

**Paraguay: Detailed Assessment Report on Anti-Money Laundering and
Combating the Financing of Terrorism**

This Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism for Paraguay was prepared by a staff team of the International Monetary Fund using the assessment methodology adopted by the Financial Action Task Force in February 2004 and endorsed by the Executive Board of the IMF in March 2004. It is based on the information available at the time it was completed on July 9, 2008. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Paraguay or the Executive Board of the IMF.

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PARAGUAY

DETAILED ASSESSMENT
REPORT ON ANTI-MONEY
LAUNDERING AND
COMBATING THE FINANCING
OF TERRORISM

JULY 9, 2008

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

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ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BL	Banking Law
CBP	Central Bank of Paraguay
CC	Criminal Code
CDD	Customer Due Diligence
CNV	National Securities Commission
CONAJZAR	<i>Comisión Nacional de Juegos de Azar</i> (National Gaming Commission)
CPC	Criminal Procedure Code
CSP	Company Service Provider
DECC	Directorate of Economic Crimes and Corruption
DEFC	Department of Economic and Financial Crimes
DIA	Directorate for International Affairs and External Legal Assistance
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial Intelligence Unit
FSRB	FATF-style Regional Body
FT	Financing of terrorism
GDP	Gross Domestic Product
INCOOP	<i>Instituto Nacional de Cooperativismo</i> (National Institute of Cooperatives)
INTERPOL	International Criminal Police Organization
KYC	Know your customer/client
LEG	Legal Department of the IMF
Mercosur	<i>Mercado Común del Sur</i> (Southern Common Market)
MOF	Ministry of Finance
MFA	Ministry of Foreign Affairs
MIC	Ministry of Industry and Commerce
MOU	Memorandum of Understanding
ML	Money laundering
MLA	Mutual legal assistance
MVTS	Money or Value Transfer Services
NPO	Nonprofit organization
OAG	Office of the Attorney General
PEP	Politically-exposed person
PYG	Paraguayan Guarani
ROSC	Report on Observance of Standards and Codes
SENAD	<i>Secretaría Nacional Antidrogas</i> (National Antidrug Secretariat)
SEPRELAD	<i>Secretaría de Prevención de Lavado de Dinero o Bienes</i> (Money Laundering Prevention Secretariat)
SEPRINTE	<i>Secretaría de Prevención e Investigación del Terrorismo</i> (Secretariat for the Prevention and Investigation of Terrorism)
SIB	Superintendency of Banks
SIS	Superintendency of Insurance

SRO	Self-regulatory organization
STR	Suspicious Transaction Report
UAF	<i>Unidad de Análisis Financiero</i> (Financial Analysis Unit)
UIDF	<i>Unidad de Investigación de Delitos Financieros</i> (Financial Crimes Investigations Unit)
UTE	<i>Unidad Técnica Especializada</i> (Specialized Technical Unit)
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution
USD	United States Dollar

PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Republic of Paraguay is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as updated in February 2008. The mission considered all the materials supplied by the authorities, the information obtained on site during their mission from June 24 to July 9, 2008, and other verifiable information subsequently provided by the authorities. During the mission, the mission met with officials and representatives of all relevant government agencies and the private sector in both Asunción and Ciudad del Este. A list of the bodies met is set out in Annex 2 to the detailed assessment report.

The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and three (3) experts acting under the supervision of the IMF. The evaluation team consisted of: Mr. A. Antonio Hyman-Bouchereau (LEG, team leader); Mr. Francisco Figueroa (LEG); Mr. Mariano Federici, IMF AML/CFT Technical Regional Coordinator; Mrs. Carolina Claver, National Securities Commission of Argentina; and Mr. André Cuisset, International Consultant based in Mexico (all experts under LEG supervision, in the fields of legal issues, non-financial businesses and professions and financial intelligence/law enforcement respectively). Mr. Esteban Fullin, from the Financial Action Task Force of South America (GAFISUD) Secretariat participated as an observer during the assessment visit by prior agreement with the authorities. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in Paraguay at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Paraguay's levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). The report was presented to the GAFISUD and endorsed by this organization on its plenary meeting of December 3, 2008. **In the current third round of mutual evaluations, ever since the amendments introduced to the assessment methodology in 2007, the capacity, implementation and effectiveness of AML/CFT are distinctively analyzed, which entails the increased relevance of the issues related to the effectiveness of compliance of the FATF Recommendations.**

The assessors would like to express their gratitude to the Paraguayan authorities for their cooperation and the hospitality extended to the team throughout the mission.

EXECUTIVE SUMMARY

Key Findings

- 1. There are significant gaps in Paraguay's AML/CFT framework and the level of awareness of ML/FT risks is low in both the public and private sectors.** The country falls well short of complying with most of the FATF Recommendations and, where legal provisions exist, implementation is generally not effective. There are also no provisions that would allow the authorities to freeze suspected terrorist assets in accordance with the relevant UN Security Council Resolutions.
- 2. The substantial contraband trade that occurs on the borders shared with Argentina and Brazil facilitates money laundering in Paraguay.** Paraguay is located at the center of an important regional transit zone flanked by Bolivia, Brazil and Argentina. Paraguay is considered to be a major transit point for narcotics trafficking, smuggling, and counterfeit goods destined for other countries in South America. Paraguay is also the leading marijuana-producing country in South America. These crimes, along with corruption of local officials, appear to be the main offences generating earnings that can potentially be laundered in the country. Ciudad del Este, on Paraguay's border with Brazil and Argentina, represents the heart of Paraguay's informal economy and is believed to facilitate much of the money laundering taking place in Paraguay.
- 3. Achievements in the implementation of Paraguay's AML framework remain modest since the criminalization of the ML offence in 1996.** Although relevant statistics are not routinely kept or updated, the mission could confirm that at least 15 convictions for ML (with only six confirmed and final rulings) have been achieved since 1997. While the number of convictions obtained is respectable relative to other countries in the region, the number remains low considering the perceived level of criminal conduct. Corruption at all levels in the public sector is currently a serious obstacle to combating ML and serious predicate offences, and poses a major threat to the country's development.
- 4. Paraguay has not been confronted with terrorism at the national level, as there are no local subversive organizations active in the country.** Nevertheless, given the presence of organized criminal groups operating at Paraguay's border with Brazil and Argentina, there have been allegations that proceeds from the various forms of offences perpetrated in this area could possibly be diverted to finance terrorist activities in the Middle East. Although the authorities confirmed that significant amounts of money originating at Paraguay's border with Brazil and Argentina are regularly sent to the Middle East and elsewhere both through wire transfers and informal means, they could not confirm without reservations the incidence of FT in Paraguay. Although FT activity at Paraguay's border with Brazil and Argentina has not been clearly established, the combination of illicit activity in the area and weak law enforcement is a cause of concern and should be given priority attention by the authorities.

5. **The UAF has an inadequate legal framework and a governance structure that inhibits its operational independence.** The UAF also lacks sufficient resources to effectively perform its mission. The ML offense does not extend to an adequate range of predicate offenses and FT is not yet criminalized.

6. **The regime of preventive measures imposed on financial institutions is generally weak.** The mission identified a number of deficiencies within the regime, notably in the areas of customer due diligence on beneficial owners, reporting of suspicious transactions, wire transfers, internal control systems, regulation and supervision by competent authorities, training, and resources.

Legal Systems and Related Institutional Measures

7. **The money laundering offence under Article 196 of the Criminal Code (CC) is not in line with the UN Vienna Convention (Articles 3.1(b) & (c)) and the Palermo Convention.** In addition, under Paraguayan legislation, ML is a misdemeanor (as opposed to a crime), which only carries a sanction of imprisonment not exceeding five years in prison or a fine. The categorization of ML as a misdemeanor, together with limited resources and capacity across all relevant government agencies, is a major factor that prevents authorities from applying effective, proportional and dissuasive sanctions to ML offenders. The lack of clarity as to whether a prior conviction for the predicate offence is necessary when proving that property is the proceeds of crime represents an additional obstacle to the effective prosecution of ML offences. Moreover, the narrow range of predicate offences restricts the authorities' ability to prosecute ML and to grant legal assistance and extradition requests related to ML to other countries.

8. **Although Paraguay is a Party to the UN International Convention for the Suppression of the Financing of Terrorism (the SFT Convention), its legislation does not include provisions that criminalize FT.** Paraguay does not have specific provisions that would allow freezing terrorist funds or other assets of persons and legal entities designated pursuant to UN Security Council Resolution No. 1,267 (1999) (UNSCR 1267) or of persons and legal entities designated in the context of UN Security Council Resolution No. 1,373 (2001) (UNSCR 1,373).

9. **In recent times, the country has made significant efforts to strengthen the UAF.** The UAF was established in 1997 within the Money Laundering Prevention Secretariat (*Secretaría de Prevención de Lavado de Dinero o Bienes - SEPRELAD*) of the Ministry of Industry and Commerce (MIC), although it started its operations only from 2004. The organizational structure of the SEPRELAD, which is comprised of high-level officials and chaired by the Minister of Industry and Commerce, hinders the efficacy of this Secretariat to carry out its main function of ensuring the implementation of Law No. 1,015/97 (the AML Law). In practice, the UAF has assumed all of the functions and duties attributed by Law No. 1,015/97 to the SEPRELAD, despite the inadequacy of its financial and human resources.

Since the appointment of a new UAF Director in August 2007, significant efforts have been carried out to strengthen the UAF and overcome the legacy of weak and erratic leadership that has beleaguered it since it started operations. Since the appointment of the new director, UAF has adopted a policy of reinforcement of the operational capacity through the hiring and training of additional analysts, and the updating of the AML regulation.

10. **The budget allocated to the UAF is insufficient to meet the expense of its operative equipment, particularly in database processing, and to assure adequate salaries to its qualified employees.** More than half of the suspicions transactions reports' analyses which the UAF transmits to the Office of the Attorney General (OAG), do not derive into a criminal investigation. Only a small number of the criminal convictions on ML to date have resulted from financial intelligence provided through the UAF. Paraguay should re-examine the AML legislation with regard to the SEPRELAD, and take measures to ensure the UAF has true autonomy and to grant it the necessary resources to carry out its operations effectively.

Preventive Measures—Financial Institutions

11. **The AML regime in Paraguay provides the basic legal and regulatory framework for preventing money laundering from taking place within the financial sector.** However, this framework needs further strengthening in a number of areas. Terrorist financing has not been criminalized in Paraguay.

12. **The AML law needs to be amended to expand the range of reporting entities.** Although the SEPRELAD has taken the necessary measures to strengthen the regime, by issuing sector specific resolutions, with respect to customer identification and due diligence, these require further refinement to adapt them to the activities of each sector, particularly in areas like PEPs, beneficial owners, wire transfers, money remitters, internal control systems, internal audit function, designation of compliance officers, training, and other related obligations.

13. **The volume of suspicious transaction reports is low and this might be directly related to inconsistencies in the interpretation of resolutions covering these aspects, coupled with the lack of effective supervision through the sector.** Currently, the majority of the suspicious transaction reports are received from banks and few from insurance companies. Additional guidance and clarity is necessary to provide the financial institutions with sufficient information on what they are expected to report when there are suspicions of transactions and/or customers linked to money laundering.

14. **Additional resources are also needed throughout all supervisory authorities, including funding, personnel, and technology.** This lack of resources has negatively impacted the level of supervision in sectors like insurance, securities, and cooperatives;

training capacity for all supervisors and financial institutions, and sanctions for noncompliance, given that in some sectors AML supervision is not taking place.

15. **The authorities have not taken the initiative to address the issue of informal money or value transfer systems.** Based on anecdotal evidence, these informal systems seem to be operating in Paraguay.

Preventive Measures—Designated Non-Financial Businesses and Professions

16. Law No. 1,015/97 should be amended to extend the list of reporting entities as it is contemplated in the Methodology for Assessing Compliance with the FATF 49 Recommendations. Not all categories of DNFBP envisaged by the FATF are considered as reporting entities under Article 13, Law No. 1,015/97. Lawyers, notaries, other independent legal professionals and accountants are not covered by Law No. 1,015/97. There is no separate category of business dealing with Trust and Company Services. Trust and company formation services are offered by lawyers. They are not required to submit STRs and are not subject to other AML/CFT measures.

17. **There is limited indication that the currently covered DNFBPs are in fact implementing preventive measures.** No systems exist for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements and little training has been provided to DNFBPs. No STRs have been submitted by DNFBPs.

Legal Persons and Arrangements & Non-Profit Organizations

18. **Legal entities have legal status from the moment they are entered in the National Direction of Public Registries is administratively dependant of the Supreme Court of Justice.** Registries are manual and only record information from 1986 onwards (i.e. from five years after the creation the National Direction of Public Registries). Prior to the creation of the National Direction of Public Registries, records were registered with the courts. While some of these records have been recovered from the courts, the vast majority of them have been reported lost. Moreover, there are no laws requiring adequate transparency concerning the beneficial ownership of legal persons. The mission was unable to obtain precise information on the number of registered corporations or non-profit organizations since it is still being maintained manually.

19. **There are no measures in place to ensure that bearer shares are not misused for money laundering.** The laws do not require adequate transparency concerning the beneficial ownership and control of legal persons issuing bearer shares and competent authorities are unable to obtain or have access in a timely fashion to adequate, accurate and current information on their beneficial ownership and control.

20. **The National Direction of Public Registries records only those trust agreements involving the transfer of ownership rights of property subject to registration.** As a

result, trust agreements involving any other type of property are not subject to registration requirements.

21. **Paraguay has not reviewed the adequacy of domestic laws and regulations that relate to nonprofit organizations**, nor has it used available sources of information to undertake domestic reviews of, nor has the capacity to obtain timely information on the activities, size and other relevant features of its non-profit sectors for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics.

National and International Co-operation

22. **There is an extremely narrow level of cooperation and coordination among law enforcement authorities which significantly affects the effective detection and pursuit of serious offences**, particularly those committed by organized crime, such as drug trafficking offences. Given the high levels of drug production and trafficking, trafficking in persons, smuggling and suspected arms trafficking, the lack of adequate controls at the borders is of significant concern. While competent authorities in Paraguay have some legal authority to identify and trace property that is, or may become, subject to forfeiture, the poor conditions of the national registries make it extremely difficult for them to obtain adequate, accurate and current information of a person's property in a timely fashion.

23. Foreign authorities may request legal assistance on criminal matters either through the MFA or the OAG. Letters of request may be received at the MFA or at the OAG (Article 13.5 of Law No. 1,562/00 assigns the OAG a role in the promotion of international cooperation against organized crime).

24. The OAG is the Central Authority for letters of request formulated in the context of the multilateral conventions and bilateral treaties of which Paraguay is a party, while the MFA is the Central Authority for all requests outside the context of international instruments. Letters of request received by the OAG are processed more promptly than through the MFA, which can take several months.

25. While the OAG appears to have the means at its disposal that would allow it to expedite the MLA process, the effectiveness of the measures and mechanisms in place for international cooperation are difficult to assess due to the limited information available. There may be delays when dealing with requests that are not transmitted directly to the OAG but the lack of systematic compilation of data and statistics on all incoming and outgoing requests prevents the mission to form a comprehensive view on the use of mutual legal assistance.

26. In any event, given the limitations of the ML offence together with the absence of a FT offence, the possibility of providing both MLA and extradition in relation to ML or FT appear rather limited.

Other Issues

27. **Competent authorities are not adequately resourced to address AML/CFT issues.** Competent authorities do not have an adequate structure and sufficient technical staff and other resources for full AML/CFT supervision across all sectors. The UAF does not have sufficient funding and staff for undertaking its functions and this may lead to inadequate attention to AML/CFT issues. Statistics on AML inspections conducted, and on the sanctions applied, on STRs, prosecutions for money laundering, as well as related seizure and confiscation data is not comprehensive or consistently kept, which makes the assessment of the effectiveness of these regimes difficult. The competent authorities do not appear to use the limited information that is available to review the effectiveness and efficiency of systems for combating money laundering.

1. GENERAL

1.1. General Information on Paraguay

28. Paraguay occupies a strategic position at the centre of South America. The Republic of Paraguay is a landlocked country lying on both banks of the Paraguay River, bordering Argentina to the south and southwest, Brazil to the east and northeast, and Bolivia to the northwest. The country's total area is 406,752 km²; the Paraguay River divides it into two regions with very different characteristics. The Western Region or Chaco presents a flat topography in almost its entirety, its surface represents more than 60 percent of the national territory. The Eastern Region, covering an area of 159,827 km², is inhabited by around 98 percent of the population. The population of Paraguay amounts to 5,163,198 inhabitants¹, of which 2,928,438 (56.7 percent) reside in the urban areas, while and 2,234,761 (43.3 percent) reside in rural areas. Two-thirds of the population of is concentrated in the city of Asunción.

Government

29. Politically and administratively the country is divided into 17 departments, themselves divided into districts, which in turn are divided into municipalities and rural districts, which enjoy political, administrative and rule-making autonomy for the management of their interests, and self-sufficiency in the collection and investment of its resources. The city of Asuncion is the capital of the Republic and seat of the branches of government. It is a Municipality, and is independent of any department.

30. The 1992 Constitution establishes a presidential government system, with three independent branches: the Executive, the Legislative and the Judiciary. The Executive Power is exercised by the President of the Republic, which can be substituted with all its powers by the Vice-President. Both are democratically elected by popular vote to serve five-year term and cannot be reappointed to their posts. The President heads the Executive branch and is the chief of staff and commander of the armed forces. The meeting of all ministers, convened by the President is called the Council of Ministers. The Council of Ministers aims to coordinate the executive tasks boost the government's policy and take collective decisions. The government of each department is exercised by a governor and a Departmental Board, elected by direct vote of citizens living in the respective departments, in elections coinciding with general elections, and last five years in office. The governor represents the executive branch in implementing national policy. The government of Municipalities is headed by a mayor and a Municipal Board, which are popularly elected.

31. The 2008 Paraguayan general election was held in Paraguay on April 20, 2008. The presidential election was won by opposition candidate Fernando Lugo of the Patriotic Alliance for Change, who defeated Blanca Ovelar of the long-ruling Colorado Party. The new government assumed its functions on August 15, 2008.

32. The Legislative Power is exercised by the Congress, composed of a Senate (45 members) and a Chamber of Deputies (80 members); members are elected by popular vote to serve five –year terms.

¹ National Census of Population and Dwellings of August 28, 2002.

The elections for Congress were held in closed lists (no votes for each candidate for deputy or senator, but by a list submitted by each political party), simultaneously with the presidential election. The deputies are elected by department, while senators are elected nationally, both for a period of five years and may be reappointed.

33. The Judiciary branch is headed by the Supreme Court which is composed of nine members and by courts established by law. The Supreme Court is the highest court of the Republic of Paraguay. The Senate in agreement with the President to appoint its nine members or ministers, based on lists submitted by the Council of the Magistracy, after selection based on suitability, with consideration of merit and qualifications.

Economy

34. Paraguay's economy is fundamentally agrarian, with over 40 percent of the population living in rural areas according to official statistics. Agriculture and agribusiness represent also about 40 percent of output and employment and account for almost all registered exports. The informal sector traditionally forms an important part of the Paraguayan economy. Unregistered individual workers and vendors form an important part of the Paraguayan labor force, mostly in the activity of informal import and re-export of several goods, like electric appliances, cigarettes and liquor, among others. Paraguay has been known for some time as a conduit for counterfeit branded goods destined for other countries in South America. A significant number of these goods are counterfeit. During recent years this activity has been under pressure from increased vigilance on the part of the Brazilian customs authorities as well as by the Paraguayan government's efforts to achieve higher tax revenues. Since 2003 the Paraguayan government has taken some measures to tackle illicit commerce and trade in the informal economy and to develop strategies to implement a formal, diversified economy.

35. Paraguay has displayed a good performance in the last few years, in part as the result of a prudent macroeconomic management since 2004 that brought the country out of a severe debt and banking crisis and the significant price increase for key commodities exported by Paraguay (e.g., soy bean and beef). With real Gross Domestic Product (GDP) growth at an average of 3.8 percent for the 2004-2006 periods, GDP amounted to 6.4 percent in 2007, or an improvement in GDP per capita of 4.5 percent. 2007 GDP is equaled USD 9.208.953.000,00. Inflation during 2007 was 6.4 percent, 12.5 percent lower than the result observed in 2006. Per capita GDP in 2007 equaled USD 1.546,00. The unemployment rate was 6.7 percent for 2006. In terms of the Human Development Index, Paraguay ranks 95th among 155 countries (United Nations Development Program's Human Development Report 2007/2008²).

36. In 2007, the central government ended the fiscal year with an accumulated surplus of PYG 592 billion representing approximately 1Percent of 2007 (GDP). The fiscal performance in recent years recorded surpluses of PYG 357,147 million in 2005 and PYG 264,412 million in 2006, was mainly due to income growth in nominal terms grew exceeding expenditure. The increase in revenue was mainly attributable to the increase of the revenue from Income Tax, Non-Income Tax and Capital Gains taxes by PYG 724,052 million (11.5 Percent), PYG 531,852 million (16.3 Percent) and PYG

² Compiled on the basis of 2005 data and published on November 27, 2007.

4,676 million (9.2 percent) respectively. In turn the running costs increased by PYG 826,043 (11.6 percent) and Capital Expenditure by PYG 106,128 million (4.8 percent).

37. In late 2007, the terms of trade recorded improvements of 1.4 percent in year terms. Merchandise trade by 2007 recorded a deficit balance of \$ 3.124,2 million, a figure lower than the 6.7 percent deficit seen in 2006 and reached USD 3.347,9 million. This decline in the trade deficit is due to the increase of export value registered in relation to that of imports.

38. Ciudad del Este, the third biggest city in Paraguay with over 700,000 inhabitants, generates about 60 percent of Paraguay's GDP and is the third largest free-tax commerce zone in the world, after Miami and Hong Kong. The city's economy (and Paraguay's economy as well) relies heavily on the health of the Brazilian economy, as 95 percent of Paraguay's share of the energy generated by the Itaipú Dam is sold to Brazil, and that every day a significant number of Brazilian citizens cross the border to buy less-expensive products (mostly electronics). Smuggling is a major occupation in the city, with some estimates putting the value of this black market at five times the national economy.

39. The World Bank's governance indicators shows low levels for Paraguay compared with other GAFISUD member countries. The ranking is significantly lower in terms of the rule of law, and control of corruption.

Governance indicators - Paraguay³

Indicators	Score (-2.5 to +2.5)		
	2005	2006	2007
Voice and Accountability	-0.40	-0.40	-0.37
Political Stability	-0.52	-0.60	- 0.25
Government Effectiveness	-0.83	-0.85	-0.85
Regulatory Quality	-0.80	-0.64	-0.57
Rule of Law	-1.00	-0.99	-0.97
Control of Corruption	-1.28	-1.12	-0.96

40. In the last few years the government has undertaken several measures to improve good governance in the public sector. Reflecting the progress made in the past three years, Paraguay's ranking in the Transparency International Corruption Perceptions Index has risen from 129th out of 133 countries, with a score of just 1.6 in 2003, to 138th of 180 countries, with a score of 2.4 in 2007. Although significant improvements have been achieved in reducing corruption and increasing public transparency and accountability, Transparency Paraguay's 2007 National Survey on Corruption⁴, shows that the general public still widely believes that corruption encompasses all levels of society

³ Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2008: *Governance Matters VII: Governance Indicators for 1996-2007*

⁴ *Encuesta Nacional Sobre Corrupción 2007, publicado por Transparencia Paraguay, septiembre 2007, Asunción, Paraguay*

and reaches the highest levels of government. The Paraguayan authorities openly acknowledge that corruption is a serious problem and poses a major threat to the country's development. The public sector is characterized by a lack of real controls and oversight as well as the overlapping of authority and functions. While corruption cases can be found at several levels of the government and the private sector, particular emphasis was made by both government officials and representatives of the private sector on the perceived lack of independence of the Judiciary from political power and widespread dishonesty among customs and law enforcement officers. The mission was informed that the fight against corruption is one of the incoming government's highest priorities.

1.2. General Situation of Money Laundering and Financing of Terrorism

41. At national and international level Paraguay is confronted with two main illicit activities that generate important profits prone for money laundering: drug trafficking and smuggling (of both regular contraband and counterfeited goods).

42. The geographic location of the country, located at the centre of an important regional drug transit zone flanked by the cocaine producing countries of the Andean region and Brazil and Argentina, makes Paraguay a major transit point for cocaine. According to the national antidrug authorities, this traffic would represent between 30 and 40 metric tons a year, for the most part destined to countries in the Southern cone, Europe, Africa and the Middle East. During 2007, 823 kg of cocaine were seized according to the national antidrug authorities.

43. As indicated by the United Nations in its last World Drug Report, Paraguay is also the leading marijuana-producing country in South America, with a production considered to 5,900 tons per year, that is that would correspond to 59 percent of the total production of this product in South America (see 2008 World Drug Report, page 98). Marijuana production is essentially located near the Brazilian border in the northwest of the country. Paraguayan marijuana is primarily trafficked for consumption in neighboring countries.

44. Cocaine trafficking generates earnings in the country that are difficult to estimate due to its regional character, conducted as much by local as by regional narcotics traffickers from bordering countries. Nevertheless, marijuana trafficking with a production cost of USD 10 per kg in a Paraguayan field and a selling price of USD 300 to USD 1,000 per kg in the neighboring countries according to its proximity, the gain of this illicit business would at least generate more of USD 2 billion per year.

45. Revenue from smuggling is estimated at USD 100 million per year in the US Department of State's 2008 International Narcotics Control Strategy Report. This activity includes not only the import-export of mercantile products of licit origin, to avoid corresponding taxes, but also an important traffic of counterfeited, such as musical CDs, DVDs, clothing and accessories, electronics and computer technology produced in East Asia, as well as counterfeited cigarettes and goods smuggled outside the country. The mission did not receive elements that would allow an estimation of the revenues generated by these traffics, which is known to be carried out both by Paraguayan nationals and citizens of bordering countries, essentially East Asian and Middle Eastern origin. Nonetheless, data collected by of the Paraguayan Ministry of Industry and Economy's (MIC) Specialized Technical Unit (UTE) for combating crimes against intellectual and industrial property rights shows that goods with a total value of USD 45 million were seized in 2007.

46. Based on the number of criminal proceedings opened against senior public officials, including against a number of former Presidents, it would appear that another significant source of laundered illicit income is public corruption. This fact illustrates the magnitude of the corruption problem, which makes the country vulnerable to organized crime.

47. At the margin of the abovementioned main lucrative criminal activities, additional significant profit-generating offenses are the illicit trafficking of human beings, weapons, motor vehicles, and protected animal and vegetal species. Most of these traffics occur at the area located in the northwest of the country, at the junction of Paraguay, Brazil and Argentina, essentially in the cities of Salto del Guairá, Pedro Juan Caballero, and particularly Ciudad del Este, all in the Department of Alto Paraná. Ciudad del Este is the third biggest Paraguayan city, with 700.000 inhabitants, bordering of the Brazilian city of Foz de Iguazú, which it is separated by a bridge on Paraná River that serves as a natural border between the countries.

48. The mission has been able to verify in situ the importance of the commercial activity of this strategic city, which is considered the third most important tax-free zone in the world. Every day there are tens of thousands of people who cross the bridge from Foz de Iguazú to Ciudad del Este, taking advantage of an absence of controls on persons crossing the border. This certainly facilitates all the mentioned illicit traffics.

49. From the information collected by the mission, it does not appear that the performance of the law enforcement authorities is leading to a decline of the aforementioned illicit activities. Although the judicial authorities have had some successes in the last two years in arresting local and foreign drug traffickers of a certain importance, it seems that the principal leaders of organized smuggling organizations are not being targeted.

50. The authorities have not provided the mission with sufficient data allowing an assessment of the economic loss suffered by the country as a result of these crimes. Nevertheless, it appears to represent a significant number in relation to the economy of the country, where the informal economy is assumed to represent the largest part of real GDP. No data was provided either on the estimation of the volume of earnings generated by these illicit activities susceptible of money laundering.

51. Nevertheless, the data collected during the mission shows that 90 percent of the Suspicious Transaction Reports (STRs) received by the UAF operating within the SEPRELAD, are linked to financial operations conducted by legal entities, which indicates that the commercial activities seem to be the most common mechanism for money laundering, after the use of the financial system through the banking institutions. Another method is the use of currency exchange houses and money remitters to send high amounts of funds abroad. In addition, the presence of persons likely to carry out *Hawala* transfers from Ciudad del Este has been reported to the mission.

52. In relation to cash cross border trafficking, the mission confirmed the absence of effective controls on the amount of currency that can be brought into or out of Paraguay, which explains the lack of results on this matter from Customs. The unchecked passage of persons (in particular via automobiles and motorcycles) between Foz de Iguazú and Ciudad del Este certainly represents a mayor risk for the clandestine transport of currency. Cross-border reporting requirements are limited to those forms issued by airlines at the time of entry into Paraguay. Persons transporting U.S. \$10,000 into or out of Paraguay are required to file a customs report, but these reports are not collected or

checked. Customs operations at the airports or land ports of entry provide no control of cross-border cash movements.

53. According to the UAF, other money laundering methods carried out in the country concern investments in real estate, importation and sale of luxury automobiles, jewelry businesses, cattle dealing, and farming.

54. To date Paraguay has not enacted legislation against terrorism and its financing, even though that this deficiency has affected its relations with international organizations like Egmont Group. Paraguay has not been confronted by terrorism at the national level, as there are no local subversive organizations active in the country.

55. The mission tried to estimate the terrorism financing risk in the country. With regard to the great quantity of citizen with a Middle Eastern origin and a commercial occupation at Paraguay's border with Brazil and Argentina, authorities have informed the mission that quantities of money are sent periodically to this region or other places, as through wire transfers, as through other informal ways, as well as the presence of Islamic charitable organizations. Nevertheless no objective and significant data has been provided or collected by the mission that are susceptible to support the affirmation that these funds ended, total or partially, in hand of designated terrorist organizations.

56. In the last three years criminal proceedings were brought up against individuals operating at Paraguay's border with Brazil and Argentina, which had been designated in 2006 as terrorist financiers. No evidence of financial support to terrorist groups was found by the Paraguayan authorities, and the criminal cases ended with convictions for tax evasion against some of the indicted individuals.

57. The noticeable debility of the cross-border controls and the shortcomings of the local authorities in charge of controlling the commercial and financial activity of this abroad population, as well as the active presence of criminal organizations with great financial power, make the country vulnerable to this type of criminal activities. Representatives from Paraguay, Brazil, Argentina and the United States meeting in Asunción in the framework of the 3 + 1 Group on Tri-Border Area Security, issued a joint declaration in January 2008 that no terrorism or FT activities have been detected in the area (a similar declaration was issued in December 2006). Despite the fact of none of these claims have been confirmed to date, the combination of illicit activities in this region and the weak of the law application authorities is worrying y should require a priority attention from the GOP.

58. The Paraguayan National Antidrug Secretariat (*Secretaría Nacional Antidrogas* - SENAD) informed the mission of cases of cocaine seizures with the mark of a subversive organization from an Andean country which has been designated as a terrorist organization by the European Union. It was also reported that, on some occasions, drugs smuggled by the same organization has been exchanged against arms. This activity of a designated terrorist organization illustrates the FT risk in Paraguay and the need for the authorities to adopt without delay an anti-terrorism legislation consistent with international norms.

1.3. Overview of the Financial Sector

59. The financial system in Paraguay is comprised of financial institutions under the responsibility and supervision of the Superintendencia of Bank (SIB), the Superintendencia of Insurance (SIS), the Securities National Commission (CNV), and the National Institute of Cooperatives (INCOOP).

60. Total assets of banking institutions amounted to Gs 21,861,093 million (approximately US\$5,580 million) in 2007. The two largest sectors within the financial sector in Paraguay are the banking sector, which accounted for approximately 67 percent of total assets, followed by the cooperatives sector, which accounted for an additional 24 percent of the financial sector.

61. The table below reflects the breakdown for each type of financial institution, permitted activities, and competent authority responsible for AML/CFT supervision.

Table 1. Financial Institutions and Supervisory Authority

Type of Institution	Permitted Activity	Competent Supervisory Authority
Banks	Acceptance of deposits, granting credit facilities, discount, purchase or sale of negotiable instruments, trading in foreign exchange instruments, issuance of checks and other payment instruments, and any other activities specified by a decision from the CBP.	SIB
Exchange Bureaus	Changing and trading in different currencies and travelers checks, and acceptance of remittances from licensed correspondents.	SIB
Finance Companies	Granting credits or any specialized lending activities decided by the CBP	SIB
Brokerage and Mutual Funds Firms	Engaging directly or indirectly in the business of offering, selling, buying or otherwise dealing or trading in securities.	CNV
Insurance Companies	Insurance coverage against accidents and fire, marine and land insurance, health insurance and others.	SIS
Cooperatives	Acceptance of deposits, granting credit facilities, issuance of checks and other payment instruments, and any other activities specified by a decision from the INCOOP	INCOOP
Money remitters	Acceptance and remittance of	None designated.

	funds	
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62. The structure of the financial sector in Paraguay at the time of the mission is summarized in the following table.

Table 2. Structure of the Paraguayan Financial Sector

Type of institution	Number of institutions
Commercial banks (includes 1 government owned)	14
Savings and Loans	2
Agencies (of foreign banks)	2
Finance companies	11
Retirement Fund	1
Development Bank	3
Exchange Bureaus	27
Insurance companies	31
Re-insurance companies	131
Insurance agents	517
Insurance brokers	*
Life insurance companies	2
Re-insurance agents	5
Registered Cooperatives	1,110
Cooperative (Active)	648
* data not available from the authorities	

63. There are 31 insurance companies operating in the market, of which about two recently started offering life insurance products. The rest of the companies are involved almost exclusively in non-life business.

Legal framework for the financial sector

64. The Central Bank of Paraguay (CBP), established by Law No. 489/95 is the competent authority for licensing for banks, finance companies, exchange bureaus and other entities, and insurance companies. The CBP houses two superintendencies, banking and insurance.

65. The Superintendence of Banks, established by Law No. 861/96, is empowered by the Central Bank with the responsibility to supervise and control said institutions, including with respect to ML for: banks, finance companies, exchange bureaus, and other entities, savings and loans (equivalent) companies, agencies, government owned banks, and development banks.

66. The Superintendence of Insurance, established by Law No. 827/96, is also empowered by the Central Bank with the responsibility to supervise and control insurance companies, including with respect to ML insurance companies, agents, brokers, re-insurance companies, appraisers, and external auditors.

67. The National Securities Commission, established by Law. No. 1284, is the supervisor for the brokerage and mutual funds firms within Paraguay, including stock exchanges, investment businesses for both domestic and foreign.

68. The National Institute of Cooperatives, established by Law No. 438/94, is responsible for the licensing process, supervision and control of cooperatives, including with respect to ML.

69. Any financial institution conducting financial activities in or from Paraguay must be authorized by one of the competent supervisory authorities

1.4. Overview of the DNFBP Sector

70. Out of the list of DNFBPs identified by the FATF and that operate in Paraguay, only the Gambling Establishments (paragraph j), the Real Estate Agents (paragraph k), Pawn shops (paragraph m) and Dealers in Precious Stones and Metals (paragraph n), are reporting entities under Article 13, Law No. 1,015/97.

71. Lawyers, notaries, other independent legal professionals and accountants are not covered by Law No. 1,015/97. There is no separate category of business dealing with Trust and Company Services. Trust and company formation services are offered by lawyers.

72. No information was provided about the activities or business that DNFBPs typically engage in, or regarding their number and size.

73. Regarding Gambling Establishments, the Supervisory Body is the National Commission for Gaming (CONAJZAR) who has reported that there are currently 5 (five) Gambling Establishments in Paraguay. The Internet Gambling Establishments are not regulated.

74. Regarding the importance of the sector it has been informed that the largest Casino is the one located in Asuncion which has approximately 3000 to 4000 people per week. There has not been provided to the mission information regarding the other categories of DNFBP.

75. The only information provided by authorities at the time they responded to the questionnaire assessment has been that the Real Estate Agents are authorized and controlled in the field of taxation, by the Undersecretary of State Tax Ministry of Finance under the provisions of Law No. 125/91 and Law No. 2,421/05 respectively.

76. They also informed that there are two Unions: the Paraguayan Loteadoras Business Association (APEL) and the Paraguayan Chamber of Real Estate Companies (CAPEI). There is no evidence that there is control or supervision regarding the Real Estate Agents to ensure compliance with the requirements AML/CFT.

77. With respect to Dealers in precious stones and metals it is not known if they are subject to any oversight body. According to the authorities in Paraguay, they must comply with their obligations under existing legislation relating to the pursuit of trade and those emanating from the tax legislation.

1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements

78. Paraguayan legislation provides for two core legal entities for the purpose of carrying on a business activity: the stock corporation (*Sociedad Anónima*) and the limited liability company (*sociedad de responsabilidad limitada*). Besides these business organizations, the law Paraguayan Civil Code (Law No. 1,183/85) provides for the following types of legal persons: (1) simple partnership (*sociedad simple*); (2) general partnership (*sociedad colectiva*); ordinary limited partnership (*sociedad en comandita simple*); (3) limited partnership with shares (*sociedad en comandita por acciones*); (5) limited liability personal company (*empresa individual de responsabilidad limitada*); and (6) branches of companies established in a foreign country.

79. Corporations are the most significant type of business organization. To establish a corporation, at least two shareholders must execute the articles of incorporation in the form of public instrument with the intervention of a notary public and then register it at the Public Registry (*Registro de las Personas Jurídicas y Asociaciones*) which is under the administration of the Judiciary. Corporations acquire legal status and begin their existence after its registration, following consultation with the Treasury's Legal Service (*Abogacía del Tesoro*) within the Ministry of Finance (MOF), which must be issued within a period no longer than 8 working days. This type of company must also be registered with the Public Registry of Commerce under the General Directorate of Public Records. Only then society will have the capacity of law and fact to act in the commercial field.

80. The corporation may issue either nominative or bearer shares. Shareholders are not personally liable and their liability is limited to the amount of their share investment. The General Meeting of Shareholders is responsible for taking the most important decisions, including electing the Board of Directors. The Board consists of at least three persons charged with the management of the company's business. Share certificates must be numbered and signed by one or more directors, and contain: Name of corporation, date and place of registration, subscribed capital, number, par value and type of share. Share certificates may only be issued once they are paid in full, until such time; shareholders are given nominal provisional certificates and remain liable for payment. By -laws may establish different kinds of shares with or without different rights. Transfer of shares may be subject to special conditions. Within one month from establishment, the corporation is also registered with the State Revenue Undersecretariat (*Subsecretaría de Estado de Tributación*), which controls all physical or legal entities engaged taxable activities in the Republic of Paraguay.

81. Two or more persons or corporations may establish a partnership in the form of a limited liability company. An SRL may be formed by two (but not more than twenty-five) partners upon formalization of an incorporation contract in the form of a public deed (*escritura pública*). The company capital must be fully subscribed and at least 50 Percent paid-in in cash. There are no minimum capital requirements, but it must be adequate for the type of business the SRL will engage in. Export and import companies must meet certain requisites imposed by the CBP. Capital may also be incorporated in goods or fixed assets, which must be transferred to the company through the incorporation documents or when the company's contract is recorded at Public Registry. Partners remain jointly and severally liable towards third parties for the value of goods and assets incorporated.

82. Administration and representation of an SRL is delegated to one or more managers (*gerentes*), who may be partners or not and who have same rights and duties as the directors of corporations (*sociedades anónimas*). There are no limitations to their terms. Managers may not act on their own initiative in any business transaction that is not included within the purpose for which the SRL was formed, nor may they assume the representation of another person of commercial entity with similar business without express authorization of partners. Managers are personally and severally liable before the SRL in case of mismanagement or violation of the company charter.

83. All partners have the right to take part in decisions of the company. If the SRL's charter does not determine how partners will reach decisions, the rules for general meetings of corporations (*sociedades anónimas*) will apply. All resolutions to change the purpose of the company, or to transform, merge, or amend the SRL's charter, which will impose more responsibility to the partners, require unanimous consent. Any other resolution is passed by majority of capital; each quota represents one vote.

84. The SRL can operate once the social contract has been registered in the Public Registry of Commerce. This registration is not mandatory, but its omission created for all partners with unlimited liability on third parties.

85. The registration system is manual and only record information from 1986 onwards (i.e. from five years after the creation the National Direction of Public Registries). The entries are not regularly updated so the number of stock corporations or SRL in the country is uncertain. Although the authorities informed the mission that the administrative authorities and those responsible for law enforcement have full access to information in the registry, it is not reliable, thus limiting the usefulness of the registry for identifying the beneficial owners of commercial companies.

86. Another business vehicle in Paraguay is the trust, which is regulated by Law No. 921/96. It is not known how many trusts are active in Paraguay, as only those trust agreements involving the transfer of ownership rights of property subject to registration. Moreover, the registry is also affected by the limitations indicated above. Additionally, there are also no laws requiring transparency concerning beneficial ownership and control of trusts, which makes them vulnerable to criminal abuse.

1.6. Overview of strategy to prevent money laundering and terrorist financing

AML/CFT Strategies and Priorities

87. Despite the country's capacity constraints (limited resources and expertise); the Paraguayan authorities have prioritized AML/CFT efforts in by undertaking efforts to strengthen its relevant legislation. Priority areas for Paraguay include establishing an effective financial intelligence institutional structure legal and regulatory AML/CFT regimes; building the capacity of regulatory and enforcement institutions to implement the regime; and ensuring effective national and international cooperation.

88. With the enactment of Law No. 1,015/97, Paraguay took steps to implement the international standards by defining its predicate offences, setting up SEPRELAD, and by introducing money laundering as a crime in the Penal Code (Article 196). This has been accompanied by the

implementation of AML/CFT measures and inter-agency coordination such as: memoranda coordination of the Financial Analysis Unit (UAF)-SEPRELAD with national and international agencies with jurisdiction in the fight against money laundering, administrative decisions issued by SEPRELAD (regulations of the Law No. 1,015/97) aimed at setting greater control and prevention, as well as presenting a bill which is currently stalled in Congress which would introduce important modifications in terms of prevention and control of ML.

89. An inter-agency working group has been set up to draft a special law that criminalizes terrorism and its financing, a task developed jointly with representatives of the Judiciary, Office of the Attorney General (OAG), and the UAF. In addition, an amendment to Law No. 1,015/97 aiming to improve the operations of the UAF was submitted to Congress and is currently being examined.

90. Money laundering prevention and suppression agreements of interinstitutional cooperation have been signed between UAF-SEPRELAD and SENAD, the OAG, the National Institute of Cooperatives (INCOOP), the Paraguayan Association for the Protection of Intellectual Phonographic Rights, the National Customs Directorate, and Interpol Paraguay. Furthermore, bilateral exchanges of confidential information on ML/FT issues with counterpart agencies at the international level have been contracted as well.

The Institutional Framework for Combating Money Laundering and Terrorist Financing

Financial intelligence

91. **SEPRELAD.** Secretariat attached to the Office of the President of the Republic and established as the authority responsible for implementing the AML preventive legal provisions by Law 1015 of 1997. This Secretariat is made up of an intergovernmental council integrated by the following high level authorities:

- The Minister of Industry and Trade, who shall preside over the Secretariat;
- A member of the board of directors of the CBP, nominated by the board, who shall deputize for the president if the latter is absent or indisposed;
- A member of the National Securities Commission, nominated by the Commission;
- The Executive Secretary of the National Drug Control Secretariat (SENAD);
- The Superintendent of Banks; and
- The Commander of the National Police Force.

92. Article 28 of Law No. 1,015/97 defines the following functions for SEPRELAD:

- It shall, within the framework of the laws, issue administrative regulations to be observed by the obligors with a view to preventing, detecting and reporting operations to launder money or property;

- It shall obtain from public institutions and the obligors all information that may be related to money laundering;
- It shall examine information received in order to establish suspicious transactions and operations or patterns of money or property laundering;
- It shall keep statistical records of the movement of property connected with money or property laundering;
- It shall order the investigation of any transactions that give rise to a reasonable presumption of an offence of money or property laundering;
- It shall refer to the Office of the Public Prosecutor any cases in which circumstantial evidence arises of the commission of an offence of money or property laundering so that the appropriate judicial investigation may be initiated; and
- It shall report to the bodies and institutions responsible for supervising the obligors any detected cases of administrative infringements of the law or the regulations, for the purposes of their investigation and punishment, as appropriate.

93. **UAF.** Operates within SEPRELAD as the country's FIU. It is responsible for the "Financial Analysis Unit" to assess and analyze the information received by the SEPRELAD. The Financial Analysis Unit attached to the SEPRELAD. It is responsible for processing financial information and forwards its analysis to the OAG, as appropriate. The UAF is the *de facto* secretariat of SEPRELAD, and administers and safe keeps all reports and documents dealt by SEPRELAD. The UAF also undertakes the coordination of the joint work with national and international agencies responsible for enforcing AML laws.

Financial supervision

94. **The CBP.** As the State's Central Bank, it promotes efficiency, stability, and soundness of the financial system, as well as supervising compliances with tax provision by banks, financial and other credit institutions. Additionally, it adopts orders, surveillance, and discipline measures for: a) banks, financial and other credit institutions, public or private, domestic or foreign, operating in the country; b) entities which are not banks but carry out financial or credit operations; c) money exchange houses; and d) natural or legal persons under special laws.

95. **The Superintendence of Banks.** A technical body within the Central Bank, with functional, administrative and financial autonomy to exercise in exercising its powers. It has oversight over all banks and financial institutions.

96. **The Superintendence of Insurance.** Also a technical body within the Central Bank with functional, administrative and financial autonomy in exercising its powers. It has oversight over all over all insurance and reinsurance companies.

97. **The National Securities Commission.** Supervises and monitors the compliance to the Law of Stock Exchange Markets and its regulations as stated by the Law No. 1,284/98. It is responsible for stock market registration on which are inscribed the values subject to public offer, issuers, stock exchanges, brokerage firms, fund administrator societies, the external auditors, risk rating companies, and securitization companies.

98. **INCOOP.** An autonomous legal person of public law established by Law No. 438/94 as the supervisory authority for the cooperatives sector.

Law enforcement/Prosecutions

99. **The Judiciary.** In accordance with Article 247 of the Constitution, the administration of justice is in charge of the Judiciary, exercised by the Supreme Court, courts and the courts, as established by this Constitution and the law. The Judiciary enjoys budgetary autonomy, and its budget must be approved by Congress. The appointment of members of the Supreme Court is made by the Senate with the constitutional settlement of the executive branch, prior process for selecting candidates and integration into lists formed by the Council of Magistracy. The Supreme Court in turn appoints the members of other courts of the country, on a proposal from the Council of Magistrates.

100. **The Office of the Attorney General (OAG).** Pursuant to section 266 of the Constitution the OAG represents the society in the courts, and enjoys administrative and functional autonomy in carrying out its duties and executing its powers. The Attorney General is appointed by the Executive on a proposal from the Council of Magistrates and with the approval of the Senate for a 5-year term. In the area of AML, it works in conjunction with the UAF and the UIDF when making an inquiry or receiving the notice of a possible laundering operation of illicit proceeds. It is responsible for the investigation and preparation of the indictment, which is undertaken through its Economic Crimes and Anticorruption Office.

101. **The National Police.** Under the authority of the Interior Ministry, is responsible for law enforcement and internal security. Pursuant to Law No. 222/93, its Department of Economic Crime Investigation is responsible for the investigation economic and financial offences, such as counterfeiting securities or currencies and other instruments public scams and fraud, corruption, extortion and related offences, as well as including money laundering.

102. **The Secretariat for the Prevention and Investigation of Terrorism (SEPRINTE).** Paraguay's counterterrorism Secretariat operates under the Police Command working exclusively on the prevention and investigation of terrorism. SEPRINTE is responsible for planning, coordinating and executing tasks related to the prevention and suppression of terrorist acts. SEPRINTE and the Ministry of the Interior coordinate their activities with the National Defense Council and the Council for the Internal Security of the Nation, pursuant to Law No. 1,337/99 on National Defense and Internal Security. With respect to terrorism prevention, SEPRINTE staff monitors the entire national territory, including the at Paraguay's border with Brazil and Argentina, in coordination with the Department of Economic and Financial Crimes (DEFC) of the National Police.

103. **SENAD.** Governmental Authority with the task of implementing and enforcing the government policy for combating drug trafficking and the prevention of drug-related money laundering and the recovery of the proceeds of illicit drug trafficking. SENAD includes within its organizational structure a Financial Crimes Investigation Unit (UIDF) established by Article 31 of Law No. 1,015/97. Under this Article, the UIDF is responsible for conducting the investigation into the operations arising out *prima facie* evidence of money laundering. The result of these investigations should be reported to the Executive Secretary of the SENAD for submission to the SEPRELAD, according to Article 28 of the same law.

104. **National Customs Directorate.** An autonomous institution responsible for enforcing the legislation facilitating the cross-border transportation of goods, and preventing and suppressing smuggling.

105. **UTE.** A Specialized Technical Unit (UTE), a specialized intelligence unit created by executive decree within the MIC to identify, prevent and prosecute piracy, forgery and tax evasion. It is composed of specialists from the MIC, the MOF, the Ministry of Interior, the National Directorate of Customs and the Armed Forces, working in coordination with the Attorney General.

Others

106. **Ministry of Foreign Affairs (MFA).** The Chancery of the Ministry of Foreign Affairs directs and coordinates the activity on the themes of Paraguayan international policy. Its General Directorate for Special Affairs is responsible for work in the areas of human trafficking and migration; security and counter-terrorism issues; and the fight against drug trafficking, economic crimes and related offences. The Directorate's work is carried out in coordination with other government institutions related with each issue, as well as with Paraguayan accredited diplomatic missions abroad, foreign accredited diplomatic missions in the country, and international organizations.

107. **National Gaming Commission (*Comisión Nacional de Juegos de Azar - CONAJZAR*).** An administrative dependency of the MOF responsible for the planning, control and oversight over the activities of persons and legal entities operating in the gaming sector.

Approach Concerning Risk

108. Authorities in Paraguay have not conducted an AML/CFT risk assessment. Additionally, financial institutions and DNFBPs do not employ a risk-based approach in relation to their AML/CFT obligations.

Progress since the Last IMF/WB Assessment or Mutual Evaluation

109. The second round mutual evaluation of Paraguay by GAFISUD was completed in December 2005. Relevant actions taken by Danish authorities since 2005 are set forth after the notation of the deficiency or weakness. The main recommendations made by GAFISUD assessors in 2005 were as follows:

- Incorporate all categories of predicate offences mentioned in the 40 Recommendations;
- Specific criminalized the financing of terrorism and establish it as an underlying crime of money laundering;
- Develop statistics regarding the implementation of measures to confiscate, freeze and seize proceeds of crime;
- Establish an effective system for implementing the UN resolutions and allow the freezing of the accounts involved;

- The SEPRELAD/UAF should issue STR reporting guidelines and developed periodic reports, such as statistics regarding the outcome of STRs received and trends;
- The law enforcement authorities, prosecutors and other competent authorities should develop their own training programmes, implement special investigative techniques and develop statistics to have consistent information about effectiveness and efficiency of systems;
- Establish cross-border controls for cash and negotiable instruments;
- Develop specific measures relating to the risk of money laundering and terrorist financing in the required areas;
- Extend the application of AML/CFT preventive provisions to the securities and cooperatives sector;
- Establish measures to allow exchange of information between FIUs;
- Establish provisions on electronic fund transfers in legislation;
- Enact legislation on the regulation and supervision of the cooperative sector;
- Require Money or Value Transfer Systems (MVTS) operators to maintain an updated list of its agents and provide that the same is available to the designated competent authority;
- Establish AML/CFT obligations across DNFBPs sectors;
- Consider extending AML/CFT controls to additional sectors, according to the needs of the country.
- Establish legal requirement for financial institutions to verify the identity of the beneficial owner;
- Redefine the functions of the competent authorities in order to resolve overlap of functions between the UAF and Supervisors;
- Establish mechanisms to implement the 1999 UN Convention for the Suppression of the Financing of Terrorism (the SFT Convention);
- Implement the United Nations Security Council Resolutions (UNSCRs) related to the prevention and suppression of financing of terrorist acts, particularly Resolution No. 1,373;
- Consider sharing confiscated assets with other governments, whose assistance contributed to the success of the forfeiture action;
- Assign responsibility for managing the funds of seized assets;
- Allow mutual legal assistance (MLA) in all cases concerning FT;
- Allow extradition in all cases concerning the FT;

- Allow other forms of cooperation in all cases concerning the FT;

110. The mission considers that modest progress has been achieved overall since the last FATF evaluation. Besides the issuance of a number of Resolutions by the UAF and the ratification of the remaining UN instruments against terrorism, the condition of the AML/CFT system has not changed significantly and is supported by basically the same legal and institutional framework as in 2005. Though the number of STRs has increased in some sectors and prosecutions have been brought, many of the implementation-related weaknesses in the system have not been addressed adequately.

111. Nevertheless, it should be noted that the standards have become more rigorous with the revision of FATF 40 in 2003, and the introduction of a new assessment Methodology shortly thereafter. More recently, the appraisal of effectiveness in the ratings of the FATF 40+9 Recommendations was also a significant change resulting in a more rigorous process for assessing compliance.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

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

2.1.1. Description and Analysis

112. **Legal Framework:** Money laundering is a criminal offense in Paraguay under Article 196 of Paraguay's CC, adopted in 1997 (Law No. 1,160/97) (hereinafter, the "CC").

113. The offence of money laundering had been previously criminalized under the special Anti Money Laundering Law (Law No. 1,015/96). However, the amendment to the CC, adopted after Law No. 1,015/96, incorporated a new and different money laundering offence under Article 196 of the CC, thereby tacitly repealing the criminal provisions contained under Chapter 2 of Law No. 1,015/96, including the money laundering offence contained therein.

114. Despite the absence of an explicit derogation of the criminal provisions contained under chapter 2 of Law No. 1,015/96, which would have certainly been more desirable, there is full agreement among prosecutors and judges that such provisions were tacitly repealed by the amendment of the CC, and that the only money laundering offence currently in force is the one criminalized under Article 196 of the CC. It should be noted however, that although the criminal provisions contained under Chapter 2 of Law No. 1,015/96 are no longer applicable, and all other provisions contained under such law have remained in effect.

115. In accordance with Article 13 of the CC, punishable acts are classified as crimes (*crimenes*) or misdemeanors (*delitos*). Crimes are defined as "*punishable acts sanctioned by more than five years in prison*" and misdemeanors as "*punishable acts sanctioned with up to five years in prison or fine*". Money laundering is a misdemeanor, as the conducts criminalized under Article 196 are sanctioned with up to five years in prison or fine.

116. Except for offences committed by a criminal organization, the scope of predicate offences under Article 196 covers only crimes (i.e. offences that carry a maximum penalty of more than five years).

117. The offence of money laundering is criminalized as follows under Article 196 of Paraguay's CC:

"Article 196:

1. The person who:

1. Hides an object proceeding from:

a) a crime;

b) a punishable act carried out by a member of a criminal organization as defined under Article 239 of the CC;

c) a punishable act referred to under Law No. 1,340/88, sections 37 through 45; or

- 2. With respect to such object, disguises its source, frustrates or endangers the knowledge of its source or location, its finding, its forfeiture, its special forfeiture or seizure, shall be punished with a prison sanction of up to five years or a fine.*
- 2. The same sanction is applicable to the person who:*
- 1. Obtains an object referred to in the previous paragraph, provides it to a third party; or*
 - 2. Guards it or uses it for self or for another, having known its source at the moment of obtaining it.*
- 3. The attempt shall also be punished in such cases.*
- 4. When the author acts commercially or as a member of a band established for the continuous conduct of money laundering, the prison sanction may be increased up to ten years. The provisions of sections 57 and 94 shall also be applicable.*
- 5. The person who in the cases of paragraphs 1 and 2, and for gross negligence, had no knowledge of the source of the object of an illicit act referred to under paragraphs 1 and 2, shall be punished with a prison sanction of up to two years or with a fine.*
- 6. The act shall not be punished in accordance with paragraph 2, when the object has been obtained by a bona fide third party.*
- 7. The objects proceeding from a punishable act conducted outside of the scope of application of this law shall be considered as those referred to under paragraphs 1, 2 and 5, when the act is criminally punishable in the place where it is conducted.*
- 8. The punishment for money laundering shall not be applied to:*
- 1. The person who voluntarily informs or makes someone inform the competent authority about the act, provided that the act were not totally or partially discovered, and that the author was aware of it; and*
 - 2. The person who, in the cases of Paragraphs 1 and 2, and with the conditions of the preceding sub-paragraph, facilitates the seizure of the objects related to the punishable act.*
- 9. When the author, by a voluntary revelation of knowledge, makes a considerable contribution to the clarification:*
- 1. Of the circumstances of the act, beyond the author's contribution to it; or*
 - 2. Of an act referred to under Paragraph 1, illicitly carried out by someone else,*
the court may reduce the sanction in accordance with Article 67 or decide not to apply it".

118. The money laundering offence under Article 196 transcribed above has its source in the German money laundering offence found in Article 261 of the German CC.

119. A new reform to the CC was passed by Paraguay's Congress during the course of the on-site visit (Law No. 3,440/08). Law No. 3,440/08 includes, among others, a new amendment to Article 196 of the CC which will repair a number of the deficiencies identified and discussed below in connection with the money laundering offence currently in force. This includes a solution to the issue of the autonomy of the money laundering offence (i.e. setting forth that a prior conviction for the predicate offence shall not be necessary to prosecute for money laundering) and an expansion of the list of predicate offences. However, Law No. 3,440/08 would not enter into force until mid-2009.

Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offence):

120. The money laundering offence under Article 196 of the CC is not fully in line with the UN Vienna Convention (Articles 3.1(b) &(c)) and the Palermo Convention (Article 6.1).

121. The conducts criminalized under Article 196 are limited to the following: 'To hide'; 'to disguise the source of'; 'to frustrate or endanger the knowledge of the source or location of'; 'the finding of'; 'the forfeiture of, or the seizure of'; 'to obtain, to give to a third party' and 'to guard or use' the object knowing its precedence. As a result, Article 196 fails to cover: the "conversion" or "transfer" and the "acquisition" or "possession" of property. Article 196 also fails to cover in full the 'hiding' or 'disguising' the true nature, location, disposition, movement or ownership of or rights with respect to property, as required by the conventions, and the "assistance of a person involved in the commission of the predicate offense evade the legal consequences of his or her actions"

122. The authorities do not dispute the absence of a conduct covering the "transfer" of property. To the contrary, with regards to the "conversion", the "acquisition" and the "possession" of property, the authorities have argued that these conducts would typically be covered respectively by the "hiding", the "obtaining", and the "guarding" of property under Article 196. However, the authorities have not shown any case-law in support of these arguments.

123. Moreover, it should be noted that a "conversion", an "acquisition", and a "possession" of property may respectively involve different conducts than what the "hiding", the "obtaining" and the "guarding" of property may be able to cover.

124. To "convert" something is to transform it into something different than what it previously was (*Dictionary of the Royal Spanish Academy, 22nd Edition*), whereas to hide it is to cover it or disguise it from sight (*Dictionary of the Royal Spanish Academy, 22nd Edition*).

125. Apart from its legal definition, to "acquire" something is to purchase it with money, to win it, or to achieve it through ones own work (*Dictionary of the Royal Spanish Academy, 22nd Edition*), whereas to "obtain" it is to reach it or get it when it is deserved, requested or pretended (*Dictionary of the Royal Spanish Academy, 22nd Edition*).

126. Apart from its legal definition as well, to "possess" something is to hold it regardless of the ownership right over it (*Dictionary of the Royal Spanish Academy, 22nd Edition*), whereas to "guard" it is to take care of it, watch over it, or protect it; to put something in a safe place, to keep it, or to retain it (*Dictionary of the Royal Spanish Academy, 22nd Edition*).

The Laundered Property (c. 1.2):

127. The offence of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime.

128. Article 196 of the CC uses the term “object” (*objeto*) proceeding from...” as a descriptive element of the offence. The term “object” is not defined in the CC but it is defined in the money laundering act (Law No. 1,015/96). Although the money laundering offence under Law No. 1,015/96 was tacitly repealed by the amendment to the CC, the authorities argue that the “definitions section” under Law No. 1,015/96 is still in effect and that the term “object”, as referred to by the CC, should be understood as such term is defined under Law No. 1,015/96. The mission found no disagreements with this interpretation.

129. Law No. 1,015/96 defines the term “object” as “*the goods obtained or derived directly or indirectly from the commission of an offence criminalized in this law*”. The term “goods” is also defined under Law No. 1,015/96 as “*assets of any kind, corporal or incorporeal, movable or real estate, tangible or intangible, and the documents or legal instruments that evidence the property or other rights over such assets*”. The offence extends to any type of property regardless of its value as it makes no reference to a minimum value.

Proving Property is the Proceeds of Crime (c. 1.2.1):

130. It is not clear that a conviction for a predicate offence is not necessary when proving that property is the proceeds of crime. The mission has received conflicting opinions from judges and prosecutors with regard to this matter.

131. Article 196 of the CC makes reference to the “object” proceeding from a “crime” or certain “punishable acts”. Accordingly, the discussion revolves around whether or not the terms “crime” or “punishable acts” should be interpreted as legal elements of the money laundering offence.

132. There are a number of Paraguayan judges that share this view and therefore argue that, to prove that property is the proceeds of crime, a conviction sentence is first necessary on the predicate “crime” or “punishable act” in question. The rationale is that, under criminal theory, a “crime” or a “punishable act” may only be constituted if the act in question is criminalized, illicit, punished and sanctioned (i.e. if a conviction is reached).

133. On the other hand, there are also several judges and prosecutors that disagree with this view and suggest that a broader and systemic interpretation would be more appropriate when addressing this matter. These opinions make reference to the 5th Paragraph of the money laundering offence under Article 196 where, in setting forth the negligent offence, the term “unlawful act” is used to make reference to the “crimes” and “punishable acts” that the “object” must proceed from. These opinions also point to the language used in other offences under the same chapter of the CC (i.e. “Unlawful acts against the restitution of goods”) and to the source of Article 196 of the CC which is Article 261 of the German CC and which makes reference to “an object derived from an unlawful act”. The judges and prosecutors with this opinion consider that only the “unlawfulness” of the predicate act in question must be proved when proving that property is the proceeds of crime in a money laundering case and that no conviction for the predicate offence is required.

134. Regardless of these opinions, there is only one case where a money laundering conviction was obtained without a prior conviction for the predicate offence. This ruling is still not final because the defendants have appealed it to the Supreme Court. None of the six confirmed and final money laundering convictions in Paraguay were reached without a prior conviction for the predicate offence.

135. In the mission's view, the CC should be amended to state clearly that a prior conviction for the predicate offense is not required to prove that property is the proceeds of a crime.

136. The enactment of the amendments to the money laundering offence would provide a solution to this problem, as the new Article 196 would make reference to the object derived from an "unlawful act". The amendments to the money laundering offence would also contain an explicit provision declaring the autonomy of the money laundering offence and setting forth that a prior conviction for the predicate offence shall not be necessary to prosecute for money laundering. However, as stated above, these amendments will not enter in force until mid-2009.

The Scope of the Predicate Offences (c. 1.3)

137. The ML offence under Article 196 of the CC limits the coverage of predicate offences to offences defined as crimes (i.e. *punishable acts sanctioned by more than five years in prison*), except in the case of acts carried out by a criminal organization and acts criminalized under sections 37 to 45 of Law No. 1,340/88 (i.e. Counter Narcotics Trafficking Law) in which case misdemeanors (i.e. *punishable acts sanctioned with up to five years in prison or fine*) are also covered.

138. In the cases of acts carried out by a criminal organization, however, it is first necessary to prove the existence of the criminal organization, which according to judges and prosecutors it is always difficult to achieve.

139. A review of Paraguayan criminal legislation shows that only the following offences from the designated category of offences are captured as predicate offences to ML under Article 196 of the CC: trafficking in human beings; sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; murder; grievous bodily injury; kidnapping; hostage taking; and robbery.

140. With the exception of terrorism and terrorist financing, the remaining categories of offences listed in the designated categories of offences have all been criminalized under Paraguayan law. However, given that all of these offences fall under the category of *misdemeanor*, they would only be captured as predicate offences to ML under Article 196 if committed by a criminal organization.

141. The amendment to Article 196, passed under Law No. 3,440/08, expands the list of predicate offences to money laundering by explicitly including under its coverage a number of offences categorized as "*delitos*", including: piracy; extortion; fraud; corruption; and bribery, among others. However, as stated above, the amendments will not come into force until mid-2009.

Threshold Approach for Predicate Offences (c. 1.4):

142. As previously mentioned, Paraguay determines the underlying predicate offences for ML by reference to a combined approach that includes a threshold linked to serious offences defined as crimes, misdemeanors committed by criminal organizations, and a list of specific offences under the

counter narcotics trafficking legislation. However, its approach does not result in coverage for a range of offences within each designated category.

Extraterritorially Committed Predicate Offences (c. 1.5):

143. In accordance with Para. 7 under Article 196 of the CC, predicate offences for ML extend to conducts that occurred in another country when such conduct constitutes an offence in that country and which would have constituted an offence had it occurred domestically.

Laundering One's Own Illicit Funds (c. 1.6):

144. The offence of ML applies to persons who commit the predicate offence. Paraguayan law does not require a particular quality for the author. Accordingly, the offence can be committed by any person, including the one that committed the predicate offence. The authorities have provided evidence of case law to this effect and there is no case law refusing to apply the ML offence to persons who commit the predicate offence.

Ancillary Offences (c. 1.7):

145. Paraguay has not criminalized the ancillary conducts of “conspiracy”, “facilitation” or “counseling” to commit ML and has not suggested there is any restriction to criminalize such conducts under fundamental principles of domestic law.

146. In accordance with Article 27 of the CC, the attempt to commit a misdemeanor is only punishable when the law expressly provides it. The offence of ML is categorized as a misdemeanor and Article 196 of the CC expressly provides under Paragraph 3 that the attempt to commit it shall be punished. In accordance with Article 67 of the CC, the sanction for attempting to commit ML may involve a reduction in the range of the prison term from a minimum of six (6) months to a maximum of three (3) years and nine (9) months or a reduction in the range of the fine from a minimum of five (5) “days of fine” to a maximum of two hundred and seventy (270) “days of fine”.

147. Aiding and abetting is punished in accordance with Article 31 of the CC. The sanction for aiding and abetting to commit ML may involve the same reduction in the range of the prison term and fine as the one provided for attempting to commit ML.

148. In accordance with Article 30 of the CC, the instigation to commit ML is punished with the same sanction as the one applicable to the author of the ML offence.

Additional Element—If an act overseas which does not constitute an offence overseas, but would be a predicate offence if it occurred domestically, lead to an offence of ML (c. 1.8):

149. Under Paraguayan legislation it would not be possible to prosecute a person for a money laundering offence where the proceeds “laundered” are derived from a conduct that is not an offence in the foreign country where it occurred.

Liability of Natural Persons (c. 2.1):

150. The offence of ML applies to natural persons that knowingly engage in ML activity. The general rule under Article 17 of the CC is that, except for cases where the negligent conduct is expressly punished, only intentional and knowing conducts shall be punished.

151. In addition to knowing ML conducts, Paragraph 5 under Article 196 of the CC provides a less severe range of criminal sanctions for acts involving gross negligence.

The Mental Element of the ML Offence (c. 2.2):

152. The law permits the intentional element of the offence of ML to be inferred from objective factual circumstances. Article 173 of the Code of Criminal Procedures establishes the principle of “evidentiary freedom”. This principle states that the facts and circumstances related with the purpose of the proceeding may be admitted by any means of evidence, except for the exceptions provided for in the laws. A means of evidence shall be admitted if it refers directly or indirectly to the purpose of the investigation and is useful for revealing the truth. Accordingly, the mental element of the offence may be inferred through indicia, constituted by external facts and circumstances that are proved in the proceedings.

Liability of Legal Persons (c. 2.3):

153. The Paraguayan criminal system does not extend criminal liability to be extended to legal persons. However, the system does allow the application of accessory criminal sanctions to legal persons, such as the “special forfeiture” of benefits derived from the commission of the offence under Article 90, Paragraph 2. This provision states that “*when the author or participant of the unlawful act has acted on behalf of another one that ends up obtaining the benefit, the order of special forfeiture may target the one that obtained the benefit*”. Accordingly, if the benefit is obtained by a legal person, the special forfeiture may target the legal person. However, there is no evidence that this provision was ever applied in a ML case.

154. The authorities have not indicated that fundamental principles of domestic law prohibiting criminal liability for ML to be extended to legal persons. The possibility of criminal liability for legal persons could encourage greater compliance, particularly among smaller business in less regulated industries, and contribute to prevent the unlawful use of legal persons by money launderers.

155. Article 24 under Law 1,015/96 allows for the application of the following administrative sanctions to legal persons that fail to comply with the administrative obligations set out under Chapter 3 of such law and related administrative regulations: a) a warning, b) a public reprimand, c) a fine for an amount between 50 Percent and 100 Percent of the amount of the transaction through which the obligation was infringed, and d) a temporary suspension ranging from 30 to 180 days.

156. Despite the derogation of the criminal provisions set out under Chapter 2 of Law No. 1,015/96, the administrative provisions, including the provisions containing administrative sanctions, remain in effect. However, these are only administrative sanctions for failure to comply with administrative obligations and not for the commission of a ML offence. Moreover, Paraguay has not shown that these provisions have been applied to legal persons in money laundering cases.

Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings & c. 2.4):

N/A

Sanctions for ML (c. 2.5):

157. In accordance with Paragraphs 1 and 2 under Article 196 of the CC, natural persons that commit ML are subject to sanctions that range from six (6) months to five (5) years in prison or the payment of a fine. While the CC permits the imposition of “imprisonment” or “fines”, it does not allow for these sanctions to be applied concurrently, as it is the case in many other countries. The concurrent imposition of both of these penalties may contribute to the dissuasive aspect of the sanction.

158. Paragraph 4 under Article 196 contemplates an aggravated type of ML, “*when the author acts commercially or as a member of a band established for the continuous conduct of money laundering*”. In these cases, the prison sanction may be increased to up to ten (10) years. If the prison sanction applied is more than two (2) years, the Court may additionally apply a “complementary patrimonial sanction”, consisting on the payment of a sum of money that shall be determined taking into consideration the net worth of the author. In these cases, and should the circumstances allow an inference that the property of the author or participant was obtained through an unlawful act, the Court would also order an “extended special forfeiture” of their property (as described further below in the analysis of Rec. 3).

159. As mentioned above, Paragraph 5 under Article 196 contemplates a negligent type of ML. This type of ML requires a lower standard of proof and could therefore contribute to achieving more convictions. In these cases, the maximum punishment is reduced to a prison sanction of up to two (2) years or a fine.

160. Paraguay has not shown much use of the negligent offence. None of the fifteen convictions for ML described below were obtained through the application of Paragraph 5. Accordingly, the mission would encourage prosecutors and judges to consider the possibility of making more use of this offence in ML cases, where applicable.

161. In accordance with Article 44 of the CC, if the offender is convicted to up to two (2) years in prison, the Court would typically suspend the application of the conviction and grant a “probation”. Probation would generally not be granted to an offender: (i) sanctioned within five years prior to the commission of the offence in question; (ii) with one or more convictions totaling one year in prison or fine, or (iii) when the act in question is committed during the probation period related with a prior conviction.

162. In accordance with Article 52 of the CC, a fine consists in the payment to the State of an amount of money calculated in “days of fine”. The range is a minimum of five (5) “days of fine” and, unless otherwise provided, a maximum of three hundred and sixty (360) “days of fine”. The ML offence under Article 196 does not provide a lower maximum, so the three hundred and sixty (360) “days of fine” apply as the top of the range. The amount of a “day of fine” is applied by the Court, taking into account the personal and economic conditions of the offender, mainly the average net

income that the offender has or may be able to obtain in a day. A “day of fine” shall be determined in at least 20 Percent of a minimum daily work day for unspecified diverse activities and a maximum of 510 daily work days for the same activities. Should there be no basis to determine the amount of a “day of fine”; the court may estimate the income, net worth, or other pertinent economic data. It may also request reports from the Ministry of Finance and banks.

163. While the ML offence under Article 196 makes reference to a prison term **or** a fine, in accordance with Article 53 of the CC, when the author of the offence is enriched or attempts to be enriched by the act in question, the Court may apply a “complementary fine” in addition to the prison sanction. However, the authorities have not provided any evidence that such “complementary fines” have been applied in practice in connection with ML cases.

164. As stated above, the offence of ML is criminalized in Paraguay as a misdemeanor and therefore punished with a maximum sanction of not more than five (5) years in prison. The fact that ML is categorized as a misdemeanor and not as a crime indicates that the offence is not considered a serious offence. In effect, when compared with the sanctions for other serious offences domestically, such as the ones listed below, it is clear that the sanctions for ML in Paraguay are disproportionately lower:

- Murder: 5 to 15 years in prison
- Grievous bodily injury: up to 10 years in prison
- Kidnapping: up to 8 years in prison
- Hostage taking: 2 to 12 years in prison
- Robbery: 1 to 15 years in prison

165. The sanctions for ML offences are also lower relative to the sanctions for ML offences in other countries in the region. An analysis of the sanctions for ML in Paraguay, relative to those of other members of GAFISUD, indicates that Paraguay’s sanctions for ML are at the lower end of the list, as most GAFISUD-member countries contemplate maximum sanctions for ML of up to 15 years in prison.

166. An analysis of the convictions actually imposed by the courts also indicates that the courts are applying low sanctions. As noted below, in the six convictions for ML involving confirmed and final rulings, the highest sanction imposed was 3 years and 2 months in prison. Additionally, no sanctions for ML have been imposed on legal persons, since they are not liable.

167. Based on these facts, the mission considers that the ML offence in Paraguay is not subject to effective, proportionate and dissuasive sanctions. In addition, there are no criminal sanctions at all for legal entities as there is no legal liability. Accordingly, the mission recommends Paraguay to amend its CC to re-categorize the offence of ML as a crime and to raise the range of sanctions to make them effective, proportional and dissuasive, relative to other serious offences in the CC, and relative to the sanctions for ML applied by other countries in the GAFISUD region.

Assessment of Effectiveness:

168. The mission was verbally informed by the authorities that there are approximately 100 cases for ML currently opened. However, only six (6) out of the fifteen (15) convictions are confirmed with final rulings, and the remaining nine (9) convictions are still on appeal.

169. Although more than half of these convictions are not yet final rulings, it is positive that Paraguay has obtained fifteen (15) convictions for ML through the application of Article 196 of the CC.

170. Paraguay's total of fifteen (15) convictions for ML since the enactment of Article 196 in 1997 is respectable relative to other countries in the GAFISUD region. However, it does not seem to reflect Paraguay's geographic location with respect to the production and transit of drugs and the other serious offences that are at issue, such as arms trafficking, corruption, bribery, smuggling, piracy of products and tax evasion, nor the number of unusual transactions reported.

171. The mission acknowledges the personal commitment to combat ML and the efforts at improving the system of the current FIU authorities and of a number of key players, such as the prosecutors at the "Economic Crimes Unit" of the OAG and its "Direction of Economic Crimes". It is also important to recognize the individual work of a number of law enforcement officials, prosecutors and judges that conduct their assignments with honesty, dedication and courage on a day to day basis.

172. However, one must also point out that the implementation of the ML offence under Paraguayan law has remained minimally effective since its establishment in 1996. Significant obstacles embodied in Article 196 of the CC, the lack of sufficient capacity in the most relevant law enforcement agencies, and among many prosecutors and judges, the lack of adequate resources to prevent, detect, investigate and prosecute financial crimes, the lack of trust and ineffective coordination and cooperation among agencies, the lack of real independence of the judiciary, and indications of deeply rooted levels of corruption among public officials at all ranks, have all contributed to the ineffectiveness of the ML offence.

173. In addition, the weak preventive controls in the financial sector, the open and poorly controlled borders, and the minimal law enforcement activity for financial crimes and predicate offences in general, may all be allowing money launderers to take advantage of Paraguay's financial system.

174. At the technical level, it is clear that the categorization of the ML offence as a misdemeanor (as opposed to a crime), among other things, has prevented Paraguay from applying effective, proportional and dissuasive sanctions to ML offenders. Categorizing ML as a misdemeanor is also sending the wrong message that ML is not considered a serious offence in Paraguay.

175. The lack of clarity as to whether or not a prior conviction for the predicate offence is necessary when proving that property is the proceeds of crime represents an obstacle to the effective prosecution of ML offences. Prosecutors may be reluctant to prosecute for ML if they know that the courts may require a prior conviction for the predicate offence. From another perspective, prosecutors may be reluctant to prosecute self-launderers for ML when a conviction has already been reached against them for the predicate offence.

176. Moreover, the narrow range of predicate offences *vis á vis* the FATF recommendations is restricting Paraguay's capacity to prosecute ML and may also restrict its capacity to provide mutual legal assistance and extradition requests related to ML. Corruption, bribery, smuggling, piracy of products and tax evasion, which along with drug trafficking may be considered the most significant proceeds generating predicate offences in Paraguay, are technically not predicate offences to ML under Article 196 of the CC, unless committed by a criminal organization.

177. While drug trafficking is covered as a predicate offence to ML, the mission is left with the impression that little is being done to target serious drug trafficking activities and leading drug trafficking organizations behind them. This is partially explained by the fact that the vast majority of drug trafficking cases reaching the courts are only related with small traffickers caught while attempting to cross the borders (commonly referred to as "mules").

178. Paraguay is the biggest marijuana producer in South America and widely known as a transit country for Bolivian, Peruvian and Colombian cocaine destined for Brazil, Argentina, Chile and Europe. The authorities acknowledge that Paraguay is serving as a hideout for major Brazilian traffickers operating in regions such as Pedro Juan Caballero, Capitán Bado, Ciudad del Este and Saltos del Guairá, and those traffickers, in partnership with local ones, are in control of most of the production and transit of drugs in Paraguayan territory. However, there does not appear to be a strategic and coordinated approach to tackling this problem, including the use of the ML offense to prosecute for laundering the proceeds of such activities.

179. The absence of criminal liability for legal persons and the lack of administrative sanctions effectively applied to legal persons for failure to comply with administrative regulations are contributing to the poor levels of compliance and the unlawful use of legal persons by money launderers.

180. As it will be discussed below with regard to R.30, law enforcement authorities are poorly staffed and resourced, receive very little training, are very badly compensated, and have minimal trust among each other. This results in an extremely narrow level of cooperation and coordination among them, thereby significantly affecting the effective detection and pursuit of serious offences committed by organized crime, such as drug trafficking offences.

2.1.2. Recommendations and Comments

181. Discussions with the authorities have generally left the mission with the impression that they had not put much emphasis on prosecuting serious predicate offences or on pursuing money laundering as a way to tackle serious crime. Accordingly, more efforts need to be placed at generating awareness on the opportunity that money laundering investigations and convictions represent to the general fight against crime, and particularly organized crime. The approach in which organized crime is attacked by combating dirty money has many advantages. Given the financial power of criminal organizations and the fact that they are not defeated by any one measure, cracking down on money-laundering is a way to weaken the organizations without confronting them physically, at a time when traditional methods of fighting them have shown their limitations, particularly in countries with such significant scarcity of recourses. The task is theoretically made easier because criminal organizations cannot operate using their traditional methods of threats, blackmail, violence or racketeering when laundering the proceeds from their crimes. To give their profits the appearance of being legal, they

must necessarily go through legal channels (the financial system, among others) and use legal methods (corporate law, banking law), a terrain where it should be easier and cheaper to combat them.

182. However, the fight against money laundering also requires certain structural elements to be in place. The lack of such elements, or significant weaknesses or shortcomings in the general framework, may significantly impair the implementation of an effective anti-money laundering framework. In particular: the respect of principles such as transparency and good governance, appropriate measures to prevent and combat corruption, a reasonably efficient and independent court system that ensures that judicial decisions are properly enforced, and high ethical and professional requirements for law enforcement officers, prosecutors and judges, and measures and mechanisms to ensure these are observed, among others.

183. Addressing the problem of corruption should therefore be a number one priority for Paraguay. Corruption is currently an obstacle to the effective implementation of the ML offence and of the serious predicate offences. The perception of corruption has generated distrust among relevant agencies, thereby significantly impairing their capacity to coordinate and cooperate. There is indeed little policy cooperation and coordination across relevant competent authorities and little operational cooperation and coordination between authorities at the law enforcement/FIU level (including Customs).

184. Experience in several countries has shown that the development of a national strategy comprising all of the AML stakeholders as well as representatives of the financial sector and designated non-financial businesses and professions (DNFBPs) has helped to build consensus and commitment and provide a forum to coordinate the formulation of policies, laws and regulations, and their effective implementation. The development of a national strategy should also contribute to enhancing cooperation among relevant competent authorities. Effective inter-institutional coordination and communication mechanisms among competent authorities are important preconditions for effective cooperation both domestically and internationally and for the effective implementation of the ML offence.

185. The mission recommends the authorities the following:

- Amend the CC to incorporate the conducts of “conversion”, “transfer”, “acquisition”, “concealment or disguise”, “possession” of property, and “assisting a person involved in the commission of the predicate offense evade the legal consequences of his or her actions” into the money laundering offence of Article 196.
- Amend the CC to allow proving that property is the proceeds of crime without the need for a conviction of a predicate offence.
- Amend the CC to expand the list of predicate offences for ML to cover a range of offences in each of the designated categories of offences.
- Amend the CC to criminalize “conspiracy”, “facilitation” and “counseling” to commit ML.
- Amend the CC to make legal persons criminally liable for the commission of ML offences.

- Amend its CC to re-categorize the offence of ML as a crime (as opposed to a misdemeanor), to allow for the concurrent imposition of “imprisonment” and “fines” and to raise the range of sanctions to make them effective, proportional and dissuasive, relative to other serious offences in the CC, and relative to the sanctions for ML applied by other countries in the GAFISUD region.
- Continue to place more efforts at generating awareness on the opportunity that ML investigations and convictions represent to the general fight against crime, and particularly organized crime.
- Strengthen the fight against corruption as an important pre-condition for the implementation of an effective anti-money laundering framework.
- Develop a national AML strategy to build consensus and commitment and to improve the coordination and cooperation among relevant competent authorities in the development of policies and their effective implementation.

2.1.3. Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	PC	<ul style="list-style-type: none"> • The transfer, conversion, acquisition and possession of property are not criminalized in the ML offence. • A conviction for a predicate offence is required when proving that property is the proceeds of crime. • The ML offence fails to criminalize the “hiding” or “disguising” the true nature, location, disposition, movement or ownership of or rights with respect to property, and the “assisting a person involved in the commission of the predicate offense evade the legal consequences of his or her actions”. • The list of predicate offences does not cover a range of offences in each of the designated categories of offences. • Conspiracy, facilitation and counseling are not criminalized as ancillary offences.
R.2	PC	<ul style="list-style-type: none"> • Legal persons are not criminally liable for the commission of ML offences. • ML is not categorized as a serious offence and sanctions for ML are not effective, proportional or dissuasive. • No administrative sanctions have been applied to legal persons.

2.2. Criminalization of Terrorist Financing (SR.II)

2.2.1. Description and Analysis

186. **Legal Framework:** Although Paraguay is a Party to the UN International Convention for the Suppression of the Financing of Terrorism (the SFT Convention), its legislation does not include provisions that criminalize FT.

Criminalization of Financing of Terrorism (c. II.1):

187. While FT is not yet criminalized, the authorities indicate that the CC (CC) provides for the legal capacity to prosecute and apply criminal sanctions to persons that finance terrorism, under the different modalities of participation in an offense. The authorities also noted that while Paraguay lacks specific counter-terrorism legislation, it has successfully prosecuted suspected terrorist financiers under tax evasion and other statutes. At any rate, the criminalization of FT on this basis does not comply with the requirements of SR.II.

188. Law enforcement agencies in Paraguay have not found evidence of terrorist or FT activities. Authorities informed the mission that law enforcement agencies continue to monitor the national territory and collect pertinent data and share relevant information with counterparts both within and outside the region.

189. The version of the bill reforming the CC that had been approved by the Chamber of Deputies in 2007 originally included provisions criminalizing the offences of terrorism, terrorist association and FT. However this bill was rejected by the Senate and the terrorism-related amendments were excluded on 15 November 2007. The failure to criminalize FT triggered the suspension Paraguay's membership in the Egmont Group in May 2007. Delays in the adoption of counter-terrorism legislation have been attributed by the authorities concerns of the government opponents and civil society over its potentially negative impact on human rights, among other issues. The authorities informed the mission that draft FT legislation is expected to be submitted to the Chamber of Deputies as a separate bill ahead of the end of the term of the current government on August 15, 2008. In this regard, SEPRELAD has been coordinating the elaboration of draft counter-terrorism legislation.

Predicate Offence for Money Laundering (c. II.2):

190. The financing of terrorism is not yet a predicate offence in money laundering. Article 4 (h) of the proposed amendment to Law No. 1,015/97 that is still pending approval by the National Congress would provide for the designation of FT as a money-laundering predicate offence.

Jurisdiction for Terrorist Financing Offence (c. II.3):

N/A

The Mental Element of the TF Offence (applying c. 2.2 in R.2):

N/A

Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):

N/A

Sanctions for FT (applying c. 2.5 in R.2):

N/A

2.2.2. Recommendations and Comments

- The offence of FT should be criminalized in keeping with the requirements of the offence as set out in the SFT Convention.
- Provide training for judges, prosecutors, law enforcement agencies, and UAF staff on the understanding of the offence of FT and CFT measures.

2.2.3. Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	NC	<ul style="list-style-type: none"> • FT is not criminalized • FT is not a designated a predicate offence for ML

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

2.3.1. Description and Analysis

191. **Legal Framework:** The rules for the forfeiture (*Comiso*) of property are set out in the CC. Paraguayan law uses the term forfeiture (*Comiso*). The term “confiscation”, usually defined in Latin America as the governmental taking of all of a person’s assets, may be interpreted as contrary to Paraguay’s Constitution.

192. The Code of Criminal Procedures and the Anti-Money Laundering Act (Law No. 1,015/96) also contain provisions related with the application of provisional measures in connection with property subject to forfeiture.

193. It should be noted that the provisions related specifically with the forfeiture of property under Chapter 2 of Law No. 1,015/96 were tacitly repealed with the enactment of the amendments to the CC through Law No. 1,160/97.

194. The CC covers the forfeiture of proceeds from, the instrumentalities used in, and those intended for use in, the commission of an intentional unlawful act, including an act of ML or other predicate offences.

195. The CC also provides for “special forfeiture”, which covers the benefits that the author or participant of an unlawful act may have obtained from it. As mentioned in the analysis of Rec. 2 above, the special forfeiture may also be applied against legal persons, when the author or participant of the unlawful act has acted on its behalf.

196. When expressly provided for in the laws, (i.e. such as the case of the aggravated type of ML), and should the circumstances allow to infer that the property of the author or participant was obtained through an unlawful act, the Court would also order an “extended special forfeiture” of their property.

Confiscation of Property related to ML, FT or other predicate offences including property of corresponding value (c. 3.1):

197. Article 86 of the CC covers the forfeiture of proceeds from, the instrumentalities used in, and those intended for use in, the commission of an intentional unlawful act. An intentional unlawful act would cover the acts of ML (except for the negligent conduct) or other predicate offences. While this provision does not cover the forfeiture of property of corresponding value, such property can be forfeited under the “special forfeiture provisions” as discussed under 3.1.1 below.

198. Section 86 of the CC also provides that forfeiture shall be ordered only when the property, by its nature and circumstances, is considered dangerous to the community or when there is a danger in its use for the commission of other unlawful acts. This is a serious limitation to the effective implementation of forfeiture provisions with regards to property that has been laundered or which constitutes the proceeds from the commission of a ML/FT offence or other predicate offences

199. In accordance with Section 88 of the CC, the ownership of the forfeited property shall be transferred to the State once the ruling concerning the illicit act becomes final. Until then, the order to forfeit shall have the effect of a prohibition to encumber or sell the property.

Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1):

200. Article 90 of the CC provides for the “special forfeiture” of the benefits that the author or participant of an unlawful act may have obtained from its commission. As mentioned in the analysis of Rec. 2 above, the special forfeiture may also be applied against legal persons, when the author or participant of the unlawful act has acted on its behalf. The special forfeiture is applicable in all cases, except if it could damage a victim’s right to reparation of damages, or if the value of the property was considered irrelevant. The criminal code does not define the term “benefits”. Section 90 of the CC merely sets forth that the special forfeiture may cover the “usufruct” and broadly “other benefits derived from the proceeds of crime”.

201. In accordance with Article 90, Paragraph 4, the special forfeiture of benefits does not cover benefits held or owned by a third party that is not the author, participant or beneficiary of the unlawful act. For these cases however, Article 91 enables the possibility of ordering a payment of money of corresponding value from the defendant.

202. In accordance with Sections 94 and 196, Paragraph 4 of the CC, *when the author acts commercially or as a member of a band established for the continuous conduct of money laundering* (i.e. the aggravated type of ML), and should the circumstances allow to infer that the property of the author or participant was obtained through an unlawful act, the Court would also order an “extended special forfeiture” of their property.

203. The extended special forfeiture provided under Article 94, covers the special forfeiture of the author’s or participant’s property broadly and only applies when expressly authorized by a specific

law (such as the case of Article 196, Paragraph 4, which sets forth the aggravated type of ML and directly refers to Article 94). In the case of an extended special forfeiture, if the special forfeiture of a particular property could not be carried out, a payment of money of corresponding value can also be ordered in exchange.

Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):

204. Despite the tacit derogation of the specific provisions related with the forfeiture of property under Chapter 2 of Law No. 1,015/96, the provisions dealing with provisional measures under the “Final Chapter” of said law have remained in effect.

205. Paraguayan law does not explicitly provide for the freezing of property. However, Article 36, under the “Final Chapter” of Law No. 1,015/96, enables Judges to attach, seize, or dictate any other precautionary measure aimed at preserving the property subject to forfeiture.

206. In accordance with Article 88 of the CC, the ownership of forfeited property is transferred to the State at the moment in which the ruling becomes final. However, prior to becoming final, the order to forfeit restrains the attachment or sale of the property subject to forfeiture.

Ex Parte Application for Provisional Measures (c. 3.3):

207. Article 36 of Law No. 1,015/96 provides that the provisional measures may be dictated *ex officio* or at the request of a party. It also provides that such measures may be taken at the beginning or at any stage of the criminal process. However, the provision is silent as to whether the measures can be made ex-parte or without prior notice. The authorities have not invoked any fundamental principles of domestic law that would prohibit the introduction of such a measure.

Identification and Tracing of Property subject to Confiscation (c. 3.4):

208. While in practice the FIU identifies and traces property that is or may become subject to forfeitures, or is suspected of being the proceeds of crime, the powers to implement these measures have a weak legal basis. Prosecutors have adequate powers to identify and trace such property under the Code of Criminal Procedures.

209. In accordance with Article 28 of Law No. 1,015/96, the SEPRELAD (Secretariat for the Prevention of Money Laundering) is entitled to “*request and obtain from reporting entities all information that could be related with money laundering*”. This would cover powers to identify and trace property that is, or may become subject to forfeiture or suspected of being the proceeds of crime.

210. As will be developed further below, it is a deficiency of the law to have granted this function to an institution like the SEPRELAD, which, in essence, may only act when all of its high ranking members (including a Minister) are gathered together. The authorities have reported that, in practice, this function has always been exercised by the FIU. However, the legal basis for this is weak, as Article 30 of Law No. 1,015/96 only empowers the FIU to “*evaluate and analyze the information received by the SEPRELAD*” but not to request such information.

211. The Code of Criminal Procedures also grants competent authorities a number of powers to identify and trace property, such as the powers to search (Article 183), the powers to compel someone to present and deliver, the powers to seize (Article 193), and the powers to take into custody (Article 297).

212. In accordance with Article 316 of the Code of Criminal Procedures, the OAG is broadly entitled to “*practice all of the diligences and acts of the preparatory stage that do not require judicial authorization*”.

213. Moreover, in accordance with Article 322 of the Code of Criminal Procedures, the OAG may “dictate the reasonable and necessary measures to protect and isolate the indicia of evidence in the places where a punishable act is being investigated with the purpose of avoiding the disappearance or destruction of traces, evidence and other material elements”.

Protection of Bona Fide Third Parties (c. 3.5):

214. The rights of bona fide third parties are protected in the provisions of the CC addressing the different type of forfeitures.

215. In accordance with Article 88 of the CC, when the order to forfeit becomes final, all of the rights that third parties may have over the property are thereby extinguished. However, Article 88 also requires bona fide third parties to be adequately compensated in cash by the State.

216. Neither the special forfeiture of benefits (Article 90) nor the extended special forfeiture of property (Article 94) cover benefits or property held or owned by a third party that is not the author, participant, or beneficiary of the unlawful act. As a result, a third party could never be affected by these types of forfeitures. While in these cases a payment of money of corresponding value can be ordered in exchange, the rights of bona fide third parties are duly and explicitly protected.

Power to Void Actions (c. 3.6):

217. There is no authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to forfeiture.

Additional Elements (Rec. 3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):

218. The laws do not provide for forfeiture of assets from organizations principally criminal in nature, civil forfeiture or forfeiture of property which reverses the burden of proof.

Assessment of Effectiveness:

219. The authorities have only provided statistics for forfeitures in connection with the seven cases where the fifteen convictions for money laundering were obtained. Property was only forfeited in relation with eight of these convictions (four of which have final and confirmed rulings). No accurate statistics were provided on the total amount of property forfeited, as in some cases only the type of

property forfeited is indicated but not its value. The detail of the property forfeited can be summarized as follows:

220. The effective implementation of forfeiture provisions in Paraguay is very much affected by most of the problems already identified in the assessment of effectiveness for Recommendations 1 and 2.

221. The accumulation of wealth is a common aspect of organized criminal activity. Many criminal organizations devote themselves solely to generating wealth. As criminal organizations become wealthier, their capacity to cause harm increases. The ability to recover the proceeds of crime is therefore an essential aspect in addressing criminal activity within civil society. Forfeiture is meant to remove property from criminals, to disrupt and dismantle existing criminal organizations, and ultimately to deter and prevent ongoing and future criminal activity.

222. However, a fair and effective system of forfeitures presupposes that a country's institutions operate with integrity. Corruption may affect the ability to effectively identify and trace property subject to forfeiture when the authorities protect criminals and allow them to hide the proceeds of crime to avoid forfeitures.

223. In this regard, the mission would like to highlight its concern with reports indicating that senior level authorities in a number of districts may be preventing competent authorities from identifying and seizing property that may become subject to forfeitures or is suspected of being the proceeds of crime. The mission would also like to reiterate the recommendation to strengthen the fight against corruption, this time as an important pre-condition for the implementation of an effective system of forfeitures.

224. One of the main challenges in the implementation of an effective system of forfeitures is being able to locate the proceeds. While competent authorities in Paraguay may have adequate powers to identify and trace property that is, or may become, subject to forfeiture, the poor conditions of the national registries make it virtually impossible for them to obtain adequate, accurate and current information of a person's property in a timely fashion.

225. The National Direction of Public Registries, administratively dependant of the Supreme Court of Justice, holds the registries of real estate properties, automobiles, boats, pledges, legal persons and associations, commerce, powers of attorney, and bankruptcies, among others. However, with the exception of the merchant's registry, the automobile registry, and a minor part of the real estate registry, the remaining registries are handled manually and it is extremely difficult, costly and inefficient for them to provide adequate, accurate and current information to competent authorities.

226. Only the data base at the Merchant's Registry, the Registry of Automobiles and one third of the data base at the Registry of Real Estate Properties is currently uploaded electronically. Despite this very little progress, it is well known that a large number of existing merchants, automobiles and real estate properties have never been registered at all and, of those that have been registered, many have not updated their changes in ownership for a long time.

227. A revealing detail of how unreliable the information held by the registries can be, is the inconsistency between the information on registered real estate properties held at the Registry of Real

Estate Properties (1.5 million properties registered) and the one held at the National Direction of Cadastre (2.4 million properties registered).

228. With regards to legal persons and trusts, as will be developed in the analysis of Recommendations 33 and 34 further below, the registries are also manual and only record information from 1986 onwards for legal persons and 2000 onwards for trusts. Moreover, the only information recorded is the one presented at the time of incorporation or the one concerning possible amendments to the bylaws. There is no reliable information held at the registries on ownership and control of companies and other legal persons, or on trusts and other legal arrangements registered in the country. In most cases, it is not a requirement for changes in ownership to be registered or kept up to date at the registries. While corporations (which are the most commonly used vehicle for conducting business in Paraguay) are bound to hold their own stock ledger, there are no sanctions for failing to keep them up to date or for losing them. Indeed, the authorities have identified that a large amount of books are reported lost. Moreover, a significant amount of corporations have issued bearer shares, and there are no measures in place to ensure that such corporations are not being misused for ML.

229. The authorities claim that many do not register their properties because of the high costs of registration, the very little public awareness on the benefits of registration, and the fact that the law does not sanction the failures to register. The mission would add to this: the lack of confidence that citizens have in public institutions and the high levels of informality in the Paraguayan economy.

230. It is therefore absolutely imperative for more resources to be allocated to improving the conditions of the registries. In particular, the authorities should speed up the processes of informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend the appropriate laws to sanction failures to register relevant acts and information.

231. The proceeds of crime often cross international borders. Recovering proceeds where there are international dimensions adds a layer of complexity. Although recoveries can be purely domestic, with the offence occurring, and the proceeds remaining, in a single jurisdiction, quite often proceeds leave the State where an offence has occurred and arrangements are employed in an attempt to hide assets. Cross-border cooperation is therefore integral to an effective proceeds recovery program.

232. In this regard, there is a critical need to improve Customs controls of cross-border transportation of currency and bearer negotiable instruments. Customs should develop effective and feasible procedures to detect, stop or restrain, and where appropriate seize such currency and bearer negotiable instruments. These activities should be conducted in coordination with all relevant law enforcement authorities, with commercial air/sea carriers and with counterparts in bordering countries, particularly Argentina and Brazil. Customs authorities and other law enforcement agencies should work with prosecutors to establish guidelines for the stopping or restraining of currency and bearer negotiable instruments, and the arrest and prosecution of individuals.

2.3.2. Recommendations and Comments

- Amend the CC to allow for the forfeiture of property of corresponding value.

- Amend the CC to explicitly provide that for initial applications for provisional measures and to seize property subject to forfeiture to be made ex-parte or without prior notice.
- Amend Law No. 1,015/97 to explicitly transfer to the FIU the powers to request and obtain information that could be related with money laundering.
- Enact provisions that permit Paraguayan authorities to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to forfeiture.
- Strengthen the fight against corruption as an important pre-condition for the implementation of an effective system of forfeitures.
- Allocate more resources to improving the conditions of the registries of property. Speed up the informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend appropriate laws to sanction failures to register relevant acts and information.
- Developing effective and feasible procedures at Customs to detect, stop or restrain, and seize the cross border transportation of currency and bearer negotiable instruments.

2.3.3. Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	PC	<ul style="list-style-type: none"> • The laws do not provide for the initial applications to seize property subject to forfeiture to be made ex-parte or without prior notice. • There is no authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to forfeiture. • [Legal provisions on provisional measures and confiscation have not been implemented effectively with respect to serious crime.]

2.4. Freezing of funds used for terrorist financing (SR.III)

2.4.1. Description and Analysis

233. **Legal Framework:** Paraguay does not have specific provisions that would allow freezing terrorist funds or other assets of persons and legal entities designated pursuant to UN Security Council Resolution No. 1,267 (1999) (UNSCR 1,267) or of persons and legal entities designated in the context of UN Security Council Resolution No. 1,373 (2001) (UNSCR 1,373). For the purpose of implementing the relevant UN Resolutions, only a criminal process to seize and confiscate assets in connection with a criminal proceeding applies.

Freezing Assets under S/Res/1267 (c. III.1)/Freezing Assets under S/Res/1373 (c. III.2)/Freezing Actions Taken by Other Countries (c. III.3):

234. At present there is no legislation in place providing for immediate freezing of property of persons and entities designated under UNSCR 1267, nor are there any provisions in place that compel financial institutions to freeze without delay funds or other assets of persons who commit or attempt to commit terrorist acts.

235. According to the authorities, the freezing of property is prohibited by the Constitution but assets suspected of being related to terrorism may in theory be seized since there is no legal distinction between the seizures of terrorist or other criminal property. However, such a measure may only be taken pursuant to a judicial order and where the person has been charged with a criminal offence. In the event, if assets suspected of being related to terrorism are found in Paraguay, their seizure would require that a judge issue an order in the context of a prosecution. All of the elements of the provisional measures and confiscation system would apply to property suspected of being linked to terrorism (see Section 2.3.1 of this report for a full description of these measures). Therefore, according to the authorities terrorist property may be subject to confiscation if the defendant is convicted of an offense, but the seized property may also be released if the case is dismissed or ends in an acquittal. However, bearing in mind that FT is not a criminal offense under Paraguayan law and in the absence of specific cases, the extent to which the courts may have authority to seize or confiscate property related to the financing of terrorism is unclear.

236. Paraguay has not established a special dissemination procedure dealing with the freezing of assets of UNSCR 1267) or UNSCR 1373. Dissemination of the UNSCR 1267 Sanctions Committee list is initiated by the MFA through its General Directorate for Special Affairs, which notifies the names of suspected terrorists on the list to all relevant law enforcement and administrative agencies (including SEPRINTE, SENAD, the Central Bank, SEPRELAD, the OAG and the Ministry of National Defense).

237. An Inter-Agency Commission was established by the Government through Executive Decree No. 15,125 of 24 October 2001 for the purposes of compliance with UNSCR 1373. The Inter-Agency Commission comprised of representatives from the Ministry of the Interior, the MFA, the MOF, the Ministry of National Defense, the Ministry of Justice and Labor, the CBP, SENAD, SEPRELAD and the National Information Secretariat.

238. Thus far, financial institutions in Paraguay have not identified accounts being used by a person or legal entity designated in the context of either UNSCR. Paraguay has not designated terrorist entities in the domestic context.

Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4):

N/A

Communication to the Financial Sector (c. III.5):

239. The UNSCR 1267 Sanctions Committee list is circulated to banks by the Central Bank. There is however no written procedure in place that governs what action banks should take in those cases

where there is a match against the list. In practice, banks would be required to inform the Central Bank which in turn would inform the Ministry of the Interior and request that the Minister request a court order to seize the assets. The legal provision this court order would be based upon is not clear.

Guidance to Financial Institutions (c. III.6):

240. No guidance has been provided to financial institutions and other persons or entities regarding their obligations in relation to targeted funds or other assets they may be holding.

**De-listing/Unfreezing requests and procedures, access to funds (c. III.7, III.8, III.9, III.10).
Access to frozen funds for expenses and other purposes (c. III.9):**

241. No specific de-listing or unfreezing procedures have been put in place.

Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11):

N/A

Protection of Rights of Third Parties (c. III.12):

N/A

Enforcing the Obligations under SR III (c. III.13):

242. Since there are no rules as yet, there is currently no monitoring of compliance.

Additional Elements—Implementation of Measures in Best Practices Paper for SR III (c. III.14)/Implementation of Procedures to Access Frozen Funds (c. III.15):

243. The measures set out in the Best Practices Paper for Special Recommendation III have not been implemented. There are no laws or procedures to consider requests for the release of funds to cover basic expenses for seized funds in any event.

2.4.2. Recommendations and Comments

- Put in place a legal framework for freezing of terrorist assets *ex parte* and without delay, including the following elements:
 - A mechanism for examining and giving effect to, if appropriate, the actions initiated under freezing mechanisms of other countries; recognizing and reviewing terrorist lists of other countries and giving effect to those lists if appropriate;
 - An effective procedure for disseminating the UNSCR 1267 Sanctions Committee list as well as lists under UNSCR 1373 to the financial sector;
 - Clear guidance on implementation to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms;
 - Procedures for unfreezing and for allowing access to funds for basic expenses;
 - Protection of *bona fide* third party rights; and

- A mechanism for monitoring compliance and imposing sanction in cases of failure to comply.
- Put in place procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions;
- Put in place procedures for persons or entities whose funds or other assets have been frozen to challenge that measure with a view to having it reviewed by a court.

2.4.3. Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	NC	<ul style="list-style-type: none"> • No mechanism in place to give effect to UNSCRs 1267 and 1373. • No mechanism to examine and give effect as appropriate to actions initiated under the freezing mechanisms of other jurisdictions. • No mechanism for communicating actions to the financial sector.

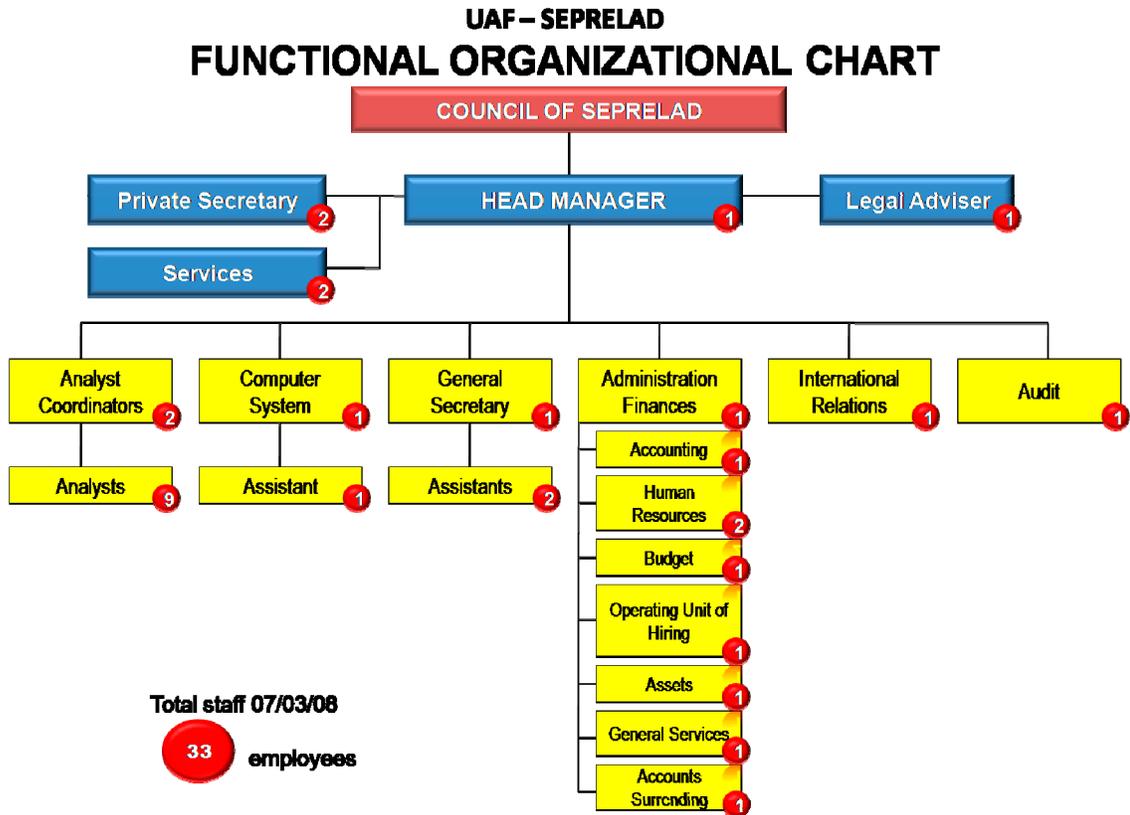
2.5. The Financial Intelligence Unit and its Functions (R.26)

2.5.1. Description and Analysis

244. **Legal Framework:** Law No. 1,015/97. Article 30 of Law No. 1,015/97 created the Financial Analysis Unit (*Unidad de Análisis Financiero* UAF) under the Secretariat of Money Laundering Prevention (*Secretaría de Prevención del Lavado de Dinero – SEPRELAD-*), to evaluate and analyze the information received by SEPRELAD from the reporting entities that are listed in Article 13 of the same law: Banks; Financial institutions; Insurance companies; Bureau de change; Stock broking companies and securities dealers (stock exchanges); Investment companies; Trust companies; Administrators of mutual investment and pension funds; Credit and consumer cooperatives; Gambling establishments; Real estate agencies; Non-governmental organizations and foundations; Pawn shops; and any other natural person or legal entity regularly engaged in financial broking, trading in precious metals, stones and jewelry, works of art or antiques, or investing in stamps or coins.

Establishment of FIU as National Centre (c. 26.1):

245. The UAF-SEPRELAD does not have at the moment an official organizational chart, because it has not yet been approved by a decree of the Presidency of the Republic. The mission prepared the organizational chart below, according to the present employees and operative and administrative dependencies:



246. While SEPRELAD is a council of six high level authorities (the Ministry of Industry and Trade, a member of the board of directors of the Central Bank of Paraguay, a member of the National Securities Commission, the Executive Secretary of the SENAD, the Superintendent of Banks and the Commander of the National Police Force), the UAF is a technical body charged with the operational aspects that Article 28 of Law No. 1,015/97 defines for SEPRELAD:

- to issue administrative regulations to be observed by the reporting bodies with a view to preventing, detecting and reporting operations to launder money or property;
- to obtain from public institutions and the reporting bodies all information that may be related to money laundering;
- to examine information received in order to establish suspicious transactions and operations or patterns of money or property laundering;
- to keep statistical records of the movement of property connected with money or property laundering;
- to order the investigation of any transactions that give rise to a reasonable presumption of an offence of money or property laundering;

- to refer to the Office of the Public Prosecutor any cases in which circumstantial evidence arises of the commission of an offence of money or property laundering so that the appropriate judicial investigation may be initiated; and
- To report to the bodies and institutions responsible for supervising the reporting bodies any detected case of administrative infringements of the law or the regulations, for the purposes of their investigation and punishment, as appropriate.

247. The UAF is operating within SEPRELAD as the country's financial intelligence unit. The Unit is responsible, at national level, to assess and analyze the information received by the SEPRELAD. It is responsible for processing financial information and forwards its analysis to the OAG, as appropriate. The UAF is *de facto* the secretariat of SEPRELAD, and administers and safe keeps all reports and documents dealt by SEPRELAD. The UAF also undertakes the coordination of the joint work with national and international agencies responsible for enforcing AML laws.

248. SEPRELAD directly receives from the reporting bodies, the corresponding financial information in Suspicious Transaction Reports (STR), which is defined by Article 19 of Law 1015 as “any act or operation, regardless of the sums involved, if there is an indication or a suspicion that such act or operation is connected with an offence of money or property laundering. The following in particular shall be considered suspicious transactions: 1. Operations which are complex, unusual or large, or do not follow the pattern of habitual transactions; 2. Operations which, although not large, occur periodically and with no reasonable legal or economic basis; 3. Operations which by their nature or volume are not consistent with the credit or debit operations conducted by the clients in the light of their activities or previous business practice; and 4. Operations which, with no justifiable cause, involve cash payments by a large number of persons.”

249. De facto the STRs are received directly by the UAF for processing. The system of remittance of these STR is still made on manual way, in paper format, by remittance directly by the reporting bodies to the UAF headquarters. Besides its main mission of receiving and analyzing the STRs, the UAF also carries out financial analysis and data searches at the request of Prosecutors, the Judiciary and the CBP. The UAF also receives foreign requests of information through the Egmont Group secure web.

250. The UAF operative administrative process of receipt and analysis of the STR has been regulated by a manual originated from the following SEPRELAD resolutions: Resolution No. 292 (11/30/2007) that approves the STR validation procedure; Resolution No. 284 (11/20/2007) that approves the description of the duties and responsibilities of the coordinator and the financial analysts; and Resolution No. 291 (11/29/2007) that approves the description of the STR financial analysis process.

251. With regard to STRs analysis, analyzed cases had been minimal prior to August of 2007, with operative resources oriented almost exclusively to the processing of information and analysis requests by Prosecutors, Judges and the CBP. Since the new UAF management took over, STRs analysis has been strengthened progressively, including with the increase of staff from 3 to 11 analysts at the date of the mission. Financial analysis relies on the experience of a core of 3 analysts, with the most senior analyst having five years experience, and two of them are now coordinators of the analysts.

252. The combination of the STRs analysis and the responses to the external requests caused that in 2007 the few analysts concentrated their efforts to answering the external requests, at the expense of the STRs analysis. These requests, especially those that came from the Prosecutors, can be a simple search of information in the SEPRELAD Database, or it can be a complete financial analysis.

253. The mission evaluated the process of receipt-registry-analysis-report to the Prosecutor, of the STR by the UAF-SEPRELAD. This process is the following:

Table 3. UAF STR Process

	PHASE	PRESCRIBED PROCESS	COMMENTS by assessors
Phase 1	Reception of the STR	<input type="checkbox"/> Receipt of the sealed STR by UAF-SEPRELAD <input type="checkbox"/> STR is assigned a number of entrance table <input type="checkbox"/> STR is registered in the computerized Pursuit STR Database <input type="checkbox"/> STR is sent to the Secretariat of the UAF Director	
Phase 2	Secretariat of the UAF Director	<input type="checkbox"/> Receipt of the STR form <input type="checkbox"/> It is given to the Director for processing approval <input type="checkbox"/> Once obtained the processing approval, it is sent to the financial analyzing department	
Phase 3	Coordination of the Unit of Financial Analysis	<input type="checkbox"/> Receipt of the STR form <input type="checkbox"/> Examines the degree of priority of the STR <input type="checkbox"/> Assigns the case to a financial analyst <input type="checkbox"/> The STR form is sent to the designed financial analyst	<input type="checkbox"/> The validation process is based on classification in three levels of priority (High, Average, Low) with respect to criteria related to the geographic place of the operation, the amount of the transaction, the type of instrument, the amount of STR by reporting entity, and the occurred time of the suspicious operation <input type="checkbox"/> STRs that do not reach the minimum level of priority are only registered in the

			<p>Database and not analyzed</p> <p><input type="checkbox"/> Only STRs with a minimum validation are assigned to a financial analyst.</p>
Phase 4	Financial analyst	<p><input type="checkbox"/> Receipt of the STR form</p> <p><input type="checkbox"/> registers the information of the STR into the analyst's database</p> <p><input type="checkbox"/> Processes the case according to the Coordinator's advice.</p> <p><input type="checkbox"/> Analyzes the case according to the established process</p> <p><input type="checkbox"/> Establishes the Executive Report at the end of the analysis of the case</p> <p><input type="checkbox"/> Sends the Executive Report to the Coordination, for its validation.</p>	<p><input type="checkbox"/> The financial analysis is made according to a detailed step by step procedural manual</p> <p><input type="checkbox"/> The request of supplementary information and documentation to the reporting entities and public institutions is made by notes/letter</p> <p><input type="checkbox"/> The Executive Report emphasizes the financial inconsistencies verified by the financial analysis more than the possible underlying criminal aspect</p>
Phase 5	Coordination of the Unit of Financial Analysis	<p><input type="checkbox"/> Receives and controls the Executive Report</p> <p><input type="checkbox"/> Sends the Executive Report to the Legal Adviser for revision</p>	
Phase 6	Legal adviser	<p><input type="checkbox"/> Revises the Executive Report with the legal aspect.</p> <p><input type="checkbox"/> Sends it to the Secretariat of the UAF director</p>	
Phase 7	Secretariat of the UAF Director	<p><input type="checkbox"/> Registers the Executive Report</p> <p><input type="checkbox"/> Sends it to the Director for its final revision and approval</p> <p><input type="checkbox"/> The Executive Report is sent directly to the office of the prosecutor</p>	

254. The Phases 1, 2, 3, 5, 6 and 7 take place fast, in the order of one to three days, but Phase 4 of completing the process of analysis, is very variable in time, depending on the importance of the case,

and can go from a minimum of two months to several months, depending on the time of the requested body's response.

255. The following statistics were provided to the mission by the UAF-SEPRELAD. With regard to Reports of Suspicious Operations, the following table allows to compare the number of STRs received by the UAF, and those that were analyzed and reported the Prosecutor.

**UAF – SEPRELAD
SUSPICIOUS TRANSACTION REPORTS (STR)**

SAR	RECEIPT	ANALYZED AND PASSED ON
2005	797	10
2006	1316	8
2007	965	16
2008 (jan-jul)	316	93

256. The table below shows the origin of the STRs and includes the numbers of the six first months of this year. According to the UAF-SEPRELAD, 90 Percent of the STRs concern the financial activities of legal entities. The absence of corresponding statistics does not allow specify the ML typology underlying the financial criminal behaviors within the STR.

**UAF – SEPRELAD
STR's ORIGIN**

	2005	2006	2007	2008 (6 months)
Banks	<i>No detached</i>	966	884	249
Lending companies		1	5	7
Currency exchange houses		340	75	55
Real estate companies				4
Insurance companies		8		
Other		1	1	1
TOTAL (3/7/08)	797	1316	965	316

257. Since 2005, the UAF-SEPRELAD has responded of the following manner to the requests of the OAG, the Judiciary, and the CBP.

**UAF – SEPRELAD
PROSECUTORS REQUESTS**

	REQUESTS	ANALIZED AND TRANSMITTED
2005	18	18
2006	43	43
2007	82	74
2008 (jan-jul)	95	81

**UAF – SEPRELAD
JUDGES REQUESTS**

	REQUESTS	ANALIZED AND TRANSMITTED
2005	<i>No reportado</i>	<i>No reportado</i>
2006	<i>No reportado</i>	<i>No reportado</i>
2007	14	14
2008 (jan-jul)	2	2

**UAF – SEPRELAD
CENTRAL BANK OF PARAGUAY'S REQUESTS**

	REQUESTS	ANALIZED AND TRANSMITTED
2005	<i>No informed</i>	<i>No informed</i>
2006	12	12
2007	14	14
2008 (jan-jul)	3	2

258. These statistics show that the UAF-SEPRELAD had analyzed a small number of cases transmitted to the OAG until 2007, due to the lack of a sufficient number of analysts and according the information given to the mission, to a deficient management, and the lack of regulations for the reporting bodies. It is important to distinguish the results of the two last administrations, and to consider that in August of 2007 the new UAF Director adopted a policy whose priority has consisted in reconstructing and strengthening the unit and its technical analysis capacity.

259. The UAF-SEPRELAD has initiated very recently a program of prevention of money laundering, through posters and spot publicity. This program is in its initial phase; therefore it is too early to assess its impact within the Paraguayan civil society.

260. The Direction of Economic Crimes and Corruption of the OAG shared with the mission the statistics below in relation to the reception and the result of the reports of STR analyzed by SEPRELAD.

Remitted cases by SEPRELAD (Analyzed in the Directorate of Economic Crimes and Corruption)			
	2006	2007	2008
Investigations opened in Asuncion	0	3	2
Investigations opened in Ciudad del Este	0	0	1
Investigations opened in ordinary Public Ministry	0	5	0
Without interest to investigate	0	6	3
Held over	0	0	3
Without report	0	0	1
Yet opened case	0	1	1
Total	0	15	11

Total of recommendations of opening investigative cases	11
total of recommendations to no opening	9
Others	6
Gross Total of receipted reports	26

261. On a total of 26 cases coming from SEPRELAD in the Directorate of Economic Crimes and Corruption (DECC) of the OAG, a percentage of 42.3 percent becomes an investigation, and 57.7 percent does not give rise to any investigative action. These statistics show that eleven cases are opened for investigation, and 15 did not develop into criminal investigations for different the reasons indicated. It is important to note that the UAF-SEPRELAD does not receive any feedback with regard to the result of its analysis sent to the OAG.

262. The DECC informed that the cases received from SEPRELAD do not indicate the underlying criminal activity, but that the majority of the opened investigations are referring with the tax evasion offense.

263. To date Paraguay has provided evidence of fifteen (15) individual convictions for ML, in the context of seven (7) separate cases. However only six (6) out of the fifteen convictions are confirmed with final rulings, as the remaining nine (9) convictions are still on appeal.

264. On these seven separate cases for ML, any one proceeds from a ROS analysis transmitted by the UAF, according to the OAG. A hundred of investigative cases of ML would be currently opened in the specialized unit of the Prosecutors.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

265. Article 28 of Law No. 1,015/97 states that SEPRELAD has the function of issuing “*administrative regulations to be observed by the reporting entities with a view to preventing, detecting and reporting operations to launder money or property.*” In practice this duty is carried out by the UAF. In spite of being created in 1997, SEPRELAD had not circulated any such regulations before 2005. To date the following regulations have been issued by the SEPRELAD:

- Resolution No. 233 (10/11/2005) that governs procedures for banks, financial institutions, bureaux de change and other organizations subject to AML/CFT supervision.

- Resolution No. 312 (12/6/2006) that modifies Articles 4, 5, 6, 11, 15, 18 and the Annexed C of the Resolution No. 233.
- Resolution No. 262 (11/07/2007) that governs procedures for cooperatives.
- Resolution No. 263 (11/07/2007) that governs procedures for insurance companies.
- Resolution No. 264 (11/07/2007) that governs procedures for real estate agencies
- Resolution No. 265 (11/07/2007) that governs procedures for pawn shops created by the Law No. 2,283/03.
- Resolution No. 266 (11/07/2007) that modifies Articles 8, 10, 15 of the Resolution No. 264
- Resolution No. 267 (11/07/2007) that modifies Articles 8, 10, 11 and 16 of the Resolution No. 265.
- Resolution No. 059 (03/13/2008) - Regulation of prevention and repression of money laundering for the stock broking companies and securities dealers (stock exchanges);
- Resolution No. 060 (03/13/2008) - Regulation of prevention and repression of money laundering for money remittances sector.
- Resolution No. 061 (03/13/2008) - Regulation of prevention and repression of money laundering for the people who make cross-border physical transport of cash currency or negotiable instruments payable to bearer.
- Resolution No. 062 (03/13/2008) - Regulation of prevention and repression of money laundering for gambling establishments;
- Resolution No. 063 (03/13/2008) that requires to maintain policies of prevention of money laundering to the Reporting entities by Law No. 1,015/97, and to report the unusual or suspicious operations.

266. Until July of 2007, the former director of the UAF had only issued two resolutions to the reporting entities regulations. The new administration, from this date, made important efforts to regularize the inherited weak situation and issued resolutions targeting the majority of the reporting entities. However, there are still some reporting entities that are not covered in regulations, especially it concerns the investment societies, trust companies, administrators of mutual investment and pension funds, non-governmental organizations, foundations and other natural person or legal entity regularly engaged in financial broking, trading in precious metals, stones and jewelry, works of art or antiques, or investing in stamps or coins.

267. STR forms are standardized according to Article 16 of Resolution No. 233 (10/11/2005). Reporting entities have to send a STR to SEPRELAD “immediately, when the institution detected the suspicious act”. Up to now STRs are sent to the UAF directly, by mail or courier, as there are not yet electronic or computerized systems for their submission. STR form identifies the reported person or entity and the suspicious operation.

268. These regulations establish the legal obligations of the reporting entities, as well as the procedures that they have to follow for their implementation. Also, in relation with the characteristics of suspicious operations, SEPRELAD provides a certain number of indicators, in their respective sector of activities, in order to help them with the determination of a money laundering suspicion.

269. According to Article 15 of the Resolution No. 233 (11/10/2005), the financial institutions also have to report to SEPRELAD, the wire transfers of currencies originating from or outside the country. This duty is formalized by a “Wire Transfer Report” (WTR) that has to be sent monthly and within the ten first days of the calendar month. Information consists in a consolidated summary, by geographical area and currencies, of the total of the electronic transfers, but without a detailed identification of the operations.

270. SEPRELAD also has the function to inform pertinent supervisors when it detects deficiencies of reporting entities in implementing their legal obligations, in order for the supervisors to take the possible measures/sanctions. However, SEPRELAD is not legally empowered to directly control the correct application of the obligatory measures of prevention, detection and reports of the suspicious financial information by the reporting entities, or to apply sanctions to them. Article 29 of the Law No. 1,015 provides that the authority for regulation, investigation and administrative sanction belongs to the respective supervisors of the reporting entities.

Access to Information on Timely Basis by FIU (c. 26.3):

271. SEPRELAD is allowed by Article 28(2) of Law No. 1,015 to request and obtain from the governmental institutions and the reporting entities all the information that can be linked with money laundering.

272. SEPRELAD does not have direct computerized connection with administrative (customs, tax administration, real property), financial (bank accounts) and law enforcement (police, department of public prosecutions, justice) data bases, from its headquarters. The requests of information are made by notes/letters and the receipt of answers is variable in term of duration, from some days to some weeks. The UAF present policy is to give a term of 72 hours to answer the request, but some administrations like customs ask to extend sometime until two weeks.

Additional Information from Reporting Parties (c. 26.4):

273. Article 28 (2) of Law No. 1,015 authorizes SEPRELAD to request additional information from reporting parties. These requests also are made by notes or letters from the UAF in its STR’s analyzing process.

274. Upon receiving the STR, the analyst of the UAF-SEPRELAD requests from the reporting institution, all supporting documents of the reported suspicious financial operation. This request is systematic in each analysis, and banking secrecy is not opposable by the financial institution. A copy of the documentation is sent by the requested institution to the UAF-SEPRELAD.

275. When the UAF-SEPRELAD has finished the analysis and confirmed the inconsistency of the financial operation, and according to Article 28.6 of the same law, the information is made into an

“Executive Report” that the UAF director validates and sends to the Prosecutor to consider the criminal persecutions.

276. In its analyzing process, the UAF can request other reporting bodies to obtain complementary information on financial transactions, and corresponding supporting documentation.

277. The mission is not aware of cases of rejecting a SEPRELAD request by reporting entities.

Dissemination of Information (c. 26.5):

278. Article 28.6 of Law No. 1,015/97 provides that SEPRELAD shall “*refer to the OAG any cases in which circumstantial evidence arises of the commission of an offense of money or property laundering so that the appropriate judicial investigation may be initiated;*”

279. In addition to the function of financial analysis, Article 28.5 of Law No. 1,015/97 provides the SEPRELAD with the attribution of “ordering the investigation of any transactions that give rise to a reasonable presumption of an offense of money or property laundering. In accordance with Article 31 of the same law, such investigations shall be carried out by the SENAD’s Economic Crimes Investigation Unit (ECIU). The mission determined that these investigations are not actually done by the ECIU, as this specialized unit has not received information from the UAF-SEPRELAD to do it. It appears that there is an important problem of coordination between the both units. In practice, the financial investigations carried out by the ECIU are limited to those related to drug trafficking cases by opened by the antidrug officers of the SENAD.

Operational Independence (c. 26.6):

280. Decree No. 16,570/97 regulates the SEPRELAD functions. Article 10 specifies that “the Financial Analysis Unit will work into the Ministry of Industry and Trade, and will be an organ of SEPRELAD under its exclusive dependence...” The legal framework of the Paraguayan UAF establishes an administrative structure with operational dependency at the SEPRELAD.

281. Article 3 of Decree No. 16,570 edicts that the SEPRELAD members will meet at least once monthly. In the reality this obligation was rarely completed due to the difficulty to assemble at the same time the six high level authorities from the different institutions that compose it.

282. Article 11 edicts that the UAF will realize all the functions that Law No. 1,015/97 gives to the SEPRELAD, with the receipt, administration and safe keeping of all the information and documentation that SEPRELAD receives.

283. Article 9 edicts that the decisions relative to Articles 28.5 and 28.6 of Law No. 1,015/97, that corresponds to “*order the investigation of any transactions that give rise to a reasonable presumption of an offense of money or property laundering*” and “*to refer to the Office of the Public Prosecutor any cases in which circumstantial evidence arises of the commission of an offense of money or property laundering so that the appropriate judicial investigation may be initiated*”, will be taken by a majority of 4 votes at least, of the SEPRELAD members.

284. In practice, because the SEPRELAD members meeting concern, the UAF director undertakes all the functions and duties attributed by the law to SEPRELAD Secretary. The UAF

Director, apparently without prior discussion with the Secretary of SEPRELAD, requests information and documentation from the reporting entities and public administrations on behalf of the SEPRELAD. The same practice is applied for the submission of the financial analysis final report to the Prosecutor. Under this practice, the Secretary of the SEPRELAD doesn't sign the requests, which is done by the UAF Director. Law No. 1,015/97 and Decree No. 16,570/97 do not provide such delegation of authority from the SEPRELAD Secretary to the UAF Director. The submission of requests to other parties and the decision to submit "vehement" STRs to the Prosecutor does not appear to be a purely administrative issue.

285. The UAF supplied the mission only a written delegation of authority from SEPRELAD to the UAF Director regarding the administration, preparation and execution of the budget. This delegation, which concerns only SEPRELAD Resolution No. 1 (10/15/2003), also indicates broadly that the director may also carry out *"any other (resolution) that can guarantee the regular working of the Institution, without prejudice of those that SEPRELAD can or have to issue"*.

286. However this practice apparently doesn't cause an operative problem, as well for the UAF staff and the SEPRELAD members, as the reporting and requested administrative bodies.

Protection of Information Held by FIU (c. 26.7):

287. The premises of SEPRELAD are leased and located on two levels of a building in the center of the city, of which one is located below street level. The floor area seems to be appropriate for the current number of employees. Nevertheless the lack of security against fire or floods has been indicated to the mission (at least there appeared to have been a case of rupture of water pipes that could have had important consequences if it had happened outside working hours), particularly for the lower level. The protection against potential unlawful intrusion does not seem sufficient either. The entrance of the unit is directly on the street, which does not ensure sufficient confidentiality of the activities of the personnel. Moreover, control procedures for visitors at the entrance are inadequate. There is only a secure entrance in the lower level, which is where the technical and operative parts of the UAF are located (analysis and computer system areas, with personal code and fingerprint, registers the schedules of input/output of the personnel).

Publication of Annual Reports (c. 26.8):

288. SEPRELAD generates quarterly an Administrative Report, and yearly an "Institutional Memory" that include statistical data concerning:

- Number of STRs
- Number of analysis of STRs.
- Number of Requests by the Prosecutor
- Number of Requests by the Judges
- Number of Requests by the CBP
- Number of exchanged requests of information with the UAF members of the Egmont Group.

- Trainings
- Meetings.
- Official Representations.
- Institutional objectives at short, medium and long term.

289. SEPRELAD maintains a Web portal with the following address:

<http://www.seprelad.gov.py/>

290. This portal is accessible without restrictions and provides the relevant information on money laundering, on legal information and SEPRELAD activities. It is possible also to download STR forms.

291. SEPRELAD has also been recently developing an AML awareness campaign for the general public, through spots and posters, to warn on the risks of participating in money laundering activities. The related documentation is also accessible on the SEPRELAD Web portal.

292. The mission noticed that SEPRELAD has not prepared yet money laundering typologies derived from its own analyzed cases. There has been no money laundering risks analysis by economical, professional and financial sectors in the country.

Membership of Egmont Group (c. 26.9):

293. The UAF-SEPRELAD has been a member of the Egmont Group since 1998.

Egmont Principles of Exchange of Information Among FIUs (c. 26.10):

294. UAF-SEPRELAD adheres to the Egmont Group's Principles of Exchange of Information.

295. From the time of its adhesion to the Egmont Group, UAF-SEPRELAD has signed 23 Memorandums of Understanding (MOUs) in view of exchanging financial information with the FIUs of the following countries: Colombia (07/31/97 and 12/26/2007), Brazil (02/28/2001), Panama (06/01/2001), Bolivia (03/12/2002), Korea (04/05/2004), Peru (10/29/2004), Chile (11/05/2004), Argentina (12/17/2004), FINCEN - USA. (03/09/2005), Mexico (06/29/2005), Guatemala (06/31/2007), Aruba (06/30/2007), Israel (06/29/2007), Lebanon (06/29/2007), Sweden (06/30/2007), Czech Republic (08/03/2007), Netherland Antilles (10/10/2007), China (Taiwan, 10/11/2007), Bosnia-Herzegovina (10/29/2007), Portugal (12/13/2007), Croatia (04/21/2008), Albania (06/13/2008) and Ecuador (07/29/2008). Other MOUs are to be signed with the FIUs of Canada, Monaco, Rumania, Russia, Japan and Bahamas.

296. The UAF-SEPRELAD receives or sends requests for information through the secure web of the Egmont Group of Financial Intelligence Units. The statistics corresponding to the use of this international network for financial information are as followed:

**UAF- SEPRELAD
EGMONT REQUESTS BY THE UAF**

YEAR	REQUESTED	REPLIED / UNREPLIED	PROCESSING
2005	6	4	0
2006	6	6	0
2007	3	1	0
2008 (jan-jul)	1	0	0
Total	16	11	0

**UAF – SEPRELAD
EGMONT REQUESTS TO THE UAF**

YEAR	REQUESTED	REPLIED / UNREPLIED	PROCESSING
2005	3	2	0
2006	11	11	0
2007	25	25	0
2008 (jan-jul)	15	11	4
Total	54	49	4

Adequacy of Resources to FIU (c. 30.1):

297. The employees of the UAF are classified in three categories: permanent, commissioned and contracted. The permanent employees of the UAF-SEPRELAD are civil service officials under law 1626/2000 on Civil Service. The commissioned employees are permanent civil servants of other governmental institutions that are temporarily seconded to the UAF-SEPRELAD. The contracted employees are professionals with contracts of six months renewable, paid after presentation of monthly invoices; these contracted employees do not benefit from any advantage, like holidays and medical protection, as attributed to the employees of the civil service.

**UAF – SEPRELAD
HUMAN RESOURCES**

STATUS	
Permanent employees	15
Commissioned employees	6
Contracted employees	12
TOTAL (7/3/08)	33

298. It is important to indicate that in 2007 the number of analysts had lowered to only three members during several months. The Gabriel Gonzales' administration, from August 2007 has focused on a policy of enhancing financial analysis, and hired new professionals and technicians. At

the moment of the mission, there were 11 persons assigned to this financial analysis task, which corresponds to a third of the UAF employees.

299. The UAF has a budget conceded by the Presidency of the Republic. For the four last years this budget was the following:

**UAF – SEPRELAD
BUDGET**

	GUARANIS	US \$
2005	2.163.648.201	543,000 \$
2006	2.116.308.207	531,000 \$
2007	1.851.677.122	465,000 \$
2008	2.231.888.472	560,000 \$

300. These resources for 2007 have been used in the following way:

**UAF – SEPRELAD
EXECUTED COSTS - 2007 BUDGET**

	GUARANIS	US \$	%
Employees costs	1.192.748.181	300,000 \$	64,4
General costs	504.120.648	127,000 \$	27,2
Investments costs	155.980.000	39,000 \$	8,4
TOTAL	1.852.848.829	466.000	100

301. In fact, the part of the costs only for the permanent civil employees represents almost 65 percent of the budget for 2007.

302. The remuneration of the commissioned employees is not included within the UAF budget. It is charged by the other administrations of these employees.

303. Twelve (12) employees are with a six-month individual contract not systematically renewable, especially into the analysis area. The mission has noted an analyst in function from five years, with this kind of contract. According to information given to the mission, this hiring policy under these conditions is generating an evident preoccupation for the contracted employee at every final period of the contract, and does not allow guaranteeing the best atmosphere for the personnel in charge of the financial analysis. On the other hand there is no financial incentive for the personnel of the UAF, and the honorary wages for the personnel in charge of the financial analysis are less than 1,000 USD per month. In 2007 two analysts have left the unit to work as AML compliance officer within private financial institutions because of better salaries.

304. In matter of resources and technical equipment, the unit has a computer system network with a server whose capacity is insufficient to install other programs than the STR data base. The unit acquired the data analyzing software of Visual Link, as well as the consultation DIG software. Due to insufficient budget to pay the annual licenses, this software is not being used. This lack of tools to cross and analyze information is disadvantageous to the financial analyst work. More worrying is the

absence of backup of the computerized system, due to insufficient budget. In the event of an electronic crash, the unit doesn't have a copy of its database.

Integrity of FIU Authorities (c. 30.2):

305. The administrative and professional employees are recruited on the base of suitability and capability. Only the analysts go through a process of selection including the use of the polygraph. An internal code of ethics does not exist yet. Nevertheless, the new management from August of 2007 has established internal manuals for the STR management procedures and the analysis process.

306. Article 32 of Law 1015 provides for the duty of professional secrecy for anyone performing a task in SEPRELAD as well as anyone who receives confidential information or has knowledge of its actions. According to the interpretation of the authorities, Article 32 applies to all SEPRELAD employees, as well as SENAD officers acting in the context of an investigation related to an STR analyzed by SEPRELAD. Sanctions for the infringement of this duty are established in of Public Function Law No. 1,626/2000 (see Articles 57(f) and 64). The mission is not aware of any cases of violation of this duty or of cases of interferences or undue influences in the UAF-SEPRELAD working.

Training for FIU Staff (c. 30.3):

307. The UAF staff assigned to the area of Financial Analysis has received specialized AML training in various topics. However it seems that the training of the UAF analysts should be extended towards more technical aspects related to analyzing ML investigating cases, and on money laundering and terrorist financing typologies.

Statistics (applying R.32 to FIU):

308. The UAF-SEPRELAD maintains a continuous database concerning the number of STRs received, including their origin and those they are analyzed and transmitted to the OAG. This database permits to establish annual statistics.

309. The UAF-SEPRELAD annual report covers the annual activities and budget management, and includes the statistics showing the number of STRs received per month, per reporting entity. However the annual reports do not contain any analysis of the patterns of STRs.

310. It is important to indicate that the statistics management has been strengthened with the new administration from August of 2007. Nevertheless, to date the unit does not have means for statistical presentation on ML typologies and trends. The analysis of cases to develop ML/FT typologies is nonexistent.

311. The mission has noticed that there is no registry or statistics on Wire Transfers Reports (WTR) from or towards abroad that the financial institutions supervised by the Superintendence of Banks have to send monthly to SEPRELAD, according to the Resolution No. 233 of 11/10/2005. The information received by the mission confirms that these reports are accumulated in SEPRELAD without being processed or registered. In fact, the WTRs have not been mentioned in the UAF annual report since 2005. The mission estimates that this information that is not required by Law No. 1,015 is not useful for the UAF.

312. SEPRELAD doesn't receive feedback from the judicial authorities regarding the outcome of the STR analysis transmitted to the OAG. As a result, there are no statistics on the number of criminal investigations or convictions resulting from STRs analyzed by the UAF.

313. The very limited use of the Egmont network by the UAF-SEPRELAD, in spite of having 23 Agreements signed with foreign FIUs, particularly with the bordering countries, and other countries of the world that make the object of important financial movements from Paraguay, demonstrates an evident under using of this international source of intelligence by the UAF-SEPRELAD.

314. Considering the fact that almost 60 percent of the cases forwarded by SEPRELAD to the OAG do not result in the opening of a criminal investigation, that the majority of the consecutive investigations are only for the tax evasion offense, that to date any one of the seven sentenced cases by the Paraguayan courts proceeds from a previous STR, the mission considers that the analysis of STRs by the UAF-SEPRELAD does not reflect the "vehemence" of the link with the money laundering activities and adds little value to the STRs. It appears that the UAF process tends to be limited to further sustaining the information already built-in the STR, namely documenting the inconsistency of the financial operation reported as suspicious by the reporting entity.

315. The mission estimates that the determination of "vehement" money laundering indications could be facilitated by means of better coordination between the UAF-SEPRELAD and the UIDF, which would allow the STR process to evolve from a simple confirmation of a financial inconsistency to useful financial intelligence.

316. In the light of the results of the financial analysis process, and the inconsistencies in the Law No. 1,015/97, absence of convictions derived from the SEPRELAD's work and the operative shortcomings, the mission considers that the present system of prevention - detection - reporting of the suspicious financial operations is not used in the best manner to develop a sufficient proactive role in the fight against illicit activities and organized crime.

317. The mission has noted that in spite of the issued resolutions, various sectors are totally unproductive in suspicious transaction reporting, particularly the gambling sector. Generally, suspicious transaction reporting is still largely done by the banks, and certain sectors with greater money laundering risk such as Gambling Establishments, financial cooperatives, foundations and nongovernmental organizations, have never reported suspicious transactions. SEPRELAD does not have an ongoing policy of information, guidance or training with respect to these higher risk sectors.

318. The mission estimates that the present working conditions of the UAF, supplying the obligations of the SEPRELAD Secretary without an adequate delegation of authority, could cause a legal problem.

2.5.2. Recommendations and Comments

319. Based on the previous discussion the mission recommends to the Paraguayan authorities the following measures:

- To adopt a new law to clarify the duties of the Financial Analysis Unit, and to give it a real autonomy.

- To reconsider the present structure of the SEPRELAD and UAF.
- To implement a secure computerized system of STRs sending between reporting authorities y SEPRELAD.
- To develop and apply the investigative function that Law No. 1,015 gives to the SEPRELAD, and coordinate better the relation with the specialized unit of the SENAD, to strengthen the money laundering detection that permit the Prosecutor opens more proactive judiciary investigations
- To reinforce the role of the UAF in the matter of information and training of the financial and non financial institutions and professionals obliged with the AML law.
- To establish a monitoring tool to measure the risks of money laundering and terrorism financing, with the corresponding typologies.
- To develop the statistics on typologies and their trends.
- To strengthen the area of the financial analysis and the treatment of the suspicious transactions reports.
- To develop training adapted for the analysts.
- To strengthen the operative coordination with the national police, the SENAD, the Customs and the OAG.
- To develop the systematical use of Egmont Group with respect to international cooperation.
- To give to the SEPRELAD sufficient financial resources to equip it with computerized tools, and to give the sufficient financial remuneration to the personnel.
- To consider the moving of the UAF headquarters toward more suitable premises with a better general security.
- To develop a national strategy of prevention and in fighting the money laundering, in relation with the corruption and organized crime fighting.

2.5.3. Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	PC	<ul style="list-style-type: none"> • Lack of specific operational autonomy of the UAF • Confusion between SEPRELAD and the UAF about respective functions and duties. • Insufficient operative budget for the UAF • Insufficient capacity of STR analysis to determine ML/FT activities • Absence of statistic and description of ML/FT typologies

	<ul style="list-style-type: none"> • Lack of coordination with the investigative authorities • Lack of regulations to some non financial reporting entities • Insufficient protective measures into the SEPRELAD headquarters • Lack of computerized analytical tools • Insufficient use of Egmont Group for exchanging information. • Insufficient remuneration for the UAF employees
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2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, & 28)

2.6.1. Description and Analysis

320. **Legal Framework:** Law No. 1,340/88; Law No. 1,015/97; Decree No. 15,975/97; Law No. 222/93; Law No. 1,881/2002

Designation of Authorities ML/FT Investigations (c. 27.1):

321. The National Antidrug Secretariat (SENAD) has been created in 1988 by the Law No. 1,340/88 on illicit drug traffic to coordinate the actions between the governmental and no governmental authorities that are working against the traffic and consume of drug. The SENAD reports directly to the Presidency.

322. Decree No. 15,975/97, entrusting additional responsibilities to SENAD, created the Financial Crimes Investigations Unit –FCIU- (Article 23) This function consists to prevent, recover and control Money laundering from drug trafficking and connected crimes. Article 31 of Law No. 1,015/97 has designated the FCIU to investigate the money laundering offense, in accordance with Art 28.5 that gives to SEPRELAD the duty to “order the investigation of any transactions that give rise to a reasonable presumption of an offense of money or property laundering”. This unit has 6 officers, at headquarters in Asunción.

323. The OAG has a specialized financial investigation unit with the Directorate against Economic Crimes and Corruption (DECC), created in 2005, with a special competency in fighting particularly the following offenses: at the property of public institutions; tax evasion; smuggling; money laundering; bankruptcy fraud; illegal enrichment; influence peddling; extortion, and corruption. This unit has 11 prosecutors and its headquarters is in Asuncion

324. The National Police, in its organizational structure governed by the Law No. 222/93 has also a specialized investigative unit against financial offenses, the Department of Economic and Financial Crime (DEFC) within Directorate of Tactical Support of the General Directorate for Order and Security.

325. This specialized unit counts 125 police officers, distributed in the Asuncion headquarters and in regional “commissariats”. It is organized in 6 departments: economic offenses; financial offenses; offenses against intellectual property; intelligence; planning and operations, and legal assessment.

326. Customs officers also participate within the combat of money laundering and terrorist financing, particularly in the area of illicit cross-border cash transportation, and into the international trade.

Ability to Postpone/Waive Arrest of Suspects or Seizure of Property (c. 27.2):

327. Law No. 1,015 does not mention this possibility, and the mission was informed that this technique is not applied.

Additional Element—Ability to Use Special Investigative Techniques (c. 27.3):

328. Since 2002 and the Law No. 1,881/2002 which amends the Law No. 1,340 November 11 of 1988, to suppressing the illicit traffic of narcotics, the controlled deliveries are possible, but only in the case of drug trafficking. Article 84 and following of the Law No. 1,881/2002 regulate controlled deliveries, which can be ordered only by a judge, at the request of the SENAD or of the prosecutor (Article 85).

329. Articles 82 and 83 of the Law No. 1,881/2002 also give faculty to the special agents of the SENAD, to proceed legally with under-cover operations and infiltrations, and the use of informants (Article 97). There is no system of witnesses’ protection in Paraguay.

330. Article 200 of the Penal Process Code authorizes the intervention of communications, on a decision of a Judge. Nevertheless the application of this technique is exceptional.

331. The mission was informed on the lack of financial resources and training to apply these special techniques.

Additional Element—Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4):

332. The Law No. 1,015/97 against money laundering doesn’t make provision for using special investigative techniques. But by extension the application of Law No. 1,881 authorizes apparently the use of these special techniques in case of AML investigations about drug trafficking proceeds. They are not authorized for other determinant offenses. The Financial Crimes Investigations Unit of the SENAD, and the financial units of the National Police and OAG that are working against money laundering, have limited financial and technical resources that not permit the use of these special investigative techniques. The FCIU/SENAD has only 6 special agents, with financial resources very limited. The FCIU/SENAD and the special unit against economic offenses of the National Police don’t have technical tools to intercept communications and don’t practice the infiltration of agents. Consequently the special techniques are not applied in case of AML investigations.

Additional Element—Specialized Investigation Groups & Conducting Multi-National

333. Formally, there is no specialized investigative inter institutional Group. Special financial units of OAG, SENAD and Paraguay Police, co-operate organically within the framework of their legal attributions in the AML investigations.

334. In terrorism matters the SEPRINTE participates in an ongoing exchange of information with the MERCOSUR countries and the 3+1 Counterterrorism Group on Security and in CFT international investigations, concerning possible Middle East terrorist groups' fundraising from the area near Paraguay's border with Brazil and Argentina. In AML matters, the Paraguayan Customs exchanges information also with the bordering countries, and are using the Trade Transparency Unit system in relation with the US customs. The UAF/SEPRELAD participates in regional AML working groups within the MERCOSUR.

Additional Elements—Review of ML & FT Trends by Law Enforcement Authorities (c. 27.6):

335. The authorities have not carried out any analysis or review of money laundering and terrorist financing trends.

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

336. Article 193 of the Criminal Procedure Code (CPC) provides the obligation for any person or institution that have in his possession objects and documents in relation with the punishable fact to deliver when he is compelled production of them. This disposition is interpreted that a request by a public prosecutor (OAG) is sufficient. These objects and documents are sake kept during the time of investigation and penal process. In case of reject by the person of the compel production, the OAG can request the court for the judicial order and the person or the institution has the obligation to comply. The court order can authorize the searching for finding such information. By extension these dispositions include the financial and commercial institutions and physical persons.

Power to Take Witnesses' Statement (c. 28.2):

337. The Paraguayan criminal system is accusatory and Articles 202 to 213 of CPC allows the law enforcement authorities to take statements of witnesses. During AML criminal investigations, the prosecutors can obtain and use any type of testimony. The witness is obliged to contribute at the judicial request. If the person refuses to carry out this obligation, the police force can be used with an order of a judge. OEA can order his detention for maximum six hours to administrate the judicial order (Article 212). Testify is obligatory (Article 203) except for some persons listed in Article 204, 205 and 206. In case of refusal to declare, the OEA can order his detention for 24 hours, and initiate a penal cause against him if persists in refusing to testify (Article 210). The witness statement is made with his lawyer present. In each case, the credibility of the evidence will be estimated by the court during the judgment.

338. The information received by the mission do not mention problems of compliance of such request of documentation or information, in particular by reporting financial bodies in case of AML investigations by the OAG. Due to this absence of particular problems about this point, and to the existence of sentences in various ML investigations (See Chapter 2.1 of the Report), the mission considers that Paraguay is according to the recommendation 28.

Adequacy of Resources to Law Enforcement and Other AML/CFT Investigative or Prosecutorial Agencies (c. 30.1):

339. The resources available to the prosecutors and to the investigative agencies are very different. For instance, the SENAD's Financial Crimes Investigations Unit only has six (6) special agents and a very small budget. SENAD's total budget is \$1.5 million, of which only \$150,000 is allocated to counter narcotics operations. The DEFC of the National Police also has negligible financial resources. The prosecutors have better resources, but are nonetheless limited with respect to operative resources, which limit their ability to investigate and prosecute money laundering and financial crimes. Three financial crimes prosecutors were added to the unit in 2007, bringing the total number of staff to 11.

340. The specialized unit of the National Police doesn't have its own budget, and depends on the general budget of the Police National's administration. The mission was informed that besides an insufficient budget, this unit lacks operative tools.

Integrity of Competent Authorities (c. 30.2):

341. The national police and the Customs administration in general are regarded by the public as very vulnerable to corruption. The mission was informed of several cases of corruption pursued against such civil servants. The low level of wages of the Police and Customs officers cannot guarantee a sufficient protection against the corruption. The salaries of these specialized police officers are around USD 200.00 per month for a low ranked police officer to USD 800.00 per month at the commissioner's level.

342. Despite more transparent new criteria adopted during 2005 for the selection of the Prosecutors and Judges, the Justice continues to be generally perceived as largely influenced by politics, nepotism and influence peddling.

Training for Competent Authorities (c. 30.3):

343. The SENAD and the specialized prosecutors are invited to UAF SEPRELAD-organized seminars and workshops. The specialized prosecutors of the DECC in Asuncion have received training regarding money laundering and their level of professionalism in the matter appears to be good.

344. With regard to the national police, the SENAD and the customs administration, there is an important need for AML/CFT training, particularly in the topic of the coordination between law enforcement agencies that is very poor, and on the implementation of special investigative techniques.

Additional Element (Rec 30) - Special Training for Judges (c. 30.4):

345. This year, a simulated trial on money laundering offense was developed in Asuncion by the Inter-American Drug Abuse Control Commission where Judges took part. Judges also received training on AML/CFT by US Embassy, and during a workshop on collecting evidence in money laundering cases by the UNODC. However, many judges in the provinces have not received any training on this matter. One consequence of the inconsistency of training for judges is that there is a disagreement among Paraguayan judges regarding the autonomy of the money laundering offense.

Statistics (applying R.32):

346. There is no centralized national statistics concerning ML cases.

347. The few statistical data on numbers of cases of money laundering are not centralized, and are different from a service to the other.

348. The mission considers that the present low-level interagency coordination, the lack of human and financial resources, and the insufficient training and operative capacities for the law enforcement agencies is a problem that inhibits the prosecuting and punishing of money laundering offenses.

2.6.2. Recommendations and Comments

349. It is recommended to the Paraguayan authorities:

- To increase the operative budget of the specialized units against financial crime of the SENAD and National Police.
- To develop an adapted program of training focused on operative investigations and the coordination of the law enforcement agencies.
- To develop a program of special training for the judges, in a national level, focuses on the interpretation of the evidences of the money laundering offense, including the terrorist financing aspect, and on the autonomy of these offenses.
- To consider the opportunity of creating a permanent interagency Task Force especially in charge of fighting the money laundering and terrorist financing activities that could be depending of Ministry public.
- To consider the opportunity of create a specialized jurisdiction of judgment against the financial criminality, including the money laundering and terrorist financing offenses that could actuate with a national competence.

2.6.3. Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	NC	<ul style="list-style-type: none"> • Lack of legislation about special investigative techniques in ML and FT cases. • Absence of application of special investigative techniques in ML investigations.
R.28	C	

2.7. Cross Border Declaration or Disclosure (SR.IX)

2.7.1. Description and Analysis

350. **Legal Framework:** SEPRELAD Resolution No. 61 (03/11/2008) on the Regulation of money laundering prevention and repression of the cross-border cash couriers.

351. The legal provisions relative to the prevention and detection of money laundering in cross-border transportation of cash, are governed by Article 28.1 of the Law No. 1,015 which, although it does not define the corresponding procedure in this theme, provides SEPRELAD with regulatory authority regarding the administrative rules the reporting entities must observe with the purpose of avoiding, detecting and reporting the money laundering activities.

352. The CBP also issued Resolution No. 9 (12/26/2007), which governs the minimum exigencies and procedures that the supervised financial institutions will have to count to make remittances of currencies (notes and coins) into the domestic area. These provisions nevertheless are not linked to the cross-border cash movement.

Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1):

353. The procedure governed by the SEPRELAD Resolution No. 61 for the “cash couriers” who make cross-border transports of cash, fixes the obligation to declare any amount that surpasses the threshold of 10.000 USD or its equivalent in other negotiable currencies or instruments to bearer, which they include traveler's checks, promissory notes and monetary orders that are bearer or endorsed without restriction, for a fictitious beneficiary, or no complete instruments, signed but in which the name of the beneficiary is omitted. The notion of “transport” is not limited at a physical transport by a person, in its luggage or vehicle, but it also extends to the shipment of cash through a container, or the postal shipment. The regulation extends as to the entrance as to the exit of the Republic of Paraguay.

354. The customs department, SEPRELAD Resolution No. 61 is not yet applied. The form is not applied for the travelers who leave the country. Any public information for the travelers does not exist about an obligatory declaration of cash transport in the entrance or exit within the airports, nor on the risks of not declaring the cash transport, at least into the airports of Asuncion and Ciudad del Este, as the mission was able to verify.

355. The mission has been able to verify that at least in Ciudad del Este, there is no control regarding individuals crossing the bridge that links Brazil and Paraguay in this city every day by the thousands on foot, on vehicles or motorbikes on. Considering that the country has not been yet equipped with legislation on the terrorist financing, this situation increases the risk of using the country for activities of money laundering and terrorist financing.

356. The lack of effective controls at Paraguay’s borders deserves a separate consideration. In a country with such high levels of drug production and trafficking, trafficking in persons, smuggling and suspected arms trafficking, the lack of adequate controls at the borders is highly concerning. There are no effective controls on the amount of currency that can be brought into and out of Paraguay. Cross-border reporting requirements are limited to those issued by airlines at the time of

entry into Paraguay's international airports. Persons transporting \$10,000 or more into or out of Paraguay are required to file a customs report, but these reports are often not actually collected or checked. Customs operations at the airports or land ports of entry provide no control of the cross-border movement of cash.

357. In addition, the Customs Administration conducts minimal inspection at the borders and is signaled by most prosecutors and judges as representing an obstacle to the detection and effective prosecution of offenders conducting illicit activities at the borders. For instance, the Customs Administration at Ciudad del Este conducts minimal random inspections of personal vehicles or motorcycles crossing the border between Paraguay and Brazil. Less than 5 Percent of the three hundred trucks that on average enter the country every week are effectively inspected, and minimal random inspections are conducted on trucks leaving the country. The situation is worst at the river crossings, with hundreds of illegal ports being used every night to transport merchandise in and out of the country, or at the dry land border crossings where no surveillance is conducted at all.

358. Prosecutors have also expressed their concern that, in a number of instances, Customs may have failed to report to them the detections of unlawful activities taking place at the borders. In several smuggling cases, for example, Prosecutors have noticed that Customs tended to close its administrative proceedings upon effective collection of the relevant tax, without ever reporting the detection of a possible offence to prosecutors.

359. Moreover, making a questionable interpretation of the principles of "pre-judicialness" (*prejudicialidad*) in smuggling and tax evasion cases, a number of judges have refused to allow prosecutions pending a decision on the determination of a tax at the administrative stage (such as Customs), or following the closure of an administrative proceeding if no fiscal damage remained, thereby leaving a number of criminal offences unpunished. This has resulted in curious and unfortunate situations, such as the one registered in the region of Alto Paraná (which includes Ciudad del Este), where, in the past five years, no cases for smuggling have reached the courts. Given the serious threat of smuggling taking place in this region, it is concerning that the courts have not obtained any convictions for this crime in such a long period of time.

Request Information on Origin and Use of Currency (c. IX.2):

360. The control is based on a disclosure system, supposing that the competent authorities can make searches on information of intelligence or suspicions or at random selections. From these measures, any traveler coming from or outside must declare to the Customs its luggage at the moment of his entrance to Paraguay, responding by yes or no at the question in both languages Spanish and English "*I bring more of US\$ 10.000 in cash or its equivalent in other values*". This obligation of declaration does not mention any criminal punishment in the case of bringing more of such amount in cash, and making a false declaration too.

361. By virtue of this declaration of entrance, except the case of not bringing such amount, two possibilities are offered:

- (a) The traveler declares to bring an amount in cash superior to 10,000 USD
- (b) The traveler responds not to the question, although he in fact brings such amounts.

362. The procedure is the same; the customs officers will retain the person, to register his personal data and the necessary information about the funds. The principle of this regulation sustains in a “Form of Declaration for Entrance or Exit of Cash or Bearer Negotiable Instruments” that the traveler may inform, al declaring under oath, about:

- His name, identity and identity documents references
- Amount, currency of the funds, or financial instruments
- Origen and destiny of the funds
- Way of transport

FORMULARIO DE DECLARACIÓN PARA ENTRADA O SALIDA DE DINERO EN EFECTIVO O INSTRUMENTOS NEGODIABLES AL PORTADOR	
Nombres:	
Apellidos:	
Numero documento:	
C.I.P. N°:	
Pasaporte N°:	
Dirección (calle, número, barrio, ciudad, país)	
Número de Teléfono:	
Nacionalidad	
Monto declarado:	
Tipo de moneda:	
Tipo de instrumento:	
Origen de los fondos:	
Destino de los fondos:	
Forma de envío o transporte (físico, carga o container, envío postal)	
Fecha:	Entrada:
	Salida:
Declaro bajo fe de juramento que los datos contenidos en la presente son ciertos y reflejan la realidad, asumiendo cualquier responsabilidad que pudiera surgir ante un eventual control que permita detectar la falsedad de lo declarado, quedando sujeto a las disposiciones legales vigentes sobre la materia.	
Declarante	Funcionario

Restraint of Currency (c. IX.3):

363. If the elements let suspect to a false declaration or an illicit origin or a money laundering activity, the customs officers will have to inform SEPRELAD within 48 hours. However, the sanction for false declaration is undetermined, as it is unclear whether this is a punishable offense. SEPRELAD Resolution No. 6 is silent regarding the retention period for a traveler by customs officers in case of false or omitted declaration. According to the authorities, the case of a traveler in this situation would have to be forwarded by the customs services to the OAG.

Retention of Information of Currency and Identification Data by Authorities when appropriate (c. IX.4):

364. The information reported by means of the form referred to above is not collected or verified and is not recorded in a database.

Access of Information to FIU (c. IX.5):

365. Collaboration exists between the UAF-SEPRELAD and the Customs on this matter. But it seems only in the direction UAF to Customs.

Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6):

366. A centralized system does not exist yet that allows the tracking of these declarations of cash whose principle of declaration is still very vague. The mission estimates that the domestic cooperation between police, customs and UIFs has to formalize about this aspect.

International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (c. IX.7):

367. The customs officers count on mechanisms of exchange of information in the Mercosur, and with the United States of America. Nevertheless the mission has not been able to gather statistics on the exchange of information on the volume of cross-border cash transport that seems to not exist. The mission has not been able to establish the level of international cooperation that could develop the Paraguayan customs authorities and the homolog institutions of the adjoining countries on the control on the cross-border cash transport. In the matter it seems not exist such regional integrated policy.

368. Paraguay is member of the “3+1” Counterterrorism Group on Tri Border Security between Argentina, Brazil, Paraguay and the United States of America. This program focuses on the exchange of information about terrorism, and includes the money laundering and terrorist financing too. The UAF-SEPRELAD director participated en various reunions, in the last years, to examine the problem o the cross-border cash movements in relation with terrorism activities.

369. The Paraguayan authorities have signed law enforcement agreements with Brazil, Argentina, Chile, Venezuela and Colombia in drug fighting matter.

Sanctions for Making False Declarations/Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8

370. This obligation of declaration does not mention any criminal punishment in the case of bringing more of such amount in cash, and making a false declaration too.

371. According to Article 13 of the Resolution the false declaration or revelation of the transport will be object of sanction by the National Direction of Customs, with the possible elevation of the antecedents to the OAG.

Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or TF (applying c. 17.1-17.4 in R.17, c. IX.9):

372. To date there is no criminal definition to sanction the cross-border cash transport in relation with money laundering and terrorism activities. The sanction and procedure to retain a person and the funds seems to be only according to custom law and criminal code about contraband.

373. The Paraguayan Penal Code doesn't include the transportation of currency in the Article 196 against money laundering, and Paraguay has not yet a terrorist financing legislation.

Confiscation of Currency Related to ML/FT (applying c. 3.1-3.6 in R.3, c. IX.10):

374. The lack of legislation about the cross-border physical transportation doesn't permit to know the process of the confiscation, and if it is an administrative or criminal sanction.

Confiscation of Currency Pursuant to UN SCRs (applying c. III.1-III.10 in SR III, c. IX.11):

375. In the reality and according to the information received by the mission in the customs department, this resolution is not applied. The form is not applied for the travelers who leave the country. Any public information for the travelers does not exist on an obligatory declaration of cash transport in the entrance or exit neither of the airports nor on the risks of not declaring the cash transport, at least into the airports of Asuncion and Ciudad del Este, like the mission could verify.

376. The mission has been able to verify that at least in Ciudad del Este, there is no control on this concern, on persons who are crossing in thousands every day by foot, vehicles or motorbikes, on the bridge that links Brazil and Paraguay in this city.

377. For the by plane travelers too, in spite of being obliged to inform on the Customs Declaration Form, the possession of amounts of more than 10.000 U.S., there is in fact no control by the customs officers.

Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):

378. The mission was not informed about the existence of any such measure.

Safeguards for Proper Use of Information (c. IX.13):

379. The mission did not receive the data necessary to estimate the safeguard system in use in the Customs administration, especially with the information of the Customs Declaration form in the entrance in the country.

Additional Element—Implementation of SR.IX Best Practices (c. IX.15):

380. Any case within this SEPRELAD's recent measure was discovered to date. There are no registered reports about cross border transportation cases.

Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.15):

381. Paraguayan Customs and the UAF-SEPRELAD are recipients of the US program "Trade Transparency Unit" developed in the concept of financial transparency in the formal financial sector that permit to fight against the Trade-based systems that act as a kind of parallel method of transferring money and value around the world. The mission doesn't know if this intelligence tool has permitted to open investigations on money laundering.

382. There is no special database on the cross-border cash transportation in the Customs administration. The process of the UAF-SEPRELAD is to register the STRs into his own

computerized database. But to date no STRs has been established by the customs in accordance with the implementation of the Regulation 61 of SEPRELAD.

2.7.2. Recommendations and Comments

- Authorities should take measures to apply an effective control on the cross-border cash transport.
- SEPRELAD should coordinate with customs and police authorities for an effective implementation of the measures of its Resolution No. 61.

2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	NC	<ul style="list-style-type: none"> • Lack of implementation of a national control policy against cross-border cash couriers. • Inexistence of cash transport control in the land frontier check points • Inefficiency of cash transport control in the international airports. • Absence of results on the control of the cross-border cash transportation

3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS

3.1. Risk of money laundering or terrorist financing

383. The financial system in Paraguay is supervised by four competent authorities. The Superintendency of Banks (SIB) and the Superintendency of Insurance (SIS) which are the technical supervisory bodies within the CBP; the National Securities Commission (CNV); and the National Institute of Cooperatives (INCOOP). Under the CBP, the SIB is responsible for the oversight and supervision of banks, finance companies, exchange bureaus, and other entities involved in taking deposits, granting credits, and financing government projects. Similarly, under the CBP, the SIS regulates and supervises insurance companies, brokers, and agents; reinsurance companies, casualty liquidators. The National Securities Commission covers exchanges, brokerage houses, mutual funds firms, risk rating companies, external auditors, and securitization firms. Lastly, the National Institute of Cooperatives is the regulatory authority for all cooperatives operating in Paraguay.

384. The preventive measures for financial institutions are imposed by Law No. 1,015/97 (“AML Law”). However, the AML Law does not provide a definition for financial institutions in line with the glossary of definitions used in the methodology. Instead it provides a list of entities that are subject to the obligations established by this law including banks; finance companies; insurance companies; exchange bureaus; stock exchange, securities brokers and dealers; investment companies; trust companies; administrators of mutual investment and pension funds; credit and consumer cooperatives; gambling establishments; real estate agencies; non-governmental organizations and foundations; pawn shops; and any other natural person or legal entity regularly engaged in financial intermediation, trading in precious metals, stones and jewelry, works of art or antiques, or investing in stamps or coins. Although the list covers a large number of financial institutions, it does not cover the full range of financial institutions listed in the FATF Glossary. Therefore, the AML Law does not cover persons or institutions providing the following activities: financial leasing, the transfer of money or value, trading in transferable securities and commodity futures trading, safekeeping and administration of cash or liquid securities on behalf of other persons, insurance agents and brokers, securities brokers, other types of cooperatives (production, public services, specialized, cooperatives banks, insurance, etc.)

385. Chapter 3 of the AML Law – Administrative Provisions – sets out the scope of application of the preventive measures regime for financial institutions. Under this chapter, financial institutions are obliged to apply preventive measures under two specific conditions which include: 1) all transactions in excess of ten thousand US dollars or the equivalent in other currencies, subject to exceptions provided in the law; and 2) any transactions for less than ten thousand US dollars or the equivalent in other currencies if it may be inferred from such transactions that they were structured to evade the identification, recording, and reporting obligations. Therefore, the conditions mentioned above seem inadequate with respect to addressing preventive measures for establishing a business relationship.

386. Nevertheless, Chapter 3 of the law also establishes the duties and obligations of financial institutions including: customer identification (including for persons acting on behalf of the customer); record keeping; reporting of suspicious transactions; prohibition of tipping off; internal audit procedures; cooperation; administrative penalties for legal entities; and range of sanctions.

Chapter 4 of the law covers the supervisory responsibilities of the competent authorities, including the duties of SEPRELAD to issue regulations for the effective implementation of the AML Law.

387. In the context of Paraguay, the SEPRELAD is the lead authority on matters relating to AML preventive measures, including for issuing administrative resolutions/regulations to reporting entities. As far as compliance with the AML Law and resolutions/regulations issued by SEPRELAD, the SIB, the SIS, the CNV, and the INCOOP are solely responsible for supervision of financial institutions with respect to AML matters. The financing of terrorism has not yet been criminalized; therefore, there are no specific measures in place addressing this issue.

388. The following gives an overview of the regulatory and supervisory framework and of the enforceability of the resolutions/regulations issued with the remit of the respective competent authorities.

389. SEPRELAD – The authority to issue resolutions/regulations is vested under Article 28 of the AML Law. Pursuant to this authority, SEPRELAD has issued the various sector specific resolutions for financial institutions for the implementation of the AML Law, which include: Resolution No. 233 (issued October 2005 and later modified in December 2006 by Resolution No. 312) applicable to financial institutions under the supervision and control of the SIB; Resolution No. 262 (issued November 2007) applicable to financial institutions under the supervision and control of the INCOOP; Resolution No. 263 (issued November 2007) applicable to financial institutions under the supervision and control of the SIS; Resolution No. 59 (issued March 2008) applicable to financial institutions under the supervision and control of the CNV; and Resolution No. 60 (issued March 2008) applicable to persons, both natural and legal, performing remittances. SEPRELAD also issued Resolution No. 63 (issued March 2008), which addresses the obligations to establish and maintain AML policies and to report to the UAF unusual or suspicious transactions. In the case of money remitters, SEPRELAD issued Resolution No. 60. Although, there is no designated competent authority responsible for the supervision of money remitters, these entities operate within the financial system in Paraguay through agency relationships with four regulated financial institutions, including two banks and two finance companies which are under the supervision of the SIB.

390. CBP – Superintendencies of Banks and Insurance. The CBP is empowered by law and to issue resolutions/regulations for financial institutions, as needed. Using this power, the Directorate of the CBP issued Resolution No. 11 (for SIB issued October 2005) and Resolution No. 155 (for SIS issued May 2005 and its modifications) adopting all the preventive measures and obligations established by SEPRELAD under Resolution No. 233 (modified by Resolution No. 312) and Resolution No. 263, respectively.

391. National Securities Commission – Similar to the actions taken by the Superintendencies of Banks and Insurance, the CNV issued Resolution No. 1,103, adopting the preventive measures issued by SEPRELAD under Resolution No. 59 and later during June 2008 issued Resolution No. 1,114 to modify two Articles under the previous resolution.

392. National Institute of Cooperatives – No resolution has been issued by the INCOOP adopting the preventive measures issued by SEPRELAD under Resolution No. 262. Instead, INCOOP issued Circular 06/08 by which it reminds all cooperatives of the requirements imposed by Resolution No. 262. However, the circular does not have the force of law.

393. The resolutions issued by the SEPRELAD and the other competent supervisory authorities must be considered as “other enforceable means” for the purposes of this assessment because these resolutions are not directly issued or authorized by a legislative body. A key condition for determining whether these resolutions may be considered as other enforceable means is to have evidence supporting enforcement actions and/or sanctions imposed on financial institutions for non-compliance. However, as of the visit date, none of the competent supervisory authorities had yet imposed a sanction or enforcement action under their own resolutions or those issued by SEPRELAD.

Analysis of Implementation Issues

394. The mission was able to determine, from the information obtained during the mission and meetings conducted with the competent supervisory authorities, that the level of compliance with the FATF Recommendations is low. In many instances, specific requirements under the recommendations are not established by laws, regulations, and other enforceable means. It is also important to note that from meetings with selected private sector financial institutions, it was evident that their policies, procedures, and practices, particularly for banking institutions, appeared to be following the requirements of the recommendations. This was usually the situation for subsidiaries of foreign banking organizations where these banks had measures going beyond those imposed by the local authorities.

395. Other key factors that have contributed to the low level of implementation were the lack of ongoing and effective supervision by competent authorities, particularly within the securities, insurance, and cooperatives sectors where there is limited or no supervision taking place; the lack of supervisory resources, and the lack of effective and dissuasive sanctions for non-compliance.

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

3.2.1. Description and Analysis

396. Legal Framework: Reporting entities are listed under Article 13 of Law No. 1,015/97 (“AML Law”) and include the following: banks; financial institutions, insurance companies, bureaux de change; stock broking companies and securities dealers (stock exchanges); investment companies; trust companies; administrators of mutual investments and pension funds; credit and consumer cooperatives; gambling establishments; real estate agencies; non-governmental organizations and foundations; pawn shops; and any other natural person or legal entity regularly engaged in financial broking, trading in precious metals, stones and jewelry, works of art or antiques, or investing in stamps or coins. Articles 14, 15, and 16 of the AML Law establish the customer identification obligations for reporting entities. Article 14 requires reporting entities to register and verify, through reliable means, the identity of their clients, whether permanent or occasional, before establishing a business relationship, as well as the identification of the persons purporting to conduct transactions. Article 15 establishes that identification will include verification of the: customer’s identity; identification and verification of the person acting on behalf of the customer; customer’s address; customer’s occupation; or the legal status of the legal person. Article 16 requires that in the event that there are doubts or grounds that customers are not acting on their own, reporting entities are obliged to obtain the necessary information to identify the persons on whose behalf the customers are acting.

Prohibition of Anonymous Accounts (c. 5.1):

397. There is no obligation in primary or secondary legislation prohibiting anonymous or accounts in fictitious names. The obligation is established by resolutions issued by SEPRELAD which as described earlier, and for purposes of this assessment are considered other enforceable means. In addition, under Article 8 of Resolution of the Central Bank of Paraguay – No. 2 (Act No. 84/97) all the financial institutions under the supervision and control of the CBP are prohibited from maintaining anonymous accounts or accounts in fictitious names. The resolutions issued by SEPRELAD to financial institutions under the Superintendency of Banks (SIB), the Superintendency of Insurance (SIS), the National Securities Commission (CNV), and the National Institute of Cooperatives (INCOOP): Article 6(4)(c) of Resolution No. 233, Article 6.4.2(c) of Resolution No. 263, Article 6(3)(c) of Resolution No. 59, and Article 6(2)(a) of Resolution No. 262, respectively, state that financial institutions should implement measures and internal controls (in addition to verification procedures for knowing their customers) to avoid opening anonymous accounts or accounts in fictitious names. The authorities stated that there are none of these accounts in the system.

When CDD is required (c. 5.2):

398. Article 14 of Law No. 1,015/96 (“AML Law”) requires reporting entities to register and verify, through reliable means, the identity of their clients, whether permanent or occasional, at the time the business relationship is established as well as the identification of the persons purporting to conduct transactions. There is no threshold in place or a requirement to conduct CDD when the occasional transaction is carried out in a single operation or in several operations that appear to be linked. There are no specific requirements in law or regulation with respect to undertaking CDD when carrying out occasional transactions that are wire transfers; there is suspicion of money laundering or terrorist financing; or the financial institutions have doubts about the veracity or adequacy of previously obtained customer identification data. Financial institutions visited indicated that the persons both natural and legal are identified before the relationship is established.

Identification measures and verification sources (c. 5.3):

399. Articles 14, 15, and 16 of the AML Law establish the required customer identification obligations and due diligence measures for reporting entities. Article 14 requires reporting entities to register and verify, through reliable means, the identity of their clients, whether permanent or occasional, at the time the business relationship is established as well as the identification of the persons purporting to conduct transactions. Article 15 establishes that identification will include verification of the: customer’s identity; identification and verification of the person acting on behalf of the customer; customer’s address; customer’s occupation; or the legal status of the legal person. Article 16 requires that in the event that there are doubts or grounds that customers are not acting on their own, reporting entities are obliged to obtain the necessary information to identify the persons on whose behalf the customers are acting. However, the obligations/measures do not explicitly require the identification and verification of legal arrangements. In the practice, private sector officials indicated that the customer due diligence process for both, natural and legal persons, always takes place at the beginning of the business relationships and that customers are not allowed to use the account until the information is verified and the due diligence process is completed. Documentation obtained to verify the customer’s identity includes that issued by a government agency, authenticated and/or notarized, or legalized by a ministry of the government. Documents used for identification are described below.

Identification of Legal Persons or Other Arrangements (c. 5.4):

400. The requirements addressing legal persons are covered under Article 15 where reporting entities are required to identify the customer, as well as the person acting on behalf of the customer, verify the provisions regulating the power to bind the legal person, occupation or the legal status of the legal person. Article 16 further requires that in the event that there are doubts or grounds that customers are not acting on their own, reporting entities are obliged to obtain the necessary information to identify the persons on whose behalf the customers are acting. Although the existing requirements cover legal persons, these requirements do not explicitly cover the aspects of legal arrangements, which in the context of Paraguay includes trust arrangements –“fideicomisos”, in line with this criterion. In addition to the obligations established by law, SEPRELAD issued sector specific resolutions addressing customer identification and due diligence measures. These sector specific resolutions are described below within each competent supervisory authority.

SIB:

401. Under Article 5(1)(a) of Resolution No. 312 (modified Resolution No. 233) financial institutions are required to obtain the following documentation when identifying established customers, particularly for legal persons:

- a) Tax identification number
- b) Articles of incorporation and modifications/updates
- c) Owners and/or main shareholders and board of directors
- d) Legal representatives
- e) Authenticated copy of power(s) of attorney
- f) Commercial registry
- g) Information on capital position, financial condition of the company supported with financial statements prepared in line with the country’s accounting standards in place
- h) Confidential reports
- i) Banking and commercial references, to be verified by the financial institution pursuant to its policies
- j) Other documents, as determined by the financial institution and its policies
- k) for foreign legal persons, in addition to the documents validating the legal status, the documentation must be legalized by the Ministry of Foreign Affairs of Paraguay or by the Consulate of Paraguay in the jurisdiction.

SIS:

402. Article 6.2 of Resolution No. 263 requires reporting entities to obtain from legal persons the articles of incorporation or any other document that evidences its incorporation and legal existence. The reporting entities should record in the customer identification file the following:

- a) name, denomination or trade name and copy of the tax identification number
- b) address, including street number, town, country, and telephone number
- c) name(s) of the administrator(s), director(s), general manager and/or legal representative

- d) copy of the legal document (properly authenticated), that evidences the authority and power of those listed on c), to bind the legal person
- e) original or authenticated copy (notarized copy) of the articles of incorporation
- f) any other document that establishes the existence of the legal person (tax documents, leasing contract, utilities receipts) and maintaining copies of such documents
- g) other documents that the financial institution determines necessary, pursuant to its policies.

403. In the case of foreign legal persons, these need to present the original documents that establish their existence, corresponding visa by the consulate, as well as the legal representative with evidence to proof the provisions regulating the power to bind the legal person, and if the legal representative is a foreigner, the original passport with its respective visa. Copies of all documents mentioned must be maintained.

404. In addition, Article 6.3 addresses legal representatives and requires that when transactions are conducted by these persons, the reporting entities must demand the original power of attorney (through public notary) evidencing the powers of the representatives. The reporting entities should identify the legal representative by obtaining the following documentation:

- a) certificate of incorporation of the legal person
- b) name(s) and address(es) of the beneficiary(ies) and/or person(s) granting the powers to trustees/legal representatives to act on their behalf
- c) articles of incorporation of the legal person
- d) authenticated copies of any legal power granted by the institution, if a legal person
- e) documentation properly signed that explains the nature of the institution, if a legal person
- f) other documents that the reporting entity determines, pursuant to its policies.

CNV & INCOOP

405. Article 5 of Resolution No. 59 and Article 5 of Resolution No. 262 establish the general customer identification requirements for the financial institutions supervised by the CNV and INCOOP, respectively. With respect to legal persons, these Articles require that for the identification of their customers, financial institutions should require original documents and maintain copies of the following:

- a) tax identification number
- b) articles of incorporation and related modifications, if any
- c) detailed and updated information on partners and/or main shareholders and board of directors
- d) detailed and updated information on legal representatives
- e) authenticated copy of the special powers granted to carry out any type of transactions
- f) company registry information and/or economic activity
- g) information on the company's solvency, economic, and financial situation, supported by financial statements prepared in accordance with the country's accounting standards
- h) confidential information and judicial orders (the judicial order is not a requirement for cooperatives)

- i) banking and commercial references, to be verified by the financial institution, pursuant to its policies
- j) other documents that the financial institution determines, pursuant to its policies
- k) for foreign legal persons, in addition to the requirements mentioned above as applicable, equivalent documentation to evidence its legal existence and/or authorization to conduct operations, which must be acknowledged and authorized by the Consulate of the Republic of Paraguay of the jurisdiction and legalized by the Ministry of Foreign Affairs.

Money Remitters:

406. Resolution No. 60, Article 13 deals with aspects of customer identification and defines permanent and occasional customers, as for persons acting on behalf of the customer, beneficiaries or owner. Article 14 requires that all client identification be maintained in a register/file with the following documents:

1. Full name of the customer
2. Identification number or passport number
3. Full address (street, number, city, country)
4. Telephone number
5. Occupation

407. With respect to the beneficiary (ies), institutions are required to apply the same identification requirements. However, these requirements fall short with respect to verifying the legal status of the legal person or legal arrangement as required under this criterion.

408. Application forms currently used by financial institutions during the account opening/establishing process capture the majority of the requirements contained in the resolutions for both, natural and legal persons.

Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2):

409. Currently, there is no requirement in primary or secondary legislation for FIs to identify the beneficial owner(s). Meeting with private sector officials revealed that although persons opening/establishing business relationships are identified in line with the existing requirements, the aspects of identification of beneficial owners are not addressed because there is not explicit requirement in place. As such this criterion is not met.

SIS/Money remitters

410. The requirement is imposed through Resolution No. 263, Article 3 for insurance companies and Resolution No. 60, Article 13(3) for money remitters. Resolutions No. 312 (modified No. 233) and Resolution No. 59 for banks, finance companies, exchange houses, and other entities, and brokerage and mutual funds firms are silent in this aspect.

411. Elements of criteria c.5.5.1 and c.5.5.2 dealing with identification of the customer when acting on behalf of another person and for customers that are legal persons to understand the ownership of the company are included in the description of c.5.4. However, under the current

requirements the term “control” is not defined and the documentation required under c.5.4 is insufficient to clearly understand the control structure of the legal person, including those persons who exercise ultimate effective control over the legal person or arrangement. In addition, the aspects of “legal arrangements” as mentioned earlier are not addressed by law or regulations.

412. In addition, there is no specific requirement in primary or secondary legislation to oblige financial institutions to determine the natural persons that ultimately own or control the customer, including those persons who exercise ultimate effective control over a legal person or arrangement.

Information on Purpose and Nature of Business Relationship (c. 5.6):

SIB/SIS/CNV/INCOOP

413. Article 4 of Resolution No. 312 (modified Resolution No. 233), No. 263, No. 59, and No. 262, respectively, requires financial institutions to establish verification procedures for customer due diligence. Article 4(b) further requires that at a minimum, reasonable measures are in place to verify the purpose and the nature of the business relationship with the established customer. When establishing business relationships, private sector officials indicated that specific questions are asked to comply with this requirement and that written evidence of this interview is documented in the application forms for both individuals (natural) and company/corporate (legal) customers.

Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2):

414. There is no requirement in primary or secondary legislation or other enforceable means to require financial institutions to conduct ongoing due diligence on the business relationship.

SIB/SIS/CNV/INCOOP:

415. Article 4 of Resolution No. 233, Resolution No. 263, Resolution No. Resolution No. No. 59, and Resolution No. 262, respectively, requires FIs to establish verification procedures for customer due diligence. Article 4(c) under all resolutions requires that at minimum, reasonable measures and controls are in place that allows monitoring all transactions undertaken by the customers during the business relationship with the FI, with the objective of ensuring that all transactions undertaken are consistent with the FI’s knowledge of the customer. For the most part, banks conduct ongoing due diligence using specialized software designed to detect unusual transactions, flag documentation when is close to expiring, generate customized reports for certain kinds of customers, products, and branches.

Money remitters:

416. There is no requirement addressing ongoing due diligence. Although Article 20 of Resolution No. No. 60 requires these institutions to conduct daily monitoring of transactions (consolidated basis) undertaken by the same person, received or sent through the agents, the requirement deals mainly with monitoring for unusual transactions that exceed US\$10,000 as well as those that exceed this threshold during a calendar month that will have to be reported. Therefore, the existing requirement does not comply with the essential criteria.

SIB/CNV/INCOOP:

417. In addition, Article 7 of Resolution No. 233, Resolution No. 59, and Resolution No. 262 require FIs to establish a customer profile. Pursuant to this Article, FIs should assign and maintain a customer profile that at a minimum includes the information contained in Annexes A & B of the resolution, which will allow the FI to determine the type, volume, and frequency of the services that the customer will use during a determined timeframe. This information will be needed to determine the adequacy between the customer profile and the activities undertaken by the customers, for both natural and legal persons.

418. Annex A covers the customer profile for natural persons. In determining the customer profile, FIs are to consider the following areas:

1. name of the customer/account holder
2. type of transactions
3. personal information
4. identification documents
5. financial activity information
6. banking/commercial references
7. account information
8. anticipated account activity/transactions
9. signatures and approvals

419. Annex B covers the customer profile for legal persons. Similar to Annex A, FIs are to consider the following areas:

1. name of the customer/account holder
2. type of transactions
3. company information
4. financial activity information
5. references
6. account information
7. capital (net) and income
8. anticipated account activity/transactions
9. signatures and approvals

420. Within the insurance sector, Article 4(c) of Resolution No. 263 requires that within the verification measures, financial institutions establish measures and controls to monitor all transactions performed by their clients during the business relationship to ensure that all transactions performed are in line with the customer's profile. With respect to insurance companies and money remitters, there is no requirement in place for these institutions to conduct ongoing due diligence.

SIB/SIS/CNV/INCOOP:

421. Article 4 of Resolution No. 312 (modified Resolution No. 233), Resolution No. 263, Resolution No. 59, and Resolution No. 262 requires FIs to establish verification procedures for

customer due diligence. Under Article 4(d) FIs are required, at a minimum, to establish reasonable measures to keep up-to-date and relevant customer records. Resolution No. 233 extends the requirement for both, permanent and occasional customers.

422. In addition, Resolution No. 233 requires FIs to maintain a computerized (IT) system capable of recording all the transactions from:

- 1) occasional customers
- 2) permanent customers
- 3) non face-to-face transactions
- 4) foreign FIs
- 5) wire transfers (incoming/outgoing)
- 6) remittances abroad
- 7) equal or greater than US\$10,000 or the equivalent in local currency

423. Resolution No. 263, Article 5 further requires FIs to ensure that the customer identification file is reviewed and updated, at a minimum, once a year while the business relationship remains active, with evidence of this process properly documented and dated. FIs should consider as minimum customer identification information, the one that is requested from the customer during the insurance proposal stages and the one contained in the Annexes of this resolution. However, the current requirement is too general and does not extend to higher risk categories of customers or business relationships.

424. There is no specific requirement in place for money remitters to keep up-to-date and relevant the CDD process and records, particularly for higher risk categories of customers or business relationships.

Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8):

SIB/SIS/CNV/INCOOP/Money remitters:

425. There are no specific requirements in place for financial institutions to perform enhanced CDD for higher risk categories of customer, business relationship or transaction.

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9)/Risk—Simplification/Reduction of CDD Measures relating to overseas residents (c. 5.10)/Risk—Simplified/Reduced CDD Measures Not to Apply when Suspicions of ML/TF or other high risk scenarios exist (c. 5.11)/Risk Based Application of CDD to be Consistent with Guidelines (c. 5.12):

SIB/SIS/CNV/INCOOP/Money remitters

426. The authorities have not undertaken a formal and comprehensive assessment of money laundering and terrorist financing risks within the financial system in Paraguay. Therefore, application of reduced or simplified CDD measures is not permitted. The authorities indicated that financial institutions are required to apply the obligations imposed by law and regulations without

exceptions. As such all these criteria are considered “not applicable” for purposed of this recommendation.

Timing of Verification of Identity—General Rule (c. 5.13):

427. Article 14 of Law No. 1,015/96 requires reporting entities to document and verify through reliable means the identity of their clients, whether permanent or occasional, before establishing a business relationship, as well as the identification of the persons purporting to conduct transactions. As indicated earlier, the obligation falls short of including beneficial owners.

SIB/SIS/CNV/INCOOP:

428. Under Article 3 of Resolution No. 233, Resolution No. 263, Resolution No. 59, Resolution No. 262, respectively, FIs are obliged to identify their customers, permanent or occasional when establishing a business relationship, and when the business relationship is already established, the FIs should update the customer identification records/information in accordance with the requirements of the resolution. Although the resolution covering money remitters that is Resolution No. 60 does not have a similar requirement, the obligation established by law is sufficient.

Timing of Verification of Identity—Treatment of Exceptional Circumstances (c. 5.14 & 5.14.1):

429. This criterion is considered as “not applicable” in light of the obligation established by law to identify the customer when establishing the business relationship.

Failure to Complete CDD before commencing the Business Relationship (c. 5.15):

430. There are no specific requirements in the resolutions for financial institutions to address situations where the FIs are unable to comply with the CDD procedures. There is also no requirement to consider making a suspicious transaction report.

Failure to Complete CDD after commencing the Business Relationship (c. 5.16):

431. There are no specific requirements in the resolutions for financial institutions to address situations where the business relationship has already commenced and the institutions are unable to comply with the CDD procedures. There is also no requirement to consider making a suspicious transaction report.

Existing Customers—CDD Requirements (c. 5.17):

SIB

432. Article 18(a) of Resolution No. 233 provides that financial institutions have been granted one year, starting from the publication of this resolution, to update information on existing customers. It further states that in those instances where the institutions have not been able to obtain such information, senior management should authorize maintaining the business relationship until the information is obtained and the CDD process completed.

SIS

433. There is no specific requirement in place for insurance companies to comply with this criterion.

CNV/INCOOP

434. Articles 14 of Resolutions No. 59 and No. 262 grant one year to brokerage and mutual funds firms and cooperatives to apply the necessary CDD requirements to existing customers. It further states that in those instances where the institutions have not been able to obtain such information within the one year term, the accounts should be placed in an “inactive status” until the information is obtained and the CDD process completed.

Money remitters

435. Article 25 of Resolution No. 60 grants one year to these institutions to obtain the necessary information to identify the existing customers. In those instances where the institutions have not been able to do so within the timeframe granted, these will be subject to sanction in accordance with the law and regulations.

436. The existing requirements imposed by the SIB, the SIS, the CNV, and the INCOOP fall short of requiring financial institutions to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

Existing Anonymous-account Customers – CDD Requirements (c. 5.18):

437. There is no obligation in primary or secondary legislation prohibiting anonymous or accounts in fictitious names. The obligation is established by resolutions issued by the SEPRELAD, which as described earlier, and for purposes of this assessment are considered other enforceable means. The authorities and financial institutions visited stated that there are no known existing customers in the system that could be considered anonymous or fictitious.

Foreign PEPs—Requirement to Identify (c. 6.1):

438. As described in Recommendation 5, Article 14 of Law No. 1,015/96 establishes the general customer identification obligation for reporting entities to record and verify, using reliable means, the identity of their customers, permanent or occasional, when establishing business relationships including for persons which intend to conduct transactions through the customer’s account. Resolutions issued by the SEPRELAD to financial institutions under the supervision of the Superintendency of Banks (SIB), the Superintendency of Insurance (SIS), the Securities National Commission (CNV), and the National Institute of Cooperatives (INCOOP) address the requirements for accepting business relationships with “Politically Exposed Persons (PEPs)”. With the exception of the measures established by the SIS resolution, the obligations imposed by Article 14 and the sector specific resolutions do not establish a requirement for financial institutions to identify the beneficial owners, and in particular those that could be identified as PEPs. SEPRELAD also issued a resolution to cover money remitters; however, this resolution does not address the issue of PEPs.

SIB

439. Article 6(1)(a) of Resolution No. 312 and Resolution No. 11 issued by the SEPRELAD and the Superintendency of Banks, respectively, define “Politically Exposed Persons (PEPs)” as individuals who are or have been entrusted with prominent public functions in a foreign country, as well as persons and companies related to them.

440. Under these Articles, banks, finance companies, and exchange bureaus are required to adopt and establish adequate customer due diligence measures for the identification and verification of PEPs. As such these financial institutions should, in addition to implementing the general customer identification requirements described in Article 5 of both resolutions (which were described under Rec. 5), establish adequate risk management systems to determine whether the customer is considered a foreign PEP. However, the requirements are not clear enough as to how far the relationships with PEPs are to be established with respect to family and business relationships.

SIS

441. Resolution No. 263 issued by the SEPRELAD defines PEPs in line with the definition used in the Methodology. Article 6(4)(1) provides that with regard to persons that are entrusted or have been entrusted with prominent public functions in a foreign country, as well as their related persons and companies, insurance companies should, in addition to implementing the customer due diligence procedures required under Articles, 3, 4, and 5 of this resolution (these Articles address procedures for customer identification – including for true owners and beneficial owners, verification of customer identification, and customer recordkeeping currency transactions, respectively) establish adequate risk management systems to determine whether the customer is PEP that is entrusted or has been entrusted with a prominent public function in a foreign country.

CNV

442. Article 6(1)(a) of Resolution No. 59 issued by the SEPRELAD defines PEPs in line with the definition used in the Methodology and goes further to include domestic PEPs. Under this Article, brokerage and mutual funds firms are required to adopt and establish measures for the identification and verification of PEPs both domestic and foreign. As such, brokerage and mutual funds firms should, in addition to implementing the general customer identification requirements described under Article 5 of this resolution (which were described under Rec.5), establish adequate risk management systems to determine whether the customer is considered PEP.

INCOOP

443. Article 6(1)(a) of Resolution No. 262 issued by the SEPRELAD defines PEPs in line with the definition used in the Methodology. Under this Article, cooperatives are required to adopt and establish measures for the identification and verification of PEPs. As such these financial institutions should, in addition to implementing the general customer identification requirements described under Article 5 of this resolution (which were described under Rec.5), establish adequate risk management systems to determine whether the customer is considered a foreign PEP.

Foreign PEPs—Risk Management (c. 6.2; 6.2.1):

SIB

444. Articles 6(1)(b) of Resolutions No. 312 and 11 establish the requirement for banks, finance companies, and exchange bureaus to obtain the approval of the highest authority/senior management legally constituted in the country where the institution is located in order to establish a business relationship with PEPs.

SIS

445. Article 6(4)(1)(b) of Resolution No. 263 establishes the requirement for insurance companies to obtain the approval of the highest authority/senior management legally constituted in the country where the institution is located in order to establish a business relationship with PEPs.

CNV

446. Article 6(1)(b) of Resolution No. 59 establishes the requirements that brokerage and mutual funds firms must obtain the approval of the highest authority/senior management legally constituted in the country where the institution is located in order to establish a business relationship with PEPs.

INCOOP

447. Article 6(1)(b) of Resolution No. 262 establishes the requirement for cooperatives to obtain the approval of the administrative council/senior management in order to establish a business relationship with PEPs.

448. Although there are measures in place for establishing new business relationships with PEPs, there are no specific legal or regulatory requirements for financial institutions under the SIB, the SIS, the CNV, the INCOOP to have measures and systems in place to obtain senior management approval to continue a business relationship with a customer or beneficial owner who was subsequently found to be a PEP.

Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3):SIB

449. Articles 6(1)(c) of Resolutions No. 312 and 11 require banks, finance companies, and exchange bureaus to take reasonable measures to establish the source of wealth and the source of funds of the PEPs.

SIS

450. Article 6(4)(1)(c) of Resolution No. 263 requires insurance companies to take reasonable measures to establish the source of the funds of the customers identified as PEPs. However, the requirement falls short of imposing an obligation on insurance companies to also establish the source of the wealth of customers identified as PEPs.

CNV

451. Article 6(1)(c) of Resolution No. 59 requires brokerage and mutual funds firms to take reasonable measures to determine the source of wealth and the source of funds of the customers identified as PEPs.

INCOOP

452. Article 6(1)(c) of Resolution No. 262 requires cooperatives to take reasonable measures to establish the source of the funds of the customers identified as PEPs. However, the requirement falls short of imposing an obligation on cooperatives to also establish the source of the wealth of customers identified as PEPs.

Foreign PEPs—Ongoing Monitoring (c. 6.4):

SIB

453. Articles 6(1)(d) of Resolutions No. 312 and 11 establish that banks, finance companies, and exchange bureaus must carry out enhanced ongoing monitoring of the business relationship with customers identified as PEPs.

SIS

454. Article 6(4)(1)(d) of Resolution No. 263 establishes that insurance companies must carry out enhanced ongoing monitoring of the business relationship with customers identified as PEPs.

CNV

455. Article 6(1)(d) of Resolution No. 59 establishes that brokerage and mutual funds firms must carry out enhanced ongoing monitoring of the business relationship with customers identified as PEPs.

INCOOP

456. Article 6(1)(d) of Resolution No. 262 establishes that cooperatives must carry out enhanced monitoring of the business relationship with customers identified as PEPs. However, the requirement falls short of imposing an obligation on cooperatives to conduct ongoing monitoring.

Domestic PEPs—Requirements (Additional Element c. 6.5):

SIB/SIS/CNV/INCOOP

457. Resolution No. 59, applicable to brokerage and mutual funds firms is the only resolution that extends the customer due diligence measures to domestic PEPs.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

SIB/SIS/CNV/INCOOP

458. The 2003 United Nations Convention against Corruption was signed in December 9, 2003 and ratified in June 1, 2005. Paraguay, as a member of the Organization of American States (OAS), also adopted and ratified the Inter-American Convention Against Corruption (IACAC) in 1996.

Cross Border Correspondent Accounts and Similar Relationships – introduction

Requirement to Obtain Information on Correspondent Institution (c. 7.1):

SIB:

459. Articles 6 of Resolution No. 312 and Resolution No. 11 address the due diligence measures with respect to cross-border correspondent relationships. Under Articles 6(2)(a) of both resolutions banks, finance companies and exchange bureaus should, in addition to implementing the customer due diligence requirements under Annex C of these resolutions and in accordance with international practices, gather sufficient information about the respondent institution to be able to understand the businesses of the respondent institution, including information about: the management of the institution; its core commercial activities; its location; and the status of regulation and supervision in the country where the institution is established. Annex C comprises a list of questions including i) information about the financial institution; ii) information about the country where the financial institution operates; and iii) information about the money laundering prevention policies, none of which addresses the specific requirement of this criterion. The authorities are of the opinion that the documentation gathered to understand the “status of regulation and supervision in the country...” is sufficient to provide for an assessment of the quality of supervision and the reputation of the supervisory entity. However, as stated above, the information required in Annex C and the current requirement fall short of establishing an explicit obligation for financial institutions to understand the reputation and the quality of supervision, including whether the institution has been subject to a money laundering or terrorist financing investigation or regulatory action. Financial institutions visited indicated that the current practice for establishing correspondent banking relationships does not include evaluation the reputation and quality of supervision.

Assessment of AML/CFT Controls in Correspondent Institution (c. 7.2):

SIB:

460. Under Articles 6(2)(b) of the same resolutions banks, finance companies, and exchange bureaus are required to obtain and maintain the necessary documentation to support that the respondent institutions have established policies and procedures to prevent money laundering. Although there is no explicit requirement for banks, finance companies, and exchange bureaus to assess and ascertain the adequacy and effectiveness of the respondents’ AML/CFT controls in place. In this respect, officials from banks visited indicated that using the information and documentation received when establishing the cross-border correspondent relationship their institutions are able of making such determination.

Approval of Establishing Correspondent Relationships (c. 7.3):

SIB:

461. Articles 6(2)(c) of the same resolutions require banks, finance companies, and exchange bureaus to obtain the approval of the highest authority/senior management where the institution is legally established in order to establish and initiate the cross border correspondent relationship. The highest authority is defined in the resolution as the board of directors, executive committee, senior management or equivalent body within the institution.

Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4):

SIB:

462. There are no specific legal or regulatory requirements for banks, finance companies, and exchange bureaus to document the respective AML/CFT responsibilities of each institution.

Payable-Through Accounts (c. 7.5):

SIB:

463. With respect to “payable-through accounts”, Articles 6(2)(d) of the resolutions address the requirements for banks, finance companies, and exchange bureaus to ensure that the respondent institution has verified the identity of and performed due diligence on their customers with access to the institution’s cross-border correspondent accounts and that the respondent institution is able to provide the data and transaction information. Banks visited indicated that they do not have customers with access to accounts of their correspondent banks, therefore, no payable-through accounts in effect.

464. There was no evidence that other financial institutions like insurance companies, brokerage and mutual funds firms, and cooperatives maintained cross border correspondent accounts.

Misuse of New Technology for ML/FT (c. 8.1):

SIB/SIS/CNV:

465. Resolutions No. 312 and No. 11 (covering banks, finance companies, and exchange bureaus), Resolution No. 263 (covering insurance companies); and Resolution No. 59 (covering brokerage and mutual funds firms) under Article 6(6), Article 6(4)(4), and Article 6(4), respectively, require these financial institutions to develop policies or adopt the necessary measures to prevent the misuse of technological developments in money laundering schemes, in compliance with the laws and local regulations/resolutions, as well as international best practices.

INCOOP

466. Article 6(3) of Resolution No. 262 requires cooperatives to develop the necessary policies to comply with local laws and regulations, as well as with international best practices to prevent the misuse of technological developments in money laundering schemes.

Money remitters

467. Resolution No. 60 applicable to money remitters does not have specific measures to address the issue of non face-to-face transactions and new technologies.

Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1):

SIB

468. With respect to specific risks associated with non-face to face business relationships or transactions, Article 6(4)(4) of Resolution No. 263 requires insurance companies to develop policies or adopt the necessary measures to comply with laws and regulations, as well as with international practices. Article 6(4)(5) further requires that for transactions that take place without the physical presence of the customer, insurance companies are required to develop internal policies and procedures deal with any specific risk related to these transactions when establishing customer relationships and when conducting ongoing due diligence. By way of examples, the Article list non-face to face transactions, including:

- a) business relationships concluded over the Internet or by other means such as through the post office;
- b) services and transactions over the Internet including trading in securities by retail investors over the Internet or other interactive computer services; and
- c) transmission of instructions or applications via facsimile or similar means.

469. In addition, Article 8(2) of the same resolution specifically addresses non face-to-face transactions and requires insurance companies to establish procedures that apply to non-face to face customers, which at a minimum should include the following:

- a) certification of documents presented;
- b) additional control documents, as determined by the institution, in line with existing policies;
- c) develop independent contact with the customer; and
- d) request that the first payment be conducted through an established account in the customer's name with another bank or finance company which is subject to similar customer due diligence requirements in line with and international best practices.

SIS

470. With respect to specific risks associated with non-face to face business relationships or transactions, Article 6(4)(4) of Resolution No. 263 requires insurance companies to develop policies and internal procedures to prevent any specific risk when establishing customer relationships and when conducting ongoing due diligence. By way of examples, the Article list non-face to face transactions, including:

- a) business relationships concluded over the Internet or by other means such as through the post office;
- b) services and transactions over the Internet including trading in securities by retail investors over the Internet or other interactive computer services; and
- c) transmission of instructions or applications via facsimile or similar means.

471. In addition, Article 8(2) of the same resolution requires insurance companies to establish procedures that apply to non-face to face customers, which at a minimum should include the following:

- a) certification of documents presented;
- b) additional control documents, as determined by the institution, in line with existing policies;
- c) develop independent contact with the customer; and
- d) request that the first payment be conducted through an established account in the customer's name with another bank or finance company which is subject to similar customer due diligence requirements in line with and international best practices.

CNV

472. The CNV deals with non-face to face transactions under Article 6(5) of Resolution No. 59. Pursuant to this Article, brokerage and mutual funds firms are required to develop policies and internal procedures to prevent any specific risk when establishing customer relationships and when conducting ongoing due diligence. By way of examples, the Article list non-face to face transactions, including:

- a) business relationships concluded over the Internet or by other means such as through the post office;
- b) services and transactions over the Internet including trading in securities by retail investors over the Internet or other interactive computer services;
- c) use of ATM machines;
- d) telephone banking;
- e) transmission of instructions or applications via facsimile or similar means; and
- f) making payments and receiving cash withdrawals as part of electronic point of sale transaction using prepaid or reloadable or account-linked.

473. Article 9(3) of the same resolution requires brokerage and mutual funds firms to establish procedures that apply to non-face to face customers, which at a minimum should include the following:

- a) certification of documents presented;
- b) additional control documents, as determined by the institution, in line with existing policies;
- c) develop independent contact with the customer; and
- d) payment to be conducted through an established account in the customer's name with another institution which is subject to similar customer due diligence requirements in line with international best practices.

INCOOP/Money remitters:

474. There are no specific legal or regulatory requirements for cooperatives and money remitters that address any of the essential criteria (c.8.2 and c.8.2.1).

3.2.2. Recommendations and Comments

R.5

475. There are shortcomings in the Paraguay AML framework; in particular a number of requirements that should be set out in primary or secondary legislation are addressed through OEMs. In a number of instances, the measures in place are too general and lack the level of detail required under the standard.

476. In order to address the shortcomings in the financial sector, it is recommended that the authorities:

- prohibit, through law or regulation, anonymous accounts or accounts in fictitious names
- establish, through law or regulation, clear requirements for financial institutions to:

Undertake customer due diligence (CDD) measures when:

- carrying out occasional transactions above the applicable designated threshold. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;
 - carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;
 - there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; and
 - the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
- identify the customer (legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data) following the examples of the types of customer information that could be obtained, and the identification data that could be used to verify that information as set out in the paper entitled General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking.
 - verify, for customers that are legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person.
 - identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.
 - determine the identity of the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or legal arrangement.

- establish requirements for financial institutions to conduct ongoing due diligence on the business relationship, particularly for higher risk categories of customer or business relationships, and maintain up-to-date customers records.

477. We further recommend the authorities to establish through law, regulation, or other enforceable means, clear obligations/requirements for financial institutions to:

- understand the ownership and control structure of the customer who is a legal arrangement;
- conduct ongoing due diligence on the business relationship with money remitters;
- perform enhanced due diligence for higher risk categories of customer, business;
- relationships or transactions;
- verify the identity of the beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers;
- reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report;
- consider terminating the business relationship and making a suspicious transaction report when the business relationship has commenced and the financial institution is unable to comply with CDD requirements;
- establish requirements for insurance companies to apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times.

R.6

478. The authorities are recommending amending the Law to impose an obligation on financial institutions to identify the beneficial owners. With respect to this recommendation that obligation would extend, in particular to beneficial owners that could be identified as PEPs. SIB, CNV, and INCOOP authorities are recommended to establish through law, resolution/regulation, or other enforceable means, clear obligations/requirements for financial institutions to have appropriate risk management systems that consider the aspects of obtaining senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP. The SIS and the INCOOP are also recommended to establish an obligation/requirements for financial institutions to establish the source of wealth of customers and beneficial owners identified as PEPs; and the INCOOP is further recommended to extend the current obligation to carry out enhanced monitoring of business relationships with customers (which should also extend to beneficial owners) identified as PEPs to make this monitoring ongoing. Finally, the authorities are encouraged to fully implement the 2003 United Nations Convention against Corruption, as well as the 1996 OAS IACAC Convention.

R.7

479. The SIB authorities need to modify the resolutions in order to comply with the following essential elements of this recommendation, particularly: establishing measures for obtaining information to understand the reputation and the quality of supervision, including whether the institution has been subject to a money laundering or terrorist financing investigation or regulatory action; establishing measures for assessing and ascertaining the adequacy and effectiveness of the respondent's AML/CFT controls in place; and establishing requirements for documenting the respective AML/CFT responsibilities of each institution.

R. 8

480. There are requirements in place for financial institutions to develop policies or adopt the necessary measures for handling non face-to-face transactions and new technologies, however, there is no specific obligation for financial institutions under the supervision of the INCOOP with respect to applying these policies and/or measures when establishing customer relationships and when conducting ongoing due diligence; and in requiring the certification of documentation. We recommend the authorities to modify the resolutions to establish these additional requirements in line with the elements of this recommendation and extend the requirements to money remitters.

3.2.3. Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	NC	<ul style="list-style-type: none"> • Lack of explicit obligations imposed by law (primary or secondary legislation) for: <ul style="list-style-type: none"> – explicitly prohibiting anonymous accounts or accounts in fictitious names – customer identification and due diligence (CDD) process when: <ul style="list-style-type: none"> ○ carrying out occasional transactions above the applicable designated threshold. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; ○ carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; ○ there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; and ○ the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. – identifying the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and

		<p>verifying that customer's identity using reliable, independent source documents, data or information (identification data).</p> <ul style="list-style-type: none"> - verifying, for customers that are legal arrangements, that any person - purporting to act on behalf of the customer is so authorized, and identify and verify the - identity of that person. - identifying the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. - determining the identity of the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or legal arrangement. - establishing requirements for financial institutions to conduct ongoing due diligence on the business relationship, particularly for higher risk categories of customer or business relationships, and maintain up-to-date customers records. <ul style="list-style-type: none"> • Lack of measures in law, regulation, or other enforceable means that require financial institutions to: <ul style="list-style-type: none"> - understand the ownership and control structure of the customer who is a legal arrangement - conduct ongoing due diligence on the business relationship with money remitters. - perform enhanced due diligence for higher risk categories of customer, business relationships or transactions. - verify the identity of the beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. - reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report.
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		<ul style="list-style-type: none"> – consider terminating the business relationship and making a suspicious transaction report when the business relationship has commenced and the financial institution is unable to comply with CDD requirements. – establish requirements for insurance companies to apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times.
R.6	NC	<ul style="list-style-type: none"> • Lack of legal obligation to identify beneficial owners, in particular those that could be identified as PEPs. • Lack of requirements by SIB, SIS, CNV, and INCOOP to obtain management approval when the customer or beneficial owners is subsequently found to be a PEP. • Lack of requirements by SIS and INCOOP to establish the source of wealth of PEPs. • Lack of requirements by INCOOP to conduct enhanced ongoing monitoring of relationships.
R.7	NC	<ul style="list-style-type: none"> • Lack of requirements to gather sufficient information about the respondent to understand the reputation and quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action. • Lack of requirements to assess and ascertain the adequacy and effectiveness of the respondent institution's AML/CFT controls. • Lack of requirements to document the respective AML/CFT responsibilities of each institution.
R.8	PC	<ul style="list-style-type: none"> • Lack of requirements for cooperatives and money remitters to apply policies and measures when establishing the relationship and conducting CDD.

3.3. Third Parties And Introduced Business (R.9)

3.3.1. Description and Analysis

481. Legal Framework:

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1)

Availability of Identification Data from Third Parties (c. 9.2)/Regulation and Supervision of

Third Party (applying R. 23, 24 & 29, c. 9.3)/Adequacy of Application of FATF Recommendations (c. 9.4)/Ultimate Responsibility for CDD (c. 9.5):

SIB/SIS/CNV/INCOOP:

482. Articles 4 of Resolution No. 312, Resolution No. 263, Resolution No. 59, and Resolution No. 262 for financial institutions under the responsibility of the SIB, the SIS, the CNV and the INCOOP, respectively, provide that financial institutions are not permitted to delegate to intermediaries or third parties the elements of the CDD process. The language and prohibition is similar in all four resolutions. Although not explicitly stated, the authorities indicated that the same prohibition applies to customers introduced by foreign institutions. Therefore, within the context of the legal and regulatory AML/CFT regime, this recommendation is considered “not applicable”.

483. This criterion is also considered “not applicable” with respect to Resolution No. 60 addressing money remitters, due to the fact that these entities only exist through agency relationships with other financial intermediaries who are subject to supervision by the SIB.

3.3.2. Recommendations and Comments

484. This criterion is considered “not applicable” for the reasons stated above.

3.3.3. Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	NA	<ul style="list-style-type: none"> The requirement does not apply due to prohibitions in place.

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

3.4.1. Description and Analysis

485. **Legal Framework:** Chapter II of Law No. 861/96, General Law for Banks, Finance Companies and Other Credit Granting Institutions addresses the duty to confidentiality.

Inhibition of Implementation of FATF Recommendations (c. 4.1):

486. Article 84 of Law No. 861/96 deals with secrecy of transactions where FIs, their directors, supervision and control authorities, and employees of FIs and the relevant authorities are prohibited from disclosing any information on their customers’ transactions, unless through written customer authorization. This prohibition does not apply when the information is disclosed for purposes of liquidating a banking or financial institution.

487. Under the duty to secrecy of Article 85, the prohibition mentioned in Article 84 also applies to:

- a) Managers and officials of the Superintendency of Banks, unless it relates to information with respect to account holders of demand deposit accounts that are closed due to insufficient funds;
- b) Directors and employees of the CBP; and
- c) Partners, representatives, and employees of auditing firms responsible for auditing the financial statements of the FIs in the system.

488. Furthermore, Article 86 establishes that the banking secrecy does not apply if the information is required by:

- a) the CBP and the Superintendency of Banks in exercising their legal powers;
- b) the competent judicial authority, by virtue of resolution dictated in judgment, in which the affected one is part. In such case, appropriate measures should be taken to guarantee the secrecy;
- c) the Comptroller General's Office and the tax and revenue authorities within their powers on the basis of the following conditions:
 - i. should refer to a specific person
 - ii. must be in the course of an ongoing tax verification related to the specific person
 - iii. must have been made through a formal and previous request
- d) credit granting (banks) institutions that exchange information between them in accordance with reciprocity agreements and banking practices, while protecting the banking information.

489. The duty to confidentiality is applicable to the persons and institutions mentioned above. In all cases, during judicial or administrative processes where information safeguarded by the banking secrecy has been used, this protection is automatically lifted if from such activities/actions culpability of those benefiting from these activities/actions is determined. The parties whose charges are dismissed in judicial proceedings will remain covered by secrecy protection with regard to their transactions.

490. Under Article 22 of Law No. 1,015/97, reporting entities are obliged to provide all information related to this law when requested by the competent authority, which is SEPRELAD, in which case provisions concerning bank secrecy shall not apply. Nevertheless, the duty of bank secrecy shall be observed by the enforcement authorities, unless the criminal court judge requests such information, and only in relation to a specific pre-trial investigation or lawsuit.

491. Among the powers and responsibilities of SEPRELAD, Article 28, and paragraph 2 of Law No. 1,015/97 establishes that SEPRELAD has the power to obtain/request from public institutions and reporting entities all the information necessary that could be linked to money laundering.

492. With respect to sharing of information between competent authorities, Article 33 of the same law establishes that within the framework of international agreements, SEPRELAD could assist with the exchange of information, directly or through international bodies, with counterpart/competent authorities from other states, which will be subject to confidentiality obligation. When replying to requests for information from other states, particular consideration should be given to sovereign aspects and the protection of domestic interests.

493. Regarding the possibility of exchanging information between national authorities, the SIB indicated that they are unable to supply information to other supervision and control authorities (SIS, CNV, and INCOOP) unless through a court order. However, the SIS, CNV, and INCOOP indicated that in practice they do comply with requests for information received from the SIB without the need to obtain a court order. The SIB also indicated that sharing of information with foreign counterparts takes place only through a judicial warrant.

494. Although SIB, SIS, CNV, and INCOOP officials indicated that they have arrangements in place for sharing of information among themselves and with international counterparts authorities, the authorities were not able to provide such documents for review to ensure that these agreements included for money laundering matters.

495. With respect to the SEPRELAD, the mission was informed that SEPRELAD usually has access to all the information requested, but in some cases they have experienced delays in obtaining information, particularly when requesting such from the Customs Division and the Public Records.

496. The mission was also informed that SEPRELAD has signed agreements of mutual inter-agency cooperation in the prevention and repression of money laundering and has formalized bilateral effective exchange of confidential information related to money laundering with counterparts at the international level. However, copies of those agreements were not provided to the mission to determine the type of information that was exchanged and the conditions for exchanging, as well as the confidentiality clauses.

497. Therefore, there is no impediment for financial institutions to share the information as required by Recommendation 7. With respect to Recommendation 9, financial institutions under the supervision of the SIB, the SIS, the CNV, and the INCOOP are not permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process.

498. There are no specific legal or regulatory requirements addressing all of the elements of Special Recommendation VI. Therefore, the requirements for sharing information under this recommendation are not met.

499. Meetings with officials from the private sector confirmed that there are no impediments for the competent supervisory authorities and the FIU to prevent them from obtaining and/or having access to information.

3.4.2. Recommendations and Comments

500. The authorities are recommended to establish formal mechanisms and/or effective measures to enable information sharing and cooperation between the SIB and other competent supervisory authorities, without the need of a court order.

3.4.3. Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	PC	<ul style="list-style-type: none"> Lack of formal mechanisms or measures through which the regulatory authorities, particularly the SIB, may provide and exchange confidential

		information with domestic authorities and foreign counterparts, as needed and in line with SR.VII.
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3.5. Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1. Description and Analysis

501. Legal Framework: Law No. 1,015/97

Record-Keeping & Reconstruction of Transaction Records (c. 10.1 & 10.1.1)/Record-Keeping for Identification Data, Files and Correspondence (c. 10.2)/Availability of Records to Competent Authorities in a timely manner (c. 10.3) :

502. Article 17 of Law No. 1,015/97 requires reporting entities to accurately identify and register the transactions performed by their clients. Under Article 18 of the same law, reporting entities are obliged to maintain for a period of at least five years documents, records, and correspondence that verify or that adequately identify the transactions. The same Article establishes that the record retention period should be computed from the completion of the transaction or from the time when the account was closed. However, neither provision explicitly requires financial institutions to retain records on the identification data obtained through the customer due diligence process, account files, and business correspondence for at least five years after the business relationship is ended. The authorities and financial institutions visited indicated that the records and information maintained, which also includes customer identification information, is sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

503. Article 22 of Law No. 1,015/97 establishes the duty to cooperate. Under this Article, reporting entities are required to provide all information relating to the matters covered by this law that may be required by the competent enforcement authority, in which case provisions concerning bank secrecy shall not apply. The competent enforcement authority in this case is SEPRELAD, as established under Chapter IV of this law. However, the duty of bank secrecy shall be observed by the competent enforcement authority; unless a criminal court judge requests such information and then only in relation to a specific case or investigation.

504. In addition, Article 80 of Law No. 489 (Central Bank Law) establishes an obligation on public institutions, banks, finance companies and other entities involved in financial intermediation, and the enterprises or entities from the private sector, to provide to the CBP data and information, when requested in the conduct of its functions, observing the confidentiality of the information.

505. Therefore, the existing record keeping obligation falls short of requiring reporting entities to retain records on the identification data obtained through the customer due diligence process, account files, and business correspondence for at least five years after the business relationship is ended, or for a longer period, if requested by the competent enforcement authority in specific cases and that such customer records, account files, and business correspondence are available on a timely basis to the competent enforcement authority upon appropriate authority.

506. Although the recordkeeping obligation is clearly established by Law No. 1,015/97, SEPRELAD has also issued sector specific resolutions, which mirror the same obligations imposed by law as described below. The description below describes the resolutions in place for financial institutions under the responsibility of the SIB, the SIS, the CNV, and the INCOOP. As mentioned earlier, there is no competent supervisory authority for money remitters.

SIB:

507. Articles 19 and 11 of Resolution No. 233 establish the same obligation on banks, finance companies, exchange houses and other entities under the supervision of the SIB to maintain or retain all the records, reports, and supporting documentation as indicated in these resolutions and in accordance with the retention period established by the AML Law.

SIS

508. Article 12 of Resolution No. 263 requires insurance companies to maintain for a minimum of five (5) years, after the transaction is performed, all the necessary documents supporting transactions performed including both domestic and international, sufficient to make this information available on a timely basis to the competent authorities. Such documents should permit reconstruction of different transactions (including the amount and type of currency used) with the objective of providing, if necessary, evidence for prosecution of criminal activity.

509. The record of transactions performed by the reporting entities should be organized in accordance with an adequate archive system, for documents, electronic media or any other electronic device, and back-up copies should also be maintained.

510. The resolution also requires reporting entities to communicate to the SEPRELAD and the SIS their intention to destroy records, particularly those exceeding the established retention period, by providing at least one (1) month notice.

CNV/INCOOP/Money remitters

511. Articles 15 of Resolution No. 59 (covering brokerage and mutual funds firms) and Resolution No. 262 (covering cooperatives) and Article 26 of Resolution No. 60 (covering money remitters) require all these financial institutions to maintain all the records/registries, reports, and supporting documentation as indicated in their respective resolutions and in accordance with the period established by the AML Law.

512. However, none of these sector specific resolutions establishes a requirement or obligation for financial institutions to maintain records for a longer period, if requested by the competent authorities in specific cases and upon proper authority.

SB/SS/INCOOP/CNV/Money remitters

513. The resolutions do not impose a specific requirement to ensure that transaction records are sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. However, the obligation imposed by Article 18 of Law No.

1,015/97 provides for documentation, which includes customers' documents, records, and correspondence used to verify or identify the transactions that are considered by the financial institutions visited sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

Originator Information for Wire Transfers (applying c. 5.2 & 5.3 in R.5, c. VII.1)/Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2)/Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3):

SIB

514. Articles 11 of Resolutions No. 312 (modified Resolution No. 233) and No. 11 require financial institutions to maintain a special registry for funds transfers. Within the financial sector in Paraguay, banks and exchange houses are the only financial institutions authorized to perform wire transfers. The existing resolutions do not distinguish between domestic and international (cross-border) wire transfers; nor there is no monetary threshold in place for wire transfers – domestic or international. Therefore, under this Article and irrespective of the amount, FIs are required to register each incoming and outgoing transfer by obtaining the following information:

- For outgoing funds transfer or payment order:
 - a) name, address, telephone, identity card number or passport number of the person requesting and of the person that conducts the transfer or payment order;
 - b) account number, if the funds are debited to an existing account at the FI originating the transfer;
 - c) amount of the transfer or payment order;
 - d) date in which the transfer or payment order was executed/performed;
 - e) instructions included in the transfer or payment order by the person requesting the transaction;
 - f) identification of the beneficiary FI; and
 - g) name, address, and account number of the beneficiary.

- For incoming funds transfer or payment order:
 - a) name of the originator;
 - b) identification of the FI originating the transfer or payment order;
 - c) amount of the transfer or payment order;
 - d) date in which the transfer or payment order was executed/performed;
 - e) instructions included in the transfer or payment order by the originator;
 - f) name, address, telephone, identity card number or passport number of the beneficiary
 - g) account number, if the funds received are credited to an existing account at the receiving FI;
 - h) if the funds are paid in cash, official check or through any other monetary instrument, the receiving FI should identify the manner in which payment is made; and
 - i) if the beneficiary is not an existing customer of the receiving FI, the FI should identify the person by requesting an identity card or passport (requirement established under Article 5(2) for occasional customers).

515. Although the resolutions establish the general requirements for financial institutions to maintain originator information when conducting funds transfer, they fall short of establishing

specific requirements for the following criteria: i) handling batched and domestic transfers; and ii) ensuring that intermediary and beneficiary financial institution in the payment chain is required to provide all originator information that accompanies a wire transfer; iii) adopting effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information; iv) having measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing this recommendation; and v) applying sanctions in relation to non-compliance with the requirements of this recommendation.

516. However, two banks and two finance companies are serving as agents for Western Union and Money Gram and perform wire transfer activities. As agents for these money remitters, these institutions, particularly the finance companies have established sub-agency agreements with exchange houses in the system and other non-financial companies.

517. Insurance companies, brokerage and mutual funds firms, and cooperatives do not perform wire transfer activities. Their transfers are executed through banks.

Money remitters:

518. Under Chapter IV, Article 17 of Resolution No. 60, money remitters are required to register all individual, structured or multiple transactions that are equal or exceed US\$10,000 or its equivalent in local currency, which is carried out by the customer during the business relationship. At a minimum, money remitters should record:

1. name, address, and document number of the person originating the transaction;
2. transaction date;
3. transaction amount;
4. type of currency;
5. beneficiary's name;
6. origin of the transaction; and
7. destination of the transaction.

519. However, under the existing AML regime, money remitters are not covered by the AML Law nor supervised by a competent authority.

Analysis of effectiveness:

520. Meetings conducted with officials from financial institutions visited revealed that they are knowledgeable of the recordkeeping obligations imposed by the AML Law and it appeared to the mission that records on customers, transactions, and accounts are maintained for the required minimum period and available to the competent authorities, including the supervisors and the financial intelligence unit.

521. Financial institutions visited indicated that wire transfers are performed following the requirements established by the resolutions issued by SEPRELAD (Res. No. 312) and the SIB (Res. No. 11). In addition, to the requirements imposed by the resolutions, financial institutions indicated that because transfers are executed using the SWIFT system, they also comply with the documentation procedures of this system, which included similar information.

522. Western Union (remittance services) is not incorporated/established in Paraguay. However, it is operating through an agency relationship with four financial institutions, including two banks and two finance companies. The mission was informed that the finance companies, in turn, have established sub-agency agreements with exchange bureaus and other non-financial entities. It appears that approximately 250 sub-agents operate in the country under this arrangement. The banks and the finance companies are covered under the obligations imposed by the AML Law No. 1,015/97 and the resolutions issued by SEPRELAD and the Superintendency of Banks; however, some of these sub-agents are not subject to these obligations.

523. The mission visited exchange bureaus where a list of sub-agents was available. Some of the sub-agents were subject to the supervision and control of the Superintendency of Banks, while others like grocery and drugs stores were not subject to supervision or oversight by a competent authority. The mission's meeting with SIB officials revealed a lack of awareness of the sub-agency relationship, the number of operators in the system, and which entity was responsible for performing CDD.

524. The Western Union system is handling approximately 90 Percent of the incoming remittances, where the institution handling the transactions has established a business relationship with the recipient/beneficiary.

525. The mission identified a shortcoming within this agency relationship and remittance system related to customer identification and the due diligence process. In many instances the identification of the customer and due diligence process is performed by the sub-agent (who in many cases is not subject to the obligations of the AML law and regulations) and not by the agent who is the reporting entity and subject to supervision. In this situation, it seems that the agent has delegated the CDD procedures to a third party. Under this scenario, customer information obtained by the sub-agent is entered into the Western Union system in order to execute the payment order. The information is available to the agent but in electronic form. Therefore, the original documentation and information obtained by the sub-agent during the CDD process is not available to the agent.

526. The SIB was not able to describe the CDD measures established by Western Union to ensure compliance with the requirements of the AML law and regulations.

3.5.2. Recommendations and Comments

R.10

527. The authorities are recommended to establish a legal obligation on financial institutions to maintain/retain records on the identification data obtained through the customer due diligence process, account files, and business correspondence for at least five years after the business relationship is ended, or longer period, if requested by the competent enforcement authority in specific cases, and that such customer data are available on a timely basis to the domestic competent enforcement authority upon appropriate authority.

SRVII

528. We recommend the authorities should modify the existing resolutions to establish requirements for financial institutions to handle batched and domestic transfers, ensuring that

intermediary and beneficiary financial institution in the payment chain is required to provide all originator information that accompanies a wire transfer.

3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	PC	<ul style="list-style-type: none"> • Lack of legal obligation for financial institutions to maintain/retain identification data obtained through the customer due diligence process, account files, and business correspondence for at least five years after the business relationship is ended, or longer period, if requested by the competent enforcement authority in specific cases. • Lack of legal obligation for financial institutions to make customer identification data available on a timely basis to domestic competent enforcement authority upon appropriate authority.
SR.VII	NC	<ul style="list-style-type: none"> • Lack of specific measures in place to address a majority of the criteria in this recommendation, including for: i) handling batched and domestic transfers; ii) ensuring that intermediary and beneficiary financial institution in the payment chain is required to provide all originator information that accompanies a wire transfer; iii) adopting affective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information; iv) having measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing this recommendation; and v) applying sanctions in relation to noncompliance with the requirements of this recommendation.

3.6. Monitoring of Transactions and Relationships (R.11 & 21)

3.6.1. Description and Analysis

529. **Legal Framework:** There is no direct or explicit requirement in law, regulation or any other enforceable means for reporting entities to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic, or visible lawful purpose.

530. Article 19 of AML Law No. 1,015/97 indirectly touches on complex, unusual or large transactions by way of example when establishing the obligation to report suspicious transactions. Article 19 establishes the obligation on reporting entities to report suspicious transactions. As such, this suspicious transaction requirement only implicitly involves the analysis of complex unusual and large transactions but this is not sufficient for purposes of this recommendation.

531. Although Article 2 of Resolution No. 63 (issued in March 2008) requires reporting entities to report to SEPRELAD, using a “Suspicious Transaction Report”, transactions that are unusual or suspicious with respect to the customer’s profile of transactions, regardless of the amount, this such requirement implicitly involves analyzing suspicious transactions in the context of complex unusual and large transactions which is not sufficient to comply with the requirements of this

recommendation. Therefore, this new obligation is inconsistent with the requirements of this recommendation given that financial institutions are required to report unusual transactions without examining the background and purpose of those transactions to determine whether or not they are unusual.

Special Attention to Complex, Unusual Large Transactions (c. 11.1)/Examination of Complex & Unusual Transactions (c. 11.2)/Record-Keeping of Findings of Examination (c. 11.3):

SIB/CNV/INCOOP/Money remitters

532. There are no direct regulatory requirements imposed on reporting entities/financial institutions to: pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic, or visible lawful purpose; examine as far as possible the background and purpose of such transactions and set forth their findings in writing; and keep such findings available for competent authorities and auditors for at least five years. There is an indirect reference to unusual transactions but only on the grounds that these are suspected of or linked to money laundering, which is inconsistent with the requirements of this recommendation.

533. In addition, Articles 16(2)(a) of Resolutions No. 312 and 11, applicable to banks, finance companies, and exchange bureaus, mirror the same text as the one in Article 19 of the AML Law No. 1,015/97 falling short of establishing the requirement for this recommendation. In the case of money remitters, Article 21 of Resolution No. 60 addresses suspicious transactions and by way of examples it includes those transactions considered complex, unusual, and important or that do not fit the profile of ordinary transactions. Once again, the measures in this resolution focus more on the aspects of identifying suspicious transactions than on the requirements of this recommendation.

SIS

534. Resolution No. 263 is the only resolution, which for purposes of this assessment is considered other enforceable means, which defines “unusual transactions” as those operations where the volume, frequency, amount or characteristics are not in line with the customer’s profile. Under Article 7 of this resolution insurance companies are required to pay special attention to all complex and unusual transactions; to examine the background and purpose of such transactions; and to set forth their findings/conclusions in writing and available to the competent authorities, in this case the Superintendency of Insurance and the SEPRELAD. However, the resolution falls short by not requiring that the findings be available also to the auditors for at least five years.

Effectiveness – R.11

535. There is a general misunderstanding among financial institutions about the concept of unusual transactions versus suspicious transactions. The practice has been to identify these unusual transactions and report them to the SEPRELAD without performing an analysis to determine whether or not they are unusual or turn into suspicious transactions. This practice is supported by the resolution issued by SEPRELAD requesting reporting entities to treat these transactions as such and report them. Banks for the most part are identifying them, analyzing and determining the basis for the unusual transactions, recording their findings, and only reporting those that appear to have no apparent economic or visible lawful purpose or linked to money laundering. The authorities need to

revise the resolution to conform to the measures required under this recommendation to ensure that there is consistent treatment of these transactions by all reporting entities.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):

SIB

536. Banks, finance companies, exchange bureaus and other entities under the responsibility of the SIB are required, under Articles 4(e) of Resolutions No. 312 and 11, to establish verification procedures and reasonable measures to verify and identify business relationships and transactions with persons from countries which do not or insufficiently apply AML prevention systems. (The resolutions also make reference to consult the OFAC list.) In addition, under Articles 6 of both resolutions these institutions should implement measures and internal controls to establish or continue business relationships with persons, including companies or financial institutions established in jurisdictions with insufficient AML systems.

SIS/CNV

537. In addition, Article 4(e) of Resolutions No. 263 and No. 59 for insurance companies, and brokerage and mutual funds firms, respectively, require these financial institutions to establish verification procedures for customer identification to verify that business relationships and/or intermediation are not performed with persons from countries which do not or insufficiently apply AML prevention systems.

INCOOP/Money remitters

538. There are no legal or regulatory requirements for cooperatives or money remitters to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.

SIB/SIS/CNV/INCOOP

539. None of the competent supervisory authorities have measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2)/Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

SIB/SIS/CNV/INCOOP

540. The SIB, the SIS, the CNV, and the INCOOP do not have measures in place to ensure that financial institutions examine as far as possible the background of transactions that have no apparent economic or visible lawful purpose and set forth in writing the findings of such transactions and make the findings available to the competent authorities and auditors. In addition, the existing AML/CFT

framework does not provide for appropriate counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.6.2. Recommendations and Comments

R.11

541. The SEPRELAD authorities are recommended to modify Resolution No. 63, as well as the sector specific resolutions (Resolution No. 321, Resolution No. 59, Resolution No. 262, and Resolution No. 60) to establish a direct legal or regulatory requirement for reporting entities to: 1) pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic, or visible lawful purpose; 2) examine as far as possible the background and purpose of such transactions and set forth their findings in writing; and 3) keep such finding available for competent authorities and auditors for at least five years. Resolution No. 263 should also be revised to establish the requirement for financial institutions under the SIS to make the findings be available to the auditors for at least five years.

R.21

542. The INCOOP authorities are recommended to establish a regulatory obligation on reporting entities to give special attention to businesses and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. In addition, the SIS, the CNV, and the INCOOP authorities are further recommended to establish regulatory obligations on financial institutions to examine as far as possible the background of transactions that have no apparent economic or visible lawful purpose and set forth in writing the findings of such transactions and make the findings available to the competent authorities and auditors.

543. The SIB, the SIS, the CNV, and the INCOOP should have measures in place for financial institutions to ensure that they are advised of concerns about weaknesses in the AML/CFT systems of other countries and the authority to apply appropriate counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.6.3. Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	NC	<ul style="list-style-type: none"> Lack of requirements imposed by the competent supervisory authorities on financial institutions to pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose; to examine as far as possible the background and purpose of such transaction and set forth their findings in writing and available to competent authorities and auditors for at least five years.
R.21	NC	<ul style="list-style-type: none"> Lack of requirements imposed by the INCOOP on financial institutions to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.

		<ul style="list-style-type: none"> • Lack of requirements imposed by the SIS, the SIS, the CNV, and the INCOOP (competent supervisory) authorities to require financial institutions to examine as far as possible the background of transactions that have no apparent economic or visible lawful purpose and set forth in writing the findings of such transactions and make the findings available to the competent authorities and auditors. • Lack of apparent measures and authority at the SIB, the SIS, the CNV, and the INCOOP to advise their financial institutions of concerns about weaknesses in the AML/CFT systems of other countries and to apply appropriate counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations, respectively.
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3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

3.7.1. Description and Analysis⁵

544. **Legal Framework:** Law No. 1,015/96

Requirement to Make STRs on ML and TF to FIU (c. 13.1 & IV.1)/No Reporting Threshold for STRs (c. 13.3):

545. The obligation to report suspicious transactions is established under Article 19 of the AML Law No. 1,015/97; however it falls short of indicating to which agency or entity the reports should be sent. The obligation states that reporting entities, which includes financial institutions, should report any act or operation/transaction, regardless of the amount, if there is an indication or a suspicion that such act or operation/transaction is connected to a money laundering offence. In the Paraguayan context, “act” includes an attempted transaction. Article 19 further states that the following should be considered suspicious transactions:

- 1) Operations/transactions which are complex, unusual or large, or do not follow the profile of ordinary transactions;
- 2) Operations/transactions which, although not large, occur periodically and with no reasonable legal or economic purpose;
- 3) Operations/transactions which by their nature or volume are not consistent with the credit or debit operations conducted by the clients in accordance with their activities or previous business practice; and
- 4) Operations/transactions which, without justifiable cause, involve cash payments by a large number of persons.

⁵ The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

546. However, the legal obligation falls short in that there is no explicit requirement for reporting entities to report suspicious transactions to the FIU, which in the case of Paraguay, this entity is the UAF. Of equal importance, because the AML Law does not define the term “financial institutions”, the obligation to report suspicious transactions does not extend to brokers, agents, and some types of cooperatives.

547. Although not explicitly stated, it is implied and understood by the authorities and financial institutions visited that Article 19 imposes an obligation to report suspicious transactions directly to SEPRELAD, which in turn forwards the STRs to the FIU for analysis.

548. Terrorist financing has not yet been criminalized in Paraguay. Therefore, there is no legal or regulatory obligation to report suspicious transactions where there are reasonable ground to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism.

SIB

549. Articles 16 of Resolution No. 233 and No. 11 mirror the reporting obligation contained in Article 19 of Law No. 1,015/97 with the exception that there is an explicit requirement for financial institutions to report suspicious transactions directly to SEPRELAD. Both Articles provide by way of examples an extensive listing of transactions that financial institutions should pay special attention to when detecting suspicious transactions. All suspicious transactions identified must be reported immediately using the approved form - “Suspicious Transaction Report”, which is attached to the resolutions as an annex.

SIS

550. Article 10 of Resolution No. 263 mirrors also the obligation established by the AML Law, and requires financial institutions to report to SEPRELAD any act or operation/transaction, regardless of the amount, if there is an indication or a suspicion that such act or operation/transaction is connected to a money laundering offence. The Article also requires that the information, in this case, the suspicious transaction report, be sent through the compliance officers using the established – “Unusual and Suspicious Transaction Report”. Article 10 further requires financial institutions to report to SEPRELAD, also through the compliance officer, whether they have detected or not unusual or suspicious transactions during the reporting month. Finally, financial institutions are required to immediately report all operations/transactions that have been rejected, indicating the reasons for the rejection.

CNV/INCOOP

551. Articles 12 of Resolutions No. 59 and No. 262 for brokerage and mutual funds firms and cooperatives, respectively, mirror the obligation established by the SIB, including the listing of potential suspicious transactions that these financial institutions should pay attention.

Money remitters

552. Article 18 of Resolution No. 60 requires money remitters to report to the SEPRELAD any act or transaction, regardless of the amount, carried out or not, that pursuant to Article 21 of this resolution could be considered or is suspected of being linked to money laundering. Article 21 provides a list of potential transactions that are considered suspicious. Article 22 requires these institutions to report using the approved form contained in the resolution (Suspicious Transaction Report).

STRs Related to Terrorism and it's Financing (c. 13.2):

553. Terrorist financing has not yet been criminalized in Paraguay. Therefore, there is no legal or regulatory obligation to report suspicious transactions where there are reasonable ground to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism.

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

554. There is no indication that would support that the suspicious transaction reporting obligations are limited when the transactions are also thought to involve tax matters.

Additional Element - Reporting of All Criminal Acts (c. 13.5):

555. The Law No. 1,015/97, as well as the Resolutions issued by the SEPRELAD, the SIB, the SIS, the CNV, and the INCOOP require financial institutions to notify the SEPRELAD of any suspicious transaction, including attempted which could be linked or related to money laundering.

Analysis of Effectiveness – R.13:

556. The Law No. 1,015/97 limits the obligation to report suspicious transactions to those entities listed under its Article. As such, other financial intermediaries, including insurance agents, insurance brokers, some types of cooperatives, are not obliged to report suspicious transactions to the SEPRELAD. The authorities need to expand the list of reporting entities in line with the list provided in the glossary of the Methodology to ensure that all entities fall under the same obligation.

557. There is no uniform approach among reporting entities when making suspicious transaction reports, including for attempted transactions. To date, most of the reports are generated by banking institutions and exchange houses. No reports have been received from insurance companies, securities' firms, and cooperatives since 2006. The competent supervisory authorities for insurance, securities, and cooperatives were not able to explain the lack of reporting from financial institutions under their responsibilities.

558. There is also a need to provide further guidance in this area to ensure that reporting entities report all suspicious transactions, including attempted and those involving tax matters.

Protection for Making STRs (c. 14.1):

559. Article 34 of Law No. 1,015/97 establishes the responsibility exemption. It states that the information provided to SEPRELAD in the fulfillment of this law and its regulations should not be

considered a violation to the secrecy or confidentiality obligation and that the reporting entities, directors, administrators and officials should be exempt from civil, criminal or administrative liability, regardless of the outcome of the investigation, except in the case of their complicity with the case under investigation.

Prohibition Against Tipping-Off (c. 14.2):

560. In addition, Article 20 of Law No. 1,015/97 establishes the confidentiality obligation. It states that reporting entities should not reveal, either to the customer or to third parties, any steps taken or communications effected by them in compliance with the obligations set out in the AML Law and its regulations.

561. Financial institutions visited were aware of the protection provided under the law as well as their obligation not to tip the customers.

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

562. There are no specific requirements in law or regulations or any other measures to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by the SEPRELAD.

Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1)/Additional Elements —Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2) /— Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

563. The authorities have not given any consideration to implementing a cash reporting system within the financial sector.

564. Although under the resolutions issued by the SEPRELAD, financial institutions under the supervision of the SIB, the SIS, the CNV, and the INCOOP are required to register and maintain records of certain cash transactions this information is not reported to a national central agency. The requirement only extends to make this information available to the supervisors.

Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.1)

SIB/SIS/CNV/INCOOP

565. Resolutions issued by the SEPRELAD (Resolutions No. 233, No. 263, No. 59, No. 262) provide reporting entities with a list of examples designed to assist financial institutions in identifying, detecting, and monitoring any suspicious behavior of their customers and their business relationships. All resolutions require financial institutions to also consult the list OFAC when detecting suspicious transactions. In addition, Resolution No. 11 issued by SIB contains the same list of transactions that may be deemed suspicious.

566. However, neither the SEPRELAD nor the competent supervisory authorities have established sector specific guidelines to assist financial institutions on relevant issues including, a description of ML and FT techniques and methods; as well as international recent developments on ML and FT,

particularly those issued by FATF and/or the resolutions issued by the United Nations Security Council.

Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):

567. With respect to feedback from the competent authorities (SEPRELAD, SIB, SIS, CNV, and INCOOP), private sector stakeholders indicated that currently feedback is minimal and limited to: i) when a STR is submitted to the SEPRELAD and receipt of the STR is acknowledged; ii) when STR information is missing; and iii) meetings and training conferences hosted by the FIU and/or the supervisory authorities.

3.7.2. Recommendations and Comments

R.13& SR.IV

568. The authorities are recommended to:

- Modify the existing legal obligation to establish the requirement for financial institutions to report directly to the SEPRELAD.
- Define the term “financial institutions” in line with the definition provided in the Methodology.
- Expand the list of financial institutions to include those listed in the definition provided in the Methodology.

R.19

569. We recommend the authorities consider the feasibility and utility of a system where financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerized data base, available to competent authorities for use in money laundering cases, subject to strict safeguards to ensure proper use of the information.

SR.IV

570. The authorities are further recommended to criminalize the financing of terrorism to establish the legal obligation for financial institutions to report to the competent authorities’ transactions when they suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations.

R.25

571. Authorities, particularly the SEPRELAD, are recommended to:

- Provide guidance to assist financial institutions on AML/CFT issues covered under the FATF Recommendations, including, at a minimum, a description of ML and FT

techniques and methods, and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective.

- Establish communication standards and a mechanism for providing feedback to reporting institutions including general and specific or case-by-case feedback.
- Consider reviewing the guidance provided by the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	PC	<ul style="list-style-type: none"> • Lack of direct obligation in law or regulation to report suspicious transactions to SEPRELAD. • Reporting obligation does not cover all financial institutions. • Financing of terrorism not criminalized. • Lack of obligation in law or regulation to report suspicions related to terrorist financing. • Low volume of suspicious transaction reports (majority of reports received from the banking institutions).
R.14	C	
R.19	NC	<ul style="list-style-type: none"> • No consideration given to implementing a cash reporting system as suggested by this recommendation.
R.25	NC	<ul style="list-style-type: none"> • Lack of guidelines established by the competent supervisory authorities. • Lack of adequate and appropriate feedback from competent authorities.
SR.IV	NC	<ul style="list-style-type: none"> • Terrorist financing has not been criminalized.

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

3.8.1. Description and Analysis

572. **Legal Framework:** Law No. 1,015/97

Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1 & 15.1.2):

573. Article 21 of Law No. 1,015/97 establishes the general obligation for reporting entities, natural or legal, to establish adequate procedures to internally control information with the objective of detecting and preventing money laundering transactions from taking place. Pursuant to this Article, the reporting entities should inform their directors, managers, and employees, and impose on them the duty to comply with the provisions of the AML Law, and with the internal procedures and regulations for the purpose indicated in this Article. However, the obligation as drafted focuses on safeguarding information and not on developing internal control procedures, policies, and controls as essential elements of a sound and effective AML/CFT compliance program. Furthermore, the obligation also

falls short of including aspects related to combating the financing of terrorism, given that the financing of terrorism has not been criminalized.

574. With respect to implementing this obligation, SEPRELAD issued sector specific resolutions to financial institutions under the supervision of the SIB, the SIS, the CNV, and the INCOOP. A resolution was also issued for money remitters; however, as indicated previously, there is no competent supervisory authority responsible for this sector. The requirements of these sector specific resolutions are discussed below.

SIB/CNV/INCOOP

575. Articles 2 of Resolutions No. 233 (applicable to banks, finance companies, and exchange bureaus), No. 59 (applicable to brokerage and mutual funds firms), and No. 262 (applicable to cooperatives) establish the criteria for the AML program for the financial institutions covered under each specific resolution/sector. Pursuant to these articles, AML programs should comprise the following elements: policies and procedures; individuals holding prominent positions in financial institutions; appointment of a compliance officer responsible for the implementation, training and monitoring program; staff training programs; code of conduct; and audits.

576. With respect to the first element mentioned above, all three resolutions require financial institutions to develop procedures for preventing money laundering, which at a minimum must include the following:

- a) policies and internal procedures to ensure compliance with the requirements, legal and regulatory that govern the prevention of money laundering;
- b) policies and internal procedures approved by senior management or the highest authority in the country where the institution is established;
- c) policies and internal procedures available to all officials from the institution, the respective supervision and control authority, and SEPRELAD; and
- d) policies and internal procedures reviewed and updated in line with regulatory changes and new trends/typologies as identified by the institutions or communicated by the respective supervision and control authority and SEPRELAD.

SIS

577. Article 2(d) of Resolution No. 263 establishes the requirement for insurance companies to implement policies, procedures and training programs for matters dealing with prevention of money laundering. Under Article 13 of this resolution, the Board of Directors of the insurance companies is required to appoint, within 30 calendar days after the enactment of this resolution, officials at the managerial level to be known as Compliance Officer. The board is also responsible for providing this officer with an appropriate administrative support structure.

578. Article 15 of this resolution establishes the requirements for insurance companies to develop an AML procedures manual that should contain the following elements: AML programs, norms, and internal control procedures. The manual should be approved by the board of directors of the institution and available to all employees, the SIS, and the SEPRELAD.

579. The appointment and confirmation of the Compliance Officer must be updated and communicated to the SEPRELAD, as soon as there is a change, attaching curriculum vitae of the appointed officer or authorized agent. Article 14 of the same resolution addresses the functions of the Compliance Officer, which includes: (a) ensuring compliance with the obligations of the AML Law and resolutions, as well as those measures established by the institution; (b) recommending programs, norms, procedures and internal controls that should be adopted, developed and implemented to prevent money laundering from taking place in the institution; (c) coordinating the implementation of the programs, norms, procedures, and internal controls and ensuring compliance; (d) preparing and documenting information to be submitted to the SEPRELAD; (e) presenting reports to the board of directors, at least quarterly; (f) recommending updates to the procedures manual and ensuring adequate dissemination to all employees; (g) participating in the development of training programs; and (h) maintaining a direct link with insurance adjusters to monitor their activities and prevent potential fraud or irregularities.

580. Article 16 of Resolution No. 263 addresses the elements that should comprise an AML program. It states that the responsibility to develop, implement, monitor and maintain an AML program rest on the board of directors or the highest administrative levels of the institution.

Money remitters

581. Article 2 of Resolution No. 60 requires money remitters to establish administrative control measures through internal policies and procedures to prevent money laundering. This requirement is limited to four basic elements: 1) measures to ensure compliance with the AML obligations established by law and regulations; 2) internal policies and procedures approved by the highest legal authority of the institution; 3) policies and procedures available to all employees and the SEPRELAD; and 4) internal policies and procedures in line with recent legal changes considering the new trends or as communicated by SEPRELAD.

SIB/CNV/INCOOP

582. Articles 2(3) of Resolutions No. 233 (SIB), No. 59 (CNV), and No. 262 (INCOOP), respectively, require financial institutions to appoint a compliance officer with responsibility for the implementation, training, and monitoring of the program. Under these articles, financial institutions shall appoint an official at the senior management level. The appointment should be communicated to the respective supervision and control authority and to SEPRELAD within 15 working days following the appointment and the communication should be accompanied by a certified copy of the minutes together with the curriculum vitae (CV) of the appointed official. A similar process is in place and required when there is change affecting the compliance officer position. In this case, the communication to the respective supervision and control authority and SEPRELAD must take place within 3 working days following the change.

583. Pursuant to these articles, the compliance officer should perform the following functions:

- a) review and implement the internal operating procedures;
- b) act as liaison between the supervision and control authorities and the institution;
- c) ensure smooth communications with all offices of the institution in order to facilitate the implementation of standards related to anti money laundering;

- d) formulate and implement an account monitoring program in order to prevent the institution from being used as a vehicle for money laundering activities;
- e) coordinate the training program in this area for all officials of the institution;
- f) collect, analyze and transmit suspicious transaction reports;
- g) verify that adequate screening measures are in place to verify personal, employment, financial, and criminal records of the officials working for the institution; and
- h) carry out other measures that the senior management consider necessary or any other function that the authorities deem necessary.

584. In addition, the financial institutions must appoint a compliance deputy-in-charge for each agency or branch, which will be responsible for verifying compliance on day-to-day activities, policies, and procedures designed to prevent money laundering. The deputy will perform these activities under the authority of the compliance officer.

SIS

585. Article 13 of Resolution No. 263 requires the board of directors or its equivalent within the insurance companies to appoint, within 30 calendar days after the regulation comes into effect, a Compliance Officer at the management level and provide this officer with an adequate administrative structure to support the activities of the Compliance Officer. The Compliance Officer will be the liaison between the FAU, attached to the SEPRELAD and the reporting entity and will coordinate requests of information and communication of transactions identified as suspicious. Changes to designated or confirmed compliance officers should be communicated to SEPRELAD as soon as they takes place including providing a curriculum vitae of the appointed official. However, meetings with INCOOP authorities revealed that some compliance officers are involved in operational or administrative activities of the institutions, therefore, compromising their independence.

Money remitters

586. Article 4 of Resolution No. 60 requires money remitters to designate a Compliance Officer responsible for the implementation, training, and monitoring of the AML program. In the case of money remitters comprised of one individual, the owner will serve and carry out the functions of the Compliance Officer, and for those operating as societies the Compliance Officer should be designated at the management level or higher.

587. The designation/appointment of the Compliance Officer should be reported, in writing, to the SEPRELAD within 15 days following the appointment, accompany with a notarized copy of the minutes and a curriculum vitae of the appointed individual. All changes related to the Compliance Officer function/position should be reported, in writing, to the SEPRELAD within 3 days following the change and accompany by a notarized copy of the minutes and the curriculum vitae.

SIB/SIS/CNV/INCOOP/Money remitters

588. There are no specific requirements in the law or in the sector specific resolutions providing the Compliance Officer and his/her deputies/staff timely and unrestricted access to customer identification data and other CDD information, transaction records, and other relevant information as

required under this criterion. Implicitly, through their duties and functions, the Compliance Office and his/her deputies/staff appear to have access to customer information and other CDD information.

Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):

SIB/CNV

589. Articles 2(6) of Resolutions No. 233 (SIB) and No. 59 (CNV), respectively, address the requirements for establishing an audit function. These requirements extend to both, internal and external audit. For internal audit, financial institutions are required to design and implement internal audit programs to verify semiannually the effectiveness of the AML system in place. The Article also requires the internal audit to generate and present a report to SEPRELAD within 10 days following the closing of the period under review, in accordance with the requirements of the respective supervision and control authority.

590. With respect to external audit, the Article requires external auditors to examine, annually, the anti-money laundering preventive programs and issue a report to SEPRELAD within 60 days of the closing of the period under review. The goal of this requirement is to validate the effectiveness and level of compliance of the program when measured against the requirements imposed by the respective supervision and control authority. The current requirement falls short of requiring financial institutions to maintain an adequately resourced and independent audit function to test compliance with the policies, procedures, and controls. However, the resolution falls short of providing specific requirements to include that this function be adequately resourced and independent.

SIS

591. Under the AML compliance program described in Article 16 of Resolution No. 263, insurance companies are required to maintain an audit function for both, internal and external audit activities. Within the internal audit function, insurance companies need to be audited semi-annually and an audit report provided to the SIS and the SEPRELAD. However, the resolution falls short of providing specific requirements to include that this function be adequately resourced and independent.

INCOOP

592. Resolution No. 89 (which modified Resolution No. 262), Article 2(g)(a) requires cooperatives to design and implement internal audit programs to verify semiannually the effectiveness of the AML prevention, detection, and reporting of suspicious transactions, and to forward a report to the SEPRELAD 30 days following the closing of the semester. It goes further to differentiate between the types of cooperatives and the requirements to apply. However, like with the SIS, the resolution falls short of providing specific requirements to include that this function be adequately resourced and independent.

593. For Type “B” cooperatives, for which INCOOP’s regulations do not require internal audit, these should perform the auditing activities through their monitoring board and forward the results to the SEPRELAD 30 days after the closing of the semester.

594. Similarly, Type “C” cooperatives should present an annual report, with the monitoring board performing the auditing activities and forwarding the results to the SEPRELAD 30 days after the closing of the semester.

595. Under the same Article, to the extent that cooperatives are required to have external auditors, in accordance with INCOOP’s regulations, the internal auditors should examine the AML programs annually and generate a report to be sent to the SEPRELAD 120 days after the closing of the period indicating the effectiveness and level of compliance with the obligations in place. The authorities were not able to explain and/or support the basis for the treatment of these institutions in light of the obligations imposed by the resolution issued by SEPRELAD.

Money remitters

596. Article 12 of Resolution No. 60 imposes an obligation on money remitters to establish an internal audit function responsible for carrying out internal audit semi-annually to ensure that the AML systems for identifying, detecting, and reporting money laundering are effective. Similar to the requirements imposed by other resolutions, audit reports should be forwarded to the SEPRELAD 10 days after the closing of the period. The Article also requires that money remitters contract external auditors, in line with the obligation established by Law No. 2,421/04, to examine the AML programs annually and forward a report to the SEPRELAD 60 days after the closing of the period communicating the adequacy and effectiveness of the level of compliance with the legal and regulatory obligations. However, the resolution falls short of providing specific requirements to include that this function be adequately resourced and independent.

Ongoing Employee Training on AML/CFT Matters (c. 15.3):

SIB/CNV/INCOOP

597. Articles 2(4) of Resolutions No. 233 (SIB), No. 59 (CNV), and No. 262 (INCOOP), respectively, address the aspects of the training program. Under these Articles financial institutions are required to develop a program to train and educate their employees, officials, and any authorized representative on obligations and requirements imposed by the AML law and regulations. However, the requirement falls short of providing guidance on the type of training that needs to take place and the topics to be considered including for example aspects of the AML Law including obligations and sanctions, ML and FT typologies, CDD, STR, etc.

SIS

598. Article 15(c) of Resolution No. 263 requires that the procedures manual should include an AML training component. Article 16(2) of the same resolution further requires an ongoing training program for all employees, particularly the training of personnel on AML controls and procedures. Such program could be delivered through a series of programs or through publications or electronic materials covering the practical aspects and obligations imposed by law and regulations. In addition, Article 17 of the same resolution requires the development of training programs and distribution to all personnel responsible for implementing this resolution and to all new employees. However, the requirement falls short of providing guidance on the type of training that needs to take place and the

topics to be considered including for example aspects of the AML Law including obligations and sanctions, ML and FT typologies, CDD, STR, among others.

Money remitters

599. The aspects of the AML training program for money remitters are briefly covered in Article 5 of Resolution No. 60 under the functions and responsibilities of the Compliance Officer. Article 5(7) requires the Compliance Officer to develop programs to inform and train employees and authorized representatives of the institutions in the implementation of existing AML obligations. The resolution falls short of providing a specific requirement for money remitters to develop, adopt, and implement an ongoing AML training program. However, the requirement falls short of providing guidance on the type of training that needs to take place and the topics to be considered including for example aspects of the AML Law including obligations and sanctions, ML and FT typologies, CDD, STR, among others.

Employee Screening Procedures (c. 15.4):

SIB/CNV/INCOOP

600. Articles 2(5) of Resolutions No. 233 (SIB), No. 59 (CNV), and No. 262 (INCOOP), respectively, deal with the code of conduct. All employees, officials, owners/shareholders, directors, and any authorized representative of the institutions should commit to implement and comply with a code of conduct that includes the policies adopted by the institutions to prevent money laundering, considering adequate and sufficient criteria. The policies should consider the screening procedures including personal aspects, professional competency, and integrity.

SIS

601. Article 16(1) and Article 16(3) of Resolution No. 263 establish the general obligations for insurance companies to develop, implement, monitor, and maintain AML programs addressing: i) the designation of individuals at the management level together with adequate procedures for screening and selecting employees to ensure that these are in line with current requirements; and to institute a code of conduct for all employees, officers, management, directors, owners and authorized representatives of the institution which should include the AML policies adopted, including fit and proper criteria. These policies should consider personal aspects, professional competence, and integrity.

Money remitters

602. Article 6 of Resolution No. 60 requires the owners, shareholders, directors, employees, and any other authorized representative of the institution to commit to establish a code of conduct which should include the AML policies adopted by the institution, including also fit and proper criteria. The policies should take into account personal background information, previous work experience, professional competence, and integrity aspects.

Additional Element—Independence of Compliance Officer (c. 15.5):

SIB/SIS/CNV/INCOOP/Money remitters

603. There are no specific requirements within the resolutions for the AML/CFT compliance officer to act independently and to report to senior management above the compliance officer's next reporting level or the board of directors. The resolution requires that the compliance officer must be at the senior management level. In practice, the Compliance Officer is designated at the manager level or above, but in some case it is not clear whether the manager position is at a level that would ensure independence. The mission was informed that in sectors like insurance, securities, finance companies, exchange bureaus, and cooperatives, Compliance Officers also perform other operational and administrative activities. In other cases like in cooperatives, some have not yet designated their officers. Reporting lines also seem to be an issue given that in some instances, the Compliance Officers report directly to a Compliance Committee where decisions are taken, but in others to general managers, which in turn report to or are part of the Compliance Committee.

Application of AML/CFT Measures to Foreign Branches & Subsidiaries (c. 22.1, 22.1.1 & 22.1.2)/Requirement to Inform Home Country Supervisor if Foreign Branches & Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2):

604. Article 6 of Law No. 861/96 (Central Bank Law) establishes that no institution subject to the requirements of this law shall operate, close, relocate its principal office, branch or representatives agencies in the country or abroad, nor reduce its capital; modify its articles of incorporation, transform, merge, dilute or liquidate its businesses or take over any other institution in the financial system, without the consent and explicit authorization of the CBP, which shall decide within 30 days after receiving the application.

605. Article 15 of the same law addresses the regime in place for the authorization of branches of foreign financial institutions. In addition, Article 76 of the same law establishes the requirements applicable to branches of foreign financial institutions. However, there are no specific requirements for establishing branches or subsidiaries of domestic institutions abroad.

SIB/CNV

606. Articles 6(3) of Resolutions No. 233 and No. 11 applicable to banks, finance companies, exchange bureaus, and other entities under the SIB requires that branches and subsidiaries comply with AML measures consistent with local laws and regulations, as well as international practices to the extent host country's legal framework permit. An identical requirement is established for brokerage and mutual funds firms under Article 6(2) of Resolution No. 59 and Article 6(3) No. 1103.

607. No requirements or obligations have been established by the SEPRELAD or regulatory authorities for financial institutions to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.

608. Articles 6(3)(b) of Resolution No. 233 and No. 11 require banks, finance companies, exchange bureaus and other entities under the SIB to inform the home country supervisor when a

foreign branch or subsidiary is unable to comply with the AML measures consistent with local laws and regulations because this is prohibited by the host country's legal framework. An identical requirement is established for brokerage and mutual funds firms under Articles 6(2) of Resolution No.59 and No. 1103.

SIS/INCOOP/Money remitters

609. At the time of the mission, there were no subsidiaries of insurance companies, cooperatives, and money remitters operating abroad. However, there was no prohibition for the establishment of these institutions abroad. As such, no requirements or obligations have been established by the SEPRELAD or other regulatory authorities to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit; to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations; to apply the higher standard where the minimum AML/CFT requirements of the home and host countries differ, to the extent that local (i.e. host country) laws and regulations permit; and to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures.

Additional Element—Consistency of CDD Measures at Group Level (c. 22.3):

610. Not applicable. The authorities indicated that there are no financial groups established in Paraguay at this time.

3.8.2. Recommendations and Comments

R. 15

611. There are several shortcomings which the authorities should consider addressing with respect to this recommendation:

- The authorities should establish an explicit requirement in the resolutions for financial institutions to conduct a risk assessment exercise to determine their vulnerabilities to ML and FT (although financing of terrorism is not yet criminalized) in order to develop and adopt the necessary measures, controls, policies and procedures to adequately identify, measure, control, and monitor the money laundering risk within their customers, transactions/operations, products & services, and geographical locations.
- The SIS and the INCOOP authorities should provide clear guidance to financial institutions to ensure that compliance officers are not involved in operational or administrative activities of the institutions; act independently and report directly to the highest authority;
- The authorities should establish an explicit requirements in the resolutions for financial institutions to maintain an adequately resourced and independent internal audit function to test compliance with the AML policies, procedures, and controls;

- The authorities should establish an explicit requirement for financial institutions to ensure that the Compliance Officer and staff have the authority and unrestricted access to both information and staff within the institution;
- Provide guidance on the type of training that needs to take place and the topics to be considered including for example aspects of the AML Law including obligations and sanctions, ML and FT typologies, CDD, STR, etc.; and
- Extend the obligation to money remitters to develop, adopt, and implement an ongoing AML training program.

R. 22

- We recommend the authorities to establish requirements for branches and subsidiaries of financial institutions abroad to pay particular attention to countries which do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.

3.8.3. Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	NC	<ul style="list-style-type: none"> • No requirement to conduct a risk analysis of potential ML and FT risks. • No guidance governing the appointment, role, authority, reporting lines, resources need and independence for the compliance officer. • No requirement to maintain an adequately resourced and independent audit function. • No guidance on training topics to be considered by the institutions. • No requirements imposed on money remitters with respect to the training program
R.22	NC	<ul style="list-style-type: none"> • No specific requirements in place to comply with the essential elements of this recommendation including for paying particular attention that the principles of this recommendation are observed with respect to branches and subsidiaries and to require financial institutions to apply the higher standard to the extent that local laws and regulations permit.

3.9. Shell Banks (R.18)

3.9.1. Description and Analysis

612. **Legal Framework:** Law No. 861.

Prohibition of Establishment Shell Banks (c. 18.1):

SIB

613. Articles 10 through 23 of Law No. 861 – Central Bank Law, address the requirements for establishing financial institutions. These Articles cover minimum capital needed for banks, finance companies and savings and loans societies; company stock and type; promoters; application requirements; decisions on applications; authorization for foreign credit granting branches; minimum capital requirements for foreign credit granting branches; individuals responsible for managing the branches, subsidiaries of banks and finance companies; limitations on subsidiaries; minimum capital for subsidiaries; shareholders’ records/registry; prohibitions on ownership; and sanctions.

614. Resolution No. 7 of the CBP (issued through Act No. 2 of Jan/7/08) establishes specific requirements for the licensing and establishment of new financial institutions subject to this law. Particularly, Article A (a)(7) covers the requirements for the establishment of foreign branches in Paraguay. Under this section, the measures in place for establishing local financial institutions apply to foreign branches including measures to ensure that the home country supervisor should be applying international supervision and control standards. The application for a license should include the following documentation which should be certified and notarized, and translated by a registered translator in the event that the documents are not in Spanish:

- a) Articles of incorporation from the holding company in the home country and resolution authorizing the opening/establishment of the branch;
- b) Directors’ resolution evidencing the authorization to establish the branch in Paraguay;
- c) Power of attorney evidencing the individual(s) authorized to manage the establishment/opening of the branch;
- d) Balance sheets, income statements and annual statements of the entity for the last five years;
- e) Capital assigned to the branch for its operations, which should be and remain in the host country in accordance with existing requirements;
- f) Supervisory reports determining the liquidity and capital positions, as well as management and valuation of assets of the entity; and
- g) Statement from the holding/parent company authorizing the capital assigned and assuming responsibility for the operations of the institution in Paraguay.

615. Similar requirements apply to foreign entities when these consider establishing subsidiaries in Paraguay.

616. Other sections within this resolution cover the verification of the information; activities to be conducted by the CBP; the registration of the articles of incorporation in the company registry; and the authorization by the CBP to operate in accordance with the requirements of the Central Bank Law.

Prohibition of Correspondent Banking with Shell Banks (c. 18.2):

SIB

617. Article 6(5) of Resolution No. 312, states that “no institution shall establish or maintain cross border correspondent relationship with shell banks. Also under the verification procedures for customer identification of Article 6(4)(b), financial institutions shall implement measures and internal controls to avoid entering into or continuing a cross border correspondent relationship with a financial

institution incorporated in a jurisdiction in which it has no physical presence and which is not affiliated with a regulated financial group.

618. In addition, Article 6(5) of the Central Bank Resolution No. 11 states that no institution shall establish or maintain cross border correspondent relationship with shell banks.

619. Resolution N°. 2, Act N°. 42, (5/20/2002) issued by the CBP addresses the relationships of local intermediaries with foreign financial institutions. It establishes:

- 1) that all entities under the supervision of the SIB, shall suspend all cross border correspondent relationship with foreign financial institutions which have no physical presence in any country.
- 2) the definition of physical presence as the address where the foreign bank is authorized to operate employs one or more individuals full time, maintain records of transactions related to its banking activities, and are subject to inspections by the supervisory authority that granted the license.
- 3) that within 120 days of the effective date of this resolution, transactions with shell banks shall be cancelled.
- 4) that for those entities that have established cross border correspondence relationships/contracts with shell banks, these relationships/contracts should not be renewed.
- 5) that measures should also be applicable to agencies, which should not promote financial products in shell banks.
- 6) that these measures should be communicated to whom they may concern.

Requirement to Satisfy Correspondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):

SIB

620. Articles 6(5) of Resolutions No. 312 and No. 11, respectively, require FIs to maintain evidence to support that correspondent financial institutions in a foreign country do not allow their accounts to be used by shell banks.

3.9.2. Recommendations and Comments

- It is recommended that the SIB authorities establish measures for financial institutions to define and/or require physical presence in a way that would encompass the meaningful mind and management of the company.

3.9.3. Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	LC	<ul style="list-style-type: none"> • Lack of measures that define or require physical presence in a way that would encompass the meaningful mind and management of the company.

3.10. The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 17, 23, 25 & 29)

3.10.1. Description and Analysis

621. **Legal Framework:** The legal framework for regulation and supervision of the financial sector is contained in Law No. 489/95 – the Central Bank Law, and Law No. 861/96 – the General Law for Banks, Financial Institutions and Other Credit Institutions

Regulation and Supervision of Financial Institutions (c. 23.1):

622. Article 4 of Law No. 489/95 provides the Central Bank with the powers to supervise these financial institutions. According to the Central Bank Law, the BCP is the sole authority responsible for supervision. It is through the Superintendency of Banks (SIB), pursuant to Article 102 of Law No. 861/96 that the BCP supervises the level of compliance of financial institutions with respect to laws and regulations. The SIB is defined as a technical institution within the BCP that enjoys functional, administrative, and financial autonomy. Financial institutions under the SIB include: banks, exchange houses, and finance companies.

623. Similarly, Article 56 of Law No. 827/96 – the Insurance Law, provides that the Superintendency of Insurance (SIS) is the authority responsible for the supervision and control insurance and re-insurance institutions. The same Article establishes that the SIB is an entity within the BCP that enjoys functional and administrative autonomy. Financial institutions under the SIS include: insurance companies and re-insurance companies.

624. Law No. 1,284/98 – Securities Law provides under Articles 164 and 165 that the CNV, which is considered an entity of public law, self-sufficient and autonomous, is the entity responsible for the supervision and control of financial institutions operating in the securities market.

625. For the cooperatives sector, Law No. 438/94 establishes, under Article 115, the National Cooperatives Institute – INCOOP, as the entity responsible for the implementation of this law. The INCOOP functions as a specialize body within the Ministry of Agriculture and Livestock. Article 117 provides that the INCOOP is responsible for the supervision of the cooperatives.

626. The following table provides details of the supervisory authorities and the financial institutions under their supervisory responsibility:

Table 4. Financial institutions by supervisory authority

	<i>Competent Supervisory Authority</i>
<i>Banks</i>	<i>SIB</i>
<i>Finance companies</i>	<i>SIB</i>
<i>Exchange bureaus</i>	<i>SIB</i>
<i>Insurance companies</i>	<i>SIS</i>
<i>Re-insurance</i>	<i>SIS</i>

<i>companies</i>	
<i>Brokerage and Mutual Funds firms</i>	<i>CNV</i>
<i>Cooperatives</i>	<i>INCOOP</i>

Designation of Competent Authority (c. 23.2):

627. There is no direct designation of competent authorities with responsibility for ensuring that financial institutions adequately comply with the requirements to combat money laundering and terrorist financing. Article 29 of Law No. 1,015/97 provides that administrative infringements of the law and the regulations relating to the offence of money laundering may be regulated, investigated and penalized only through the institutions responsible for the supervision and monitoring of the reporting entities. However, the provisions of this Article appear to be more a procedural step than a direct obligation imposed on the competent supervisory authorities. Notwithstanding the lack of direct designation, the SIB, the SIS, the CNV, and the INCOOP under their respective statutory powers have assumed responsibility with respect to AML matters.

Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3.1)/ Application of Prudential Regulations to AML/CFT (c. 23.4):

SIB:

628. Law No. 861/96 - "General Banks, Financial Institutions and Other Credit", under Article 35 addresses the structure of financial institutions, and stipulates that the chairman and directors must be natural persons who should meet conditions of integrity, competence and experience. Article 36 contemplates the regime of incompatibilities. It provides that the following individuals may not serve as chairman, directors, managers or trustees of the entities covered by this law:

- a) those affected by disabilities and incompatibilities established in the Civil Code for the administration and representation of companies;
- b) those holding positions of directors, managers, trustees or employees of other entities subject to the control of the Superintendency of Banks;
- c) those working for the government, with the exception of teaching and consultative or technical advice;
- d) individuals that have been declared bankrupt;
- e) Individuals that are insolvent, past due with respect to debts in the financial system and/or facing collections;
- f) those convicted of crimes, and
- g) those directors and officers of the CBP and the Superintendency of Banks.

629. With respect to exchange bureaus, requirements for establishing these institutions are covered under Law No. 2,794/05 – Exchange Bureaus Law – under various Articles. Articles 5 and require the express authorization of the CBP to operate and exchange bureau. Article 7 goes further to require also approval from the CBP to relocate (within and outside the country), reduce capital, modify articles of incorporation, merge, liquidate, and acquire other exchange bureaus. Article 12 covers the requirements for promoters, natural persons only, to apply for a license, including fit and proper requirements and solvency. Although there is no limit to the number of promoters needed to establish an institution, there are restrictions under Article 18 similar to those in place for banks. Under Article 13, promoters are required to provide the following documentation and information when submitting an application for an exchange bureau:

- a) Articles of incorporation, accompany by a favorable opinion from the legal department of the CBP;
- b) Legal address and location of the principal office;
- c) Capital amount to initiate operations;
- d) List of owners/shareholders, including addresses, nationality, civil status, profession/occupation, and the amount of capital contributed;
- e) Certification of good conduct;
- f) Curricula Vitae for the senior management and representatives, which should reflect adequate experience and knowledge in the exchange activity, including a signed affidavit attesting their compliance with the requirements of the law.

630. Although there are specific provisions to obtain an exchange bureau license in order to carry out money exchange activities, the mission was informed that there are exchange bureaus operating without a license. Meetings with SIB officials revealed that they are aware of the situation but have not been able to close down these clandestine businesses or to sanction for operating an exchange institution without a license.

SIS

631. Law No. 827, Article 74 stipulates that the following individuals cannot exercise the role of agents or insurance brokers: i) officials or employees from the SIS; ii) government officials or employees; iii) directors and risk and casualty inspectors from insurance companies; iv) non-residents; v) adjustors and appraisers; and vi) any other person, legal or natural with legal disabilities to engage in commerce or having been sanctioned by the Supervisory Authority with the cancellation of its registration in any of the records that it carries, not having been administrator, director or legal representative of a legal person punished likewise, unless their responsibility have been saved in the manner prescribed by law or prove not having participation in those events.

CNV

632. Article 89, Law No. 1,284 provides for incompatibilities between the directors of a Stock Exchange, having been convicted of crimes set out in that law, and in general for common crimes which deserve imprisonment criminality over two years, with the exception of crimes occurred in traffic accidents.

633. For its part Article 109 of Law No. 1,284 states that may not be directors, agents, operators and trustees of a Brokerage House, among other assumptions listed there, those who have been convicted of crimes against property and the public faith.

INCOOP

634. Article 72 of Law No. 438/94 – Cooperatives Law – establishes that the following individuals may not be designated as members of the Administration Council (“Council”), including persons related by kinship (within the second degree of consanguinity and first of affinity) with another member of the Council; persons in companies in competition or with opposite interests; persons bankrupt or found guilty of fraud; and persons found guilty of crimes and condemned. These restrictions are mirrored in Article 77 of Decree No. 14,052/96, which implements the Law.

Money remitters

635. There are no measures or requirements in place addressing money remitters. However, the SIB, the SIS, the CNV, and the INCOOP current requirements in place fall short of providing specific detail as to how their measures prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding management function in a financial institution, including explicit fit and proper measures.

Licensing or Registration of Value Transfer/Exchange Services (c. 23.5)/Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6)/Licensing and AML/CFT Supervision of other Financial Institutions (c. 23.7):

636. Exchange bureaus conducting money or value transfer services (MVTs) are licensed, under the supervisory responsibility of the SIB and subject to all obligations imposed by the AML Law. These institutions are subject also to the requirements imposed by SEPRELAD’s Resolution No. 233 and SIB’s No. 11 with respect to AML. However, money remitters operate through agency relationships with four financial institutions which are regulated and supervised by the SIB. In this context, the activities related to money remitters conducted by the financial institutions are regulated by the SIB. There is however anecdotal evidence that informal MVTs are operating in Paraguay. The authorities indicated that they were not aware of these activities. Therefore, no measures have been established to monitor this informal sector.

Guidelines for Financial Institutions (c. 25.1):

SIB/SIS/CNV/INCOOP

637. Resolutions issued by the SEPRELAD (Resolutions No. 233, No. 263, No. 59, No. 262) provide reporting entities with a list of examples designed to assist financial institutions in identifying, detecting, and monitoring any suspicious behavior of their customers and their business

relationships. All resolutions require financial institutions to also consult the list OFAC when detecting suspicious transactions. In addition, Resolution No. 11 issued by SIB contains the same list of transactions that may be deemed suspicious.

638. However, neither the SEPRELAD nor the competent supervisory authorities have established sector specific guidelines to assist financial institutions on relevant issues including, a description of ML and FT techniques and methods; as well as international recent developments on ML and FT, particularly those issued by FATF and/or the resolutions issued by the United Nations Security Council.

Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2); Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1); Powers of Enforcement & Sanction (c. 29.4):

639. There is no direct designation of competent authorities with responsibility for ensuring that financial institutions adequately comply with the requirements to combat money laundering and terrorist financing. Article 29 of Law No. 1,015/97 provides that administrative infringements of the law and the regulations relating to the offence of money laundering may be regulated, investigated and penalized only through the institutions responsible for the supervision and monitoring of the reporting entities. However, the provisions of this Article appear to be more a procedural step than a direct obligation imposed on the competent supervisory authorities. Notwithstanding the lack of direct designation, the SIB, the SIS, the CNV, and the INCOOP under their respective statutory powers have assumed responsibility with respect to AML matters.

640. As of the assessment date, the SIB was the only supervisory authority conducting AML supervision of their respective financial institutions. However, the coverage of financial institutions was limited and the scope of the on-site inspections was not risk-driven but compliance based. The table below reflects the number of inspections conducted by the SIB.

641. In the case of the SIS, only one on-site visit had taken place prior to the mission and similar to the SIB practice, the scope was not risk-drive. No AML supervision has ever been conducted by the CNV and the INCOOP since the law came into effect.

642. The following table provides details of the number of AML/CFT inspections performed by the authorities – SIB, SIS, CNV, and INCOOP on financial institutions over the period of 2006 – June 2008.

Table 5. AML/CFT inspections in financial sector

	2006	2007	As of June 2008
<i>Banks</i>	6	12 (of which includes 6 follow-up visits to FIs inspected in 2006)	2 (follow-up visits)
<i>Finance companies</i>	1	5	3
<i>Exchange bureaus</i>	0	0	0
<i>Insurance companies</i>	0	0	1
<i>Re-insurance companies</i>	0	0	0

<i>Brokerage and Mutual Funds firms</i>	0	0	0
<i>Cooperatives</i>	0	0	0

643. With respect to powers of enforcement and sanction, Article 29 of Law No. 1,015/97 provides that administrative infringements of the law and the regulations relating to the offence of money laundering may be regulated, investigated and penalized only through the competent supervisory authorities. However, the law does not provide the authorities with direct powers to apply sanctions related to AML. In the case of the SIB, the authority and power to sanction is with the Monetary Board of the Central Bank and not within the SIB. Although the SIS was also within the Central Bank, it had the power to sanction institutions without the consent or authority of the Monetary Board. The CNV and the INCOOP also had the powers to sanction.

644. In practice no sanction has been imposed by the SIB, the SIS, the CNV, and the INCOOP for non-compliance with AML requirements

Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1); Designation of Authority to Impose Sanctions (c. 17.2); Ability to Sanction Directors & Senior Management of Financial Institutions (c. 17.3); Range of Sanctions—Scope and Proportionality (c. 17.4):

645. The AML Law No. 1,015/97 provides that the sanctioning procedures should be established within the relevant sector specific laws. However, no sanction has ever been imposed for non-compliance with the AML requirements. The SIB has issued warnings to financial institutions regarding inadequate customer identification and due diligence measures, but has cited these institutions under the prudential laws and regulations and not under the AML law. As such, these warnings served more as a notice than a sanction and are not considered proportional or dissuasive.

646. The table below highlights the range of sanctions powers available to the competent supervisory authorities.

Table 3. Sanctions applicable by supervisory authorities

Type of sanction	Banks, finance companies, exchange exchanges and other credit granting institutions and natural persons	Insurance companies, re-insurance companies, directors, officers, employees, and legal representatives	Securities companies, issuers, stock market, intermediaries, external auditors, funds administrators, and adjusters	Cooperatives
Limitation of activities or operations	Central Bank of Paraguay (CBP) Law No. 489 - Articles 94 and 95	Insurance Law No. 827 – Articles 109, 114, and 120	None	None
Temporary ban	CBP Law Articles 94 and 95 (ban extends to distribution of dividends or opening new offices for a period of two years)	None	Securities Law No. 1,284 – Title VII – Chapter II Article 194	None
Warning	CBP Law Articles 94 and 95 (only for “minor offenses”)	Insurance Law No. 827 – Articles 109, 114, and 120	Securities Law No. 1,284 – Title VII – Chapter II Article 194	Cooperatives Law No. 438 – Section IV –

Type of sanction	Banks, finance companies, exchange exchanges and other credit granting institutions and natural persons	Insurance companies, re-insurance companies, directors, officers, employees, and legal representatives	Securities companies, issuers, stock market, intermediaries, external auditors, funds administrators, and adjusters	Cooperatives
				Article 125
Fines	CBP Law Articles 94 and 95	Insurance Law No. 827 – Articles 109, 114, and 120	Securities Law No. 1,284 – Title VII – Chapter II Article 194	Cooperatives Law No. 438 – Section IV – Article 125
Suspension, Disbarment, Removal from office	CBP Law Articles 94 and 95	Insurance Law No. 827 – Articles 109, 114, and 120 (Suspension)	Securities Law No. 1,284 – Title VII – Chapter II Article 194 (includes suspension for two years on authorization to make public offerings of securities)	Cooperatives Law No. 438 – Section IV – Article 125 (includes intervention)
Withdrawal of authorization to operate/Revocation of License	CBP Law Articles 94 and 95	Insurance Law No. 827 – Articles 109, 114, and 120	Securities Law No. 1,284 – Title VII – Chapter II Article 194	Cooperatives Law No. 438 – Section IV – Article 125

Adequacy of Resources for Competent Authorities (c. 30.1):

647. SEPRELAD and supervisors are not endowed with the structure, funding and adequate staff and technical resources and other resources to carry out fully and effectively their duties.

648. SEPRELAD indicated that it needs additional sufficient funds to carry out the functions contemplated under Law No. 1,015/97.

649. In the case of the Superintendency of Insurance, AML supervisory resources currently consist of only one person devoted to all aspects of preventive measures, training, and supervision. Due to this constraint, additional resources are urgently needed.

650. Other supervision and control authorities (SIB, CNV, and INCOOP) also expressed their concerns with the lack of sufficient resources to carry out the duties and responsibilities vested by Law No. 1,015/97.

Integrity of Competent Authorities (c. 30.2):

651. According to information obtained from the supervision and control authorities, their respective officials and employees must observe a Code of Conduct where they must adhere to professional standards and conduct.

652. For those who work at the SEPRELAD, Article 32 Law No. 1,015/97 establishes the obligation of professional secrecy.

Training for Competent Authorities (c. 30.3):

653. Competent authorities have informed that there are conducting training programs for their officials. However, due to lack of adequate documentation, it was not possible to confirm the adequacy of such trainings.

654. As such, training programs do not sufficiently cover the aspects of the Criterion 30.3.

Statistics (applying R.32):

655. No statistics are compiled and maintained by the competent supervisory authorities.

3.10.2. Recommendations and Comments

R.17

656. We recommend the authorities to ensure that effective, proportionate and dissuasive administrative sanctions are available to deal with reporting entities that fail to comply with the AML requirements.

R.23

657. We recommend the authorities to:

- Establish a direct obligation that designates a competent supervisory authority to regulate and supervise money remitters in aspects related to AML;
- Establish explicit and clear measures to prevent criminals or their associates from owning or controlling a financial institution; and
- Establish explicit fit and proper measures for directors and senior management of financial institutions.

R.25

- The mission recommends the authorities to establish sector specific guidelines and feedback mechanisms to assist financial institutions on relevant issues including: i) a description of ML and FT techniques and methods; and ii) international recent developments on ML and FT, particularly those issued by FATF and/or the UNSCR.

R.29

658. We recommend the authorities to:

- Establish a direct obligation that empowers the SIB, the SIS, the CNV, and the INCOOP to monitor and inspect financial institutions for compliance with the AML obligations.
- Conduct inspections of financial institutions to ensure compliance.

- Sanction financial institutions for failure to comply with or properly implement the requirements to combat money laundering, consistent with the Recommendations.
- Strengthen the overall AML/CFT supervisory process for the SIB, the SIS, the CNV, and the INCOOP to effectively address AML/CFT matters.

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

	Rating	Summary of factors underlying rating
R.17	NC	<ul style="list-style-type: none"> • No penalties/sanctions imposed by the competent supervisory authorities related to AML/CFT.
R.23	NC	<ul style="list-style-type: none"> • Lack of direct obligation that designates a competent supervisory authority to regulate and supervise in aspects related to AML, including for money remitters. • Lack of explicit and clear measures to prevent criminals or their associates from owning or controlling a financial institution. • Lack of explicit fit and proper measures for directors and senior management of financial institutions.
R.25	NC	<ul style="list-style-type: none"> • Lack of adequate and appropriate feedback from competent authorities.
R.29	NC	<ul style="list-style-type: none"> • Lack of direct obligation to empower the SIB, the SIS, the CNV, and the INCOOP to monitor and inspect financial institutions for compliance with the AML obligations. • Lack of adequate and frequent inspections by SIB and SIS of financial institutions to ensure compliance. • Lack of direct obligation to sanction financial institutions for failure to comply with or properly implement the requirements to combat money laundering, consistent with the Recommendations. • Lack of supervision by the CNV, and the INCOOP to effectively address AML/CFT matters.

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

3.11.1. Description and Analysis (summary)

659. **Legal Framework:** SEPRELAD Resolution No. 60.

Designation of Registration or Licensing Authority (c. VI.1)/List of Agents (c. VI.4):

660. There is no supervisory body responsible for the licensing, regulation and supervision of money or value transfer (MVT) service operators in Paraguay.

Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23, & SRI-IX) (c. VI.2)/Monitoring of Value Transfer Service Operators (c. VI.3):

661. Money or value transfer services are not covered by the obligations imposed by the AML Law No. 1,015/97.

Sanctions (applying c. 17.1-17.4 in R.17) (c. VI.5):

662. Resolution No. 60 issued by SEPRELAD reflects in Article 24 that the National Directorate of Customs is the competent authority for imposing sanctions for noncompliance with the requirements of this resolution. However, this resolution seems difficult in an environment where these entities are not licensed, regulated or supervised.

663. Anecdotal evidence revealed that an informal money or value transfer system appears to be operating within Paraguay. This informal system seems to be related and used by a large group of groups working throughout Paraguay.

664. However, the authorities indicated that they are not aware of any informal money or value transfer system or similar activities taking place in Paraguay.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6):

665. There were no indications that the authorities had considered the measures set out in the Best Practices Paper for implementing SR.VI.

3.11.2. Recommendations and Comments

- The authorities should designate a supervisory body responsible for the licensing, regulation and supervision of money or value transfer (MVT) service operators, particularly those operating informal systems.

3.11.3. Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	NC	<ul style="list-style-type: none"> • No licensing/registration system or designated competent authority for informal MVTS.

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1. Customer Due Diligence and Record-keeping (R.12)

4.1.1. Description and Analysis

666. **Legal Framework:** Law 1015/97, Article 13, j), k) and n, Resolutions N° 62, 264, and 266.

667. With regard to the different types of designated non financial businesses and professions, identified by the FATF, only the Gambling Establishments (paragraph j), the Real Estate Agents (paragraph k), ,and Dealers in Precious Stones and Metals (paragraph n), are reporting entities under Article 13, Law 1015/97.

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):

Applying Recommendation 5

Gambling Establishments:

668. Law 1015/97, Article 13, paragraph j) establishes the Gambling Establishments as entities forced to report suspicious transactions.

669. The SEPRELAD has issued for these subjects, Resolution N° 62. - (Regulation of prevention and suppression of money laundering or property for companies engaged in the operation of games of chance or gambling).

670. In accordance with the provisions of Criterion 12.1, article 10 of Resolution N° 62 states that the individual bets, split or multiple reach an amount equal to or more than three thousand U.S. dollars (USD 3,000) or its equivalent in other coins will require the registration of these customers. Consequently these customers must be considered as regular ones and subject to the customer due diligence process.

671. The requirements for customer identification fall under Articles 14, 15 and 16 of Law 1015/97 and Chapter III, Articles 10 and 11 of Resolution N° 62.

672. Criterion 5.1- Anonymous accounts or accounts in fictitious names- is not covered by Law 1015/97 or Resolution N° 62.

673. Criterion 5.2. (When is CDD required), paragraph a), Article 14 of Law 1015/97 requires reporting entities to register and verify, by reliable means, the identity of their clients, whether regular or occasional, upon entering into business relations with them, as well as the identification of all personas intending to carry out transactions With regard to the provisions of paragraph b), Resolution N° 62 does not contemplate occasional customers. Resolution N° 62 sets as limit for customer identification, transactions in amounts equal or that exceed USD 3,000, which are to be treated as regular customers

674. The subsection c)-e) of Criterion C.5.2 are not covered in the regulations.-

675. With regard to the provisions of C. 5.3 (Identification measures and verification sources), Law 1015/97, Article 14 requires the obligation to identify clients. Article 15 stipulates that the identification shall consist of establishing the actual identity, party stated as being represented, address and occupation or corporate purpose in the case of a legal entity. Article 16 establish that if there is reason to assume or certain knowledge that clients are not acting on their behalf, the reporting entities shall obtain precise information in order to ascertain the identity of the persons on whose behalf they are acting. The identification of legal arrangements is not expressly required, as contemplated under Criterion 5.3

676. Resolution N° 62, Article 10 stipulates the obligation to identify the customer. As details requires full name and surname, number of identity card or passport, complete address, telephone No, nationality, profession or business conducted.

677. Article 11 stipulates the obligation to implement a record of customer identification winners of awards in excess of USD 10,000.

678. Criterion 5.4 –Identification of Legal Persons and Arrangements- The requirements addressing legal persons are covered under Article 15 and Article 16 of Law 1015-97 but they do not explicitly cover the aspects of legal arrangements with the Criterion not addressed under Resolution No. 62.

679. Regarding Criterion 5.5 (Identification of Beneficial Owners), Law 1015/97, Article 15 establishes the Method of Identification and Article 16 contemplate the identification of the principal of the client. However it does not contemplate the obligation to identify the Beneficial Owner.

680. Resolution No. 62 does no contemplate Criterion 5.5.

681. Criterion 5.6 (Information on Purpose and Nature of Business Relationship), 5.7 (Ongoing Due diligence on Business Relationships); 5.8-5.12- Risk-; 5.13-5.14 (Timing of verification for occasional customers; 5.15- 5.16 (Failure to complete CDD before or after commencing business); 5.17-5.18 (Existing Clients) are not covered under Resolution No. 62.

Real Estate Agents:

682. Law No. 1015/97, Article 13, paragraph k), contemplates the Real Estate Agents as reporting entities.

683. The requirements for customers identification fall under Articles 14, 15 and 16 of Law 1015/97 and Chapter III, Articles 7 and 8 of Resolution No. 264 and its amendment Resolution N° 266.

684. Criterion 5.1 is not covered by Law 1015/97 or Resolutions No. 264 or 266.

685. Criterion 5.2. (When is CDD required), paragraph a), Article 14 of Law 1015/97 requires reporting entities to register and verify, by reliable means, the identity of their clients, whether regular

or occasional, upon entering into business relations with them, as well as the identification of all personas intending to carry out transactions.

686. Resolution No. 264 under Article 7 states that Real Estate Agents should keep records of customers and their constituents since the beginning of the trading relationship and that the records will be exposed to updated processes.

687. With regard to the provisions of paragraph b), Resolutions No. 264 and 266 do not contemplate occasional customers.

688. Subsections c)-e) of Criterion C.5.2 are not covered in the regulations.

689. With regard to the provisions of C. 5.3 (Identification measures and verification sources), the same regulation as for Gambling Establishments is applicable for Real Estate Agents, that means Law 1015/97, Article 14- obligation to identify clients,- Article 15 –method of identification-, and Article 16 -identification of the principal of the client-. the identification of legal arrangements is not expressly required, as contemplated under Criterion 5.3

690. Article 8 of Resolution No. 266 establishes an obligation to identify the customer either natural or legal person. There is no distinction between regular or occasional customers. Resolution 266 requires documentation and information to call (name, surname, card, etc. for individuals) and (certified copy, single record Taxpayer; Authenticated copy of Scripture constitution of society and its subsequent amendments, name, address of the Head Office and its branches, main activity , etc. for legal persons).

691. Criterion 5.4 (Identification of Legal Persons or Other Arrangements). The requirements addressing legal persons are covered under Article 15 and 16 of Law No. 1015/97 but they do not explicitly cover the aspects of legal arrangements with the Criterion.

692. Criterion 5.5 (Identification of Beneficial Owners). Law 1015/97, Article 15 establishes the method of identification and Article 16 contemplates the identification of the principal of the client. However it does not contemplate the obligation to identify the Beneficial Owner. Resolution N° 266, Article 8 stipulates similar prevision as contemplated under Article 16, Law 1015/97.

693. With regard to customers who are legal persons, it is established the necessity of applying the updated details of its partners and / or controlling shareholders and the board of directors, as well as the legal representatives in order to ascertain the ownership structure.

694. Article 10, Resolution No. 266 establishes the obligation to register all transactions of buying and selling that are not less than U\$S 10,000 made by the client where the data should include the beneficiary of the transaction.

695. Criterion 5.6. (Information on Purpose and Nature of Business Relationship), is not expressly covered.

696. Criterion 5.7 (Ongoing Due Diligence on Business Relationship) There is no requirement in the AML Law. Resolution No. 266, Article 8 stipulates that the Real Estate Agent must maintain updated the form of customer identification, allowing it to determine alignment, type, magnitude and

frequency of the service that customers use for a certain time and that may be extended at the discretion of the reporting entity. The provision states that the information will be needed to determine the origin of the money and the transaction made by the customer with the Real Estate Agent, whether natural or legal persons. The requisites set under Criterion 5.7.2 are not contemplated.

697. Criterion 5.8- 5.12 (Risk) are not covered under Resolution Nos. 264 and 266.

698. Criterion 5.13 and C.5.14 (Timing of verification). Law 1015-97, Article 14 stipulates the obligation to carry out the verification process when entering into business relations, which does not include the beneficial owner.

699. Criterion 5.15 and 5.16 (Failure to complete CDD), are not covered. The Resolutions do not contemplate requirements to be addressed by the Real Estate Agents when they are unable to comply with the Criteria 5.3 to 5.5.

700. Criterion 5.17-5.18 (Existing Clients), Article 16 of Resolution No. 264 establishes that Real Estate Agents are provided with one year, starting from the publication of such resolution, to conclude with the requirements set out under Article 7 –identification of clients- and Article 8 – requirements of the identification of clients.

701. Dealers in precious metals and dealers in precious stones – when they engage in any cash transaction with a customer equal to or above USD/EUR 15 000.

702. Under the provisions of Article 13, paragraph n), Dealers in Precious Metals and Dealers in Precious Stones are obligated to notify to the SEPRELAD any act or transaction for which there is some indication or suspicion that it relates with the crime of money laundering.

703. The SEPRELAD has not issued regulations related to the reporting entities mentioned under Article 13, paragraph n) of Law 1015/97.

704. Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for a client concerning the activities mentioned under Recommendation N 12 and Trust and Company Service Providers when they prepare for or carry out transactions for a client concerning the activities listed in the definitions in the Glossary are not under a formal obligation to take identity information from clients under Article 13, Law 1015/97, and there is no evidence or information provided by the authorities to suggest that they are doing so.

705. The obligations set out in the AML Law or the Resolutions enacted by the SEPRELAD regarding the CDD process have not been implemented yet by the Gambling Establishments, the Real Estate Agents and the Dealers in precious metals and stones.

706. Notaries do not perform ongoing monitoring, as the transactions they notarize are usually one-off transactions. It is unclear whether lawyers are carrying out any ongoing monitoring on existing clients.

CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 & 8-11 to DNFBP) (c.12.2):

Applying Recommendation 6

707. There is no provision for PEPs within the categories of DNFBP mentioned under Criterion 12.1. The evaluation team was provided with no evidence to suggest that any of the competent authorities for the DNFBPs had taken steps to issue any additional guidance. Criterion not met.

Applying Recommendation 8

708. It is not contemplated under Resolution N° 62. There are not known Internet Casinos operating from Paraguay. Nor is under Resolutions N° 264 and 266 for Real Estate Agents. Criterion not met.

Applying Recommendation 9

709. It is not contemplated under Resolution N° 62 the possibility to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business. There are no requirements or prohibition for Gambling Establishments under Resolution N 62. Resolution N° 266, Article 8 establishes the prohibition for Real Estate Agents to delegate the responsibility to third parties to comply with the obligation to identify the customers. The requirement in place do not fully comply with the standard.

Applying Recommendation 10

710. Law 1015/97, Article 17 (obligation to record transactions), establishes that reporting entities shall identify and record clearly and precisely any transaction conducted by their clients.

711. Article 18, establishes that reporting entities shall keep for a minimum period of five years any documents, files and correspondence establishing or identifying the transactions. The five-year period shall be computed from completion of the transaction or from the time when the account was closed.

712. Resolution N° 62, Article 19 stipulates that these companies must preserve all records and reports as the time period specified in the existing regulatory laws. Resolution N° 264, article 17, provides the same obligation.

713. The resolution does not required to keep records for a longer period than five years if so is requested by a competent authority in specific cases and upon proper authority and to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. The required content of such records is not specified. The requirements in place do not fully comply with the standard and have not been implemented among DNFBPs the obligation for recordkeeping.

Applying Recommendation 11

714. Gambling Establishments, and for Real Estate Agents, and Dealers in precious metals and stones are not specifically required to pay attention to all complex unusual or large transactions or to analyze the background and the same objective and to make those results available. Law 1015/97, Article 19 stipulates the obligation to report suspicious transactions, irrespective of its value, for which there is some indication or suspicion that they relate to the offence of money laundering. In this regard, the article defines suspicious transactions, and mentions, among other things, that are those complex, unusual, large or which do not meet the usual patterns of operations. Article 2 of Resolution No. 63 issued in March 2008 obliges reporting entities to report to SEPRELAD transactions that are unusual or suspicious with respect to the customer's profile of transactions, regardless of the amount.

715. Resolution N° 62, Article 13 stipulates the need to report any act or operation regardless of its size that may constitute a serious indication or suspicion that are related to the crime of money laundering. For its part, Article 14 states which are considered suspicious.

716. Resolution N° 264, Article 11 stipulates for Real Estate Agents similar obligation to the one provided by Article 13 of Resolution N 62 for Gambling Establishments. For its part, Article 12 states which are considered suspicious, and it is specifically mention those that are complex, unusual, and large or which do not meet the usual patterns of transactions, etc.

717. However, the measures focus more on the aspects of identifying suspicious transactions than on paying attention to unusual transactions. The requirements in place do not follow the standard.

718. In terms of implementation, it is important to emphasize that has been CONAJZAR itself, the body responsible for overseeing the Gambling Establishments, who has informed that the regulation enacted by SEPRELAD, given the recentness of its dictation –March, 2008-, has not been implemented yet, although it has been said to the reporting entities that they must comply with the regulation. Nor has issued regulations yet concerning the prevention of money laundering. Resolutions N 264 and 266 have been enacted in November 2007.

4.1.2. Recommendations and Comments

- Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the activities set out in FATF Methodology and Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary need to be incorporated as reporting entities under Article 13, Law 1015-97.
- Authorities are recommended to establish through law, resolution or other enforceable means all the requirements of due diligence with customers for DNFBP so as to comply with the requirements set out under Recommendation 5.
- There must be a prohibition through law or regulation to keep anonymous accounts or accounts in fictitious names.
- Establish the obligation to undertake customer due diligence measures according to Section b-e under Criteria 5.2 and mandatory measures under Section 5.3 (Identification measures and verification sources).

- Establish requirements for customers that are legal persons or legal arrangements according to the provisions set out under Criteria 5.4.
- Establish requirements to verify the beneficial owner, the information on Purpose and Nature of Business Relationship, the Ongoing Due Diligence on Business Relationships particularly for higher risk of customers or business relationships, the Timing of verification for occasional customers, Risk, failure to complete CDD before or commencing business.
- Establish requirements for DNFBP, in addition to performing normal due diligence measures to pay attention to PEPs in accordance with the provisions contemplated under Recommendation 6, and to incorporate the obligation to pay special attention to any money laundering threats that may arise from new or developing technologies that might favor anonymity and to have policies and procedures in place to address any specific risk associated with non-face business relationships or transactions in accordance with Recommendation 8.
- Authorities are recommended to extend the prohibition to Gambling Establishments to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, or to expressly indicate the requirements to be observed when such reliance is permitted.
- Establish requirements to keep records for a period longer than five years if so requested by a competent authority in specific cases and upon proper authority and to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority. (Recommendation 10).
- Establish the obligation covered under Recommendation 11 concerning unusual transactions and the requirement to examine as far as possible the background and purpose of transactions to determine whether they are unusual or not.
- Authorities are recommended to take measures in order to implement among the Designated non-financial businesses and professions contemplated under Article 13 Law 1015, the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 5, 6 y 8-11.

Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	NC	<ul style="list-style-type: none"> • Law 1015/97 does not cover Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the activities set out in FATF Methodology and Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed by GAFI. • Lack of regulation issued by SEPRELAD for Dealers in Precious Metals and Dealers in Precious Stones. • Recommendations 5, 8, 9, 10 and 11 are not properly covered. The measures in place are general and do not contemplate the level of detail under the

		<p>Criterion.</p> <ul style="list-style-type: none"> • Lack of explicit requirements under the regulation to all the obligations imposed by Recommendation 5 – Prohibition of anonymous accounts or accounts in fictitious names, all cases when CDD is required in accordance with Criterion 5.2 –Sections c-e, identification measures, Identification of legal personas and arrangements, Risk, timing of verification, ongoing due diligence, information on purpose and nature of business relationships, failure to complete CDD. • Lack of regulation, in addition to performing due diligence measures, to pay attention to PEPs in accordance with Recommendation 6. • Lack of regulation to pay special attention to new technologies that may favor anonymity and to address those risks associated with non face- to- face business relationships or transactions. • Lack of regulation to prohibit Gambling Establishments to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, or to explicitly indicate the requirements to be observed when such reliance is permitted. • Lack of fully compliance with respect to recordkeeping with the provisions set out under Recommendation 10. • Lack of explicit obligation to pay attention to all complex, unusual or large transactions or unusual patterns of transactions and to examine their background and set out their findings in writing in compliance with Recommendation 11. • CONAJZAR has not issued regulations for the Gambling Establishments. • FT is not criminalized in Paraguay 1, thus the fulfillment of the Recommendations that refer not only to the prevention of money laundering but also the financing of terrorism, such as R. 8, is limited. • Lack of implementation by the designated non-financial businesses and professions listed under Article 13, Law 1015 of all the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 5, 6, 8-11.
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4.2. Suspicious Transaction Reporting (R.16)

4.2.1. Description and Analysis

719. **Legal Framework:** Law 1015/97, Article 13 paragraphs j), k), n), Article 19, Resolutions N° 62, 264 and 266. Law N° 1015/97, Article 13, paragraphs j) y k) considers the Gambling Establishments and the Real Estate Agents as obligated to notify the SEPRELAD any act or

transaction, regardless of its size, for which there is some indication or suspicion that they relate to the offence of money laundering. Paragraph n) establishes the Dealers in Metals and Precious Stones as reporting entities.

Requirement to Make STRs on ML and TF to FIU (applying c. 13.1 & IV.1 to DNFBPs):

720. Article 19, Law 1015 establishes that reporting entities shall report any act or transaction, regardless of the sums involved, if there is an indication or a suspicion that such act or operation is connected with an offence of money or property laundering. Under this provision, the following shall be considered as suspicious transactions.

- Operations which are complex, unusual or large, or do not follow the pattern of habitual transactions,
- Operation which although not large, occur periodically and with no reasonable legal or economic basis.
- Operations which by their nature or volume are not consistent with the credit or debit operations conducted by the clients in the light of their activities or previous business practice, and
- Operations which, with no justifiable cause, involve cash payments by a large number of persons.

721. Among the DNFBP, the Gambling Establishments, the Real Estate Agents, and the Dealers in precious metals and precious stones are reporting entities under Article 13, Law 1015/97.

722. The SEPRELAD has issued Resolution No. 62 for people who operate games of chance or gambling. Also has issued Resolutions N° 264 and 266 for Real Estate Agents.

723. Resolution No. 62, Article 13 stipulates that companies engaged in the operation of games of chance or gambling are obliged to make a suspicious transaction report to SEPRELAD of any act or transaction irrespective of its value, made or not, in terms of Article 13 that would constitute a serious indication or suspicion that it relates to the crime of money laundering.

724. Resolution No. 264, Article 11 stipulates for Real Estate Agents the same obligation as contemplated under Article 13, Resolution No. 62 for Gambling Establishments.

725. There is no designated threshold under the AML Law for Dealers in precious metals and dealers in precious stones for the report of suspicious transactions.

726. Article 12 of Law 1015/97 establishes that the obligations mentioned in that Chapter to the reporting entities, shall apply to all transactions in excess of the ten thousand US dollars or the equivalent thereof in other currencies, subject to the exceptions provided for in that Law.

727. The rest of the DNFBP mentioned under Criterion 16.1, paragraphs c) and d) are not covered by the Law.

728. Law No. 1,015/97, Article 23, provides for those Gambling Establishments, a special scheme of obligations.

729. Gambling Establishments, particularly, Gambling Establishments shall comply with the provisions of article 19 if: 1) payments are made to clients by cheques in exchange for gambling tokens; 2) the transfer of funds to a bank account or any payment procedure not involving cash is authorized or ordered, and; certificates are issued of the client's winnings.

730. The Law or regulations issued by the SEPRELAD do not refer to Internet Casinos.

731. The obligation to inform the SEPRELAD any act or suspicious transactions under the terms of Article 19 of Law No. 1,015/97, does not extend to terrorism, acts of terrorism, terrorist organizations or those who finance terrorism or likely be used for such purposes, according to SR.IV.

STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs):

732. The obligation to submit STRs does not apply to funds when there are reasonable grounds to suspect or where suspected of being connected or related to terrorism or to be allocated to terrorism, terrorist acts or used by terrorists organizations or those who finance terrorism.

No Reporting Threshold for STRs (applying c. 13.3 & IV.2 to DNFBPs):

733. Article 19 of Law 1015/97 imposes the obligation to report any act or transaction, regardless of its size, for which there is some indication, or suspicion that it relates to the offence of money laundering or property, which includes attempted operations.

734. Special Recommendation IV.2, is not satisfied because terrorism is not criminalized in Paraguay and consequently there is no obligation to report suspicious transactions linked to terrorism.

Making of ML and TF STRs Regardless of Possible Involvement of Fiscal Matters (applying c. 13.4 and c. IV.2 to DNFBPs):

735. There is no indication that would support that the suspicious transaction reporting obligations are limited when the transactions are also thought to involve tax matters.

Additional Element—Reporting of All Criminal Acts (applying c. 13.5 to DNFBPs):

736. The AML Law, as well as the Resolutions issued by SEPRELAD N° 62, 264, 266, requires Gambling Establishments and Real Estate Agents to notify the SEPRELAD of any suspicious transaction, including attempted which could be linked or related to money laundering.

737. The requirements in place to address Recommendation 13 do not follow the standard.

738. The requirements in place have not been implemented yet.

739. None of the DNFBP contemplated by Law has reported to the FIU a suspicious transaction report.

Protection for Making STRs (applying c. 14.1 to DNFBPs):

740. Regarding the Gambling Establishments, the Real Estate Agents and the Dealers in Precious Metals and Stones, Law 1015/97 under Article 34 establishes that information furnished to the SEPRELAD in compliance with that Law and regulations shall not constitute a breach of secrecy or confidentiality and obligors, their managers, directors and officers shall be exempt from civil, criminal and administrative liability, regardless of the outcome of the investigation, except in the event of their complicity in the offence under investigation.

Prohibition Against Tipping-Off (applying c. 14.2 to DNFBPs):

741. Law 1015/97, Article 20, establishes that obligors shall not reveal, either to the client or to third parties, any steps taken or Communications effected by them in compliance with the obligations set out in that Law and the regulations issued hereunder.

742. Resolution No. 62, Article 16 stipulates that no company engaged in the operation of games of chance or gambling, represented by its owners, presidents, directors, managers or trustees, employees or any authorized by it, may notify the person or persons involved in the activity that it has been reported. Nor can divulge the contents of STRs and their supporting documents or evidence to anyone or any institution, except when requested by the SEPRELAD. Resolution No. 264, Article 14 mirrors the obligation for Real Estate Agents.

Additional Element—Confidentiality of Reporting Staff (applying c. 14.3 to DNFBPs):

743. Not contemplated under the Law or the Regulations issued by SEPRELAD.

Establish and Maintain Internal Controls to Prevent ML and TF (applying c. 15.1, 15.1.1 & 15.1.2 to DNFBPs):

744. Law 1015/97, Article 21 establishes the duty for reporting entities, whether or not legal entities to establish appropriate procedures for the internal auditing of information in order to discover, forestall and prevent the execution of any operations for the purpose of Money or property laundering. The obligation does not include aspects related to combating the financing of terrorism, given that this has not been criminalized.

745. Resolution No. 62, Article 2 requires that companies engaged in the exploitation of games of chance or gambling to formulate policies and procedures to prevent money laundering. This provision states that such policies and procedures must be available to all officials of the company engaged in the operation of games of chance or gambling and to SEPRELAD.

746. Resolution No. 264, Article 2 states for the Real Estate Agents the same obligation as described above.

747. SEPRELAD has not issued a regulation applicable to Dealers in Precious Stones and Metals.

748. With regard to Criterion 15.1.1, Resolution No.62, Article 5 stipulates the obligation to appoint a Compliance Officer for implementation, training and monitoring program. Resolution No.° 264, Article 4, provides for Real Estate Agents the same obligation.

749. With regard to Criterion 15.1.2, Resolution No. 62, Article 6 provides the functions and powers of the Compliance Officer, among others it mentions the obligation to monitor the records that contain the operations and transactions, collect, analyze and refer STRs, but does not expressly provide for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under the Criterion.

750. Resolution No. 264, Section 5 provides for Real Estate Agents the same obligation as described above.

751. The requirements set out under the standard have not been implemented by the Gambling Establishments, the Real Estate Agents and the Dealers in Precious metals and stones. None of the designated non-financial businesses and professions listed under Article 13 has developed internal policies, procedures and controls to prevent ML and FT, or appointed a Compliance Officer.

Independent Audit of Internal Controls to Prevent ML and TF (applying c. 15.2 to DNFBPs):

752. Resolution No. 62, Article 8 establishes for companies engaged in the operation of games of chance and gambling the obligation to have internal audits (every six months) to verify the reasonableness of the systems of prevention, detection and reporting of money laundering or property. Article 8 also establishes an obligation to count on an annual basis, with an external audit. The reports must be submitted to the SEPRELAD and the Supervisory Board -CONAJZAR-.

753. Resolution No. 264, Article 6 provides the same obligation, but without a requirement to submit the report of internal audit and external to the Supervisory Body as it is not mentioned under the Resolution who is in charge of the supervision of the Real Estate Agents. According to the information provided by the authorities, the Real Estate Agents are authorized and controlled in the field of taxation, by the Undersecretary of State Tax Ministry of Finance but this does not seem to include the ML control. It was not provided additional information

754. The maintenance of adequately resourced and independent audit function to test compliance with the procedures, policies and controls is not expressly provided, as required under Criterion 15.1

755. The requirements set out under the standard have not been implemented among Gambling Establishments, Real Estate Agents and Dealers in Precious metals and stones. None of the designated non-financial and professions listed under Article 13 maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls.

Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs):

756. Resolution No. 62, Article 6, paragraph f) states that within the functions of the Compliance Officer is to coordinate the development of training programs in order to instruct their employees and any authorized representative in compliance with the rules on prevention of money laundering. FT is not contemplated.

757. It is not required that the training programs shall include in accordance with Criterion 15.3 – information on new developments, current ML and FT techniques, methods and trends, requirements concerning CDD and suspicious transaction reports.

758. Resolution No. 264, article 5, paragraph g) provides for the Real Estate Agents the same obligation.

759. In both cases, the obligation to make training arises from the functions of the Compliance Officer, it is not an explicit and independent requirement as it is established in Resolutions issued by the SEPRELAD for the financial institutions.

760. The obligation to establish ongoing employee training programmes has not been implemented among DNFBPs.

Employee Screening Procedures (applying c. 15.4 to DNFBPs):

761. Resolution No. 62, Article 6, paragraph e) states within the functions of the Compliance Officer to verify that within the companies engaged in the operation of games of chance or gambling there are and apply reasonable procedures to detect the personal history, Labor, criminal and property of employees who work in it.

762. Also, Article 7 establishes the obligation to have a Code of Conduct, which must consider the personal history, labor, professional competence, probity and integrity of the same.

763. Resolution No.264, Article 5, paragraphs f) and i) set for the Real Estate Agents the same obligation as described above.

764. The obligation to put in place screening procedures to ensure high standards when hiring employees has not been implemented among DNFBPs.

Additional Element—Independence of Compliance Officer (applying c. 15.5 to DNFBPs):

765. Article 5, sets out the requirement for the Compliance Officer to be an officer with sufficient authority and should be accompanied by a copy of the minutes of meeting of the highest authority of the enterprises where it is the designation. It is not clear whether the Compliance Officer could act independently.

766. Resolution No. 264, Article 4 provides the same obligation for the Real Estate Agents.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):

767. Law 1015/97 does not foresee the need to pay attention to business relations and transactions with persons (including legal persons and other financial institutions) from countries that do not apply or insufficiently apply the FATF Recommendations and to ensure that reporting entities are advised of concerns about weaknesses in the AML- CFT systems of other countries. The resolutions issued by the SEPRELAD for the Gambling Establishments and the Real Estate Agents do not foresee this Criterion.

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

768. Requirements not in place and not contemplated either in law or in the resolutions of the SEPRELAD.

Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

769. Requirements not in place and not contemplated either in law or in the resolutions of the SEPRELAD.

4.2.2. Recommendations and Comments

- Incorporate all DNFBP as reporting entities under the AML Law as well as require the SEPRELAD to elaborate the relevant resolutions for Dealers in Precious Metals and Stones who are reporting entities under Article 13, Law 1015-97.
- Supervisors over the Gambling Establishments, the Real Estate Agents and the Dealers in precious metals and stones should issue the relevant regulations within their respective areas and make the necessary supervision.
- Criminalize terrorism and include in the law the obligation to inform to the SEPRELAD in terms of Article 19 of Law 1015/97 not only acts linked to money laundering, but also those related to terrorism, Acts of terrorism, terrorist organizations or those who finance terrorism or be used for such purposes.
- Establish the requirements to comply with the provisions of Special Recommendation IV and Recommendation. 13, Criterion 13.2.
- Incorporate among the regulation the Internet Casinos.
- Expressly contemplate the maintenance of adequately resourced and independent audit function to test compliance with the procedures, policies and controls required under Criterion 15.1 and the requirement to have training programs as mentioned under Criterion 15.3 independently to the functions of the Compliance Officer and incorporate all the aspects set out under Criterion 15.3 – information on new developments, information on current ML and FT techniques, methods and trends, requirements concerning CDD when hiring employees -
- Establish the requirement for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under Criterion 15.1.2
- Establish the relevant regulation in order to ensure that the Compliance Officer position is at a level that guarantees independence.
- Incorporate in the existing rules as set out under Recommendation 21, with its entire essential Criterion the obligation to pay attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries that do not sufficiently apply the FATF Recommendations.
- Authorities are recommended to take measures in order to implement among the Designated non-financial businesses and professions contemplated under Article 13, Law 1015, the requirements

set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 13, 14, 15 and 21. – Reporting of Suspicious Transaction Reports, Protection for STR reporting, development of internal policies, procedures and controls to prevent ML and FT, appointment of a Compliance Officer, maintenance of an adequately resourced and independent audit function to test compliance with the procedures, policies and controls, establishment of ongoing employee training programmes, establishment of screening procedures to ensure high standards when hiring employees and special attention to business relationships and transactions with personas from or in countries that do not or insufficiently apply the FATF Recommendations.

4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	NC	<ul style="list-style-type: none"> • Not all DNFBP are covered by Law 1015/97. • Compliance with the Recommendation is limited. Law 1015/97 does not cover all categories of DNFBP and the measures in place for those that are contemplated by Law are too general and lack the level of detail required under the standard. • Lack of regulation enacted by the SEPRELAD for Dealers in Precious Stones and Metals. • The Special Recommendation IV and the Criterion 13.2 are not met while terrorism is not criminalized under Law 1015/97. • The obligation to submit the STR is confined to the crime of money laundering and not the financing of terrorism. • Lack of requirements in place to fully address the requirements set out under Recommendation 15 especially with regard to Criterion 15.1.2, 15.2 and 15.3. • Recommendation 21 is not embodied in law or in the Regulations issued by the SEPRELAD. • Lack of implementation by the reporting entities listed under Article 13 of Law 1015 of the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 13, 14, 15 and 21.

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

4.3.1. Description and Analysis

770. **Legal Framework:** Law 1015/97, Law 1016/97 Articles 28, 29, Resolutions No. 62, 264 and 266.

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3):

771. The supervisory body for Gambling Establishments is the National Commission on games of chance or gambling (CONAJZAR). The operation of games of chance or gambling is regulated by Law 1,016/97 (legal regime to operate games of chance or gambling), which establishes the legal regime to operate games of chance or gambling and regulated by the Executive Decree No. 6,206/99. The CONAJZAR is the planning body, to control and monitor the activities of natural and legal persons who exploit Gambling, and dictates the rules of different games permitted by law.

772. The CONAJZAR does not have a sanctions regime in accordance with Law 1016/97. In this regard, Article 15 provides the only option for the immediate closure of all local preventive unauthorized, making only reference to illegal Gambling Establishments. The authorities could not provide information on what occurs with respect to the other categories of DNFBP under Law 1015-97.

773. The CONAJZAR has reported that does not have sufficient technical resources and other resources to perform its functions.

774. It has been reported that the CONAJZAR has only 6 people to carry out its functions, including its President, 1 General Counsel, 1 Secretary, 1 Technical Adviser, 1 Administrative Coordinator and a person in the Department of Enforcement. There are to date 5 Gambling Establishments authorized in Paraguay, of which only at the Casino of Asuncion there is an average of 3000 to 4000 customers per week.

775. Article 29 of Law No. 1,015/97 provides that administrative infringements of the law and the regulations relating to the offence of money or property laundering may be regulated, investigated and criminalized only through the institutions responsible for the supervision and monitoring of the obligors, according to their nature.

776. The CONAJZAR, according to the provisions of Article 29 of Law No.1,015/97 should issue regulations relating to all those who operate games of chance or gambling in terms of AML / CFT and monitor its compliance. However this, it has been informed that to date there are no controls for the prevention of money laundering in this sector.

777. According to the statement by the authorities of the CONAJZAR its role to date is limited to verifying compliance with the provisions of the Law No. 1,016/97, taking into account the recent enactment of Resolution No. 62 -March 2008- and the lack of sufficient resources.

778. While SEPRELAD has issued Resolution No. 62, applicable to all subjects that operate games of chance or gambling, (regulatory regime) there is no regulatory regime dictated by the supervisory agency, -CONAJZAR- regarding AML/ CFT.

779. Neither Law 1015/97 nor Resolution N° 62 refers to the Casinos on Internet. The Gambling Establishments operate under license granted by the competent authority (CONAJZAR). Law 1016, under Article 7 states that concessions to operate games of chance or gambling on a national basis will be conducted exclusively through competitive bidding, for a Five year period from the date of the contract, except as otherwise provided by law.

780. Resolution N° 62, Article 3 stipulates that individuals unauthorized under the Civil Code and Paraguayan those tried and convicted criminally may not operate as an owners, administrators, legal representatives, chairmen, directors or trustees of the Companies to operate games of chance or luck, inexcusably must refrain from them. However this that not contemplate the prohibition to criminals and their associates from being the beneficial owner of a significant or controlling interest.

781. None of the requirements set out in the AML and the Resolution enacted by SEPRELAD for the Gambling Establishments have been implemented by the reporting entities.

Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1):

782. With regard to other DNFBP, apart from the Gambling Establishments, the Real Estate Agents and Dealers in Precious Metals or Stones are the only obligated entities according to Law No. 1,015/97.

783. According to the information provided by the authorities of Paraguay, the Real Estate Agents are authorized and controlled in the field of taxation, by the Undersecretary of State Tax Ministry of Finance under the provisions of Law 125/91 and Law 2421 / 05 respectively and was not informed whether this includes the supervision in terms of AML- CFT

784. There are two unions: the Association Paraguayan Business Loteadoras (APEL) and the Paraguayan Chamber of Real Estate Companies (CAPEI).

785. There is no evidence that there is control or supervision regarding the Real Estate Agents to ensure compliance with the requirements AML / CFT. The authorities did not provide any information on this matter.

786. Under the provisions of Article 29 of Law 1015/97, the oversight body for Real Estate Agents should issue relevant regulations regarding AML/ CFT and monitor compliance. However, there is no evidence of control in this regard.

787. With respect to the Dealers of metals and precious stones, SEPRELAD has not issued the relevant regulations. The authorities did not inform if they are subject to any oversight body. According to the authorities in Paraguay, they must comply with the obligations under existing legislation relating to the pursuit of trade and those emanating from the tax legislation. There is no evidence of control in terms of AML / CFT.

Guidelines for DNFBPs (applying c. 25.1):

788. Law 1015/97, Article 28 sets out the functions and duties of SEPRELAD, which mentions, among others, (clause 1) the issue within the framework of laws, of the administrative regulations to

be observed by the reporting entities with the view to prevent, detect and report money-laundering operations or property.

789. In use of such powers, SEPRELAD has issued regulations to be met by financial institutions and certain DNFBP. There are certain reporting entities mentioned in Law 1015/97 for which the SEPRELAD has not issued the resolution (Dealers in Precious Metals and Stones, non-governmental organizations foundations, etc.).

790. In its regulations the SEPRELAD, provides examples of unusual or suspicious transactions for each subject. . Resolutions issued by SEPRELAD provide reporting entities with a list designed to assist these institutions in identifying, detecting, and monitoring any suspicious behavior of their customers and their business relationships

791. However, SEPRELAD nor the supervisors and control authorities have established guidelines to assist DNFBPs on relevant issues including: i) a description of ML and FT techniques and methods; and ii) international recent developments on ML and FT, particularly those issued by FATF.

4.3.2. Recommendations and Comments

- It is necessary to define who are the supervisory bodies with regard to Real Estate Agents and Dealers in precious metals and stones in terms of AML/CFT, and define their roles.
- Expressly contemplate for the designated competent authorities the responsibility for the AML-CFT regulatory and supervisory regime.
- SEPRELAD in exercise of the powers provided for in Article 28 of Law N° 1015/97 should dictate the rules to be adjusted by the Dealers in precious metals and precious stones. They should also have a supervisory body.
- Provide the Gambling Establishments with a regulatory and supervisory regime to ensure the implementation of the AML-CFT measures required under the FAFT Recommendations.
- Adequate the existing Law N 1016-97 (legal regime to operate games of chance or gambling), or provide additional regulation in order to address the requirements contemplated under Recommendation 24.
- Provide CONAJZAR and the Supervisory Bodies for the rest of the DNFBPs with adequate powers to perform their functions, including the power to monitor and sanction for violations to the AML-CFT Resolutions. .
- Provide within existing regulations Internet Gambling Establishments in order to include them under a regulatory and supervisory regime as the same for the rest of the Gambling Establishments.
- Establish the prohibition to criminals and their associates from being the beneficial owner of a significant or controlling interest. of a Casino.
- Establish guidelines to assist DNFBP to implement and comply with their respective AML / CFT requirements which at minimum should give assistance on issues covered under the relevant

FATF Recommendations Including a description of ML and FT techniques and methods, any additional measures that these reporting entities could take to ensure that their AML-CFT measures are effective.

4.3.3. Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	NC	<ul style="list-style-type: none"> • DNFBP are not subject to an effective regulatory and supervisory regime to ensure compliance with the AML /CFT requirements. • Real Estate Agents and the Dealers in Precious Stones and Metals do not have a Supervisory Body in terms of AML/CFT. • Lack of a comprehensive regulatory regime among DNFBP to ensure full implementation of the measures AML / CFT. • CONAJZAR is not at present supervising the Gambling Establishments in terms of AML and has not enacted the relevant regulation. • CONAJZAR does not have the adequate powers to perform its function in the supervision of the requirements set out under Resolution N 62; this includes the lack of powers to monitor compliance with the regulation. • CONAJZAR does not have a regime of sanctions under Law 1016/97 (Legal regime to operate games of chance or gaming) so at present is not able to impose any kind of sanction for non- fulfillment with the existing regulations regarding the prevention of money laundering
R.25	NC	<ul style="list-style-type: none"> • Lack of guidelines to help DNFBP to implement and comply with their respective AML / CFT requirements which at minimum shall include a description of ML and FT techniques and methods and any additional measures that these institutions and DNFBPs could take to ensure that their AML-CFT measures are effective.

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

4.4.1. Description and Analysis

792. **Legal Framework:** Law 1015/97, Article 13, paragraph m), Law No. 1,015/97 contemplates the pawnbrokers as reporting entities. The SEPRELAD has issued for the pawnbrokers, Resolution N° 265/07 and amending Resolution N° 267/07.

793. Law 1015-97 does not contemplate dealers in high value and luxury goods, auction houses and investment advisers between the non-financial business and professions -other than DNFBP- that may be at risk of being misused for money laundering and terrorism financing as stated under Criterion 20.1.

Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 & 21 c. 20.1):

794. The requirements for customers' identification fall under Articles 14, 15 and 16 of Law 1015/97 and Chapter III, Articles 7 and 8 of Resolution No. 265 and Resolution No. 267. Criterion 5.1 is not covered by Law 1015/97 or Resolution N° 265 and 267.

795. Criterion 5.2. (Moment in time when CDD is required). Paragraph a), Article 14 of Law 1015/97 establishes the obligation to register clients as the same is for Gambling Establishments and Real Estate Agents.

796. Resolution N° 265, Article 7 states that pawnbrokers should keep records of customers and their constituents since the beginning of the trading relationship and that the records will be exposed to update processes.

797. With regard to the provisions of paragraph b), Resolution N° 265 does not contemplate occasional customers. The subsection c)-e) of Criterion C.5.2 is not covered in the regulations.

798. With regard to the provisions of C. 5.3 (Identification measures and verification sources), the same articles under Law 1015-Articles 14, 15 and 16- as detailed when applying Recommendation 5 for Gambling Establishments and for Real Estate Agents, are applicable for Pawnbrokers.

799. Article 8 of Resolution N° 265 mirrors the obligation contemplated under Article 8 of Resolution N 266 for the Real Estate Agents.

800. Criterion 5.4 (Identification of Legal Persons or Other Arrangements). The requirements addressing legal persons are covered under Article 15 and 16 of Law 1015/97. Article 8, paragraph b) of Resolution N° 267 mirrors the obligation contemplated under Article 8 of Resolution N 266 for the Real Estate Agents.

801. Regarding Criterion 5.5 (Identification of Beneficial Owners), Law 1015/97, Article 15 establishes the method of identification and Article 16 contemplates the identification of the principal of the client. However it does not contemplate the obligation to identify the Beneficial Owner. Resolution N 267, Article 8 stipulates similar prevision as contemplated under Article 16, Law 1015-97.

802. Criterion 5.6. (Information on Purpose and Nature of Business Relationship), is not expressly covered.

803. With respect to Criterion 5.7 (Ongoing Due Diligence on Business Relationship), Resolution N° 267, Article 8 mirrors the obligation contemplated under Article 8 of Resolution N 266 applicable to Real Estate Agents. It does not contemplate the provisions set under Criterion 5.7.2.

804. Criteria 5.8- 5.12, (Risk) are not contemplated under Resolutions N 265 and 267.

805. With respect to Criterion 5.13. and C.5.14 (Timing of verification), Law 1015-97, Article 14 stipulates the obligation to carry out the verification process when entering into business relations. The identification of the beneficial owner is not contemplated. Resolution N° 265, Article 7 mirrors the obligation contemplated under Article 7 of Resolution N 264 applicable to Real Estate Agents.
806. Criterion 5.15 and 5.16 (Failure to complete CDD), are not contemplated. The Resolutions do not contemplate the requirements to be addressed by the pawnbrokers when they are unable to comply with Criteria 5.3 to 5.5.
807. Criterion 5.17 and 5.18 (Existing Clients). Article 17 of Resolution N 265 mirrors the obligation set out under Article 16 of Resolution N 264.
808. The Resolution enacted by SEPRELAD for pawnbrokers has not been implemented and the requirements set in place do not comply with the standard.
809. Recommendation 6: The regulations issued by the SEPRELAD for pawnbrokers (Resolutions No. 265 and 267) do not contemplate the PEPs as required by Recommendation 6 of the FATF. The evaluation team was provided with no evidence to suggest that any guidance was given in this matter. Criterion not met.
810. Recommendation 8: (Misuse of New Technology for ML/FT; Risk of Non-Face Business Relationships): It is not contemplated under Resolutions No. 265 and 267. Criterion not met.
811. Recommendation 9 : (Third Parties and Introduced Business): Resolution N° 267, Article 8 establishes the prohibition for pawnbrokers to delegate responsibility to third parties to comply with the obligation to identify the customers.
812. Recommendation 10: (Record-Keeping & Reconstruction of Transaction Records): Law 1015/97, Article 17, establishes that reporting entities shall identify and record clearly and precisely any transaction conducted by their clients.
813. Article 18, establishes that reporting entities shall keep for a minimum period of five years any documents, files and correspondence establishing or identifying the transactions. The five-year period shall be computed from completion of the transaction or from the time when the account was closed.
814. Resolution N° 265, Article 18 stipulates that pawnbrokers must preserve all records and reports as the time period specified in the existing regulatory laws.
815. It is not contemplated the obligation to keep records for a longer period than five years if so requested by a competent authority in specific cases and upon proper authority and to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.. It is not specifically contemplated what such records should contain. It has not been implemented yet the Resolution enacted by the SEPRELAD for the pawnbrokers. The requirements in place do not fully comply with the standard.
816. Recommendation 11: (Special Attention to Complex, Unusual Large Transactions): It is not specifically contemplated for pawnbrokers, the obligation to pay attention to all complex unusual or

large transactions or to analyze the background and the same objective and to make those results available to competent authorities and auditors. Law 1015/97, Article 19 stipulates the obligation to report suspicious transactions, irrespective of its value, for which there is some indication or suspicion that they relate to the offence of money laundering.

817. In this regard, the article defines suspicious transactions, and mentions, among other things, that are those complex, unusual, large or which do not meet the usual patterns of operations.

818. Resolution N° 265, Article 12 mirrors the obligation contemplated under Resolution N 264, Article 11 applicable to Real Estate Agents regarding the need to report act or operations. For its part, Article 13 states which are considered suspicious.

819. However, measures focus more on the aspects of identifying suspicious transactions than on paying attention to unusual transactions. The requirements in place do not follow the standard

820. Recommendation 13: Regarding Criterion 13.1, Law 1015/97, Article 13, paragraph m contemplates the pawnbrokers as obligated to notify any act or transaction, regardless of its size, for which there is some indication or suspicion that they relate to the offence of money laundering or property. Article 19, Law 1015-97 imposes the obligation to report any act or transaction, regardless of its size, for which there is some indication or suspicion that it relates to the offence of money laundering. There have not been suspicious reports made from pawnbrokers.

821. The obligation to submit a STR does not apply to funds when there are reasonable grounds to suspect or where suspected of being connected or related to terrorism or to be allocated to terrorism, terrorist acts or use by terrorist organizations or those who finance terrorism. Terrorism is not punishable under Law N 1015/97.

822. There is no indication that would support that the suspicious transaction reporting obligations are limited when the transactions are also thought to involve tax matters.

823. Resolutions N° 265 requires the pawnbrokers to report any act or transaction, regardless of its amount, including attempted ones, which could be linked or related to money laundering.

824. The requirements in place to address Recommendation 13 do not follow the standard and have not been implemented yet.

825. Recommendation 14- Protection for STR- Tipping off-: Law 1015/97 under Article 34 as the same for the rest of the reporting entities under Article 13 establishes the exemption from liability.

826. Law 1015/97, under Article 20, establishes the prohibition against tipping- off.

827. Resolution N° 265, Article 15 mirrors the obligation imposed by Resolution N 62, Article 16 for Gambling Establishments and Resolution N 264, Article 14 for Real Estate Agents regarding the prohibition of tipping- off.

828. Criterion 14.3 is not contemplated.

829. Recommendation 15: Law 1015/97, Article 21 establishes the duty for reporting entities, whether or not legal entities to establish appropriate procedures for the internal auditing of information in order to discover, forestall and prevent the execution of any operations for the purpose of Money or property laundering.

830. Resolution N° 265, Article 2 mirrors the obligation imposed by Resolution N 62, Article 2 for Gambling Establishments and Resolution N 264, Article 2 for Real Estate Agents in connection with the formulation of policies and procedures. . It states that such policies and procedures must also be available to the Municipality.

831. Criterion 15.1.1. - Resolution N° 265, Article 4 stipulates the obligation to appoint a Compliance Officer for the implementation, training and monitoring program.

832. Criterion 15.1.2, Resolution N° 265, Article 5 provides the functions and powers of the Compliance Officer, and mirrors the ones contemplated under Article 6 of Resolution N 62 for Gambling Establishments and Article 5 of Resolution N 264 for Real Estate Agents., but does not expressly provide for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under the Criterion.

833. It has not been implemented by pawnbrokers the requirements set out under the standard regarding the development of internal policies, procedures and controls to prevent ML and FT or to appoint a Compliance Officer.

834. Resolution N° 265, Article 6 mirrors the obligation established under Article 6, Resolution N 264 for Real Estate Agents for the audit function. It does not expressly contemplate the maintenance of adequately resourced and independent audit function to test compliance with the procedures, policies and controls required under Criterion 15.1. It has not been implemented yet.

835. Resolution N° 265, Article 5, mirrors the same obligations set out under Article 6 of Resolution N 62 and Article 5 of Resolution N 264 for ongoing employee training on AML-CFT Matters. It has not been implemented yet.

836. As for Gambling Establishments and Real Estate Agents, the obligation to make training arises from the functions of the Compliance Officer, it is not an explicit and independent requirement as it is established in Resolutions issued by the SEPRELAD for the financial institutions., and does not contemplate what the training programmes shall include in accordance with Criterion 15.3

837. Resolution N° 265, Article 5, mirrors the obligation provided by Article 6 and 7 of Resolution N 62 and Article 5 of Resolution N 264 with regard to the screening procedures when hiring employees and the obligation to have a Code of Conduct. It has not been implemented among pawnbrokers the obligation to put in place screening procedures when hiring employees.

838. Criterion 15.5 is not expressly contemplated under Resolutions N° 265 and 267. However, it establishes the requirement that the Compliance Officer must be an officer with a high authority.

839. Recommendation 17. Under the provisions of Article 29 of Law 1015/97, administrative infringements of the law and the regulations relating to the offence of money or property laundering

may be regulated, investigated and criminalized only through the institutions responsible for the supervision and monitoring of the obligors, according to their nature.

840. The system of administrative criminalities for legal persons is established under Article 24 of Law 1015/97.

841. With regard to pawnbrokers, Resolution N° 267, Article 16, states that the omission of the obligation to report by the pawnbrokers will be raising the background for the supervisory body in accordance with the provisions of the existing laws related to money laundering or property.

842. Resolution N° 265 Article 1 provides that pawnbrokers are subject to supervision and inspection of Municipalities.

843. The authorities could not provide information regarding the supervision of pawnbrokers in order to verify among other issues, whether the supervisor effectively controls the compliance with the ML requirements and whether the same has powers to apply sanctions in accordance with Recommendation 17.

844. There is no evidence that there is any control or supervision regarding the pawnbrokers to ensure compliance with the AML / CFT requirements and authorities did not provide any information in this respect.

845. Recommendation 21: Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1): Law 1015/97 and Resolutions No. 265 and 267 do not foresee the need to pay attention to business relations and transactions with persons (including legal persons and other financial institutions) from or in countries that do not apply or insufficiently apply the FATF Recommendations.

846. It is not contemplated either in law nor in Resolutions No. 265 y 267 the obligation to examine transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2) and to apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3).

847. Resolutions No. 265 y 267 do not foresee either Criterion 21.1, 21.2 or 21.3.

Modernization of Conduct of Financial Transactions (c. 20.2):

848. The authorities did not provide information on whether they have taken measures or are planning to do so to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

4.4.2. Recommendations and Comments

849. Authorities are recommended to:

- Incorporate under Law No. 1015/97 non- financial business and professions -other than DNFBP- that may be at risk of being misused for money laundering and terrorism financing, such as

dealers in high value and luxury goods, auction houses and investment advisers as stated under Criterion 20.1.

- Expand to pawnbrokers the requirements of due diligence with customers so as to incorporate and / or adapt regulations to the ones set out under Recommendation 5, especially the prohibition through law or regulation to keep anonymous accounts or accounts in fictitious names, cover all cases that require CDD in accordance with Criterion 5.2, identification measures, Identification of legal arrangements, the identification of the Beneficial Owner, risk, timing of verification, ongoing Due Diligence. Information on purpose and nature of business relationships, and failure to complete CDD.
- Incorporate for pawnbrokers the provisions contemplated under Recommendation 6 with regards to PEPs and incorporate the obligation to pay special attention to any money laundering threats that may arise from new developing technologies that might favor anonymity and to have policies and procedures in place to address any specific risk associated with non-face relationships or transactions in accordance with Recommendation 8.
- Incorporate the obligation to keep records for a period longer than five years if so requested by a competent authority in specific cases and upon proper authorization and to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority.
- Establish the obligation covered under Recommendation 11 concerning unusual transactions.
- Criminalize terrorism and financing of terrorism and include under the Law the obligation to inform in terms of Article 19 of Law No. 1,015/97 not only acts linked to money laundering but also those related to terrorism.
- Expressly contemplate the maintenance of adequately resourced and independent function to test compliance with the procedures, policies and controls required under Criterion 15.1.
- Provide staff training as a specific point within the program of internal control and not between the functions of the Compliance Officer and incorporate between the training programmes, information on new developments, current ML and FT techniques, methods and trends and requirements concerning CDD and suspicious reporting
- Establish the requirement for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under Criterion 15.1.2.
- Establish the relevant regulation in order to ensure that the Compliance Officer 's position is at a level that guarantees independence.

- Take the necessary measures in order to encourage the enactment of the relevant regulations by the supervisor in charge of the control of the pawnbrokers in order to ensure full compliance with the requirements set out under the AML legislation and the Resolutions enacted by SEPRELAD.
- Define the functions and powers of the supervisory board as well as a sanctions regime over the pawnbrokers who should apply both to individuals, legal persons and their directors and senior managers.
- Clarify the sanctions regime, and incorporate not only the imposition of disciplinary measures but also the withdrawal or suspension of the license of the institution in question.
- Incorporated the provisions of Recommendation 21 , in connection with the obligation to pay special attention to business relations and transactions with persons, including legal persons and other financial institutions from countries that do not apply or insufficiently apply the FATF Recommendations as well as the requirements contemplated under Criterion 21.2 and 21.3..
- Take measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering in accordance with Criterion 20.2.

4.4.3. Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	NC	<ul style="list-style-type: none"> • Law No. 1015/97 does not contemplate non- financial business and professions –other than DNFBP- that may be at risk of being misused for money laundering, or terrorism financing such as dealers in high value and luxury goods, auction houses and investment advisers as stated under Criterion 20.1. • Lack of explicit requirements under the regulation to all the obligations imposed by Recommendation 5 – Prohibition of anonymous accounts or accounts in fictitious names, all cases when CDD is required in accordance with Criteria 5.2, identification measures, Identification of legal persons or arrangements Risk, timing of verification, ongoing due diligence, information on purpose and nature of business relationships, failure to complete with CDD. • Lack of regulations to impose pawnbrokers, in addition to performing due diligence measures, to pay attention to PEPs in accordance with Recommendation 6. • Lack of regulation for pawnbrokers to pay special attention to new technologies that may favor anonymity and to address those risks associated with non face- to- face business relationships or transactions. • Lack of fully compliance with respect to recordkeeping in accordance with the provisions set out under Recommendation 10.

	<ul style="list-style-type: none"> • Lack of explicit obligation to pay attention to all complex, unusual or large transactions and unusual patterns and to examine their background and set out their findings in writing in compliance with Recommendation 11. • Lack of fully compliance within the pawnbrokers with the provisions set out under Recommendation 15 specially regarding the unlimited access by the Compliance Officer to customer identification, data and other CDD information, the audit function, training programmes –information of new developments, current ML and FT techniques, methods and trends, requirements concerning CDD and suspicious transaction reports and independence of the Compliance Officer. • Lack of the relevant regulation issued by the supervisor in order to ensure the compliance with the provisions set out under the AML Law and the Resolutions enacted by SEPRELAD. • Lack of supervision over pawnbrokers to ensure the compliance with Recommendations 5, 6, 8-11, 13-15, 17 and 21. • Lack of a sanction regime for pawnbrokers in accordance with Recommendation 17. • Lack of requirements to give special attention to business relationships and transactions with persons, including legal persons and other financial institutions, from countries that do not apply or insufficiently apply the FATF Recommendations and to ensure that the reporting entities are advised of concerns about weaknesses in the AML-CFT systems in other countries as well as the requirements contemplated under Criterion 21.2 and 21.3. • Lack of measures in place to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering as considered under Criterion 20.2.
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5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS

5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

5.1.1. Description and Analysis

850. **Legal Framework:** The National Direction of Public Registries was established by Law No. 871/81 “Code of Judicial Organization”. This law also unified the existing registries and created new ones under the National Direction of Public Registries.

851. In accordance with Title IX, Article 262 of Law No. 871/81, the National Direction of Public Registries holds the following registries: a) Real Estate, b) Boats, c) Automobiles, d) Airplanes, e) Trademarks, f) Pledges, g) Legal Persons and Associations, h) Patrimonial Rights in Family Relationships, i) Intellectual Rights, j) Public Registry of Commerce, k) Powers of Attorney, l) Industrial Property, m) interdictions, n) bankruptcies, and o) Agrarian Registry.

852. Some of these registries, such as Airplanes (Law No. 1,860/02 DINAC), Trademarks (Law No. 2,576/05), Intellectual rights (Law No. 1,328/98), and Industrial Property (Law No. 1,294/98) are no longer held under the National Direction of Public Registries. However, a couple of new ones have been incorporated, such as wills, bills of sale, leasing and trusts.

Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):

853. In accordance with the Code of Judicial Organization, the National Direction of Public Registries is administratively dependant of the Supreme Court of Justice. Despite this dependence, which deeply limits the National Direction’s access to adequate budgetary resources, the Direction has autonomy to regulate the different and particular situations that could arise under its competence.

854. Upon the payment of judicial and special fees, legal persons are registered under two offices that depend of the National Direction: The Article “Legal Persons and Associations” and the “Public Registry of Commerce”.

855. The objectives of the Article “Legal Persons and Associations” are to: register the duly approved acts of incorporation and bylaws of private legal persons, register the bylaws of foreign legal persons authorized to operate in Paraguay, liquidate companies and, record the acts of incorporation of associations with no legal personality and amendments thereto. The registry of legal persons and associations applies to all non profit organizations and companies.

856. The objectives of the Public Registry of Commerce are to legitimize merchants and to give publicity to all of the circumstances related with commercial activities. Article 348 of the Code of Judicial Organization sets forth that the Public Registry of Commerce shall register all of the acts and instruments requiring registration under the Commercial Code and complementary laws. The Public Registry of Commerce applies to all merchants in general, whether individual or collective.

857. The Code of Judicial Organization does not list the information that must be recorded when registering non-profit organizations or commercial companies, as it does list for the case of real estate properties. However, the Article “Legal Persons and Associations” and the “Public Registry of

Commerce” register complete information provided at the time of incorporation on exclusive or stamped paper, attaching a certified copy of the public deed to the registries. The only exception to the registrations in paper format so far, is the registration of the merchant’s license, which is currently conducted through an IT program. The program has allowed the Public Registry of Commerce to issue licenses to merchants in one day and has facilitated access to information on merchants in a timely fashion.

858. The information on non-profit organizations or commercial companies recorded at the section “Legal Persons and Associations” and at the “Public Registry of Commerce” is only modified as a result of amendments to the bylaws. Amendments are recorded as marginal notes immediately next to the original registration or its last amendment.

859. Access to information can be achieved through reports, certificates of status, copies of records issued upon judicial order, and exhibition of records upon request justified by a legitimate interest.

860. As described above, there is a National Direction of Public Registries that holds a registry of legal persons and associations and a public registry of commerce where information on registered non-profit organizations and commercial companies is recorded.

861. While there is a system of central registration in place, the system contributes minimally to prevent the unlawful use of legal persons in relation to money laundering.

862. Registries are manual and only record information from 1986 onwards (i.e. from five years after the creation the National Direction of Public Registries). Prior to the creation of the National Direction of Public Registries, records were registered with the courts. While some of these records have been recovered from the courts, the vast majority of them have been reported lost. Moreover, there are no laws requiring adequate transparency concerning the beneficial ownership of legal persons.

863. Accordingly, the mission recommends the authorities to adopt measures to prevent the unlawful use of legal persons in relation to money laundering by ensuring that commercial, corporate and other laws require adequate transparency concerning the ownership and control of legal persons.

Access to Information on Beneficial Owners of Legal Persons (c. 33.2):

864. There are no sanctions for legal persons failing to update direct ownership information, nor measures in place requiring legal persons to register beneficial ownership information. Accordingly, competent authorities are not able to obtain or have access in a timely fashion to adequate, accurate and current information on the beneficial ownership of legal persons.

865. Moreover, while information held at the National Direction of Public Registries is publicly available, the fact that it is only recorded manually makes it extremely difficult, costly, and inefficient for the National Direction of Public Registries to provide it to interested third parties, including competent authorities.

866. For instance, should a prosecutor want to know how many companies a particular person may have registered under his/her name, the National Direction of Public Registries would need to look

through all of its files manually to identify a relevant match. Needless to say that, under these conditions, it would be virtually impossible for the National Direction of Public Registries to provide this type of information in a timely fashion.

867. As a result, the mission recommends the authorities to adopt measures that may allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons.

Prevention of Misuse of Bearer Shares (c. 33.3):

868. Ownership in corporations may be represented by either nominal or bearer shares. Unfortunately however, there are no measures in place to ensure that bearer shares are not misused for money laundering. The laws do not require adequate transparency concerning the beneficial ownership and control of legal persons issuing bearer shares and competent authorities are unable to obtain or have access in a timely fashion to adequate, accurate and current information on their beneficial ownership and control.

869. Bearer share certificates may only be issued once the shares are paid in full; until that time, shareholders are given nominal provisional certificates and remain liable for payment. Share certificates must be numbered, signed by one or more directors and, contain the name of the corporation, the date and place of registration, the amount of capital subscribed, and the number, par value and type of shares.

870. The mission recommends the authorities to adopt measures to prevent the unlawful use of legal persons using bearer shares in relation to money laundering.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions) (c. 33.4):

871. There are no specific measures in place to facilitate access by financial institutions to beneficial ownership and control information.

Assessment of Effectiveness:

872. The authorities have only provided statistics on the amount of commercial companies incorporated in the past two years. These figures suggest that the preferred vehicles for conducting business in Paraguay are corporations (sociedades anónimas). However, the mission received no statistical information regarding the total amount of companies registered or the amount and type of requests for information received from competent authorities.

873. The information typically recorded at National Direction of Public Registries is the one provided by legal person in the public deed and bylaws at the time of incorporation, or when amending the bylaws.

874. In the case of corporations (Sociedades Anónimas), where changes in ownership would not involve an amendment to the bylaws, ownership information held at the National Direction of Public Registries would most likely not be kept up to date.

875. While corporations are not required to report changes in ownership to the National Direction of Public Registries, they are bound to register such changes in the stock ledger book held at each corporation's respective office. However, there are no sanctions for failing to keep stock ledgers up to date or for losing them. Indeed, the authorities have identified that a large number of corporate books are reported as lost in the context of requests for rubricating new ones. In cases where stock ledgers are reported lost, there would most likely be no traces left of changes in ownership after the date of incorporation.

876. The mission strongly recommends the authorities to allocate additional resources to the National Direction of Public Registries and to improving the conditions of the registries. In particular, the authorities should speed up the processes of informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend the appropriate laws to sanction failures to register relevant acts and information.

5.1.2. Recommendations and Comments

- Adopt measures to prevent the unlawful use of legal persons in relation to money laundering by ensuring that commercial, corporate and other laws require adequate transparency concerning the ownership and control of legal persons.
- Adopt measures to allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons.
- Adopt measures to prevent the unlawful use of legal persons using bearer shares in relation to money laundering.
- Allocate additional resources to the National Direction of Public Registries and to improving the conditions of the registries. In particular, the authorities should speed up the processes of informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend the appropriate laws to sanction failures to register relevant acts and information.

5.1.3. Compliance with Recommendation 33

	Rating	Summary of factors underlying rating
R.33	NC	<ul style="list-style-type: none"> • The laws do not require adequate transparency concerning the ownership and control of legal persons. • Competent authorities have no access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons. • There are no measures to prevent the unlawful use of legal persons using bearer shares in relation to money laundering.

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

5.2.1. Description and Analysis

877. **Legal Framework:** Trusts (*fideicomisos* in Paraguay) are governed by Law No. 921/96.

Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1):

878. In accordance with Article 1 of the aforementioned law, a trust involves a creator's transfer to a trustee of one or more specified assets (which may or may not include the transfer of ownership rights over them) with the purpose of administering, disposing or fulfilling with them a determined goal, either for the benefit of the creator or of a third party called the beneficiary.

879. The trust may involve one of the following modalities: guarantee, administration, investment, execution and development of construction projects, securitization of assets for the development of the productive sector, and the restructuring of companies.

880. Article 4 of Law No. 921/96 provides that if the property transferred involves property subject to registration in a public registry, the transfer must be carried out through a public deed and registered in the corresponding registry.

881. The National Direction of Public Registries issued technical disposition 3/2000 to regulate the process of registration of property granted in trust. Article 1 of such disposition sets forth that “the National Direction of Public Registries shall register the trust agreements involving property subject to registration and the transfer of ownership rights over it”.

882. It should be highlighted that the National Direction of Public Registries registers only those trust agreements involving the transfer of ownership rights of property subject to registration. As a result, trust agreements involving any other type of property are not subject to registration requirements.

Access to Information on Beneficial Owners of Legal Arrangements (c. 34.2):

883. As described above, there is a National Direction of Public Registries that holds a registry of trust agreements involving the transfer of ownership rights of property subject to registration. Trust agreements involving any other type of property are not subject to registration requirements.

884. While there is a system of central registration in place, the system contributes minimally to prevent the unlawful use of trusts in relation to money laundering. Apart from the fact that the registry is limited in scope to trust agreements involving the transfer of ownership rights of property subject to registration, there are also no laws requiring transparency concerning beneficial ownership and control of trusts. Moreover, the registry is also affected by the problems already signaled in the analysis of Recommendation 33.

885. Accordingly, the mission recommends the authorities to adopt measures to prevent the unlawful use of trusts in relation to money laundering by ensuring that commercial, trust and other laws require adequate transparency concerning the ownership and control of trusts.

886. Whether publicly available, or only available upon a judicial order lifting trust secrecy, the fact that information at the National Direction of Public Registries is only recorded manually would make it extremely difficult, costly, and inefficient for the National Direction of Public Registries to provide it in a timely fashion to interested third parties, including competent authorities. Apart from this, there are no measures at all regarding access to beneficial ownership information.

887. Moreover, information on trusts involving property that is not subject to registration would be extremely difficult for competent authorities to obtain, as such type of agreements are not registered anywhere.

888. As a result, the mission recommends the authorities to adopt measures that may allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons.

Additional Element—Access to Information on Beneficial Owners of Legal Arrangements by Financial Institutions) (c. 34.3):

889. There are no specific measures in place to facilitate access by financial institutions to beneficial ownership and control information.

Assessment of Effectiveness:

890. The authorities have not provided any statistics on the amount of trust agreements registered at the National Direction of Public Registries or elsewhere, or the amount and type of requests for information received from competent authorities in connection with trusts. Accordingly, the mission was unable to evaluate the effectiveness in the implementation of Recommendation

5.2.2. Recommendations and Comments

- Adopt measures to prevent the unlawful use of trusts in relation to money laundering by ensuring that commercial, trust and other laws require adequate transparency concerning the ownership and control of trusts.
- Adopt measures that may allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons.

5.2.3. Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	NC	<ul style="list-style-type: none"> • The laws do not require adequate transparency concerning the ownership and control of trusts. • Competent authorities have no access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of trusts.

5.3. Non-Profit Organizations (SR.VIII)

5.3.1. Description and Analysis

891. **Legal Framework:** Article 13.1 of Act 1,015/97 includes foundations and non-governmental organizations (NGOs) among the reporting entities of the law. Therefore, such organizations have reporting and client identification obligations.

Review of Adequacy of Laws & Regulations of NPOs (c. VIII.1):

892. The tax authorities reported to the mission their knowledge of a number of legal persons which, while registered as NPOs, are however conducting commercial activities. The benefit of registering as an NPO is that such registration enables the legal person to obtain considerable tax exemptions. However, the law establishes that if the legal person conducts commercial activities, the tax benefits should not be recognized. The tax authorities are legally entitled to supervise NPOs to detect whether they are performing their activities in accordance with applicable tax laws. However, no supervision is conducted over this sector due to lack of resources.

893. Paraguay has not reviewed the adequacy of domestic laws and regulations that relate to nonprofit organizations, nor has it used available sources of information to undertake domestic reviews of, nor has the capacity to obtain timely information on the activities, size and other relevant features of its non-profit sectors for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics.

Outreach to the NPO Sector to protect it from Terrorist Financing Abuse (c. VIII.2):

894. Paraguay has not undertaken any outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse.

Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3)/ Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3)/Information maintained by NPOs and availability to the public thereof (c. VIII.3.1)/ Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2)/Licensing or registration of NPOs and availability of this information (c. VIII.3.3)/Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4):

895. The authorities have not provided any information for the assessment of these criteria. Accordingly, the mission is unable to assess Paraguay's compliance with the international standards under Special Recommendation VIII.3

Measures to ensure effective investigation and gathering of information (c. VIII.4):

896. The authorities have not provided any information for the assessment of these criteria. Accordingly, the mission is unable to assess Paraguay's compliance with the international standards under Special Recommendation VIII.4

Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1)/ Access to information on administration and management of NPOs during investigations (c. VIII.4.2)/Sharing of information, preventative actions and investigative expertise and capability, with respect NPOs suspected of being exploited for terrorist financing purposes (c. VIII.4.3)/Responding to international requests regarding NPOs - points of contacts and procedures (c. VIII.5):

897. The authorities have not provided any information for the assessment of this criterion. Accordingly, the mission is unable to assess Paraguay's compliance with the international standard under Special Recommendation VIII.5.

5.3.2. Recommendations and Comments

- Review the adequacy of domestic laws and regulations that relate to nonprofit organizations; use all available sources of information to undertake domestic reviews of or have the capacity to obtain timely information on the activities, size and other relevant features of their non-profit sectors for the purpose of identifying the features and types of nonprofit organizations (NPOs) that are at risk of being misused for terrorist financing by virtue of their activities or characteristics; and conduct periodic reassessments by reviewing new information on the sector's potential vulnerabilities to terrorist activities.
- Undertake outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include (i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and (ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs.
- Take steps to promote effective supervision or monitoring of those NPOs which account for: (i) a significant portion of the financial resources under control of the sector; and (ii) a substantial share of the sector's international activities.
- Require NPOs to maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information should be publicly available either directly from the NPO or through appropriate authorities.
- Adopt appropriate measures to sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs. The application of such sanctions should not preclude parallel civil, administrative, or criminal proceedings with respect to NPOs or persons acting on their behalf where appropriate.
- Require all NPOs to be licensed or registered and make information available to competent authorities.
- Require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization.
- Implement measures to ensure that competent authorities can effectively investigate and gather information on NPOs.

- Ensure effective domestic co-operation, co-ordination and information sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs of potential terrorist financing concern.
- Ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.
- Develop and implement mechanisms for the prompt sharing of information among all relevant competent authorities in order to take preventative or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is being exploited for terrorist financing purposes or is a front organization for terrorist fundraising. There should be investigative expertise and capability to examine those NPOs that are suspected of either being exploited by or actively supporting terrorist activity or terrorist organizations. There should also be mechanisms in place to allow for prompt investigative or preventative action against such NPOs.
- Identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support.

5.3.3. Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	NC	<ul style="list-style-type: none"> • Paraguay has not conducted its review of the adequacy of domestic laws and regulations that relate to nonprofit organizations. • No outreach has been undertaken to the NPO sector with a view to protecting the sector from terrorist financing abuse. • The authorities have not provided enough information for the complete assessment of this recommendation.

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1. National Co-Operation and Coordination (R.31)

6.1.1. Description and Analysis

898. **Legal Framework:** Law No. 1,015/97; Executive Decree No. 15,125. Currently neither law nor domestic arrangements set forth explicitly the methods for cooperation.

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

899. While Article 28 of Law No. 1,015/97 does not explicitly charge SEPRELAD with the responsibility for local operational and policy coordination, it provides the only contact point for reviewing and discussing coordination of AML/CFT activities of represented agencies. However, SEPRELAD has not played a leading role in managing domestic cooperation and coordination since its establishment in 1997, as the members of SEPRELAD meet infrequently and almost exclusively to discuss and approve draft resolutions prepared by the UAF. At present, the Director of UAF does not have a direct role as part of the SEPRELAD.

900. It should be noted, however, that in practice the UAF –SEPRELAD manages to maintain regular contact with the different government agencies entrusted with a role in AML, as well as with those entities that must observe and comply with existing legislation on the subject. The mission acknowledges the value of the coordination initiatives by UAF-SEPRELAD, which is one of the many functions that the UAF has assumed. As far as the mission was able to verify, UAF-SEPRELAD is the only governmental agency that has taken initiatives in structuring domestic coordination in the area of AML. The UAF has established a number of formal mechanisms to support cooperation and coordination between domestic authorities in combating ML. Good cooperation between the UAF and regulatory and enforcement agencies is taking place in relation to AML/CFT training and awareness raising, though more could be done.

901. All Paraguayan agencies met during the on-site visit highlighted the need for closer cooperation to effectively implement AML legislation. However, a number of agencies indicated some problems with inter-agency cooperation and coordination up to this point. As domestic cooperation and coordination has not yet been incorporated into a structured and formalized system, operational coordination takes place between certain agencies where a good personal relationship between agencies' heads exists. The mission observed that some key AML/CFT agencies maintain little to no contact with each other, to a large extent due to one party's perception of corruption and/or lack of competence in the other. Although most of the agencies maintain a good relationship with the UAF, the unsystematic approach to coordination and cooperation results in relatively weak cooperation and inadequate sharing of information.

902. With regard to actions against FT, the Inter-Agency Commission established by Executive Decree No. 15,125 (see above) is charged with the coordination of actions to establish policies and undertake operational level actions to implement the country's commitments under UNSCR 1373. To date, there has not been any policy level coordination to support implementation of UNSCR 1267.

903. The coordination of communications regarding actions arising from MLA requests works rather well. Domestic coordination in relation to coordinated responses to requests for mutual legal assistance (MLA) is managed by the Directorate for International Affairs and External Legal Assistance at the OAG, which is the central authority in international legal cooperation, matters (see discussion in Article 6.3 below).

904. There has been cooperation and coordination at the policy level on AML in the preparation of the amendments to Law No. 1,015/97, which is now before Congress. A Working Group including the UAF and the OAG was formed in 2007 to prepare the draft counter-terrorism law prior to its consideration by the parliament.

905. There are no mechanisms for coordination between the supervisors and the UAF or between the supervisors and law enforcement.

906. While communication between the UAF and the financial system supervisors appears and the OAG appears to be adequate, communication between the UAF and law enforcement agencies is somewhat limited.

907. There are no effective mechanisms for coordinating the exchange of financial intelligence.

Additional Element - Mechanisms for Consultation between Competent Authorities and Regulated Institutions (c. 31.2):

908. Consultation between competent authorities takes place on an ad hoc or needs basis and there are no regular mechanisms in place for regular consultations.

Statistics (applying R.32):

909. There is no system for maintaining comprehensive statistics on AML matters. Although some limited information exists in the UAF and in the OAG, such information is not used in reviewing the effectiveness of the regime. There is no suitable mechanism in place to use statistics for a regular review of the effectiveness of the AML/CFT systems.

6.1.2. Recommendations and Comments

- Establish formal and informal mechanisms to support cooperation and coordination at policy and operational levels. Such mechanisms could include:
 - assigned duties to individuals for coordination, regularly scheduled meetings, and distribution of contact lists; and
 - The establishment of operational task forces at an early stage of investigations of criminal matters involving the proceeds of crime, money laundering and terrorist financing.
- Mechanisms should be established or strengthened for consultation between competent authorities, the financial sector and other sectors (including all DNFBPs) on implementation of the AML/CFT laws, regulations, guidelines or other measures.

- Conduct a review of the effectiveness of the cooperation and coordination systems for AML/CFT in the short term and thereafter on a regular basis. Statistical systems should be updated and maintained in line with the recommendations in Rec. 32.

6.1.3. Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	NC	<ul style="list-style-type: none"> • Policy development and coordination functions are not clearly assigned. • Coordination and cooperation among agencies is ad hoc and inconsistent. • Existing mechanisms are inadequate for policy makers, UAF, law enforcement and supervisors to effectively cooperate and coordinate in the development and implementation of AML/CFT policies and measures.

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

6.2.1. Description and Analysis

910. **Legal Framework:** Pursuant to Article 137 of the National Constitution of 1992, international agreements, conventions and treaties to Paraguay has become a party become part of the country's legislation upon ratification. The Republic of Paraguay is a party to the 1988 UN Drug Convention (Law No. 16/90), the UN International Convention for the Suppression of the Financing of Terrorism (Law No. 2,381/04), and the Inter-American Convention on Terrorism, the UN Convention against Corruption, and the UN Convention against Transnational Organized Crime (Law No. 2,298).

Ratification of AML Related UN Conventions (c. 35.1):

911. The United Nations (UN) Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (the Vienna Convention) was adopted by Law No. 16/90. The United Nations Convention against Transnational Organized Crime (the Palermo Convention) was ratified by Law No. 2,298. Treaties are not directly applicable and the implementation of their provisions requires the enactment of enabling laws.

Ratification of CFT Related UN Conventions (c. I.1):

912. Paraguay has ratified 13 United Nations anti-terrorism conventions, including the 1999 International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) which was ratified by Law No. 2,381/04.

913. Paraguay has ratified the following international conventions related to terrorist acts: Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance, ratified on 05/13/04 (Law No. 2,378/04); International Convention against the Taking of Hostages, ratified on 22 Sep 2004 (Law

No. 2,359/04), Convention on the Physical Protection of Nuclear Material ratified on 06 Feb 1985 (Law No. 1,086/84); International Convention for the Suppression of Terrorist Bombings ratified on 22 Sep 2004 (Law No. 2,372/04); The Inter-American Convention against Terrorism on 11/30/2004 (Law No. 977/96); The International Convention for the Suppression of Acts of Nuclear Terrorism was signed on September 2005.

Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1)//Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1):

914. The ML offence covers most but not all of the elements of the ML offence as defined in Article 3(a) and 3(b) of the Vienna Convention and Article 6(a) of the Palermo Convention. The ML offence is defined in Law No. 1,015/97 and controlled delivery is provided for in the CPP. Provisions for special investigative techniques and the confiscation of proceeds of crime in accordance with the Palermo Convention are included in the CPP and Law No. 1,015/97. As noted in Article 2 above, the predicate offences do not cover the full scope of the serious offences as required by the Palermo Convention.

Implementation of SSFT Convention (Articles 2-18, c. 35.1 & c. I.1):

915. As discussed in Article 2, FT is not criminalized as yet in Paraguayan legislation.

Implementation of UNSCRs relating to Prevention and Suppression of FT (c. I.2)

916. The UNSCRs relating to the prevention and suppression of FT have not been implemented, which makes it difficult for the country to cooperate internationally and provide MLA under the UNSCRs referred to in SR I above.

917. The existing legislation does not allow Paraguay to execute freezing orders issued or actions initiated by other countries in the context of the UNSCRs. However, the provision of limited MLA in the obtaining of evidence in Paraguay that is necessary for the proceedings of the requesting country is possible, provided the assistance is requested in terms of the investigation of a terrorist-related conduct.

918. FT is not an extraditable offense.

Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2):

919. Paraguay ratified the Inter-American Convention against Terrorism via Law No. 2,302/04 of 11/30/2004.

6.2.2. Recommendations and Comments

- Amend the AML Law and enact CFT legislation to fully cover the ML and TF offences and thus implement the criminalization requirement of the Vienna, Palermo and Terrorist Financing Conventions.

- Implement the UNSC Resolutions by developing a domestic legal framework and accompanying procedures.

6.2.3. Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	PC	<ul style="list-style-type: none"> • Significant limitations on scope of the ML offence (see comments in relation to Rec.1); • FT is not criminalized. • Penalties are not dissuasive and there is uncertainty regarding their effectiveness (see comments in relation to Rec.2)
SR.I	NC	<ul style="list-style-type: none"> • The U.N. Convention for the Suppression of the Financing of Terrorism has not been implemented with regard to the criminalization of FT and freezing and confiscation of assets related to such offences. • The UNSCRs 267 and 1373 have not been implemented.

6.3. Mutual Legal Assistance (R.36-38, SR.V)

6.3.1. Description and Analysis

920. **Legal Framework:** Law No. 1,286/98 (CPP); Law No. 1,562/00; OAG Resolution No. 1,945 of 2004; OAG Resolution No. 10 of 2007; OAG Resolution. No. 3,075 of 2007; bilateral MLA treaties signed with the following countries: Venezuela, Peru, France, Colombia, Costa Rica, Ecuador and Mexico.

Widest Possible Range of Mutual Assistance (c. 36.1):

921. The relevant provisions on international cooperation in criminal matters are found in Articles 146 to 150 of the CPC, which and are applicable without prejudice to any international agreements concluded by Paraguay. Assistance can be provided pursuant to any bilateral and multilateral treaties to which the Paraguay is a Party. In the absence of a treaty, the CPC allows Paraguay to provide legal assistance to other countries on the basis of reciprocity. It appears the Paraguayan authorities often have provided legal assistance on the basis of reciprocity, but no statistical information was provided to the mission in this regard. The mission was informed by the authorities that customary international law is used in determining the conditions for granting a foreign request. In any event, given the limitations of the ML offence noted in Article 2.1 of this report, together with the absence of a FT offense, the possibility of providing both MLA and extradition in relation to ML or FT appear rather limited.

922. In the scope of the international treaties to which Paraguay is a party, the possible assistance covers the following: (a) production, search and seizure of information and evidence, including financial records, from financial institutions and other natural and legal persons; (b) obtaining evidence and taking depositions from persons; (c) provision of originals or copies of documents, information and evidence; (d) provision of judicial documents; (f) ensuring the voluntary appearance of persons to provide evidence and information; (g) detection, freezing, seizing and confiscation of assets; (h) notification of decisions and judgments; (i) taking testimony and other statements; (j)

conducting and receiving expert examinations; (k) executing searches and seizures; (l) servicing of documents and records; (m) identification or detection of chemicals, instruments and equipment for evidentiary purposes; (n) transfer of persons accused, charged or prosecuted; and (o) any other form of MLA authorized by national and international law.

Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):

923. There are two channels for a foreign authority to request legal assistance on criminal matters. The OAG is the Central Authority for letters of request formulated in the context of the Vienna Convention, the Palermo Convention, the UN Convention against Corruption, the Inter-American Anti-Corruption Convention, and the Inter-American Convention on Mutual Assistance in Criminal Matters. The OAG is also the Central Authority with regard to the bilateral MLA treaties signed with the following countries: Venezuela, Peru, France, Colombia, Costa Rica, Ecuador and Mexico. The MFA is the Central Authority for letters of requests from non-treaty countries or in the context of any other international instrument on criminal matters not under the purview of the OAG.

924. MLA requests are processed at the OAG by its Directorate for International Affairs and External Legal Assistance (DIA), which was created in 2004 for this specific purpose. Letters of request received by this Directorate are processed more promptly than through the MFA since the OAG receives the request directly, clears the request and forward it to the Prosecutor on duty or one of the 12 courts of First Instance in Asunción specifically designated for these purposes.

925. The MFA is the Central Authority for all requests outside the context of the international instruments indicated above. This process is less expeditious than when the request is received directly by the DIA and can take several months. The MFA reviews the request to verify that the request does not infringe the limits specified in the provisions of the conventions to which Paraguay is a party or the essential interests of the country, forwards it to the Supreme Court, which sends it to the Prosecutor or First Instance Judge on duty. If the request is received by the Prosecutor on duty, the request is sent to the DIA, which channels the requests to the appropriate authority. Paraguay does not refuse requests for legal assistance for any reasons other than those stipulated in the treaties to which it is a party. These limits are consistent with international practice.

926. The mission did not receive information regarding the number of MLA requests made by Paraguay in the last five years or on the requests received from other countries. The single response to the request sent out by the GAFISUD Secretariat to its members and other countries indicates a general level of satisfaction with Paraguay's provision of MLA. However, this country reported that it has experienced challenges in extraditions from Paraguay due, at least in part, to corruption, which also compromises assistance requests in sensitive cases.

Absence of Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2)/Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):

927. The authorities informed the mission that there are no unduly restrictive conditions in law or in practice for granting MLA. The letter of request must state the nexus between the investigated act and the individual who is the subject of the request. It is not required that judicial procedures to have been initiated as a condition for providing assistance in an investigation.

928. Paraguay does not refuse to provide judicial assistance on the sole ground that the offense is also considered to involve fiscal matters.

Efficiency of Processes (c. 36.3):

929. The effectiveness of the measures and mechanisms in place is difficult to assess due to incomplete information available. There may be delays when dealing with requests that are not transmitted directly to the OAG; The lack of systematic compilation of data and statistics on all incoming and outgoing requests -- including numbers not acted upon, numbers declined including reasons for declination and time frame for acting upon requests -- prevents the mission from forming a view regarding the effectiveness of Paraguay's MLA provisions and procedures.

930. Nevertheless, the DIA has means at its disposal that would allow it to expedite the MLA process. For instance, the DIA is able to track the status of all letters of requests, communications and the like received by means of an IT module specifically designed for this purpose. Another helpful method to expedite MLA is an encrypted electronic mail system installed in the sphere of the OAS membership, which facilitates swift communication between users regarding cooperation in criminal matters. For example, a foreign central authority may verify through this system the requirements for a particular request under Paraguayan law ahead of submitting the request formally.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):

931. The financial sector secrecy provisions described previously in this report are not applicable in law enforcement investigations, including those which are based on a foreign request.

Availability of powers required under R.28 e for use in response to requests for mutual legal assistance (c.36.6).

932. The Mission was informed that the authorities in charge of compliance can provide a wide range of international cooperation to counterparts, but the legal basis of this power is unclear.

933. As the list of offenses underlying currently has a limited number of serious crimes, it seems that Paraguay could not seize and confiscate the proceeds from any offense not included in the list, especially FT, if so requested by another party to a ML case.

Avoiding Conflicts of Jurisdiction (c. 36.7):

934. Paraguay has not established specific mechanisms for determining the best venue for prosecution of defendants in cases that are subject to prosecution in more than one country.

Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):

935. The mission was informed that law enforcement authorities can provide a wide range of international co-operation to counterparts, but the legal basis for this ability is unclear.

Dual Criminality and Mutual Assistance (c. 37.1 & 37.2):

936. The bilateral treaties of which Paraguay is a Party require dual criminality for assistance. However, according to the Paraguayan authorities, dual criminality is not an obstacle to providing legal assistance, as the application of the dual criminality principle is flexible in that the investigated conduct should correspond to an offense under Paraguayan law.

Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1):

937. As the list of predicate offences currently comprises a limited number of serious offences, it would appear that Paraguay would not be able to seize and confiscate proceeds originating from any offences that are not on the list, in particular FT, if so requested by another Party in a ML case.

Property of Corresponding Value (c. 38.2):

938. Subject to the limitations above, the Paraguayan authorities would be able to seize and confiscate property under Article 91 of the CC in cases where the request relates to property of corresponding value.

Coordination of Seizure and Confiscation Actions (c. 38.3):

939. Paraguay has not established specific mechanisms for coordinating seizure and confiscation with foreign authorities, and it does not have arrangements to share confiscated assets with countries where the confiscation was the result of coordinated action.

Asset Forfeiture Fund (c. 38.4):

940. Paraguay does not have an asset forfeiture fund and has not yet formally considered setting up one.

Sharing of Confiscated Assets (c. 38.5):

941. There is no legal provision that would specifically authorize or prohibit asset-sharing in Paraguayan law. While the authorities have expressed interest in concluding such arrangements for sharing confiscated assets with other jurisdictions, none have been concluded. Consequently, any confiscated property, or the value of it, in relation to joint investigations with another country is transferred to the general budget of the country where the property is found.

Additional Element (R 38) – Recognition of Foreign Orders for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (applying c. 3.7 in R.3, c. 38.6):

942. Foreign non criminal confiscation orders are not recognized.

International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1)/International Cooperation under SR V (applying c. 37.1-37.2 in R. 37, c. V.2)/International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3)/Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6)/ Additional Element under SR V (applying c. 38.4-38.6 in R. 38, c V.7):

943. As FT has not been criminalized, international cooperation in this area is severely limited.

6.3.2. Recommendations and Comments

- Established mechanism for determining the best venue for prosecution of defendants in cases that are subject to prosecution in more than one country.
- Establish specific provision for applying provisional measures at the request of a foreign country for search, seizure and confiscation.
- Consider establishing arrangements for coordinating seizure or confiscation actions with other countries.
- Consider establishing asset forfeiture fund.
- Consider establishing mechanism to share confiscated assets with other countries which participated in coordinated action.
- Compile and maintain statistics on MLA requests received or made, relating to ML and FT, indicating the predicate offenses, including the nature of the request, its result, and the time of response.

6.3.3. Compliance with Recommendations 36 to 38 and SR. V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	PC	<ul style="list-style-type: none"> • Mutual legal assistance is not practicable with respect to FT. offenses. • Timeliness, constructiveness or effectiveness of the assistance provided by Paraguay is difficult to assess in the absence of general data on incoming and outgoing mutual assistance requests.
R.37	LC	Effectiveness of the extradition-related assistance provided by Paraguay is difficult to assess in the absence of general data on incoming and outgoing mutual assistance requests.
R.38	NC	<ul style="list-style-type: none"> • <u>In the absence of a treaty, there is no specific provision for applying provisional measures at the request of a foreign country for search, seizure and confiscation.</u> • No consideration has been given to establishing an asset forfeiture fund or to sharing confiscated assets with a foreign country after coordinated international action. • There are no arrangements for coordinating seizure or confiscation actions with other countries.
SR.V	NC	International cooperation with respect to FT is limited.

6.4. Extradition (R.37, 39, SR.V)

6.4.1. Description and Analysis

944. **Legal Framework:** Chapter VI, section I, of the Code of Criminal Procedure refers to communication between authorities and the duty to collaborate (Article 144), and section II refers to

all matters relating to extradition, both active and passive, and to precautionary measures. The Ministry of Foreign Affairs, representing the executive branch, is responsible for proposing or concluding agreements with other States. The Republic of Paraguay has signed bilateral treaties on extradition with the following countries: Argentina, Brazil, Chile, Austria-Hungary, Belgium, China, Spain, United States of America, United Kingdom, Italy, Switzerland, Uruguay, Korea, France, Peru, Australia, Bolivia, Costa Rica, Mexico and Panama.

Dual Criminality and Mutual Assistance (c. 37.1 & 37.2):

945. The application of the dual criminality principle is flexible in that the investigated conduct should correspond to an offense under Paraguayan law.

Money Laundering as Extraditable Offense (c. 39.1):

946. ML is an extraditable offense by virtue of Article 147 of the CPP, which stipulates that extradition is governed by international law, Paraguayan legislation, and customary international law by the laws of the country by the international custom or by the rules of reciprocity when there is no applicable rule.

947. Under Article 148 of the CPP, active extradition is decreed by the judge at the request of the OAG or the accuser, provided that the requested individual has been detained, remanded or has posted a personal bond.

948. The Supreme Court of Justice, as the highest jurisdiction of the Republic, has the power to review extradition requests refused by the competent judges, while that Court's criminal division may rule on the arguments put forward by the lower court to justify the refusal (Article 149 of CPP).

Extradition of Nationals (c. 39.2)/Cooperation for Prosecution of Nationals (applying c. 39.2(b), c. 39.3):

949. There are no legal constraints in Paraguay that would prevent the extradition of its nationals. The decision to grant an extradition rests in the courts, governed by the terms of the treaties of which Paraguay is a Party, or the rule of reciprocity in the lack thereof (Articles 147 and 148 of CPP). If a request for extradition is refused, the principle of supplementary justice or the principle of criminal law through representation may be applied.

Efficiency of Extradition Process (c. 39.4)/ Statistics (applying R.32):

950. The mission did not receive data or other information that would allow it to evaluate the effectiveness of the extradition process.

Additional Element (R.39)—Existence of Simplified Procedures relating to Extradition (c. 39.5):

951. There are no simplified procedures of extradition in place.

Additional Element under SR V (applying c. 39.5 in R. 39, c V.8)

952. As FT has not been criminalized, international cooperation in this area is severely limited.

6.4.2. Recommendations and Comments

- Consider enhancing procedure to ensure that extradition requests are not unduly delayed and provide for alternative simplified procedures for extradition on a case-by-case basis.
- Establish statistics regarding extradition requests indicating the number of extradition requests received, the proportion granted, or the average processing time for the requests.

6.4.3. Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	PC	The mission did not receive data or other information that would allow it to evaluate the effectiveness of the extradition process.
R.37	PC	Effectiveness of the extradition-related assistance provided by Paraguay is difficult to assess in the absence of general data on incoming and outgoing mutual assistance requests.
SR.V	NC	International cooperation with respect to FT is limited.

6.5. Other Forms of International Co-Operation (R.40 & SR.V)

6.5.1. Description and Analysis

953. Legal Framework:

Widest Range of International Cooperation (c. 40.1):

954. UAF-SEPRELAD represents Paraguay with the following international and regional bodies: Inter-American Commission for the Control of the Drug Abuse of OEA (CICAD/OEA), the Office against Drugs and Crime of United Nations (- UNODC-), the International Monetary Fund (IMF), the Inter-American Development Bank (I.A.D.B.), Egmont Group, the Group of International Financial Action of South America (GAFISUD), the US Treasury Department Office of Technical Assistance (O.T.A.).

955. From the time of its adhesion to the Egmont Group since 1998, UAF-SEPRELAD has signed Memorandums of Understanding (MOUs) in view of exchanging financial information with the FIUs of 23 foreign countries (cf. Chapter 2.5)

956. Paraguay has law enforcement agreements with Brazil, Argentina, Chile, Venezuela and Colombia. An extradition treaty between the United States and Paraguay entered in force in 2001, and the 1987 bilateral letter of agreement under which the United States provides counter narcotics assistance to Paraguay was extended in 2007. In 2002, Paraguay signed a Custom Mutual Assistance Agreement with US government.

957. Paraguay is member of the "3+1" Counterterrorism Group on Tri Border Security created in 2002 between Argentina, Brazil, Paraguay and the United States of America. This program focuses on the exchange of information about terrorism, and includes the money laundering and terrorism financing where the UAF SEPRELAD is participant. Also in matter of terrorism, Paraguay is part of the Permanent Working Group against Terrorism, created in 2001 within the Mercosur countries to implement and coordinate operative and regional action of the repressive authorities.

Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1):

958. The Financial Analysis Unit of the SEPRELAD maintains statistics of the requests of information exchanged with other similar foreign financial intelligence units, through the Egmont Group secure web. The UAF-SEPRELAD has received from 2004 to date a number of 54 and contested to 49. Only 4 are in process of response. In the reverse, the Paraguayan financial intelligence unit had emitted 16 requests in four years, with 11 responses. (cf. Chapter 2.5.). The timing of response is variable, to go to some weeks, depending of the difficulty of the request.

959. The Law enforcement authorities didn't supply the mission with information that permits to appreciate the quality of the response of the Paraguayan authorities, in assistance of the international cooperation. The mission was not informed of particular or general problem in bringing such assistance. However the still mentioned provision about the lack of resources of the law enforcement authorities and application of the special techniques investigative has to be worth considering in this evaluation.

Clear and Effective Gateways for Exchange of Information (c. 40.2):

960. The National Central Bureau of INTERPOL, within the Paraguayan national police, is the gateway for exchanging international criminal information and arrest warrants between police forces of this international network, in matter of any offense, including ML.

961. SEPRELAD is the exclusive gateway for exchanging financial information and requests with foreign countries, through the Egmont Group network, or directly with the countries SEPRELAD signed MOUs.

962. The cooperation between SENAD and Customs with the US authorities is continuous within bilateral assistance programs.

963. The Secretariat for the Prevention and Investigation of Terrorism (SEPRINTE) maintains permanent contact with other countries of MERCOSUR and US authorities, for exchanging information on terrorism and financing terrorism.

964. Information on international trade exchange is made between customs administration that has a special assistance program with US Customs and Internal Revenue Service.

Spontaneous Exchange of Information (c. 40.3):

965. The spontaneous exchange of information is applied within the Counter Terrorism Group 3+1, on terrorism and its financing matter.

966. The MOUs signed by UAF-SEPRELAD and its foreign counterpart (FIUs), govern that in accordance with the laws of its country and its own policies and procedures, each Authority may also spontaneously provide such information to the other. The mission was not informed on the existence of concrete case of spontaneous exchange of such information.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4):

967. Within the framework of the previously listed international or regional conventions and agreements, competent Paraguayan authorities can make inquiries on behalf of their foreign counterparts.

FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1):

968. The UAF SEPRELAD is authorized to do inquiries by searching its own and other databases on behalf to which it may have access, including law enforcement authorities, public, administrative, financial and commercial available databases, on behalf of Foreign counterpart, according the Egmont Group principles and the correspondent agreement (Memorandums of Understanding) signed with foreign UIFs.

969. The signed MOUs governs that “to the extent authorized by the laws of its country, and consistent with its own policies and procedures, each authority will provide upon request from the other any information in its possession, that he has access to, or that it is authorized by law to collect that may be relevant to the investigation of money laundering, terrorism financing, or related crimes”. These inquiries are governed with some restrictive conditions, particularly respecting the conditions of confidentiality.

970. The authorities informed the mission that there are not unduly restrictive conditions in law and practice for granting MLA.

Conducting of Investigations on Behalf of Foreign Counterparts (c. 40.5):

971. In the framework of international, regional or bilateral treaties, conventions and agreements, the Paraguayan law enforcement authorities are authorized to conduct investigations on behalf of foreign counterparts.

972. These requests of investigations have to respect the legal and formal procedure, through letters of request. Article 38 of AML Law No. 1,015 governs that the competent judge shall cooperate with his counterparts in other States in the processing of warrants or attachment and other precautionary measures, as provided for in the Paraguayan procedural law, for the purpose of identifying the offender and locating the property, proceeds and instrumentalities connected with the ML offense, to which end he shall grand all requests made by letters of request received from abroad.

973. The Paraguayan authorities did not provide the mission with statistics or information on this point.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6):

974. The mission did not receive information about legal difficulties or restrictive conditions on exchange of information.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

975. Tax evasion is a criminal offense (Article 261 of the Paraguayan Penal Code). In this virtue, it seems possible to provide international assistance within foreign request in the required conditions for the judiciary assistance. The Paraguayan authorities did not provide the mission with information on this point.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

976. With respect to sharing information between competent authorities, Article 33 of Law No. 1,015/96 establishes that within the framework of international agreements, SEPRELAD could assist with the exchange of information, directly or through international bodies, with counterpart/competent authorities from other states, which will be subject to confidentiality obligation. When replying to requests of information from other states, particular consideration should be given to sovereign aspects and the protection of domestic interests.

977. There are no legal or regulatory provisions in the Central Bank Law, the Insurance Law, the Securities Law, and the Cooperatives Law, on the possibility for financial institutions in these sectors of exchanging information and cooperating with their foreign counterparts.

978. There is a 2003 agreement signed with MERCOSUR, comprised of the Central Banks of Brazil, Argentina, Uruguay and Paraguay, which specifically covers AML matters. The agreement focus on the following AML preventive measures:

- a) Harmonize the regulations and control procedures to prevent money laundering within the financial sector;
- b) Exchange general information about cash flows between the countries involved with the objective of detecting illegal movement of funds;
- c) Cooperate in the investigation of activities or transactions linked to illegal activities, in accordance with the local legislation and procedures; and
- d) Share experiences and methodologies gained as a result of activities designed to prevent and detect money laundering.

979. The agreement provides for exchanges of information and parties are subject to confidentiality provisions contained in their respective laws. Information received should only be used for lawful supervisory purposes, and/or those purposes for which it was provided and requested, and as permitted by local legislation.

980. The Paraguayan authorities did not answer the mission on cases of reject of assistance regardless obligation of bank secrecy or professional confidentiality.

Safeguards in Use of Exchanged Information (c. 40.9):

981. The Article 33 of the Law No. 1,015 governs the exchange of financial information between the UAF and similar foreign financial intelligence units, with the condition of obligation of confidentiality. The mission was not informed on cases of breakdown of such exchanged information. However it is necessary to consider the previously mentioned provision of the mission about the vulnerability of the UAF regarding its general security. (cf. Chapter 2.5)

Additional Element—Exchange of Information with Non-Counterparts (c. 40.10 & c. 40.10.1):

982. The UAF SEPRELAD can only exchange information with counterparts within the Article 33 of the Law No. 1,015.

Additional Element—Provision of Information to FIU by Other Competent Authorities pursuant to request from Foreign FIU (c. 40.11)

983. The mission was not informed by the Paraguayan authorities about this point.

International Cooperation under SR V (applying c. 40.1-40.9 in R. 40, c. V.5):

984. Paraguay has an active participation within the international cooperation against terrorism and financing of its activities particularly through the regional working groups against terrorism and the 3+1 Counterterrorism Group on Security in the Tri Border.

Additional Element under SR V (applying c. 40.10-40.11 in R. 40, c. V.9):

985. The absence of CFT law and the no implementation of the UNSCRs relating to the prevention and suppression of FT makes difficult for the country to cooperate internationally particularly in matter of seizing of terrorist assets.

Statistics (applying R.32):

986. Only the UAF-SEPRELAD maintains statistics concerning the exchange of financial information and request of data of inquires between the Paraguayan unit and its foreign homologous through the Egmont Group secure web channel. (See Chapter 2.5.)

987. The law enforcement authorities (SENAD, police and OAG) did not provide the mission with statistics about international assistance requests in the judiciary matter.

988. The mission recognizes the efforts of the Paraguayan government in the international cooperation, particularly in the matter of terrorism, despite the absence of specific T/FT law. Also it is important to note the efforts made by the UAF SEPRELAD to strengthen the international cooperation, with more of twenty Memorandums of Understanding with counterparts signed to date

989. In a general way, the mission did not receive any information about eventual refusals of collaboration by the Paraguayan authorities in money laundering and terrorism financing international cases.

990. The mission did not receive information that would allow it to estimate the value of the international exchange of information. Nevertheless, the concern is the insufficiency of results against money laundering in the Paraguayan justice system and the insufficiency of resources.

6.5.2. Recommendations and Comments

991. Based on the previous discussion the mission recommends to the Paraguayan authorities the following measures:

- To develop mechanisms to centralized exchange of information
- To strengthen the operative actions against money laundering at regional level, and consider the establishment of regional operational task forces at an early stage of criminal investigations of matters involving the proceeds of crime, money laundering and terrorism financing.
- Conduct a review of the effectiveness of the cooperation and coordination systems for AML/CFT in the short term and thereafter on a regular basis. Statistical systems should be updated and maintained in line with the recommendations in Rec. 32.

6.5.3. Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relative to s.6.5 underlying overall rating
R.40	PC	<ul style="list-style-type: none"> • As the law enforcement authorities did not provide the information requested the mission was unable to evaluate the efficiency of international cooperation and exchange of information. • Insufficient resources and investigative means for the law enforcement authorities can affect the response at foreign requests of inquiries
SR.V	NC	<ul style="list-style-type: none"> • Absence of criminalization of terrorist financing, blocking participation in international cooperation

7. OTHER ISSUES

7.1. Resources and Statistics

992. The detail of the current situation of the Paraguayan AML authorities, respecting the attribution of financial and human resources was described within the framework of this report into each one of its relevant sections.

993. Overall, for the SEPRELAD as well for the investigative authorities, the allotted resources are largely insufficient, to permit the UAF uses adequate data processing tools for the STR's analyzing and has a good management of its human resources. The specialized services on financial investigations as well of the SENAD as of the National police do not have sufficient resources or training to carry out AML pursuits, in good conditions of efficiency.

994. Generally the AML training is insufficiently for the actors of the system, and particularly very insufficient for the judges.

995. The specialized financial unit of Prosecutors in Asuncion seems to have a more adequate financial functionality and resources; however the current functional concerns of the SEPRELAD do not allow a sufficient number of proactive AML judicial enquiries. The OAG still does not have a computerized centralization or statistics system to allow the following of AML investigations and their results.

996. The lack of an adequate system of management of the seized assets does not allow a correct application of the provisional measures of seizures of the criminal proceeds.

997. The information regarding the implementation and follow-up of statistics into the AML authorities is described within the corresponding parts of this report. The efforts made by the UAF-SEPRELAD since 2007 to present statistics taking into consideration the origin of STRs information, and foreign financial information exchange, are not enough to mitigate the insufficiencies of the other authorities, which AML statistical data remain incomplete and non concordant. There are no statistics presenting AML-ATF typologies, neither about the volume of seized criminal assets. The mission emphasizes the efforts of the OAG on the management of the international judiciary assistance, by the current development of a computerized system of inter institutional management for the following of the letters of requests, and other requests of judicial cooperation.

998. The mission estimates that the resources currently allotted by the Paraguayan authorities are largely insufficient for an application in conformity of international AML-ATF requirements, and that the present system of collecting and following information and statistics does not allow a satisfactory assessment of the Paraguayan system's effectiveness.

999. The Paraguayan authorities would have:

- to allot the necessary and sufficient financial and human resources for the AML national authorities
- to specialize the institution in charge of the police investigations

- to coordinate all the administrative and repressive AML authorities
- To develop adequate training schemes according to the functions of each institution.
- To set up an adequate legislation and administration for seizing criminal assets.
- To set up a reliable and complete statistical system of collection and follow-up of the statistical data, including in particular the AML-ATF typologies, the investigations in progress and finished the judgments as well as the seized assets.

	Rating	Summary of factors underlying rating
R.30	NC	<ul style="list-style-type: none"> • Insufficient human and budget resources • Insufficient AML-ATF training • Lack of a specialized institution for seized assets administration.
R.32	NC	<ul style="list-style-type: none"> • Lack of a centralized and co-ordinated system of AML/CFT statistical data collection

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating ⁶
Legal systems		
1. ML offense	PC	<ul style="list-style-type: none"> • The transfer, conversion, acquisition and possession of property are not criminalized in the ML offence. • A conviction of a predicate offence is required when proving that property is the proceeds of crime. • The ML offence fails to criminalize the “hiding” or “disguising” the true nature, location, disposition, movement or ownership of or rights with respect to property, and the “assisting a person involved in the commission of the predicate offence evade the legal consequences of his or her actions”. • The list of predicate offences does not cover a range of offences in each of the designated categories of offences. • Conspiracy, facilitation and counseling are not criminalized as ancillary offences.
2. ML offense—mental element and corporate liability	NC	<ul style="list-style-type: none"> • Legal persons are not criminally liable for the commission of ML offences. • ML is not categorized as a serious offence and sanctions for ML are not effective, proportional or dissuasive. • No administrative sanctions have been applied to legal persons.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The laws do not provide for the initial applications to seize property subject to forfeiture to be made ex-parte or without prior notice. • There is no authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to forfeiture. • Legal provisions on provisional measures and confiscation have not been implemented effectively with respect to serious crime.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • Lack of formal mechanisms or measures through which the regulatory authorities, particularly the

⁶ These factors are only required to be set out when the rating is less than Compliant.

		SIB, may provide and exchange confidential information with domestic authorities and foreign counterparts, as needed and in line with SR.VII.
5. Customer due diligence	NC	<p>- Lack of explicit obligations imposed by law (primary or secondary legislation) for:</p> <ul style="list-style-type: none"> • - explicitly prohibiting anonymous accounts or accounts in fictitious names • - customer identification and due diligence (CDD) process when: <ul style="list-style-type: none"> o carrying out occasional transactions above the applicable designated threshold. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; o carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; o there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; and o the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • identifying the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verifying that customer's identity using reliable, independent source documents, data or information (identification data). • verifying, for customers that are legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify

		<p>and verify the identity of that person.</p> <ul style="list-style-type: none"> • identifying the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. • determining who are the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or legal arrangement. • establishing requirements for financial institutions to conduct ongoing due diligence on the business relationship, particularly for higher risk categories of customer or business relationships, and maintain up-to-date customers records. <p>- Lack of measures in law, regulation, or other enforceable means that require financial institutions to:</p> <ul style="list-style-type: none"> • understand the ownership and control structure of the customer who is a legal arrangement • conduct ongoing due diligence on the business relationship with money remitters. • perform enhanced due diligence for higher risk categories of customer, business relationships, or transactions. • verify the identity of the beneficial
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		<p>owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.</p> <ul style="list-style-type: none"> • reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report. • consider terminating the business relationship and making a suspicious transaction report when the business relationship has commenced and the financial institution is unable to comply with CDD requirements. • establish requirements for insurance companies to apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Lack of legal obligation to identify beneficial owners, in particular those that could be identified as PEPs. • Lack of requirements by SIB, SIS, CNV, and INCOOP to obtain management approval when the customer or beneficial owners is subsequently found to be PEP. • Lack of requirements by SIS and INCOOP to establish the source of wealth of PEPs. • Lack of requirements by INCOOP to conduct enhanced ongoing monitoring of relationships.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • Lack of requirements to gather sufficient information about the respondent to understand the reputation and quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action. • Lack of requirements to assess and ascertain the adequacy and effectiveness of the respondent institution's AML/CFT controls. • Lack of requirements to document the respective AML/CFT responsibilities of each institution.
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> • Lack of requirements for cooperatives and money remitters to apply policies and measures when

		establishing the relationship and conducting CDD.
9. Third parties and introducers	NA	<ul style="list-style-type: none"> • The requirement does not apply due to prohibition in place.
10. Record-keeping	PC	<ul style="list-style-type: none"> • Lack of legal obligation for financial institutions to maintain/retain identification data obtained through the customer due diligence process, account files, and business correspondence for at least five years, if requested by the competent authority in specific cases. • Lack of legal obligation for financial institutions to make customer identification data available on a timely basis to domestic competent enforcement authority upon appropriate authority.
11. Unusual transactions	NC	<ul style="list-style-type: none"> • Lack of requirements imposed by the competent supervisory authorities on financial institutions to pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose; to examine as far as possible the background and purpose of such transaction and set forth their findings in writing and available to competent authorities and auditors for at least five years.
12. DNFBP–R.5, 6, 8–11	NC	<ul style="list-style-type: none"> • Law 1015/97 does not cover Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the activities set out in FATF Methodology and Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed by GAFI. • Lack of regulation issued by SEPRELAD for Dealers in Precious Metals and Dealers in Precious Stones. • Recommendations 5, 8, 9, 10 and 11 are not properly covered. The measures in place are general and do not contemplate the level of detail under the Criterion. • Lack of explicit requirements under the regulation to all the obligations imposed by Recommendation 5 – Prohibition of anonymous accounts or accounts in fictitious names, all cases when CDD is required in accordance with Criterion 5.2 –Sections c-e, identification measures, Identification of legal personas and arrangements, Risk, timing of verification, ongoing due diligence, information on purpose and nature of business relationships, failure to complete CDD. • Lack of regulation, in addition to performing

		<p>due diligence measures, to pay attention to PEPs in accordance with Recommendation 6.</p> <ul style="list-style-type: none"> • Lack of regulation to pay special attention to new technologies that may favor anonymity and to address those risks associated with non face-to-face business relationships or transactions. • Lack of regulation to prohibit Gambling Establishments to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, or to explicitly indicate the requirements to be observed when such reliance is permitted. • Lack of fully compliance with respect to recordkeeping with the provisions set out under Recommendation 10. • Lack of explicit obligation to pay attention to all complex, unusual or large transactions or unusual patterns of transactions and to examine their background and set out their findings in writing in compliance with Recommendation 11. • CONAJZAR has not issued regulations for the Gambling Establishments. • FT is not criminalized in Paraguay 1, thus the fulfillment of the Recommendations that refer not only to the prevention of money laundering but also the financing of terrorism, such as R. 8, is limited. • Lack of implementation by the designated non-financial businesses and professions listed under Article 13, Law 1015 of all the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 5, 6, 8-11.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • Lack of direct obligation in law or regulation to report suspicious transactions to SEPRELAD. • Reporting obligation does not cover all financial institutions. • Financing of terrorism not criminalized. • Lack of obligation in law or regulation to report suspicious transactions related to terrorist financing. • Lack of obligation to report attempted transactions. • Low volume of suspicious transaction reports (majority of reports received from the banking institutions).
14. Protection & no tipping-off	C	
15. Internal controls, compliance &	PC	<ul style="list-style-type: none"> • No requirement to conduct a risk analysis of

audit		<p>potential ML and FT risks.</p> <ul style="list-style-type: none"> • No guidance governing the role, authority, reporting lines, resources need and independence for the compliance officer. • No requirement to maintain an adequately resourced and independent audit function. • No guidance on training topics to be considered by the institutions. • No requirements imposed on money remitters with respect to the training program.
16. DNFBP–R.13–15 & 21	NC	<ul style="list-style-type: none"> • Not all DNFBP are covered by Law 1015/97. • Compliance with the Recommendation is limited. Law 1015/97 does not cover all categories of DNFBP and the measures in place for those that are contemplated by Law are too general and lack the level of detail required under the standard. • Lack of regulation enacted by the SEPRELAD for Dealers in Precious Stones and Metals. • The Special Recommendation IV and the Criterion 13.2 are not met while terrorism is not criminalized under Law 1015/97. • The obligation to submit the STR is confined to the crime of money laundering and not the financing of terrorism. • Lack of requirements in place to fully address the requirements set out under Recommendation 15 especially with regard to Criterion 15.1.2, 15.2 and 15.3. • Recommendation 21 is not embodied in law or in the Regulations issued by the SEPRELAD. • Lack of implementation by the reporting entities listed under Article 13 of Law 1015 of the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 13, 14, 15 and 21.
17. Sanctions	NC	<ul style="list-style-type: none"> • No penalties/sanctions imposed by the competent supervisory authorities related to AML/CFT.
18. Shell banks	LC	<ul style="list-style-type: none"> • Lack of measures that define or require physical presence in a way that would encompass the meaningful mind and management of the company.
19. Other forms of reporting	NC	<ul style="list-style-type: none"> • No consideration given to implementing a cash reporting system as suggested by this recommendation.
20. Other NFBP & secure transaction techniques	NC	<ul style="list-style-type: none"> • Law 1015-97 does not contemplate non- financial business and professions –other than DNFBP- that may be at risk of being misused for money laundering, or terrorism financing such as dealers

		<p>in high value and luxury goods, auction houses and investment advisers as stated under Criterion 20.1.</p> <ul style="list-style-type: none"> • Lack of explicit requirements under the regulation to all the obligations imposed by Recommendation 5 – Prohibition of anonymous accounts or accounts in fictitious names, all cases when CDD is required in accordance with Criteria 5.2, identification measures, Identification of legal persons or arrangements Risk, timing of verification, ongoing due diligence, information on purpose and nature of business relationships, failure to complete with CDD. • Lack of regulations to impose pawnbrokers, in addition to performing due diligence measures, to pay attention to PEPs in accordance with Recommendation 6. • Lack of regulation for pawnbrokers to pay special attention to new technologies that may favor anonymity and to address those risks associated with non face- to- face business relationships or transactions. • Lack of fully compliance with respect to recordkeeping in accordance with the provisions set out under Recommendation 10. • Lack of explicit obligation to pay attention to all complex, unusual or large transactions and unusual patterns and to examine their background and set out their findings in writing in compliance with Recommendation 11. • Lack of fully compliance within the pawnbrokers with the provisions set out under Recommendation 15 specially regarding the unlimited access by the Compliance Officer to customer identification, data and other CDD information, the audit function, training programmes –information of new developments, current ML and FT techniques, methods and trends, requirements concerning CDD and suspicious transaction reports and independence of the Compliance Officer. • Lack of the relevant regulation issued by the supervisor in order to ensure the compliance with the provisions set out under the AML Law and the Resolutions enacted by SEPRELAD. • Lack of supervision over pawnbrokers to ensure the compliance with Recommendations 5, 6, 8-11, 13-15, 17 and 21. • Lack of a sanction regime for pawnbrokers in accordance with Recommendation 17. • Lack of requirements to give special attention to
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		<p>business relationships and transactions with persons, including legal persons and other financial institutions, from countries that do not apply or insufficiently apply the FATF Recommendations and to ensure that the reporting entities are advised of concerns about weaknesses in the AML/CFT systems in other countries as well as the requirements contemplated under Criteria N 21.2 and 21.3.</p> <ul style="list-style-type: none"> • Lack of measures in place to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering as considered under Criterion 20.2.
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Lack of requirements imposed by the INCOOP on financial institutions to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • Lack of requirements imposed by the SIB, the SIS, the CNV, and the INCOOP (competent supervisory) authorities to require financial institutions to examine as far as possible the background of transactions that have no apparent economic or visible lawful purpose and set forth in writing the findings of such transactions and make the findings available to the competent authorities and auditors. • Lack of apparent measures and authority at the SIB, the SIS, the CNV, and the INCOOP to advise their financial institutions of concerns about weaknesses in the AML/CFT systems of other countries and to apply appropriate counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations, respectively.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • No specific requirements in place to comply with the essential elements of this recommendation including for paying particular attention that the principles of this recommendation are observed with respect to branches and subsidiaries and to require financial institutions to apply the higher standard to the extent that local laws and regulations permit.
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • Lack of direct obligation that designates a competent supervisory authority to regulate and supervise in aspects related to AML, including for money remitters. • Lack of explicit and clear measures to prevent criminals or their associates from owning or

		<p>controlling a financial institution.</p> <ul style="list-style-type: none"> • Lack of explicit fit and proper measures for directors and senior management of financial institutions.
24. DNFBP—regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • DNFBP are not subject to an effective regulatory and supervisory regime to ensure compliance with the AML/CFT requirements. • Real Estate Agents and Dealers in Precious Stones and Metals do not have a Supervisory Body in terms of AML/CFT. • Lack of a comprehensive regulatory regime among DNFBP to ensure full implementation of the measures AML / CFT. • CONAJZAR is not at present supervising the Casinos in terms of AML and has not enacted the relevant regulation. • CONAJZAR does not have the adequate powers to perform its function in the supervision of the requirements set out under Resolution N 62; this includes the lack of powers to monitor compliance with the regulation. • CONAJZAR does not have a regime of sanctions under Law 1016/97 (Legal regime to operate games of chance or gaming) so at present is not able to impose any kind of sanction for non-fulfillment with the existing regulations regarding the prevention of money laundering
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> • Lack of guidelines to help DNFBPs to implement and comply with their respective AML/CFT requirements which at minimum shall include a description of ML and FT techniques and methods and any additional measures that these institutions and DNFBPs could take to ensure that their AML/CFT measures are effective.
Institutional and other measures		
26. The FIU	PC	<ul style="list-style-type: none"> • Lack of specific operational autonomy of the UAF. • Confusion between SEPRELAD and the UAF about respective functions and duties. • Insufficient operative budget for the UAF • Insufficient capacity of STR analysis to confirm money laundering activities. • Absence of statistic and description of money laundering typologies. • Lack of coordination with the investigative authorities. • Lack of regulations to some no financial reporting entities. • Insufficient protective measures into the SEPRELAD headquarters.

		<ul style="list-style-type: none"> • Lack of computerized analytical tools. • Insufficient use of Egmont Group for searching information. • Insufficient remuneration for the UAF employees.
27. Law enforcement authorities	NC	<ul style="list-style-type: none"> • Lack of legislation about special investigative techniques in ML cases other than about drug trafficking. • Lack of application of special investigative techniques in ML investigations.
28. Powers of competent authorities	C	
29. Supervisors	NC	<ul style="list-style-type: none"> • Lack of direct obligation to empower the SIB, the SIS, the CNV, and the INCOOP to monitor and inspect financial institutions for compliance with the AML obligations. • Lack of adequate and frequent inspections by the SIB and the SIS of financial institutions to ensure compliance. • Lack of direct obligation to sanction financial institutions for failure to comply with or properly implement the requirements to combat money laundering, consistent with the Recommendations. • Lack of supervision by the CNV and the INCOOP to effectively address AML/CFT matters.
30. Resources, integrity, and training	NC	<ul style="list-style-type: none"> • Insufficient human and budget resources • Insufficient AML-ATF training • Lack of a specialized institution for seized assets administration.
31. National co-operation	NC	<ul style="list-style-type: none"> • Policy development and coordination functions are not clearly assigned. • Coordination and cooperation among agencies is ad hoc and inconsistent. • Existing mechanisms are inadequate for policy makers, UAF, law enforcement and supervisors to effectively cooperate and coordinate in the development and implementation of AML/CFT policies and measures.
32. Statistics	NC	<ul style="list-style-type: none"> • Lack of a centralized and co-ordinated system of AML/CFT statistical data collection
33. Legal persons–beneficial owners	NC	<ul style="list-style-type: none"> • The laws do not require adequate transparency concerning the ownership and control of legal persons. • Competent authorities have no access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons. • There are no measures to prevent the unlawful use of legal persons using bearer shares in relation to money laundering.
34. Legal arrangements – beneficial	NC	<ul style="list-style-type: none"> • The laws do not require adequate transparency

owners		<p>concerning the ownership and control of trusts.</p> <ul style="list-style-type: none"> • Competent authorities have no access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of trusts.
International Cooperation		
35. Conventions	PC	<ul style="list-style-type: none"> • Significant limitations on scope of the ML offence (see comments in relation to Rec.1); • FT is not criminalized. • Penalties are not dissuasive and there are doubts about their effectiveness (see comments in relation to Rec.2)
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • Mutual legal assistance is not practicable with respect to FT offences. • Timeliness, constructiveness or effectiveness of the assistance provided by Paraguay is difficult to assess in the absence of general data on incoming and outgoing mutual assistance requests.
37. Dual criminality	LC	<ul style="list-style-type: none"> • Effectiveness of the extradition-related assistance provided by Paraguay is difficult to assess in the absence of general data on incoming and outgoing mutual assistance requests.
38. MLA on confiscation and freezing	NC	<ul style="list-style-type: none"> • In the absence of a treaty, there is no specific provision for applying provisional measures at the request of a foreign country for search, seizure and confiscation. • No consideration has been given to establishing an asset forfeiture fund or to sharing confiscated assets with a foreign country after coordinated international action. • There are no arrangements for coordinating seizure or confiscation actions with other countries.
39. Extradition	PC	<ul style="list-style-type: none"> • The mission did not receive data or other information that would allow it to evaluate the effectiveness of the extradition process.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> • As the law enforcement authorities did not provide the information requested the mission was unable to evaluate the efficiency of international cooperation and exchange of information. • Insufficient resources and investigative means for the law enforcement authorities can affect the response at foreign requests of inquiries.
Nine Special Recommendations		
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> • The U.N. Convention for the Suppression of the Financing of Terrorism has not been implemented with regard to the criminalization of FT and freezing and confiscation of assets related to such offences.

		<ul style="list-style-type: none"> • The UNSCRs 1267 and 1373 have not been implemented.
SR.II	Criminalize terrorist financing	<p>NC</p> <ul style="list-style-type: none"> • FT is not criminalized. • FT is not a designated a predicate offence for ML.
SR.III	Freeze and confiscate terrorist assets	<p>NC</p> <ul style="list-style-type: none"> • No mechanism in place to give effect to UNSCRs 1267 and 1373. • No mechanism to examine and give effect as appropriate to actions initiated under the freezing mechanisms of other jurisdictions. • No mechanism for communicating actions to the financial sector
SR.IV	Suspicious transaction reporting	<p>NC</p> <ul style="list-style-type: none"> • Terrorist financing has not been criminalized.
SR.V	International cooperation	<p>NC</p> <ul style="list-style-type: none"> • International cooperation with respect to FT is limited. • Absence of criminalization of terrorist financing, blocking participation in international cooperation.
SR.VI	AML/CFT requirements for money/value transfer services	<p>NC</p> <ul style="list-style-type: none"> • No licensing/registration system or designated competent authority for informal MVTs.
SR.VII	Wire transfer rules	<p>NC</p> <p>Lack of specific measures in place to address a majority of the criteria in this recommendation, including for:</p> <ul style="list-style-type: none"> • handling batched and domestic transfers; • ensuring that intermediary and beneficiary financial institution in the payment chain is required to provide all originator information that accompanies a wire transfer; • adopting effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information; • having measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing this recommendation; and • applying sanctions in relation to noncompliance with the requirements of this recommendation.
SR.VIII	Nonprofit organizations	<p>NC</p> <ul style="list-style-type: none"> • Paraguay has not conducted its review of the adequacy of domestic laws and regulations that

		<p>relate to nonprofit organizations.</p> <ul style="list-style-type: none"> • No outreach has been undertaken to the NPO sector with a view to protecting the sector from terrorist financing abuse. • The authorities have not provided enough information for the complete assessment of this recommendation.
SR.IX Cash Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> • Lack of implementation of a national control policy against cross-border cash couriers. • Inexistence of cash transport control in the land frontier check points. • Inefficiency of cash transport control in the international airports. • Absence of results on the control of the cross-border cash transportation.

Table 2. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, & 32)	<ul style="list-style-type: none"> • Amend the CC to incorporate the conducts of “conversion”, “transfer”, “acquisition”, “concealment or disguise”, “possession” of property and “assisting a person involved in the commission of the predicate offence evade the legal consequences of his or her actions” into the money laundering offence of Article 196. • Amend the CC to allow proving that property is the proceeds of crime without the need for a conviction of a predicate offence. • Amend the CC to expand the list of predicate offences for ML to cover a range of offences in each of the designated categories of offences. • Amend the CC to criminalize “conspiracy”, “facilitation” and “counseling” to commit ML. • Amend the CC to make legal persons criminally liable for the commission of ML offences. • Amend its CC to re-categorize the offence of ML as a crime (as opposed to a misdemeanor), to allow for the concurrent imposition of “imprisonment” and “fines” and to raise the range of sanctions to make them effective, proportional and dissuasive, relative to other serious offences in the CC, and relative to the sanctions for ML applied by other countries in the GAFISUD region. • Continue to place more efforts at generating awareness on the opportunity that ML investigations and convictions represent to the general fight against crime, and particularly organized crime. • Strengthen the fight against corruption as an important precondition for the implementation of an effective anti-money laundering framework. • Develop a national AML strategy to build consensus and commitment and to improve the coordination and cooperation among relevant competent authorities in the development of policies and their effective implementation.

<p>Criminalization of Terrorist Financing (SR.II & R.32)</p>	<ul style="list-style-type: none"> • The offence of FT should be criminalized in keeping with the requirements of the offence as set out in the SFT Convention. • Provide training for judges, prosecutors, law enforcement agencies, and UAF staff on the understanding of the offence of FT and CFT measures.
<p>Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)</p>	<ul style="list-style-type: none"> • Amend the CC to allow for the forfeiture of property of corresponding value. • Amend the CC to allow for initial applications to seize property subject to forfeiture to be made ex-parte or without prior notice. • Amend Law No. 1,015/97 to explicitly transfer to the FIU the powers to request and obtain information that could be related with money laundering. • Enact provisions that permit Paraguayan authorities to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to forfeiture. • Strengthen the fight against corruption as an important precondition for the implementation of an effective system of forfeitures. • Allocate more resources to improving the conditions of the registries of property. Speed up the informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend appropriate laws to sanction failures to register relevant acts and information. • Developing effective and feasible procedures at Customs to detect, stop or restrain, and seize the cross border transportation of currency and bearer negotiable instruments.
<p>Freezing of funds used for terrorist financing (SR.III)</p>	<ul style="list-style-type: none"> • Put in place a system for freezing of terrorist assets <i>ex parte</i> and without delay, including the following elements: <ul style="list-style-type: none"> – A mechanism for reviewing and giving effect to, if appropriate, the actions initiated under freezing mechanisms of other countries; recognizing and reviewing terrorist lists of other countries and giving effect to those lists if appropriate; – An effective procedure for disseminating the UNSCR

	<p>1267 Sanctions Committee list as well as national lists and foreign lists under UNSCR 1373 to the financial sector;</p> <ul style="list-style-type: none"> - Clear guidance on implementation to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms; - Procedures for unfreezing and for allowing access to funds for basic expenses; - Protection of <i>bona fide</i> third party rights; and - A mechanism for monitoring compliance and imposing sanction in cases of failure to comply. <ul style="list-style-type: none"> • Put in place procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions; • Put in place procedures for persons or entities whose funds or other assets have been frozen to challenge that measure with a view to having it reviewed by a court.
<p>The Financial Intelligence Unit and its functions (R.26)</p>	<p>The Paraguayan authorities are recommended the following measures:</p> <ul style="list-style-type: none"> • To adopt a new law to clarify the attributions of the Financial Analysis Unit, and to give it a real autonomy. • To reconsider the present structure of the SEPRELAD and UAF. • To implement a secure computerized system of STRs sending between reporting authorities and SEPRELAD • To develop and apply the investigative function that Law No. 1,015 gives to the SEPRELAD, and coordinate better the relation with the specialized unit of the SENAD, to strengthen the money laundering detection that permit the Prosecutor open more proactive judiciary investigations. • To reinforce the role of the UAF in the matter of information and training of the financial and non financial institutions and professionals obliged with the AML law. • To establish a monitoring to measure the risks of money laundering and terrorist financing, with the corresponding typologies. • To develop the statistics on typologies and their trends.

	<ul style="list-style-type: none"> • To strengthen the area of the financial analysis and the treatment of the suspicious transactions reports. • To develop training adapted for the analysts. • To strengthen the operative coordination with the national police, the SENAD, the Customs and the OAG. • To develop the systematical use of Egmont Group with respect to international cooperation. • To give to the SEPRELAD sufficient financial resources to equip it with computerized tools, and to give the sufficient financial remuneration to the personnel. • To consider the moving of the UAF headquarters toward more suitable premises with a better general security. • To develop a national strategy of prevention and in fighting the money laundering, in relation with the corruption and organized crime fighting.
<p>Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<p>It is recommended to the Paraguayan authorities:</p> <ul style="list-style-type: none"> • To increase the operative budget of the specialized units against financial crime of the SENAD and National Police. • To develop an adapted program of training focused on operative investigations and the coordination of the law enforcement agencies. • To develop a program of special training for the judges, in a national level, focuses on the interpretation of the evidences of the money laundering offense, including the terrorist financing aspect, and on the autonomy of these offences. • To consider the opportunity of creating a permanent interagency Task Force especially in charge of fighting the money laundering and terrorist financing activities that could be depending of Ministry public. • To consider the opportunity of create a specialized jurisdiction of judgment against the financial criminality, including the money laundering and terrorist financing offences that could actuate with a national competence.
<p>3. Preventive Measures–Financial Institutions</p>	
<p>Risk of money laundering or</p>	<ul style="list-style-type: none"> •

terrorist financing	
<p>Customer due diligence, including enhanced or reduced measures (R.5–8)</p>	<p>R.5</p> <p>There are shortcomings in the Paraguay AML framework; in particular a number of requirements that should be set out in primary or secondary legislation are addressed through OEMs. In a number of instances, the measures in place are too general and lack the level of detail required under the standard.</p> <p>In order to address the shortcomings in the financial sector, it is recommended that the authorities:</p> <ul style="list-style-type: none"> • prohibit, through law or regulation, anonymous accounts or accounts in fictitious names • establish, through law or regulation, clear requirements for financial institutions to: <p>Undertake customer due diligence (CDD) measures when:</p> <ul style="list-style-type: none"> • carrying out occasional transactions above the applicable designated threshold. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; • carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; • there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; and • the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. <ul style="list-style-type: none"> • identify the customer (legal arrangements) and verify that customer’s identity using reliable, independent source documents, data or information (identification data) following the examples of the types of customer information that could be obtained, and the identification data that could be used to verify that information as set out in the paper entitled General Guide to Account Opening and Customer Identification issued by the Basel

	<p>Committee's Working Group on Cross Border Banking.</p> <ul style="list-style-type: none"> • verify, for customers that are legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. • identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. • determine who are the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or legal arrangement. • establish requirements for financial institutions to conduct ongoing due diligence on the business relationship, particularly for higher risk categories of customer or business relationships, and maintain up-to-date customers records. <p>We further recommend the authorities to establish through law, regulation, or other enforceable means, clear obligations/requirements for financial institutions to:</p> <ul style="list-style-type: none"> • understand the ownership and control structure of the customer who is a legal arrangement. • conduct ongoing due diligence on the business relationship with money remitters. • perform enhanced due diligence for higher risk categories of customer, business relationships, or transactions. • verify the identity of the beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. • reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report.
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	<ul style="list-style-type: none"> • consider terminating the business relationship and making a suspicious transaction report when the business relationship has commenced and the financial institution is unable to comply with CDD requirements. • establish requirements for insurance companies to apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times. <p>R.6</p> <ul style="list-style-type: none"> • Amend the Law to impose an obligation on financial institutions to identify the beneficial owners. With respect to this recommendation that obligation would extend, in particular to beneficial owners that could be identified as PEPs. • SIB, SIS, CNV, and INCOOP authorities are recommended to establish through law, resolution/regulation, or other enforceable means, clear obligations/requirements for financial institutions to have appropriate risk management systems that consider the aspects of obtaining senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP. • The SIS and the INCOOP are also recommended to establish an obligation/requirements for financial institutions to establish the source of wealth of customers and beneficial owners identified as PEPs; and the INCOOP is further recommended to extend the current obligation to carry out enhanced monitoring of business relationships with customers (which should also extend to beneficial owners) identified as PEPs to make this monitoring ongoing. • Finally, the authorities are encouraged to fully implement the 2003 United Nations Convention against Corruption, as well as the 1996 OAS IACAC Convention. <p>R.7</p> <ul style="list-style-type: none"> • The SIB authorities need to modify the resolutions in order to comply with the following essential elements of
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	<p>this recommendation, particularly:</p> <ul style="list-style-type: none"> • establishing measures for obtaining information to understand the reputation and the quality of supervision, including whether the institution has been subject to a money laundering or terrorist financing investigation or regulatory action; • establishing measures for assessing and ascertaining the adequacy and effectiveness of the respondent’s AML/CFT controls in place; and • establishing requirements for documenting the respective AML/CFT responsibilities of each institution. <p>R. 8</p> <p>The INCOOP needs to establish specific obligations for financial institutions to:</p> <ul style="list-style-type: none"> • apply non face-to-face transactions and new technologies policies and/or measures when establishing customer relationships and when conducting ongoing due diligence; and • require the certification of documentation. <p>We recommend the authorities to modify the resolutions to establish these additional requirements in line with the elements of this recommendation and extend the requirements to money remitters.</p>
<p>Third parties and introduced business (R.9)</p>	<ul style="list-style-type: none"> • Requirement “not applicable”.
<p>Financial institution secrecy or confidentiality (R.4)</p>	<ul style="list-style-type: none"> • The authorities are recommended to establish formal mechanisms and/or effective measures to enable information sharing and cooperation between the SIB and other competent supervisory authorities, without the need of a court order.
<p>Record keeping and wire transfer rules (R.10 & SR.VII)</p>	<p>R.10</p> <ul style="list-style-type: none"> • The authorities are recommended to establish an obligation on financial institutions to maintain/retain records on the identification data obtained through the

	<p>customer due diligence process, account files, and business correspondence for at least five years after the business relationship is ended, or longer period, if requested by the competent authorities in specific cases and that such customer data are available on a timely basis to domestic competent enforcement authority upon appropriate authority.</p> <p>SRVII</p> <p>We recommend the authorities should modify the existing resolutions to establish requirements for financial institutions to:</p> <ul style="list-style-type: none"> • a) handle batched and domestic transfers; • b) ensure that each intermediary and beneficiary financial institution in the payment chain is required to provide all originator information that accompanies a wire transfer; • c) adopt affective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information; • d) have measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing this recommendation; and • e) apply sanctions in relation to noncompliance with the requirements of this recommendation.
<p>Monitoring of transactions and relationships (R.11 & 21)</p>	<p><u>R.11</u></p> <ul style="list-style-type: none"> • The SEPRELAD authorities are recommended to modify Resolution No. 63, as well as the sector specific resolutions (Resolution No. 321, Resolution No. 59, Resolution No. 262, and Resolution No. 60) to establish a direct legal or regulatory requirement for reporting entities to: 1) pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic, or visible lawful purpose; 2) examine as far as possible the background and purpose of such transactions and set forth their findings in writing; and 3) keep such finding available for competent authorities and auditors for at least five years. Resolution

	<p>No. 263 should also be revised to establish the requirement for financial institutions under the SIS to make the finding available to the auditors for at least five years.</p> <p><u>R.21</u></p> <ul style="list-style-type: none"> • The INCOOP authorities are recommended to establish a regulatory obligation on reporting entities to give special attention to businesses and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations • The SIS, the SIS, the CNV, and the INCOOP authorities are further recommended to establish regulatory obligations on financial institutions to examine as far as possible the background of transactions that have no apparent economic or visible lawful purpose and set forth in writing the findings of such transactions and make the findings available to the competent authorities and auditors. • The SIB, the SIS, the CNV, and the INCOOP should have measures in place for financial institutions to ensure that they are advised of concerns about weaknesses in the AML/CFT systems of other countries and the authority to apply appropriate counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.
<p>Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)</p>	<p><u>R.13& SR.IV</u></p> <p>The authorities are recommended to:</p> <ul style="list-style-type: none"> • Define the term “financial institutions” in line with the definition provided in the Methodology. • Expand the list of financial institutions to include those listed in the definition provided in the Methodology. • Modify the existing legal obligation to establish the requirement for financial institutions to report directly to the SEPRELAD. • Establish an obligation for financial institutions to report all suspicious transactions including

	<p>attempted transactions, regardless of the amount of the transaction.</p> <ul style="list-style-type: none"> • Criminalize the financing of terrorism. <p><u>R.19</u></p> <ul style="list-style-type: none"> • We recommend the authorities consider the feasibility and utility of a system where financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerized data base, available to competent authorities for use in money laundering cases, subject to strict safeguards to ensure proper use of the information. <p>SRIV</p> <ul style="list-style-type: none"> • The authorities are further recommended to criminalize the financing of terrorism to establish the legal obligation for financial institutions to report to the competent authorities' transactions when they suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations. <p>R.25</p> <p>Authorities, particularly the SEPRELAD, are recommended to:</p> <ul style="list-style-type: none"> • Provide guidance to assist financial institutions on AML/CFT issues covered under the FATF Recommendations, including, at a minimum, a description of ML and FT techniques and methods, and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective. • Establish communication standards and a mechanism for providing feedback to reporting institutions including general and specific or case-by-case feedback. • Consider reviewing the guidance provided by the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.
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<p>Cross Border Declaration or disclosure (SR IX)</p>	<ul style="list-style-type: none"> • Authorities should take measures to apply an effective control on the cross-border cash transport. • SEPRELAD should coordinate with customs and police authorities for an effective implementation of the measures of its Resolution No. 61.
<p>Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<p>R. 15</p> <p>There are several shortcomings which the authorities should consider addressing with respect to this recommendation:</p> <ul style="list-style-type: none"> • The authorities should establish an explicit requirement in the resolutions for financial institutions to conduct a risk assessment exercise to determine their vulnerabilities to ML and FT (although financing of terrorism is not yet criminalized) in order to develop and adopt the necessary measures, controls, policies and procedures to adequately identify, measure, control, and monitor the money laundering risk within their customers, transactions/operations, products & services, and geographical locations. • The SIS and the INCOOP authorities should be clear guidance to financial institutions to ensure that compliance officers are not involved in operational or administrative activities of the institutions; act independently and report directly to the highest authority; have sufficient resources; and have the authority and unrestricted access to both information and staff within the institution. • The authorities should establish an explicit requirement in the resolutions for financial institutions to maintain an adequately resourced and independent audit function to test compliance with the AML policies, procedures, and controls. • Provide guidance on the type of training that needs to take place and the topics to be considered including for example aspects of the AML Law including obligations and sanctions, ML and FT typologies, CDD, STR, etc. • Extend the obligation to money remitters to develop, adopt, and implement an ongoing AML training program. <p>R. 22</p> <ul style="list-style-type: none"> • We recommend the authorities to establish requirements for branches and subsidiaries of financial institutions abroad to pay particular attention to countries which do not or insufficiently apply the FATF Recommendations; and where

	<p>the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.</p>
<p>Shell banks (R.18)</p>	<ul style="list-style-type: none"> • It is recommended that the SIB authorities establish measures for financial institutions to define and/or require physical presence for insurance companies and brokerage and mutual funds firms in a way that would encompass the meaningful mind and management of the company.
<p>The supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, & 32)</p>	<p>R.17</p> <ul style="list-style-type: none"> • We recommend the authorities to ensure that effective, proportionate and dissuasive administrative sanctions are available to deal with reporting entities that fail to comply with the AML requirements. <p>R.23</p> <p>We recommend the authorities to:</p> <ul style="list-style-type: none"> • Establish a direct obligation that designates a competent supervisory authority to regulate and supervise money remitters in aspects related to AML; • Establish explicit and clear measures to prevent criminals or their associates from owning or controlling a financial institution; and • Establish explicit fit and proper measures for directors and senior management of financial institutions. <p>R.25</p> <ul style="list-style-type: none"> • The mission recommends the authorities to establish sector specific guidelines and feedback mechanisms to assist financial institutions on relevant issues including: i) a description of ML and FT techniques and methods; and ii) international recent developments on ML and FT, particularly those issued by FATF and/or the UNSCR. <p>R.29</p> <p>We recommend the authorities to:</p> <ul style="list-style-type: none"> • Establish a direct obligation that empowers the SIB, the SIS, the CNV, and the INCOOP to monitor and inspect financial institutions for compliance with the AML

	<p>obligations.</p> <ul style="list-style-type: none"> • Conduct inspections of financial institutions to ensure compliance. • Sanction financial institutions for failure to comply with or properly implement the requirements to combat money laundering, consistent with the Recommendations. • Strengthen the overall AML/CFT supervisory process for the SIB, the SIS, the CNV, and the INCOOP to effectively address AML/CFT matters.
<p>Money value transfer services (SR.VI)</p>	<p>SR.VI</p> <ul style="list-style-type: none"> • The authorities should criminalize the financing of terrorism to establish the legal obligation for financial institutions to report to the competent authorities' transactions when they suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations. • The authorities should designate a supervisory body responsible for the licensing, regulation and supervision of money or value transfer (MVT) service operators, particularly those operating informal systems.
<p>4.Preventive Measures– Nonfinancial Businesses and Professions</p>	
<p>Customer due diligence and record-keeping (R.12)</p>	<ul style="list-style-type: none"> • Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the activities set out in FATF Methodology and Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary need to be incorporated as reporting entities under Article 13, Law 1015-97. • Authorities are recommended to establish through law, resolution or other enforceable means all the requirements of due diligence with customers for DNFBP so as to comply with the requirements set out under Recommendation 5. • There must be a prohibition through law or regulation to keep

	<p>anonymous accounts or accounts in fictitious names.</p> <ul style="list-style-type: none"> • Establish the obligation to undertake customer due diligence measures according to Section b-e under Criteria 5.2 and mandatory measures under Section 5.3 (Identification measures and verification sources). • Establish requirements for customers that are legal persons or legal arrangements according to the provisions set out under Criteria 5.4. • Establish requirements to verify the beneficial owner, the information on Purpose and Nature of Business Relationship, the Ongoing Due Diligence on Business Relationships particularly for higher risk of customers or business relationships, the Timing of verification for occasional customers, Risk, failure to complete CDD before or commencing business. • Establish requirements for DNFBP, in addition to performing normal due diligence measures to pay attention to PEPs in accordance with the provisions contemplated under Recommendation 6, and to incorporate the obligation to pay special attention to any money laundering threats that may arise from new or developing technologies that might favor anonymity and to have policies and procedures in place to address any specific risk associated with non-face business relationships or transactions in accordance with Recommendation 8. • Authorities are recommended to extend the prohibition to Gambling Establishments to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, or to expressly indicate the requirements to be observed when such reliance is permitted. • Establish requirements to keep records for a period longer than five years if so requested by a competent authority in specific cases and upon proper authority and to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority. (Recommendation 10). • Establish the obligation covered under Recommendation 11 concerning unusual transactions and the requirement to examine as far as possible the background and purpose of
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	<p>transactions to determine whether they are unusual or not.</p> <ul style="list-style-type: none"> • Authorities are recommended to take measures in order to implement among the Designated non- financial businesses and professions contemplated under Article 13 Law 1015, the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 5, 6 y 8-11.
<p>Suspicious transaction reporting (R.16)</p>	<ul style="list-style-type: none"> • Incorporate all DNFBP as reporting entities under the AML Law as well as require the SEPRELAD to elaborate the relevant resolutions for Dealers in Precious Metals and Stones who are reporting entities under Article 13, Law 1015-97. • Supervisors over the Gambling Establishments, the Real Estate Agents and the Dealers in precious metals and stones should issue the relevant regulations within their respective areas and make the necessary supervision. • Criminalize terrorism and include in the law the obligation to inform to the SEPRELAD in terms of Article 19 of Law 1015/97 not only acts linked to money laundering, but also those related to terrorism, Acts of terrorism, terrorist organizations or those who finance terrorism or be used for such purposes. • Establish the requirements to comply with the provisions of Special Recommendation IV and Recommendation 13, Criterion 13.2. • Incorporate among the regulation the Internet Casinos. • Expressly contemplate the maintenance of adequately resourced and independent audit function to test compliance with the procedures, policies and controls required under Criterion 15.1 and the requirement to have training programs as mentioned under Criterion 15.3 independently to the functions of the Compliance Officer and incorporate all the aspects set out under Criterion 15.3 –information on new developments, information on current ML and FT techniques, methods and trends, requirements concerning CDD when hiring employees - • Establish the requirement for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under Criterion 15.1.2

	<ul style="list-style-type: none"> • Establish the relevant regulation in order to ensure that the Compliance Officer position is at a level that guarantees independence. • Incorporate in the existing rules as set out under Recommendation 21, with its entire essential Criterion the obligation to pay attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries that do not sufficiently apply the FATF Recommendations. • Authorities are recommended to take measures in order to implement among the Designated non- financial businesses and professions contemplated under Article 13, Law 1015, the requirements set out in the AML Law and the Resolutions enacted by SEPRELAD regarding FATF Recommendations 13, 14, 15 and 21. – Reporting of Suspicious Transaction Reports, Protection for STR reporting, development of internal policies, procedures and controls to prevent ML and FT, appointment of a Compliance Officer, maintenance of an adequately resourced and independent audit function to test compliance with the procedures, policies and controls, establishment of ongoing employee training programmes, establishment of screening procedures to ensure high standards when hiring employees and special attention to business relationships and transactions with personas from or in countries that do not or insufficiently apply the FATF Recommendations.
<p>Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)</p>	<ul style="list-style-type: none"> • It is necessary to define who are the supervisory bodies with regard to Real Estate Agents and Dealers in precious metals and stones in terms of AML/CFT, and define their roles. • Expressly contemplate for the designated competent authorities the responsibility for the AML/CFT regulatory and supervisory regime. • SEPRELAD in exercise of the powers provided for in Article 28 of Law N° 1015/97 should dictate the rules to be adjusted by the Dealers in precious metals and precious stones. They should also have a supervisory body. • Provide the Casinos with a regulatory and supervisory regime to ensure the implementation of the AML/CFT measures required under the FAFT Recommendations. • Adequate the existing Law N 1016-97 (legal regime to operate games of chance or gambling), or provide additional

	<p>regulation in order to address the requirements contemplated under Recommendation N 24.</p> <ul style="list-style-type: none"> • Provide CONAJZAR and the Supervisory Bodies for the rest of the DNFBPs with adequate powers to perform their functions, including the power to monitor and sanction for violations to the AML/CFT Resolutions. . • Provide within existing regulations Internet Casinos in order to include them under a regulatory and supervisory regime as the same for the rest of the Gambling Establishments. • Establish the prohibition to criminals and their associates from being the beneficial owner of a significant or controlling interest of a Casino. • Establish guidelines to assist financial institutions and DNFBP to implement and comply with their respective AML/CFT requirements which at minimum should give assistance on issues covered under the relevant FATF Recommendations Including a description of ML and FT techniques and methods, any additional measures that these reporting entities could take to ensure that their AML/CFT measures are effective.
<p>Other designated non-financial businesses and professions (R.20)</p>	<ul style="list-style-type: none"> • Incorporate under Law 1015-97 non- financial business and professions -other than DNFBP- that may be at risk of being misused for money laundering and terrorism financing, such as dealers in high value and luxury goods, auction houses and investment advisers as stated under Criterion 20.1. • Expand to pawnbrokers the requirements of due diligence with customers so as to incorporate and / or adapt regulations to the ones set out under Recommendation 5, especially the prohibition through law or regulation to keep anonymous accounts or accounts in fictitious names, cover all cases that require CDD in accordance with Criterion 5.2, identification measures, Identification of legal arrangements, the identification of the Beneficial Owner, risk, timing of verification, ongoing Due Diligence. Information on purpose and nature of business relationships, and failure to complete CDD. • Incorporate for pawnbrokers the provisions contemplated under Recommendation 6 with regards to PEPs and incorporate the obligation to pay special attention to any money laundering threats that may arise from new developing technologies that might favor anonymity and to have policies

	<p>and procedures in place to address any specific risk associated with non-face relationships or transactions in accordance with Recommendation 8.</p> <ul style="list-style-type: none"> • Incorporate the obligation to keep records for a period longer than five years if so requested by a competent authority in specific cases and upon proper authorization and to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority. • Establish the obligation covered under Recommendation 11 concerning unusual transactions. • Criminalize terrorism and financing of terrorism and include under the Law the obligation to inform in terms of Article 19 of Law 1015-97 not only acts linked to money laundering but also those related to terrorism. • Expressly contemplate the maintenance of adequately resourced and independent function to test compliance with the procedures, policies and controls required under Criterion 15.1. • Provide staff training as a specific point within the program of internal control and not between the functions of the Compliance Officer and incorporate between the training programmes, information on new developments, current ML and FT techniques, methods and trends and requirements concerning CDD and suspicious reporting • Establish the requirement for the Compliance Officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information as stated under Criterion 15.1.2. • Establish the relevant regulation in order to ensure that the Compliance Officer 's position is at a level that guarantees independence. • Take the necessary measures in order to encourage the enactment of the relevant regulations by the supervisor in charge of the control of the pawnbrokers in order to ensure full compliance with the requirements set out under the AML legislation and the Resolutions enacted by SEPRELAD.
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	<ul style="list-style-type: none"> • Define the functions and powers of the supervisory board as well as a sanctions regime over the pawnbrokers who should apply both to individuals, legal persons and their directors and senior managers. • Clarify the sanctions regime, and incorporate not only the imposition of disciplinary measures but also the withdrawal or suspension of the license of the institution in question. • Incorporated the provisions of Recommendation 21 , in connection with the obligation to pay special attention to business relations and transactions with persons, including legal persons and other financial institutions from countries that do not apply or insufficiently apply the FATF Recommendations as well as the requirements contemplated under Criterion 21.2 and 21.3. • Take measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering in accordance with Criterion 20.2.
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Adopt measures to prevent the unlawful use of legal persons in relation to money laundering by ensuring that commercial, corporate and other laws require adequate transparency concerning the ownership and control of legal persons. • Adopt measures to allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons. • Adopt measures to prevent the unlawful use of legal persons using bearer shares in relation to money laundering. • Allocate additional resources to the National Direction of Public Registries and to improving the conditions of the registries. In particular, the authorities should speed up the processes of informatization of the data bases, improve the facilities where records are held, reduce the costs to registration, increase public awareness on the benefits of registration, and amend the appropriate laws to sanction failures to register relevant acts and information.
Legal Arrangements–Access to beneficial ownership and control	<ul style="list-style-type: none"> • Adopt measures to prevent the unlawful use of trusts in relation to money laundering by ensuring that commercial,

information (R.34)	<p>trust and other laws require adequate transparency concerning the ownership and control of trusts.</p> <ul style="list-style-type: none"> • Adopt measures that may allow competent authorities to obtain or have access in a timely fashion to adequate, accurate, and current information on beneficial ownership and control of legal persons.
Nonprofit organizations (SR.VIII)	<ul style="list-style-type: none"> • Review the adequacy of domestic laws and regulations that relate to nonprofit organizations; use all available sources of information to undertake domestic reviews of or have the capacity to obtain timely information on the activities, size and other relevant features of their non-profit sectors for the purpose of identifying the features and types of nonprofit organizations (NPOs) that are at risk of being misused for terrorist financing by virtue of their activities or characteristics; and conduct periodic reassessments by reviewing new information on the sector's potential vulnerabilities to terrorist activities. • Undertake outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include (i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and (ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs. • Take steps to promote effective supervision or monitoring of those NPOs which account for: (i) a significant portion of the financial resources under control of the sector; and (ii) a substantial share of the sector's international activities. • Require NPOs to maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information should be publicly available either directly from the NPO or through appropriate authorities. • Adopt appropriate measures to sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs. The application of such sanctions should not preclude parallel civil, administrative, or criminal proceedings with respect to NPOs or persons acting on their behalf where appropriate. • Require all NPOs to be licensed or registered and make information available to competent authorities. • Require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner

	<p>consistent with the purpose and objectives of the organization.</p> <ul style="list-style-type: none"> • Implement measures to ensure that competent authorities can effectively investigate and gather information on NPOs. • Ensure effective domestic co-operation, co-ordination and information sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs of potential terrorist financing concern. • Ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation. • Develop and implement mechanisms for the prompt sharing of information among all relevant competent authorities in order to take preventative or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is being exploited for terrorist financing purposes or is a front organization for terrorist fundraising. There should be investigative expertise and capability to examine those NPOs that are suspected of either being exploited by or actively supporting terrorist activity or terrorist organizations. There should also be mechanisms in place to allow for prompt investigative or preventative action against such NPOs. • Identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support.
<p>6. National and International Cooperation</p>	
<p>National cooperation and coordination (R.31 & 32)</p>	<ul style="list-style-type: none"> • Establish formal and informal mechanisms to support cooperation and coordination at policy and operational levels. Such mechanisms could include: <ul style="list-style-type: none"> – assigned duties to individuals for coordination, regularly scheduled meetings, and distribution of contact lists; and – the establishment of operational task forces at an early stage of investigations of criminal matters involving the proceeds of crime, money laundering and terrorist financing. These mechanisms could include • Mechanisms should be established or strengthened for consultation between competent authorities, the financial sector and other sectors (including all DNFBPs) on implementation of the AML/CFT laws, regulations, guidelines or other measures. • Conduct a review of the effectiveness of the cooperation and

	<p>coordination systems for AML/CFT in the short term and thereafter on a regular basis. Statistical systems should be updated and maintained in line with the recommendations in Rec. 32.</p>
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Amend the AML Law and enact CFT legislation to fully cover the ML and TF offences and thus completely implement the Vienna, Palermo and Terrorist Financing Conventions. • Implementing the UNSC Resolutions by developing and implementing necessary procedures and mechanisms.
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	<ul style="list-style-type: none"> • Established mechanism for determining the best venue for prosecution of defendants in cases that are subject to prosecution in more than one country. • Establish specific provision for applying provisional measures at the request of a foreign country for search, seizure and confiscation. • Consider establishing arrangements for coordinating seizure or confiscation actions with other countries. • Consider establishing asset forfeiture fund. • Consider establishing mechanism to share confiscated assets with other countries which participated in coordinated action. • Compile and maintain statistics on MLA requests received or made, relating to ML and FT, indicating the predicate offenses, including the nature of the request, its result, and the time of response.
Extradition (R. 39, 37, SR.V & R.32)	<ul style="list-style-type: none"> • Consider enhancing procedure to ensure that extradition requests are not unduly delayed and provide for alternative simplified procedures for extradition on a case-by-case basis. • Establish statistics regarding extradition requests indicating the number of extradition requests received, the proportion granted, or the average processing time for the requests.
Other Forms of Cooperation (R. 40, SR.V & R.32)	<ul style="list-style-type: none"> • To develop mechanisms to centralized exchange of information • To strengthen the operative actions against money laundering at regional level, and consider the establishment of regional operational task forces at an early stage of investigations of criminal matters involving the proceeds of crime, money laundering and terrorist financing. • Conduct a review of the effectiveness of the cooperation and coordination systems for AML/CFT in the short term and thereafter on a regular basis. Statistical systems should be updated and maintained in line with the recommendations in Rec. 32.
7. Other Issues	
Other relevant AML/CFT measures or issues	<p>The Paraguayan authorities are recommended:</p> <ul style="list-style-type: none"> • to allot the necessary and sufficient financial and human resources for the AML national authorities;

	<ul style="list-style-type: none">• to specialize the institution in charge of the police investigations;• to coordinate all the administrative and repressive AML authorities;• to develop adequate training schemes according to the functions of each institution;• to set up an adequate legislation and administration for seizing criminal assets;• to set up a reliable and complete statistical system of collection and follow-up of the statistical data, including in particular the AML-ATF typologies, the investigations in progress and finished the judgments as well as the seized assets.
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Annex 1. Authorities' Response to the Assessment

Annex 2. Details of All Bodies Met During the On-Site Visit

- Asociación de Bancos del Paraguay
- Asociación de Casas de Cambio
- Asociación de Entidades Financieras
- Banco Central del Paraguay
- Banco Nacional de Fomento
- Bolsa de Valores y Productos de Asunción, S.A.
- Comisión Nacional de Valores
- Comisión Nacional de Juegos de Azar
- Corte Suprema de Justicia (Sala Penal)
 - o Jueces Penales de Asunción y de Alto Paraná
 - o Dirección General de los Registros Públicos
- Dirección Nacional de Aduanas
- Instituto Nacional de Cooperativismo
- Ministerio de Hacienda
 - o Subsecretaría de Estado de Tributación
- Ministerio de Industria y Comercio
 - o Unidad Técnica Especializada
- Ministerio de Relaciones Exteriores
 - o Dirección de Asuntos Especiales
- Ministerio Público (Fiscalía General del Estado)
 - o Dirección de Delitos Económicos
 - o Dirección de Cooperación Internacional
- Policía Nacional
 - o Departamento de Investigación de Delitos Económicos
 - o Secretaría de Prevención e Investigación del Terrorismo
 - o INTERPOL Paraguay
- Secretaría Nacional Antidrogas
 - o Dirección de Delitos y Crímenes Financieros
- Secretaría de Prevención de Lavado de Dinero o Bienes
 - o Unidad de Análisis Financiero
- Superintendencia de Bancos
- Superintendencia de Seguros

Annex 3. List of All Laws, Regulations, and Other Material Received

Law No. 1,086/84
Law No. 1,183/85
Law No. 1,340/88
Law No. 125/91
Law No. 222/93
Law No. 438/94
Law No. 489/95
Law No. 827/96
Law No. 861/96
Law No. 921/96
Law No. 1,015/97
Law No. 1,160/97
Law No. 1,284/98
Law No. 1,337/99
Law No. 1,562/00
Law No. 1,626/00
Law No. 1,881/02
Law No. 2,283/03
Law No. 2,372/04
Law No. 2,359/04
Law No. 2,378/04
Law No. 2,421/04
Law No. 2,421/05
Law No. 3,440/08

Decree No. 14,052/96
Decree No. 15,975/97
Decree No. 16,570/97
Decree No. 6,206/99
Decree No. 15,125/01

SEPRELAD Resolutions 61, 59, 62, 233, 262, 264 y 266.

Copies of Key Laws, Regulations, and Other Measures

LAW No. 1,015/96 PREVENTING AND PENALIZING UNLAWFUL ACTS TO LAUNDER MONEY OR PROPERTY

THE CONGRESS OF THE PARAGUAYAN NATION ENACTS THE FOLLOWING WITH FORCE OF LAW:

CHAPTER I GENERAL PROVISIONS

Article 1. Scope of application

The present Law:

1. Regulates the obligations, measures and procedures to prevent and forestall the use of the financial system and other sectors of economic activity for the commission of acts to launder money or property derived directly or indirectly from the criminal activities covered by this Law, such acts being hereinafter described as offences of money or property laundering;
2. Establishes and penalizes the offence of money or property laundering; and
3. Shall apply without prejudice to other acts or omissions established and penalized under criminal law.

Article 2. Definitions

For the purposes of this Law:

1. "Proceeds" means property obtained or derived directly or indirectly from the commission of an offence established under this Law;
2. "Property" means assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and the legal instruments or documents evidencing title to or interest in such assets;
3. "Crime" means any offence for which the mid-range penalty of imprisonment is more than two years;
4. "Criminal gang" means a structured or organized association of three or more persons formed for the purpose of committing punishable acts or achieving its aims by the use of arms, and any persons who assist them economically or provide them with logistic support; and
5. "Terrorist group" means a structured or organized association of three or more persons that uses violence, including the commission of offences, to achieve its political or ideological aims, including its moral mentors.

CHAPTER II PENAL PROVISIONS

Article 3. Establishment of the offence of money or property laundering

An offence of money or property laundering shall be committed by anyone who fraudulently or wrongfully:

1. Conceals any proceeds derived from a crime, or from an offence perpetrated by a criminal gang or terrorist group, or from an offence established under Law No. 1,340/88[¹] suppressing the illicit traffic in narcotic and dangerous drugs, or under any amendments thereto;
2. Disguises the origin of such proceeds, frustrates or endangers the discovery of its source or location thereof, or the disposition, seizure, confiscation, distraint or provisional attachment thereof; and
3. Obtains, acquires, converts, transfers, keeps or uses, for himself or another, proceeds as referred to in subparagraph (a) above. Assessment of knowledge or negligence shall be based on the circumstances and physical elements of the specific case concerned.

Article 4. Penal sanctions

The offence of money or property laundering shall be punished by a penalty of imprisonment of between two and ten years.

The judge may refrain from applying the penalty to an accomplice or accessory if that person voluntarily and effectively cooperates with the authorities in uncovering the unlawful criminal act established under the present Law, in identifying the main perpetrators or in locating the property, interests or assets forming the subject of the offence.

Article 5. Confiscation

The property or instrumentality used in the preparation or commission of the offence of money or property laundering shall be confiscated.

Article 6. Special confiscation

Should the perpetrator of the offence of money or property laundering obtain any income therefrom, for himself or for a third party, such income shall be confiscated.

Should special confiscation not be possible, the payment of a sum of money equivalent to the value of the income obtained shall be ordered in place thereof.

Article 7. Effect of confiscation and special confiscation

In the event of confiscation or special confiscation, ownership of the confiscated item or interest shall pass to the State at the time when the sentence becomes enforceable.

Confiscated property shall be disposed of in the manner set out in this Law.

Article 8. Bona fide third parties

The penalties and measures set out in this Law shall apply without prejudice to the rights of bona fide third parties.

Article 9. Summoning of interested third parties

All persons who may have a legitimate interest in judicial proceedings initiated pursuant to this Law shall be summoned by means of public notices to be published over ten consecutive days in two newspapers having a wide circulation.

Article 10. Gradation of punishment

Incitement, complicity or concealment, as well as attempted and frustrated offences shall also be punishable, in accordance with the provisions of this Law.

An incitor shall be liable to the same penalty as that imposed on the actual offender; complicity shall incur one half of the penalty applicable to the actual offender, and concealment one fifth of the penalty applicable to the actual offender.

An attempted offence shall be punished by one half of the penalty applicable to the consummated offence and a frustrated offence by two thirds of the penalty applicable to the consummated offence, in accordance with the relevant provisions of the Penal Code.

Article 11. Aggravating circumstances

The fact that employees, officers, managers, owners or other authorized representatives of the obligors, acting as such, participate in the offence of money or property laundering shall constitute an aggravating circumstance.

The penalties referred to in the preceding articles shall be doubled if the accused was a public official at the time when the offence was committed.

CHAPTER III ADMINISTRATIVE PROVISIONS

Article 12. Scope of application

The obligations set out in this chapter shall apply to:

1. All transactions in excess of ten thousand US dollars or the equivalent thereof in other currencies, subject to the exceptions provided for in this Law; and
2. Any transactions for less than the amount indicated in the preceding subparagraph if it may be inferred from such transactions that they were divided into several operations for the purpose of evading the identification, recording and reporting obligations.

Article 13. Obligors

The following entities shall be subject to the obligations set out in this chapter:

1. Banks;
2. Financial institutions;
3. Insurance companies;
4. Bureaux de change;
5. Stockbroking companies and securities dealers (stock exchanges);
6. Investment companies;
7. Trust companies;
8. Administrators of mutual investment and pension funds;
9. Credit and consumer cooperatives;
10. Gambling establishments;
11. Real estate agencies;
12. Non-governmental organizations and foundations;
13. Pawn shops; and
14. Any other natural person or legal entity regularly engaged in financial broking, trading in precious metals, stones and jewellery, works of art or antiques, or investing in stamps or coins.

Article 14. Obligation to identify clients

The obligors shall record and check, by reliable means, the identity of their clients, whether regular or occasional, upon entering into business relations with them, as well as of all persons intending to carry out transactions.

Article 15. Method of identification

Identification shall consist of establishing the actual identity, party stated as being represented, domicile and occupation or corporate purpose in the case of a legal entity.

Article 16. Identification of the principal of the client

If there is reason to assume or certain knowledge that clients are not acting on their own behalf, the obligors shall obtain precise information in order to ascertain the identity of the persons on whose behalf they are acting.

Article 17. Obligation to record transactions

The obligors shall identify and record clearly and precisely any transactions conducted by their clients.

Article 18. Obligation to preserve records

The obligors shall keep for a minimum period of five years any documents, files and correspondence establishing or identifying the transactions. The five-year period shall be computed from completion of the transaction or from the time when the account was closed.

Article 19. Obligation to report suspicious transactions

The obligors shall report any act or operation, regardless of the sums involved, if there is an indication or a suspicion that such act or operation is connected with an offence of money or property laundering.

The following in particular shall be considered suspicious transactions:

1. Operations which are complex, unusual or large, or do not follow the pattern of habitual transactions;
2. Operations which, although not large, occur periodically and with no reasonable legal or economic basis;
3. Operations which by their nature or volume are not consistent with the credit or debit operations conducted by the clients in the light of their activities or previous business practice; and
4. Operations which, with no justifiable cause, involve cash payments by a large number of persons.

Article 20. Duty of confidentiality

Obligors shall not reveal, either to the client or to third parties, any steps taken or communications effected by them in compliance with the obligations set out in this Law and the regulations issued hereunder.

Article 21. Duty to maintain internal audit procedures

Obligors, whether or not legal entities, shall establish appropriate procedures for the internal auditing of information in order to discover, forestall and prevent the execution of any operations for the purpose of money or property laundering. The obligors shall notify their directors, managers, and employees and impose on them the duty to comply with the provisions of this Law, and with the internal procedures and regulations, for the purposes indicated in this article.

Article 22. Duty to cooperate

Obligors shall provide all information relating to the matters covered by this Law that may be required by the enforcement authority hereby established, in which case provisions concerning bank secrecy shall not apply. None the less, the duty of bank secrecy shall be observed by the enforcement authorities; unless the criminal court judge requests such information, and then only in relation to a specific pre-trial investigation or lawsuit.

Article 23. Special obligations

Obligors who operate gambling establishments, particularly casinos, shall comply with the provisions of article 19 if

1. Payments are made to clients by cheque in exchange for gambling tokens;
2. The transfer of funds to a bank account or any other payment procedure not involving cash is authorized or ordered; and

3. Certificates are issued of the client's winnings.

Article 24. Administrative penalties for legal entities

Failure to comply with the obligations set out in this chapter and in the regulations shall be punished by:

1. A caution;
2. A public reprimand;
3. A fine of between 50 (fifty) and 100 (one hundred) per cent of the amount of the transaction in the course of which the offence was committed; and
4. Temporary suspension for between thirty and one hundred and eighty days.

Article 25. Gradation of punishment

The penalties applicable in respect of the commission of offences set out in the preceding article shall be graduated taking account of the following circumstances:

1. The degree of responsibility or wilfulness in the commission of the acts;
2. The prior conduct of the obligor with regard to the requirements set out in this Law;
3. The income derived from the offences;
4. Voluntary efforts to mitigate the effects of the offence; and
5. The seriousness of the committed offence, under the terms of this Law.

CHAPTER IV ENFORCEMENT AUTHORITY

Article 26. Secretariat for the Prevention of Money and Property Laundering

A secretariat for the prevention of money and property laundering, to be attached to the Office of the President of the Republic, shall be established as the authority responsible for enforcing the present Law.

Article 27. Composition

The Secretariat for the Prevention of Money and Property Laundering shall be made up of:

1. The Minister of Industry and Trade, who shall preside over the Secretariat;
2. A member of the board of directors of the Central Bank of Paraguay, nominated by the board, who shall deputize for the president if the latter is absent or indisposed;
3. A member of the National Securities Commission, nominated by the Commission;
4. The Executive Secretary of the National Drug Control Secretariat (SENAD);
5. The Superintendent of Banks; and
6. The Commander of the National Police Force.

Article 28. Duties

The Secretariat for the Prevention of Money and Property Laundering shall have the following functions and duties:

1. It shall, within the framework of the laws, issue administrative regulations to be observed by the obligors with a view to preventing, detecting and reporting operations to launder money or property;
2. It shall obtain from public institutions and the obligors all information that may be related to money laundering;
3. It shall examine information received in order to establish suspicious transactions and operations or patterns of money or property laundering;
4. It shall keep statistical records of the movement of property connected with money or property laundering;
5. It shall order the investigation of any transactions that give rise to a reasonable presumption of an offence of money or property laundering;
6. It shall refer to the Office of the Public Prosecutor any cases in which circumstantial evidence arises of the commission of an offence of money or property laundering so that the appropriate judicial investigation may be initiated; and
7. It shall report to the bodies and institutions responsible for supervising the obligors any detected cases of administrative infringements of the law or the regulations, for the purposes of their investigation and punishment, as appropriate.

Article 29.

Administrative infringements of the law and the regulations relating to the offence of money or property laundering may be regulated, investigated and penalized only through the institutions responsible for the supervision and monitoring of the obligors, according to their nature.

The procedure shall be as established in the relevant laws governing each obligor.

Article 30. Financial analysis unit

The Secretariat for the Prevention of Money and Property Laundering shall administer a financial analysis unit, to be composed of professional and technical staff skilled in finance and data processing, for the purpose of evaluating and analysing the information received by the Secretariat.

Article 31. Economic Crime Investigation Unit

The investigation referred to in subparagraph 5 of article 28 shall be carried out by the Economic Crime Investigation Unit, attached to SENAD.

Article 32. Duty of professional secrecy

All individuals working for the Secretariat for the Prevention of Money or Property Laundering and anyone obtaining from it information of a confidential nature or having knowledge of its activities or of particulars of a similar nature shall be obliged to maintain professional secrecy. Failure to comply with this obligation shall give rise to liability as stipulated by law.

Article 33. International cooperation

Pursuant to international agreements and conventions, the Secretariat for the Prevention of Money and Property Laundering shall assist in the exchange of information, directly or through international agencies, with the enforcement authorities of other States exercising similar jurisdiction, which shall also be subject to the duty of confidentiality. The relevance of aspects relating to sovereignty and the protection of national interests shall be evaluated when responding to requests for information from other States.

Article 34. Exemption from liability

Information furnished to the Secretariat for the Prevention of Money and Property Laundering in compliance with this Law and regulations shall not constitute a breach of secrecy or confidentiality, and obligors, their managers, directors and officers shall be exempt from civil, criminal and administrative liability, regardless of the outcome of the investigation, except in the event of their complicity in the offence under investigation.

FINAL CHAPTER

Article 35. Criminal jurisdiction

If the offence established under the present Law was committed on Paraguayan territory, the courts of the Republic of Paraguay shall have jurisdiction, without prejudice to any investigations that may be or have to be conducted under foreign jurisdiction in connection with related offences, and whether or not the offences that gave rise to the proceeds from laundering took place in a different territorial jurisdiction.

Article 36. Precautionary measures

The judge may, ex officio or at the request of a party, upon the commencement or at any stage of the proceedings, order the provisional attachment or distraint of the property or any other precautionary measure for the purpose of safeguarding the property, proceeds or instrumentalities connected with the offence established in article 3 of this Law.

Article 37. Final disposal of the property, proceeds and instrumentalities

Property, proceeds and instrumentalities as referred to in the preceding article which do not have to be destroyed or are dangerous to the population, shall be transferred, once the final judgment becomes enforceable, to organizations specializing in the fight against illicit trafficking in and the control and prevention of the abuse of narcotic drugs and psychotropic substances, for the purposes of rehabilitation and social

reintegration of addicts. The judge may rule that part of the proceeds from the property be transferred to another country that has participated in their seizure, provided that international agreements governing the matter exist.

Article 38. Judicial cooperation

The competent judge shall cooperate with his counterparts in other States in the processing of warrants of attachment and other precautionary measures, as provided for in our procedural law, for the purpose of identifying the offender and locating the property, proceeds and instrumentalities connected with the offence established in Article 3 of this Law, to which end he shall grant all requests made by letters rogatory received from abroad.

Article 39. To be communicated to the Executive.

Done in the Chamber of Senators on the twenty-fourth day of the month of October of the year one thousand nine hundred and ninety-six, and in the Chamber of Deputies, the Law being enacted on the third day of the month of December of the year one thousand nine hundred and ninety-six.