within the framework of the Special Recommendations I and III above, in line with what was required by Criterion IX. 11 of the FATF Methodology.

48. **Conclusion for Special Recommendation IX:** To comply fully with this Recommendation, the country should establish an effective declaration mechanism, with clear powers and sanctioning power, which was done. The referenced mechanism, is still in germination stages and there are details missing contained in SR IX., which must be present, such as, the availability of the information derived from these processes to or for the UNIF; the possibility of sharing information with authorities in other countries, among others. Therefore, there is compliance with this Recommendation at a level equivalent to PC.

